

european network against racism

ENAR Shadow Report 2006

ENAR SHADOW REPORT 2006

RACISM IN ROMANIA

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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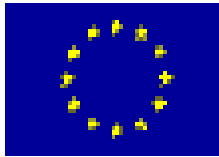


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1. Executive summary

In the Romanian national context, the ethnic group most exposed to racism is the Roma. A history of discrimination has determined a vicious cycle of poverty where inadequate conditions in one aspect of their life inevitably influence and many times determine conditions in other aspects. Thus public policies meant to address Roma issues should have an integrated approach. Roma represent the poorest ethnic group in Romania with considerable differences from the rest of the population, and suffering stereotyping and discrimination at the hands of the majority.

Lack of employment is one of the most pressing issues which Roma face resulting in a lack of income and generalized poverty. A large part of the Roma community lack qualifications and, when employed, a large part work in the informal economy. Another key barrier is employers' prejudice and discrimination. Job stability and thus social security is the lowest among the Roma.

The problems faced by Roma in housing include: spatial segregation, poor housing conditions, poor access to basic utilities, and lack of housing documentation which makes them vulnerable to eviction. Discrimination from authorities in terms of housing manifests itself through repeated evictions and relocation at the periphery of communities and in environmentally dangerous spaces.

In education, Roma face several problems: low school enrolment, high school dropout, as well as low attainment and school segregation coupled with poor quality education offered in such schools.

In terms of health, the Roma have the poorest health in Romania resulting in a much lower life expectancy. Many Roma are not registered to a family physician. Roma also face discrimination from medical staff and when they do receive medical services, the quality of such services is lower. Romani women are particularly vulnerable with respect to health.

Roma still face racial and ethnic discrimination and abuse from the police forces. Cases of excessive use of force and racial profiling in initiating and conducting investigations have been registered. No sanctions for such cases have been registered.

The legislative framework was considerably developed in 2006, introducing a legal aggravating circumstance for the perpetration of any criminal offence having a racial or discriminatory motivation. There are also institutions that have among their competences the collection of data on different categories of criminal offences and institutions with competence in the field of penal policies.

Racism in the media has significantly decreased during the last years but racism on the internet as some studies have shown is a reality which was exacerbated in commentaries regarding the racist remark 'filthy gypsy' made by the Romanian President with regard to a journalist.

The Romanian legal framework in the field of anti-discrimination and anti-racism is quite comprehensive, demonstrating a certain degree of political will. However, in the enforcement of law, especially with respect to racial profiling of Roma, and in the implementation of social inclusion measures, the Romanian record is poor.

National Recommendations:

- Imperative in employment policies aimed at Roma are positive measures such as qualification courses, incentives for employers who hire Roma and advantageous bank credits for Roma who start their own businesses.
- Romanian authorities should deal with Roma housing issues differently, by providing social housing and social inclusion programmes in cases of illegal residence;
- The Romanian Ministry of Education and Research should make *Notification 29323/20.04.2004 on School Segregation* legally binding, providing sanctions. It should also devote more resources to teacher training in multicultural education;
- Romanian authorities should initiate campaigns to register Roma communities to family physicians and support the formation of more sanitary mediators. The Ministry of Health should institute a mechanism for monitoring and sanctioning discrimination against the Roma within the healthcare system while also training its medical staff in order to respect diversity and avoid discrimination;
- Public condemnation by the Ministry of Administration and Internal Affairs and zero tolerance to police abuses should be implemented, together with effective disciplinary and judicial investigations and adequate sanctions for acts of abuse committed by police officers;
- There is a need for practical training of the police force and the judiciary on the new amendments to the Penal Code in the field of racist violence and crimes. The Government should designate a public authority to centralize the statistics in this area and to propose penal policies to combat racist violence and crimes;
- Strict regulations regarding racism on the internet should be developed and implemented. A stronger public debate supported by the media on racism in Romania would be beneficial to Romanian society;
- The Romanian Government should demonstrate stronger political will and full understanding in the legislation adopted while also providing the necessary means and checks to make its implementation effective.

2. Introduction

Racism and discrimination in Romania are mainly manifest in relation to the Roma. Discrimination against them has historic roots and its consequences have become structural. The strongly discriminatory attitudes of the general Romanian population towards the Roma have direct consequences in employment opportunities, healthcare services and education for the Roma. Migrant groups and refugees do not yet represent an issue in public opinion. However, regarding those who have received refugee status, the Romanian Government has not implemented specific policies for their effective social inclusion, and for a smooth legal process for obtaining further legal forms. This role is generally fulfilled, in the limits of their own resources, by NGOs whose aim is to assist refugees.

The most important sources of information on racism and discrimination in Romania, comprising studies, reports, and surveys, come from Romani NGOs¹. Valuable international reports for 2006 were also conducted within the United Nations Development Programme (UNDP) and by the Open Society Institute (OSI), both institutions treating Roma as a particular group with very special problems in terms of the social inclusion and discrimination they face. Institutional reports mainly come from the Ministry of Research and Education which has an efficient monitoring mechanism for the implementation of its *Access to Education for Disadvantaged Groups* programme, and some from the National Agency for the Roma, the governmental institution in charge of the implementation of the *National Strategy for the Improvement of the Condition of the Roma*. Finally, some statistical information comes from the Police, the General Public Prosecutor's Office, the Superior Council of Magistracy and the Ministry of Justice.

The present report refers to the situation of racism in Romania in 2006 from the NGO perspective. Some reports and surveys, although published in 2006, make reference to a previous period where the nature of the data referred to is still relevant for 2006. Some NGO initiatives included have either started in 2006 and continue in 2007, or take place in 2007 but are connected with developments in 2006. Also, some political developments from 2007 have been included and considered relevant for the Romanian situation in general.

¹ Such as for example, the Center for Social Intervention and Studies, Romani CRISS, the Resource Center for Roma Communities, the Împreună Agency for Community development, the Ethnocultural Diversity Resource Center, the Open Society Foundation, the Center for Legal Resources, the Center Education 2000+, Pro Europe League, etc.

3. Communities vulnerable to racism

The ethnic group historically most vulnerable to racism in Romania is the Roma. According to the 2002 National Census there are 535,140 persons who state their ethnicity as Roma, meaning 2.5% of the total population.² Unofficial surveys however place the figure of Roma in Romania somewhere around 2,000,000 meaning 8.76% of the total population.³ According to a UNDP case study on the Romanian Roma from 2006, 69% live on less than US\$4.30/day. Romania also hosts the largest Roma community in Europe⁴.

Grounded in a history of marginality, with five centuries of slavery, discrimination against the Roma has become structural and pervasive, often times describing a vicious cycle. In this cycle, poor education leads to lack of employment and subsequent lack of economic means for adequate housing and healthcare. Housing and healthcare conditions also lead to school drop-outs and low attainment, perpetuating the cycle.

In 2001, the Romanian Government adopted a 10 year *National Strategy for the Improvement of the Condition of the Roma*⁵, which was updated in 2006.⁶ A 2004 evaluation of the *Strategy*, aside from a few positive initiatives and policies, finds no general concrete results, no real commitment from the authorities and insufficient funding.⁷

A 2006 survey on tendencies in interethnic relations, noted that 82% of the population agree with the statement that most Roma break the law (the same as three years before when another comprehensive survey was conducted). The survey showed that public opinion is somewhat more favourable towards the Roma than three years before especially concerning certain topics such as forced spatial segregation. However, the survey also noted those who continue to hold prejudices are more likely than three years ago to do so vehemently. In line with this is the fact that although about three quarters of the population agree that the Roma are most likely to be discriminated against, with 45% clearly stating that the Roma are at the greatest disadvantage in employment, it does not mean that the majority disapproves of this situation. In fact, 60% of the majority population agree with the statement: 'If I were a manager I would not hire a Roma person because they are lazy and they steal.'⁸

² National Institute of Statistics, 2002 *National Census*, <http://www.insse.ro/cms/files/RPL2002INS/index1.htm>, accessed 5 July 2007.

³ Open Society Institute, Education Support Program, *Monitoring Education for Roma, 2006, A statistical Baseline for Central Eastern and South Eastern Europe*, (New York, Open Society Institute, 2006), p. 6.

⁴ Han Jung, Soknan, and Botonogu, Florin, *UNDP's Engagement with Minorities in Development Processes. Romania Case Study on Roma*, 18 October 2006, <http://www.undp.ro/pdf/Romania%20Case%20Study%20October%202006.ppt>, accessed 6 July 2007.

⁵ See Government Ordinance 430/2001 for the adoption of the *Government Strategy for the Improvement of the Condition of Roma*.

⁶ See Government Ordinance 522/2006 for the modification and amendment of Government Ordinance 430/2001 for the adoption of the *Government Strategy for the Improvement of the Condition of Roma*.

⁷ Ethnocultural Diversity Resource Center, *O necesară schimbare de strategie. Raport privind stadiul de aplicare a Strategiei de îmbunătățire a situației romilor din România (A Necessary Change of Strategy. Report on the Stage of Implementation of the Strategy for the Improvement of the Condition of the Roma)*, (Cluj-Napoca: CRDE, 2004).

⁸ 'Max Weber' Sociology Professional College and Research Center on Inter-ethnic Relations, *Relații interetnice în pragul integrării europene. Câteva tendințe comentate (Interethnic Relations before the European Integration. A Few Tendencies Interprete.)*, (Cluj Napoca, CRDE, 2006) http://www.edrc.ro/docs/docs/Relatii_interetnice_integrare.doc, accessed 6 July 2007.

Romani women are especially vulnerable to racism and discrimination, with all the consequences in terms of social and economic exclusion. Discrimination against them comes at the intersection of race, gender and class. A 2006 OSI report shows that they still fulfil a very traditional role: getting married early, having children early, being expected to take care of the children and household as their main occupation, with 68% identifying themselves as housewives. 23% of them have not received any formal education compared to 15% of Romani men and 4% of women in the general population. In terms of healthcare, 71% felt they were discriminated against by medical staff, and for 76% of them abortion was the main contraceptive method although 88% were familiar with other contraceptive methods. Housing conditions affect the lives of Romani women to a greater extent: 66% of the respondents of the OSI report declared that a washing machine would be the first item to buy if they had money.⁹

⁹ Surdu, Laura, and Surdu, Mihai, *Broadening the Agenda. The status of Romani Women in Romania* (New York: Open Society Institute, 2006), p. 10-13.

