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## Romanian NFP “National Data Collection Report - 2006”: RAXEN 7

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# 1 Executive Summary

## Legislation

The Romanian society registered progress with respect to adopting legislation and ensuring its effective implementation. The impact of the EU Directive consisted in the achievement of the national equality body's independence, along with its enhanced public visibility and influence of the decision-making process. Furthermore, it ensured the premises for an effective protection against racism and discrimination – a more accessible way to remedies and use of proves.

Under EU monitoring, the National Council for Combating Discrimination started to compile different statistics of its jurisprudence. Yet, its preventive role must be exercised more.

The discrimination against Roma continues to be structural. Competent authorities registered only little progress in addressing it. Reports still register lack of awareness and lack of practical implementation at the local level. Unofficial sources refer to racist violence, especially with regard to forced evictions.

The *Draft law on the statute of minorities* is still under debate in the Parliament and future developments need to be monitored.

## Employment

In this field, there are limited official sources of data, although the institutional and legislative framework is in place. Only information about Roma, refugees, asylum seekers and foreigners are available in short supply. Un-official sources illustrate the disadvantaged situation of Roma.

In order to answer the requirements of the EC, policies and projects have been addressing mostly the Roma group, leaving refugees, persons granted a form of protection, immigrants without State encouragement in accessing jobs.

Local level labour administrations do not consider within their mandate to combat discrimination based on race or other ground except sex.

A topic that has just come up refers to the alien labour force. The authorities did not take a clear public position with respect to this phenomenon.

## Education

Within the Ministry of Education and Research there is a mechanism for data collecting with respect to access to education. Special attention was given to education for national minorities and the equal access to education for Roma children. However, the groups of refugees, asylum seekers and immigrants are paid little attention in practice.

The minority and multicultural education is developing naturally, since the main improvements were done the years before. The segregation in education at the local level and the problem of access, the drop-out problem are some of the concerns with respect to the Roma community.

The impact of the EU consisted in implementing projects for the Roma education; however concerns exist with regard to the sustainability of the solutions developed within these projects, after the external funding stops.

## Housing

Due to the general social dimension of the housing problem in Romania, housing rights are rarely associated, by the authorities, with racism, xenophobia and discrimination. Public authorities do not have any statistics regarding the situation of housing of the groups considered in the report.

However, the problems of racism in housing are no less present, as NGOs report it. The main cases of discrimination (evictions, demolitions, spatial segregation) are concentrated at the level of Roma communities. Other ethnic minorities have a stable residential situation, spatially integrated and subject to the general dynamic of the society.

The report follows two main topics: the housing of refugees, mostly in relation with the authorities, and the Roma community situation as reflected by various actors.

From the point of view of the impact of the EU Directive EC/43/2000, there are developments only with a general character at the legislative level. No special measures of ensuring equal access to housing are in place, except the efforts of the National Agency for Roma.

## Racist violence and crimes

The data reported by the national authorities is collected in principle for other purposes than to monitor the phenomenon. Consequently, there is a need of further refining and detailing it within the existing mechanisms. There is a need for further collaboration between all the authorities dealing with different levels of the criminal case. This is of an even greater importance since the recent amendments of the Penal Code are introducing the hate-crime concept.

Although official sources deny being responsible, NGOs report several incidents of racist violence and crimes perpetrated by public authorities or individuals.

There is little interest in developing policies, or taking measures to combat racist violence and crimes comparing to the other years.

## 2 Five main areas

### 2.1 Legal issues

#### 2.1.1 Impact of EU Directives 2000/43/EC and 2000/78/EC

##### *2.1.1.1 A unique multi-ground national equality body*

2.1.1.1. The Romanian experience is very much marked by the transposition of both directives in one piece of legislation<sup>1</sup> and the establishment of one common national equality body.<sup>2</sup>

2.1.1.1.2. This year, the conflicts of competences between the NCCD and two other public institutions ended in the favour of the first body. The Bucharest Court of Appeal decided that the NCCD is competent to decide whether a media advertising clip is discriminatory or not.<sup>3</sup> Furthermore, a legal amendment<sup>4</sup> was adopted by the Parliament in July clarifying that the Romania/ National Agency for Equal Opportunities<sup>5</sup> can only receive and forward the petitions on alleged

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<sup>1</sup> See Romania/ Law 48/2002 concerning the adoption of the Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination (31.01.2002); see also Romania/ 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, (30.08.2003); see also Romania/ 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 (11.04.2004); see also Romania/ 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, (20.07.2006).

<sup>2</sup> It deals with all forms of discrimination on every ground, including race or ethnic origin, nationality, religion. See Romania/ National Council for Combating Discrimination (NCCD) - The official website of the institution is available at: <http://www.cncd.org.ro> (14.10.2006).

<sup>3</sup> The case addresses the conflict of competence between the NCCD and the Romania/ National Audiovisual Council.

<sup>4</sup> See Romania/ Law 340/2006 for the modification and adjustment of the Law 202/2002 regarding equal opportunities between women and men (25.07.2006).

<sup>5</sup> The National Agency for Equal Opportunities is a department within the Ministry of Labour, Social Solidarity and Family dealing with preventive

discrimination.<sup>6</sup> The NCCD is the competent body to decide on the existence of discrimination and to order the administrative sanctioning of the perpetrator.<sup>7</sup>

2.1.1.1.3. However, when choosing the national implementation body for the Year 2007 – European Year of Equal Opportunities for All, the Government decided in favour of the Ministry of Labour, Social Solidarity and Family - National Agency for Equal Opportunities.<sup>8</sup> This determined the NCCD's strong public protest. It refused to take part in the process of drafting the national strategy for the Year 2007.<sup>9</sup>

### *2.1.1.2 The independence of the national equality body*

2.1.1.2.1. The recent amendments of the anti-discrimination legislation ensure the independent legal statute of the national equality body.<sup>10</sup> Since September 2006, it became an autonomous public authority subjected to Parliament control. With this came also the changes in the procedure of appointing the Steering Committee's members.<sup>11</sup> Since their number raised to nine persons, this autumn the Parliament started the procedures for the appointment of two new members.<sup>12</sup>

### *2.1.1.3 The role in the legislative process*

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measures and policies with respect to ensuring equal opportunities on the ground of sex - The official website of the institution is available at: <http://www.anes.ro> (14.10.2006).

<sup>6</sup> See Article 26 para. (1) point (i) of the Romania/ Law 202/2002 regarding equal opportunities between women and men, amended (25.07.2006).

<sup>7</sup> See Article 50 para. (2) point (b) of the Romania/ Law 202/2002 regarding equal opportunities between women and men, amended (25.07.2006).

<sup>8</sup> The decision was taken in the Government's meeting on the 6<sup>th</sup> of September 2006. See the complete documentation available at: <http://www.anes.ro> (14.10.2006).

<sup>9</sup> See Romania/ NCCD's Press Release 19.09.2006, available at: <http://www.cncd.org.ro/comunicatepresa.swf> (14.10.2006).

<sup>10</sup> The NCCD.

<sup>11</sup> The amended law prescribes a special procedure of designating the candidates, their selection and appointment through vote by the plenum of the Parliament etc.

<sup>12</sup> NGOs publicly expressed their concerns that the appointments will only follow the political algorithm, and not the professionalism conditions requested by the law. See Romania/ Anti-discrimination NGO group, Press release 09.10.2006, available at: <http://www.antidiscriminare.ro/> (15.10.2006).

**2.1.1.3.1.** One of the NCCD's competences is to propose to the Government draft laws.<sup>13</sup> In the year 2006, this body started to exercise more actively this prerogative, getting involved in the process of amending its own legal framework and also other bills having an impact in the anti-discrimination field.<sup>14</sup>

**2.1.1.3.2.** Furthermore, the NCCD received several petitions with respect to discriminatory situations in the legislation.<sup>15</sup> In these cases, it recommended the authorities to amend the legal provisions so that they will come in compliance with the principle of non-discrimination.<sup>16</sup> In an internal study, the legislative and institutional discrimination are among the objects of petitions received by the institution in 2005, alleged discriminations in: the court system (2 petitions), the legislative system (6 petitions), and institutional discrimination (5 petitions).<sup>17</sup>

#### *2.1.1.4 The prerogative of applying administrative sanctions, even ex officio*

**2.1.1.4.1.** According to the study,<sup>18</sup> from the 214 petitions received in 2005, only 23 are of the NCCD's competence. The Steering Committee decided to solve:

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<sup>13</sup> In the field of combating discrimination and to initiate acts to ensure the harmonization of other legal provisions with the equality and non-discrimination principle. See Article 19<sup>3</sup> 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).

<sup>14</sup> Like the Romania/ *Draft law on the freedom of religion and the statute of religious denominations*. See Romania/ NCCD's Press release 21.09.2006, available at: <http://www.cncd.org.ro/comunicatepresa.swf> (16.10.2006).

<sup>15</sup> Laws or minister's orders.

<sup>16</sup> See Romania/ NCCD's Decisions 15/2006, 106/2006, 108/2006, available at: <http://www.cncd.org.ro/hotararicolegiudirector.swf> (16.10.2006).

<sup>17</sup> See Romania/ National Council for Combating Discrimination, Direcția Relații Internaționale, Integrare Europeană, Politici Afirmative, Studii și Monitorizare, *Analiza solicitărilor adresate Consiliului Național pentru Combaterea Discriminării (CNCD) în anul 2005*, p.8, available at: <http://www.cncd.org.ro/studiianalize.swf> (16.10.2006).

<sup>18</sup> See Romania/ National Council for Combating Discrimination, Direcția Relații Internaționale, Integrare Europeană, Politici Afirmative, Studii și Monitorizare, *Analiza solicitărilor adresate Consiliului Național pentru Combaterea Discriminării (CNCD) în anul 2005*, pp. 8-15, available at: <http://www.cncd.org.ro/studiianalize.swf> (16.10.2006).

- 7 of them throughout mediation,
- 7 administrative warnings and
- 7 administrative fines,
- 1 case the perpetrator could not be identified and
- 1 case the perpetrator did not oppose to accusations.

**2.1.1.4.2.** In addition, the NCCD conducted in 2005 30 ex officio investigations:

- In 14 of them the decision was that the facts do not constitute discrimination.
- 7 administrative fines and
- 8 administrative warnings have been applied.
- 1 case was solved through mediation.

**2.1.1.4.3.** However, from the reply of the NCCD to the NFP's questions<sup>19</sup>, comes out that: in 2005 there have been applied a total of:

- 37 warnings and
- 24 administrative fines;

While in the first semester of 2006, there have been applied a total of:

- 7 warnings and
- No administrative fines.<sup>20</sup>

**2.1.1.4.4.** Under the influence of EU monitoring, the NCCD compiled in 2006 different statistics of its jurisprudence with regard to ethnic discrimination for the years 2002-2006 and separate for 2005.<sup>21</sup> From a total of 1542 complaints:

- Only 9 per cents (135 sanctions) have been solved by the application of an administrative sanction.
  - 40 per cents (252 complaints) are complaints of alleged ethnic discrimination.
- Here the proportion of sanctioning is higher: 21 per cent.

**2.1.1.4.5.** Other statistics target areas where ethnic discrimination occurred according to sanctions applied in 2002-2006,<sup>22</sup> and subjects of complaints and sanctions applied in 2005 in areas of ethnic discrimination. Although the number of complaints is the highest (18 complaints) in regard to alleged discriminatory behaviour of public officials (institutions), no sanction was applied. Yet, the behaviours most likely to be sanctioned referred to hate speech against Roma (prejudice) and press articles related to Roma (prejudice and stereotypes) (9 sanctions) and access to public places and stores (denial of access) (4 sanctions) or discriminatory advertisement (4).<sup>23</sup>

<sup>19</sup> See Annex ...

<sup>20</sup> The difference in numbers could be the result of the fact that sometimes petitions received in the year before are solved in the next year, but the petition's number remains one from the year of entrance in the institution.

<sup>21</sup> See Annex ...

<sup>22</sup> See Annex, charter ...

<sup>23</sup> See Annex , Charter ...

**2.1.1.4.6.** The recent amendments of the anti-discrimination legislation, adopted both under the impact of the two EU directives, and under the ratification by Romania of Protocol no.12,<sup>24</sup> underlined the optional character of the administrative procedure of sanctioning discrimination before the NCCD.<sup>25</sup>

**2.1.1.4.7.** One important aspect introduced by the new amendments is unifying the two administrative documents issued by the NCCD in case of finding discrimination: the Steering Committee's decision and the order/delegation to apply the sanction (so-called 'proces-verbal'). The outcome is simplifying the access to the remedy ensured by this administrative procedure. In the past the two documents were subjected to judicial control on two separate legal procedures, before two different degrees of jurisdiction: court of first instance – the 'proces-verbal', and court of appeal – the decision, with the possibility of issuing contradictory decisions. From now on, only the court of appeal will ensure the judicial control.

**2.1.1.4.8.** The NCCD's decisions are constantly under judicial control.

- In 2005: 20 decisions.
- In the first semester of 2006: 23 decisions.
  - From these: 2 have been partially amended by the court – changing the administrative fine into administrative warning and 3 have been totally amended.
  - The NCCD was ordered by the High Court of Cassation and Justice to change one of his decisions.
- In 2005: 10 'proces-verbal' have been contested before courts.
- In the first semester of 2006 – 'proces-verbal' have been contested before courts.<sup>26</sup>

**2.1.1.4.9.** Although functioning for almost 4 years, the NCCD still has no internal procedure of solving the cases of discrimination. This makes its decisions be vulnerable when judicial control is engaged.<sup>27</sup> The legal time-limit for adopting these internal regulations expired in September 2006.<sup>28</sup> There is an action pending on free access to information at the Bucharest Court of Appeal against the NCCD with respect to communicating the minutes of the Steering Committee's meetings on the draft of this internal procedure.<sup>29</sup>

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<sup>24</sup> Protocol no.12 of the European Convention on Human Rights was ratified by Romania in 2006.

<sup>25</sup> See Article 21 of the Romania/ Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination, amended (20.07.2006).

<sup>26</sup> See Annex ...

<sup>27</sup> As illustrated in paragraph 2.1.1.4.8.

<sup>28</sup> See Article Article III para. (1) of the Romania/ Law 324/2006 (20.07.2006).

<sup>29</sup> See Romania/ Curtea de Apel Bucureşti/ File no. 14516/3/2006, introduced by Romania/ Center for Legal Resources.

### *2.1.1.5. Visibility increase*

2.1.1.5.1. Reports<sup>30</sup> showed at the beginning of the year that both the NCCD and the topic of discrimination increased in visibility comparing to other years. This is a direct impact of the transposition of the EU directives in the filed. The European accession argument promoted by the NCCD with the topic of anti-discrimination was constantly underlined and present on the public scene.

2.1.1.5.2. For the first semester of 2006, the in-house report<sup>31</sup> of the NCCD shows the notoriety of the NCCD due to the decisions of sanctioning race discrimination in football.<sup>32</sup> The ground of nationality is also covered since the debates on the Romania/ *Draft law on the statute of minorities* and the Autonomy of the ‘Secui Region’. However, the report remarks that this is especially with respect to its sanctioning activity and less in connection to its prevention role.

### *2.1.1.6. Regulating exceptions in the means of proving*

2.1.1.6.1. The recent amendments of the anti-discrimination legislation introduced the concept of shift of the burden of proof and audio-video and statistics as means of proof.<sup>33</sup> Within the Parliament, the concept met strong

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<sup>30</sup> See Romania/ National Council for Combating Discrimination, *receptions and Attitudes towards Discrimination*, available at:  
<http://www.cncd.org.ro/studiianalize.swf>.

<sup>31</sup> See Romania/ National Council for Combating Discrimination, Directia Relatii Internationale, Integrale Europeana, Politici Afirmative, Studii si Monitorizare, *Analiza de imagine a Consiliului Național pentru Combaterea Discriminării pentru primul semestru al lui 2006*, available at:  
<http://www.cncd.org.ro/studiianalize.swf>.

<sup>32</sup> See Annex ...

<sup>33</sup> See Article 19-5 para. (6) and Article 21 para.4 of the Romania/ Government Ordinance 137/2000 regarding the prevention and the punishment of all forms of discrimination, amended (20.07.2006).

opposition.<sup>34</sup> However, the European Union accession argument<sup>35</sup> and the transposition of the two EU directives were essential for the vote.<sup>36</sup>

2.1.1.6.2. This is in the context of the conservative Romanian civil procedure when only written documents and witnesses are allowed and the proof is incumbent on the applicant. Neither the NCCD, nor the courts have applied these new regulations, yet. Judges participating in training sessions on combating discrimination within the National Institute for Magistrates declared that they will have difficulties in applying them to practical cases with respect to *prima facie evidens*.<sup>37</sup>

### 2.1.1.7 *Relevant jurisprudence*

2.1.1.7.1. The issue of ensuring effective remedy, including awarding civil damages is problematic in any trial, and the cases of discrimination face even more hardly the opposition of a conservative judiciary. Yet, jurisprudence begins to exist in this area also. After four years, a local court from Botoșani County awarded 6,000,000 ROL (around 150 Euros) civil damages to compensate the emotional suffering of three Roma young men whom, in 2002, have been forbidden the access to a pub because of their ethnic origin. Along with the compensation, the court ordered to the owner of the pub to allow in the future the free access of the plaintiffs in his pub. Romani CRISS, a Roma rights NGO, which acted as legal representatives of the victims of discrimination mentioned that there are other three similar cases of discrimination that will be enforced in the future.<sup>38</sup>

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<sup>34</sup> The principle argument used against it refers to the presumption of innocence from the Romanian Constitution.

<sup>35</sup> Present in Bucharest on the 25<sup>th</sup> of May 2006, European Commissioner for Social Affairs, Vladimir Spidla, showed content about legal and institutional instruments created by Romania in the fight against discrimination. However, he underlined the need to change the system of collecting proofs in cases of discrimination in employment in order to comply with the European directives in the field (Directives 43 and 78), available at:

[http://www.adevarulonline.ro/2006-06-26/Europa/discriminarea-la-locul-de-munca-in-atentia-ce\\_189313.html](http://www.adevarulonline.ro/2006-06-26/Europa/discriminarea-la-locul-de-munca-in-atentia-ce_189313.html).

<sup>36</sup> See [http://www.cdep.ro/pls/proiecte/upl\\_pck.proiect?cam=2&idp=7317](http://www.cdep.ro/pls/proiecte/upl_pck.proiect?cam=2&idp=7317), <http://www.curierulnational.ro/?page=articol&editie=1193&art=77485>, <http://www.romacenter.ro/monitorizare/photos/28iu2.jpg>.

<sup>37</sup> These statements were made within four sessions of training on the issue of combating discrimination organized within the National Institute for Magistrates, in cooperation with the NGO Center for Legal Resources, during the year 2006 (February, July, October).

<sup>38</sup> See information available at:  
<http://www.romacenter.ro/monitorizare/photos/12ag1.jpg>,  
<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=8&dayID=11#r1>, <http://www.romacenter.ro/monitorizare/photos/11ag1.jpg>.

## **2.1.2 Transposition and impact of Council Directive 2003/109/EC of 25 November 2003 on long-term resident status for third country nationals**

**2.1.2.1.** According to an official study published in March 2006,<sup>39</sup> the *acquis communautaire* in the field until the year 2004 has been transposed by Romania through the adoption of new pieces of legislation.<sup>40</sup> The equivalent Romanian legal notion that regulates the concept of long-term resident status of third-country nationals from the EU directive is “permanent resident”.

**2.1.2.2.** The Government adopted also internal regulations regarding the activity of the Romania/ Autoritatea pentru Străini, in compliance with the new legislation.

