



Romani CRISS



Alianța Civică a Romilor din România

Submitted for the 77th Session of the CERD

**SHADOW REPORT FOR THE COMMITTEE ON THE ELIMINATION OF RACIAL
DISCRIMINATION**

On the occasion of report of Romania
Bucharest, July 2010-07-27

By Romani CRISS- Roma Centre for Social Interventions and Studies and Roma Civic Alliance of
Romania

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The cases presented in these report were identified and monitored by or together with Romani CRISS network of human rights local monitors, formed of the following organizations and persons: “Sanse egale” Association – Robert Vaszi, TRUST Association – Alin Banu, Romii in Europa Association – Sorinel Bratu, Roma ACCES - Nicu Ion, “Gi Rromano” Cultural Association - Maria Core, Equal – Mihaela Ghiuca Association, Young Roma Maramures Association – Rebeca Rincan, Florin Turlea (SV), Rostas Ciucur (AB), Ion Tambac (MS), A.D.O.S.E.R./S Zalau-Andrei Markocsan (SJ)

Although efforts are being made, human rights remain a critical point for Romania. As the US Department of State's report mentions, extensive discrimination and occasional violence against Roma continues to be a problem.

A significant matter is that authorities still tackle the Roma issue from a strictly social perspective. All the engagements Romania has made regarding Roma refer to social integration of this ethnic minority, with no reference to protection of human rights. This phenomenon takes place in spite of reports which indicate clear human rights abuses against members of Roma communities. Beside the US Department of State's report, Amnesty International has asserted a special concernment for violation of human rights in Roma communities. The case of environmental segregation of the Roma community in Miercurea Ciuc, Romania, was a priority for Amnesty International campaigns.

In 2008, the first European Court of Human Rights' decision against Romania regarding Roma which indicated the violation of article 14 of the Convention, prohibiting discrimination, was pronounced. Many other complaints are pending in front of the European Court of Human Rights, brought forth by Romania's neglecting of human rights issues, when it comes to legal sanctioning of such cases.

Discrimination in the field of employment, housing, health and education is still an actual matter.

Romani CRISS started in 2003 with the first documented case of segregation and sanctioned by the CNCD- case documented with the human rights local monitor from Salaj County. It followed MECTS notification of prohibiting segregation in education; the documentation of cases insistently brought into the attention of the authorities, led in 2007 to adopting of the MECTS Order 1540, which prohibits school segregation of Roma children. However, the problem of school segregation of Roma children remains present, given the lack of some patterns of desegregation in education.

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1. Submitting organizations

1.1. Romani CRISS

Roma Center for Social Intervention and Studies – Romani CRISS – is a nongovernmental organization, established in April 4, 1993. Romani CRISS mission is to defend the rights of Roma in Romania. Romani CRISS provides legal assistance in cases of abuse and works to combat and prevent discrimination against Roma in all public life fields, including education, housing or health.

Since its founding in 1993, Romani CRISS has developed long term relationships with Roma communities and authorities across the country, intergovernmental organizations, civil society partners in the country or abroad, as well with its donor, supported by close communication, institutional transparency and advocacy. Romani CRISS combines local civic militancy and monitoring programs to influence public policies regarding the Roma, in terms of human and minority rights.

In 1998, at the EU/US Summit in London, Romani CRISS has been awarded with the Democracy and Civil Society Prize offered by the European Union and United States

In 2008, Romani CRISS obtained consultative status to ECOSOC and Economic Council Social Committee (ECOSOC) of the UN, being the first organization of Roma in Romania and the fifth of our country to achieve this status.

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1.2. Roma Civic Alliance of Romania

Roma Civic Alliance of Romania (RCA) is an 'umbrella' organization, established in April 2006, by initiative of 20 Roma associations and foundations of Romania.

The mission is to promote the values and democratic practices, the respect for human rights and fundamental freedoms, of the economical, social and cultural rights of the Roma minority at the national and European level.

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Currently, after an organizational restructuring process in April 2008, the member organizations decided to shift from an association of leaders of Roma NGOs to an association of NGOs, where the members are the organizations themselves (quite similar to a federation), with new board of directors, a new team and a commitment to strengthen the Roma civic movement in Romania in the coming years.

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1.3. The human rights local monitors' network

The human rights local monitors' network is active since 2002 in the field of monitoring and documenting human rights abuses against Roma. The local monitors, working in different counties in Romania, identify abuses in fields such as employment, health, housing, education, law enforcement officials' abuse, document and monitor it jointly with Romani CRISS interfere in cases through litigation and advocacy strategies.

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2. Relevant themes addressed in connection with sixteen to nineteen periodic reports of Romania

2.1. Scarcity of reliable demographic indicators and composition of the population

In Romania 535 520 people affirmed their Roma ethnicity in 2002, when the most recent census was conducted. Non-governmental organizations and other unofficial sources claim the real number is around 2.5 million Roma people living in Romania. For example, in Sacele locality, Brasov county, approximately 1200 people¹ declared their Roma ethnicity, although unofficially there are almost 10 000 Roma people living there.

Although the census is a sole method to acquire demographic indicators, nobody knows the real number of Romanian citizens of Roma ethnicity, taking into account that the data collected during the census are inexact. Another issue is the lack of identity papers, very frequent among the Roma community.

The fact that Roma people do not declare their real ethnicity is caused by the process of assimilation along the history and by their negative image among the majority population. Deportation in 1942 was another important element which determined Roma people not to declare their ethnicity, as well as the reluctance to disclose the ethnic origin in front of non-Roma persons, because of the widespread discrimination existing in the society.

The field operators conducting the census in the Roma communities were non-Roma people. In 2011 Romania will realize its next Census, and an accurate estimation of the Roma population would significantly reduce the sampling error of sociological surveys conducted on Roma, increasing the reliability of their findings.

Preparing the census planned for 2011, the Romanian Government has adopted a Governmental Decision – no 1502/2009- which provision in article 2 (2) mentions that the persons registered in the census will have to present their identity document or the birth certificate – for the under fourteens' case. This is a very problematic provision, taking into consideration Regulation (EC)

¹ www.municipiulsacele.ro

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no 763/2008 of the European Parliament and of the Council, on population and housing censuses. There is no community provision indicating that identity papers should be asked for during the census. This will reduce even more the accuracy of the data regarding the representation of the Roma population. Firstly, the reluctance of Roma people in disclosing their ethnicity will increase, due to this condition. Second of all, lack of identity papers of member of Roma community is a known issue. However, there is no solution proposed for this solution.

Whether the data provided by the census in 2011 will be reliable or not, depends on the provision regarding the identity papers.

2.2. The Convention in the domestic law; legislative and policy framework for its implementation, judicial resources and compensation (arts. 1,2,6): progress on the implementation of existing legal, policy and institutional framework to combat racial discrimination; organizational chart and status of institutional mechanisms available for combating racial discrimination: National Agency for Roma, NCCD

2.2.1. Ombudsman

The purpose of the Romanian Ombudsman is to mediate the conflicts between citizens and public authorities. Besides failing to address any of the cases brought into its attention by Romani CRISS, the Ombudsman hasn't even succeeded in expressing an official point of view regarding cases such as Sanmartin interethnic conflict.

2.2.2. National Agency for Roma

The National Agency for Roma is a body of the central public administration, founded at the end of 2004, responsible for coordinating public policies for Roma. The National Agency for Roma is the main coordinator and implementing agency responsible for the main political commitments regarding Roma – the Strategy for Improving the Situation of Roma, the National Plan Anti-Poverty and promoting social inclusion, the Common Memorandum for Social Inclusion and the Decade for Roma Inclusion.

The responsibilities of the National Agency for Roma are very general, covering wide areas, overlapping to the activity of other bodies. The report of the Presidential Commission for Social

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Risks' Analysis in its report² mentions that the Roma issue is not tackled enough and efficiently. The National Agency for Roma has managed to obtain 25 million euro to implement projects for the Roma communities³. The measures proposed exceed the area of responsibility of the National Agency for Roma and address to institutions outside the direct authority of it (schools, labor agencies). There is a lack of a formal and real partnership with the relevant institutions for implementing these initiatives. Moreover, the Agency has a very limited capacity for implementing programs. For example, "Hadareni" program was implemented by a tertiary body, UNDP, due to the lack of capacity of the Agency, as officially stated in the Government Decision regarding the approval of the Community Development Program in Hadareni . The Decade Watch Report issued by the Roma Civic alliance in 2010 shows that the Agency is a body with no institutional capacity, necessary to put pressure on the ministries, and directly subordinated to the General Secretariat of the Government. The Agency cannot plead for budget allocations, taking into account that its president cannot attend the Governments' meetings.⁴

The EU Fundamental Rights Agency report indicates the little interest of employees of the National Agency for Roma, regarding the data collection as well racist remarks of the Agency's representative on housing issues.