4. Manifestations of racism and religious discrimination

4.1 Employment

Due to a set of complex and interconnected causes, the Roma are the ethnic group particularly affected by unemployment. Lack of appropriate education or qualification, and discrimination from employers make Roma the most likely to be unemployed. Most Roma (73%) declare that what they earn is not enough to satisfy even their basic needs.¹⁰

The last comprehensive national survey, the 2002 National Census, clearly demonstrates a significant disparity with respect to employment between the Roma and other ethnicities in Romania. According to the census, the unemployment rate among the Roma was 28.49% as compared to 11.53% among Romanians. Around 73% of the Roma population was engaged in employment activities that do not require a qualification or require only a minimal qualification as compared to 33% of Romanians who were engaged in the same type of activities. On the other hand, the percentage of Roma who had jobs which require high-school and university degrees was 3.5% as compared to 29% for Romanians. Of those employed, only 33.99% of the Roma received a salary, and therefore had a permanent income as compared to 70.52% of Romanians. Also, the percentage of retired people was much lower among the Roma than among Romanians: 7.42% as compared to 40.03%.¹¹

A 2006 UNDP report places the unemployment rate for Romanian Roma between 15 and 55 years of age at 44% as compared to 28% for the majority population, with 34% working in the informal sector compared to 9% of the majority population. The report also reveals a gender gap in employment, with 34% employed among Romani woman as compared to 58% employed among men.¹²

A joint shadow report compiled by two Roma NGOs for EU Commission consideration before Romania's accession to the EU explains the main reasons for Roma exclusion from the official labour market: low educational levels, lack of qualifications in general and lack qualifications in modern professions in particular, the decline of traditional crafts which the Roma still practise, prejudice, stereotyping and de-facto discrimination from employers and the economic transition to a competitive economy which mainly affected the Roma. The consequences, as revealed by the shadow report, are: social exclusion because of a lack of income, the reduction of 'life chances' and opportunities as poverty leads to further poverty and further lack of education, illegal activities in order to survive, inferior status derived from the lack of employment and poverty both leading to marginalization and finally, social

¹⁰ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 21.

¹¹ Căce, Sorin, and Ionescu, Maria, *Politici de ocupare pentru romi (Labour policies for the Roma)*, (Bucureşti: Editura Expert, 2006), p. 20-23.

¹² UNDP, *At Risk: Roma and the Displaced in Southeast Europe*, (Bratislava: United Nations Development Programme, Regional Bureau for Europe, 2006), p. 43-49.

dependency of a large group which puts a strain on the social security system.¹³

NGO initiatives addressing Roma unemployment have focused on a few main directions: creating jobs for the Roma, initiating and supporting income generating activities, providing training and qualifications for the Roma and supporting Roma private initiatives.¹⁴ The main NGO which has committed large resources to the Roma cause is the Open Society Foundation through its support for the National Agency for the Roma and the Roma Inclusion Decade initiative. The Soros Open Network foundations (all linked to the Open Society Foundation) in Romania have also continued their work for the benefit of the Roma.

Example of NGO good practice

The **Roma Communities Resource Center** implemented the 'Income generating projects for interethnic NGOs in the rural area – a step further for the better'. The aim was to improve the managerial capacity of 15 rural NGOs and interethnic initiative groups to elaborate income generating projects through specific training and further support for the NGO representatives. 10 NGOs have developed business plans for social enterprises and two of them received bank credits to start businesses, while the rest were going to apply for EU funding or to other financing sources. The project took place from October 2005 through September 2006 with EU PHARE Funding.¹⁵

Refugees in Romania also have very limited access to the labour market as a 2006 report concludes. Due to their specific circumstances, most could not leave their countries of origin with their degree certificates, which makes it very difficult for them to find employment. Therefore, most refugees, even those who have a university education, work as unqualified workers. Also, the Ministry of Education and Research does not have a system through which to recognize the specific qualifications of refugees. Courses for professional qualification for those refugees who need it, although a legal obligation, are not actually organized by the Agency for the Labour Force Occupation.¹⁶

4.2 Housing

The Roma are again the group most affected by poor housing conditions as statistics demonstrate, mainly because of a lack of financial resources. Certain policies regarding the Roma also reveal discrimination and racism.

¹³ 'Împreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*,

<http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Impreuna%20FINAL.pdf>, accessed on 9 July 2007.

¹⁴ Cace, Sorin, and Ionescu, Maria, *Politici de ocupare pentru romi (Labour policies for the Roma)*, (București: Editura Expert, 2006), p. 58-59.

¹⁵ For more information, see: <http://www.romacenter.ro/>.

¹⁶ Chiriac, Marian, and Robotin, Monica, *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România (Foreigners Among Us, Residents, Refugees, Asylum Seekers, Illegal Immigrants in Romania)*, (Cluj-Napoca: CRDE, 2006), p. 27.

Firstly, most Roma are spatially segregated especially in rural areas. As the *Roma Inclusion Barometer* shows, 68% of the Roma declare that they live at the periphery of villages compared to 46% of members of other ethnicities. The obvious consequence is a limited access to social utilities.¹⁷

A study on Roma housing published in 2006 revealed the magnitude of the poverty among Roma and the extreme living conditions which they face, irrespective of the type of community in which they live.¹⁸ A few tendencies underlined by the study demonstrates: an orientation towards the increase of urban extreme poverty communities and ethnic ghettos, an accelerated deterioration of houses in block neighbourhoods, the location of ghettos (either spontaneously or by the administration through evictions) in environmentally dangerous sites (lands exposed to flooding, garbage or industrial waste), a lack of land property which exposes them to successive evictions creating in turn the habit of building precarious shelters (also out of poverty) that are easy to abandon and rebuild somewhere else.¹⁹

With respect to living conditions and access to utilities, the disparity between Roma communities and other ethnic communities, especially in urban areas, is significant as demonstrated in *Roma Inclusion Barometer*.²⁰

Another problem associated with Roma housing is poor quality of the construction materials and a lack of safety. Also, overcrowding is an issue with more than twice the number of Roma living in the same space as members of other ethnic groups (8m²/person compared to 19.5m²/person for other ethnicities). The biggest problem associated with housing is the lack of housing security, many Roma lacking rental contracts; only 58% have rental contracts (them or a family member) compared to 81% of members of other ethnicities.²¹

Roma spatial segregation also makes access to running water, electricity and other facilities very difficult. According to an OSI study, only 28% of Roma have access to a sewage system and 82% of Roma lack access to running water. Less than 15% of Roma households have a bathroom, an indoor toilet, or connection to gas. In terms of access to household utilities, poverty reduces such access as well. Thus, 79% of Romani households have a TV set, 60% have a gas tank stove, 35% have a refrigerator, 32% have a radio and only 20% have a washing machine.²²

Romani CRISS, one of the strongest Romani NGOs, set up a system of local monitors in 10 counties of the country which document situations of human

¹⁷ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 32.

¹⁸ See Annex 1.1.

¹⁹ Berescu, Cătălin, Celac, Mariana, Ciobanu, Oana, Manolache, Cosmin, *Locuirea și sărăcia extremă. Cazul romilor/ Housing and Extreme Poverty. The case of Roma Communities*. (Bucureşti: Editura Universitară Ion Minicu, 2006), p. 24-44.

²⁰ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 33. See Annex 1.2.

²¹ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 35.

²² Surdu, Laura, and Surdu, Mihai, *Broadening the Agenda. The status of Romani Women in Romania* (New York: Open Society Institute, 2006), p. 65-67.

rights violations in view of mediation or subsequent legal assistance. They signalled a very dangerous phenomenon concerning 'a racist policy of local authorities to evict and segregate Roma from the cities to the margins of society.' Another concerning issue signalled by the NGO, as noted in the above-mentioned study mentioned on the typology of Romani houses, is environmental racism. Roma communities are often evicted and placed near garbage dumps, purification stations or industrial areas at the outskirts of the city. As Romani CRISS mentions, those mostly affected by this relocation are the most vulnerable: children, women and the elderly. An extensive list of documented abusive or illegal evictions is available on the Romani CRISS website (<http://www.romanicriss.org>).²³

NGO initiatives in the field of housing mainly target the building of housing infrastructure.

Examples of NGO good practice

Amare Phrala – Frații Noștri (Our Brothers) from Cluj-Napoca initiated and implemented in 2006 several projects having to do with the housing issues of the Roma community. Two projects, financed by **Co-operating Netherlands Foundations** and the **Open Society Institute Budapest** consisted of building houses and improving housing infrastructure of the Roma local community of Botinda village in Cluj county (this is a community where Romani CRISS documented police abuses against the Roma). Another project was financed by the **Romanian Bureau of the World Bank** and the **Foundation for the Development of Civil Society**. The project aimed at developing the human resource of the local administration of communities with Roma individuals. The final goal was to increase the level of involvement of Roma experts at the local level in projects and actions related to improving Roma living conditions.²⁴

4.3 Education

Discrimination against the Roma is also present in education because of their general state of poverty, but also because of the discriminatory attitudes, actions and segregation efforts school administrations, teachers and even parents of the majority population. The consequences are obvious and manifest in lower enrolment rates, higher drop-out rates and lower school attainment among the Roma than among the general population.

The Roma population has the highest percentage of young people which makes education an even more pressing problem. Approximately 50% of the Roma in Romania are below 24 years of age.²⁵

²³ 'Împreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*,

<http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Împreuna%20FINAL.pdf>, accessed on 9 July 2007.

²⁴ For more information, see: <http://www.doilasuta.ro/database.php?id=710>.

²⁵ Open Society Institute, EU Monitoring and Advocacy Program, Roma Participation Program, *Equal Access to Quality Education for Roma, Romania, Monitoring Report*, vol 1 (New York: Open Society Institute, 2007), p. 345.

Roma children do not generally attend pre-school which puts them at a disadvantage from the start when they enrol in primary school. This is due to the spatial segregation of Roma communities which limits access to pre-schools, a lack of material resources to send children to pre-school and the scarcity of pre-schools in general.

Copies of the child's birth certificate and the parents' ID cards are required in order to enrol a child in the education system. In addition, a standard form taken from the family physician is needed.²⁶ Taking into consideration that many Roma do not have identity papers (6% declaring that they do not have a valid ID card and 5% that they do not have a birth certificate) or a family physician (14% compared to 4% for the general population)²⁷, enrolment for Roma children is structurally very difficult.

Segregation of schools is a reality in Romania, sometimes determined by the spatial segregation of Roma communities,²⁸ other times deliberately provoked within a school, or with schools which are no more than 1000 meters away from each other. Schools may be segregated also because the Roma community which they serve is spatially segregated. Thus, teachers may not receive Roma children in schools or classes with a different majority than Roma if there is also a school with a Roma majority in the village.²⁹ There have also been cases registered of parents in Romanian schools opposing the registration of Romani children in the same schools as their children.³⁰ On the other hand, there are also cases where Roma parents would rather have their children study in segregated schools out of fear of discrimination and mistreatment in what they call 'Romanian' schools.³¹

Moreover, in such schools, as a 2006 report commissioned by the Ministry of Education and Research in 12 counties demonstrated, the level of the teaching staff and their commitment to the school is low. The schools are mostly overcrowded and teaching is done in two shifts with no possibility for after-school classes or activities. The school buildings are inappropriate (poor lighting, no heating, with unsanitary and unsafe conditions) and there is no question of the necessary materials for teaching sciences. Drop-out rates are high and the level of school attainment very low with low aspirations (being literate and graduating from eighth grade, and maybe entering an arts and trades college are considered to be a good achievement). The same report

²⁶ Ibid., p. 400.