**2.1.2.3.** In the year 2005, the Romania/ Autoritatea pentru Străini registered a total number of 49,485 foreigners having the right of residence in Romania. One can observe a slight increase in their number compared to the situation in 2004 (46,762). Yet, compared to other European Union countries with tradition in immigration, in Romania only 0.2 per cent of the population are foreigners. Statistics based on nationality are realised by the Romania/ Autoritatea pentru Străini.<sup>41</sup> These statistics present also the situation with respect to types of towns where the foreigners register their residence. The Ilfov County (nearby the capital city) is the place where the foreign investors register. Large cities are in general preferred by the foreigners, especially the ones being university centres.<sup>42</sup>

**2.1.2.4.** The number of foreigners that obtained the right to permanent residence in Romania raised with 78 per cents in 2005, compared to the year 2004. Their total number of 4,120 persons represents 9 per cents from the total. The official report of the Ministry of Internal Affairs - Romania/ Autoritatea pentru Străini states that the reason for this augmentation is the special conditions requested to qualify for the permanent resident status: the period of discontinuity on the

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<sup>39</sup> See Romania/ Ministry of Internal Affairs, Autoritatea pentru Straini, *Migratia si Azilul in Romania*, p.5, available at: [http://aps.mai.gov.ro/pagini/inf\\_publice/Migratie\\_Azil/MIGRATIA\\_SI\\_AZILUL\\_IN\\_ROMANIA.doc](http://aps.mai.gov.ro/pagini/inf_publice/Migratie_Azil/MIGRATIA_SI_AZILUL_IN_ROMANIA.doc)

<sup>40</sup> See Romania/ Law 482/2004 (27.11.2004), Government Emergency Ordinance 113/2005 (25.07.2005) and adopted with modifications and adjustments by the Law 306/2005 (25.10.2005). These laws modify and adjust the Romania/ Government Emergency Ordinance 194/2002 regarding the statute of foreigners in Romania.

<sup>41</sup> See Annex ...

<sup>42</sup> See Annex ...

territory of Romania raised to 90 days, and a more favourable regime is in place in the case of investors.<sup>43</sup>

### 2.1.3 Legislation in the area of criminal law

2.1.3.1. In March-April 2006, two Romanian NGOs<sup>44</sup> in partnership with the NCCD lobbied the Ministry of Justice to introduce in the amendments of the Penal Code some paragraphs related to hate crimes.

2.1.3.2. Consequently, the Parliament adopted an amendment law<sup>45</sup> containing the following provisions:

- The legal aggravating circumstance for any criminal offence conducted with a discriminatory motivation on any ground prescribed in the anti-discrimination legislation, including race, ethnic origin or nationality.<sup>46</sup>
- Expanding the list of grounds for two criminal offences that sanction the behaviour of the civil servants of abuse in the exercise of their power and the incitement to hatred on the grounds of discrimination, including on the ground of race, ethnic origin, and nationality.

2.1.3.3. The same law<sup>47</sup> amends also the special criminal legislation in the field of prohibiting organizations and symbols having a fascist, racist, xenophobe nature and making the apology of the persons guilty of crimes against peace and humanity.<sup>48</sup> This law characterises as administrative or criminal offences behaviours having a racist nature, like: creating or joining an organization having a fascist, racist or xenophobe nature,<sup>49</sup> manufacturing and commercializing symbols of the same nature,<sup>50</sup> the apology of persons guilty of

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<sup>43</sup> See Annex ...

<sup>44</sup> Romania/ ACCEPT Association and Romania/ Center for Legal Resources.

<sup>45</sup> See Romania/ Law 278/2006 for the modification and adjustment of the Penal Code, as well as modification and adjustment of other laws (04.07.2006).

<sup>46</sup> See Article 75 para. (1), point c<sup>1</sup> of the Romania/ Penal Code amended in 2006.

<sup>47</sup> See Article VI of the Romania/ Law 278/2006 for the modification and adjustment of the Penal Code, as well as modification and adjustment of other laws (04.07.2006).

<sup>48</sup> See Romania/ 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 (28.03.2002).

<sup>49</sup> See Article 3 of the Romania/ 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 (28.03.2002).

<sup>50</sup> Article 4 of the Romania/ Government Emergency Ordinance 31/2002 prohibiting organizations and symbols having a fascist, racist, xenophobe nature

crimes against peace and humanity through propaganda,<sup>51</sup> contesting or denial in public of the Holocaust or of its consequences.<sup>52</sup> The criminal offences are considered of a very serious nature since the criminal investigation is conducted directly by the public prosecutor.

2.1.3.4. An important amendment of this law consisted in the ‘Holocaust’ definition.<sup>53</sup> As a response to several open letters<sup>54</sup> signed by Roma minority representative NGOs and public persons, the President of Romania, Traian Băsescu, sent back the text to the Parliament for re-examination. He requested the inclusion in the definition of “Holocaust” beside the extermination measures taken against Jews, the ones taken against Roma people, also conducted by Nazi Germany and its allies.<sup>55</sup>

2.1.3.5. Although Article 8 paragraph 3 of the law establishes the competence of applying administrative sanctions in the cases of acts of a less serious nature both to the Ministry of Internal Affairs and the Ministry of Culture, the second does not exercise this competence.

## 2.1.4 Reports and studies

2.1.4.1. EC/ *May 2006 Monitoring Report*<sup>56</sup> registered Romania’s progress in the area of protection and integration of minorities, with respect to the launched of a Trust Fund for Roma, improvement in the relations of the Romania/ National Agency for Roma with Roma NGOs, decrease in institutional

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and making the apology of the persons guilty of crimes against peace and humanity (28.03.2002).

<sup>51</sup> Article 5 of the Romania/ 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 (28.03.2002).

<sup>52</sup> Article 6 of the Romania/ 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 (28.03.2002).

<sup>53</sup> See Article 2 point (d) of the Romania/ Law 107/2006 for the adoption of 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 (27.04.2006).

<sup>54</sup> See open letter available at:  
[http://www.mma.ro/Publicatii/Romana/Scrisoare\\_deschisa\\_catre\\_Presedintele\\_Traian\\_Basescu.doc](http://www.mma.ro/Publicatii/Romana/Scrisoare_deschisa_catre_Presedintele_Traian_Basescu.doc) (16.10.2006).

<sup>55</sup> The procedure before the Senate available at <http://www.senat.ro> (16.10.2006).

<sup>56</sup> See Commission of the European Communities, *May 2006 Monitoring Report*, Brussels, 16.05.2006, SEC (2006) 596, pp. 11-12.

discrimination and violence against Roma. However, the report underlined the “little progress on the ground” with regard to the coordination capacity of the Romania/ National Agency for Roma, the insufficient effective implementation of the strategy for improvement of the conditions of Roma, the existence of complaints about police raids against Roma, illegal evictions. Issues of concern remain in the opinion of the Commission: “access of Roma to ID documents, health care, education, the labour market and vocational qualification.” Special attention was paid to the draft law on national minorities discussed in Parliament. In the section regarding general evaluation of political criteria for EU membership, the Commission highlighted that: “Social inclusion of the Roma minority still requires substantial efforts. Additional efforts are also needed to combat racism, discrimination, xenophobia and all forms of intolerance.”<sup>57</sup>

2.1.4.2. EC/*Monitoring Report*<sup>58</sup> registered “Only limited progress”: the statute of national minorities still being discussed in Parliament, the amendment of the anti-discrimination legislation to meet the EU standards related to the NCCD’s independence, the insertion of targeted actions for minorities, including Roma, in the new *National Employment Plan* approved in August 2006, the improvement in the administrative capacity of the Romania/ National Agency for Roma, as regional offices are being developed and it started to implement community development projects. Still, concerns were raised with respect to the fact that local authorities’ level of awareness of the Roma situation and of the government strategy for Roma is low, consequently there is a lack of adequate resources allocated in this field at the local level, lack of projects to offer solutions to the Roma problems, and the institutional violence against and assaulting of Roma, such as police raids and evictions in Roma communities, without providing them with alternative accommodation. A matter in which Romania should intervene immediately and to continue the efforts after accession is with respect to the effectiveness of the institutional framework for the implementation of the national strategy for Roma, strengthening the decision-making capacity of the Romania/ National Agency for Roma and the effective participation of Roma representatives in the decision-making in relevant areas.<sup>59</sup>

2.1.4.3. Two reports have shown that Romania registered progress in adopting legislation in the field of combating racism and intolerance and promoting minority rights. However shortcomings continue to be reported with regard to

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<sup>57</sup> See Commission of the European Communities, May 2006 Monitoring Report, Brussels, 16.05.2006, SEC (2006) 596, p.13.

<sup>58</sup> See Commission of the European Communities, Monitoring Report on the state of preparedness for EU membership of Bulgaria and Romania, Brussels, 26.09.2006, COM(2006) 549 final.

<sup>59</sup> See Commission of the European Communities, Monitoring Report on the state of preparedness for EU membership of Bulgaria and Romania, Brussels, 26.09.2006, COM(2006) 549 final, p.40.

the implementation of certain legislative provisions because of financial difficulties, and lack of awareness and education.

2.1.4.4. On February 21, 2006, ECRI published its Third Report on Romania. Among the main recommendations, ECRI stresses the need: “to take steps to fully apply the anti-discrimination legislation and provide the NCCD with sufficient resources to perform its tasks.”, “to apply the Criminal Code provisions on racial hatred and intolerance”, “to train judges, prosecutors, lawyers and members of law enforcement agencies and border police in combating discrimination”. With respect to discrimination based on Roma origin, ECRI considers it vital to fully apply the *Strategy for Improving the Situation of the Roma* at all levels and in cooperation with NGOs and civil society.<sup>60</sup>

2.1.4.5. On February 23, 2006, The Advisory Committee on the Framework Convention for the Protection of National Minorities published its Second Opinion on Romania. According to its concluding remarks, further efforts should be made for: increasing awareness-raising measures regarding the importance of tolerance, respect for diversity; addressing the issue of discrimination and social exclusion of Roma as a matter of priority; promoting further participation of persons belonging to national minorities in public affairs at the central and local level and develop contact with organizations which are not represented in the Council for National Minorities.<sup>61</sup>

2.1.4.6. On the 8<sup>th</sup> of March 2006, the US Bureau of Democracy, Human Rights, and Labor released the *2005 Country Report on Human Rights Practices in Romania*. Points of concern included: police using excessive force against Roma, conducting raids in Romani communities, the existence of anti-Semitism acts, including vandalism against Jewish sites, and the presence of anti-Semitic views and attitudes at private television stations.<sup>62</sup> The report cites Roma rights NGOs highlighting that the number of evictions increased during the year, although no official statistics were published.

2.1.4.7. In June 2006, Amnesty International released its report on Romania. An aspect of concern is the lack of procedural rules for the government’s NCCD

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<sup>60</sup> See information available at: [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/2-Country-by-country\\_approach/Romania/Romania\\_CBC\\_3.asp#TopOfPage](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Romania/Romania_CBC_3.asp#TopOfPage).

<sup>61</sup> See information available at:  
[http://www.coe.int/t/e/human\\_rights/minorities/2.\\_FRAMEWORK\\_CONVENTION\\_%28MONITORING%29/2.\\_Monitoring\\_mechanism/4.\\_Opinions\\_of\\_the\\_Advisory\\_Committee/1.\\_Country\\_specific\\_opinions/2.\\_Second\\_cycle/2nd\\_OP\\_Romania\\_ang.asp#TopOfPage](http://www.coe.int/t/e/human_rights/minorities/2._FRAMEWORK_CONVENTION_%28MONITORING%29/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/2._Second_cycle/2nd_OP_Romania_ang.asp#TopOfPage).

<sup>62</sup> See report available at:  
[http://bucharest.usembassy.gov/US\\_Policy/2005\\_HRR\\_Eng.html](http://bucharest.usembassy.gov/US_Policy/2005_HRR_Eng.html).

allowing a speedy, independent investigation of complaints that would provide effective and proportionate remedies for victims of discrimination.<sup>63</sup>

2.1.4.8. In January 2006, the NCCD published its Annual Report for the year 2005.<sup>64</sup> It contains information about the activity of each department of the institution, including statistics about number of investigations, sanctions applied on different grounds of discrimination, and projects and other initiatives.<sup>65</sup>

2.1.4.9. In March 2006, Romania/ Autoritatea pentru Străini, issued a study on migration and asylum in Romania, including references to the legislation adopted in the field and results of the activity conducted by the competent authorities, trends and developments in the field, solutions adopted by Romania in the process of accession to the European Union.<sup>66</sup>

2.1.4.10. The Romania/ Ethnocultural Diversity Resource Center issued a study on the situation of residents, refugees, asylum seekers and illegal migrants in Romania. It addressed the legal framework for regulating migration, the rights of these groups according to the Romanian legislation, the public policies in place with respect to the matter. The study pays attention in an entire chapter to the situation of different ethnic groups and communities in Romania, with regard to the context in which they came to Romania, statistics, their occupations, forms of association and identity representation, integration mechanisms. Another topic refers to the illegal immigration and public policies adopted to tackle this phenomenon.<sup>67</sup>

## 2.1.5 Legislative measures and initiatives combating discrimination, racism, xenophobia and anti-Semitism and improving integration and community cohesion (not covered in other chapters)

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<sup>63</sup> See report available at: <http://web.amnesty.org/report2006/rom-summary-eng#2>.

<sup>64</sup> See report available at: <http://www.cncd.org.ro/activitatipermanente.swf>.

<sup>65</sup> The relevant information from the report was included in the Special Study delivered by the NFP with respect to the year 2005.

<sup>66</sup> See Romania/ Autoritatea pentru Străini, *Migrația și Azilul în Romania, Studiu realizat de Secretariatul Tehnic al Grupului de Coordonare pentru implementarea Strategiei naționale în domeniul migrației*, March 2006, available at: [http://aps.mai.gov.ro/pagini/inf\\_publice/Migratie\\_Azil/MIGRATIA\\_SI\\_AZILUL\\_IN\\_ROMANIA.doc](http://aps.mai.gov.ro/pagini/inf_publice/Migratie_Azil/MIGRATIA_SI_AZILUL_IN_ROMANIA.doc)

<sup>67</sup> See Romania/ Ethnocultural Diversity Resource Center, *Necunoscuții de langă noi, Rezidenți, refugiația, solicitanți de azil, migranți ilegali în Romania*, 2006.

**2.1.5.1.** One of the most debated topics in Romania during the years 2005-2006 has been the text of the Romania/ *Draft Law on the Statute of National Minorities Living in Romania*. The Government sent the text to the Parliament in May 2005. According to the initiator, the draft responds to the Government's Working Plan aiming at protecting and promoting the ethnic, cultural, religious and linguistic identity, combating discrimination, anti-Semitism, xenophobia and extremism, and promoting tolerance and interethnic dialogue.<sup>68</sup> The first Chamber of the Parliament rejected the draft after intense debate.<sup>69</sup> The blocking in the Parliament was also justified by invoking the opinion of the European Commission for Democracy through Law (Venice Commission).<sup>70</sup>

**2.1.5.2.** The draft law is presently under discussion within the commissions of the second Chamber of Parliament.<sup>71</sup> The recent developments, register a more offensive position of the united Hungarian minority representatives<sup>72</sup> that decided to organize a referendum at the beginning of December 2006 for the territorial autonomy of the ‘Secui’ County. This initiative was qualified by political parties as unconstitutional.<sup>73</sup>

**2.1.5.3.** Romanian authorities finally have accepted to include the concept of “multiple discrimination” in the amendments of the Romania/ Law on Equal Opportunities for Men and Women. The subject was addressed by ethnic Roma women representatives and other NGOs, in discussions with the initiator of the

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<sup>68</sup> See Government's Working Plan, available at:

<http://www.gov.ro/engleza/obiective/afis-docdiverse-pg-eng.php?iddoc=31>.

<sup>69</sup> This was presented to the public as a political divergence of opinions within the Governmental coalition (the Democratic Union of Hungarians in Romania and the Democratic Party), especially on the issue of cultural autonomy. The procedure before the Senate available at: <http://www.senat.ro>.

<sup>70</sup> Although making an overall positive appreciation, in Opinion no.345/2005, the Commission expressed its recommendation to address with amendments the shortcomings regarding: potential overlapping between the relevant institutions, easing the conditions for registration of the “organizations of citizens belonging to national minorities”. In addition, Romania is recommended to reconsider the general requirement of citizenship from the definition of national minority and the exhaustive character of the list of minorities accompanying the definition.

The Report is available at:

[http://www.venice.coe.int/site/dynamics/N\\_Opinion\\_ef.asp?L=E&OID=345](http://www.venice.coe.int/site/dynamics/N_Opinion_ef.asp?L=E&OID=345).

<sup>71</sup> Even if the deadline for the report was established for the February 15, 2006, the report has not yet been made public. The procedure before the Chamber of Deputies available at <http://www.cdep.ro>.

<sup>72</sup> Romania/ Consiliul Național Secuiesc, Romania/ Uniunea Civică Maghiară and Romania/ Uniunea Democrată a Maghiarilor din Romania.

<sup>73</sup> See further information available at:

<http://www.romacenter.ro/monitorizare/photos/sep/29sep4.jpg>,

<http://www.romacenter.ro/monitorizare/photos/oct/3oct1.jpg>.

amendments, Romania/ National Agency for Equal Opportunities, and within the Parliament, since March 2006.<sup>74</sup>

2.1.5.4. In December 2005, the NCCD published the results of an official survey regarding discriminatory attitudes and perceptions in Romania. With regard to discrimination based on ethnicity, the study found that there is an important support of discriminatory attitudes towards Roma and Hungarian origin people. Thus, 91 per cent (Romanian origin and Hungarian origin) acknowledged that “Roma people are more involved in activities having a criminal nature”, 20 per cent declare that there should be public places and shops forbidden for Roma, and 61 per cent consider that “Roma people are a disgrace for Romania”. While 71 per cent of the respondents said that “Hungarians living in Romania must speak only Romanian language in relation to public institutions”, more than a third do not agree with Hungarian origin pupils and students attending schools/universities in their mother tongue. These perceptions are manifested in the context characterized by the following: Hungarian people living in Romania have enough rights (85 per cent), Romanians and Hungarians would live better together if politicians did not interfere (72 per cent), and the interests of Hungarians differ from the interests of Romanians (45 per cent).<sup>75</sup>

2.1.5.5. Romania/ Open Society Foundation’s *2005-2006 Rural Euro-Barometer* showed worrying bias in the rural area in Romania: 78 per cent recognize not having relatives or friends belonging to an ethnic minority, 40 per cent think ethnic Roma should live segregated since they cannot integrate, while 46 per cent declare that the State should take measures to control Roma birth rate. The great majority of the respondents (78 per cent) believe that most of the Roma people are in breach of the law.<sup>76</sup>

2.1.5.6. In April 2006, the Romania/ Departmentul pentru Relații Interetnice released a study concluding that only 50 per cent of the administrative authorities ensure the full range of linguistic rights. Nevertheless 15 per cent do not implement the existing legislation. While the implementation process is decided by the central government, there is not enough institutional capacity

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<sup>74</sup> They consider the special statute of ethnic minorities’ women in the Romanian society and the lack of measures taken by the State for tackling both racial and gender discrimination a reason for including the concept in this law. See more information available at:

<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=3&dayID=2>.

<sup>75</sup> The sample consisted of 1,238 Romanians and the margin of deviation amounts to ±2.8 per cents for a probability of 95 per cents. The survey can be found at: <http://www.cncd.org.ro/studiianalize.swf>.

<sup>76</sup> See study is available at:  
[http://www.fsd.ro/index.php?option=com\\_content&task=view&id=92&Itemid=32](http://www.fsd.ro/index.php?option=com_content&task=view&id=92&Itemid=32).

and determination of local governments. Police and post services ensure the lowest level of compliance.<sup>77</sup>

2.1.5.7. In August 2006, two Roma NGOs<sup>78</sup> issued a report stating that the social exclusion of Roma origin people is due to lack of stable income and employment opportunities. Furthermore, the nation-wide monitoring of human rights infringements reveal patterns of police abuse, discrimination in the field of employment, abuse and discrimination in housing, segregation in the field of education and health.<sup>79</sup>

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<sup>77</sup> See Romania/ Departmentul pentru Relații Interetnice, *Application of the national minorities' rights legislation in Romania - Right to use one's mother tongue in local public administration*, 2006. The study is available at: [www.dri.gov.ro](http://www.dri.gov.ro).