In 2009, during an official meeting of the National Agency for Roma, a separate agenda was proposed to few participant organizations. This separate meeting aimed at signing a protocol between the invited organizations and the Organization for the Development of Social-Democrats Roma. The general secretary of the mentioned organization was also the personal councilor of the President of the National Agency for Roma. There was an obvious incompatibility of the two positions of the above mentioned person, situation approved by the president of the Agency, who was also present to the meeting. This was only a proof that public money was used by the National Agency for Roma to organize meetings and field visits to serve the interests of particular political parties.

The lack of political will and support to identify solutions for the Roma issue has lead to effects sanctioned by the European Court of Human Rights. Another effect is the poor application of the anti-discrimination legal instruments by the Romanian courts.

2.2.3. National Council for Combating Discrimination

² http://www.presidency.ro/static/CPARSDR_raport_extins.pdf

³ http://www.presidency.ro/static/CPARSDR_raport_extins.pdf

⁴ http://www.acrr.ro/index.php?page=publicatie&id_publicatie=4

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Although it was the sole institution committing to actively combat discrimination, including against Roma people, few remarks need to be marked down.

There were a high number of NCCD decisions, in the field of employment, education, access to services and public places, which ascertained acts of discrimination against Roma. On the other hand, the NCCD is not using the mechanism to monitor its decisions, as provided by law, in order to make an evaluation of the impact of different measures (warnings, recommendations, fines), nor the way this decision are implemented or if the fines are being paid.

The relative large percentage of NCCD complaints involving discrimination based on ethnicity is not an indicator of an increased awareness of the Roma population on available remedies and protection against forms of discrimination. As the NCCD reports indicate, most of the complaints regarding Roma were submitted by non-governmental organizations or by Roma persons hired in institutions, facing discrimination in the field of employment. Both specialized NGOs and Roma human resources are aware of the forms of protection against discrimination due to their specialized activity. Random members of Roma communities are not fully aware of the existence of the National Council for Combating Discrimination, or of the legal options if they face discrimination.

As a result of the Constitutional Court Decision in 2008, the mandate of the NCCD was limited: at the moment, the NCCD is able only to ascertain discriminatory normative acts and drafting recommendations, without mandatory decisions which could stop the juridical effects of such acts. This means that discriminatory normative acts are not changed, but continue to produce their legal effects, in spite of their discriminatory content. This practice is against community law, violating the provisions of 2000/43/EC and 2000/78/EC.

There are also certain procedural issues regarding the functioning of NCCD. There is lack of transparency and predictability of the decisional process, regarding the complaints addressed to the NCCD. Moreover, in most of the cases instrumented by Romani CRISS, there were significant delays in making decisions for the complaints lodged.

Between August 2009-January 2010, 6 positions out of 9, within the Steering Board e of the National Council for Combating Discrimination became vacant.

Starting with November 2009, the Steering Board wasn't functional, since it couldn't solve the complaints on discrimination cases. This situation was due to the lack of quorum – minimum 5 out

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of 9 members have to participate to the meeting when complaints are being debated and solved, and the final decisions are taken with minimum 5 votes out of 9.

The Parliamentary political groups were the ones which presented lists with proposed candidates, in front of the reunited Parliament commissions: juridical commission (Senate and Deputy Chamber) and human rights and national minorities commission (Deputy Chamber).

Unfortunately, the political groups didn't take into consideration, with very few exceptions, the proposals made by the civil society.

Taking into consideration that most of the candidates didn't fulfill the necessary conditions regarding the relevant activity in the field of human rights, the NGOs, members of the Anti-discrimination Coalition, have appealed these nominations.

The 6 nominated persons were choices of the political parties, according to their interests, and not with the purpose of creating a strong, professional body, which could efficiently solve the discrimination cases in Romania.

Unfortunately, the nomination of some political parties' members as members of the NCCD Steering Board violates the principle of independency of the institution from any political interference. The lack of expertise in the field of human rights of these persons proves the inexistent interest of the state authorities regarding human rights and the appointment represents only some kind of reward for parties' members.

These practices only diminish the people's trust in the activity of this institution. The quality of the expected expertise the NCCD's Steering Board decreases and the activity of the whole institution will be influenced by different political parties.

For example, in the past years the public discourse of politicians, members of different parties included racist comments targeting Roma. It is hard to believe that the decisions of the NCCD solving the complaints against politicians won't be influenced by the political membership of the Steering Board members.

2.2.4. Non implementation of Moldovan and others v. Romania European Court of Human Rights' decision - Hadareni interethnic conflict

As a result of the European Court of Human Rights' decision, the Romanian Government has issued the Governmental Decision 523/2006, for approving the Program for community development in Hadareni, Mures, for 2006-2008.

Non-governmental organizations, members of the Anti-Discrimination coalition, including Romani CRISS have elaborated an analysis of the implementation of the ECHR decision. A comparison has been made between the ECHR decision and its transposition into a governmental decision. In June

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a field visit was carried on by the representatives of the above mentioned NGOs, in order to make an analysis of how the ECHR was implemented in the field.

The alternative report, sent to the European Council, includes conclusions and recommendations. In the report it is mentioned that the Romanian Government should pay damages to the Roma affected by the fact that the commitments on implementing the program until 2008 weren't respected. It is recommended to elaborate another project, for two years time, which should continue the activities in the field of combating discrimination, abandoned by the end of 2006, to finish the reconstruction of the houses and the activities for infrastructure development. The project should include those people who had to leave Hadareni locality after the conflict and who live in Romania and to involve to a higher extent the local community, local and county authorities.

Moreover, after launching the Activity Report of NCCD for 2009, it is obvious the dramatic decrease of number of sanctions applied during 2009 for discrimination acts.

Comparing the activity of NCCD (as stated in the Annual Reports of the institution) from the years 2004 – 2007, when the number of sanctions applied and the amount of fines were clearly higher, with the number of sanctions and the type of these sanctions from years 2008 - 2009, it is clear that political influence over the Steering Board decisions increased and the commitment on effectively fighting discrimination diminished.

2.3. Discrimination against Roma

2.3.1. Special measures for the advancement of members of Roma communities

Roma Health Mediator. Ever since 1997, Romani CRISS delivers basic and continuous training for health mediators, subsequently based upon Ministerial Order 619/2002 on functioning of the health mediator.

Romani CRISS has supported the process of elaboration and approval of the occupational standard for the profession of the health mediator.

The process of elaboration of the occupational standard lasted for six months and went through the following stages: occupational analysis of the profession of the health mediator, together with a group of 24 mediators, establishment of the competencies units in accordance with the current legislation and with the needs identified during the monitoring process, presenting the text before the Sectorial Commission on hygiene, health and social services (occupation category that includes the health mediator's profession). The occupational standard was approved on December 13th, 2007.

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Education. Another special measure for the advancement of member of Roma communities is the affirmative action in the field of education.

This policy has been put into practice in Romania starting with 1990, and continuing until today- the Ministry of Education assures special places for Roma in high schools and universities. Romani CRISS has been carrying out in the past 5 years raising awareness campaigns on the affirmative action for Roma in the field of education.

2.3.2. Progress to address substantive discrimination experienced by Roma children in schools and to implement the 2004 Government notice on the banning of school segregation

In 2003, the National Council for Combating Discrimination ascertains, by a Decision, the existence of a case of school segregation at the intimation sent by Romani CRISS. A year later, through a Notification, the Ministry of Education states that segregation in education on ethnic criteria is “a severe form of discrimination”. The phrasing was also included in the Ministerial Order no. 1540/2007 that bans segregation. Even in this context, Romani CRISS identified new cases of ethnic segregation in schools in 2009.

In spite of the public authorities’ eagerness to adopt the legislation banning scholar segregation of Roma children, its application by the County School Inspectorates and by the schools is weak.

One of the factors for this situation is the lack of information regarding the provisions of the Order, of notions such as discrimination, diversity or segregation. A survey conducted by Romani CRISS indicated that in 90 schools the Order is unknown either to the whole school staff, or it is known, but only by the school manager and a few teachers. Furthermore, the lack of capacity at local level to elaborate and implement desegregation plans, including preparing the students and the parents, as well as the teachers, for such a process as desegregation, represents an obstacle when it comes to law application.

In 2009, actors of the civil society have taken steps to found a commission within the Ministry of Education, which was supposed, among others, to monitor the application of the legislation against segregation.

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Art. 14 of Annex no I of the 1540/2007 Order, mentions that a permanent working group should have been founded, which should have analyze the reports and elaborate methodologies and comprehensive programs to eradicate scholar segregation and its effects on a long term. This provision wasn't put into practices, and this is why Romani CRISS has proposed the already functional model of the Commission for Roma within the Ministry of Health, in order to found a commission within the Ministry of Education. The commission would elaborate proposals for planning, organizing, coordinating and monitoring the implementation of the Ministry of Education's strategy in the field of improving the quality of education for Roma, as well as analyzing the discrimination situations in schools, scholar segregation cases, in order to assure the principle of non-discrimination is applied in the Romanian educational system.

