



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9  
OF THE CONVENTION**

**Sixteenth to nineteenth periodic report due in 2007\***

**ROMANIA \*\* \*\*\***

[29 July 2008]

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\* This document contains the sixteenth, seventeenth, eighteenth and nineteenth periodic reports of Romania, due on 15 October 2001, 2003, 2005 and 2007, submitted in one document. For the twelfth to fifteenth periodic reports and the summary records of the meetings at which the Committee considered the report, see document CERD/C/363/Add.1, CERD/C/SR.1336, 1337 and 1360.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\*\* Annexes can be consulted in the files of the secretariat.

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## **INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

1. Romania's fifteenth periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/363/Add.1), submitted to the Committee on the Elimination of Racial Discrimination in 1999, was considered by the Committee in August 1999. On that occasion the members of the Committee made a number of observations and recommendations.
2. The present report brings together in a single document the sixteenth to nineteenth periodic reports of Romania due under article 9, paragraph 1, of the Convention. The information contained in the report illustrates developments since 1999, focusing on the legislative innovations and the institutional practices that developed subsequently, with the aim at fully implementing the provisions of the Convention.
3. This report includes relevant information regarding the substantial changes in the country's legislation and institutions, as well as the scope and the extent of the governmental policies designed to determine changes at the level of perceptions and attitudes during the reporting period.
4. The arrangement of the present report basically follows the main points in the guidelines on the form and content of reports to be submitted by State Parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.2).
5. The general information about Romania, its political structure and the general legal framework for the protection of human rights is contained in the core document forming part of the Report of States parties to the international human rights instruments (HRI/CORE/1/Add.13/Rev.1). Necessary updates and additional information are provided for hereafter.

### **GENERAL INFORMATION**

6. Over the reporting period, a new census took place in Romania, revealing that in Romania there are 20 national (traditional) minorities, represented in the Parliament by 19 organisations (the Czech and Slovak minorities have created a shared organisation): Albanians (under 0.1% out of the total population); Armenians (under 0.1%); Bulgarians (under 0.1%), Croats (under 0.1%); Czechs (under 0.1%), Greeks (under 0.1%); Germans (0.3%); Hungarians (6.6%); Jews (under 0.1%); Italians (under 0.1%); Russian-Lipovans (0.2%); Macedonians (this ethnic minority was not included within the census); Polish (under 0.1%); Roma (2.5%); Serbs (0.1%); Slovaks (0.1%); Tatars (0.1%); Turks (0.1%) Ukrainians, including Ruthenians (0.3%).
7. At the same time, statistics of the Romanian Office for Refugees and Immigration indicate that, at the end of 2007, foreign presence in Romania amounted to a number of 6662 persons, out of which 231 are stateless. The foreign presence covers approximately 75 nationalities, the majority of these persons coming from the Middle East and the neighboring countries.
8. The national legal and institutional framework relevant for the implementation of the provisions of the Convention expanded with the adoption of new laws or the modifications of the

existing ones, the accession to relevant international legal instruments, the establishment of new institutions and the development of public policies destined to prevent and fight discrimination in all its forms. Specific plans and programs were designed to address the whole range of issues pertaining to the situation of the most vulnerable groups, such as various minorities, in particular Roma.

9. In 2007, Romania became full-fledged member of the European Union. Consequently, Romania adhered to, observes and implements the relevant EU legislation in the field of preventing and combating discrimination, in particular the EC Race Discrimination Directive 2004/43 and EC Equal Treatment Framework Directive 2000/78, establishing a framework for equal treatment in employment and occupation. By Law No. 13/7.02.2008 Romania ratified the Treaty of Lisbon, which incorporated the Charter of Fundamental Rights into EU law. Romania also participates in the implementation of the anti-discrimination policies and programs of the Union.

### **I. DOMESTIC LEGISLATION**

10. The revision of the Romanian Constitution in 2003<sup>1</sup> brought up a number of changes to the provisions on preventing discrimination. Article 4 begins now by indicating that the State foundation is laid on the unity of the Romanian people and the solidarity of its citizens, while Romania is the common and indivisible homeland of all its citizens, without any discrimination, including on account of race, nationality and ethnic origin. Amended article 16 introduces a specific guarantee with regard to equal opportunities for men and women to occupy positions and dignities (public, civil or military). According to article 20, as modified, Constitution or national laws will take precedence over international regulations in the field of human rights when they comprise more favorable provisions.

11. In 2000, the Government of Romania adopted Ordinance No. 137 on the prevention and sanctioning of all forms of discrimination, which represents the general legal framework in the area of preventing and combating discrimination.<sup>2</sup> The adoption of the Ordinance came directly in response to the recommendation contained in paragraph 12 of the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination (CERD/C/304/Add.85). The Ordinance offers a comprehensive definition of the concept of “discrimination”, listing practically all criteria which could nullify or impair the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in all fields of public life. G.O. No. 137/2000 defines the principle of equality and non-discrimination among citizens, prohibits and sanctions discriminatory acts committed by natural and legal persons, in all their

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<sup>1</sup> Law No. 429/2003 on the revision of the Constitution, subsequently approved by referendum, entered into force in October 2003.

<sup>2</sup> The Ordinance was approved with modifications by Law No. 48/2002 and subsequently amended by Governmental Ordinance No. 77/2003 (approved by Law No. 27/2004) and Law No. 324 / 2006. The consolidated version was republished in the Official Gazette No. 99 of February 8<sup>th</sup>, 2007.

forms. The law covers 5 main areas namely equality in the economic activity, access to services, education, freedom of movement and right to dignity. The principle of equality among citizens and the elimination of all privileges and discriminations are guaranteed, in particular with regard to the exercise of a number of important civil, economic, social and cultural rights.

12. The Penal Code incriminates, in art. 317, the incitation to discrimination and, in art. 247, the abuse of authority by restraining certain rights on discriminatory grounds.

13. In 2002, the Government adopted the Emergency Ordinance No. 31<sup>3</sup> prohibiting organisations and symbols with fascist, racist and xenophobic character and the glorification of those found guilty of committing crimes against peace and humanity. This special penal law defines the above-mentioned categories of organisations and symbols, establishes a set of criminal offences and sets the applicable sanctions. The modified text offers an extended definition of the Holocaust so as to include the Roma ethnics. The adoption of the Ordinance responds to the recommendation contained in the second part of the paragraph 12 of the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination (CERD/C/304/Add.85).

14. The new Code of Labour, approved by Law No. 53/2003, with subsequent modifications, defines and bans direct and indirect discrimination. According to the provisions of the Law, employees have the right to benefit from adequate work conditions and payment, without any discrimination, and the internal regulations of the employer must include the observance of the principle of non-discrimination.

15. Law 202/2002 on equal opportunities for women and men<sup>4</sup> establishes the legal framework in the field of equal opportunities for women and men. The law is based on the concept of multiple discriminations, which covers all grounds of discrimination, including gender and race. This law was modified and supplemented by Governmental Ordinance No. 86/2004 which created the National Agency for Equal Opportunities for Women and Men as the specialized public institution, responsible for monitoring the implementation of the principle of equal opportunities and for developing specific policies in the field of gender equality and gender mainstreaming.

16. According to the Audio-Visual Law No. 504/2002 (modified and supplemented by Law No. 402/2003), it is forbidden to broadcast programs which contain any form of incitement to hatred on grounds of race, religion, nationality, gender or sexual orientation. Furthermore, the Code of regulations on the audio-visual content approved by Decision No. 187/2006 of the President of the National Council of the Audio-Visual, details the general legal provisions on anti-discrimination in the audio-visual field.

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<sup>3</sup> The Ordinance was approved with modifications by Law No. 107/2006 and amended and supplemented by Law No 278/2006.

<sup>4</sup> Republished in the Official Gazette No. 150/01.03.2007.

17. Law No. 272/2004 on the protection and promotion of the rights of the child stipulates, in article 7, that the rights specified by its provisions are guaranteed for all children, without any discrimination.

18. Law No. 14/2003 on political parties regulates the topic of political representation and participation in the public life in conditions of equality and non-discrimination among citizens. At the same time, the law (art. 3, paragraph 2) bans political parties which infringe upon the provisions of art. 30 (7) of the Romanian Constitution, prohibiting, amongst others, any incitement to discrimination.