<sup>78</sup> See Romania/ Romani CRISS and Romania/ "Împreună" Agency for Community Development, *Overview of the Roma Situation in Romania for European Commission consideration at the 2006 Country Report*, 2006.

<sup>79</sup> The report is available in English at:  
<http://www.romanicriss.org/noutati.php?id=14&lang=ro>.

## 2.2 Employment

### 2.2.1 New sources of data

2.2.1.1. The NFP<sup>80</sup> could not identify a comprehensive, unitary database compiling all information regarding racism and discrimination and the situation of immigrants, asylum seekers, refugees and minorities in employment. For some of the target groups even an accurate official estimation of the population employed was difficult to identify.<sup>81</sup> No public authority considers itself responsible with maintaining such data (immigrants, other nationalities except the Roma minority).

2.2.1.2. Specific updated information on discrimination in employment will be available in the near future through NGOs conducting assessment projects targeting ethnic, national and linguistic minorities in Transylvania<sup>82</sup> or Roma in some districts of Bucharest.<sup>83</sup>

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<sup>80</sup> For the purpose of the Annual Report, the NFP addressed comprehensive questionnaires and organized interviews following the guidelines provided by the EUMC with the following institutions: the Romania/ Ministry of Labour, Social Solidarity and Family (*Ministerul Muncii, Solidarității Sociale și Familiei*) and its subordinated central and county level agencies (country level agencies for employment- Romania/ *agenții județene pentru ocuparea forței de muncă*, and Romania/ county level labor inspectorates – *inspecțorate teritoriale pentru protecția muncii*), the Romania/ National Council on Combating Discrimination (*Consiliul Național pentru Combaterea Discriminării*), the Romania/ National Agency for Roma (*Agenția Națională pentru Romi*) and its subordinated local branches (Romania/ *birouri județene pentru romi*), the Romania/ National Office for Refugees (*Oficiul Național pentru Refugiați*), the office of the United Nation High Commissioner for Refugees in Romania, NGOs active in combating racism and discrimination or providing services for asylum seekers, refugees or national minorities, particularly Roma.

<sup>81</sup> For example statistics on the number of immigrants or on the actual number of Roma in Romania. See also Zamfir, C., Preda, M.,(eds.), *Romii din România, Roma in Romania*, Expert Publishing House, in Romanian, 2002. This book is supposed to be the most accurate study on the situation of Roma but it is outdated. The study estimated as for 1998 a number of 1,515,000 Roma living in Romania, meaning 6.9 per cent of the population.

<sup>82</sup> See Romania/ Liga Pro Europa, *Discriminarea rasială, etnică și lingvistică în județele Alba, Bihor, Brașov, Caraș-Severin și Sălaj*, 2006, in Romanian (to be published). See also Romania/ Liga Pro Europa, *Discriminarea rasială în județele Arad, Cluj, Harghita, Sibiu și Timiș*, 2005, in Romanian and Romania/

## 2.2.2 Statistical data and information

### 2.2.2.1 *Lack of official statistics with regard to certain groups*

2.2.2.1.1. Official statistics highlighting racism and discrimination and the situation of immigrants, asylum seekers, refugees and minorities in employment are not yet available, nor are mechanisms designed for the compilation of such data.

### 2.2.2.2 *Significant official and non-official statistical data available in 2006 regarding racism and discrimination of Roma in employment*

2.2.2.2.1. A general survey on perceptions of discrimination in Romania published in December 2005 showed that 68 per cent of the population interviewed considered that Roma are discriminated in access to employment and that 61 per cent of those surveyed considered that Roma are discriminated against also during the work relations.<sup>84</sup>

2.2.2.2.2. The 2005 Annual Report of the Romania/ Agenția Națională pentru Ocuparea Forței de Muncă stated that:

- 7,430 Roma had access to information and professional counselling services with local branches of the Agency,
- 1,601 Roma had access to professional training,
- and 5,432 found temporary employment through the projects organized by the Agency.<sup>85</sup>

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Liga Pro Europa, *Discriminarea rasială în județele Mureș și Satu Mare*, 2004, in Romanian.

<sup>83</sup> See Romania/ Agenția de Dezvoltare Comunitară “Impreună”, *Dimensiuni ale participării romilor pe piața muncii, studiu de caz pe municipiul București, sectorul 5, Dimensions of Roma Participation on the Labour Market, Case-study for Bucharest, district 5*, 2006, in Romanian (to be published, draft on file with the NFP).

<sup>84</sup> See Romania/ Centrul de Sociologie Urbană și Regională, *Percepții și atitudini față de fenomenul de discriminare*, Decembrie 2005, beneficiary Consiliul Național pentru Combaterea Discriminării, *Perceptions and Attitudes regarding Discrimination*, CURS, December 2005, beneficiary: the National Council on Combating Discrimination, in Romanian.

<sup>85</sup> See Romania/ Agenția Națională pentru Ocuparea Forței de Muncă, *Raport anual 2005*, available at: [http://www.anofm.ro/informatii\\_publice/web/index.htm](http://www.anofm.ro/informatii_publice/web/index.htm) (13.08.2006) (no other national or ethnic group is included in the specific projects of the Agency).

2.2.2.2.3. The most recent statistical data on employment and unemployment rates of the population by ethnic origin remains the 2002 census.<sup>86</sup> The Roma population remains the most affected by unemployment.<sup>87</sup> A 2004 survey conducted in Bucharest showed that young Roma face real barriers when trying to enter the labour market.<sup>88</sup> A follow-up case-study with updated data but focused on one district with a large Roma population looks at the diversity of the sources for Roma exclusion from the labour market.<sup>89</sup> The preliminary conclusions of the case-study are that there are both external and internal sources for exclusion at play:

- On one hand, the external dimension: the lack of jobs in the community and the lack of policies to create opportunities in Roma communities.
- On the other, the internal one: the lack of identification documents, the lack of adequate training and professional experience.<sup>90</sup>

2.2.2.2.4. A report on racial, ethnic and linguistic minorities focusing on five counties in Transylvania concluded in its preliminary findings that unemployment affects primarily Roma and that more than fifty per cent of the unemployed Roma failed to find a job for more than twenty seven months.<sup>91</sup> The report analyzed also the data on the professional status and highlighted that only approx. 30,000 Roma receive a salary (5.57 per cent of the Roma

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<sup>86</sup> See Special Study - Trends and Developments, citing Romania 2002 National Census, available online at: <http://www.anr.gov.ro/documente/t20.pdf> (03.08.2006).

<sup>87</sup> See Romania/ "Impreună" Agency for Community Development, Gelu Duminica, Marian Preda, *The Access of Roma on the Labour Market, Accesul Romilor pe piața muncii*, available at: [http://www.agentiaimpreuna.ro/documente/Accesul\\_romilor\\_pe\\_piata\\_muncii.pdf](http://www.agentiaimpreuna.ro/documente/Accesul_romilor_pe_piata_muncii.pdf), (03.08.2006), in Romanian, 2003.

<sup>88</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, *Young Roma Seeking Work, Tânăr rom- caut loc de muncă*, [http://www.agentiaimpreuna.ro/documente/Tanar\\_rom\\_caut\\_loc\\_de\\_munca.pdf](http://www.agentiaimpreuna.ro/documente/Tanar_rom_caut_loc_de_munca.pdf), (03.08.2006), in Romanian, 2004.

<sup>89</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, *Dimensiuni ale participării romilor pe piața muncii, studiu de caz pe municipiul București, sectorul 5, Dimensions of Roma Participation on the Labour Market, Case-study for Bucharest, district 5*, in Romanian, 2006 (to be published in September 2006, draft on file with the NFP).

<sup>90</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, *Dimensiuni ale participării romilor pe piața muncii, studiu de caz pe municipiul București, sectorul 5, Dimensions of Roma Participation on the Labour Market, Case-study for Bucharest, district 5*, in Romanian, 2006 (to be published, draft on file with the NFP).

<sup>91</sup> See Romania/ Liga Pro Europa, *Discriminarea rasială, etnică și lingvistică în județele Alba, Bihor, Brașov, Caraș-Severin și Sălaj*, in Romanian, 2006 (to be published).

community as opposed to 25.95 per cent for Romanians) and that the percentage of persons on salary is also low for Croatians and Ukrainians living in rural communities. Croatians, Ukrainians and Slovaks also rank first as working on their family plots of land (56.22 per cent Croatians, 44.17 per cent Ukrainians and, 26.04 per cent Slovaks).

2.2.2.2.5. An un-official analysis from 2006 found that “the degree of employment of the Roma population in Romania is much lower than that of the general population at large (47 per cent as compared to 61.7 per cent for the general population). Almost two thirds of the total employed Roma population are men (sixty five per cent), while only 27.5 per cent are receiving salaries from employers... Most of the Roma in Romania are self-employed (71.7 per cent). The large percentage of day-labourers (41.7 per cent of the total Roma population employed) indicate that the Roma are in a difficult situation with respect to employing their labour force ... More than half of the Roma do not have a professional qualification and practice types of labour which do not require prior professional formal education... The percentage of housewives is four times bigger in the case of Roma compared to the population at large, indicating a poor participation of women in the labour market...Out of the total of Roma population employed, only 33.99 per cent have a salary (as compared to 70.52 per cent in the case of Romanians and 79.14 per cent in the case of Hungarians). This fact suggests that only one third of the Roma employed have a permanent income.”<sup>92</sup> <sup>93</sup>

### *2.2.2.3 Significant official and non-official statistical data available in 2006 regarding racism and discrimination against asylum seekers and refugees in employment*

2.2.2.3.1. The Romania/ *Autoritatea Națională pentru Străini* reported as for September 2005 more than 60,000 aliens living legally in Romania, out of which 70.4 per cent were issued temporary visas, 19.2 per cent were here for educational purposes, 5.2 per cent had permanent residence, 4.4 per cent were non-EU citizens legally employed and 0.8 per cent were EU citizens legally employed.<sup>94</sup> <sup>95</sup>

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<sup>92</sup> See Romania/ Cace S., Ionescu M.(eds.), *Politici de ocupare pentru romi, Labour Policies for Roma*, in Romanian, 2006, Editura Expert.

<sup>93</sup> See Annex 1: Occupations by Ethnicity, source: Sorin Cace, Marlea Ionescu, *Politici de ocupare pentru romi, Labour Policies for Roma*”, in Romanian, 2006, Editura Expert.

<sup>94</sup> See Romania/ Centrul de Resurse pentru Diversitate Etno-culturală, Marian Chiriac, Monica Robotin, *Necunoscuții de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, (2006), in Romanian, p.15, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf), (03.08.2006).

## 2.2.3 Reports and studies

No public institution is mandated or fully equipped by law to research racism and discrimination in employment and the situation of immigrants, asylum seekers, refugees and ethnic or national minorities. At the very beginning of its mandate, the NCCD realized a media survey looking at the use of exclusionary conditions in job advertising published in written media.<sup>96</sup> As a result, the NCCD issued an *Instruction* prohibiting the use of discriminatory clauses in advertising.<sup>97</sup> No further studies followed this initiative.

### 2.2.3.1 Significant reports regarding racism and discrimination against Roma in employment

2.2.3.1.1. A Roma NGO published a report on Roma access to social services, containing a chapter on employment.<sup>98</sup> The report compared the data compiled by the NGO in 1992, 1998, 2005 and concluded that Roma are pushed towards informal economy and day-to-day living due to a series of factors:

- Lack of economic opportunities in the areas with Roma groups,
- Lack of professional qualification,
- Lack of identity papers which would secure access to various social services,
- Biases and negative stereotypes.

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<sup>95</sup> See Annex 2: Chart with the Nationalities of Persons Issued Work Permits by September 2005, Romania/ Centrul de Resurse pentru Diversitate Etno-culturală, Marian Chiriac, Monica Robotin, *Necunoscuții de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, (2006), in Romanian, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf).

<sup>96</sup> E.g.: “Looking for guardian...Roma excluded”. Romania/ Consiliul Național pentru Combaterea Discriminării, *Monitorizarea presei, ianuarie-decembrie 2003*, in Romanian, available online at: [http://www.cncd.org.ro/main.php?ro?page?activitatea=monitorizare \(03.08.2006\)](http://www.cncd.org.ro/main.php?ro?page?activitatea=monitorizare (03.08.2006)).

<sup>97</sup> See Romania/ Consiliul Național pentru Combaterea Discriminării, *Instruction 1/2003 regarding the obligations of the employers and of their agents, as well as of the authors of advertising regarding conditioning in labour advertising*, (07.04.2003), available online at: [http://www.cncd.org.ro/main.php?ro?page?legislatie=acte\\_normative](http://www.cncd.org.ro/main.php?ro?page?legislatie=acte_normative).

<sup>98</sup> See Romania/ Agenția de Dezvoltare Comunitară Împreună, *Accesul romilor la servicii sociale: realități și tendințe*, in Romanian, 2005, available at: [http://www.agentiaimpreuna.ro/documente/Accesul\\_romilor\\_la\\_servicii\\_sociale.pdf \(03.08.2006\)](http://www.agentiaimpreuna.ro/documente/Accesul_romilor_la_servicii_sociale.pdf (03.08.2006)), Gelu Dumitru, Sorin Cace, Andrei Constantin, Marcel Dediu, Elena Macioiu, Irinel Marius Stefan, 2006.

The fact that the vast majority of Roma is trapped in the informal economy or not working increases the insecurity and the vulnerability of the community.<sup>99</sup>

2.2.3.1.2. A 2003 report of the same NGO assessed the access of Roma to the labour market and highlighted the impact of the lack of proper documentation and of the deficient education as well as the pattern of discrimination in employment Roma have to face.<sup>100</sup>

2.2.3.1.3. A joint submission of the Romania/ Impreună Agency for Community Development and Romania/ Romani CRISS published in August 2006 concluded that “the lack of stable jobs is one of the causes that triggers social exclusion... The lack of employment keeps the Roma on permanent stand-by, because whatever money is available is used to ensure survival, not a secure future.”<sup>101</sup> The report stated that “the very low access of the Roma to the official labour market has two main consequences:

- 1) Reorientation of the Roma towards the grey/black labour market and
- 2) Creation of a significant segment of Roma beneficiaries, or potential beneficiaries, for the social protection system.”<sup>102</sup>

The report found that despite the lack of quantitative data regarding Roma participation in the informal economy, at least half of the Roma undertake such activities, “the most frequent activity of the Roma within the informal economy being day-work in agriculture or constructions which exposes them to increased vulnerability and marginality...Employment usually takes place for short periods, without written contracts, and payment is usually made on a daily basis.”<sup>103</sup>

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<sup>99</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, *Accesul romilor la servicii sociale: realități și tendințe*, in Romanian, 2005 available at: [http://www.agentiaimpreuna.ro/documente/Accesul\\_romilor\\_la\\_servicii\\_sociale.pdf](http://www.agentiaimpreuna.ro/documente/Accesul_romilor_la_servicii_sociale.pdf), (03.08.2006) Gelu Duminica, Sorin Cace, Andrei Constantin, Marcel Dediu, Elena Macioi, Irinel Marius Stefan, 2006, p.59.

<sup>100</sup> See Romania/ Gelu Duminica, Marian Preda, *Accesul romilor pe piața muncii*, available at: [http://www.agentiaimpreuna.ro/documente/Accesul\\_romilor\\_pe\\_piata\\_muncii.pdf](http://www.agentiaimpreuna.ro/documente/Accesul_romilor_pe_piata_muncii.pdf), (03.08.2006) in Romanian, 2003.

<sup>101</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, Romania/ Romani CRISS, *Overview of the Roma Situation in Romania: for European Commission consideration at the 2006 Country Report*, joint submission for the European Commission, August 2006, on file with the NFP.

<sup>102</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, Romania/ Romani CRISS, *Overview of the Roma Situation in Romania: In Romania: for European Commission consideration at the 2006 Country Report*, joint submission for the European Commission, August 2006, on file with the NFP, p.5.

<sup>103</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, Romania/ Romani CRISS, *Overview of the Roma Situation in Romania: for European*

2.2.3.1.4. A 2005 UNDP study, estimated that thirty five per cent of the Roma women in Romania, aged between 25-54, are unemployed, a four times higher percentage than the majority women.<sup>104</sup>

2.2.3.1.5. A 2006 UNDP regional survey further looked at the Roma labour market characteristics in Southeast Europe, including Romania.<sup>105</sup> The study estimated the Roma unemployment rate in Romania at 44 per cent as opposed to 28 per cent for the majority population, with Roma women facing higher disadvantages (an unemployment rate of 52 per cent for Roma women as opposed to 38 per cent for Roma men and an employment rate of 58 per cent for men and 34 per cent for women). The percentage of Roma involved in the informal sector is estimated at 34 per cent. “Roma employment is concentrated in the trade, agricultural, construction and public utilities sectors; representation in white-collar professions, and in the police or security services, is generally quite weak. Low-skilled work predominates and is associated with low incomes, poor job quality, and weak social and employment protection.”<sup>106</sup>

2.2.3.1.6. Also a 2006 OSI report looking at the situation of Roma women in Romania found that “a large segment of Romani women are not part of the labor market” and almost 68 percent of the Romani women in the research sample described themselves as “housewives” with only 26 percent of the Romani women surveyed being part of the workforce.<sup>107</sup> The report states that from the group of employed Romani women surveyed, “almost half were skilled workers and more than one third were unskilled workers. Almost 15 per cent of Romani women, although not employed, were engaged in income-earning activities as day laborers or freelancers. Almost 40 per cent of the

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*Commission consideration at the 2006 Country Report*, joint submission for the European Commission, August 2006, on file with the NFP, p. 7.

<sup>104</sup> See UNDP, *Faces of Poverty, Faces of Hope*, Vulnerability profiles of Roma population in Decade of Roma Inclusion countries: Romania, February 2005, available at: <http://vulnerability.undp.sk/DOCUMENTS/romania.pdf>, (03.08.2006) in English.

<sup>105</sup> See UNDP, Regional Bureau for Europe and the CIS, *DIMENSIONS OF VULNERABILITY, At Risk: Roma and the Displaced in Southeast Europe*, June 2006, available online at:

[http://europeandcis.undp.org/?menu=p\\_cms/show&content\\_id=A3C29ADB-F203-1EE9-BB0A277C80C5F9F2](http://europeandcis.undp.org/?menu=p_cms/show&content_id=A3C29ADB-F203-1EE9-BB0A277C80C5F9F2), (03.08.2006) in English.

<sup>106</sup> See UNDP, Regional Bureau for Europe and the CIS, *DIMENSIONS OF VULNERABILITY, At Risk: Roma and the Displaced in Southeast Europe*, June 2006, available online at:

[http://europeandcis.undp.org/?menu=p\\_cms/show&content\\_id=A3C29ADB-F203-1EE9-BB0A277C80C5F9F2](http://europeandcis.undp.org/?menu=p_cms/show&content_id=A3C29ADB-F203-1EE9-BB0A277C80C5F9F2), (03.08.2006) in English.

<sup>107</sup> See Open Society Institute, *Broadening the Agenda: The Status of Romani Women in Romania*, A Research Report Prepared for the Roma Participation Program, Laura Surdu, Mihai Surdu, in English, March 2006.