The Commission wasn't founded in 2009 as a result of bureaucratic issues, as well as because of political replacement within the Ministry of Education. The whole lobby process had to be restarted; up until now, there was no approval for founding this commission.

In Romania, the review of the Education Law has brought about many legislative proposals, publically debated in the past years. The debated proposals were- Education Code; legislative proposal of the Presidential Commission for Analysis and Elaborating Policies in the field of Education and Research; National Law Education. The least is at the moment in Parliamentary debate. Romani CRISS has submitted comments for all the forms presented publically. For the most recent form, UNICEF Romania, the Roma Civil Alliance of Romania and Romani CRISS have submitted comments and proposals. None of these were included in the form which is at the moment debated in the Parliament. No references to Roma are being made in the proposal for the education law.

Starting with January 2009, Romani CRISS is implementing the project "Strategic steps for improving the access to education of the Roma children", in partnership with the Ministry of Education, Sanse Egale Association, Roma Alliance from Galati, and Rhoma Heart Illo Rrom organization. The project aims at creating desegregation models, addressing to 110 schools.

Reaffirming article 3 from the International Convention on the Elimination of all Forms of Racial Discrimination, segregation remains one of the most severe manifestations of discrimination and violation of the right to personal dignity and of the right to quality education affects, irremediably, the subsequent psychological development of the Roma children and how they relate to society, in general. In spite of the existent domestic legislation, the practice of segregation is still a urgent matter to address.

Cases documented by Romani CRISS

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2.3.2.1. School segregation in Albeni, Gorj county

In Albeni, Gorj county, the human rights local monitor has identified a school segregation situation for enrolling the children of the two schools from the village, but also referring to the violation of the right to quality education for Roma children in School no 2 Albeni, compared to children enrolled in School no 1, Albeni.

A complaint was filed to the National Council for Combating Discrimination, on the situation documented in Albeni village 2009. No decision was issued by the National Council for Combating Discrimination yet.

2.3.2.2. Corabia- school segregation in Olt county

The case was documented by the human rights local monitor, contracted by Romani CRISS. There are 4 schools in Corabia locality – Olt county. Two of the schools, School no 1 and School no 3 are very near to each other. In School no 1, most of the school population is Roma – almost 100%. A significant number of Roma students is enrolled in School no 3 also and class segregation was identified, at the level of 1st grade, 2nd grade, 4th grade and 6th grade.

2.3.2.3. Violation of equal access to education of Roma children

Starting with year 2004, S.P. tried, at beginning of each school year to enroll his twin children in Magheru village kindergarten, Mehedinti County, where they live. The teacher constantly denied them access, stating they were “handicapped” and that they needed a special pre-school. The situation repeated in 2008, when the children’s grandmother tried to enlist them. Again the teacher refused and insulted and shoved the woman: “You sot Gypsy, leave and take your sot children with you!”

Romani CRISS filed a complaint to the National Council for Combating Discrimination for violation of the Governmental Ordinance no.137/2000 on preventing and sanctioning all forms of discrimination, republished, namely article 11, paragraph 1. The complaint underlined the aggravated circumstance of the successive discrimination acts which were based on two criteria: disability and ethnicity, both of them specified in article 2, paragraph 1 of the Ordinance.

No decision was issued by the National Council for Combating Discrimination yet.

2.3.2.4. School no 17, Craiova

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In school no 17, from Craiova, out of 1187 students, 217 are Roma. The school secretary has released a document indicating segregation of Roma students in 3rd, 4th and 6th year of study. The school director mentioned that this separation occurred because Roma parents enroll their children to school too late.

The Roma parents' statements indicate that their children are physically abused by the teachers, due to the fact that they don't bring different amounts of money to school, necessary to buy furniture or curtains. The quality of the education that Roma children receive is poor, because the teachers do not show any interest, assert the Roma parents.

On 7th of February 2007, Romani CRISS has made a complaint at the National Council for Combating Discrimination, concerning the situation of discrimination from the I-XII grade Scholar Auto Group, Craiova, Dolj County, caused by different treatment applied to Roma students from 3rd, 4th and 6th grade, by separating them from the other students.

The National Council for Combating Discrimination has considered the fact to be discrimination, and has recommended to the Scholar Auto Group and to the Scholar Inspectorate of Dolj County to adopt the necessary measures so that the process of desegregation to be started as soon as possible.

The case is pending in front of the court, since a legal action was started, asking for moral damages, public excuses and obligation to elaborate and implement a desegregation plan.

Taking into consideration that the Court binds the defendant to non-pecuniary damages, this is equivalent to admitting the discriminatory treatment invoked by Romani CRISS.

The School Inspectorate has appealed the decision and, at the moment, the case was suspended in front of the Court of Appeal, because procedural issues invoked by the School Inspectorate are being judged in front of the High Court of Cassation and Justice.

2.3.2.5. School no.19, Craiova

The human rights local monitor has identified that Roma students learn separately from the majority, in 1st, 3rd and 5th grades of School no 19 from Craiova. In order to document this case, the local monitor went to School no 19, where he spoke with the school management, as well as with Roma students' parents. The school management has motivated the existence of the classes where only Roma students learn, by saying that "Roma students have to repeat the school year, or the Romanian

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parents ask, before the beginning of the school year, their children to be taught by some specific school masters, and this way, the students are being assigned in classes before term”.

On the 7th of February 2007, Romani CRISS has made an intimation, and sent it to the National Council for Combating Discrimination, regarding the different treatment applied to Roma students, by separating them, at 1st, 3rd and 5th grade, from the others students, and the situation of discrimination. On the 22nd of May 2007, Romani CRISS has addressed the National Council for Combating Discrimination again, taking into consideration that the legal term for solution, of 90 days, had passed.

On 22.07.2008 the NCCD communicated decision no. 365/16.06.2008, according to which the facts presented by Romani CRISS did not constitute acts of discrimination, without showing what the reasons were for such solution in the case.

Romani CRISS appealed the CNCD decision to the Bucharest Court of Appeal requesting for an integral annulment of the CNCD decision and for the dossier to be sent back to the CNCD in order to solve it. In the appeal Romani CRISS criticized the lack of motivation in the NCCD decision and that the investigation did not regard the subject of the complaint (the school segregation in school year 2005-2006). Also Romani CRISS contested the reasons invoked by the school, such as late enrolment of the Roma children as reason to form a Roma class, thus, segregation at level of 1st grades, which breaches the current legal stipulations – art.5, letter d of Annex 1 to Ministerial Order 1540 that explicitly regulates this aspect, showing that the representatives of educational units cannot invoke late enrolment as pretext for segregation at level of 1st grades. The school and the Dolj county school inspectorate explicitly admitted the segregated classes in their letter to the NCCD: “three classes were transformed into two, by distributing the students of the 3rd class, most of them Roma students, equally to the other two classes”. They referred specifically to the act reported in the complaint and Dolj County School Inspectorate showed that they had sent a letter to School no.19 to enforce desegregation of 4th and 5th grades.

During the appeal, several documents were submitted to the court, including an address of Romani CRISS regarding the persistence of the segregation situation and annexed the school statistics for school year 2007-2008 showing the segregation situation.

On January 8th, 2009, the Appeal Court Bucharest accepted Romani CRISS appeal, annulled the NCCD’s decision no. 395/ 14.01.2008 and obliged the NCCD to start a new investigation in the case.

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2.3.2.6. The poor implementation of Order 1540/19.07.07, prohibiting school segregation: Ineu desegregation case

The school from Ineu de Cris, Bihor county, is a school with 62% Roma students. Until 2007, when the Order of the Ministry of Education, prohibiting school segregation, was issued, Roma students were enrolled in separated classes. The school director's intention was to mix the classes, so that Roma students have non-Roma class mates. Immediately after the desegregation process was started, the non-Roma parents and many of the school teachers expressed their dissatisfaction, accusing the school director for supporting too much Roma students and not taking into consideration the non-Roma parents' requests.

The school director applied the Order and half of the 30 Roma students, who were supposed to be enrolled in the fifth grade, were enrolled in 5th A grade and the other half in 5th grade B.

Discontented, they moved their children to other nearby schools: at the beginning of the 2007-2008 school year, 17 non-Roma students were moved- 4 of them to schools from Oradea and 13 of them in a school from a neighboring village.

The situation from Ineu was a subject for the local newspaper also, who adopted a discriminatory and offensive attitude towards Roma⁵

2.3.2.7. School Atid, Harghita

In March 2007, Romani CRISS has carried out a field visit at the General School I-VIII, Josika Miklos, from Atid, no 393, Harghita County. After the case documentation, it was noticed that the Roma second graders were segregated from the other students. Romani CRISS has made a complaint to the National Council for Combating Discrimination, concerning the separation of the Roma students from the second year of study.

The NCCD has ascertained the segregation in Atid school, recommending to the school to take all the necessary measures in order to eliminate the segregation situation.