²⁷ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 46-48.

²⁸ Open Society Institute, EU Monitoring and Advocacy Program, Roma Participation Program, *Equal Access to Quality Education for Roma, Romania, Monitoring Report*, vol 1 (New York: Open Society Institute, 2007), p. 401-407.

²⁹ 'Împreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*, <http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Împreuna%20FINAL.pdf>, accessed on 9 July 2007.

³⁰ Open Society Institute, EU Monitoring and Advocacy Program, Roma Participation Program, *Equal Access to Quality Education for Roma, Romania, Monitoring Report*, vol 1 (New York: Open Society Institute, 2007), p. 399.

³¹ Ibid., p. 435.

demonstrated that of the 108 schools included, 35 had serious segregation issues.³²

The Ministry of Education and Research issued *Notification 29323/20.04.2004 on School Segregation* whereby it forbade segregation. However, the Notification is not legally binding. Therefore in 2006, segregated schools still exist and some are clearly documented by Roma NGOs.³³

Another report commissioned by the Ministry of Education and Research showed that the main reasons for school dropout are: pregnancy and childbirth, marriage, dissatisfaction with school, repetition of years, lack of interest in education, domestic support for family, economic support for family, health problems, transfer to another school, migration, emigration, and bullying.³⁴

Attainment levels registered for Roma children in the 2005/2006 school year show a distinct pattern of lower attainment; most of the time, the number of Roma students who obtain good grades being a few times lower than that of the majority population. This has direct consequences on the self-image and state-of-mind of Roma children.

In terms of figures, a UNDP report shows that the level of enrolment for the Roma is dramatically lower than for the majority population. Thus, the percentage of Roma students enrolled in secondary education is 17% compared to 69% for the majority population.³⁵ The *Roma Inclusion Barometer* also offers some updated statistical data on the general situation.³⁶

A positive reality is the fact that Roma language and history have been included in the national curricula for minority language education. However, references to the contributions of the Roma to the Romanian society (history of the Roma, etc.) remain almost non-existent in mainstream textbooks.³⁷ Aside from the fact that the majority population would greatly benefit from exposure to diversity in their education, failing to raise awareness of the history of the Roma on the Romanian territory, a history with five hundred years of slavery, makes it difficult to justify to the general public, already prejudiced against the Roma, the necessity for positive action measures.³⁸

³² Andruszkiewicz, Maria, *Desegregarea școlilor – progrese și provocări. Experiențele programului PHARE 2003: 'Acces la educație pentru grupurile deavantajate' (School Desegregation: Progress and Challenges, Experiences from the Phare 2003 'Access to Education for Disadvantaged Groups' Project)*, (Bucharest, 2006), <http://www.edu.ro/index.php/Articles/6758>, accessed on 9 July 2007.

³³ 'Impreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*, <http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Impreuna%20FINAL.pdf>, accessed on 9 July 2007.

³⁴ WYG International, *Access to Education for Disadvantaged Groups, Report on Non-Completion*, (manuscript, June 2006).

³⁵ UNDP, *At Risk: Roma and the Displaced in Southeast Europe*, (Bratislava: United Nations Development Programme, Regional Bureau for Europe, 2006), p. 31.

³⁶ Bădescu, Gabriel, Grigoraș, Vlad, Rughiniș, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 77. See Annex 1.3.

³⁷ Open Society Institute, EU Monitoring and Advocacy Program, Roma Participation Program, *Equal Access to Quality Education for Roma, Romania, Monitoring Report*, vol 1 (New York: Open Society Institute, 2007), p. 387-389.

³⁸ A 2004 Gallup opinion poll showed that young people rejected the Roma also because they considered that the Roma benefited from undeserved rights. The British Council and The Gallup Organization Romania, *Tânăr în*

NGO activity in combating discrimination in education has focused mainly on teacher training and awareness-raising campaigns.

Example of NGO good practice

The **Center Education 2000+** implemented in 2005 and 2006 a project targeting Romani girls with the aim of reducing school dropout resulted from early pregnancies and marriages. The project, titled '*Roma girls also go to school!*', involved awareness-raising campaigns on the risk of early pregnancy and the social, mental and legal consequences of establishing a family at too early an age. It also comprised brochures on the rights of children and training kits on counselling from an equal standing. Another component was comprised of training sessions for professors which could act as school mediators in 20 schools from the four counties targeted. Finally, partnerships between schools and their communities were to be established.³⁹

4.4 Health

Poor health among the Roma is directly connected to poverty and poor housing conditions, but also to discrimination faced within the healthcare system.

A 2006 report based on a 2005 investigation revealed several problems which Roma face in accessing healthcare services. Firstly, they have difficulty in accessing healthcare services. Since many are unemployed and therefore not capable of paying fees, they are not registered in the healthcare system. Though most of them would be eligible to receive free health-care, their lack of identity papers presents another obstacle in registering within the system. Therefore, many have to pay for the healthcare services they receive. Having no money for this extra expenditure, they postpone going to the physician until it is too late. Documented cases demonstrate that family physicians frequently refuse to register Romani individuals on their lists and generally do not give them the medical prescriptions for free medicine to which they would be entitled.⁴⁰

Secondly, the housing conditions of the Roma often represent an infection source, many of them being located in polluted areas or having improper access to utilities such as water. Also, many Romani houses are segregated from social utilities and therefore from hospitals.⁴¹ Life expectancy among Roma is much lower than that of the Romanian population: 63 to 64 years of

România. *Raport de cercetare cantitativă calitativă (Young persons in Romania. Report of qualitative and quantitative research)* (Bucharest: The British Council, 2004) www.gallup.ro/download/TanarInRomania.pdf, accessed on 9 July 2007

³⁹ For more information, see: <http://www.cedu.ro/progrporro01.php?id=213>.

⁴⁰ Agenția pentru Dezvoltare Comunitară 'Împreună', and Fundația pentru o Societate Deschisă, *Accesul Romilor la Servicii Sociale, Realități și tendințe în 2005 (Roma Access to Social Services. Realities and Tendencies in 2005)*, (București: Fundația pentru o Societate Deschisă, 2006), p. 35-37.

⁴¹ *Ibid.*, p. 37-38

age for Roma compared to 70 years of age for Romanians.⁴² The mortality rate among Romani children is also higher compared to that of majority population.⁴³

Thirdly, the lack of education and information regarding health measures is very low among the Roma.⁴⁴ This affects children who do not get vaccinated and nutrition problems also appear because of poverty. Also, they usually cannot afford basic medicine. A particularly vulnerable group to health problems are Romani women, the most affected by chronic illnesses.⁴⁵ In general, women almost exclusively take care of children, including when the children are sick. There exists discrimination in the healthcare system towards the Roma in general and towards Romani women in particular.⁴⁶

In terms of facilitating access to healthcare services, the most active NGO has been Romani CRISS.

Examples of NGO good practice

Starting in 1993, **Romani CRISS** has set up a series of programmes aimed at improving the state of health of Roma communities and their access to health services. In 1996, they started training Romani women to mediate between local Ministry of Health institutions and Roma communities, and thus created what is called health mediators, today recognized as an official qualification. The sanitary mediator helps the medical staff to complete medical paperwork for the Roma, facilitates communication among health institutions and Roma communities, identifies the health problems of the Roma, and monitors the community in terms of its health condition. The aim of the sanitary mediator is to improve the health situation of Roma communities, increase the efficiency of curative and prevention services, increase accessibility to social services, improve the social environment where healthcare services are provided and also increase the level of medical education of Roma communities. Also, by contributing to the process of obtaining identity papers for the Roma, especially after the national system for population evidence was reorganised, in 2005 and 2006, Romani CRISS has contributed to the elimination of one of the key obstacles faced by Roma in registering in the healthcare system. The organization has trained hundreds of sanitary mediators and continues to do so in 2007.⁴⁷

⁴² UNDP, *Avoiding the Dependency Trap: The Roma in Central and Eastern Europe. A Human Development Report, Summary*, (UNDP: 2002), p. 2., http://europeandcis.undp.org/?menu=p_cms/show&content_id=62BBCD48-F203-1EE9-BC5BD7359460A968, accessed on 9 July 2007.

⁴³ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 74.

⁴⁴ Agenția pentru Dezvoltare Comunitară 'Împreună', and Fundația pentru o Societate Deschisă, *Accesul Romilor la Servicii Sociale, Realități și tendințe în 2005 (Roma Access to Social Services. Realities and Tendencies in 2005)*, (București: Fundația pentru o Societate Deschisă, 2006), p. 39.

⁴⁵ UNDP, *At Risk: Roma and the Displaced in Southeast Europe*, (Bratislava: United Nations Development Programme, Regional Bureau for Europe, 2006), p. 55.

⁴⁶ Surdu, Laura, and Surdu, Mihai, *Broadening the Agenda. The status of Romani Women in Romania* (New York: Open Society Institute, 2006), p. 53-58.

⁴⁷ For more information, see: <http://www.romanicriss.org/noutati.php?id=28&lang=ro>.

4.5 Policing and racial profiling

Police raids using excessive force against Roma communities still occur in Romania as documented by Romani CRISS, an organization extensively cited by the US Department of State in their 2006 Human Rights Practices Country Report on Romania.⁴⁸

Romani CRISS identified patterns of violence, discrimination and abuse against Roma communities. The police have used disproportionate force and even firearms. This pattern continued through 2006, as Romani CRISS documentation demonstrates. Acts of alleged violence and abuse have also been identified having as cause prejudice and stereotyping against Roma from police officers on the one hand, and the Roma lacking of knowledge of their own rights on the other hand. Often such abuses are coupled with cases of eviction.⁴⁹

Also, in September 2006 another violent incident occurred between a Roma community and police officers in Apalina/Reghin, in the Mureş county. It was a case of excessive use of force where the police used its rapid intervention forces in order to hand two invitations in a Roma community. Thirty Roma and 6 police officers were wounded. The Ministry of Administration and Internal Affairs already delivered its opinion, although investigation was under way, saying that the police officers acted in self defence.⁵⁰

The third report on Romania of the European Commission against Racism and Intolerance (ECRI) issued in 2006 notes that despite Government efforts to introduce anti-discrimination legislation and practices among the law enforcement officials and within concerned institutions, training and real implementation is slow. Also, despite the existence of a mechanism which receives complaints and investigates cases of breach of the '*Behaviour Code*' and the *Penal Code* within the Ministry of Internal Affairs, no complaint on discrimination had been received, which makes ECRI wonder whether the population trusts this mechanism to solve their issues. Also, ECRI received information of abuses against Roma communities. It also notes that there very few Romani individuals wanting to become police officers.⁵¹

ECRI concerns in terms of the administration of justice are confirmed by NGOs' view of the situation; in many cases of police abuse against Roma communities the administration of justice is lacking. Furthermore, Romani CRISS reports instances of intimidation against witnesses as well as against its own monitors in cases of police abuse. At the same time, cases involving

⁴⁸ US Department of State, *Romania Report on Human Rights Practices 2006*, <http://www.state.gov/g/drl/rls/hrrpt/2006/78834.htm>, accessed on 9 July 2007.