Romani women ... said they did not earn any money in the last year. The most important income-earning activities for Romani women were in agriculture, buying and selling small goods, services, and collecting waste and medicinal plants." The report concluded that "education, health, and public administration systems contributed a total of only 9 per cent to Romani women's employment... Over 33 per cent of Romani households earned their income from members' work as day laborers, which is available almost exclusively during summer... Only 22 per cent of Romani households received their main income from salaries, which represents less than half of the national average for Romania (46 per cent). 54 per cent of Romani women who have been employed at least once said that they did not complete legal forms upon employment, but they only received a verbal guarantee of their job."<sup>108</sup> <sup>109</sup>

### *2.2.3.2. Significant reports regarding racism and discrimination against aliens, asylum seekers and refugees in employment*

*2.2.3.2.1.* A recent report published by the Romania/ *Oficiul Național pentru Refugiați* looks at access to the labour market as the key to social integration.<sup>110</sup>

*2.2.3.2.2.* Out of the population surveyed:

- 65 per cent were working,
- With 26.4 per cent of the women working as compared to 76.8 of the men.
- 19.4 per cent of the adults interviewed declared that they do not have an occupation and nineteen per cent declared that they own a business.
- 34.9 per cent of those interviewed declared that they work without a registered labour contract.
- 56.6 per cent of them declared that they got their jobs due to friends and relatives, 38.8 per cent by their own means, 3.9 per cent due to an NGO and 0.7 per cent through the county level agencies for employment.<sup>111</sup>

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<sup>108</sup> See Open Society Institute, *Broadening the Agenda: The Status of Romani Women in Romania*, A Research Report Prepared for the Roma Participation Program, Laura Surdu, Mihai Surdu, in English, March 2006.

<sup>109</sup> See Annex 3: Romani Women Occupations, source Open Society Institute, *Broadening the Agenda: The Status of Romani Women in Romania*, A Research Report Prepared for the Roma Participation Program, Laura Surdu, Mihai Surdu, in English, March 2006, pp. 60-61.

<sup>110</sup> Romania/ Oficiul Național pentru Refugiați, *Raportul anual privind situația străinilor care au obținut o formă de protecție în România*, 2006, in Romanian, on file with the NFP. It surveyed between June 2005-June 2006, 468 foreigners granted refugee status or subsidiary protection in Romania.

<sup>111</sup> See Annex 4: Occupations of the Foreigners Granted a Form of Protection in Romania, source: Oficiul Național pentru Refugiați, *Raportul anual privind situația străinilor care au obținut o formă de protecție în România*, Annual

2.2.3.2.3. According to the report of the Romania/ *Oficiul Național pentru Refugiați*:

- 43.8 per cent of the aliens granted a form of protection did not have a prior professional qualification when they came to Romania.
- 80.8 per cent did not get a qualification in Romania.
- 55.1 per cent have prior work experience.
- 44.9 per cent of them do not have prior work experience.
- 15.2 per cent of the foreigners interviewed participated in vocational training courses in Romania.
- 12.6 per cent sought help from the employment agencies and, as a result, 2.9 per cent had been offered a job or a professional training course.<sup>112</sup> <sup>113</sup>

2.2.3.2.4. In the conclusion of the report, the Romania/ *Oficiul Național pentru Refugiați* highlights the future challenges for this agency in the field of employment:

- 35 per cent of the aliens granted forms of protection are not working, with a higher unemployment rate for women (73.6 per cent).
- A high percentage of them work without a legal labour contract (34.9 per cent);
- There is a low recourse to the support of employment agencies (12.6 per cent) and an even lower success rate for these agencies (0.7 per cent).

2.2.3.2.5. An official report published in March 2006 by the Romania/ *Autoritatea pentru Străini* provides a map of foreign nationalities granted legal stay in Romania due to work related purposes. Out of the 2,716 work permits granted by the Romania/ Office for the Migration of the Labour Force:

- 28.50 per cent had been issued to Turks.
- 20.14 per cent to Moldovans.
- 15.80 per cent to Chinese.<sup>114</sup>

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*Report regarding the Situation of Aliens Granted a Form of Protection in Romania, 2006*

<sup>112</sup> See Romania/ Oficiul Național pentru Refugiați, *Raportul anual privind situația străinilor care au obținut o formă de protecție în România*, 2006, in Romanian, on file with the NFP.

<sup>113</sup> See Annex 5: Prior professional qualifications of the Foreigners Granted a Form of Protection in Romania, source: Oficiul Național pentru Refugiați, *Raportul anual privind situația străinilor care au obținut o formă de protecție în România, Annual Report regarding the Situation of Aliens Granted a Form of Protection in Romania*, 2006 and Annex 6: Professional Qualifications Obtained in Romania by the Foreigners Granted a Form of Protection in Romania, source: Oficiul Național pentru Refugiați, *Raportul anual privind situația străinilor care au obținut o formă de protecție în România, Annual Report regarding the Situation of Aliens Granted a Form of Protection in Romania*, 2006.

2.2.3.2.6. A 2006 un-official study presented the role, the rights and the governmental policies in relation with foreign residents, refugees, asylum-seekers and illegal migrants in Romania and highlighted the lack of information regarding the status of foreigners coming to Romania.<sup>115</sup> The report showed that almost 60 per cent of the refugees and asylum seekers do not have prior professional training or professional experience and this is a serious challenge for integration efforts.<sup>116</sup>

2.2.3.2.7. The report also cites official and non-governmental sources stating that the lack of mechanisms and methodologies to facilitate the recognition of the degrees and the lack of professional qualification courses and trainings result in the fact that refugees end up working as unqualified workers.<sup>117</sup>

2.2.3.2.8. In August 2006, the Romanian media presented the story of 185 Chinese women working in the textile industry in Bacău. They were registered with the labour authorities and had long term work permits but the locals and the guards working at the factory claimed that the workers are not allowed to leave the compound and that they have to observe very strict rules.<sup>118</sup> After the media presented the news as modern slavery, there was no reported follow up investigation.

2.2.3.2.9. The topic of alien labour force willing to take cheaper jobs in Romania was discussed in a series of articles in mainstream journals in the

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<sup>114</sup> See Romania/ Autoritatea pentru Străni, *Migrația și Azilul în România*, in Romanian, March 2006, available online at: [http://aps.mai.gov.ro/pagini/inf\\_publice/migratie\\_azil/migratie\\_azil.htm](http://aps.mai.gov.ro/pagini/inf_publice/migratie_azil/migratie_azil.htm) (03.08.2006).

<sup>115</sup> See Romania/ Centrul de Resurse pentru Diversitate Etno-culturală, *Necunoscuții de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Marian Chiriac, Monica Robotin, in Romanian, 2006, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf) (03.08.2006).

<sup>116</sup> See Romania/ Centrul de Resurse pentru Diversitate Etno-culturală, *Necunoscuții de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Marian Chiriac, Monica Robotin, in Romanian, 2006, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf) (03.08.2006), p.27.

<sup>117</sup> Romania/ Centrul de Resurse pentru Diversitate Etno-culturală, *Necunoscuții de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Marian Chiriac, Monica Robotin, in Romanian, 2006, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf) (03.08.2006).

<sup>118</sup> See Pop C.,(2006) Muncitoarele chinezoice sigilate la Bacău, Chinese Workers Sealed in Bacău, in *Adevărul*, (31.08.2006), available at: [http://www.adevarulonline.ro/2006-08-31/Prima%20Pagina/muncitoarele-chinezoaice-sigilate-la-bacau\\_196693.html](http://www.adevarulonline.ro/2006-08-31/Prima%20Pagina/muncitoarele-chinezoaice-sigilate-la-bacau_196693.html) (01.09.2006).

context of Romania's accession to the E.U.<sup>119</sup> The articles analyse the trends in Romanian labour force and conclude that as the Romanian labour force is migrating westwards or refusing to take jobs for low salaries, foreigners coming from developing countries will step in. The articles quote the officials of the Office for the Migration of Labour Force stating that "at the beginning of September 2006, there were 5.302 valid work permits for foreigners working in Romania and the quota for 2007 is of 10.000 permits... Most of the aliens working legally in Romania come from Turkey (27%), China (15%), Republic of Moldova (14%), France, Germany and Greece and most of them work in trade or commercial activities (31%)."

## 2.2.4 Impact of EU Directive EC/43/2000

2.2.4.1. In light of the EU Framework Employment Directive, the anti-discrimination legislation<sup>120</sup> and the Labour Code,<sup>121</sup> as well as subsequent subsidiary legislation spell out prohibitions of direct and indirect discrimination, including in the field of employment.<sup>122</sup>

2.2.4.2. Refugees and persons granted a form of protection have the right to employment and are encouraged to seek employment but there are no specific legal provisions or projects designed to encourage their access to employment other than the general "integration" package which includes classes in Romanian and trainings on cultural accommodation and individual counselling.<sup>123</sup> Immigrants and asylum seekers still in the asylum procedures do not have the right to work. If after one year after submitting their asylum application, asylum seekers are still in the asylum procedures and there is no final decision on their status, they are entitled to work according to the recently amended asylum legislation.<sup>124</sup> In case of illegal work, the legislation sanctions

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<sup>119</sup> See Evenimentul Zilei, "Slujbele lasate de romani, vanate de străini", Calin Hera, Sorin Iordache, October 11, 2006, <http://www.evz.ro/article.php?artid=275718> or "Strainatatea de la noi de-acasa," Ovidiu Nahoi, October 12, 2006, [http://www.hotnews.ro/articol\\_57809-Strainatatea-de-la-noi-de-acasa-de-Ovidiu-Nahoi.htm](http://www.hotnews.ro/articol_57809-Strainatatea-de-la-noi-de-acasa-de-Ovidiu-Nahoi.htm).

<sup>120</sup> See Article 2 para. (1) of the Romania/ Law 48/2002 on approving the Ordinance 137/2000 on preventing and sanctioning all forms of discrimination (31.01.2002).

<sup>121</sup> See Article 5 para. (2) of the Romania/ Labour Code-updated, Best Publishing (03.01.2006).

<sup>122</sup> See Special Study - Trends and Developments, paragraphs 2.2.2.-2.2.5.

<sup>123</sup> See Article 1 of the Romania/ Ordonanța 44/2004 on the social integration of foreigners granted a form of protection in Romania (31.01.2004).

<sup>124</sup> See Article 17 letter (o) of the Romania/ Law 122/2006 on Asylum in Romania (18.05.2006).

the employer and not the employee caught working illegally.<sup>125</sup> The county level labour inspectorates are in charge with identifying cases of illegal work and with sanctioning these cases.<sup>126</sup>

## 2.2.5 Special bodies

2.2.5.1. The Anti-discrimination Law creates a complaints mechanism under which the victim of discrimination or an NGO working in the field can file a complaint with the NCCD.<sup>127</sup> Article 1.2 of the Anti-discrimination Law provides for a wide variety of fields of application for the law including the right to work (Art.1.2.e.i and Art.6, 7). In 2005, the Council found a handful of cases of discrimination in labour relations: in *CG v. RR*, the Council issued a warning in the case of a person who was denied promotion on grounds of nationality and issued administrative fines in two other cases of exclusionary conditions on ethnic grounds in employment advertising.<sup>128</sup>

2.2.5.2. In theory, the NCCD mandate includes also the possibility of proposing “affirmative actions and special measures for the protection of persons...confronted with rejection and marginalization” but the Council failed to use this prerogative recently.<sup>129</sup>

2.2.5.3. County level inspectorates for labour are also mandated to receive and solve complaints regarding discrimination in labour. While most inspectorates reported no such cases, Constanța county inspectorate reported two complaints on discrimination in employment on grounds of racism in 2005, both cases

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<sup>125</sup> See Article 276 para. (1), letter (e), Article 134 of the Romania/ Law 53/2003 for the adoption of the Labour Code-updated, Best Publishing, (03.01.2006).

<sup>126</sup> See Romania/ Law 108/1999 on the establishment and the organization of labour inspectorates (10.10.2002).

<sup>127</sup> See Article 22: “(1) Human rights non-governmental organisations can appear in court as parties in cases involving discriminations pertaining to their field of activity and which that prejudice a community or a group of persons. (2) The organisations provided in the above paragraph can also appear in court as parties in cases involving discrimination that prejudice a natural entity, if the latter delegates the organisation to that effect.”

<sup>128</sup> See cases *Romani CRISS v. E-jobs* and *Romani CRISS v. SC Adrasim SRL*, Romania/ Consiliul Național pentru Combaterea Discriminării, *Sancțiuni aplicate de către Colegiul Director al Consiliului National pentru Combaterea Discriminarii in 2005 (Petiții din 2005)*, in Romanian, available online at: <http://www.cncd.org.ro/main.php?ro?page?activitatea=sanctiuni> (03.08.2006).

<sup>129</sup> See Romania/ Governmental Decision 1279 /2003 on modifying and completing the Governmental Decision 1194/2001 on the organizing and functioning of the National Council on Combating Discrimination.

involving Roma plaintiffs and being solved in their favour<sup>130</sup>, and Brăila county labour inspectorate reported two cases out of 854 in 2005 and one case out of 356 in 2006, all sanctioned with administrative fines.<sup>131</sup>

2.2.5.4. The annual report of the Romanian Ombudsman (*Avocatul Poporului*) mentions 142 petitions received by this institution regarding the right to work and social protection in general and five field investigations but none of these complaints links discrimination on grounds of ethnicity, nationality or race with the infringements of the right to work.<sup>132</sup>

## 2.2.6 Discrimination on the grounds of religion at the work place

2.2.6.1. Either the labour legislation or the draft law on religious freedom do not include any legal provision aimed at addressing the specific needs and religious requirements at the workplace (prayer rooms, accommodating the prayer time, recognition of religious symbols etc.). Article 134 of the Labour Code provides that two days per year are considered legal holidays for two different religious holidays; the holidays are decided as such by the religious denominations recognized by the state, other than Christian denominations which are entitled to holidays for Easter and Christmas.<sup>133</sup> Currently there are only eighteen religious denominations recognized by the state.<sup>134</sup>

## 2.2.7 Immigrants and minorities in trade-unions

2.2.7.1. The authorities interviewed mentioned that in their databases there are no trade unions or groups within the trade unions focused on a particular ethnic group but that there are trade unions which run projects on particular minority groups (such as Roma).<sup>135</sup> Only persons granted a form of protection in Romania (recognized refugees and persons granted subsidiary protection) and foreign citizens working for Romanian companies granted labour permissions

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<sup>130</sup> Response of Constanța county labour inspectorate, August 18, 2006.

<sup>131</sup> Response of Brăila county labour inspectorate, August 29, 2006

<sup>132</sup> See Romania/ Avocatul Poporului, *Raport anual 2005*, available online at: <http://www.avp.ro/> (03.08.2006).

<sup>133</sup> See Article 134 of the Romania/ Law 53/2003 Labour Code-updated, Best Publishing, (03.01.2006).

<sup>134</sup> See Romania/ Secretariatul de Stat pentru Culte, available online at: <http://www.culte.ro/ClientSide/culte.aspx> (24.08.2006).

<sup>135</sup> Questionnaire filed by the National Agency for Roma.

are allowed to work in Romania, hence join trade unions.<sup>136</sup> Immigrants do not have the right to establish or to join trade unions.<sup>137</sup> The legislation on trade unions provides that “persons legally hired and civil servants have the right to establish trade unions and to become members of such unions. Persons who work as freelance or independently, those working in agriculture as well as those who are undergoing vocational trainings have the right to join a trade union.”<sup>138</sup>

## 2.2.8 Monitoring working conditions of immigrants and minorities

2.2.8.1. The county level labour inspectorates Romania/ *Inspectoratele teritoriale pentru protecția muncii* within the Romania/ *Inspeția Muncii* in the Ministry of Labour, Social Solidarity and Family are responsible for monitoring working conditions. By law, when exercising their mandate, the labour inspectors should not distinguish between aliens granted work permits, refugees and persons granted a form of protection, ethnic or national minorities and Romanians.

## 2.2.9 Policies, measures and initiatives combating discrimination and improving integration and community cohesion in employment

### 2.2.9.1 Institutional policies

2.2.9.1.1. The *National Plan on Employment* includes objectives and measures aimed to combat discrimination and to ensure equal opportunities particularly in relation with the following groups: Roma, women, youth, poor people, and disadvantaged persons.<sup>139</sup> As a follow up, the Romania/ Agenția Națională pentru Ocuparea Forței de Muncă drafted a *Program to Foster the Employment of Persons Marginalized in the Society for 2006* which targets in general marginalized persons or persons at risk of being marginalized in the society and

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<sup>136</sup> See Romania/ Law 203/1999 on Work Permits, modified by Law 18/2005 and Emergency Ordinance 130/2005, 05/10/2005. Art.7 of the law sanctions the employer if a foreigner is hired without having such a labour permit.

<sup>137</sup> See Romania/ National Strategy on Migration, Decision 616 from 21.04.2004 (06.05.2004).

<sup>138</sup> See Article 2 of the Romania/ Law No. 54/2003 on Trade Unions (05.02.2003).

<sup>139</sup> See Romania/ Government Decision 759/2002, regarding the adoption of the National Plan on Employment (18.07.2002).

youth below 35.<sup>140</sup> The only ethnic group targeted by the Agency is the Roma. According to the Agency, in 2005, the *Caravan for Roma Employment* reached 723 locations and 25,768 Roma participated at the events organized during this project and 1,496 of them had been employed subsequently.<sup>141</sup>

2.2.9.1.2. For 2006, the *National Plan for Employment* aims at stimulating the work force and facilitating the employment of 10,000 Roma and the *National Plan for Professional Training* foresees that about 1,500 Roma will participate at courses and trainings offered through the Plan.<sup>142</sup>

2.2.9.1.3. The national policies for the social inclusion of Roma also include several aspects found in different official documents.<sup>143</sup>

2.2.9.1.4. In accordance with the provisions of the governmental *Strategy on the Improvement of the Roma Situation*,<sup>144</sup> public employers have begun recently to have job offers especially for Roma, for example in police forces, Roma experts working with local administration, health mediators, school mediators and regional offices.<sup>145</sup> As a follow up for this Strategy, a series of *General Plans for Measures to Implement the Strategy* and plans for each of the major fields (health, labour, housing, education) and county-level and local plans had been adopted. At the local level protocols and agreements had been signed between

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<sup>140</sup> See Romania/ Agenția Națională pentru Ocuparea Forței de Muncă, *National Programme for employing persons prone to be marginalized in 2006*, in Romania, available online at:

[http://www.anofm.ro/mpm/program\\_pers\\_marginalizate.htm](http://www.anofm.ro/mpm/program_pers_marginalizate.htm) (03.08.2006).

<sup>141</sup> See Romania/ Agenția Națională pentru Ocuparea Forței de Muncă, *Annual Report 2005*, available at:

[http://www.anofm.ro/informatii\\_publice/web/index.htm](http://www.anofm.ro/informatii_publice/web/index.htm) (03.08.2006).

<sup>142</sup> See Cace S., Ionescu M.(eds.), *Politici de ocupare pentru romi, Labour policies for Roma*, in Romanian, 2006, Editura Expert.

<sup>143</sup> See Romania/ *National Strategy for Improving the Condition of the Roma*, adopted by Romania/ Government Decision 430/2001 issued by the Government of Romania on April 2001 and updated by Government Decision 522 from 22 of April 2006 containing a Master Plan of Measures for the 2001-2004 and 2006-2008; the *National Anti-Poverty and Social Inclusion Plan* (chapter 14), the *Joint Memorandum for Social Inclusion the National Plan on Combating Poverty and Promoting Social Inclusion (2002-2012)*, the *Decade of Roma (2005-2015)*, the *Memorandum for Inclusion (2005-2010)*, the *National Plan for Development (2007-2013)*, Law 116/2002 on preventing and combating social marginalization.

<sup>144</sup> See Romania/ Government Decision 522/2006, regarding the modification and adjustment of the Government Decision 430/2001 regarding the Romanian Government's Strategy on the Improvement of the Roma Situation,

(19.04.2006), available at: <http://www.anr.gov.ro/strategia-anr/> (23.06.2006).

<sup>145</sup> See, Special Study - Trends and Developments.

local authorities<sup>146</sup> and Roma NGOs and projects focusing on developing Roma human resources and income generating projects for Roma communities were planned. Such projects include: job fairs for Roma, caravans for Roma employment, professional training programs, studies etc. conducted jointly by Roma NGOs and the local labour agencies. Some of the county level authorities reported joint working groups developed following these protocols which are periodically visiting Roma communities and informing them about these opportunities.