⁵ <http://www.bihoreanul.ro/articol/ziar/oradea/online/18076/259/ul.ro/>

<<http://www.bihoreanul.ro/>>

<http://www.crisana.ro/stiri/eveniment-14/la-scoala-din-ineu-domneste-legea-lui-r-om-gargara-desegregarii-dezangreneaza-comunitatea-scolara--51832.html>

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2.3.2.8. School no 3, Roman, Neamt County

Romani CRISS has made a field visit to the Neamt county Scholar Inspectorate, in order to gather evidence concerning a case of segregation of the 2nd, 3rd and 4th Roma graders, in School no. 3 from Roman. For this purpose, Romani CRISS has discussed with the school inspector for Roma, with school representatives, as well as with the members of the community.

It emerged the fact that, in 2003-2004 school year, the Neamt county School Inspectorate has set up a class where only Roma pupils were studying, managed by the Special School. Setting up this type continuously, in 2005-2006 it has been reached the number of 75 children who were studying in this kind of classes.

Romani CRISS has informed, on the 16th of March 2007, the National Council for Combating Discrimination, about the segregation of the 2nd, 3rd and 4th Roma graders, as to sanction the responsible persons.

It was decided by the NCCD that the facts presented were a discrimination act and it was recommended to the school, as well as to the County School Inspectorate, to take all the necessary measures to prevent and eliminate the scholar segregation.

2.3.2.9. Special School Dumbraveni, Sibiu

Romani CRISS carried out a field visit on 7-8 November 2006 in Dumbraveni, Sibiu County, in order to document a case where Roma children are being moved from Theoretical High school (grades I-XII) to the local special school and collect evidence necessary to mark out the differential treatment applied to the Roma pupils.

On November 8th 2006, Romani CRISS has the first meeting with the principal of the special school. In the meeting, they discussed about the methods and reasons of moving the Roma children from high school to the special school. The team from Romani CRISS also visited the classrooms where Roma children transferred from high school were learning. The discussions with the school principal revealed that children who failed to graduate the same class for 2-3 years in a row were tested by the commission set up by the Sibiu County School Inspectorate. Following the testing, the Commission decided whether the students have mental health problems and also whether to transfer the children to a special school, by issuing certificates showing they were children with special educational needs.

As result of the policy led by the local authorities, today at least over 90% of the people attending the special school are Roma and end up attending this school because they failed to graduate a class, not because they are students with special needs.

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Considering the opinions of the Roma parents, as well as the statement of the special school management from Dumbraveni locality, Sibiu County, Romani CRISS requested the National Council for Combating Discrimination to start an investigation of this case to ascertain discrimination and sanction the responsible persons. The NCCD has stated the Roma students in Dumbraveni school are treated differently than the non-Roma ones, by separating them and placing these in the back of the class room, by causing them to repeat the school year for 2-3 times, and by moving them from the Dumbraveni high school to the Special school in the locality, not for a special need, but because of their social needs.

The case is pending in front of the court, since a legal action was started, asking for moral damages, public excuses and obligation to elaborate and implement a desegregation plan.

2.3.3. Implementation and progress of the National Strategy for Improving the Situation of Roma in all spheres and results of evaluations by the NAR

In 2001, Romania answered the short-term priorities in the Partnership for Accession regarding the Roma political criterion by adopting a national strategy to improve Roma's condition.

The strategy was considered as extremely important at the time it was adopted; it didn't only represent the first initiative of governments after December 1989 to manage the situation of Roma, by it was also a clear political engagement, with clear objectives: prevention and combat of institutional and social discrimination, preserving the identity of Roma as an ethnic group, ensuring equal opportunities for reaching a decent standard of living and stimulating the participation of Roma in the economical, social, cultural, educational and political life of the society. The strategy proposed by the Government was focused on 10 fields of action: public administration, social security, healthcare, economy, justice and public safety, child's protection, education, culture, communication and civic participation. The strategy was designed on 10 years, with a detailed plan of measures for 4 years.

The strategy also provided for an institutional apparatus to implement the objectives at local and central level: Ministerial Commissions for Roma, County Bureaus for Roma, Mix Local Commissions.

In April 2006, Government Resolution 430 was modified and amended by G.R. 522/2006, published in the Official Monitor on April 28th, 2006, when it also came into force.

In **2004** – following the elaboration of the second Monitoring Report by EUMAP and the Resource Center for Roma Communities – CRCR (“Monitoring of the Implementation of the Strategy at Local Level”), the local level was *“precisely the one 34 still awaiting real improvements. The conclusions and recommendations of the monitoring herein suggest the need of further efforts from the Romanian Government to seriously implement all the measures provided in the Strategy.”* (pg. 10)

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Based on the conclusions of round tables and interviews with several players involved, the FOCUS Consultancy report⁵⁶ confirmed the existence of discrimination and segregation of Roma in almost all areas (healthcare, education, housing, relations with public authorities, media, police, private enterprises, etc.).

Furthermore, this report signaled the fact that a systematic data base of abuses and complaints still did not exist. Most information regarding cases of discrimination was gathered by Roma organizations, international organizations such as OSCE/ODIHR, ECRI/CPT of the CoE, UN organizations or the European Commission.

On the other hand, the **2005** European Commission Report ⁵⁷ continued in the direction of previous reports, mentioning the “limited progress” in the functioning of structures involved in the implementation of the Strategy on Roma from 2001. The report also underlined the weak activity of the Mix Committee for the Implementation and Monitoring of the Strategy.

After 6 years from the adoption of the Strategy (April 2001) and after its modification in 2006, we discover several disparities between its efficiency and implementation capacity at local level. These “lacks” caused the non-fulfillment/non application of the areas of activity proposed in the Strategy.

We can analyze and evaluate only insignificant actions implemented by public authorities that declared themselves as parties to the Strategy. It is appreciated, however, the creation of structures at central and local level and the involvement, limited as it is, of Roma in the decision making process. At present, these structures lack the necessary resources and authority to implement the objectives of the Strategy.

Despite the absence of a governmental monitoring of the implementation of the Strategy, even if it was recommended by international bodies⁵⁸ in April 2006, the Strategy was modified without taking into consideration the recommendations of existing evaluations or the recommendations of the European Commission.

In its report from May 2006, the European Commission noted: *“The administrative framework exists, but little effective progress was recorded.. The coordinating capacity of the National Agency for Roma is still weak. Efforts to ensure the efficient implementation of the Strategy to Improve Roma’s Condition are insufficient.”*

In 2007, the NAR has drafted National Action Plans for the 4 priority areas of the Decade, and launched these for public debate. According to NAR, the plans were elaborated according to the National Strategy for Roma 2001-2010. The Romanian Parliament was supposed to adopt the legal framework to put into practice the priorities of the Decade and to assure the necessary budget. Due to the lack of political will, 5 years after adopting the Decade’s objectives, Romania hasn’t made any steps towards adopting the necessary legal framework mentioned. The National Action Plan on education is mentioned in the European Commission working document- *Roma in Europe: The*

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implementation of European Union Instruments and Policies for Roma Inclusion-Progress report 2008-2010, mentioning that in spite of the measures included in the Plan, Roma children still face inequalities in the field of education.

According to the President of NAR (in function in 2008), NAR has sent the plans to the Romanian Parliament, hoping that a MP will propose the legislative project and support it on the Parliament's agenda.

As a result, out of all the other Decade member states, Romania is the only one which hasn't taken even the first step- adopting the National Action Plans.

2.3.4. Implementation of existing initiatives to ensure social inclusion of members of minorities and their equal footing with the rest of the population, in particular regarding the identified priorities of the National Strategy for Roma

3.3.4.1. Access to health care services of Roma

The right to health is strongly connected to the right to life and acknowledged in all the international human rights documents.

Either we speak of refusal to provide medical treatment, negligence of the medical staff towards the Roma people, ethnic segregation in hospitals or inappropriate filling in of official documents with the abusive mentioning of ethnicity, all these cases have a negative impact upon the health status of the Roma persons, as well as upon their self esteem, by violation of two rights: the right of access to health-care and the right to personal dignity.

Starting with 2006, the Ministerial Committee on Roma within the Ministry of Health was founded. Romani CRISS is a member of the Committee ever since. The Committee has cooperated with Romani CRISS for the modification of Order 619/2002 on health mediation.

The health mediation program was started, as a result of Romani CRISS' best practice dissemination, in Moldova also.

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As a result of the decentralization of the services of public health, Romani CRISS assisted 35 health mediators, which confronted themselves with problems caused by this process. Mayors refused to contract the health mediators, in some towns, although information on the budget allocated by the Ministry of Health was disseminated. Communication with the city halls was initiated, in order to solve the health mediators' issue. At this point there are still some health mediators not being contracted by the local authorities: some of them because are Roma as they were told, some of them because the local authorities claim the lack of proper funding. Romani CRISS started a litigation campaign in relation to this refusals.