19. Law No. 188/1999 regarding the statute of civil servants<sup>5</sup> prohibits any discrimination among civil servants. The Law created The National Agency for Civil Servants, as a specialized body, to monitor and control the implementation of the relevant legislation. Furthermore, the Code of Conduct of Civil Servants<sup>6</sup> establishes, in article 3 (c), the principle of equal treatment of all citizens by public institutions and authorities, according to which civil servants. Article 3 (c) of Governmental Decision No. 1209/2003 on the organisation and development of civil servant's career mentions the equality of chances as one of the underlying principles in the organisation and development of the civil servant's career and recognizes the vocation to such a career of all persons, in accordance with the conditions set by the law.

20. Law No. 116/2002 on the prevention and combating of social marginalisation aims to guarantee real access of all persons and, in particular, of the young people, to fundamental rights such as the right to work, the right to housing, the right to medical insurance and the right to education.

21. According to article 5 of Law No. 122/2006 regarding the asylum in Romania, the legal framework for foreigners applying for a form of protection or benefiting of a form of protection in Romania applies without discrimination. Foreigners benefiting of a form of protection defined by law can enjoy their rights in the same conditions as the Romanian citizens. At the same time, the Governmental Ordinance No. 44/2004 regarding the social integration of foreigners who obtained a form of protection in Romania,<sup>7</sup> stipulates, at article 3, that the integration programs for foreigners who obtained a form of protection in Romania are worked out and implemented based on the needs of the beneficiaries, without discrimination. The Governmental Decision No. 194/2002 regarding the status of foreigners in Romania stipulates, at article 78, paragraph 2, the obligation for public institutions to ensure that protection of foreigners against all forms of discrimination. In addition to that, article 95, paragraph 5 contains a specific provision with reference to combating discrimination of foreigners living in accommodation centres.

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<sup>5</sup> Republished in the Official Gazette No. 365/2007, following its subsequent modifications.

<sup>6</sup> Approved by Law No. 7/2004, further modified by Law No. 50/2007.

<sup>7</sup> Approved by Law No. 125/2004 and modified by Governmental Ordinance No. 41/2006, approved by Law No. 431/2006.



## II. INTERNATIONAL LAW

22. In 2002, Romania submitted a *declaration, in accordance with article 14 paragraph 1 of the International Convention on the Elimination of All Forms of Racial Discrimination*, recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider complaints from persons within its jurisdiction claiming to be victims of a violation by Romania of any of the rights set forth in the Convention,<sup>8</sup> The National Council for Combating Discrimination is the body competent to receive and examine such complaints.

23. Romania signed and ratified the European Charter for Regional or Minority Languages.<sup>9</sup> The provisions of this Law apply to the following minority languages spoken on the territory of Romania: Albanian, Armenian, Bulgarian, Czech, Croatian, German, Greek, Hungarian, Italian, Macedonian, Polish, Romani, Ruthenian, Russian, Serbian, Slovak, Tatar, Turkish, Ukrainian and Yiddish.

24. Romania ratified in 1995 and became party in 1998 to *the Framework Convention of the Council of Europe for the Protection of National Minorities*.

25. In 2003, Romania became party to the *1999 Optional Protocol to the UN Convention on the Elimination of all Forms of Discrimination against Women*, thus recognizing the competence of the Committee on the Elimination of Discrimination against Women - the body that monitors States parties' compliance with the relevant Convention - to receive and consider complaints from individuals or groups within its national jurisdiction.

26. In 2006, Romania became party to *Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms* under the auspices of the Council of Europe. This Protocol provides for a general prohibition of discrimination and recognizes the competence of the European Court of Human Rights to receive complaints on grounds of discrimination in the enjoyment of any right set forth by law.

## III. INSTITUTIONAL FRAMEWORK

27. Governmental Decision No. 1194/2001 established **the National Council for Combating Discrimination (NCCD)**, a specialized body of the central public administration empowered to guarantee and supervise the implementation of the principle of equality and non-discrimination among citizens. The Council is an autonomous public institution, with legal personality, under parliamentary control, and is responsible for the enforcement and observance of anti-discrimination legislation, in particular the Governmental Ordinance No. 137/2000. NCCD is qualified to investigate, establish and sanction cases of discrimination provided by G.O. No. 137/2000. Between 2002 and 2007, a total of 2610 complaints were filed with the Council, a significant share of them involving discrimination based on ethnicity (Roma) (see paragraphs 399-414 below). Other more frequent discriminatory criteria are social status, beliefs,

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<sup>8</sup> Law No. 612/2002.

<sup>9</sup> Law No. 282/24.10.2007.

sex, sexual orientation, nationality, age, disability. The relative large percentage of case involving discrimination based on ethnicity indicates an increased awareness of the population of the existence of available remedies and protection against forms of discrimination set out by the Convention, as suggested at para. 13 of the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination (CERD/C/304/Add.85).

28. Governmental Emergency Ordinance No. 78/2004<sup>10</sup> created **the National Agency for Roma (NAR)** as a specialized body of the Romanian Government, with legal personality, in charge with elaborating, coordinating, monitoring and evaluating public policies for Roma minority in Romania. It is also the main governmental body responsible for the implementation of the Strategy for the Improvement of Roma Situation.

29. The fifteenth periodic report of Romania contains a detailed presentation of the institution of **the Ombudsman**. Its main functions are defined in the Romanian Constitution (articles 58-60, article 146 a. and d.). The Law 35/1997 on the organization and functioning of the Ombudsman was further modified by Law No. 233/2004.<sup>11</sup> Between 1999 and 2007, the activity of the Ombudsman regarding cases of alleged discrimination meant solving complaints received from natural persons, initiating ex officio procedures following information provided by public sources such as the media, organising investigations, issuing recommendations in cases of real human rights violations and submitting special reports to the Parliament and the Government (see paragraphs 415-421 below).

30. Law No. 504/2002 created **the National Council of the Audio-Visual (NCAV)** an autonomous public institution, under parliamentary control, which is authorized to adopt normative decisions, issue public summons and apply contraventional sanctions in support of its role to ensure, inter alia, the application of anti-discrimination policies in the field of audio-visual. Between 2002 and 2007, the National Council of the Audio-Visual applied 15 sanctions for breaches of the legal provisions regarding discrimination based on nationality, race, religion, gender or sexual orientation and ethnicity - 13 to TV stations and 2 to radio stations (see paragraphs 430-432).

31. **The National Agency for Equal Opportunities between Women and Men (NAEO)** is the central public administrative institution responsible for promoting the principle of equal opportunities between women and men through the elaboration and implementation of gender policies. The Law No. 202/2002 regarding equal opportunities between women and men, amended and republished, establishes the main principles of the activity of NAEO.

32. **The National Authority for the Protection of the Rights of the Child**, established in 2005,<sup>12</sup> is the state authority responsible for monitoring the observance of the rights of the child. One of the underlying principals of its activity is the equality of opportunities and non-discrimination.

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<sup>10</sup> Approved by Law No. 7/2005.

<sup>11</sup> Republished in the Official Gazette No. 844/15.09.2004.

<sup>12</sup> Law No. 275/2004 and Governmental Decision 1432/2004.