⁴⁹ 'Impreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*, <http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Impreuna%20FINAL.pdf>, accessed on 09 July 2007.

⁵⁰ Liga Pro Europa, *Raport anual 2006/ 2006 Annual Report*, <http://www.proeuropa.ro/raport2006.html>, accessed on 9 July 2007.

⁵¹ European Commission against Racism and Intolerance, *Third Report on Romania*, (Strasbourg: 2006) p. 27-28, http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Romania/Romania_CBC_3.asp#TopOfPage, accessed on 9 July 2007.

Roma, although well documented by NGOs, do not get solved by the Romanian justice system, which sends a very bad signal in terms of trust in the justice system.⁵²

Examples of NGO good practice

An NGO which has been very active in changing police mentality through its programmes has been the **Ethnocultural Diversity Resource Center (EDRC)** in Cluj-Napoca. In 2000-2002 the Center initiated a training programme for police officers from the Campina 'Vasile Lascăr' Non-commissioned Officers Police School who were going to be active in multicultural communities. The project was called '*Conflict Prevention and Management in Multicultural Communities – Training Modules for Non-commissioned Police Officers*'. It was financed by **Open Society Foundation Romania, EDRC**, and the **European Union Initiative for Democracy and Human Rights**.

EDRC also established a partnership with the Ministry of Administration and Internal Affairs with the aim of increasing the representation of national minorities within the police force and is conducting a campaign called: '*Mission possible: information campaign regarding a career as police officer for young persons belonging to national minorities*'. The campaign, run in partnership with 'Septimiu Mureşan' Police Agents School from Cluj-Napoca and the **Institute for the Research and Prevention of Criminality**, aims at encouraging young people from ethnic minorities, especially Roma and Hungarian to choose a career as police officers. The information campaign takes place in five multicultural counties. Brochures in three languages (Romanian, Romani and Hungarian) informing on the admissions process and the number of places especially created for the Roma have been edited. It runs from August 2006 through July 2007, and is funded by the **EU PHARE Programme, Office for Democratic Institutions and Human Rights - OSCE**, and **Communitas Foundation**.⁵³

4.6 Racist violence and crime

NGO reports note incidents of racist violence and crimes, especially conducted by the police forces.⁵⁴ They are most frequent during police raids or in the context of forced evictions which take place at the initiative of the local administration. On 7 August 2006, the local administration from Piatra Neamţ organized the eviction of 250 people living in a block of flats owned by the local administration, in order to ensure building rehabilitation. Most of the people affected were of Roma origin. The procedure included several law violations: contradictory justifications for eviction, lack of prior notification of

⁵² 'Împreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*, <http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Împreuna%20FINAL.pdf>, accessed on 9 July 2007.

⁵³ For more information, see: http://www.edrc.ro/projects.jsp?program_id=1&project_id=58.

⁵⁴ See the section on 'Policing and racial profiling'.

eviction, not providing a place for the deposit of personal belongings, physical abuses in some cases, lack of alternative housing.⁵⁵

Another topic in the headlines of newspapers in 2006 was the use of racist slogans during football games. The National Council for Combating Discrimination (NCCD) began investigation against the 'Steaua' București football team.⁵⁶ The Council publicly condemned such discriminatory behaviours and addressed the request to the Romanian Football Federation to inform all football teams about the anti-discrimination legislation and to apply sanctions – to send the message 'Stop Racism!'⁵⁷ This tactic was rather effective; for the rest of the year, the Romanian Football Federation monitored racist activity in stadiums and sanctioned teams, applying internal disciplinary regulations.

During 2006, the press registered an expansion of the right-wing movement in Romania. The right-wing extremists, grouped around the association *The New Right*,⁵⁸ carried out several radical reactions against the manifestations taking place during the *GayFest Week* organized in Bucharest between the 30th of May and the 4th of June.⁵⁹ The *Romanian Orthodox Church*,⁶⁰ representatives of the *Conservative Party*,⁶¹ and the *New Generation Party*⁶² officially joined *The New Right* standing. Recently the High Court of Justice and Cassation and the Brașov Court of Appeal decided to discharge Grigore Oprea, the first Romanian judged by a court for nationalistic and chauvinistic propaganda and for establishing fascist groups.⁶³

In June 2006, Amnesty International released its report on Romania⁶⁴. A special section was dedicated to Roma and racism issues. Particular attention was given to the European Court of Human Rights decision in the Hădăreni case and its impact on Romanian society. It underlines the outpouring of racist speech directed at Roma by media and politicians in the context of national enforcement of the ECHR decision, in August 2006.⁶⁵

⁵⁵ The Resource Center for Roma Communities, <http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=8&dayID=8#r1>, accessed on 9 July 2007.

⁵⁶ Regarding the alleged racist affirmations during one of the games within the *Romanian Supercup Championship*, on the 22 of July 2006. At the end of the game, both the team and its supporters started to sing racist songs against the Roma: 'We hated and we will always hate Gypsies!'.
⁵⁷ The Resource Center for Roma Communities,

<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=7&dayID=25>,
<http://www.romacenter.ro/monitorizare/photos/25i3.jpg>, accessed on 9 July 2007.

⁵⁸ The association is acting legally on the territory of the country; its website is available at: <http://www.nouadreapta.ro>, accessed on 9 July 2007.

⁵⁹ This group promotes anti-Semitic and anti-Roma views and literature, and invokes arguments of previous inter-war Romanian fascist movements.

⁶⁰ The Romanian Orthodox Church even sustained a press conference together with *The New Right* opposing the gay march. More information available at: <http://www.patriarhia.ro/stiri/index.php>, accessed on 9 July 2007.

⁶¹ Member of the Government coalition.

⁶² Not in the Parliament, but growing in the polls.

⁶³ The ruling of the two judges in the case was based on argumentation regarding freedom of expression and freedom of association, determining the lawful character of the fascist movement in Romania. More information available at: <http://www.cotidianul.ro/index.php?id=5553&art=13460&diraut=101&cHash=e1d110b691>,
<http://www.ziua.ro/display.php?id=201449&data=2006-06-13&>, accessed on 9 July 2007.

⁶⁴ Amnesty International, *Romania Country Report*, <http://thereport.amnesty.org/eng/Regions/Europe-and-Central-Asia/Romania>, accessed on 9 July 2007.

⁶⁵ See report available at: <http://web.amnesty.org/report2006/rom-summary-eng#2>. See also: http://www.adevarulonline.ro/2006-05-29/Politica/am-vazut-niciun-demnitar-care-sa-condamne-violentele-de-limbaj_186338.html, accessed on 9 July 2007.

4.7 Access to goods and services in the public and private sector

Access to goods and services in the public and private sector is particularly low in the case of Roma communities. Poverty hinders their access to public goods and services which they generally cannot afford. Access to goods is also affected by discriminatory practices such as segregation or denial of access when it comes to bank loans or going to pubs and other public places also frequented by the majority population.

Due to spatial segregation, roads to social utilities are in much poorer conditions, in some cases not existing at all. 72% of Roma have unpaved dirt roads in front of their houses as opposed to 48% of the majority population.⁶⁶

Lack of identity papers is another barrier to social inclusion, though this barrier has been decreasing in the recent years as a result of registration campaigns run by NGOs in partnership with relevant State institutions. The *Roma Inclusion Barometer* revealed that about 3% of Roma respondents had never had a birth certificate as opposed to below 1% of the general population, and 6% of Roma respondents declared that they do not have a valid ID document while 5% declared that they do not have a birth certificate.⁶⁷

Most Roma do not have a written work contract: 34% of Roma work in the informal sector compared to 9% of the majority population, the unemployment rate for persons between 15 and 55 years of age is 44% for the Roma compared to 28% for the rest of the population. This constitutes another reason for Roma exclusion and vulnerability, since not having a written contract makes them ineligible for social benefits such as healthcare and social insurance.⁶⁸ Again, Romani women are among the most affected.⁶⁹

Income from social benefits such as child allowance represents the main source of income for 72% of Romani households. 46% of the households were dependent of social allowances and unemployment allowances, while 33% of Romani households earned their income from daily labour.⁷⁰

Access to bank loans for Roma in Romania is very limited. NGOs report that Roma complain that banks 'refuse to give them credit for the development of small businesses, sometimes despite the fact that they can offer material guarantees for the loans.'⁷¹ Discrimination from banks is reported by the 2006 UNDP regional report which shows that even when expenditures increase for

⁶⁶ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 32.

⁶⁷ Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 46-47.

⁶⁸ UNDP, *At Risk: Roma and the Displaced in Southeast Europe*, (Bratislava: United Nations Development Programme, Regional Bureau for Europe, 2006), p. 41-44.

⁶⁹ *Ibid.*, p. 49.

⁷⁰ Surdu, Laura, and Surdu, Mihai, *Broadening the Agenda. The status of Romani Women in Romania* (New York: Open Society Institute, 2006), p. 60.

⁷¹ 'Împreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*,

<http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Impreuna%20FINAL.pdf>, accessed on 9 July 2007.

both Roma and majority groups the extent of borrowing is significantly larger for the majority population. The reasons found in the report are: unwillingness from banks to borrow to those without a formal address, high illiteracy among Roma which limits their ability to fill in the necessary documentation, discrimination based on ethnicity, but also distrust in formal institutions on the part of Roma. Structural disadvantages linked to the vicious cycle of poverty in which Roma are trapped also makes access to bank loans very difficult. Thus, when applying for credit, Roma have from the start a lack of collateral, lack of credit history and lack of skills. When they do get approved for credit, Roma generally have lower chances of returning the loans.⁷²

In terms of access to public places such as pubs or cafes, discriminatory practices against Roma based on their ethnicity have recently decreased compared to the 1990s, probably because of awareness-raising campaigns related to combating discrimination in general and against the Roma in particular, and because of the fact that discrimination is legally sanctioned. Furthermore, a court decision from 2006 awarded 150 euros in civil damages to compensate the emotional suffering of three young Romani men who were refused access on the basis of their ethnicity to a pub in 2002. Along with the compensation, the court ordered the pub owner to allow the free access of the plaintiffs in his pub in the future.⁷³ However, one cannot say that discriminatory attitudes have disappeared and pubs still have signs which say that the pub reserves the right to select its clients.

4.8 Media, including the internet

The Resource Center for Roma Communities NGO has been conducting a media monitoring program on racist attitudes towards the Roma. A decrease in racist remarks has been registered in recent years. However according to the September 2006 report, of 189 mentions of Roma registered in September, 29 were made in positive contexts, 107 in negative contexts and only 53 in neutral contexts.⁷⁴

An internet study monitoring discriminatory attitudes on forums of electronic editions of four central newspapers conducted between March and April 2007 demonstrates that discrimination against Roma on the internet is an issue that must not be underestimated. Racist manifestations on the internet, as the report mentions, were exacerbated after the Romanian President, Mr. Traian Băsescu called a journalist a 'filthy gypsy' on 19 May 2007. The monitoring for the two previous months showed that discrimination was manifest even before the President made his unacceptable remark which generated some (though not enough) public discussion on racism (a discussion in which President

⁷² UNDP, *At Risk: Roma and the Displaced in Southeast Europe*, (Bratislava: United Nations Development Programme, Regional Bureau for Europe, 2006), 45-47.