2.3.4.1.1. Certificates for new-born babies, abusively mentioning the ethnicity of the mother

A hospital from Cluj county has issued a certificate for a new-born baby. Under the heading "Mother's nationality" the hospital representatives have filled "Gypsy". The mother mentioned she was not asked about her ethnicity.

Romani CRISS has lodged a complaint to the National Council for Combating Discrimination.

Two other similar cases were identified, concerning the same hospital. The mothers of two children weren't asked about their nationality, but the hospital representatives have filled under the heading "Mother's nationality" the term "Roma".

Another case was identified by the human rights local monitor, from Gorj county. R.L. went to Tecuci locality, Galati County, in order to obtain a new-born baby certificate. R.L. needed this document because her 10 year-old daughter didn't have birth certificate. In order to have released a birth certificate by the City Hall, it is required a new-born certificate, issued by the hospital where the person was born. Similarly to the Huedin hospital representatives', the Tecuci hospital's public servants didn't ask R.L. about her nationality, but a nurse has filed under the heading "Nationality" the term "Roma".

Romani CRISS has lodged a complaint to the National Council for Combating Discrimination.

2.3.4.1.2. Family doctor from Vartop locality

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The human rights local monitor has identified a case of unequal access to health care services of Roma. The family doctor from Vartop locality refuses to treat Roma, or treats them superficially. D.E., Roma woman, mentioned she was hospitalized for a period of time, in Leamna village. She was released from the hospital for a week, and the doctors there mentioned that she should take medication and the family doctor should attend her. The family doctor, W.L., refused to treat D.E., claiming she had run from the hospital. Although the woman proved she was released by doctors who were treating her, the doctor kept refusing to attend her.

A Roma child was supposed to receive a certain dose of medication, recommended on a medical recipe by doctors who had treated him in Craiova. The family doctor, W.L., was making smaller shots to the child, than the recipe recommended. The child felt bad and had to be hospitalized again. The doctors from Craiova mentioned that a lower dose was given to him by the family doctor and that was the reason he felt bad.

The medical consulting room of W.L. is placed Vartop village, where a large Roma community lives. Many persons confirmed that doctor W.L. never makes visits to the houses of ill persons from the Roma communities, who require medical care. Furthermore, many persons claim that doctor W.L. doesn't respect her schedule. Roma mention that doctor W.L. is aggressive when speaking to them.

On other occasion, doctor W.L. refused to consult a Roma child, brought by his mother in a bad condition, claiming the child wasn't sick enough to be consulted. Another mother brought her daughter to doctor W.L., who said that she was too busy, and that the mother should bring her child the next day, no matter how bad she felt.

A child was having bleedings in her navel area and her mother called the family doctor, to ask for a consultation at home. The doctor said that she was not the only person in that community, that she should have called the ambulance or come to the medical consulting room.

After refusing to treat a girl, who had fever and was feeling nausea, the girl was hospitalized and was in a coma for a week. Doctor W.L. said: "She is okay; it's just that this is how you, Gypsies, are! Once they have fever you bring them in here!"

The same doctor refused to treat a Roma girl, claiming that the nurse wasn't there and her hands were shaking. When being asked of alternatives for medical care, she responded that she doesn't care.

The doctor refused to treat another child, who had a rash and was coughing, saying that he "looked like a homeless".

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Romani CRISS has lodged a complaint in front of the National Council for Combating Discrimination.

2.3.4.1.3. Malpraxis and discrimination against a two-year old Roma boy

N. D., a two-year-old from Berini, Timis County, went with his mother to the Bega hospital, from Timisoara, on 7th of March, 2007, sent by the family doctor, because he had felt ill for the past 4 days (fever, nausea, etc). The child was neglected by the medical personnel, and the mother was treated differently by other patients, due to the fact that she was Roma. The child was moved to different hospitals, and after a medical intervention he fell into coma, and on the 13th of March he passed away.

Romani CRISS has contracted a lawyer to take this case into court, for both civil and penal suit.

A complaint was also lodged in front of the National Council for Combating Discrimination, which stated there was no act of discrimination committed by the representatives of the hospital.

3.3.4.1.4. Malpraxis and discriminatory treatment causes the death of a Roma woman and of her new-born baby

As she was pregnant in 9 months, B. V. felt she had to give birth and went, with few family members, to hospital. She was hospitalized for 4 days, and although she had pains, the medical staff didn't find any solutions for helping her to give birth, saying it was not the right time. After four days, she gave birth, and the child passed away after 10 minutes. After nearly an hour, the woman died also.

The relatives who were in the hospital for the entire period, mentioned details about the treatment received by the woman and their opinions are that the medical staff neglected the patient and, as a consequence, both the mom and the child died.

A legal action was started in front of the prosecutor's office. The penal investigation started.

2.3.5. Access to housing and measures to address cases of geographical residential isolation

One of the most complex and most difficult to approach problems faced by a significant number of Roma people in Romania is the right to housing. It comprises various aspects: lack of property documents, lack of all public utilities (running water, sewerage system, street lights, salubrity services), indirect limitation of access to school or medical unit and needs both a legal and social approach.

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The public authorities, mainly, but also the local communities should take upon a better defined role in improving the exertion of the right to appropriate housing by ensuring minimal standards or by stopping the violation of this right, as well as by improving the housing standard for an important number of Roma people.

Considering that the living standard is greatly influenced by meeting minimal living standards, we believe that the infringement or limitation of the right to housing is a severe form of human rights violation.

A ministerial commission for Roma within the Ministry of Development and Housing was founded in 2006. Concepts such as environmental racism, residential segregation, were debated within the Ministry. The commission was reactivated in July 2010, in order to support the Ministry of Regional Development and Tourism to elaborate politics, programs and plans in the field of housing for disadvantaged groups (the Law on Housing).

2.3.5.1. Arbore case- discrimination in the field of housing

Romani CRISS has filed a complaint to the National Council for Combating Discrimination, against all persons living in Arbore locality, Suceava county, who signed the request which stopped the process of reconstructing the houses of the Roma cohabitants, houses destroyed after the natural calamities, in the period July 24-27 2008. Furthermore, the complaint was lodged against the Local Council from the locality which, after the request signed by the “initiative group”, hasn’t changed the venue of the Roma and hasn’t continued the process of rebuilding the houses of the Roma.

Arbore locality has to rebuild 23 houses, for which the Local Council had to approve a decision for the assignment of necessary land, belonging to the private property of Arbore locality.

As a result of the evaluations carried out, 19 technical calculation schedules were elaborated, for houses belonging to Roma families. There were recommended the measures of changing venues and rebuilding, due to the fact that the houses were places in a flooding area. It was decided that a certain amount from the state budget will be assigned to remove the effects of the natural calamities. In spite of all these, a group of citizens from the locality has sent a request for not adopting this decision “for the Arbore people of Roma ethnicity”, because these persons didn’t want to have Roma neighbors.

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The result of this request was that the Local Council decision wasn't adopted, and the persons affected by floods find themselves in the exact same situation as after July 24-27 2008, living in the houses destroyed by the floods.

No decision of the National Council for Combating Discrimination was released yet.

2.3.5.2. Miercurea Ciuc case

In 2004, the Local Council of the Miercurea Ciuc city decided to forcefully evacuate over one hundred persons of Roma ethnicity from the centre of the city to its outskirts, next to the used water cleaning plant. They were offered 6 metallic barracks as dwellings, with access to a single tap of water, placed at the entrance into the community.

Romani CRISS submitted complaints to the NCCD and, subsequently, criminal complaint against the vice-mayor (which consider the situation as positive discrimination of the Roma) for the felony of abuse on duty, by limitation of rights, as per art.247, Criminal Code.

In decision no.366 of 23rd of August 2005, the NCCD ascertained the deed of discrimination and showed that the action of Miercurea Ciuc city hall to move the Roma families from the city near the waste water filtering plant is a violation of the right to private life and, implicitly, the right to a healthy environment. The NCCD sanctioned the Miercurea Ciuc city hall with contravention fine in amount of 4000 RON (approx. 1000 Euro) for violation of art.2, para 1, 2 and 3 and art.17, para 1 of O.G. 137/2000, on banning and sanctioning all forms of discrimination. Due to the fact that the legal deadline was exceeded, the fine was not applied.

In the case of the criminal complaint, in the appeal stage, the Tribunal of Harghita rejected it, as unsubstantiated.

At present (after 5 years) the Roma people are in the same situation, living in inhuman conditions, as it is extremely difficult to bear the fetor of the water filtering station, especially during summer, as well as the precarious living conditions during winter. Despite the fact that all their actions failed, the Roma people continue to fight for their relocation.

Note that the complaints lodged by Romani CRISS to various relevant authorities registered the following answers:

The Harghita Public Health Directorate, following a visit in the community, ascertained that, although minimum conditions for personal hygiene exist, the location and current state of the location is not appropriate. The location is within the 300 m limit of the water filtering station, which violates the

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Ministry of Health's Order no.536/1997. However, the huge problem that exists is related to the social problems and the education of the Roma.