#### IV. PUBLIC POLICIES

33. The National Council for Combating Discrimination designed a **National Strategy for Implementing Measures on Preventing and Combating Discrimination (2007-2013)**, establishing guidelines in the field of preventing and combating discrimination, with the aim to develop a society which is inclusive, intercultural and based on policies facilitating interaction, equality, mutual understanding and respect.
34. Following the recommendation contained in para. 15 of the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination (CERD/C/304/Add.85), the Romanian Government adopted, in 2001, **the National Strategy for Improving the Situation of Roma**.<sup>13</sup> The Strategy is a governmental initiative that has a comprehensive approach to the problems of the Roma population and aims to ensure that this minority enjoys its rights on equal footing with the rest of the population. Subsequently, the Government designed a General Master Plan of Measures, approved by Decision 522/19.04.2006, to speed-up the implementation of the Strategy over the next two years. In addition to that, Romania participates in the initiative entitled “The Decade of Roma Inclusion“, adopted in 2004, for the period 2005-2015, by eight Central and Eastern European countries with the support of the international community, representing the first collaborative effort of this magnitude dedicated to the improvement of the situation for the Roma minority.
35. In April 2001, the Government of Romania set up a Commission for Anti-Poverty and Promotion of Social Inclusion, which developed **the National Anti-Poverty and Social Inclusion Plan (NAPinc)**.<sup>14</sup> This document is a “program of social construction for the European society” and serves as an instrument of social inclusion, partnership/participation etc.
36. **The 2006-2009 National Strategy and Plan of Action for Equal Opportunities between Women and Men**<sup>15</sup> contain actions to improve the situation of vulnerable categories, including those that are the most exposed to marginalisation and social exclusion, because of multiple discriminations.
37. The framework for the restitution of community assets abusively taken over by the state, including on a discriminatory basis, during the communist regime, has been gradually developed since 1990. Some of the seized properties belonged to national and ethnic minorities, as well as to religious cults.
38. Given the occurrence of discriminatory behaviors and attitudes in football, numerous awareness-rising and prevention campaigns have been carried out to fight such phenomenon.

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<sup>13</sup> Governmental Decision No. 430/2001, modified by Governmental Decision 522/2006.

<sup>14</sup> Governmental Decision No. 829/2002.

<sup>15</sup> Governmental Decision No. 319/2006.

In addition, Romania started its active participation in the annual European campaign “Action Week against Racism in Football” organised by the FARE network (Football against Racism in Europe).

39. During the reporting period, the national police intensified its efforts towards meeting the criteria and standards set out in the International Convention Regarding the Elimination of All Forms of Racial Discrimination. Upon the adoption, in 2001, of the National Strategy to improve the situation of Roma, the General Inspectorate of the Romanian Police worked out and applied “The Program regarding the contribution of the Romanian Police to the improvement of the situation of Roma”, having as objective, amongst others, the prevention of discriminatory acts that can be perpetrated by law enforcement officials.

40. The Ministry of Culture and Religious Affairs has launched several programmes such as “Pro-ethnoculture” and “Roma together for Europe” with the aim to ensure equal chances to all communities of national minorities in Romania in promoting their values and cultural traditions.

41. The Romanian National Television launched in 2007 a two-year Program dedicated to the promotion of the Roma culture, symbols and traditions and combating prejudices towards the members of this ethnic group.

42. The Government continues to allocate every year a special budgetary fund for interethnic projects and programs aimed at combating intolerance. Several awareness projects on Roma and Jewish problems, as well as on all other minorities have been financed and supported through this mechanism run by the Department for Inter-Ethnic Relations. The Ministry of Education adopted the educational strategy regarding the remembrance of the Holocaust and included elements of education against racism, anti-Semitism and other forms of discrimination in the *common core curricula (compulsory)* for subjects such as Civic Education, Civic Culture, Sociology, Philosophy as well as in the *national curricula for optional subjects* in the area of socio-humane sciences.

43. Romania organized an international conference addressing the problematic of the Holocaust (Iasi, 28-29 June 2006) and actively participated in all OSCE conferences dedicated to the fight against discrimination and intolerance (Vienna 2003, Berlin, Paris and Brussels 2004, Cordoba 2005). In 2007, Bucharest hosted a High-Level OSCE Conference on Combating Discrimination and Promoting Mutual Respect and Understanding. Romania joined The Community Action Program for Combating Discrimination of the European Commission (2001-2006). Under the aegis of this program, the Department for Interethnic Relations has organised several events throughout the country (2002-2007).

## V. OTHER MEASURES

44. Following a judgement rendered in 2005 by the European Court of Human Rights, in a case involving members of the Roma minority in the village of Hădăreni, where the Court held there were violations of various rights of the applicants, including with regard to the prohibition of discrimination, the Government of Romania designed a specific Program of development for the community of Hădăreni 2006-2008, aimed at preventing further acts of violence, abuse and discrimination against the Roma population inhabiting the respective village.

## ARTICLE 2

### Legal, judicial, administrative and other measures against discrimination

#### National policies and measures in the field of anti-discrimination.

##### Anti-discrimination Institutional Framework

#### I. General anti-discrimination policy. The National Council for Combating Discrimination. The Ombudsman

45. As mentioned above, *the Romanian Constitution* states the principle of equality among citizens, without any discrimination based on race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin (article 4.2). At the same time, art. 247 of *the Penal Code* incriminates the abuse of authority by restraining certain rights, stipulating that “the restriction, by a civil servant, of the use or exercise of a person’s rights or placing a person in a situation of inferiority based on race, nationality, ethnicity, language, religion, sex, sexual orientation, opinion, political affiliation, beliefs, wealth, social origin, age, disability, chronic non-contagious disease or HIV infection is punished by imprisonment for a term between 6 months and 5 years”. Also, in article 317, the Penal Code incriminates the incitement to discrimination, defined as any incitement to hatred on grounds of race, nationality, ethnic origin, language, religion, sex, sexual orientation, opinions, political affiliation, beliefs, wealth, social origin, age, disability, chronic non-infectious disease or HIV infection. This crime is punishable by imprisonment between 6 months and 3 years or by fine.

46. *The Governmental Ordinance nr.137/2000 on the prevention and sanctioning of all forms of discrimination* sets the general legal framework in the area of preventing and combating discrimination.<sup>16</sup> It represents the landmark piece of legislation in the field of anti-discrimination.

47. The Ordinance offers a comprehensive definition of the concept of “discrimination” as any distinction, exclusion, restriction or preference based on race, nationality, ethnic origin, language, religion, social origin, beliefs, sex, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, appurtenance to a disadvantaged category or any other criteria which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of life.

48. G.O. No. 137/2000 defines the principle of equality and non-discrimination among citizens, prohibits and sanctions the discriminatory acts committed by natural and legal persons. Such forms of discrimination punishable by law are:

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<sup>16</sup> Approved with modifications by Law No. 48/2002 and subsequently amended by Governmental Ordinance No. 77/2003 (approved by Law No. 27/2004) and Law No. 324/2006, that fully implements EC Race Discrimination Directive 2004/43 and EC Equal Treatment Framework Directive 2000/78. The consolidated version was published in the Official Gazette No. 99 of February 8<sup>th</sup>, 2007.

(a) *Direct discrimination* - unequal treatment of a person in relation to another person in a comparable situation on the basis of any of the criteria mentioned in the definition above;

(b) *Indirect discrimination* - provisions, criteria and practices apparently neutral but which place a person in a disadvantaged position, on the basis of any of the criteria provided under the definition of direct discrimination, unless these provisions, criteria and practices are objectively justified by a legitimate purpose and the means of achieving that purpose are adequate and necessary. At the same time, any active or passive behaviour that favours or disadvantages in an unwarranted manner or subjects to an unjust or degrading treatment a person, a group of persons or a community, in relation to other persons, groups of persons or communities, entails contraventional liability, unless it falls under the incidence of criminal law;

(c) *Harassment* - any behaviour aiming to create a humiliating, hostile, degrading or offending atmosphere based on race, nationality, ethnic origin, language, religion, social category, beliefs, gender, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, appurtenance to a disadvantaged category, status of refugee or asylum seeker or any other criterion;

(d) *Multiple discrimination* - any distinction, exclusion, restriction or preference based on two or more criteria mentioned in the definition of direct discrimination; such an act represents an aggravating circumstance in declaring contraventional liability unless one or more of its elements fall under the incidence of criminal law;

(e) *Order to discriminate* - an order to discriminate a person on any of the grounds included in the definition of direct discrimination;

(f) *Victimisation* - any adverse treatment, which came as a reaction to a complaint or to filing a legal suit regarding an infringement on the principles of equal treatment and non-discrimination.

49. The measures taken by public authorities or by other legal entities in favour of a person, a groups of persons or a community, with the view to ensure their natural development and the effective fulfilment of their right to equal opportunities in relation to other persons, group of persons or communities, as well as positive measures aiming to protect disadvantaged groups are not considered discriminatory.