2.2.9.1.5. There are no specific policies and measures designed to foster the integration of other national or ethnic minorities except Roma. As for foreigners, refugees and asylum seekers<sup>147</sup>, only aliens granted a form of protection in Romania are entitled to participate at programs facilitating integration.<sup>148</sup> In 2004-2005, seventy foreigners had been included in the integration programme of the Romania/ Oficiul Național pentru Refugiați, meaning 42 per cent of the foreigners granted protection.<sup>149</sup> The legal framework on the recognition of educational and professional diplomas allows for recognition of foreign education only for citizens of the European Union.<sup>150</sup> Professional qualifications granted outside the national educational system (abroad or in non-formal educational programs) can be recognized if the person interested takes an assessment-evaluation exam before a specialized body.<sup>151</sup> This possibility applies equally to Romanians and foreigners.

### *2.2.9.2 Significant projects*

2.2.9.2.1. An assessment of the projects targeting Roma communities up to 2004 was conducted by UNDP Romania.<sup>152</sup> An older assessment looks at

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<sup>146</sup> Prefect, local agencies for employment, etc.

<sup>147</sup> According to Romania/ Government Ordinance 44/2004 on social reintegration of foreigners.

<sup>148</sup> See Romania/ Autoritatea pentru Străni, *Migrația și Azilul în România*, March 2006, available online at:

[http://aps.mai.gov.ro/pagini/inf\\_publice/migratie\\_azil/migratie\\_azil.htm](http://aps.mai.gov.ro/pagini/inf_publice/migratie_azil/migratie_azil.htm) (03.08.2006).

<sup>149</sup> See Romania/ Autoritatea pentru Străni, *Migrația și Azilul în România*, March 2006, available online at:

[http://aps.mai.gov.ro/pagini/inf\\_publice/migratie\\_azil/migratie\\_azil.htm](http://aps.mai.gov.ro/pagini/inf_publice/migratie_azil/migratie_azil.htm) (03.08.2006).

<sup>150</sup> See Romania/ Law 200/2004 on the recognition of diplomas and professional qualifications for professions regulated in Romania.

<sup>151</sup> See Romania/ Joint Order 4543/2004 of the Ministry of Labour and of the Ministry of Education on approving the Procedure for evaluation and certification of professional competencies obtained by non-formal methods and Joint Order No.3329/81/2005 of the Ministry of Labour and Ministry of Education to amend the Procedures.

<sup>152</sup> See UNDP, Romania/ Agenția de Dezvoltare Comunitară Împreună, *Assessment of the Programs for Roma Communities in Romania*, in Romanian,

projects prior to 2000 which were mainly focused on encouraging traditional forms of work.<sup>153</sup> The comparison of the two assessments proves a tendency of moving from creating employment opportunities in Roma communities by encouraging traditional craft as income generating activities, to equipping Roma for modern professions and supporting their integration in the labour market. Significant initiatives and good practices include Roma job fairs, caravans and vocational trainings developed periodically by the Romania/ Agenția Națională pentru Ocuparea Forței de Muncă jointly with local Roma NGOs or Roma groups.<sup>154</sup>

2.2.9.2.2. According to an overview submitted recently by two major Roma NGOs, the most active donor for Roma labour-integration projects has been the Open Society Foundation (OSF), through its special program dedicated to Roma, which has an economic component.<sup>155</sup> The overview mentions the objectives of the projects funded by OSF:

- Vocational training for young people who did not succeed to reach a satisfactory level of school education.
- Orientation towards relevant professions for the Roma.
- Intensive qualification of young Roma in professions that allow their access to the labour market.
- Entrepreneurial education and basic legal training.

2.2.9.2.3. One of the successful projects aiming at increasing the capacity of Roma NGOs to provide accredited counselling and mediation services for employment in Roma communities is the partnership launched within the Phare project “Accredited social services for Roma employment in Roma communities” developed by the Center for Resources in Roma Communities and the Romania/ Agenția Națională pentru Ocuparea Forței de Muncă. The project trained twenty employment agents from ten Roma NGOs from all the regions and the ten NGOs started providing accredited counselling and mediation services for Roma employment in forty rural and urban communities. As a result, a data base with approximately 2,000 Roma looking for jobs and potential employers had been established.<sup>156</sup>

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2006, available at:

[http://www.agentiaimpreuna.ro/documente/Evaluare\\_programe\\_romi.pdf](http://www.agentiaimpreuna.ro/documente/Evaluare_programe_romi.pdf)  
(03.08.2006).

<sup>153</sup> See Anăstăsoaie, V., Tarnovschi, D., (eds.), (2000) *Proiecte pentru romii din România, 1990-2000, Projects for Roma in Romania*, in Romanian, Cluj-Napoca.

<sup>154</sup> See Special Study - Trends and Developments, para. 2.2.9.

<sup>155</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, Romania/ Romani CRISS, *Overview of the Situation In Romania: for European Commission consideration at the 2006 Country Report*, joint submission for the European Commission, August 2006, on file with the NFP.

<sup>156</sup> See Press release [www.romacenter.ro](http://www.romacenter.ro) (18.08.2006) and interview with the Center for Resources in Roma Communities, on file with NFP.

2.2.9.2.4. Another Phare 2001 project on Civil Society consisted in establishing a “Center for Professional Inclusion for Roma” within Romania/ Impreuna Agency for Community Development. Besides creating the resource centre, the program also assessed the labour market in Bucharest for Roma and supported more than 170 Roma in getting certificates as labourers and in being trained for various qualifications. As a result 120 beneficiaries of the program had been hired, a database including 700 Roma was created and a sociologic study on causes for lack of employment with a methodology for Roma occupations and a study “Young Roma –Looking for Job” had been published.<sup>157</sup>

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<sup>157</sup> See Romania/ Agenția de Dezvoltare Comunitară Impreună, Projects, available at: <http://www.agentiaimpreuna.ro/proiecte.php?tip=2&&l=1>(03.08.2006).

## 2.3 Education (including vocational training and life-long learning)

### 2.3.1 New sources of data

2.3.1.1. The Romania/ Direcția Generală pentru Învățământ în Limbile Minorităților Naționale of the Ministry of Education and Research collects data about the number of students who study in schools for national minorities or in so-called sections for instruction in a minority language within mainstream schools, as well as data about the number of teachers and foremen/instructors. The Ministry of Education and Research published<sup>158</sup> tables where the above-said numbers are broken down by languages of instruction (Hungarian, German, Ukrainian, Serbian, Slovak, Czech, Croatian, and Bulgarian) and levels of education: pre-primary, primary (grades 1-4), lower secondary (grades 5-8), secondary (grades 9-12/13), vocational education, post-secondary and foremen's schools, as well as public and private higher education<sup>159</sup>. Another refers to students who are instructed in Romanian language, but - upon request - study their mother tongue.<sup>160</sup>

2.3.1.2. On 14 October 2005<sup>161</sup>, Romanian Minister of Education and Research<sup>162</sup> submitted to the Parliament for the first time a detailed report entitled *Raport asupra stării sistemului național de învățământ*<sup>163</sup> using a system of 32 indicators also employed by OECD and Eurostat reports, which thus makes the state of education in Romania comparable to the state of education in other European states, and responds to the requirement of the Law of Education, Title IV, Ch. IV, Art. 150.3.<sup>164</sup>

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<sup>158</sup> The information is available on the ministry's website: <http://www.edu.ro>.

<sup>159</sup> For higher education, data only refer to Hungarian and German students, and a collective "other nationalities."

<sup>160</sup> Hungarian, Ukrainian, Russian Lipovan, Turkish, Polish, Bulgarian, Serbian, Slovak, Czech, Croatian, Greek, Romani, Armenian, and German.

<sup>161</sup> See report available at: <http://www.edu.ro/index.php/articles/3750> (14.08.2006).

<sup>162</sup> Mircea Miclea.

<sup>163</sup> See report available at: <http://www.edu.ro/index.php/articles/3590> (14.08.2006).

<sup>164</sup> "The Minister of Education submits to the Parliament an annual report of the state of the national system of education, by the date of 15 October. At the same time, the directions and priorities of development in the pre-university and university education shall be presented. The report shall be made public." (Romania/ Law of Education, Title IV, Ch. IV, Art. 150.3).

2.3.1.3. Romania/ Direcția pentru Integrare Europeană of the Romanian Ministry of Education and Research produces a newsletter entitled *Dimensiunea europeană a educației*, published twice a month.<sup>165</sup> Among others, the newsletter informs the readers about recent legislative measures of the Ministry of Education and Research, giving some background information as to how the decisions were made, or what circumstances made them necessary.

2.3.1.4. In the reference period, non-governmental organizations active in fighting discrimination<sup>166</sup> have provided data and information about discrimination in education.

2.3.1.5. The press generally presents issues of discrimination especially of the Roma, more frequently around the start of the academic year (September) and towards the end of the school year (May-July) when the results of examinations are published, and enrolment in secondary schools is decided. Numerous newspapers<sup>167</sup> picked up the issue of special places set aside for Roma students in secondary schools and at universities as a measure of affirmative action. One newspaper<sup>168</sup> reported on a racist incident at a school in Tulcea County. Non-official information is also made available via e-mail groups.<sup>169</sup> The electronic newsletter that issues news about ethnic minorities on a weekly basis, including news on issues of discrimination in education, is called Divers.<sup>170</sup>

## 2.3.2 Statistical data and information

2.3.2.1. In absolute numbers<sup>171</sup>, according to official data<sup>172</sup> provided by the Ministry of Education and Research, the total number of schools and sections

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<sup>165</sup> See information available at: <http://www.edu.ro/index.php/resurse/c330/> (11.09.2006)

<sup>166</sup> Such as Romania/ Liga Pro Europa, Romania/ Romani CRISS, Romania/ Agenția pentru Dezvoltare Comunitară Împreună, Romani/ Centrul de Resurse pentru Diversitate Etnoculturală.

<sup>167</sup> See press monitoring since December 2005 to date by Romania/ Centrul de Resurse pentru Comunitățile de Romi available at: <http://www.romacenter.ro/monitorizare/>.

<sup>168</sup> See Romania/ Jurnalul național.

<sup>169</sup> See *romania\_eu\_list@yahoo.groups.com*, provided by *euro@atlantic club*, moderated by Lucian Branea, the largest e-group in Romanian language in the world (6,399 members on 23.09.2006), which provides a forum for debate and sharing information about Romania's accession to the European Union.

<sup>170</sup> See information available at: <http://www.divers.ro>.

<sup>171</sup> While in the 2004-2005 school year data presented by the Direction for Education in Minority Languages the total number of teachers and students in the pre-university education system was not provided, and therefore the percentage of teachers and students of the minorities was not possible to calculate, the 2005-6 tables provide the country total.

for minorities dropped from 1,772 in the 2004-5 school year to 1,730 in the 2005-6 school year. Schools and sections with Hungarian as the language of instruction dropped from 1545 to 1403, while for instruction in German language the number of schools and sections increased from 140 to 243. There was a doubling of the number of schools and sections with instruction in Croatian (from three in 2004-5 to six in 2005-6). The situation of students who are instructed in Romanian, and – upon request – study their mother tongue, too, has changed especially for the Hungarian and Roma students, in opposite directions: while the number of Hungarian students in this category dropped from 6,201 in 2004-5 to 2,156 in 2005-6, the number of Roma students increased in the same period from 19,812 to 25,430. The number of schools where students study Hungarian upon request when the school language of instruction is Romanian dropped from 502 to 72, while the number of schools providing for students who wish to study Romani increased from 294 to 370. The latter is explicable by the numerous efforts of the Ministry of Education and Research to support the improved educational provision for Roma ethnics, both by supporting teacher training and by setting aside special places for Roma students as a measure of affirmative action.

2.3.2.2. In the PHARE 2003/005-551.01.02 project *Access to education for disadvantaged groups*, implemented by the Ministry of Education and Research in 15 counties<sup>173</sup> cases of segregation of the Roma children were identified in 37 schools, which is about one third of the schools included in the project. By September 2005, 33 initiatives of desegregation commenced, and another 4 schools began preparing for desegregation in September 2006. By May 2006, 22 of the above-mentioned schools had recorded significant progress in implementing desegregation measures.<sup>174</sup>

2.3.2.3. According to its baseline report<sup>175</sup>, roughly 45 per cent of the project beneficiary students were identified as Roma ethnics. By comparison, fewer than 2.5 per cent of the teachers in these schools were identified as Roma ethnics. While in the primary grades roughly 50 per cent of the students are Roma ethnics, in the lower secondary there are only 36 per cent Roma students, and at the beginning of the eighth grade<sup>176</sup> the percentage of Roma students

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<sup>172</sup> Data provided by Mr Laszlo Murvai, Councillor of the Secretary of State for Education in the Languages of Minorities, in an interview on 24.07.2006.

<sup>173</sup> See Press release of the Delegation of the European Commission in Romania, <http://www.edu.ro/index.php/articles/c486/> (25.07.2006).

<sup>174</sup> See Romania/ European Union, Romanian Government, Ministry of Education and Research (2006), *Acces la educație pentru grupuri dezavantajate, Desegregarea în educație, Buletin informativ nr.3*, WYG International Ltd.

<sup>175</sup> See WYG International. *Access to Education for Disadvantaged Groups, Baseline Report, February 2006* (manuscript) developed within the PHARE 2003/005-551.01.02 project Access to education for disadvantaged groups.

<sup>176</sup> Which in Romania was up to 2004 the last year of compulsory schooling.

drops to 29. The same baseline report looked at the percentage of children identified as being with special education needs. While of the mainstream children only 3.5 per cent were identified as such, of the Roma children 7.1 are identified as having special educational needs. Non-enrolment is another aspect that the baseline report investigated. While in the primary grades the rate non-enrolment rate for Roma children was 11 per cent, for lower secondary non-enrolment rates go up to 30 per cent, which indicates that a significant percentage of the Roma children drop out of school before they complete compulsory education.

2.3.2.4. At the end of the first semester of the 2005-6 academic year, the following aspects were revealed by the monitoring and evaluation team of the same project<sup>177</sup>, based on data collected from twelve project counties:

- In the first semester, approximately 80 per cent of the non-Roma students in the primary grades obtained the qualificative FB<sup>178</sup> or B, while less than 35 per cent of the Roma students obtained FB or B.
- The percentage of Roma students who got an I in Romanian is seven times bigger than the percentage of non-Roma students who got I.
- At the lower secondary level, over 20 per cent of the non-Roma students obtained grades of nine and ten<sup>179</sup> in Romanian language and literature, while less than 5 per cent of the Roma students obtained the same grades at the same discipline.
- Approximately 13 per cent of the Roma students have not had their assessment completed in the first semester. This leads to the projection that only half of the Roma students will make it to the eighth grade, or complete compulsory education.

2.3.2.5. At the end of the second semester of the 2005-6 academic year, the following aspects were revealed by the monitoring and evaluation team of the *Access to education for Disadvantaged Groups* project<sup>180</sup>, based on data collected from twelve project counties:<sup>181</sup>

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<sup>177</sup> See WYG International. *Access to Education for Disadvantaged Groups. Progress report (Semester 1)*, March 2006 (manuscript).

<sup>178</sup> FB stands for “Foarte Bine” (“very good” in Romanian). In the primary grades, students do not obtain grades, but qualificatives, which are the following: Excelent – E (excellent), Foarte Bine – FB (very good), Bine - B (good), Suficient – S (sufficient), Insuficient – I (insufficient).

<sup>179</sup> Beginning with the lower secondary level (5<sup>th</sup> grade), students receive grades from 1 (lowest) to 10 (highest). 1-4 are failing grades.

<sup>180</sup> See WYG International. *Access to Education for Disadvantaged Groups. Progress report (Semester 2)*, August 2006 (manuscript).

<sup>181</sup> See 111 schools and a total of 31,205 students. These counties are: Alba, Bacău, Brăila, Covasna, Harghita, Ialomița, Iași, Maramureș, Mureș, Neamț, Sibiu, Vâlcea.

In the primary grades:<sup>182</sup>

- Roma students, on average, were awarded lower qualificatives than their non-Roma counterparts. In the Romanian language discipline, almost 80 per cent of non-Roma students were awarded the higher 'FB' (or 'E') or 'B' qualificatives. By contrast, less than 35 per cent of Roma students were awarded these higher qualificatives.
- Only 1.5 per cent of non-Roma students were awarded the 'I' qualificative for Romanian language. However, nearly 11 per cent of Roma students received this qualificative.
- In mathematics, about 78 per cent of non-Roma students were awarded the higher qualificatives compared to less than 34 per cent of Roma students.
- The proportion of non-Roma students awarded the highest qualificative in each of the two disciplines was over four times greater than for Roma students.
- For non-Roma students, the number of students awarded the 'FB' qualificative in the Romanian language discipline was over 30 times higher than that of those awarded the 'I' qualificative. For Roma children, the numbers awarded the 'FB' and 'I' qualificatives were exactly the same.

In the secondary grades:<sup>183</sup>

- Roma students, on average, were awarded lower grades than their non-Roma counterparts at secondary level.
- In Romanian language, over 50 per cent of non-Roma students were awarded grades of 7 or above, compared to about 15 per cent of Roma students.
- Less than 4 per cent of Roma students were awarded grades of 9 or above in either Romanian language or mathematics.
- The proportions of Roma students awarded the failing grades in both the Romanian language or mathematics disciplines were more than double that of non-Roma students.

2.3.2.6. Other significant reports prepared within the same project are: a qualitative study in two parts<sup>184</sup> including case studies conducted on fourteen schools beneficiaries of the grant-making component of the above-mentioned project, and a report on school dropout<sup>185</sup> detailing reasons of non-completion among 100 Roma and non-Roma students (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).

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<sup>182</sup> I through IV.

<sup>183</sup> V through VIII.

<sup>184</sup> Ulrich, C. (2006). *Studii de caz. Prima rundă* (manuscript), and Ulrich, C. (2006). *Concluziile studiilor de caz - a doua rundă* (manuscript).

<sup>185</sup> See WYG International. *Access to Education for Disadvantaged Groups, Report on Non-Completion*, June 2006 (manuscript)

2.3.2.7. Beginning with the school year 2005-6, the Ministry of Education and Research approved syllabi for each year of study<sup>186</sup> for the study of Romanian language by the children of the refugees.<sup>187</sup>

2.3.2.8. In the report issued by the Romanian Ministry of European Integration, entitled *Evoluții înregistrate în pregătirea pentru aderarea la Uniunea Europeană în perioada 01.05.2006 – 14.07.2006*<sup>188</sup>, it is pointed out that the Ministry of Education and Research in collaboration with the Romania/National Agency for the Roma, will implement a 6.1 million Euro Early Education project to improve access to preschool education of children aged 3-6, including those from disadvantaged groups, such as the Roma minority.

As concerns improved access to education for the Roma, the Ministry of Education and Research issued Notification 30884/13.04.2006, by which it grants two places per each ninth grade for Roma students. Thus, in the 2006-7 school year, it is expected that 3,000 places will be granted for Roma students who have completed eight grades. Also, by the Order of the Minister of Education no. 3554/10.04.2006, for the academic year 2006-7, 415 places have been granted for Roma ethnic candidates in universities, which means 17 places more than in the previous academic year.

Another affirmative action the Ministry of European Integration report points out is the training of 170 Roma school mediators, who activate in 22 counties that were beneficiaries of the “Access to education for disadvantaged groups” so far, and the further training of 200 potential Roma school mediators for the 20 counties which will join the programme in 2007. According to the Ministry of Education and Research<sup>189</sup>, the schooling plan is currently being prepared for the training of school mediators in the pedagogical high schools, which is a measure of ensuring sustainability of the school mediators’ training when the project funds are terminated.

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<sup>186</sup> Grades 1<sup>st</sup>-12<sup>th</sup>.

<sup>187</sup> These syllabi are annexes to the Romania/ Minister Order 4041/2004 (16.06.2004) which approves the curriculum for initiation in Romanian language for persons who have obtained the status of refugees. See information available at:

<http://www.edu.ro/index.php/articles/curriculum/c539+587/?startnum=41> (11.09.2006).