⁷³ The Resource Center for Roma Communities, *Rapoarte centralizatoare ale acoperirii mediatică a comunității rromice în reșea centrală și radio-tv/ Centralizing reports on media coverage of the Roma community in central press and radio-tv*, <http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=8&> and <http://www.romacenter.ro/monitorizare/photos/12ag1.jpg>, accessed on 9 July 2007.

⁷⁴ The Resource center for Roma Communities, *Centralizing Report of Media Coverage of the Roma Community in Central Press and Radio-TV, September 2006*, http://www.romacenter.ro/monitorizare/doc/raport_monitorizare_roma_sep2006.pdf, accessed on 9 July 2007.

Bănescu did not take part). Thus for Cotidianul newspaper there were 37 discriminatory messages in relation with 12 Articles in March and 29 discriminatory messages in relation with 16 Articles in April. A qualitative analysis of the messages shows that calling someone a gypsy is perceived as an offence. Evenimentul Zilei, a newspaper where people have to register with an e-mail address in order to have access to forums has registered a very low level of discriminatory messages. Adevarul newspaper, another newspaper on whose website it is easy to post, registered 46 discriminatory messages in relation with 15 Articles in March and 38 discriminatory messages in relation with 14 Articles in April. The forum of the last newspaper, a sports newspaper, Gazeta Sporturilor, registered very few discriminatory messages because the forum is monitored and censored with regards to racist comments.⁷⁵

⁷⁵ Institutul pentru Politici Publice, and Romani CRISS, Centrul Romilor pentru Intervenție Socială și Studii, *Monitorizarea atitudinilor discriminatorii în mediul on-line românesc. Studiu de caz: forumurile cotidianelor naționale (Monitoring Discriminatory Attitudes in the Romanian On-line Environment. Case-study: the Forums of National Journals)*, (București: Institutul pentru Politici Publice, Centrul Romilor pentru Intervenție Socială și Studii, 2007).

5. Political and legal context

Elections last took place in Romania in 2004 when the right wing 'D.A.' (YES) Justice and Truth Alliance, a coalition of the National Liberal Party and the Democrat Party as main parties won the elections against the governing Social Democrat Party with a leftist orientation which had also governed from 1990 until 1996. Little changed in terms of approach towards the social inclusion of Roma.

The new President, Mr Traian Băsescu pressed for the inclusion in the definition of the Holocaust abuses against the Roma conducted by the Nazi regime and its allies. However, in light of his recent racist remarks in calling a journalist a 'filthy gypsy, such a measure does not signal a change of mentality, but moreover a populist measure. The Roma NGO Romani CRISS filed a complaint with the NCCD for the racist remarks of the President. The NCCD sanctioned the President with a written warning. Mr Băsescu recently contested the decision.

A complaint against the liberal Prime Minister Mr. Călin Popescu-Tăriceanu has also been recently filed with the NCCD by Romani CRISS. The Romanian PM declared that Romanian police officers would be sent to Italy to help catch and repatriate the Roma who commit felonies, claiming they commit 'all crimes possible, from violent theft and prostitution, to robbery and drug trafficking'. The police officers who were to be sent would train Italian officers on 'how to deal with the psychology and *modus operandi* of Roma who commit crimes'.⁷⁶ The case is now pending with the NCCD.

The public debate and fight against discrimination in 2006 has been largely supported in Romania by the context of EU accession and the pressures put on the Romanian Government to fulfil EU criteria in terms of combating discrimination, among other criteria.

5.1 Anti discrimination

The Romanian experience is very much determined by the transposition of both directives in one piece of legislation⁷⁷ and the establishment of one common national equality body⁷⁸ to deal with all forms of discrimination on every ground, including race or ethnic origin, nationality and religion. The national equality body has the power to sanction discrimination (by warning or administrative fine). The level of administrative fines differs: when the victim is

⁷⁶ Berceanu, Calina, 'Romani CRISS a depus plângere la CNCD împotriva lui Tăriceanu/ Romani CRISS filed a complaint with the NCCD against Tăriceanu' in Gândul, 4 July, 2007, <http://www.gandul.info/romani-criss-depus-plangere-cncc-impotriva-tariceanu.html?3927:844315> accessed on 9 July 2007.

⁷⁷ Law 48/2002 concerning the adoption of the Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination; Government Ordinance 77/2003 for the modification and adjustment of the Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination; Law 27/2004 concerning the adoption of the Government Ordinance 77/2003 for the modification and adjustment of the Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination; Law 324/2006 for the modification and adjustment of the Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination.

⁷⁸ National Council for Combating Discrimination (NCCD) - The official website of the institution is available at: <http://www.cncc.org.ro>, accessed on 9 July 2007.

only one individual, then the amount varies from 400 to 4,000 RON,⁷⁹ while in cases where the victims are a group or a community, then the levels are higher, between 600 and 8,000 RON.⁸⁰

Recent amendments to the anti-discrimination legislation ensure the independent legal statute of the national equality body – the National Council for Combating Discrimination (NCCD). In September 2006, it became an autonomous public authority subject to Parliament control. With this also came changes in the procedure of appointing members of the Steering Committee.⁸¹ Since the number of Committee members was increased to nine, in autumn 2006 the Parliament began procedures for the appointment of two new members. NGOs publicly expressed their concerns that the appointments would only follow the political algorithm, and not the professionalism conditions requested by the law.⁸² One of the two new members is member of civil society. Another important transposition of the EU Equality Directives took place in 2006, contributing to the full transposition of the Race Directive⁸³: the introduction of the concept of ‘shift of the burden of proof’ as well as the acceptance of audio-video and statistics as means of proof.⁸⁴

Reports⁸⁵ demonstrated that at the beginning of the year both the NCCD and the topic of discrimination increased in visibility compared to past years. This is a direct impact of the transposition of the EU Equality Directives. The notoriety of the NCCD is due, in large part, to the institution’s decisions in sanctioning race discrimination in football.⁸⁶ This is especially with respect to its sanctioning activity and less in connection with its prevention role. The NCCD’s policy in 2006 focused more on strengthening its sanctioning role rather than focusing on preventive actions and awareness-raising campaigns.

In 2006, the NCCD started to exercise more actively its prerogative of initiating acts to ensure harmonization of legal provisions with the equality principle.⁸⁷ It was involved in the process of amending its own legal framework and also other bills having an impact on anti-discrimination, like the *Draft law on the freedom of religion and the statute of religious denominations*.⁸⁸ Furthermore, the NCCD received several petitions with respect to discriminatory laws or minister’s orders. In these cases, it recommended that

⁷⁹ The approximate equivalent in euros is: 114 euros to 1140 euros.

⁸⁰ The approximate equivalent in euros is: 170 euros to 2285 euros.

⁸¹ The amended law prescribes a special procedure of designating the candidates, their selection and appointment through vote in the Parliament etc.

⁸² See Anti-discrimination NGO group, Press release 09.10.2006, available at: <http://www.antidiscriminare.ro/>, accessed on 9 July 2007.

⁸³ Only the concept of reasonable accommodation is not yet transposed.

⁸⁴ See Article 19-5 para. 6 and Article 21 para. 4 of the Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination, amended.

⁸⁵ Council for Combating Discrimination, *Perceptions and Attitudes regarding Discrimination*, available at: <http://www.cnccd.org.ro/studiianalize.swf>, accessed on 9 July 2007.

⁸⁶ National Council for Combating Discrimination, Directia Relatii Internationale, Integrare Europeana, Politici Afirmative, Studii si Monitorizare, *Analiza de imagine a Consiliului Național pentru Combaterea Discriminării pentru primul semestru al lui 2006 (National Council for Combating Discrimination Image Assessment – the first semester of the year 2006)*, <http://www.cnccd.org.ro/studiianalize.swf>, accessed on 9 July 2007.

⁸⁷ See Article 19 of the Romania/ Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination, amended (20.07.2006); see also Article 2 para. 1 point (b), (c), (d) of the Romania/ Government Decision 1194/2001 regarding the organization and functioning of the National Council for Combating Discrimination, amended (17.11.2003).

⁸⁸ See Romania/ NCCD’s Press release 21.09.2006, available at: <http://www.cnccd.org.ro/comunicatepresa.swf>.

authorities amend the legal provisions so that they come in compliance with the principle of non-discrimination.⁸⁹

Although functioning for almost 4 years, the NCCD still has no internal procedure for solving cases of discrimination. This makes its decisions vulnerable when judicial control is engaged. The legal time-limit for adopting these internal regulations expired in September 2006.⁹⁰

The NCCD also does not have a mechanism for drafting statistics on complaints received based on relevant indicators. Efforts towards data collection are carried out in an empiric manner in order to answer various requests for information that come up. For the years 2002-2006, from a total of 1542 complaints, only 9% (135 sanctions) were addressed through the application of an administrative sanction, while 40% (252 complaints) were complaints of alleged ethnic discrimination, in which the proportion of sanctioning was higher, 21%.

Other statistics target areas where ethnic discrimination occurred according to sanctions applied in 2002-2006.⁹¹ Others reflect subjects of complaints and sanctions applied in 2005 in areas of ethnic discrimination. Although the number of complaints is the highest in regard to alleged discriminatory behaviour of public officials (18 complaints), no sanction was applied. Yet, the behaviours most likely to be sanctioned were hate speech against Roma and prejudice and stereotyping in press Articles related to Roma (nine sanctions) and denial of access to public places and stores (four sanctions) or discriminatory advertisements (four sanctions).⁹²

5.2 Migration and integration

Romania is a new member of the European Union and third country migrants have yet to represent a significant issue. However, press Articles in 2006 discussed this issue and quoted officials of the office for the Migration of the Labour Force stating that the number of migrants looking for a job will increase in 2007 as more Romanians will migrate westward. Already, most of the aliens legally working in Romania come from Turkey (27%), China (15%), and the Republic of Moldova (14%).⁹³

An NGO report issued by The Ethnocultural Diversity Resource Center in 2006 on the situation of foreigners of all kinds concluded that the legal framework in Romania lacks coherence and an integrated view of the

⁸⁹ NCCD's Decisions 15/2006, 106/2006, 108/2006, available at: <http://www.cncd.org.ro/hotararicolegiudirector.swf>, accessed on 9 July 2007.

⁹⁰ Article 3 para. 1 of the Romania/ Law 324/2006 (20.07.2006).

⁹¹ See Annex 1.4.

⁹² See Annex 1.5.