50. The national anti-discrimination act covers the following 5 main areas:

- (a) Equality in the economic activity in terms of employment and professional work;
- (b) Access to legal, administrative and public health services, as well as to other services, goods and facilities;
- (c) Access to education;
- (d) Freedom of movement, choice of residence and access to public places;
- (e) The right to personal dignity.

51. The principle of equality among citizens and the elimination of all privileges and discriminations are guaranteed, in particular with regard to the exercise of the following rights (article 1.2 of O.G. 137/2000):

- (a) The right to equal treatment before courts and any other jurisdictional bodies;
- (b) The right to personal security and to be granted state protection against violence and mistreatment perpetrated by any individual, group or institution;
- (c) Political rights, namely electoral rights, the right to take part in the public life and the right to access public positions;
- (d) Other civil rights, in particular: the right to freedom of movement and of choosing one's residence; the right to leave and return to one's country; the right to obtain the Romanian citizenship; the right to marry and to choose one's partner; the right to property; the right to inheritance; the right to freedom of thought, conscience and religion; the right to freedom of expression and opinion; the right to freedom of peaceful meeting and association; the right to petition;
- (e) Economic, social and cultural rights, in particular: the right to work, to choose freely one's occupation, to fair and satisfactory working conditions, to protection against unemployment, to equal pay for equal work, to fair and satisfactory wages; the right to establish and to join trade unions; the right to housing; the right to health, medical assistance, social security and social services; the right to education and to professional training; the right to take part in cultural activities in conditions of equality;
- (f) The right of access to all public places and services.

52. The Government created, by Governmental Decision No. 1194/ 2001, **the National Council for Combating Discrimination (NCCD)**, as a specialized body of the central public administration empowered to guarantee and supervise the implementation of the principle of equality and non-discrimination among citizens.

53. The Council is an autonomous public institution, with legal personality, under parliamentary control. It carries out its activity without any restriction or influence coming from other public institutions or authorities. Its annual report is debated and approved by the Parliament.

54. NCCD is an instrument designed specifically to fight all forms of discrimination. Through its specific functions and competence, the Council is the first institution of this kind in Central and Eastern Europe.

55. The Council is responsible for the enforcement and observance of anti-discrimination legislation, in particular the Governmental Ordinance No. 137/2000 regarding the prevention and sanctioning of all forms of discrimination, as well as for harmonizing provisions of normative and administrative acts infringing upon the principle of non-discrimination with the relevant legislation. NCCD is qualified to investigate, establish and sanction cases of discrimination provided by G.O. No. 137/2000.

56. At the same time, the Council elaborates and applies public policies in the field of non-discrimination.

57. The National Council for Combating Discrimination performs tasks in the following five main areas of activity:

(a) *Preventing discrimination*

- Organizes and carries out national awareness campaigns regarding the equality of chances and the respect for individual rights
- Elaborates studies and reports on the observance of the principle of equality and non-discrimination which are submitted to the Government and publicized
- Organises trainings courses, projects and programmes at local, regional and national level
- Monitors the implementation of anti-discrimination legislation by public authorities, legal and natural persons
- Proposes actions or special measures for the protection of disadvantaged persons or category of persons who are vulnerable to inequalities as compared to the majority of the citizens due to their social origin or handicap or may be confronted with attitudes of rejection and marginalization
- Proposes draft legislation to the Government and endorses draft laws regarding the exercise of rights and freedoms in condition of equality and non-discrimination
- Develops relations of cooperation with similar specialized bodies existing in Europe or other areas, with national public administration authorities, national and international inter-governmental organisations and trade unions

(b) *Mediation* - NCCD attempts to mediate agreements between parties involved in discrimination cases. The Council is focusing on reducing and eliminating discrimination and not on a mere punitive approach;

(c) *Investigating, establishing and sanctioning acts of discrimination* - the Council has the competence to investigate cases of discrimination on the basis of petitions/complaints received or internally generated complaints; it can establish if a discrimination act has occurred and sanction it accordingly;

(d) *Monitoring cases of discrimination* - following the establishment of a discrimination act, the Council can supervise the parties involved in the case;

(e) *Providing specialized assistance to victims of discrimination* - NCCD legal advisers can offer specialized guidance to persons handing in a petition, as well as explanations on the relevant legislation.



58. The Council is headed by a President who is supported by a Steering Board, the deliberative body.

59. The National Council for Combating Discrimination *receives and reviews petitions and complaints* regarding violations of the legal provisions concerning the principle of equality and non-discrimination from individuals and groups of persons, NGOs active in human rights protection, other legal entities and public institutions. The Steering Board of the National Council for Combating Discrimination, exercising its decision-making role, analyses the petitions and complaints received, and adopts, by decisions, the appropriate measures, following investigations carried out by the specialized staff of the NCCD (the Inspection Team).

60. Once the decision has been adopted, the Steering Board establishes the *sanction*, which can be a notice or the payment of a fine. The Steering Board also decides on the specific amount of money to be paid by a natural person or by a legal entity, for perpetrating a discriminatory act. The amount to be paid varies from 400 to 4000 lei (RON), in cases of discrimination against a person, or from 600 to 8000 lei (RON), in cases of discrimination against a group of persons or a community. It is possible to appeal against the sanctions applied by NCCD for committing a discriminatory act, under the procedure provided for by the common law.

61. Detailed information on the protection offered by NCCD against acts of discrimination, including statistical data on its decisions and sanctions, is contained in paragraphs 399-414 below.

62. In addition to performing its repressive function, the National Council for Combating Discrimination acts as a policy maker. In 2007, the Council adopted the *National Strategy for Implementing Measures on Preventing and Combating Discrimination (2007-2013)*.<sup>17</sup> The Strategy establishes guidelines in the field of preventing and combating discrimination, with the aim to develop a society which is inclusive, intercultural and based on policies facilitating interaction, equality, mutual understanding and respect.

63. The Strategy sets out 5 objectives and, for each of them, a number of priorities, as follows:

- A. Protection against acts of discrimination (victimisation, harassment, incitement), by:
- Appropriate legal framework and effective procedures
  - Reinforced institutional capacity
  - System of monitoring, collection and data analysis
  - Improved inter-institutional cooperation

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<sup>17</sup> Approved by Order of the President of the National Council for Combating Discrimination No. 286 of August 29<sup>th</sup>, 2007 and published in the Official Gazette no. 674 of October 3<sup>rd</sup>, 2007.

- B. Inclusion and equality in the economic activity and in the field of employment, by:
- Addressing the situation of groups which are vulnerable to social and economic discrimination
  - Specific policies on employment
  - Comprehensive approach based on socio-oriented statistics
- C. Promotion of equality with regard to accessing public or private services:
- Ensuring equal and non-discriminatory access to public legal and administrative services, health care, education, public spaces and other goods and facilities, as well as free choice of domicile
- D. Recognition of the importance of respect and mutual understanding in a culture of diversity by:
- Strengthening anti-discrimination initiatives at national level and implementing awareness-raising programs on cultural diversity
  - Cooperation with mass-media in promoting ethno-cultural interaction and diversity
  - Cooperation with sport institution and entities
- E. Prevention of discriminatory practices by implementing a zero-tolerance policy by:
- Raising-awareness campaign on the effects of discrimination in the social life
  - Civic education in the field of non-discrimination, through formal and informal education processes
  - Monitoring and research on discrimination in Romania

64. The implementation of the Strategy will focus on 3 groups which were identified as the most frequent victims of discrimination, one of them being composed of members of the Roma minority (especially in relation with law enforcement officials). There are several key actors involved in the process, namely the central and local specialized institutions, non-governmental organizations and any other entities with manifest interest in preventing and combating discrimination. Vulnerable groups will be involved at all stages in the development and implementation of the Strategy (coordination with the institutional actors, dissemination of information, monitoring and review of the Strategy etc.). The annual progress report on the implementation of the Strategy, submitted by the Council, will be subject to a public debate.