<sup>188</sup> See information available at:

[http://www.mie.ro/\\_documente/dialog\\_Ro\\_UE/2006/contributie\\_iulie\\_ro.pdf](http://www.mie.ro/_documente/dialog_Ro_UE/2006/contributie_iulie_ro.pdf) (11.09.2006).

<sup>189</sup> This information was provided on 11.09.2006 by Mr Bogdan Georoceanu, in charge of the School-Community Links component of the PHARE Access to Education for Disadvantaged Groups Project Implementation Unit.

2.3.2.9. From the research carried out by the Romania/ Ministerul Administrației și Internelor, Oficiul Național pentru Refugiați<sup>190</sup> we learn that 25.2 per cent of the interviewees continued their studies in Romania. The level of schooling they completed in Romania is as follows:

- 14.7 per cent have completed higher education,
- 2.1 per cent have completed post graduate studies,
- 6.4 per cent have completed upper secondary education,
- and 2 per cent have completed eight grades.<sup>191</sup>

As concerns studying Romanian language: 32.3 per cent of the interviewees participated in Romanian language courses (15.4 per cent in courses for foreign university students, 10.9 per cent in the language courses organized by the Romania / Oficiul Național pentru Refugiați in collaboration with the Ministry of Education and Research, and 6 per cent in courses organized by non-governmental organizations). According to the report, all children assisted by the Romania / Oficiul Național pentru Refugiați and Save the Children Romania are integrated in the educational system.

The same report underscores that in Romania foreigners who have obtained a form of protection have access to education in the same conditions as Romanian citizens. In order to enrol to school, minors can participate in a free course of Romanian language. In order to enrol, those interested in the course must request this. The courses are organized by the school inspectorates. The report recommends that for the improvement of the quality of Romanian language courses, the teachers that deliver these courses should be trained in cultural differences, and more attention should be paid to the grouping of participants by age level, sex and country of origin.

The main obstacle to education of foreigners who have obtained some form of protection in Romania is recognition of the diplomas held by refugees and attestation of the studies and qualifications of those who do not hold documents to prove their studies. This is because refugees must follow the same procedures for obtaining recognition of their studies as any other foreign national, which in practice is often impossible. For this reason, the report recommends that a special methodology should be issued to attest pre-university education of people who have obtained a form of protection in Romania.

2.3.2.10. The newspaper *Jurnalul național* reported on 13 September 2005<sup>192</sup> that prior to the beginning of the 2005-6 school year, Măcin Roma counsellor

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<sup>190</sup> See Romania/ Ministerul Administrației și Internelor. Oficiul Național pentru Refugiați (2006). *Raport anual privind situația străinilor care au obținut o formă de protecție în România*, (manuscript) provided upon request by Romania/ Oficiul Național pentru Refugiați. The report was issued for the period June 2005 – June 2006, on 468 adults who received some form of protection in Romania in the period the study refers to.

<sup>191</sup> Compulsory education in Romania until the 2004-2005 academic year.

Alexandru Rădulescu notified the prefect of Tulcea County, Lefter Chirică, that School No. 1 of Măcin intended to place Roma students in segregated classes. According to the article, the prefect condemned segregation in his speech made in the schoolyard in front of parents gathered for the opening ceremony, threatening to dismiss teachers who would be proven responsible for ethnic discrimination.

2.3.2.11. The newspaper *Azi* published a short article<sup>193</sup> just before the beginning of the school year about the Roma community in Tufanu, Malureni commune, Argeş County, reporting on the Roma parents' wish to have a Roma teacher for their children. The parents complain that the current three teachers who teach the thirty students only come to the school for one hour a day, to distribute the roll and milk.

### 2.3.3 Reports and studies

2.3.3.1. The UNDP issued a report with references to education for Roma in Romania. It underlines the wide gap between secondary school enrolment of Roma and the majority. Figures for Romania reveal that in 2002-2003, 17 per cent of Roma children were enrolled in secondary school as compared to 69 per cent of the majority. As a positive practice, the report quotes the Roma Education Fund<sup>194</sup> website, according to which a Roma NGO<sup>195</sup> in Romania is supported by the Fund to train 50 Roma teachers, out of whom 10 will become teacher trainers themselves.<sup>196</sup>

2.3.3.2. ECRI's report on Romania,<sup>197</sup> contains Annexes with several Ministry of Education and Research's comments in response to some of its findings.

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<sup>192</sup> See Irina Munteanu: Scandal cu iz rasial la o scoala din Macin, in *Jurnalul National*, issued on 13.09.2005  
[http://www.jurnalul.ro/articol\\_36381/scandal\\_cu\\_iz\\_rasial\\_la\\_o\\_scoala\\_din\\_macin.html](http://www.jurnalul.ro/articol_36381/scandal_cu_iz_rasial_la_o_scoala_din_macin.html) (24.08.2006).

<sup>193</sup> See information available at:  
<http://www.romacenter.ro/monitorizare/photos/sep/12sep1.jpg> (24.09.2006)

<sup>194</sup> See information available at: [www.romaeducationfund.org](http://www.romaeducationfund.org)

<sup>195</sup> See Romania/ Centrul de Resurse pentru Comunitățile de Romi,  
<http://www.romacenter.ro>

<sup>196</sup> See United Nations Development Programme, Regional Bureau for Europe and the Commonwealth of Independent States, Bratislava, *At Risk: Roma and the Displaced in Southeast Europe*, 2006, especially the Chapter 1.3: Education, pp. 29-41

[http://europeandcis.undp.org/?menu=p\\_cms/show&content\\_id=A3C29ADB-F203-1EE9-BB0A277C80C5F9F2](http://europeandcis.undp.org/?menu=p_cms/show&content_id=A3C29ADB-F203-1EE9-BB0A277C80C5F9F2) (20.08.2006)

<sup>197</sup> See ECRI, *Third report on Romania*, adopted on 24 June 2005, published in Strasbourg on 21 February 2006. See report available at:  
[http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-)

As concerns education provision for refugees, Romanian officials point out that since the 2004-5 academic year, refugees have been able to go to school no. 145 in Bucharest, and in the 2005-6 academic year, they will be given free textbooks. This information is confirmed by the School Inspectorate of Bucharest Municipality.

The situation of the Roma in education is one of the specific issues the ECRI report tackles; though it points out the good practise of training school mediators,<sup>198</sup> of providing technical training to Roma children who have left school, of training Roma teachers, and of setting aside places in universities for Roma students, the report notes that there is still segregation of Roma children in education, and that the school mediators do not have a clearly defined legal status.

2.3.3.3. The Advisory Committee of the Framework Convention for the Protection of National Minorities of the Council of Europe<sup>199</sup> remarks the efforts made by the Romanian authorities to ensure equal access to education for persons belonging to national minorities, but it also points out that the low budget allocations to education make these efforts dependent upon funding from international donors. According to the report, there are still shortcomings in the educational provision for numerically smaller minorities. The report commends the efforts made by the authorities in order to improve educational provision for the Roma minority, especially to prepare adequate teaching material and to train the teaching staff necessary to ensure that the Roma children can study elements of the history and culture of their community and learn their language. However, it points out that “the educational situation of the Roma remains a challenge for the authorities, as absenteeism and school failure still exist, and occasional cases of Roma children isolation in the school system have been reported.”<sup>200</sup>

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country\_approach/romania/Romania%20third%20report%20-%20cri06-3%20romanian.pdf#search=%22ECRI%20%2B%20Romania%22 , p. 46 (25.08.2006)

<sup>198</sup> People liasing between the parents and school.

<sup>199</sup> See the Advisory Committee of the Framework Convention for the Protection of National Minorities of the Council of Europe, *Second Opinion on Romania*, adopted on 24.11.2005, issued on 23.02.2006 in Strasbourg.

<sup>200</sup> See Advisory Committee on the Framework Convention for the Protection of National Minorities (2006) *Second Opinion on Romania* adopted on 24 November 2005, Strasbourg, available at:

[http://www.coe.int/t/e/human\\_rights/minorities/1.\\_general\\_presentation/PDF\\_CommentaryOnEducation\\_final\\_eng.pdf#search=%22Advisory%20Committee%20on%20The%20Framework%20Convention%20for%20the%20Protection%20of%20National%20Minorities%20%2B%20Romania%22](http://www.coe.int/t/e/human_rights/minorities/1._general_presentation/PDF_CommentaryOnEducation_final_eng.pdf#search=%22Advisory%20Committee%20on%20The%20Framework%20Convention%20for%20the%20Protection%20of%20National%20Minorities%20%2B%20Romania%22) (11.09.2006).

2.3.3.4. In a recent un-official report there is a description of a case of segregation in Jilava, Ilfov County, and mentions<sup>201</sup> 7 similar cases in the counties of Ilfov, Neamt, Iasi, Mures, and Constanta.<sup>202</sup> However, the County School Inspectorates of the respective counties do not consider these cases as severe cases of segregation.<sup>203</sup>

2.3.3.5. A report produced in 2005 by the Romania/ Liga Pro Europa based on a survey carried out in 5 counties<sup>204</sup>, concludes that in addition to indirect discrimination against the minority students in the surveyed counties, there has also been direct discrimination, especially aimed at Roma students. The report remarks that although special places are set aside for Roma students in secondary schools and universities, these students have difficulty completing primary education. The report also accuses school textbooks of creating and enforcing negative stereotypes about the minorities.

2.3.3.6. According to the annual report for 2005 of the Save the Children Romania<sup>205</sup>, 42 children of the refugees were integrated into the state system of education, and were supported by Save the Children Romania with school materials. No official report has been issued in this respect by either the Ministry of Education and Research or the Romania/ Forumul Român pentru Refugiați și Migranți, or the Representation in Romania of the United Nations High Commissioner for Refugees. In Bucharest<sup>206</sup> schools no. 145 and 165 received children of refugees. Currently, there are eight students studying at these schools: Iranians, Iraqis, Serbians, Turks, and Afghanis. They were enrolled with the assistance of Save the Children Romania. Once the children are enrolled, they have the same status as the Romanian children.<sup>207</sup> Three

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<sup>201</sup> But do not provides details on.

<sup>202</sup> See Romania/ Agenția pentru Dezvoltare Comunitară “Împreuna” and Romania/ Romani Criss, *Overview of the Roma Situation in Romania, for European Commission consideration at the 2006 Country Report*. See report available at:

<http://www.romanicriss.org/documente/DDO/noutati/Alternative%20report%20on%20Romania%20aug%202006%20CRISS%20Impreuna%20FINAL.pdf>, p. 21-22 (30.08.2006).

<sup>203</sup> From the answers provided to questionnaires administered by the NFP to the County School Inspectorate of the above-mentioned counties, it is not relevant that segregation would be an issue at all.

<sup>204</sup> *Discriminarea rasială în județele Arad, Cluj, Harghita, Sibiu și Timiș*, produced within the project „Minority Rights • Monitoring - Advocacy - Networking”, funded by Open Society Institute, 2005 (manuscript).

<sup>205</sup> <http://www.edu.ro/index.php/resurse/c330/> (11.09.2006).

<sup>206</sup> Information provided by Mr Stefan Pacearca, inspector for primary education, School Inspectorate of Bucharest Municipality, Sector 5.

<sup>207</sup> E.g. they receive free textbooks, they cover the same curriculum, they receive *alocatie*<sup>207</sup>, they benefit from the social programme called *Corn și lapte* (Roll and Milk), etc.

students entered the national tests, but did not pass them, so they were guided to so-called Romania/ *Școală de Arte și Meserii* (Schools of Arts and Craft)<sup>208</sup>.

2.3.3.7. Romania/ Centrul de Resurse pentru Diversitate Etnoculturală issued a report on residents, refugees, asylum seekers and illegal migrants in Romania,<sup>209</sup> which does not include data on education for the above-mentioned categories, but it does provide some information about their access to education. The report points out that according to the law, children of the refugees have the same access to education as Romanian citizens. The adults who have the status of refugees can request to participate in Romanian language courses.

### 2.3.4 Impact of EU Directive EC/43/2000

2.3.4.1. Allegedly as a response to the monitoring report of the European Commission of 25 October 2005, Romania adopted Law nr. 316 of 12.07.2006 to amend Article 5 of the Law of Education (no. 84/1995). As a consequence, students who are citizens of European Union member states have access to education in Romania under the same conditions as the citizens of Romania.

### 2.3.5 State provisions for minority and multicultural education

2.3.5.1. In the last academic year (2005-6) as compared to the previous one (2004-5),<sup>210</sup> the number of teachers in languages of the national minorities dropped from 13,446 to 13,084. The most significant drop is in the number of teachers teaching in Hungarian (from 12,032 in 2004-5 to 11,251 in 2005-6). However, there was a significant increase in the number of teachers who teach in German language (1,166 in 2004-5 as compared to 1,578 in 2005-6). The phenomenon is most likely explained by the demographic tendency in the case of Hungarian teachers, whereas in the case of teachers teaching in German it may be the increasing popularity of German language<sup>211</sup>. The number of

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<sup>208</sup> Students who do not pass the national exam at the end of the eighth grade can only pursue their studies in such schools.

<sup>209</sup> See Chiriac, M., Robotin, M. (2006), *Necunoscuții de limbă noi. Rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Cluj-Napoca: CRDE, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf) (29.30.2006).

<sup>210</sup> According to the data provided by Mr Laszlo Murvai, Councillor of the Secretary of State for Education in Languages of Minorities in an interview conducted on 24.07.2006.

<sup>211</sup> In the German language schools a very small percentage of the students are actually ethnic Germans, most of them being Romanians or Hungarians or other nationalities, who choose to be instructed in German most probably thanks to the good fame and popularity of German education.

teachers who teach Romani language also increased from 371 in 2004-5 to 420 in 2005-6, parallel to the increase in the number of students who study the language (from 19,812 in 2004-5 to 25,430 in 2005-6). The increase in the number of Romani teachers is due to the continued effort of the Romanian Government to train Romani teachers. For instance, as part of the PHARE 2003/005-551.01.02 project *Access to education for disadvantaged groups*, implemented by the Ministry of Education and Research, Roma ethnic secondary school graduates from twelve so-called pilot counties will be supported to become teachers of Romani, to be trained in an open-distance learning module.

2.3.5.2. In the reference period, the Ministry of Education and Research funded the production of three new school manuals for Romani language and literature, out of which two alternative manuals for the fourth grade, and one for the ninth grade, and it also funded the production of new editions of five manuals that were first published in 2005 (four for Romani language and literature, and one for the history and traditions of the Roma).

2.3.5.3. In addition to supporting the university training of Romani teachers, in the summer of 2006 the Romanian Ministry of Education and Research organised Romani language teaching methodology courses for 65 unqualified teachers of Romani language. Completing the course enables the participants to take up teaching positions as unqualified Romani language teachers, and teachers of Romani history and traditions. It is hoped that in parallel with teaching, these teachers will also enrol in university to attend open distance learning courses to become trained teachers.<sup>212</sup>

### 2.3.6 Religious symbols in schools

No official reports are available on this topic. There is, however, one case of a social sciences teacher from Buzău County, Mr Emil Moise<sup>213</sup>, who sued the County School Inspectorate of Buzau, asking it to remove the religious symbols from the classrooms, and only allow them to be displayed during Religious Education classes.<sup>214</sup> The case has been long debated especially on [romania\\_eu\\_list@yahoogroups.com](mailto:romania_eu_list@yahoogroups.com), where it raised a lot of interest. There has been no final result in the issue raised by Mr Moise.

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<sup>212</sup> See information available at: [http://www.divers.ro/cgi-bin/buletin\\_ro.py?id=272#4442](http://www.divers.ro/cgi-bin/buletin_ro.py?id=272#4442) (20.09.2006).

<sup>213</sup> Mr Emil Moise is the author of a study entitled “Church-State Relations in the Religious Education in Romanian Public Schools”, published in 2005.

<sup>214</sup> See information available at: [\(31.08.2006\).](http://ro.altermedia.info/familiesocietate/cadru-didactic-cere-eliminarea-simbolurilor-religioase-din-scoli_3506.html)

## **2.3.7 Policies, measures and initiatives combating discrimination and improving the integration and community cohesion in education**

### *2.3.7.1 Institutional policies and measures*

2.3.7.1.1. The most significant institutional measure against racism and discrimination in education taken by the Ministry of Education and Research, in collaboration with the forty-two County School Inspectorates in Romania, is to develop and periodically revise county strategies to ensure equal access to education for all children. Furthermore, schools are expected to develop inclusive policies, and school development plans that target the emergence of an inclusive ethos and inclusive practices. These measures aim to encourage the enrolment of children in preschool education, to reduce dropout and encourage the completion of compulsory education, and to provide Second Chance-type education for persons who have not completed compulsory education. A chapter of these strategies refers to desegregating schools, and tightening relations between the school and the community, especially by using school mediators.

2.3.7.1.2. Among the new positive policies and measures aimed at raising awareness of the mainstream student population regarding the history and culture of the Roma there is the training courses entitled *Managing Interethnic Relations in the Educational System*, organised by the Ministry of Education and Research for eleven groups of school directors of schools with Roma students, and for non-Roma teachers who teach Roma students.<sup>215</sup> The assumption is that teachers who participate in these courses not only know better how to teach Roma children, but are also better able to share elements of Roma culture with all students.

2.3.7.1.3. According to the ECRI report<sup>216</sup>, the Holocaust and genocide of the Roma during World War II are taught to 7<sup>th</sup> grade students. Furthermore, the Romanian authorities have informed ECRI that as of the 2006, these topics would also be included in the curriculum for 10<sup>th</sup> and 11<sup>th</sup> graders. Two hundred schools offered an optional course on the Holocaust in 2004-5<sup>217</sup>, and textbooks on the Holocaust, as well as on the history of the Jews and of the Roma are being written, which the Ministry of Education and Research intends to have

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<sup>215</sup> Within the so-called Multiannual Programme for Training Non-Roma Teachers, in the summer of 2005. See information available at: <http://www.edu.ro/index.php/articles/c419/> (25.08.2006).

<sup>216</sup> See information available at: [http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-country\\_approach/romania/Romania%20third%20report%20-%20cri06-3%20romanian.pdf#search=%22ECRI%20%2B%20Romania%22](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/romania/Romania%20third%20report%20-%20cri06-3%20romanian.pdf#search=%22ECRI%20%2B%20Romania%22)

<sup>217</sup> In its comments included at the end of the ECRI report, Romanian officials comment that the number of schools offering courses on the Holocaust went up to 340 in the 2005-6 academic year, ECRI report, p. 45

published. However, according to the same report, NGOs still deplore the fact that Romanian school textbooks contain stereotypes and prejudices against minority groups, that the history textbooks teach the history of *Romanians* rather than that of *Romania*, and that though derogatory references to the Roma have been deleted, textbooks pay little attention to the contribution the Roma made to the Romanian society. In general, ECRI finds that Romania does not have a clear policy of including the culture and identity of minority groups in the school curricula.<sup>218</sup>

2.3.7.1.4. On 23.03.2006, the Romanian Ministry of Education and Research adopted and made available on its website a guidebook<sup>219</sup> for teachers who wish to teach about the Holocaust, developed by the Task Force for International Cooperation on Holocaust Education, Remembrance and Research. The syllabus for the elective discipline “Istoria evreilor. Holocaustul” [History of the Jews. The Holocaust] in upper secondary education was approved by Romania/ Ordinul Ministrului Educației și Cercetării no 3595/15.03.2005.

### *2.3.7.2 Significant initiatives, projects, major events and awareness raising activities, including training events*

2.3.7.2.1. The Ministry of Education and Research, in collaboration with the School Inspectorate of Bucharest Municipality organized on 10.10.2005, the symposium “Memoria Holocaustului” [Memory of the Holocaust]. Though not very large in scope, the importance of the event is given by the fact that it was attended by the Ambassador of Israel in Romania, State Secretaries in the Ministry of Education and Research Ms Paloma Cecilia Petrescu and Mr József Kötő, and other personalities, including members of the Asociația Evreilor din România, victims of the Holocaust, teachers and students from the schools which have the National Programme for the Study of the Holocaust. The agenda included the inauguration of an exhibition including documents of the Holocaust in Romania, and the official release of a film entitled *Holocaustul uitat* [Forgotten Holocaust], produced by the Ministry of Education and Research and the Asociația Evreilor din România – victime ale Holocaustului. A demonstrative lesson was held with the participation of 8<sup>th</sup> grade students from School no. 133 from Bucharest.