⁹³ Hera, Călin, and Iordache, Sorin, 'Slujbele lăsate de români, vânată de străini ('Jobs Left by Romanians, Hunted by Foreigners'), in *Evenimentul zilei*, 11 October 2006 at <http://www.evz.ro/Article.php?artid=275718>.

problems faced by foreigners who come to Romania. There is only a short term approach to their situation.⁹⁴

The Romanian Government establishes annually a quota for work permits, the number of places in educational institutions and the deadline for enrolment, and the necessary amount for feeding, maintaining and housing in special centres as well as for medical assistance and hospitalization for foreigners.⁹⁵ The work permit quota for 2006 was 5,302 and it will be 10,000 for 2007.⁹⁶

The Law which regulates access to work permits for foreigners is *Law 203/1999* which was subsequently modified. A permit can be given for a period of six months with the possibility of renewal upon request, for other six-month intervals. Several other categories of foreigners can work in Romania without a work permit, such as foreigners with permanent residence, refugees with a recognized status, and citizens of the EU and the European Economic Area. A 2005 modification through an emergency Government Ordinance makes it so that foreigners cannot be hired particular positions unless a Romanian has not been found to fill that position, and in this case, the foreigner would have to fulfil special professional training conditions, have experience in the field and specific authorization solicited by the employer according to the law.⁹⁷

The Education Law discriminates against foreigners in the higher education system. Foreigners can only access University by paying school taxes which are especially established for them annually by the Government.⁹⁸ Also, foreigners in Romania do not enjoy political rights despite Council of Europe Recommendations to this effect.⁹⁹

The legal act regulating the status of refugees and asylum seekers in Romania is *Government Ordinance 44/2004*. It provides equal rights and obligations as Romanian citizens in terms of access to public goods and services for recognized refugees and persons with a form of international protection. According to the law, refugees can also benefit from special assistance related to their status, such as cultural orientation courses, Romanian language courses etc. The admissibility rate for refugees is 10%. Most asylum requests come from citizens of Iraq, Bangladesh and Afghanistan.

Government Ordinance 44/2004 lags behind with respect to implementation. In terms of education, the Ministry of Education does not have a diploma

⁹⁴ Chiriac, Marian, and Robotin, Monica, *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România (Foreigners Among Us, Residents, Refugees, Asylum Seekers, Illegal Immigrants in Romania)*, (Cluj-Napoca: CRDE, 2006), p 11.

⁹⁵ *Ibid.*, p. 13.

⁹⁶ Hera, Călin, and Iordache, Sorin, 'Slujbele lăsate de români, vâdate de străini' ('Jobs Left by Romanians, Hunted by Foreigners'), in *Evenimentul zilei*, 11 October 2006 at <http://www.evz.ro/Article.php?artid=275718>.

⁹⁷ Chiriac, Marian, and Robotin, Monica, *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România/ Foreigners Among Us, Residents, Refugees, Asylum Seekers, Illegal Immigrants in Romania*, (Cluj-Napoca: CRDE, 2006), p. 18.

⁹⁸ Article 61 of the Education Law No. 84/24.07.1995.

⁹⁹ Chiriac, Marian, and Robotin, Monica, *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România (Foreigners Among Us, Residents, Refugees, Asylum Seekers, Illegal Immigrants in Romania)*, (Cluj-Napoca: CRDE, 2006), p. 20.

recognition method, and many refugees with a higher education degree have to take low skilled jobs. Furthermore, many left their countries of origin without being able to take their educational certificates with them, which makes it impossible to have their studies (of any level) recognized, since the Ministry of Education and Research has no mechanism in place to test and determine educational qualifications. Furthermore, an official from the National Bureau for Refugees has recognized that courses for professional qualification although a legal obligation, do not take place.¹⁰⁰

In terms of employment, statistics show exactly how much the Romanian State is doing to help refugees find a job. A 2006 survey conducted by the National Bureau for Refugees shows that 56.6% of the people interviewed who had a job declared they got it through friends, 38.8% through their own means, 3.9 % with the help of an NGO, and only 0.7% with the help of county agents for employment. According to the same report, 35% of foreigners granted a form of protection are not working, with a higher unemployment rate among women (73.6%), and 34.9% work without a labour contract and are therefore not protected.¹⁰¹

Refugees have the right to live in a refugee centre for one year, after which they can have access to social houses, but almost never do. If they live in rental housing, the Bureau for Refugees pays half of their rent for one year, which again, does not always happen as some refugees declare. There are four centres for refugees and a temporary one at the Otopeni airport. The living conditions seem to be acceptable, but access to these centres is restricted.¹⁰²

Access to healthcare is made difficult by the lack of birth certificates and also by the refusal of the Bucharest House for Health Insurance to request payment for the health insurance only from 2004 when the law gave refugees this right.¹⁰³ Instead, they request contributions since the person was recognized as a refugee. Since having health insurance is compulsory for preparing the paperwork for getting a permanent residence, people prefer to pay even if they should not, and there is no legal basis for taking their money for the years before 2004.¹⁰⁴

The European Commission of Racism and Intolerance Third Country Report on Romania finds further problems with the Romanian legislation and practices regarding refugees. Although the refugee definition is in accordance with the Geneva Convention, the definition of family for the purpose of reunification is very restrictive. Thus, only legal spouses and children that are minors are eligible for reunification with their family members. There are also

¹⁰⁰ Ibid., p. 25-27.

¹⁰¹ Oficiul Național pentru Refugiați, *Raportul anual privind situația străinilor care au obținut o formă de protecție în România (Annual report on the Situation of Foreigners Who Received a Form of Protection in Romania)*, (București: Oficiul Național pentru Refugiați, 2006).

¹⁰² Chiriac, Marian, and Robotin, Monica, *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România (Foreigners Among Us, Residents, Refugees, Asylum Seekers, Illegal Immigrants in Romania)*, (Cluj-Napoca: CRDE, 2006), p. 28.

¹⁰³ The Romanian Forum for Migrants and Refugees (ARCA) took cases to court against the Bucharest House for Health Insurance on this issue and won, but the House did not change its policy in subsequent cases.

¹⁰⁴ Chiriac, Marian, and Robotin, Monica, *Necunoscuții de lângă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România (Foreigners Among Us, Residents, Refugees, Asylum Seekers, Illegal Immigrants in Romania)*, (Cluj-Napoca: CRDE, 2006), p. 28.

contradictions in the legislation. While a parent who has refugee status can reunite with his children, an unaccompanied minor with the same status cannot. The legal time provided for recourse in case of rejection of an asylum request is very little, with 15 days to leave the country after receiving the refusal, 10 days to make an appeal and only 3 days if the request was made at the border. Furthermore, the Romanian authorities have no system in which to provide asylum seekers with legal assistance and finding a translator for them is often impossible.¹⁰⁵

ECRI is also concerned by several abuses having to do with the fact that a person receiving a deporting order from her/his own country or that was declared *persona no grata* in Romania can be placed under arrest. Other causes for worry include the 20-bed centre for unaccompanied minors opened within the Otopeni airport and the intention of Romanian authorities to open detention centres for people who request political asylum. A last concern manifested by ECRI is the fact that the Romanian State basically depends on the UN High Commissioner for refugees and foreign and EU funding to cover programmes aimed at refugees and asylum seekers, and when finances are withdrawn, the State does not assume these obligations, and social services such as language courses, or occupation programmes, which are an obligation by law are not offered.¹⁰⁶

It can be concluded from the actions of Romanian institutions regarding refugees in particular, that the 11 Common Basic Principles (CBPs) elaborated by the European Union Commission in 2005¹⁰⁷ have not been taken into consideration by Romanian institutions and have not been implemented in policies regarding migrants and refugees.

5.3 Criminal justice

5.3.1 Racism as a crime

With respect to the legislative framework in the field of racist violence and crime, two types of criminal offences might occur: specific criminal offences, which are racist or discriminatory in nature, and general criminal offences which in some cases can be conducted with a racist or discriminatory motive.

The first category includes acts such as abuse in the exercise of authority against the rights of the person (a limitation of the use or exercise of the citizen's rights or the creation of an inferiority situation on the ground of nationality, race, sex, or religion conducted by a public officer),¹⁰⁸ nationalistic and chauvinistic propaganda, along with incitement to racist or nationalistic

¹⁰⁵ European Commission against Racism and Intolerance, *Third Report on Romania*, (Strasbourg: 2006) p. 24-25, http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Romania/Romania_CBC_3.asp#TopOfPage, accessed on 9 July 2007.

¹⁰⁶ Ibid.

¹⁰⁷ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. A common Agenda for Integration, Framework for the Integration of Third-Country Nationals in the European Union, (Brussels: 01.09.2005), http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0389en01.pdf, accessed on 9 July 2007.

¹⁰⁸ Article 247 of the Penal Code.

hatred,¹⁰⁹ impeding the free exercise of religion of any religious denomination recognized by the law,¹¹⁰ desecration through any means of a grave, monument, funeral urn or dead body.¹¹¹

In July 2006, as a result of lobby work from two Romanian NGOs¹¹² in partnership with the NCCD, the Romanian Parliament adopted new amendments to the *Penal Code* introducing a legal aggravating circumstance for any criminal offence conducted with discriminatory motivation on any ground prescribed in the anti-discrimination legislation, including race, ethnic origin or nationality.¹¹³

Furthermore, responding to pressure from Roma minority representative NGOs and public persons, the President of Romania, Traian Băsescu, requested the inclusion in the legal definition of Holocaust, in addition to the extermination measures taken against Jews, the ones taken against Roma people, also conducted by Nazi Germany and its allies.¹¹⁴

So far, there has been no particular interest from the part of public authorities working in the field of penal policy to collect data on racist or discriminatory motive as a source of acts of violence or crimes. For the year 2006, there are no official studies, reports or special penal policies to combat racially motivated crimes. The data referred to in this report was inferred from official general statistics on categories of crimes issued by different authorities and from unofficial reports coming from local or international NGOs.

The statistics realized by the police are accessible on the internet. The information received from the Ministry of Public Affairs, the Ministry of Justice and the Superior Council of Magistracy is public, but not offered to the public online or via publications.¹¹⁵ However, these institutions are developing an internet application - 'ECRIS'. With respect to statistics, only the criminal offences in force before 2006 have been taken into account by the authorities, to some extent. Yet, the criminal offences introduced in the summer of 2006 have not yet been considered.

The authorities that compile statistics on criminal offences declare that they have no records of data on racist or discriminatory motivation in cases of crimes of violence or other crimes. Furthermore, all institutions declare that they do not collect data on the ethnic origin or religion of victims or perpetrators. At least with respect to perpetrators' ethnic origin, this declaration is in contradiction with the fact that media monitoring reports reveal that the ethnic origin of perpetrators is often reported in the media.

¹⁰⁹ Article 317 of the Penal Code.

¹¹⁰ Article 318 para.1 of the Penal Code.

¹¹¹ Article 319 of the Penal Code.

¹¹² ACCEPT - Association and Center for Legal Resources.

¹¹³ See Article 75 para. 1, point of the Romania/ Penal Code amended in 2006.