65. Since its establishment, the NCCD has tried to keep the public well informed about its tasks and competences so that every person can be aware of the existence of an institution that protects them against discrimination. It aimed to familiarize the public with the concept of

discrimination, by, inter alia, publicizing its jurisprudence. In 2005, the NCCD's website was launched in a new format, more accessible to the general public, with more complex and better structured information. A video spot was also created, together with other promotional materials, with the view to raise public awareness.

66. Beginning with 2003, within the framework of the annual campaigns against racism in football (see paragraphs 378-389 below), NCCD distributed promotional materials, booklets, informative folders, produced video and audio spots in order to combat racist manifestations on the stadiums. These preventive campaigns are well known by the public, also due to the consistent involvement of other partners (Romanian Football Association, Professional Football League, Press Monitoring Agency, European Roma Grassroots Organization etc), as well as to the publicity received by the NCCD's sanctions in this field.

67. In 2007, the NCCD implemented the project "Information and Training Caravan in the field of non-discrimination", with financial support from United Nations Development Programme in Romania. Its main objective was to disseminate information at national level about actions developed in its five years of activity. The NCCD prepared educational materials, booklets, informative folders etc. The second component of the project aimed at developing an information campaign on the internet, which consisted in posting advertising announcements on the sites that were previously identified as being accessed by the target public of the campaign.

68. At the same time, within the framework of this Internet campaign, the NCCD's website was further improved and a monitoring instrument was installed in order to track the number of unique on-line users, number of visits, length of visits, accessed pages, documents of interest, countries and cities from where the website of NCCD is accessed, etc.

69. Also, in 2007, the NCCD launched the magazine entitled "PROdiversitate" with the purpose to publicize the institution's activity. The magazine has a section dedicated to studies, materials and articles that present the anti-discrimination efforts from different perspectives.

70. The fifteenth periodic report of Romania contains a detailed presentation of the institution of **the Ombudsman (The Advocate of the People)**. Its main functions are defined in the Romanian Constitution (articles 58-60, article 146 a. and d.). The Law 35/1997 on the organization and functioning of the Ombudsman was further modified by Law No. 233/2004, the consolidated text being republished in the Official Gazette No. 844/September 15<sup>th</sup>, 2004.

71. Following these amendments and given its important role as a human rights guarantor, the Ombudsman is appointed in joint session of the Chamber of Deputies and the Senate, for a 5 years term, which may be renewed once. During his/her mandate, the Ombudsman cannot fulfill any other public and private function, except from activities or academic positions at the university level.

72. As mentioned in the last periodic report, the role of the Ombudsman is to protect the rights and freedoms of citizens in their relation with the public authorities (article 1). The Ombudsman is an autonomous institution, acting independently from any other public authority (article 2.1). It can not act as a substitute for any other public authority and can not be subjected to any imperative or representative mandate.

73. The Ombudsman exercises its duties *ex officio* or upon request by the persons whose rights and freedoms have been infringed by the public administration. These requests can be submitted by any physical person, irrespective of citizenship, age, gender, political affiliation or religious beliefs (article 14.2). Public authorities are required by law to give the Ombudsman the necessary support in exercising its duties.

74. The complaints submitted to the Ombudsman must be in written form and sent by post, by e-mail, by fax, in person or by delegate. The Ombudsman has a daily program of hearings (from Monday to Friday), which represents the main means of dialog with the citizens. These hearings are organised with the participation of counsellors and experts or, upon request, with the presence of the Ombudsman or his/her deputies.

75. The Ombudsman has the right to conduct its own investigations and to request from the public administration authorities any information or documents necessary for the proper conduct of the investigations. In addition, he/she can organize hearings and take declarations from the heads of the public authorities or from any civil servant who can offer necessary information in order to solve a complaint.

76. In exercising his/her duties, the Ombudsman also makes recommendations, which cannot be subjected to parliamentary or judiciary control. Through these recommendations, the Ombudsman notifies the public administration authorities on the illegality of administrative acts or actions.

77. If the Ombudsman finds that a complaint is justified and a human rights violation has been committed, he or she requests, in written, the responsible public authority to amend or revoke the administrative act in question, to ensure compensation for the damage and to recreate the situation existing before that violation. At the same time, if the Ombudsman finds that a complaint falls under the competence of the court of law, he or she can redirect it, as the case may be, to the Ministry of Justice, the Public Ministry or to the president of a court of law, who are obliged to report the measures taken.

78. Detailed information on the activity of the Ombudsman in the anti-discrimination field is contained in paragraphs 415-421 below.

79. The Ombudsman submits annual reports to the Parliament or upon request. These reports can include recommendations to modify existing legislation or proposals of measures meant to protect citizens' rights and freedoms.

80. Also, the Ombudsman may intervene, by specific means, in the control of constitutionality of laws and ordinances, carried out by the Constitutional Court. The Ombudsman may notify the Constitutional Court with objections of unconstitutionality of laws adopted by the Parliament, before their promulgation by the President of Romania; may seize the Constitutional Court directly with exceptions of unconstitutionality of laws and ordinances in force; may formulate points of view, upon request by the Constitutionality Court, on exceptions of unconstitutionality of laws and ordinances referring to citizens' human rights and freedoms.

81. The Ombudsman strived to better inform citizens about its activity. Articles about cases of human rights protection have been published in the mass-media. A presentation material about the Ombudsman's role and competences, an informative brochure on the relevant legislation for its organization and functioning and every 3-months bulletins presenting the cases solved have been published and freely distributed to central and local public administrative authorities, as well as to natural persons.

82. The Ombudsman has specialized deputies for the main areas of activity, as follows:

- Human rights, equal opportunities for men and women, religious denominations, national minorities
- Children's rights, family, youth, retired persons, disabled persons
- Army, justice, police, penitentiaries
- Property, labour, social security, taxes and duties

83. In accordance with article 29 of the relevant law, the Ombudsman has been under the obligation to establish territorial offices. The process of setting up all 14 territorial offices was initiated in 2003 and finalised in 2007. These territorial offices cover the same areas as the jurisdictional competence of the Courts of Appeal (Alba-Iulia, Bacău, Constanța, Brașov, Suceava, Cluj-Napoca, Târgu-Mureș, Craiova, Iași, Galați, Oradea, Pitești, Ploiești and Timișoara).

84. The protection and remedies offered by the Ombudsman have been and continue to remain available to victims of discrimination, as defined by the relevant UN Convention. Nevertheless, following the creation of the National Council for Combating Discrimination, the number of complaints addressed to the Ombudsman involving cases of discrimination has decreased. This trend may suggest a greater awareness among citizens about the NCCD's role as the specialized body of the central public administration having the power to supervise the implementation of the principle of equality and non-discrimination and to sanction legal and natural persons responsible for discriminatory acts.

## **II. Situation of national minorities**

85. The previous national report presented substantive information on the new social and political system created after December 1989, which placed a special emphasis on the protection of the rights of persons belonging to national minorities.

86. According to article 6 of the Romanian Constitution, the state recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity. The protection measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities have to be in conformity to the principles of equality and non-discrimination in relation to the other Romanian citizens.

87. Thus, in accordance with the international standards in this field and the national legislation, the Romanian authorities have sustained a dynamic policy of participation and integration of all national minorities in the social, political and cultural life of the country. The relevant legal and institutional framework continued to be improved with a view to ensure the preservation and full manifestation of the ethnic, linguistic, cultural and religious identity of persons belonging to national minorities.

88. As mentioned above (para. 6), there are *20 national minorities in Romania*, represented in the Parliament by 19 organisations (the Czech and Slovak minorities have created a shared organisation) such as: Albanians; Armenians; Bulgarians; Croats; Czechs, Greeks; Germans; Hungarians; Jews; Italians; Russian-Lipovans; Macedonians; Polish; Roma; Serbs; Slovaks; Tatars; Turks; Ukrainians; Ruthenians. Annex I to this report contains statistical data on the situation of national minorities in Romania.

89. The Government declared, by Decision No. 881/1998, the 18th of December as “Romanian Minority Day”. Annually, there are numerous events organised on this date throughout the country, mainly aiming at promoting the culture and traditions of minorities, as well as the interethnic and intercultural dialogue.