The Ministry of Environment and Waters answered that the Miercurea Ciuc city hall had not asked the Harghita Environmental Agency for an environmental approval for the metallic barracks to be placed there, nor for the 7 wooden houses built subsequently by the Roma. The location is within the sanitary protection limits of the water filtering station, as per art 11 of Ministry of Health's Order no.536/1997 and with temporary interdiction to erect buildings until the specialized study according to the Urban Plan Miercurea Ciuc is elaborated.

The National Authority for the Protection of Child's Rights and the Social Assistance and Child's Protection General Service declared they were not competent to solve the reported case.

Romani CRISS has submitted a complaint at the European Court of Human Rights in this matter, after exhausting all the domestic means.

2.4. Racist speech, inflammatory statements by public officials, the harassment of certain groups

2.4.1. Racist propaganda, organizations and activities, including in the mass media, sports, politics and governmental officials, and on the internet

G.O. no.137/ 2000 on preventing and sanctioning all forms of discrimination has brought to the public attention the protection of right to personal dignity. The violation of this right motivated by race, nationality, etc is discrimination and declared misdemeanor.

The majority of this type of behavior, which do not fall under the criminal law, may fall under the right to freedom of speech as long as it does not go against with other human rights, including the right not to be discriminated against. Here it is why the right to personal dignity brings upon the discussion of balance between the right to freedom of speech and the right to non-discrimination.

Even 9 years after the adoption of these legal stipulations, cases of violation of Roma people's right to personal dignity continue to appear. Question is, in a democratic society, in what degree the sanctioning of degrading, humiliating or offensive declarations should be in a different manner than the sanctioning in civil law suits? Unfortunately, the Romanian society seems it hasn't found the

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„mechanisms” necessary for self-regulation in this regard; in the public space and in political debates comments obviously pejorative against the Roma people continues to appear.

2.4.1.1. Extremism on Romania’s stadium

Romani CRISS has filed a penal complaint to the Prosecutor’s Office, against Dinamo football team’s fans, who participated to the football match on the 15th of April 2009, against Rapid team, for the breach of the provisions of Governance Ordinance no 31/2002, regarding the prohibition of the organizations and symbols with fascist, racist and xenophobic character. The complaint referred to the incidents with fascist and racist character, occurred within the football match between Dinamo and Rapid teams, on 15th of April 2009.

Within the play, the Dinamo fans had a fascist and racist behavior, scanning slogans and displaying messages which promoted a behavior affecting the human dignity and creating a degrading atmosphere, humiliating and offensive, targeting the Roma minority. Among the supporters’ messages, we mention: *“Din nou pe stadion miroase a esenta de rom”*; *„Tiganu’ tot tigan”*; *„Nu toti tiganii sunt rapidisti, dar toti rapidistii sunt tigani”*; *“Cat e scorul, ciorilor? Noapte buna, ciorilor!”*; *“Dar suntem romani, asta e esenta care face diferenta”*; *“Zburati acasa”*; *“Antonescu de traia, pe tigani ii omora”* (*If Antonescu were alive, he would kill all the Gypsies*).

2.4.1.2. Case of [anunturigratuite.com](http://www.anunturigratuite.com) “No Roma allowed”

This case was documented and identified within the reported period. On the 8th of December 2008, the www.anunturigratuite.com (“free of charge ads”) posted an announcement on a job vacancy: “Looking for a whitesmith for a brief work to a roof and fixing chamfers on a 3 meters length. No Roma allowed”.

The announcement was obviously discriminatory. As a result, Romani CRISS lodged a complaint to the National Council for Combating Discrimination, for restraining the free access to employment of Roma, on ethnic grounds. The complaint was lodged against the authors of the announcements, as well as against the site which published them. The NCCD ascertained the discrimination act committed by the website administrator, who allowed the discriminatory post and sanctioned the website administrator by a warning.

2.4.1.3. Facebook extremist messages and groups

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On the 17th of February 2009, a Romanian newspaper published an article concerning the hatred and inciting posts on the Facebook socialization platform, regarding the Romanians and Roma living in Italy.⁶ The messages that have been posted on Facebook, as well as the description of the groups have a fascist content, and they incited to violence, in a concrete and direct manner (e.g. “Romania=Hiroshima”, “Light a match to arson a Roma camp!”, “Free Brescia from Gypsies!”). CRISS has addressed to Facebook administration many recommendations, including deleting/removing all the hate, offensive and racist messages against Roma and Romanians living in Italy. The administrators of the site have replied to CRISS and mentioned that all the reported links were removed.

2.4.2. Inflammatory statements by public authorities, hate speech, the harassment of certain groups, extremism

Year 2009 was marked by the recrudescence of the extremist acts. The interethnic conflicts, the burning down of Roma houses and their expulsion from the natal villages, the forcing of the Roma to sign the so called “protocols” of collaboration that contain flagrant violation of human rights – all these represent acts of extremism against Roma communities in Romania.

The situation is alarming considering that extremism against Roma becomes more and more common in many European states. The hate crimes against Roma people become more intense in countries such as Italy, Czech Republic, Slovakia, Hungary or Romania. Even more, in Romania, at beginning of the 90’s, the initially isolated cases of interethnic conflicts then were present across the country.

We believe that these interethnic conflicts took place in the background of raising tensions between ethnic communities, and the authorities’ lack of reaction only encourages such dangerous behaviors that lead inevitably to the violation of human rights in Romania.

2.4.2.1. Noua Dreapta extremism case

⁶ Article published in Adevarul newspaper, entitled “Facebook is fool of groups Anti-Romanians groups, created by Italians, on the 17th of February 2009, available in Romanian at <http://www.adevarul.ro/articole/facebook-este-plin-de-grupuri-antiromani-create-de-italieni.html>, accessed by Romani CRISS on the 18th of March 2009.

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In 2005, Romani CRISS has lodged a penal complaint against the initiators of the racist and fascist organization Noua Dreapta, taking into account a website containing racist and fascist instigator statements.

After all the domestic remedies were exhausted, since no sanction was applied by the Romanian legal courts to the initiators of Noua Dreapta, a complaint was lodged in front of the European Court of Human Rights.

2.4.2.2. **Sanmartin interethnic conflict**

On May 31st, 2009, on the background of increased tensions, an inter-ethnic conflict broke out in the Sanmartin locality, Harghita County.

Thus, on May 31st, 2009, approximately 400 Hungarians from the Sanmartin locality gathered and went to 40 houses belonging to Roma in the locality. While accusing Roma of having committed certain anti-social acts, the Hungarians damaged the houses, breaking the windows, destroying the doors and tiles of the houses. Several goods in the homes were destroyed, such as TV sets and TV aerials. Several cars were damaged and several dogs in the yards of the Roma were killed by Hungarian ethnics. On June 3rd, 2009, a house belonging to Roma was set on fire. After the conflict, the Roma left their homes and spent the night in the woods or on the field, under the open sky.

For few weeks, the Hungarian ethnic citizens have gathered almost daily, in groups of 100-200 persons, travelling to Roma houses and threatening the latter. For another month, the Hungarians agreed to gather every Monday evening and go to Roma houses, in order to “monitor” the implementation of the “protocol” agreed on June 8th, 2009. Each time, although accompanied by the Police, the actions of Hungarian groups led to threats against the Roma and to the perpetuation of the permanent state of tension, faced by the Roma returned to the village.

For about two months 50 out of the 170 Roma in the locality never returned to the village, out fear of being attacked. During this time, they slept in woods or on fields, nearby the Miercurea Ciuc locality. Part of the Roma returned to Sanmartin did not spend the night in their homes, but used to take refuge during the night in the nearby woods, from fear of being attacked by Hungarian ethnics. At present, Roma families have returned in Sanmartin, except for two families.

The already classic development of the conflict, with a community preponderant at regional level which, on the background of an accumulating tension in the relation with the cohabiting minority, applies the principles of collective justice in the context of a void of authority and involvement of local authorities, represents an additional proof of the inability and lack of response of decision-making

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factors, both at central and local level, in preventing and solving problematic situations of such scale. The authorities' attitude is as more condemnable as messages signalling the imminence of such situations are permanently transmitted through several means by Roma nongovernmental organizations and not only.

The victims' declarations, according to which Hungarian ethnics chased and harassed them even in the woods using ATVs and four-by-four cars clarify the essential aspects of the situation both during the conflict and post-conflict.

The "Protocol" designed by the authorities to represent the base for future inter-ethnic relations in the locality provides obligations only for the Roma community and not at all for the Hungarian one or local authorities, representing an additional proof that the Roma presence in the locality is conditioned by the mercy of the cohabitants. Moreover, the Romanian authorities replied to the protest letter submitted by the NGOs reaffirming the protocol and indicating that most mayors from Harghita county requested to solve the situation of the illegal settlements of Roma in this region. Note that also Hungarian or Romanian ethnics have built houses without authorization from the authorities, and yet the mayor requested this problem to be solved only for Roma. This is another proof of how Roma are not wanted in that area.