¹¹⁴ The procedure before the Senate amending the Government Emergency Ordinance 31/2002 prohibiting organizations and symbols having a fascist, racist, xenophobe nature and making the apology of the persons guilty of crimes against peace and humanity is available at: <http://www.senat.ro>.

¹¹⁵ The data from these authorities is for the first semester of 2006.

Since no institution has the competence to focus on statistics in this area and to centralize the data collected by the authorities in different stages of the criminal procedure, the data that is available is incomplete, and lacks comparability and validity. For example, in 2006, the General Inspectorate of the Romanian Police collected data only regarding one of the four criminal offences (relevant to our analysis) – on the basis of Article 247 of the *Penal Code* on the *abuse in the exercise of authority against the rights of the person* (1427 complaints).¹¹⁶ In the next stage of the criminal investigation, the Ministry of Public Affairs collected data on Article 317,¹¹⁷ and on the *Government Emergency Ordinance 31/2002*.¹¹⁸ Yet, the statistics¹¹⁹ received from this authority are less satisfactory: the indicator is no longer Article 247 alone, but combined with Article 246 of the *Penal Code*.¹²⁰

Apart from the data collected by the Police and the General Public Prosecutor's Office, an activity of data collection within the judiciary system at the court level is taking place. This data is centralised by the Superior Council of Magistracy in cooperation with the Ministry of Justice. However, the aim of the activity is to monitor the process of justice administration in general.¹²¹ In 2006, data collection and interpretation performed by these authorities did not pay special interest to the topic of crimes having a discriminatory motivation. Consequently there is scarce data.¹²²

There was no debate on the EU Framework Decision on Racism and Xenophobia.

5.3.2 Counter terrorism

This topic is not yet developed in Romania.

5.3.3 Racial profiling

There is no data that racial profiling is used by the Romanian police in counter-terrorism measures. However, racial profiling is used by police officers when using disproportionate force in arrests or evictions of Romani individuals. As mentioned above, in the case of Apalina/ Reghin which occurred in September 2006, police forces went to a Roma community to hand two invitations with rapid intervention troupes. After police came, violence started resulting in injury to thirty Romani individuals and 6 police

¹¹⁶ See the entire police statistics of criminality for 2006, available at:

http://www.politiaromana.ro/date_statistica_2006.htm.

¹¹⁷ Nationalistic and xenophobic propaganda.

¹¹⁸ Prohibition of organizations and symbols having a fascist, racist or xenophobic nature and promoting the persons guilty of crimes against peace and humanity.

¹¹⁹ See Annex 1.6.

¹²⁰ Article 246 of the Penal Code – *Abuse in the exercise of authority against the interests of the person* sanctions the behaviour of a public officer that within the exercise of authority causes damages of the legal interests of a person and it is punished with imprisonment from six months up to three years.

¹²¹ The number of cases, the workload of each judge or prosecutor, the number of cases finalized the degree of complexity of the cases.

¹²² See Annex 1.7.

officers.¹²³ Romani CRISS documented cases of police abuse in terms of use of firearms against the Roma, but also police torture in cases of Roma detention. One Romani CRISS monitor has been intimidated and harassed by the police and in general, witnesses in cases of police abuse against the Roma are intimidated, while at the same time police investigations in such cases almost never lead to sentencing.¹²⁴ Racial profiling in this sense, by the police, has been recognized in Romania also by the US Department of State in its Country Report on Human Rights Practices for Romania.¹²⁵

5.4 Social inclusion

Due to the critical situation of the Roma community in terms of social exclusion, poverty and discrimination, the Romanian Government adopted in April 2001 the *National Strategy for the Improvement of the Condition of the Roma*¹²⁶ updated in April 2006¹²⁷. The goal of the *Strategy* is to determine the 'significant improvement of the condition of the Roma through the promotion of social inclusion measures'. The plan is for a period of 10 years (2001-2010), including different cycles.

NGO evaluations of the first cycle of the *Strategy* (2001-2004), including both local level evaluations and overall evaluations, reveal inconsistent implementation and a lack of real commitment. These evaluations were conducted by the Ethnocultural Diversity Resource Center¹²⁸ and the Open Society Institute's EU Monitoring and Advocacy program and Roma Participation Program, together with the Resource Center for Roma Communities from Cluj-Napoca.¹²⁹

Still, some progress has been registered through the initiation of programmes in various sectors. For example:

- Programmes promoting Roma representation at the local and central level and the hiring of Roma experts in policy development;
- Local action plans¹³⁰ in the field of education, health and employment including vaccination campaigns, the hiring of sanitary mediators,

¹²³ Liga Pro Europa, *Raport anual 2006 (2006 Annual Report)*, <http://www.proeuropa.ro/raport2006.html>, accessed on 9 July 2007.

¹²⁴ 'Împreună' Agency for Community Development, and Romani CRISS, Roma Center for Social Intervention and Studies, *Overview of the Roma Situation in Romania: for European Commission Consideration at the 2006 Country Report*, <http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Impreuna%20FINAL.pdf>, accessed on 9 July 2007.

¹²⁵ US Department of State, *Romania Report on Human Rights Practices 2006*, <http://www.state.gov/g/drl/rls/hrrpt/2006/78834.htm>, accessed on 9 July 2007.

¹²⁶ See Government Ordinance 430/2001 for the adoption of the *Government Strategy for the Improvement of the Condition of Roma*.

¹²⁷ See Government Ordinance 522/2006 for the modification and amendment of Government Ordinance 430/2001 for the adoption of the *Government Strategy for the Improvement of the Condition of Roma*.

¹²⁸ Centrul de Resurse pentru Diversitate Etnoculturală, *O necesară schimbare de Strategie. Raport privind stadiul de aplicare a Strategiei guvernamentale de îmbunătățire a situației romilor din România (A Necessary Change of Strategy. Report on the Stage of Implementation of the Government Strategy for the Improvement of the Condition of Roma in Romania)*, (Cluj-Napoca: CRDE, 2004).

¹²⁹ Open Society Institute EU Monitoring and Advocacy and Roma Participation Programs, and The Resource Center for Roma Communities, *Monitoring the Local Implementation of the Government Strategy for the Improvement of the Condition of Roma* (New York: Open Society Institute, 2004), http://www.soros.org/initiatives/roma/Articles_publications/publications/romap_20040927, accessed on 9 July 2007.

¹³⁰ Some policies were initiated by Roma NGOs even before the adoption of the *Strategy* and were later included in the *Strategy*.

- regular job fairs for Roma, and positive action measures reserving places for Roma students in high-schools and universities;
- Vocational training projects, income-generating activities, infrastructure and housing construction activities, and activities for the improvement of health conditions have also been financed;
- Projects supporting Romani children in education, addressing the lack of identity papers that is a key barrier to their enrolment, and introducing Romani language teaching;
- The 'Second Chance' program, implemented through the *Access to Education* programme which is part of the *Strategy*, offers those who have not graduated the opportunity to do so through special courses;
- Programs of violence prevention in multicultural communities have also been implemented in cooperation with the Ethnocultural Diversity Resource Center.

Specific problems encountered include

- Weak functioning of the implementation scheme of the *Strategy* at the central level mainly because of a lack of real commitment;
- A lack of involvement of local authorities because of multiple tasks which Roma representatives have aside from representation for the Roma;
- A lack of expertise and uncertain administrative subordination;
- A lack of consensus in *Strategy* implementation with low financial commitment and Roma civil society participation.¹³¹

The most successful part of the *Strategy* is considered to be the *Access to Education for Disadvantaged Groups with a special focus on Roma* implemented by the Ministry of Education and Research as part of the *Strategy* and with substantial EU funding (13.5 million euro from the EU and 3.83 million euro from the Romanian Government) until present.

However issues such as segregation and discrimination are still pervasive. At the same time, although 200 school mediators have been trained, lack of regulations to establish their status and hire more school mediators in ethnically mixed communities did not allow the initiative to extend. Spatial segregation is largely ignored. Overrepresentation of Roma children in special schools for children with intellectual disabilities is still a reality in Romania, although less worrying than in other countries in the region. Roma children attend such schools for economic grounds in order to benefit from meals and accommodation.¹³²

There has been no updated comprehensive evaluation of the *Strategy* since 2004. However, the European Commission Against racism and Intolerance (ECRI), in its last report on Romania criticized the Romanian Government for

¹³¹ Centrul de Resurse pentru Diversitate Etnoculturală, *O necesară schimbare de Strategie. Raport privind stadiul de aplicare a Strategiei guvernamentale de îmbunătățire a situației romilor din România (A Necessary Change of Strategy. Report on the Stage of Implementation of the Government Strategy for the Improvement of the Condition of Roma in Romania)*, (Cluj-Napoca: CRDE, 2004), p. 47-55.

¹³² Open Society Institute EU Monitoring and Advocacy and Roma Participation Programs, and The Resource Center for Roma Communities, *Monitoring the Local Implementation of the Government Strategy for the Improvement of the Condition of Roma* (New York: Open Society Institute, 2004), p. 331-333, http://www.soros.org/initiatives/roma/Articles_publications/publications/romap_20040927, accessed on 9 July 2007.

not committing the necessary political will to implement the *Strategy*, noting that there are entire areas where it simply has not been implemented. It also notes that while there has been a specific approach targeted towards all Roma communities, that these communities are very different and have different needs.¹³³

In 2005, the European Court on Human Rights decided against the Romanian State in the Hădăreni case involving ethnic violence against the Roma in Hădăreni, Mureș county (Moldovan and others v. Romania). The decision obliged the Romanian Government to design and implement a series of measures to combat discrimination, prevent conflicts and facilitate the social inclusion of the Roma in Hădăreni. Thus, the National Agency for the Roma, the institution in charge of the coordination of policies and strategies for the Roma, initiated an action plan for Hădăreni. This plan, designed for the 2006-2008 period, includes projects of community development and civic education, as well as economic, cultural, educational and health infrastructural development.¹³⁴ Thus far, implementation of the plan has been slow. However, three projects implemented have been financed by the Resource Center for Roma Communities, Romani CRISS and Freedom House Romania, and the legal framework has been developed.¹³⁵

The 2006 European Commission progress report on Romania's accession to the EU extensively highlights issues specific to Roma communities. It mentions the slow implementation of the *Strategy*, with social exclusion still a structural problem. It criticizes the cases of institutional violence and eviction, mentioning the low institutional awareness at the local level of the *Strategy* policies. 'The institutional framework for the implementation of the national strategy for Roma is not yet sufficiently effective and it tends to diminish the decision-making capacity of the National Agency for the Roma and representatives of the Roma population to participate effectively in decision-making in relevant areas.'¹³⁶

Romania is also part of an international unprecedented initiative for the inclusion of Roma, the *Roma Inclusion Decade*. Romania, through its National Agency for the Roma, held the Decade presidency from its initiation in July 2005 for one year until June 2006.¹³⁷ Within the Decade, Romania has developed, among others, action plans for the main social inclusion areas:

¹³³ European Commission against Racism and Intolerance, *Third Report on Romania*, (Strasbourg: 2006), http://www.coe.int/t/e/human_rights/ecri/1-ECRI/2-Country-by-country_approach/Romania/Romania_CBC_3.asp#TopOfPage, accessed on 9 July 2007.