90. Whilst strengthening the legal and institutional system for the protection of national minorities, the Romanian authorities have also applied concrete measures in the social, cultural, administrative, educational, judicial and mass media fields. These measures, taking the shape of affirmative action, were aimed at reducing any disadvantages and vulnerabilities by guaranteeing equality in the enjoyment of fundamental rights of all persons and groups belonging to the 20 national minorities in Romania. The Romanian protection system has been recognized at the international level as a positive model in this regard.

## **II. A. Political and administrative fields**

91. The law No. 373/2004 regarding the election of the Chamber of Deputies and of the Senate sets a rather unique system of legal representation for national minorities in the Romanian Parliament meant to ensure their participation in the political life of the state.

92. For the purposes of this law, the organizations of citizens belonging to national minorities follow the same legal regime as that applicable to political parties. Under the incidence of this law, national minorities are considered those ethnic groups represented in the Council of National Minorities.

93. The organizations of citizens belonging to national minorities that did not obtain, through elections, at least one mandate in either of the two Chambers, have the right to a mandate in the Chamber of Deputies, if they accumulated at least 10% of the average number of votes validly expressed at country level for the election of a representative in the Chamber of Deputies (art 4.2).

94. Based on article 8(4) of Law No. 14/2003 on political parties, members of the organizations of citizens belonging to national minorities which can present candidates in elections can also be part of a political party, having the right to put forward their candidature in accordance with the conditions set out by the law.

95. Currently, there are 32 *elected members* of the *Parliament* (10 senators and 22 deputies) representing the Hungarian minority and another 18 *designated members*, representing each his/her respective minority. Following the 2004 elections, at the *local level*, there were 123 *county counsellors*, 2842 *local counsellors* and 200 *mayors*, elected from the lists of candidates of the organizations representing national minorities. Annex II to this report contains statistical data on the political representation of national minorities.

96. The Law No. 215/2001<sup>18</sup> on *local public administration*, modified and supplemented by Law No. 286/2006, regulates *the use of minority languages in the local public administration*. Article 17 stipulates that, in the territorial-administrative units where citizens belonging to national minorities represent more than 20% of the total population, the local public authorities, public institutions under their coordination and decentralized public services will also ensure, in their relations with these citizens, the use of their mother tongue. Article 51 states that, in the territorial-administrative units where citizens belonging to national minorities represent more than 20% of the total population, decisions of normative nature are also publicized in the mother tongue of those minorities, whereas the individual decisions are communicated, upon request, in the mother tongue of minorities.

97. Bi- or multilingual inscriptions are posted in the territorial-administrative units where citizens belonging to national minorities exceed 20% of the total population. The agenda of the Local Councils sessions has to be published in the languages of minorities. Also, the minorities' languages will be used in those sessions of the Local Councils where at least 1/3 of the counsellors are persons belonging to the respective national minorities, and translation in Romanian must be provided through the Mayor's care.

98. Persons fluent in the national minorities' language or languages are employed as staff with responsibilities in the public relations departments of the Local Councils in the territorial-administrative units where citizens belonging to national minorities exceed 20% of the total population.

99. Law No. 304/2004 on the *organizing of the judiciary*, republished, stipulates that *all persons are equal before the law*, without any privileges and discrimination and that justice is carried out equally for all, with no distinction based on race, nationality, ethnic origin, language, religion, gender or sexual orientation, opinion, political affiliation, wealth, social origin or status or any other discriminating criteria. *Persons belonging to national minorities have the right to express themselves in their mother tongue before the courts of law*. In case all parties request or agree to express themselves in their mother tongue, the court has to ensure the exercise of that right, as well as the proper administration of justice with the respect of the principles of contradictory, oral and public proceedings. Also, in case one or several parties request to express themselves in their mother tongue, the court has to ensure, free of charge, the use of an interpreter or an authorized translator.

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<sup>18</sup> The norms of implementation of provisions of Law No. 215/2001 regarding the right of citizens belonging to national minorities to use their mother tongue in the local public administration were approved by Governmental Decision No. 1206/2001.

## II. B. Cultural, social and educational fields

100. Every organisation representing persons belonging to national minorities publishes at least one *magazine or newspaper with support from the state budget*. These magazines and newspapers promote ideas and attitudes fighting discrimination, racism, xenophobia and intolerance. There are three daily national newspapers printed in languages belonging to national minorities (2 in Hungarian, 1 in German), 7 daily local newspapers (in Hungarian), 7 weekly newspapers (4 in Hungarian, 3 in German), 9 cultural magazines (7 in Hungarian, 2 in German) and more than 20 publications in languages of other national minorities. Often, organizations of persons belonging to national minorities have their own publishing houses (24 Hungarian, 3 German, 1 Slovak, 1 Ukrainian, 1 Roma, 1 Jewish, 1 Armenian).

101. According to the Audio-Visual Law No. 504/2002,<sup>19</sup> national and local *TV and radio stations* should broadcast programmes in minority languages, presenting details about the culture, traditions, religion and public life of national minorities and ethnic communities. There are 21 *TV stations and 55 radio stations* broadcasting in languages of the national minorities, most of them in Hungarian. The national and local public TV and radio stations broadcast daily a number of minutes in Hungarian (e.g.: 160 minutes), German and other languages of national minorities.

102. Annex III to this report contains statistical data on the participation of national minorities in the cultural life and mass-media.

103. The Law on education No. 84/1995 has undertaken certain changes until 2007. Nevertheless, it retains a special chapter on the *education of persons belonging to national minorities*. Article 118 stipulates that persons belonging to national minorities have the right to study in their mother tongue at all levels and forms of education, as well as the right to types of education for which there is a sufficient request, in accordance with the law.

104. The languages studied in Romania by students belonging to national minorities are: German, Hungarian, Serbian, Slovak, Czech, Ukrainian in educational units with *full instruction* in the mother tongue; Turkish and Croatian in educational units with *partial instruction* in the mother tongue; Armenian, Bulgarian, Greek, Italian, Polish, Romani, Russian in educational units with instruction in Romanian but which ensure *the study of the mother tongue*.

105. In Romania, the education system for national minorities is in line with the education system for the rest of the population, and includes nursery, primary, secondary (junior and senior secondary) schools, vocational and apprentice schools, postsecondary and master craftsman training. Almost 12% of these units (approx. 23000) are schools with instruction in the languages of national minorities or with sections in the languages of national minorities. Out of the total number of units and sections with instruction in the languages of national minorities, approximately 88% operate in Hungarian. More than 5% of the total numbers of pupils attend schools with instruction in their mother tongue. Education in the languages of national minorities is organized in separate or mixed education units (Romanian-Hungarian, Romanian-German,

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<sup>19</sup> Modified and supplemented by Law No. 402/2003.



Romanian-Serbian). In mixed units, one of the deputy principal of the school is a member of the respective national minority. Besides the education process, a series of extracurricular activities are organized either in Romanian, or in Romanian and the mother tongue of the national minorities.

106. In public or private high schools and universities, there are study lines in the languages of national minorities. For ethnic Hungarian and German students, courses are delivered in their respective languages upon request. Training of mother tongue teachers for Bulgarian, Czech, Croatian, Greek, Polish and Russian-Lipovan, Serbian, Slovak, Ukrainian, Turkish and Romanes is provided for in universities of Bucharest, Constanța, Suceava and Timișoara. In the public education system, more than 5% of the students belong to national minorities, against almost 4% in the private education system.

107. In order to make the teaching-learning of the mother tongue more effective, alternative textbooks have been drafted, separate for pupils of each minority. New textbooks are being drafted for subjects like the history and the tradition of national minorities, separate for each minority and, in accordance with the choices of different national minorities and ethnic communities, for Music. In units and sections with instruction in the language of a minority, the mother tongue and literature are studied in grades I and II in 7-8 hours / week; in grades III and IV in 5-7 hours; in grade V in 5 hours and in grades VI-VIII in 4 hours. In units and sections where the native language is studied as a subject, the number of hours allotted is of 3-4 per week during the entire schooling period (grades I-XII). The history and the traditions of each minority apart are studied in grades VI and VII. Religion can be studied in the languages of national minorities.

108. According to the Norms regulating the display of the national flag, performance of the national anthem and the use of Romanian emblem seals (G.D No. 223/2002 modifying and supplementing G.D. No. 1157/2001), national minorities are allowed to use their own symbols at official gatherings.