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<sup>218</sup> This finding is also revealed in the questionnaires completed by several County School Inspectorates, administered by the Romanian National Focal Point in the summer of 2006.

<sup>219</sup> See information available at:

[http://www.edu.ro/index.php/met\\_rep\\_reg\\_ins\\_etc/4782](http://www.edu.ro/index.php/met_rep_reg_ins_etc/4782) (24.09.2006)

<sup>220</sup> See information available at: <http://www.edu.ro/index.php/articles/3758> (24.09.2006)

2.3.7.2.2. In the reference period, Roma Education Fund<sup>221</sup> supported nine projects initiated by non-governmental organisations in Romania, addressing the improvement of education for the Roma. The significance of this fact is that the Roma Education Fund aims to close the gap in educational outcomes between non-Roma and Roma students, through quality education for the Roma, including desegregation of educational systems. The projects it funds are complementary to the initiatives of the Romanian Ministry of Education and Research, and often provide the opportunity to pilot alternative solutions, which then the Ministry of Education and Research can further develop. For instance, the project entitled *Empowering Roma Teachers*, initiated by Romania/ Centrul de Resurse pentru Comunitățile de Romi aims to train 10 Roma teacher trainers who will then further develop a critical mass of Roma teachers, to ensure quality education for Roma children. The initiative came as a response to the shortage of Roma teacher trainers in the Romanian educational system.

2.3.7.2.3. The Ministry of Education and Research continues its PHARE project *Access to Education for Disadvantaged Groups*<sup>224</sup>, which is currently in its third phase, reaching out to all the forty-two counties. Within this project, in addition to training for teachers and school management, as well as school mediators, and in addition to emphasis on school desegregation, an important initiative is the generalisation of the “A Doua Șansă” [Second Chance]<sup>225</sup> education, sanctioned by Romania / Ordinul Ministerului Educației și Cercetării no. 5160/6.10.2005 for primary education, and Romania / Ordinul Ministerului Educației și Cercetării no. 5333/25.10.2005, for lower secondary education. For both primary and lower secondary education, national curricula were developed and approved.

2.3.7.2.4. Romania/ Centrul de Resurse pentru Diversitate Etnoculturală produced a set of School Textbook, Students' Workbook, and Teacher's Guide for elective courses for 3<sup>rd</sup> and 4<sup>th</sup> graders entitled “Multicultural education”. The Textbook includes a section on multicultural education, and one on intercultural education. The former presents the twenty officially recognised ethnic minorities in Romania, as well as the new ethnic minorities (the Chinese and the Arab population). Currently, Romania/ Centrul de Resurse pentru

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<sup>221</sup> See information available at:  
[http://www.itweb.hu/partners/RomaEducationFund/documents/Annex\\_2.doc](http://www.itweb.hu/partners/RomaEducationFund/documents/Annex_2.doc)  
(23.09.2006).

<sup>222</sup> See information available at: [www.romacenter.ro](http://www.romacenter.ro).

<sup>223</sup> Interview with Ms Claudia Macaria, program coordinator for Romania/ Centrul de Resurse pentru Comunitățile de Romi, on 26.08.2006.

<sup>224</sup> See information available at: <http://www.edu.ro/index.php/articles/c115/>  
(25.08.2006).

<sup>225</sup> A Doua Sansa [Second Chance] program is organised for both primary, and lower secondary education. See information available at:  
<http://www.edu.ro/index.php?module=articles&func=&catid=492>.

Diversitate Etnoculturală, with the support of the Romania / Departamentul pentru Relații Interetnice, is planning to print and distribute these materials beyond the pilot counties<sup>226</sup> and seeking recognition of the syllabus and the teaching materials from the Ministry of Education and Research.<sup>227</sup> The significance of this initiative is that it is the first set of textbooks that includes all ethnic minorities in Romania, sharing information about their culture in language adequate for third or fourth grade students, and also aiming to develop valuable skills of intercultural communication and attitudes such as tolerance and acceptance of otherness.

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<sup>226</sup> Arad, Cluj, Bihor, Mureș, Satu Mare, Sălaj, Sibiu, and Suceava.

<sup>227</sup> Information obtained from interview with Ms Monica Caluser, programme coordinator for Romania/ Centrul de Resurse pentru Diversitate Etnoculturală ([www.edrc.ro](http://www.edrc.ro)), on 27.08.2006.

## 2.4 Housing

The housing situation in Romania has some particular aspects that shape the behaviour and stereotypes related to housing discrimination or incidents. One of them is the huge percentage of private ownership – 93 per cent. Therefore the administration has a very limited number of social houses to work with and no successful strategies to prioritise the needs. Another aspect is the massive concentration of problems on a single ethnic group, the Roma. There are no records of housing problems for other minorities but plenty on Roma communities.

### 2.4.1 New sources of data

#### 2.4.1.1 *Data on refugees*

The main source of information for asylum seekers is Romania/ Oficiul Național pentru Refugiați which produced a report for the period June 2005-June 2006.<sup>228</sup> The report is focused on the refugees and uses the statistics of the Office and a sociological survey. Housing issues are scattered through the report and they describe the general situation of the refugees with no particular information on discrimination.

There is only one independent report, concerning the status and problems of foreigners in Romania. The study<sup>229</sup> *The Unknown Near us: Residents, Refugees, Asylum seekers and Illegal Migrants in Romania* was produced by the Romania/ Centrul de Resurse pentru Diversitate Etnoculturală. It has no special chapter dedicated to housing but information can be found in all chapters, stressing the importance of housing for the integration of refugees and asylum seekers.

#### 2.4.1.2 *Data on Roma*

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<sup>228</sup> See Romania/ Oficiul Național pentru Refugiați, *Annual Report on the situation of foreigner who have obtained a form of protection in Romania*, 2006 (on file with the NFP).

<sup>229</sup> See Romania/ Centrul de Resurse pentru Diversitate Etnoculturală (2006), *Necunoscutii de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Marian Chiriac, Monica Robotin, in Romanian, available at: [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf) (13.08.2006).

Romania/ Romani CRISS, a major Roma NGO, released a latest report of the Roma situation in Romania<sup>230</sup> in August 2006 which includes an annex with cases of eviction, exclusion or marginalizing of Roma concerning housing rights. The ten cases described here are well documented and they illustrate both the current problems and the attitudes of the actors involved.

The study conducted in 2005 by the University of Architecture and Urbanism Ion Mincu was published in 2006 in a book entitled *Housing and Extreme Poverty. The Roma Communities' Case*. The main purpose of the book is to describe the typologies of living conditions in various rural and urban habitats, with a focus on segregation and discrimination. Besides this, it brings some statistical data concluded with the finding that there are more than one million people living in shantytowns in Romania nowadays, and that the large majority are Roma.

The detailed conclusions of the study are also mentioned in the report of the Romania/ Agenția pentru Dezvoltare Comunitară “Împreună” on recent developments and trends for 2005 and linked to recommendations and programmes. The study does not bring statistical data but focuses on the mechanism of exclusion with detailed chapters on housing analysis and recommendations.

Even though housing is seen as a major problem by all the central institutions, and problems related to housing are mentioned in all studies conducted, there is a general lack of specific information in the area. All governmental structures and the main NGO's have plans to do research in this field, the next year.

The recent press monitoring produced by the Romania/ Centrul de Resurse pentru Comunitățile de Romi within the project *Different but with the Same Blood*, brings data about the way the press reflects evictions, demolitions, social and environmental problems related to Roma communities.

## 2.4.2 Statistic data and information

### 2.4.2.1 Data on refugees

There are no statistics concerning racist or xenophobic incidents related to housing.

The refugees have the right to be hosted in a refugee centre for one year. Afterwards they have to find a house for themselves. The authorities are supposed to cover half of the cost of the rent for another year.

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<sup>230</sup> See Romania/ Overview of the Roma Situation in Romania, Bucharest 2006, Romani Criss,

From a direct report from the Centre for the Refugees in Galați<sup>231</sup>, one of the four active centres in the country, we can find out that it houses 250 people in 40 rooms, with six bathrooms – having a total of 18 showers, one sport hall, one prayer room and a playground for children.

The centres are relatively new buildings, blocks of flats with a limited number of levels, situated at the periphery of the city with a very strictly controlled access. The living conditions appear to be decent. However, data can only be obtained with the permission of the Ministry of Interior, who refused to give further references for the rest of the centres.

The housing conditions in the centres are good, according to NOR, Galați Centre report, or to CECR, although the study of the last states that the real problems start after they leave the centre. The general lack of social housing in Romania force them to adapt to the market prices with no guarantee they will receive the legal financial support.

“These things are nice only on paper, but only few people are benefiting for their rights.”<sup>232</sup>

The problem of getting a legal address is central for the access to citizenship and to other rights.<sup>233</sup>

According to the NOR report, a proper house is a major step for the integration of the refugees. Their survey showed that:

- 95,9per cent of the refugees were living in Bucharest, 1,5per cent in rural areas, the rest in other cities;
- 82,3per cent were living in blocks of flats, 10per cent in individual houses, 3,8per cent in a refugee centre, 3,6per cent in a building offered by the Jesuit Service for refugees and 0,2per cent (1 person) declared they were homeless;
- 74,4per cent were content with the living conditions, 12,8per cent were very content and 12,8per cent were not content.

There are no information or reports on homeless refugees.

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<sup>231</sup> interview Centre for the Refugees, Galati

<sup>232</sup> anonymous refugee quoted in “, *The Unknown Near us: Residents, Refugees, Asylum seekers and Illegal Migrants in Romania*, Marian Chiriac, Monica Robotin, Cluj Napoca, 2006

<sup>233</sup> Centrul de Resurse pentru Diversitate Etno-culturală (2006), *Necunoscuții de lângă noi rezidenți, refugiați, solicitanți de azil, migranți ilegali în România*, Center for Resources for Ethno-cultural Diversity, *The Unknown Near us: Residents, Refugees, Asylum seekers and Illegal Migrants in Romania*, Marian Chiriac, Monica Robotin, in Romanian, available at [http://www.edrc.ro/docs/docs/necunoscutii\\_2006\\_final.pdf](http://www.edrc.ro/docs/docs/necunoscutii_2006_final.pdf) (13.08.2006).

Other data included in NOR report refers to rejection from employment and house rental. The indicator for this group of indices is 4,7per cent. It is unclear how much it is determined by each component or if this is a subjective perception or the actual rate of acceptance.

However, the listing of the problems according to priorities showed a lower lack of satisfaction for the indicator lack of houses, just 0,4per cent. This confirms the other indicators that show that most of the refugees have no major economic problems.

#### *2.4.2.2 Data on Roma minority*

The main source for statistical data is the National Institute of Statistics. The last census was conducted in 2002 and there is no new statistical data available at the national level. There are two governmental structures that are conducting studies on Roma issues. The first is the A.S.P.S.I.C. (Anti-poverty and Promotion of Social Inclusion Commission), a large structure that groups various institutions under the authority of the prime minister and N.A.R. (The National Agency for the Roma). The commission did not produce new public materials for the last two years. The National Agency for the Roma published in 2006 a study on housing problems conducted by the Ministry of Transportation, Constructions and Tourism in 2005 which contains estimations of the size of Roma communities facing severe housing problems based on the existing statistical data and on previous sociological surveys. According to the authors there could be almost one million people living in slums.

With the exception of N.A.R., the governmental structures do not collect data on housing on an ethnical basis. The central administration, at the county level, and most of the local administration do not collect data about minorities either. Data on racism and xenophobia, reports of incidents and data on segregation are not published in any form at this level.

Different studies on particular issues aim to collect various data at a national or regional level. First of it is the World Bank study entitled „Roma Social Mapping. Targeting by a Community Poverty Survey”. It provides relevant data for a typology of Roma communities affected by poverty with a clear focus on the spatial exclusion, 2/3 of them being situated at the periphery. It also indicates that housing issues are the third priority after occupation and low income. According to the author 23per cent of the communities have severe problems with the infrastructure, 11per cent are situated in the vicinity of a garbage pit, and 10per cent are affected by a chronic lack of water.

As a conclusion we can say that data on Roma housing can be mainly found in NGO's reports and university level studies.

#### *2.4.2.3 Roma housing as an administrative problem*

The administrative structures argue that collecting data on ethnic basis<sup>234</sup> would be discrimination *per se*. Therefore there are no statistics on Roma. The specialists regard demolition, the main discriminative action according to independent studies<sup>235</sup>, as just a technical problem, regardless of the ethnical origin of the inhabitants.

For example, in Bucharest, a city where, according to several reports<sup>236</sup> tens of thousands of Roma inhabitants live, many of them in compact areas with a long history of deprivation and segregation (Giulesti, Ferentari, Colentina), the main authority in Urban planning, namely the *architect in chief* argues that he is not supposed to have data on racism and discrimination on housing as he is only involved in urban planning and takes care of the „modernisation of the city”.

Within the same area different reports reveal the attitudes and show the degree of involvement of the authorities. For example, the County Council of Cluj was not able to mention any case of spatial segregation and illegal settlement while a number of other reports<sup>237</sup> found one of the worst and most notorious cases in Romania. The study of the University of Architecture describes a new development of a Roma settlement formed with the help of the police with people recently evicted from Cluj.

According to MTCT study there is a general lack of expertise at county and city level.

### **2.4.3 Reports and studies**

#### *2.4.3.1 Reports on the situation of the refugees*

According to The National office for the Refugees report, even if a large percentage of those who obtained a legal form of protection in Romania are content with their housing conditions, in practice there are cases that need assistance for housing.

In the case of a wave of refugees, and in the context of the general lack of social housing, the existing centres will not be able to assure the necessary accommodation.

For the moment, the alternative is to subsidize half of the cost of the rent for one year or the help provided by the Jesuit Service for Refugees. The authors

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<sup>234</sup> letter from the Bucharest architect in chief; interview with a counselor in MTCT; various reports of City Halls

<sup>235</sup> Romani CRISS

<sup>236</sup> as described in Romani CRISS report, University of Architecture Study, ICCV study and other studies.

<sup>237</sup> The MTCT, the Romani Criss report etc.

recommend the finding of other solutions since the stay in a centre for too long a while can reduce the chances of integration<sup>238</sup>.

The study of the Centre for Resources for Ethnocultural Diversity shows that there is a general mistrust of the landlords in what regards house renting to foreigners. The study is based on interviews with the refugees, acknowledging their subjective perception but does not signal cases of conflict or rejection based on racist or xenophobic attitudes.

#### *2.4.3.2 Reports on the situation of Roma communities*

A publication entitled „Roma Inclusion. Lessons Learned from OSI’s Roma Programming” was released by The Open Society Institute from New York. In the study the authors analyse the efficiency of the strategies and point out recommendations on housing, stressing the importance of the legalisation on property, integration, infrastructure and the need to address local situations in their diversity. „In examining housing issues and upon evaluating housing proposals, governments, local authorities, lawyers, courts and NGO’s should fully consider the link between housing rights and the exercise of civil rights<sup>239</sup>. ”

The national NGO reports show various abuses during the enforcement of the law. The housing rights are monitored both at individual level cases and at the community level as a hole.

One of the examples shows that:

On “January 24<sup>th</sup> 2006, a forced eviction and demolition of seven houses belonging to a group of Roma living in Chitila Triaj, Drumul Garii Street was brought to the attention of the Romani CRISS organization. Around 10.30 a.m. a team from Romani CRISS went to the scene of the events in order to monitor and document this case. A car, belonging to the Community Police, having the registration plate B 52 PCY, as well as representatives of the Community Police District 1, blocked the access road to the community. The Romani CRISS team identified themselves, but the authorities’ representatives refused their access motivating by: ‘these are our orders and all we do is to obey the order of our superiors’. ”<sup>240</sup>

Another example is about an action in Sector 1, Bucharest, which took place on January 13<sup>th</sup>, 2005, in Giulesti neighbourhood, Tarafului Street. “Approximately 70 persons were taken out of their homes to the Precinct no. 4, where they were fined, having to pay fines from 750,000 to 1,000,000 ROL for living without legal papers. At around 2 p.m., all persons were free to go back home.”<sup>241</sup>,

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<sup>238</sup> N.O.R. - ANNUAL REPORT

<sup>239</sup> Bernard RORKE, Andre WILKENS; Roma Inclusion. Lessons Learned from OSI’s Roma Programming, Open Society Institute, New York, 2006

<sup>240</sup> Romani Criss Report

<sup>241</sup> Annex, Romani CRISS report

Demolishment continued next day but it was finally stopped at the intervention of some governmental representatives.

To understand the particular problems of Roma settlements it is necessary to acknowledge the fact that there are major differences between urban and rural environments and significant differences among the communities in themselves. The study conducted by The University of Architecture and Urbanism describes a typology of housing with examples of spatial discrimination. The Dorohoi case is used to exemplify an attempt of the authorities to separate, using a fence, a Roma community living in the historical centre, Valea Rece – Târgu Mureş; or the chronic lack of water (one source of water for 1600 people); and Cantonului street, Pata Rât, Cluj for the placement of evicted people on an improper piece of land, near a railway. For every example of the thirty six communities visited by the authors there is a remark on the discriminatory attitude from the authorities and the majority.

Other studies underline the effects of housing on health and on the quality of life. The environmental conditions are to blame for the impact on public health<sup>242</sup>. We can find a very high level of infections (Baltesti, Prahova), immune system problems (Valea Rece, Tg. Mureş), tuberculosis (Zanea, Iaşi) etc. According to the same study, the lack of property documents creates a high risk for social exclusion, hundreds of thousands being under the threat of loosing their homes.

Other data can be found in a publication of the *National Council for Combating Discrimination*. The handbook<sup>243</sup> gathers the jurisprudence of the Council in 2005. One of the cases refers to some sales announcements on houses, placed on a website in which there were included discriminatory phrases like: “area without gypsies” or “village without gypsies”. The Council considered the phrases offensive and fined the authors.

#### 2.4.4 Impact of EU Directive EC/43/2000

The only structure that acknowledges the directive is the National Agency for the Roma. However, procedures on the implementation of the recommendations and on monitoring racism are missing.

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<sup>242</sup> Gelu Duminica, ed., *Roma Access to Social Services/ Realities and Tendencies in 2005*, AMM Design, Cluj Napoca, 2006

<sup>243</sup> Jurisprudence Collection of the National Council for Combating Discrimination in 2005, Culegere de jurisprudență a colegiului director 2005, Consiliul național pentru combaterea discriminării

## **2.4.5 Policies, measures and initiatives combating discrimination and improving integration and community cohesion in housing**

According to the Governmental Ordinance nr. 44/2004, the social integration of the refugees includes, among other rights, the right to proper housing. There are no social houses for refugees but, according to the law, the rent for one year can be subsidised with 50 per cent by NOR for one year. Only three families received this kind of subsidy for the last year. Special cases (people with handicap, old people, minors, victims of torture) can benefit of housing in the centres more than one year. There are thirty three cases of this nature in the existing centres. There are also provisions for a new centre for refugees in Maramures county. No details have been provided by authorities.

The Jesuit Service for Refugees also provides assistance to refugees, mainly social assistance but also temporary shelter.

The National Strategy for Improving the Situation of Roma, a PHARE programme, lists a number of fourteen programmes of improving infrastructure and social housing for the 2004-2006 period.

The Open Society Foundation started in 2006 a project for integrated communitarian development. The first year is dedicated to research in the six Roma communities affected by poverty and discrimination that were chosen. For the year 2007 interventions on site, including housing, are to be expected.