¹³⁴ Agenția Națională pentru Romi, *Notă de fundamentare/ Fundament Note*, http://www.anr.gov.ro/docs/programe/hadareni/HG_Hadareni_2006_2008_not_a_fundamentare.pdf, accessed on 9 July 2007.

¹³⁵ Agenția Națională pentru Romi, *Stadiul implementării programului Hădăreni în decembrie 2006 (The Stage of Implementation of the Hădăreni Programme in December 2006)*, http://www.anr.gov.ro/docs/programe/hadareni/Stadiul_implementarii_Programului_Hadareni.pdf, accessed on 9 July 2007.

¹³⁶ Commission of the European Communities, *Communication from the Commission. Monitoring report on the state of preparedness for EU membership of Bulgaria and Romania*. (Brussels: 26.09.2006), http://www.infoeuropa.ro/ieweb/imgupload/Monitoring_report_-_September_2006_EN_final.pdf, accessed 9 July 2007.

¹³⁷ Agenția Națională pentru Romi, *Deceniul de Incluziune a Romilor (Roma Inclusion Decade)*, <http://www.anr.gov.ro/site/Programe.html>, accessed on 9 July 2007.

health, occupation, housing and education. These plans have been submitted for public debate, but they have not yet been adopted.¹³⁸



¹³⁸ Agenția Națională pentru Romi, *Planurile de acțiune pe domeniile prioritare ale Deceniului de Incluziune a Romilor (Action plans on the priority fields of the Roma Inclusion Decade)*, http://www.anr.gov.ro/site/planurile_deceniu.htm, accessed 9 July 2007.

6. National recommendations

6.1 General

The Romanian Government should commit the necessary resources and political determination in order to implement the *National Strategy for the Improvement of the Condition of the Roma*, by prioritizing this issue both in terms of commitment to the necessary public policies and when it comes to budgeting appropriately for the implementation of the policies.

6.2 Anti discrimination

The National Council for Combating Discrimination should immediately adopt an internal procedure with respect to conducting investigations and addressing complaints. It should implement a mechanism for registering complaints based on relevant indicators and base its priorities in action on these statistics and analysis.

6.3 Migration and integration

The Romanian state should introduce and support the necessary programmes to facilitate integration for those persons who have been granted refugee status (for example, in terms of employment, housing, language courses, etc.).

6.4 Criminal justice

6.4.1 Racism as a crime

Practical training for the police and the judiciary should be implemented on the new amendments to the *Penal Code* in the field of racist violence and crime. The Government should designate a public authority to centralize statistics in this area and to propose penal policies to combat racist violence and crime.

6.4.2 Racial profiling

The Romanian State should adopt a zero tolerance policy to racial profiling by the police force and should ensure the fair administration of justice in cases where such abuses have occurred.

6.5 Social inclusion

Social inclusion policies for the Roma should include the general population to a larger extent, bringing to the public conscience the situation which the Roma

face as an ethnic group, with a view to combating discrimination. This can be done through a clear publicly assumed mission to change the situation of the Roma for the better.

7. Conclusion

One important legal development was the amendments to the Penal Code adopted in July 2006 introducing a legal aggravating circumstance for criminal offences committed with discriminatory motivation on grounds prescribed in the anti-discrimination legislation, including race, ethnic origin or nationality. This was the result of the lobbying of two Romanian NGOs, Accept and the Center for Legal Resources, in partnership with the National Council for Combating Discrimination.¹³⁹

Another important development in 2006 was the independence of the National Council for Combating Discrimination (NCCD). It became an independent body subject to Parliament control instead of subordinated to the Government. The number of the persons from the NCCD increased from seven to nine and one of the members is a member of civil society, supported by civil society lobbying. In 2006, the NCCD started to more effectively exercise its role by initiating acts aimed at ensuring the harmonization of legal provisions with the equality principle.

A third key development was the positive discrimination measure of the Ministry of Administration and Internal Affairs for 2006, consisting of allocating special places in the police force for Roma individuals. Related to this measure, the Ethnocultural Diversity Resource Center NGO, in partnership with the Ministry, has initiated an information campaign on the places allocated to the Roma in Police Schools and on the admissions process.

The role of civil society in combating racism and discrimination has been significant throughout 2006. NGOs have exposed the lack of State intervention in terms of social inclusion for the Roma. Their lobbying has been crucial to the adoption of relevant legislation in the field of anti-racism and anti-discrimination, but also in the elaboration of public policies and in particular, the *National Strategy for the Improvement of the Condition of the Roma*.

¹³⁹ See Article 75, para 1, point of the Romanian Penal Code amended in 2006.

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9. Annex 1: ANNEXES REFERED TO IN THE REPORT

Annex 1.1¹⁴⁰

Urban Roma live in several types of communities:

- 'Central' communities with a history in that place, but with an illegal or semi-legal status in those houses, often exposed to evictions. In some towns, walls were built to limit their access to the main roads;
- 'Block communities' which are the result of evictions in blocks of flats often lacking basic utilities and where the first floor becomes the garbage collection space. These are ethnically mixed though mostly populated by the Roma;
- Peri-urban communities are the result of further relocations of Roma at the periphery of towns. These communities look like villages but are very poor and there is no land ownership which makes them further vulnerable to relocations;
- Para-rural communities are specific to more integrated Roma in the rural communities sometimes living in houses left behind by Germans who left for Germany after 1989;
- Peri-rural communities are spatially segregated Roma communities next to a village, with no access to utilities and generally much poorer, though some are rich communities. They have been historically settled, and keep a traditional way of life;
- 'Autonomous' communities are those Roma communities mostly abandoned by the administration, highly segregated, with no connection to a village, and an illegal connection to electricity at most in terms of utilities.

Annex 1.2¹⁴¹

Access to utilities depending on ethnic group and environment (%):						
Dwellings	Rural		Urban		Total	
	Roma	Others	Roma	Others	Roma	Others
Not linked to the gas network	95	89	75	21	87	53
No sewage	95	87	72	15	86	49
No running water in house	95	84	73	10	86	44
No power	14	3	12	1	13	2
Heating with waste or no heating	10	1	14	2	12	2

¹⁴⁰ Extract from Berescu, Cătălin, Celac, Mariana, Ciobanu, Oana, Manolache, Cosmin, *Locuirea și sărăcia extremă. Cazul romilor (Housing and Extreme Poverty. The case of Roma Communities.)* (București: Editura Universitară Ion Mincu, 2006), p. 24-44.

¹⁴¹ Extract from Bădescu, Gabriel, Grigoraș, Vlad, Rughiniș, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 33.

Annex 1.3¹⁴²

Relation between ethnicity, (Roma/not-Roma), school education and age:			
Age	Education Level	Percentage of the population	
		Non-Roma	Roma
Over the age of 40	No education at all	2.3	26.3
	Primary education	17.7	33.4
	Lower secondary school (5-8)	27.2	26.4
	Upper primary school – high-school (9-10)	22.4	10.7
	High-school (9-12)	22.2	2.2
	Higher education	8.2	0.6
Under the age of 40	No education at all	0.8	20.9
	Primary education	2	23.1
	Lower secondary school (5-8)	18.7	38.2
	Upper primary school – high-school (9-10)	25.3	12.6
	High-school (9-12)	42.4	4.3
	Higher education	10.8	0.8

Annex 1.4

Statistics provided by the General Public Prosecutor's Office:						
Indicators	Art.246 & 247 - Abuse in the exercise of authority against the rights of the person, and against the interests of the person		Art.317 - Nationalistic and xenophobic propaganda		O.U.G. nr. 31/2002 - Prohibition of organizations and symbols having a fascist, racist or xenophobic nature	
	Year 2005	Sem.I 2006	Year 2005	Sem.I 2006	Year 2005	Sem.I 2006
a. Cases solved by the prosecutors' offices (including	9319 (39)	5150 (19)	3 (1)	1 (0)	5 (2)	3 (0)

¹⁴² Extract from Bădescu, Gabriel, Grigoraş, Vlad, Rughiniş, Cosima, Voicu, Mălina, Voicu, Ovidiu, *Roma Inclusion Barometer*, (Bucharest: Open Society Foundation, 2007), p. 77.

Statistics provided by the General Public Prosecutor's Office:						
number of cases sent to court)						
b. Persons trialed (including number of persons trialed under arrest)	49 (0)	21 (0)	1 (0)	0 (0)	2 (0)	0 (0)
c. Persons discharged by the prosecutor because of their acts represent a low danger to society, art.18 of the Penal Code	463	243	0	0	0	1
d. Cases with unidentified authors	242	216	0	0	0	1

Annex 1.5

Statistics provided by the Superior Council of Magistracy:

The number of persons convicted (final verdict) for the crime sanctioned by Article 247 of the Penal Code:

- In 2006 – nine persons (two sanctioned with the penalty of imprisonment from one year - five years, and seven persons sanctioned with the penalty of imprisonment under conditional suspension).

The number of persons convicted (final verdict) for the crime sanctioned by Article 317 of the Penal Code:

- In 2006 this crime was not monitored.

The number of persons convicted (final verdict) for the crime sanctioned by Article 318 of the Penal Code:

- In 2006 – none.

Annex 1.6

Statistics provided by the National Council for Combating Discrimination (2002-2006):

Area of discrimination	Sanctions/Year			
	2002/03	2004	2005	2006
Discriminatory adds in press/ advertisement: 14	9	0	5	0
Discriminatory press articles related to Roma (prejudice and stereotyping): 12	8	0	4	0
Denial of access to public places: 10	7	1	2	0
Hate speech: 8	1	2	5	0
Discrimination in sport (using racist slogans): 2	0	0	2	0
Employment (commercial relations): 1	0	0	1	0
Segregation in education (Roma): 2	1	0	0	1
Denial of service in public places: 1	0	0	1	0
Denial of access to stores: 1	0	0	1	0
Discriminatory statistics of Police: 2	0	0	1	0
Eviction and discriminatory replacement of Roma: 1	0	0	1	0
Total: 53	26	3	23	1

Annex 1.7

Statistics provided by the National Council for Combating Discrimination (Areas of ethnic discrimination):

Areas of ethnic discrimination	Number of complaints	Number of sanctions
Discriminatory behaviour of public officials (institutions)	18	0
Discrimination in housing (adds, denial, eviction)	9	3
Discrimination in Employment	8	1
Press articles related to Roma (prejudice and stereotypes)	7	4
Hate speech against Roma (prejudice)	6	5
Access to public places or stores (denial of access)	6	4
Discrimination in education	4	0
Discrimination in sport (using racist slogans)	4	2
Discriminatory advertisement	4	4
Discriminatory application of law	2	0
Discriminatory statistics of Police (statistics on crime perpetrators)	1	1



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