## **II. C. The Department for Inter-Ethnic Relations**

109. The **Department for Inter-Ethnic Relations (DIR)** was created in 2001, replacing the former Department for the Protection of National Minorities. DIR functions as a specialized body of the central public administration, without legal personality, within the Romanian Government. It is subordinated to the Prime-Minister. DIR's coordination is ensured by a State Secretary (Hungarian), with the support of two deputies (representatives of the German and the Russian-Lipovan minorities). DIR's structure comprises three units: the Unit for Financial Assistance, Regional Relations and the Coordination of the Council of National Minorities; the Unit for Programs and Relations with Civil Society and International Bodies and the Legal Bureau.

110. The Department was the first specialised governmental institution in this area. Its main purpose was to develop a coherent policy on inter-ethnic relations based on a real decentralization and partnership with local authorities and civil society. DIR was re-organised in 2005 and continued to promote specific programmes for the purpose of enhancing understanding and dialogue between the majority and the national minorities. At present, DIR

has 6 territorial offices, with responsibilities in monitoring the implementation of the legislation regarding national minorities in the main interethnic areas of the country. These regional bureaus are situated in Cluj, Suceava, Constanța, Turnu-Severin, Timișoara and Miercurea Ciuc.

111. The current structure and attributions of the Department for Inter-Ethnic Relations are set forth in the Governmental Decision No. 111/ 2005. In essence, DIR's activities are related to the enforcement of policies in the field of inter-ethnic relations, as mentioned in the Governmental Programme for the period 2005-2008 (chapter XXV), approved by the Parliament in December 2004.

112. The main tasks of the Department for Inter-Ethnic Relations are:

- Promotion of strategies and policies aimed at preserving, promoting and expressing the ethnic identity of people belonging to national minorities
- Promotion of intercultural dialogue, of respect, confidence and understanding in the Romanian society
- Improving the institutional and legislative framework in this field
- Promotion of dialogue between the majority and the national minorities and their common values with a view to combat prejudices and xenophobia
- Promotion of inter-ethnic programs sustaining the above-mentioned ideas and objectives, including technical assistance to member organizations of the Council of National Minorities
- Cooperation with specialized international institutions and bodies and dissemination of experience accumulated by Romania in the field of inter-ethnic relations

113. DIR has a permanent relation of cooperation and partnership with the Council of National Minorities (see below).

114. The Department for Inter-Ethnic Relations joined several important European programmes and initiatives (more information is included below, under the reporting requirements for article 7). Also, DIR representatives were part of the Romanian delegation to the World Conference on Racism, Racial Discrimination, Xenophobia and Intolerance (Durban, 2001).

115. Starting with 1994, the organizations of persons belonging to national minorities have benefited from financial support from the state. The amounts earmarked increased annually and were designed to ensure appropriate headquarters, various editorial and cultural activities.

116. Since 1997, the Government allocated every year a special budgetary fund for programmes against racism, anti-Semitism, xenophobia and intolerance. Another budgetary line, opened in 1998, sustained inter-ethnic programmes, which promoted a better understanding between communities with a view to building partnership, disseminating good practices in the field of minority protection and equal opportunities policy. Several awareness projects on Roma and Jewish problems, as well as on all other minorities have been financed and supported through this mechanism run by the Department for Inter-Ethnic Relations.

117. In **2004**, DIR carried out approximately 60 interethnic programs and projects aimed at combating intolerance. In **2005**, DIR initiated or supported about 100 projects proposed by different NGOs and in **2006**, about 130 projects. In **2007**, the number of projects reached 120 (70 initiated by various NGOs and 50 initiated by DIR). The areas covered by these projects included education, culture, youth, awareness-raising, promoting intercultural dialogue, enhancing public participation, consolidating the socio-political integration of minorities. This activity continues in **2008**, with a budget of approx. 1, 1 million Euros.

118. In 2007, the Government created, by its decision No. 893, *the Institute for the Study of National Minority Issues*, as a public institution under DIR's coordination. Its aim is to carry out pluridisciplinary research programs and projects, with the purpose of broadening the awareness of public institutions and civil society on matters that are relevant to the development of the ethnic, cultural, linguistic and religious identity of minority communities.

#### **II. D. The Council of National Minorities**

119. **The Council of National Minorities (CNM)** was set up by Governmental Decision No. 137/1993. CNM was conceived as a consultative body of the Romanian Government, without legal personality, with the aim to ensure an adequate and modern framework of democratic participation of representatives of national minorities at the decision-making level, in particular with regard to the legislative, administrative and financial measures potentially affecting their interests. CNM ensures a permanent relation with the organisations of persons belonging to national minorities.

120. It is composed of three representatives of each of the 19 organizations of persons belonging to national minority represented in the Parliament, as follows:

The Association "The League of Albanians" from Romania

The Union of Armenians from Romania

The Bulgarian Union from Banat - Romania

The Union of Croats from Romania

The Hellenic Union from Romania

The Federation of Jewish Communities from Romania

The German Democratic Forum from Romania

Association of Italians in Romania

The Hungarian Democratic Alliance in Romania

"Dom Polski" Polish Union from Romania

The Roma Party - Pro Europe

The Community of Lipovan Russians from Romania

The Union of Serbs from Romania

The Democratic Union of Slovaks and Czechs from Romania

The Democratic Union of Turkish-Muslim Tartars from Romania

The Turkish Democratic Union from Romania

The Union of Ukrainians from Romania

The Association of Macedonians from Romania

The Cultural Union of Ruthenians from Romania

121. The Council can submit, through the Department for Inter-Ethnic Relations, relevant proposal of administrative and financial measures to be adopted by the Government, with the view to improve the social and cultural life of persons belonging to national minorities.

122. CNM works in plenary meetings and in specialized commissions. The latter cover the following areas: culture, religious affairs and mass-media; education and youth; legislation and public administration; financial issues; socio-economic problems; relations with civil society and other actors.

### **III. Specific situation of the Roma minority**

123. *The National Strategy for Improving the Situation of Roma* is a governmental initiative that has a comprehensive approach to the problems of the Roma minority. The development of the Strategy is the result of collaboration between the governmental structures and Roma non-governmental organizations, with assistance from international institutions, in particular the European Union. The Strategy was adopted in 2001 by Governmental Decision No. 430/2001. The text presents in detail a number of guiding principles:

- The consensus principle, defined by the Strategy as the “joint effort of the Government and of the representative organizations of the Roma community”
- The social utility principle, which requires measures that respond to the specific needs of the Roma communities
- The “sectoral distribution” principle, through which the various bodies are given responsibilities in agreement with their sectors or spheres of competence
- The decentralization principle, according to which specific responsibilities are attributed to the local public authorities

- The identity differentiation principle, which stipulates the existence of measures to ensure the right to affirm and protect Roma's distinct identity as a minority
- The equality principle, which states that the measures aimed at protecting the Roma ethnics should not disadvantage other groups

The basic elements of intervention for the improvement of the Roma situation are:

- Sectoral approach, in partnership with Roma communities, taking into account their priorities, interests and specificity in the development cycle of public policies and programs of central/county/local institutions
- Creation of specific professional education opportunities which blend the identity trade-marks with values of modernity, the traditional occupations with new opportunities for professional training, including through the revival of itinerant Roma trades and crafts, adjusted to the modern market
- Establishment of public institutions for training, identity representation and community development, as a network of information, dialogue, consultancy, expertise, assistance, monitoring, prevention and fight against discrimination of the Roma, with a view to strengthen the direct participation of the Roma in the decision-making process and to empower the community to improve the living conditions of its members

124. The Strategy lays down 10 priorities: community development and public administration; housing; social security; healthcare; justice and public order; child protection; education; culture and religious affairs; communication and civic participation.