Furthermore, the public authorities have publicly criticized the NGOs for naming these incidents "interethnic conflicts", although this falls under the typology described by the European Court of Human Rights, which has ruled in similar cases such as Hadareni, Casinu Nou and Plaiesii de Sus.

Most of the authorities which have replied to the NGOs' protest letter either declare it is not their competence to express a point on this situation- such as the Romanian Ombudsman- or choose to draw the NGOs' attention into not exaggerating on Sanmartin case, pretending it was a interethnic conflict. The Supreme Council for National Security replied by mentioning the so-called protocol as a good method for solving the issue, as well as other ineffective meetings organized by local authorities. Although specific requests and recommendations were made for the Supreme Council for National Security, none of these were put into practice nor addressed. None of the authorities supported the people living in woods for so long or the children put under insecure conditions.

The representatives of Roma NGOs who documented the case (Romani CRISS, „Sanse egale” association, „Amare Rromentza” Roma Center, Roma ACCESS asociation, ADIS association) were also threatened by a local council representative.

The situation of the Roma after the conflict is critical. Most of the Roma families sold their horses, their only source of income, in order to be allowed to return in their homes. After the conflict, the local

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authorities have demolished some Roma families' houses. At the moment, most of the Roma from Sanmartin lack income, since they don't own horses and the Hungarian villagers don't provide them the occasional agricultural works anymore.

Most of the Roma children don't attend school or kindergarten anymore.

➤ **Protest action in Miercurea-Ciuc**

On the 30th of July 2009, Romani CRISS and the human rights local monitors' NGOs have organized a protest in Miercurea-Ciuc. The protesters, estimated to be more than 80 persons, spent 20 minutes in front of each building of the local administration and they showed during the entire time of the march, banners and t-shirts with bilingual messages, in Romanian and Hungarian, such as: "Human rights are not negotiable", "Stop the violence in the Roma communities", "Our children have the same rights as your children".

The peaceful protest was met by a hostile reaction from members of Romanian and Hungarian extremist groups, and some local residents.

From the beginning, a group of approximately 15 persons organized a counter-demonstration to the Roma's protest march. Howling and whistling, the group at first glance appeared to have formed spontaneously, but they later grouped together and displayed written messages like "go to work", "don't steal", "when was the last time you washed?" and "don't provoke". The same group of Hungarian protesters in Harghita were present each time the Roma remained in front of the local administration institutions.

The counter-demonstration appears to have consisted of some local residents and some outsiders. The original group of counter-demonstrators were joined by individuals who would and display similar anti-Roma banners for few minutes, and then they would disappear discreetly. Other individuals approached the group and had brief conversations with the counter-demonstrators.

In the last part of the event, six people belonging to two ethnic Hungarian extremist organizations appeared. Police later identified them as five persons from Romania and one from Hungary, members of the "Young Peoples Movement from the 64 Committees" (Hatvannégy Vármegye Ifjúsági Mozgalom) and the "Hungarian Guard" (Magyar Garda). They were dressed up in commando uniforms and covered their faces to conceal their identities. They shouted anti-Roma messages, as well as anti-Romanian ones (mentioning the Trianon Treaty). The police intervened and arrested the six people.

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At the end of the demonstrations, in front of the Harghita Prefect's Office, another group of persons, among whom were three members of the Hungarian Guard (identified by their black t-shirts with Magyar Garda insignia) and a staff member of the Prefect's office, shouted anti-Roma slogans, and the members of the paramilitary organization promised that the violent actions against the Roma are not over yet.

2.4.3.3. Balotesti protocol - Urban Iulian

Urban Iulian, the vice-president of the Juridical Commission from the Senate, has a blog (<http://www.urbaniulian.ro/>) where he posted, discriminatory messages against Roma. Moreover, some of the messages he posted incite to hate.

Taking as an example Sanmartin protocol, senator Urban Iulian designed a protocol for the Roma in Balotesti locality, who allegedly commit many crimes. The protocol is signed by 5 Roma from the locality and by senator Urban and is under the Romanian Parliament-Senate's logo.

An example of the "7 commandments" is that no Roma from Balotesti shall be allowed to refuse a job offered by the County Employment Agency.

2.4.3.4. Interethnic conflict of Sancraieni, Harghita county

In July 2009, on the background of already existing tension, a group of approximately 25 people, of Hungarian ethnicity, armed with bats, gathered round a house of a Roma inhabitant, who had been involved in a previous conflict and threatened to burn down all Roma houses. The police precinct chief and the mayor arrived to the scene and tried to scatter them away. The police officer requested backup by phone from Miercurea Ciuc police and the neighbouring villages.

While the group of Hungarians went to the local pub, approximately 50 policemen arrived and surrounded the house of the Roma in order to protect it. Meanwhile, more and more groups of Hungarians were coming to the pub and threatened to set on fire all Roma houses. Three hours later there were 300-400 people at the pub.

The Hungarian managed to break into the line of the policemen and, when in front of G.G. house, they set on fire the hay stacks in the yard and the barn of the horses; one of the horses died in the fire. At that moment, the representatives of the Miercurea Ciuc Emergency Inspectorate cut off the power in the village, including the street lights.

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According to the testimony of the vice-Mayor, the team of volunteer firemen arrived at the scene with a car to put out the fire and parked it near G.G. house. Although the civilian firemen intended to intervene and put out the fire next to G.G. house, the Hungarian inhabitants didn't let them.

On July 13th, 2009, at the office of the Mayor in Sanraieni, as result of this incident, a new meeting took place and it was attended by the mayor, the vice-mayor, the deputy prefect of Harghita county, the head of the County council, other elected counsellors, representatives of Miercurea Ciuc city police, the Miercurea Ciuc gendarmerie and representatives of the Roma community. A Romani CRISS delegation also attended the meeting.

According to the mayor, the purpose of the meeting was to sign a protocol between the members of the Roma community and the local authorities. The protocol is, in fact, a series of 11 conditions imposed by the local authorities to the Roma, which are obliged to respect them.

During the entire meeting the representatives of the local authorities (mayor and local counsellors) exerted verbal pressure upon the local Roma leader to sign the 11 conditions, while accusing, continuously, the Roma community of thefts that, therefore, irritated the Hungarian community.

They also said that there were 100-200 Hungarians outside the building who were waiting to see what was happening.

Romani CRISS protested against the local authorities' manner of action and against how the Roma were imposed to sign this partnership. The local Roma community did not support Romani CRISS action.

On July 14th 2009, Romani CRISS, in partnership with the National Council for Combating Discrimination and the Prefect's office Harghita organised a roundtable with the topic "Acceleration of inter-ethnic acts of violence in Harghita – European tendency" where several solutions were discussed upon with the purpose to improve the situation of the Roma in Sanraieni village.

2.4.3.5. Traian Basescu case

On May 19th, 2007, Mr. Traian Basescu, President of Romania, addressed to journalist Andreea Pana: "You, pussy, don't you have anything to do today?" and then said about her in private: "How aggressive that stinky Gypsy was".

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Subsequently, Mr. Basescu apologizes to Andreea Pana for an “underserved moral prejudice” and ads that “the used phrasing [...] doesn’t represent in any way the President’ attitude [...] towards the Roma community in our country [...]”.

Romani CRISS publicly condemns the sexist and racist statement of Romanian President who, through his personal example, feeds and legitimates the use of such language by anybody, a language that leads to increase of intolerance among Romanian citizens, especially that Romania has become an European Union member state and that 2007 is the European Year of Equal Opportunities for All.

According to the Presidency’s press release, Mr. Basescu doesn’t regret what he said, but that “an inappropriate expression [...] has become public”. There are no public apologies to the women in Romania who have been insulted by the offending language “you, pussy”, nor to the Roma community, as Mr. President doesn’t see any relation between him saying “Gypsy” and the Roma community - it is just an expression “used under a state of maximum political and media pressure”.

On May 23rd, as result of the Romani CRISS complaint to the National Council for Combating Discrimination (NCCD) in regard to the incident between the President of Romania, Traian Basescu and journalist Andreea Pana, the members of the NCCD Director College decided, unanimously, that the use of “Stinky Gypsy woman” expression constitutes an act of discrimination, as per G.D. 137/2000 on preventing and sanctioning all forms of discrimination, republished. The College decided to sanctioned the President with warning⁷, based on the conclusion that “By using this phrasing, the dignity of people belonging to Roma community was affected.”

In regard to Mr. Basescu’s use of appellative “Pussy” to Mr. Pana, the Director College decided, with 6 votes for and 2 against that the fact does not trigger contraventional liability. However, the language is not appropriate and sends negative messages in the public space.

Romani CRISS welcomes the NCCD decision to ascertain and sanction the act of discrimination on ethnic grounds, respectively by using the expression “stinky Gypsy woman”.