## **2.5 Racist violence and crimes**

### **2.5.1 New sources of data**

The Romania/ Inspectoratul General al Poliției Romane (General Inspectorate of the Romanian Police) realizes statistics with the main categories of crimes (crimes against the person, crimes against the property, crimes against the public order etc), and the main individual crimes. Among the criminal offences that fall under the field of racist violence and crimes, only the abuse in the exercise of the authority against the rights of the person is<sup>244</sup> highlighted in the police statistics up to the first semester of 2006.<sup>245</sup>

Apart from the data collected by the General Public Prosecutor's Office, there is going on an activity of data collection within the judiciary system at the court

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<sup>244</sup> Article 247 of the Penal Code.

<sup>245</sup> See police statistics of criminality available at: [http://www.politiaromana.ro/statistici\\_2002\\_2005.htm](http://www.politiaromana.ro/statistici_2002_2005.htm).

level. This data is centralised by the Romania/ Consiliul Superior al Magistraturii (Superior Council of Magistrates) in cooperation with the Ministry of Justice. However, the aim of the activity is to supervise the process of administration of justice in general (the number of cases, the workload of each judge or prosecutor, the number of cases finalized, the degree of complexity of the cases). However, there has been no special interest given to the collection and interpretation of data with respect to the crimes having a discriminatory motivation. This data is limited.

The Superior Council of Magistrates mentioned that it does not collect any data about the characteristics of the victim of crimes or about the profile of the perpetrator. In its official reply to the NFP's request, the Council explained that the Executive throughout the Ministry of Justice is the one with competences in supervising and coordinating the national public policy on criminality. The Council indicated the activity of the Statistic Bureau within the Ministry of Justice of collecting from the courts' level record papers for victims having a criminological character and detailed record papers for perpetrators prosecuted. Yet, in the Ministry's of Justice response there is no reference to this activity and its results.

The Superior Council of Magistrates, the Ministry of Justice and the General Public Prosecutor's Office showed their availability to introduce new indicators to collect data about the criminality racially and discriminatory motivated.<sup>246</sup> This is of even more interest since the two institutions are in the process of implementing an IT application to unify the reporting on the jurisprudence of all courts at the national level via ECRIS Application.<sup>247</sup>

The National Council for Combating Discrimination which often redirect petitions to the prosecutors' offices because of their criminal nature, does not keep an evidence of the number of cases redirected, or of the number of cases which come back to the NCCD as decided of not having a criminal nature.

Romani CRISS, a Roma rights NGO, initiated in August 2006 an unofficial system of information about human rights infringements among Roma communities, immediately after the documentation of the case. Each person can have free access to information on registration.<sup>248</sup> The first three cases refer to local authorities and police abuses in cases of forced evictions of people living legally or illegally in public property buildings.

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<sup>246</sup> These intentions have been manifested during meetings of the NFP with the public institutions' representatives.

<sup>247</sup> See an incipient version of the Application without information related to racist violence or crime, available at: <http://portal.just.ro/>.

<sup>248</sup> See more information available at: <http://www.romanicriss.org/noutati.php?id=13&lang=ro>.

All institutions declare that they do not collect date with respect to the ethnic origin, race or religion of the victims or perpetrators.

Regarding the specific information requested with respect to the legislation in the field of racist violence and crimes please refer to the information above contained in paragraph 2.1.3. – Legislation in the area of criminal law.

## 2.5.2 Statistical data and information

### 2.5.2.1 Police statistics

The police statistics target only one crime having a racially or discriminatory motivated nature: the abuse in the exercise of the authority against the rights of the person. However the list contains other grounds than race and ethnic origin or nationality, like sex, religion. Yet the police statistics do not differentiate on each ground.

For 2005:<sup>249</sup>

6. The abuse in the exercise of the authority against the rights of the person	1261
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For the first semester of the year 2006:<sup>250</sup>

6. The abuse in the exercise of the authority against the rights of the person	784
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One could detect a slight augment in the number of cases reported in the first semester of 2006 compared to the average amount in 2005. The general trend at the national level is of criminality decreasing.<sup>251</sup>

Other crimes or acts of violence are not differentiated with regard to the motivation of the perpetrator. The ethnic profile of the victim or of the perpetrator is not distinguished, being considered an aspect related to data protection and a discriminatory practice. The indicators on the perpetrator refer to other aspects like (age, unemployed status, recidivist status etc).

Categories of participants	
- minors -total	8698

<sup>249</sup> See the entire police statistics of criminality for 2005, available at: [http://www.politiaromana.ro/date\\_statistice\\_2005.htm](http://www.politiaromana.ro/date_statistice_2005.htm).

<sup>250</sup> See the entire police statistics of criminality for 2005, available at: [http://www.politiaromana.ro/web\\_6\\_luni\\_2006.xls](http://www.politiaromana.ro/web_6_luni_2006.xls)

<sup>251</sup> See Annex ...

a. up to 14 years old	387
b. 14-18 years old	8311
- youth (18-30 years old)	37133
- without occupation	48129
- unemployed	386
- recidivist status	19212
- under arrest	6768

#### 2.5.2.2 General Public Prosecutor Office's statistics

The General Public Prosecutor Office provided us with a detailed description of the mechanism of collecting data, through statistic forms and criminological annex. They target information on the activity of criminal investigation, supervision by the prosecutors of the criminal investigation conducted by the police, including data about the prosecuted perpetrators sent before courts and their victims. The statistic forms are filled-in by the chief clerks, and first clerks or other clerks in charge with this activity from the public prosecutors' offices at the level of first instance courts, tribunals, courts of appeal and High Court of Cassation and Justice. They are centralised accordingly by the higher courts for the activity of inferior courts. The persons in charge do not have statistical expertise, but they have a university degree and have IT experience. The special program of centralising data is drafted by the IT manager from the Bureau of Judicial Statistics working in the Public Prosecutor Office at the level of the High Court of Cassation and Justice. The results are included in the review of the Ministry of Public Affairs and they are used to respond to certain requests of data from departments within the ministry or from the Superior Council of Magistrates, Ministry of Justice, National Institute of Statistics, National Institute of Criminology etc.

The indicators taken into account in these statistics refer to categories of crimes and more important crimes described in the Penal Code or in special criminal legislation: number of cases solved by the prosecutors' offices, including number of cases sent to court, number of persons trialed, including number of persons trialed under arrest, number of persons discharged by the prosecutor because of their acts represent a low danger to society,<sup>252</sup> cases with unidentified authors. No data about the race, ethnic origin or religion of neither the victim nor the perpetrator is collected.

Compared to the statistics elaborated by the police, the Ministry of Public Affairs' statistics highlight beside Article 247 (the abuse in the exercise of the

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<sup>252</sup> Article 18<sup>1</sup> of the Penal Code.

authority against the rights of the person), also Article 317 (nationalist and xenophobe propaganda), and Government Emergency Ordinance 31/2002 (prohibition of organizations and symbols having a fascist, racist or xenophobic nature and promoting the persons guilty of crimes against peace and humanity). However, with regard to Article 247 of the Penal Code, the statistics received in October 2006 are less satisfactory comparing to the information provided at the beginning of 2006: the two articles targeting abuses in the exercise of power regulated in Article 246 and Article 247 are reported together, though only behaviours under Article 247 refer to racism and discrimination.

<i>Indicators</i>	<i>Art.246 &amp; 247 Abuse in the exercise of the authority against the rights of the person, and against the interest of the person</i>		<i>Art.317 C.p. Nationalist and xenophobe propaganda</i>		<i>O.U.G. nr. 31/2002 Prohibition of organizations and symbols having a fascist, racist or xenophobic nature etc</i>	
	<i>Year 2005</i>	<i>Sem.I 2006</i>	<i>Year 2005</i>	<i>Sem.I 2006</i>	<i>Year 2005</i>	<i>Sem.I 2006</i>
<i>a. Cases solved by the prosecutors' offices: - including number of cases sent to court</i>	9319 39	5150 19	3 1	1 0	5 2	3 0
<i>b. Persons trialed: - including number of persons trialed under arrest,</i>	49 0	21 0	1 0	0 0	2 0	0 0
<i>c. Persons discharged by the prosecutor because of their acts represent a low danger to society, art.18<sup>l</sup> of</i>	463	243	0	0	0	1

<i>the Penal Code</i>						
<i>d. Cases with unidentified authors.</i>	242	216	0	0	0	1

However, also at the level of the Public Prosecutor's Office, there are no records of data with respect to the racist or discriminatory motivation in cases of violence or other crimes against the person or against the property. During the discussions with the representatives from the institutions they mentioned that such data collection supposes the reading of each file in order to determine whether the issue of motivation was debated and in that case whether it is a racial or discriminatory motivation. The workload would be immense. Since the amendment of the Penal Code consisting in the introduction of the legal aggravating circumstance – discriminatory motivation, the effort would be considerably reduced. However, there would be a need to divide data based on each ground of discrimination, especially race and ethnic origin.

#### *2.5.2.3 The Ministry of Justice and Superior Council of Magistrates statistics*

This institution refers to a mechanism of data collection at all levels of courts, similar to the one reported by the Ministry of Public Affairs. There is also a Judicial Statistics Bureau within the Ministry of Justice that receives all data. Yet the practical work of centralizing the information is realized by the Superior Council of Magistrates, Department of Human Resources and Organization-Bureau of Statistics. Although the Ministry of Justice responded affirmative on the existence of data collection activity since the year 2006, based on indicators like types of crimes, including Article 247, Article 317 and Article 318 (Restraining the liberty of religious denominations), it could not provide us with information about numbers of cases at different stages of the criminal process, declaring that the data is not available at the moment with the institution. The Ministry of Justice reported no data collection activity with respect to Article 319 (the violation of graves) and Government Emergency Ordinance 31/2002 (prohibition of organizations and symbols having a fascist, racist or xenophobic nature and promoting the persons guilty of crimes against peace and humanity).

Nevertheless, the Superior Council of Magistrates has offered more practical information on the number of cases and a description of the mechanism of data collection. It confirmed the declarations of the Ministry of Justice with regard to the types of crimes about which they collect data or not. Furthermore, the

Council could provide us with information about the number of persons convicted (final verdict) for:

- The crime sanctioned by Article 247 of the Penal Code:
  - In 2005 – 25 persons (2 sanctioned with a penal fine, 8 sanctioned with the penalty of imprisonment – 3 imprisonment from 0-6 months, 1 imprisonment from 6 months-1 year, 4 imprisonment from 1 year- 5 years, and 15 sanctioned with the penalty of imprisonment under conditionate suspension).
  - In 2006 – 9 persons (2 sanctioned with the penalty of imprisonment from 1 year- 5 years, and 7 persons sanctioned with the penalty of imprisonment under conditionate suspension).
- The crime sanctioned by Article 317 of the Penal Code:
  - In 2005 – 2 persons sanctioned with the penalty of imprisonment from 0-6 months.
  - In 2006 – the crime was not monitored at that moment.
- The crime sanctioned by Article 318 of the Penal Code:
  - In 2005 – the crime was not monitored at that moment.
  - In 2006 – no person

#### *2.5.2.4 Incidents of racist violence and crimes reported by NGOs*

Romani CRISS, a Roma rights NGO, presented within the European Parliament in March 2006 a documentary about the Romanian Police allegedly abusive raids in a Romani community in Cluj County. The video showed ethnic Roma women and children being cruelly assaulted by police officers, one house's roof being set on fire and private property confiscated. The registered incident scandalized some MEPs which addressed the Romanian Government to investigate the situation and take measures.<sup>253</sup> Yet, the Roma Party representative, Mădălin Voicu, considers the incident not to be a form of racist behaviour but the existence of different conducts among the Roma minority and the majority with regard to social, civil or ethic relations, because lack of education of the first group.<sup>254</sup>

According to declarations made by a Roma rights local NGO,<sup>255</sup> on May 9<sup>th</sup>, 2006, the local police from the little village of Gepiu, in Bihor county (the North-West part of Romania) entered using force in the houses of the Roma

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<sup>253</sup> See more information available at: [http://www.divers.ro/cgi-bin/buletin\\_ro.py?id=251#3743](http://www.divers.ro/cgi-bin/buletin_ro.py?id=251#3743), [http://www.ejurnal.ro/Stiri\\_Bucurestiul--criticat-pentru-molestarea-rrromilor-de-catre-politie\\_22\\_3724.html](http://www.ejurnal.ro/Stiri_Bucurestiul--criticat-pentru-molestarea-rrromilor-de-catre-politie_22_3724.html), [www.cjsj.ro/pdfuri/integrare%20nr\\_13\\_2006.pdf](http://www.cjsj.ro/pdfuri/integrare%20nr_13_2006.pdf).

<sup>254</sup> See more information available at: <http://www.cronicaromana.ro/comunitatile-de-rrromi-n-au-inteles-ca-singura-salvare-a-acestei-etnii-este-educatia.html>.

<sup>255</sup> Ruhama Foundation, website available at: <http://www.ruhama.ro/>.

community, without presenting a court authorization or mandate. They were accused by the public electricity company of stealing electricity. Around 25 men and women were detained and brought to the police office wearing handcuffs and guarded by police dogs. Medical examinations on some of the victims concluded the existence of posttraumatic injuries caused by the beating with blunt, hard long object. Answering to NGO's and victims' complaints of physical and procedural abuses, the police representatives stated that there had been no abuses against the Roma, and publicly released the results of an alleged police investigation that took place a few hours after the police intervention and lasted only very few hours.<sup>256</sup>

On the 7<sup>th</sup> of August 2006, the local administration from Piatra Neamț organized the eviction of 250 people living in a bloc of flats owned by the local administration, in order to ensure the building's rehabilitation. Most of the people were of Roma origin. The procedure included several law violations: contradictory justifications for the eviction, lack of prior notification of the eviction, not providing a place for the deposit of personal belongings, physical abuses in some cases, lack of alternative housing for the people.<sup>257</sup>

As a response to the series of accusations of racist violence conducted by the police, made by Roma NGOs and the mass media, the Ministry of Internal Affairs, the General Inspectorate of the Romanian Police made public and communicated to a number of NGOs and institutions one document<sup>258</sup> containing information about its commitment to the fight against racial discrimination. It contained general references about:

- A number of 123 partnerships and protocols concluded with authorities and NGOs with the aim of developing project for the improvement of the socio-economic and educational conditions of the Roma minority,
- Allocating special places for Roma ethnics in the police forces, according to the Plan of actions to implement the Strategy of Modernization (2004-2007).
- The record of number of cases when the police officers used their armed equipment (95 cases). In 89 cases, the fire consisted in the warning according to the procedure. Only in 6 cases, there have been registered wounded persons and one died.
- The number of crimes with violence committed against police officers which determined their reaction using force.

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<sup>256</sup> See information available at:

<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=5&dayID=29#5>, <http://www.romacenter.ro/monitorizare/photos/29ma9.jpg>.

<sup>257</sup> See more information available at:

<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=8&dayID=8#r1>,

<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=8&dayID=9#r1>)

<sup>258</sup> See Annex ...

- Following the internal superior investigations, in all cases there was no racist act determined.

More cases of racist slogans with the occasion of football games happened in 2006. The National Council for Combating Discrimination opened a new investigation against “Steaua” București football team regarding the alleged racist affirmations during one of the plays within the *Romanian Supercup Championship*, on the 22<sup>nd</sup> of July 2006. At the end of the play, both the team and its supporters started to sing racist songs against Roma: “We hated and we will always hate Gypsies!”. The national equality body publicly condemned such discriminatory behaviours and addressed the request to the Romanian Football Federation to inform all football teams about the antidiscrimination legislation and to apply sanctions – to send the message “Stop Racism!”.<sup>259</sup> This tactic worked and for the rest of the year, the Romanian Football Federation supervised the racist activity on the stadiums and sanctioned the teams applying the internal disciplinary regulations in this regard.

During the year 2006, the press registered a growing of the right-wing movement in Romania possibly encouraged by the courts and by the church. The right-wing extremists grouped around the association *The New Right*<sup>260</sup> carried out several radical reactions against the manifestations taken place during the *GayFest Week* organized in Bucharest, May 30<sup>th</sup> – June 4<sup>th</sup>. Although this group promotes Anti-Semitic and Anti-Roma views and literature, and invokes arguments of previous inter-war Romanian fascist movement, the *Romanian Orthodox Church*, representatives of the *Conservator Party* (member of the Government coalition), and the *New Generation Party* (not in the Parliament, but growing in the polls) officially joined *The New Right* standing. The Romanian Orthodox Church even sustained a press conference together with *The New Right* opposing to the gay march.<sup>261</sup> The wide media coverage, the association with the majority religion and the lack of disagreement from the part of the Government or political actors are dangerous for the growing of the right-wing movement in Romania. This is even more alarming since 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 establishing fascist groups. The ruling of the two judges in the case was based on an argumentation regarding

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<sup>259</sup> See information available at:

<http://www.romacenter.ro/monitorizare/index.php?yearID=2006&monthID=7&dayID=25>, <http://www.romacenter.ro/monitorizare/photos/25l3.jpg>.

<sup>260</sup> The association is acting legally on the territory of the country, its website is available at: [www.nouadreapta.ro](http://www.nouadreapta.ro).

<sup>261</sup> See more information available at: <http://www.patriarhia.ro/stiri/index.php>.

freedom of expression and freedom of association, determining the lawful character of the fascist movement in Romania.<sup>262</sup>

### **2.5.3 Official data publicly available**

The statistics realized by the police are available on the internet, on its website.<sup>263</sup>

The information received from the Ministry of Public Affairs, the Ministry of Justice and the Superior Council of Magistrates is public, but not available to the public online or via a publication. However, these institutions are developing in collaboration the ECRIS Application.<sup>264</sup> It will be available on the internet for the use of local courts. Some results will be also available for the general public with respect to statistics and the text of decisions relevant for the jurisprudence regarding certain legal issues.

### **2.5.4 Reports and studies**

No institution presented above did indicate any study or report on racist violence and crimes and they were not aware of the existence of such a study or report.

In June 2006, Amnesty International released its report on Romania. A special section was dedicated to Roma and racism issues. Particular attention was given to the European Court of Human Rights decision in Hădăreni case and its impact in the Romanian society. It underlines the outpouring of racist speech directed at Roma by media and politicians with the occasion of national enforcement of the ECHR decision, in August 2006.<sup>265</sup>

### **2.5.5 Policies, measures and initiatives combating racist violence and crime improving integrating and community cohesion**

From the public authorities competent in the field of combating racist violence and crimes, only the Ministry of Internal Affairs referred to any measure taken

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<sup>262</sup> See 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&>.

<sup>263</sup> See police statistics of criminality available at:

[http://www.politiaromana.ro/statistici\\_2002\\_2005.htm](http://www.politiaromana.ro/statistici_2002_2005.htm).

<sup>264</sup> Referred to in paragraph 2.5.1.

<sup>265</sup> See report available at: <http://web.amnesty.org/report2006/rom-summary-eng#2>, see also: [http://www.adevarulonline.ro/2006-05-29/Politic/n-am-vazut-niciun-demnitar-care-sa-condamne-violentele-de-limbaj\\_186338.html](http://www.adevarulonline.ro/2006-05-29/Politic/n-am-vazut-niciun-demnitar-care-sa-condamne-violentele-de-limbaj_186338.html).

to combat this kind of behaviour. Special attention is reported for stimulating the access to police of minorities' representatives, especially Roma and Hungarians. Special places for Roma have been allocated, but the occupation rate is low because of the small number of candidates. Furthermore, they lack both physiological and physical abilities, IT, foreign language or even Romanian language proficiency. In March and April 2006, the Ministry allocated an additional number of 20 positions of police officers for Roma ethnics. 15 positions have been occupied. Five special places for Roma ethnics were created at the Police Academy "Al. I. Cuza". At the end of the year, the authorities will organize a national competition: 59 positions will be for national minorities' representatives.<sup>266</sup>

No institution presented above did indicate any study or report on racist violence and crimes and they were not aware of the existence of such a study or report.

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<sup>266</sup> See Annex ...