Still, we strongly believe that the term “pussy” used intentionally by Mr. Traian Basescu, the President of Romania, aimed at creating an environment of humiliation, offence and inferiority for the journalist, based on her sexual appurtenance. It is necessary to ascertain and sanction the discrimination act committed by Mr. Basescu on the criteria of gender, as he addressed to the journalist in public, in the context of professional relations, using an offending and degrading term. In addition, the expression “pussy” holds a sexual connotation which aggravates the illegal feature of Mr. Basescu’s behaviour.

⁷ As per art.2, para.1 and 4 of GO 137/2000.

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In relation to this aspect, Romani CRISS appealed the NCCD decision to the NCCD and the Court of Appeal Bucharest. The Director College rejected the Romani CRISS appeal and maintained their initial decision. At present, the appeal is pending before the Appeal Court.

2.4.3.6. Calin Popescu Tariceanu case

On July 2nd 2007, during a meeting, the Prime Minister of Romania, Mr. Calin Popescu Tariceanu said *“the Ministry of Interior and Administrative Reform in Bucharest shall send a team of five police officers to help catch and repatriate the Roma who commit felonies at Rome”*, while mentioning very clearly *“These Roma commit all possible crimes from violent theft, prostitution to robbery and drug trafficking”*.⁸ And he continued *“the role of Romanian policemen is to teach their colleagues from Italy to deal with the psychology and modus operandi of Roma who commit crimes”*. Unfortunately, Mr. Tariceanu’s statement completes or continues the chain of discriminatory declarations against Roma, following the example of President Basescu or other colleagues from various parties.

Based also on the fact that ethnicity does not determine delinquency, Romani CRISS filed a complaint to the National Council for Combating Discrimination in regard to Mr. Tariceanu’s declarations, based on provisions of articles 2 and 15 of Governmental Ordinance no.137/2000, republished, on preventing and sanctioning all forms of discrimination.

The Steering Board of the NCCD decided that there was no act of discrimination committed by Mr. Tariceanu. Romani CRISS will appeal this decision.

2.4.3.7. Vasile Dancu’s declaration

In addition, Romani CRISS filed complaints against the declarations of Vice President of the Social democrat Party, Mr. Vasile Dancu - *“We must differentiate between being Gypsism and democracy”* (18 June 2007) and also against the declaration of a member of Romanian Parliament, and also member of the Democrat Party who said: *„We wanted to avoid all the Gypsism created in regard to the signatures. “*

2.4.3.8. Ludovic Orban’s declaration

On the 8th of November 2009, the vice-president of the Liberal National Party, Ludovic Orban, has made the following press statement: *“I would sum up Basescu’s electorate: alcoholics, Gypsies and prostitutes, although I doubt prostitutes will vote for Basescu, taking into account the way he looks”*.

⁸ See newspaper Evenimentul Zilei of 1.07.07, <http://www.evz.ro/article.php?artid=311977> and Gazeta de Sud of 2.07.07, <http://www.gds.ro/Actualitate/2007-07-02/Scurte+stiri&hl=romi&tip=toate>

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Romani CRISS and other human rights organizations have lodged a complaint in front of the National Council for Combating Discrimination. Ludovic Orban has used pejoratively the term “Gypsy”, in order to describe an ethnic minority, which, according to his opinion, is a part of the electorate of a certain candidate to the 2009 presidential elections.

The two other social categories, mentioned by Orban next to the Roma minority, represent groups perceived negatively by the Romanian society. The statement of Ludovic Orban represents a profound offense targeted against the Roma community, as well as against the two mentioned categories.

The NCCD hasn't made a decision on this case yet.

2.4.3.9. Teodor Baconschi, Ministry of Foreign Affairs racist declaration

On February 11th 2010, Mr. Teodor Baconschi, ministry of foreign affairs, during the official meeting with the French State Secretary for European Affairs, Pierre Lellouche, has associated directly the delinquency with the ethnicity. He declared that “We have some physiological, natural issues of delinquency, in some of the Romanian communities, especially around the community of Romanian citizens of Roma ethnicity”.

On February the 15th, a group of NGOs⁹ have issued a press release regarding the discriminatory content of Baconschi's statement, signing also a protest letter.

On February 16th, the Ministry of Foreign Affairs has published on its website a press release, mentioning the protest letter signed by the NGOs. Both the institution, as well as ministry Baconschi rejects the racist interpretation of the statement mentioned above. The ministry explained that he wanted to emphasize that in each community there is a “natural” rate of delinquency. It is also mentioned that the statement criticized by the NGOs was removed from the website. In fact, the statement was still posted on the website, at the moment when the complaint was lodged in front of the

⁹ Alianta Civica a Romilor din Romania, Centrul de Resurse Juridice, Asociatia ACCEPT, Centrul Romilor pentru Interventie Sociala si Studii 'Romani CRISS', Centrul Euroregional pentru Initiative Publice, Centrul Romilor AMARE RROMENTZA, Asociatia 'DIVANO-ROMANO', Asociatia Agentia de Dezvoltare Comunitara INTER-ACTIVA 'ADCIA', Asociatia 'Sanse Egale', Asociatia 'ROMII ROMASCANI', Fundatia Ruhama, Asociatia Parudimos, Asociatia Roma ACCESS TOMIS, Asociatia Sanse Egale pentru Femei si Copii, Centrul Tinerilor Romi 'Amare Suno', Asociatia Sanse Egale pentru Romi si Sinti ADOSER/S, Alianta pentru Unitatea Romilor Braila, Asociatia 'O Del Amenca', Asociatia Thumende, Asociatia Romilor Ursari, Policy Center for Roma and Minorities, Uniunea Democratica Culturala Valea Jiului, Organizatia Amare Prhala, Asociatia Generatia 2008, Asociatia Pro Nobis, Asociatia Comunitara Impreuna, Centrul de Dezvoltare Comunitara Neamt, Asociatia Ketaness 2005, Asociatia Romii in Europa.

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NCCD, but the terms “physiological”, “natural” and “around Roma communities” had been replaced with suspension points.

The NGOs which signed the protest letter have also signed a complaint in front of the NCCD. Mr. Teodor Baconschi has explained biologically the association with criminality, explanation which characterizes the Nazi Germany for Holocaust motivation. The activity of the public institution represented by the Ministry of Foreign Affairs is subordinated to a racist thinking.

The NCCD hasn't issued a solution for this case yet.

3. Recommendations

3.1. Article 1 of the Convention

- 3.1.1. The definition of racial discrimination should be included not only in the anti-discrimination law, adopted as a result of the application of 2000/43/EC, the Governmental Ordinance no 137/2000, but also in the main domestic legislation regarding education. Direct as well as indirect forms of discrimination should be included in the definition of discrimination, within the Romanian Law on Education.
- 3.1.2. Banning segregation is a very important *issue that Romania must acknowledge it and a commitment to take in this respect*, by including *explicitely* the prohibition of segregation in education and housing in the Romanian Law on Education as well as the new Law on Housing.
- 3.1.3. To speed up the taken over in the current financial exercize of the EU Council's decision to ammend the Financial Regulation for the laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund which is allowing the construction of social houses for Roma and vulnerable groups, as well as the rehabilitation of the existing social houses.

3.2. Article 2 of the Convention and article 5 of the Convention **General policies to eliminate discrimination**

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- 3.2.1. Issuing legal forms for the Roma informal settlements, in order to avoid forced evictions, which are very often conducted without assuring alternative housing for the evicted Roma;
- 3.2.2. Better argumentatively policies at the level of the Ministry of Housing that clearly defines and sanctions forced eviction, residential segregation, environmental racism.
- 3.2.3. Establishing a intern regulation system of the press, regarding the discriminatory press articles
- 3.2.4. Reviewing the procedure of nomination of the Steering Board members of the National Council for Combating Discrimination
- 3.2.5. Reviewing the procedure of the National Council for Combating Discrimination of solving complaints in order to assure a reasonable timeframe
- 3.2.6. Adopting a mechanism for monitoring the implementation of the National Council for Combating Discrimination's decision
- 3.2.7. Assuring a continuous process of training in the field of anti-discrimination of magistrates, police representatives, school inspectors, employment inspectors, etc
- 3.2.8. Ensuring the independence and accountability for the internal investigation mechanisms at level of Ministry of Interior and Reform in Administration, as well as in all institutions and authorities with competencies in watching the public order
- 3.2.9. Clear administrative sanctioning mechanism at the level of the Ministry of Health to redress abuse and discrimination against Roma or other vulnerable groups
- 3.2.10. Reviewing the system of health mediation, in order to avoid the negative impact of the decentralization process

3.3. *Article 3 of the Convention* **Racial segregation condemnation**

- 3.3.1. Founding a commission within the Ministry of Education to elaborate proposals for planning, organizing, coordinating and monitoring the implementation of the Ministry of Education's strategy in the field of improving the quality of education for Roma, as well as analyzing the discrimination situations in

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schools, scholar segregation cases, in order to assure the principle of non-discrimination is applied in the Romanian educational system

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