125. In 2006, the Government designed a *General Master Plan of Measures*, approved by Decision 522/19.04.2006, to speed-up the implementation of the Strategy over the next two years. The Plan is structured in accordance with the priorities set out by the Strategy. At *organisational* level, the Plan calls for an increased interaction between central and local authorities and representatives of the Roma community, including through the establishment of new structures of cooperation and requires the development of biannual local and county action plans, as well as the systematic evaluation of the progresses achieved. In the field of *public administration and community development*, the Plan focuses on training programmes for the staff of the National Agency for Roma, members of the inter-ministerial committees for Roma, local experts on Roma, civil servants, representatives of NGOs and local Roma initiative groups aimed at building their capacity to develop, implement, monitor and evaluate projects for improving the condition of Roma, use conflict prevention techniques and methods, and take action against discrimination. The Plan includes programs aimed at providing decent *housing* conditions in urban and rural areas, including Roma areas (electrical power, drinking water, sewerage, gas, paving communal roads, garbage collection), with the direct participation of the beneficiaries, both as voluntary workers and employees. In the *health* sector, the access will be improved by including in the public medical care system all members of the Roma community, especially women and children. The number of health mediators will be increased and doctors will receive training on preventing and fighting discrimination against Roma. With regard to

*justice and public order*, the Minister of Interior and Administrative Reform will take affirmative action in the process of recruiting commissioned and non-commissioned police officers from among Roma ethnics, will develop and strengthen partnership between police and Roma and will organise monthly meetings of the Chiefs of local police with representatives of Roma communities. A *social inclusion* programme is to be developed and implemented, with a focus on jobs for Roma women. In order to prevent segregation in the process of *education*, Roma will be encouraged to participate in kindergartens, schools and universities by affirmative actions. Local authorities and NGOs will organise annual public information and awareness campaigns on children's rights and issues of the families placed at risk or in difficulty, aimed at preventing child abandon, abuse and neglect. The Ministry of Education will work together with the Ministry of Interior and Administrative Reform and the Romanian Intelligence Service to provide designated places for Roma candidates in lower and upper military education. The Ministry of Culture and Religious Affairs will finance printing and distribution of documentation and publications about the Roma minority and, in partnership with NGOs, will initiate a plan of cultural events inspired from Roma folklore, traditions and culture, including by setting up a Museum of Roma Culture and Civilization.

126. A complex network of institutions was created with a view to implementing the Strategy. It includes the National Agency for Roma (NAR), the Working Group on Public Policies for Roma (WGRPP), the Ministerial Commissions for Roma (MCR), Roma County Offices (RCO) and Local Roma Experts (LRE).

127. **The National Agency for Roma** was created by Governmental Emergency Ordinance No. 78/2004, subsequently approved by Law No. 7/2005, as a specialized body of the Romanian Government, with legal personality, in charge with elaborating, coordinating, monitoring and evaluating public policies for Roma minority in Romania. NAR has a headquarters and 8 regional offices, established as public decentralized services, working under the supervision of the Government's representative at the county level ("prefect"). The Agency is headed by a President, ranked as state secretary, appointed by the Prime Minister, and the personnel is composed of 47 experts, approximately half of them working in the regional offices.

128. The main tasks of the National Agency for Roma are:

- (a) To elaborate governmental policies and strategies in the field of Roma minority protection;
- (b) To coordinate, monitor and evaluate measures undertaken in the social intervention sector mentioned in the relevant National Strategy;
- (c) To initiate, participate and promote, together with specialized NGOs and/or public institutions, different measures and programmes aimed at improving the situation of the members of the Roma minority;
- (d) To promote the inclusion of the Roma community leaders in the decision-making processes that affect the Roma communities;

- (e) To issue advisory opinions regarding the draft laws and bylaws affecting the rights and the obligations of the members of the Roma minority;
- (f) To monitor the implementation of the national and international norms and standards in the field of the protection of minorities;
- (g) To request data and information provided by the public authorities, to the extent that is necessary to fulfil its own tasks; to process complains filed by institutions, organizations and persons and issue advisory opinions accordingly;
- (h) To promote and organize programs aimed at preserving, expressing and developing the ethnical, cultural, linguistic, religious identity of the persons belonging to the Roma minority;
- (i) To support scientific research in the field of interethnic relations; to elaborate and submit to the Government, for approval, national and international strategies and programs in the field of the inclusion of the Roma;
- (j) To finance programs and projects in the field of the inclusion of the Roma;
- (k) To initiate, negotiate and conclude documents related to the international cooperation instruments in the field of the inclusion of the Roma;
- (l) To create a data base regarding the Roma minority;
- (m) To analyse and evaluate possible discriminatory effects of the current regulations and to make proposals to improve the existing legal framework;
- (n) To promote, in cooperation with the Roma organizations, local programs for the issuance of identity documents.

129. In order to fulfil its objectives, NAR performs the following functions:

- (a) *Policy making* (social policies, strategies and programmes aimed at improving the situation of the members of the Roma community);
- (b) *Budgetary* - it manages state budget allocations destined to finance the implementation of programmes regarding the members of the Roma community;
- (c) *Representation* - it represents the Romanian Government at national and international events related to its field of activity;
- (d) *Control* - it monitors the implementation of the relevant regulations and programs related to Roma.

130. Currently, the main activity undertaken by the Agency, in accordance with the revised Governmental Decision on its organisation and functioning (G.O. No. 1124/2005), is to implement, coordinate and evaluate the impact of actions provided for in the National Strategy for Improving the Situation of Roma.

131. NAR launched, in 2005, a process of internal restructuring, aimed at consolidating its key-role at central and local level in dealing with the problems of the Roma community. Building on the concepts of transparency, openness and partnership, the Agency established a flexible framework of dialogue with national and international NGOs and/or initiatives. NAR is focusing on the following areas:

- (i) *Reinforcing the decision-making system and institutional capacity of the Agency;* NAR adjusted the human resources policy, by trying to attract young Roma specialists, alumni of universities (both within its central and local structures) and involving them in the process of elaborating, monitoring and implementing public policies for Roma. NAR also offered annual practice opportunities for young Roma students, under the supervision of Roma specialists;
- (ii) *Bringing national programmes and initiatives in line with other international programmes or initiatives regarding the Roma people living in the Eastern and Central European countries* (Joint Inclusion Memorandum, The Decade for Roma Inclusion 2005-2015 etc);
- (iii) *Concluding strategic partnership with relevant ministries, specialised institutions, national and international NGOs* with responsibilities in implementing public policies or programmes targeting the Roma community in Romania;
- (iv) *Updating the Master Plan of Measures* in order to better support the implementation of the National Strategy for the Improvement of Roma Situation.

132. **The Working Group on Public Policies for Roma** is a structure established in accordance with the Governmental Decision No. 750/2005, which is designed to improve the organization and coordination in the implementation of the General Plan of Measures for the Strategy. The Group was created *within the Inter-ministerial Council for education, culture, research, youth, sport and minorities*. It coordinates and monitors the implementation of Roma public policies, including the activities foreseen in the General Master Plan of Measures for applying the National Strategy for Improving the Situation of Roma. This body is composed of the state secretaries from the responsible ministries who implement the Strategy. It gathers 3 times per year, or whenever necessary, in order to analyze the accomplishment stage of the activities foreseen in the General Master Plan of Measures. NAR is the member of the Group in charge of presenting the points of view of the Roma NGO's representatives, gathered in a NAR's (consultative) subcommittee.

133. **The Ministerial Commission for Roma** is a type of structure established in accordance with the Governmental Decision No. 750/2005. Such commissions are established *within the ministries* involved in the implementation of the National Strategy for Improving the Situation of Roma and are subordinated to the Working Group on public policies for Roma. Ministerial commissions for Roma have monthly meetings, or whenever needed, in order to analyze the accomplishment stage of the activities foreseen in the General Master Plan of Measures from their own activity sector. The president of the Ministerial commission for Roma is the State Secretary of the respective ministry who is also member of the Working Group on public



policies for Roma. The Ministerial commission for Roma has 4-5 members (chiefs of directorates and experts), whose responsibility is to complete their tasks set out in the General Plan of Measures. One of the members of the Ministerial Commission for Roma must be a NAR's delegate.

134. **Roma County Offices** are structures organized in accordance with the Governmental Decision No. 750/2005, *at county level*, within the institution of "prefect" (county governmental representative) and are subordinated to the Ministry of Interior and Administrative Reform. In order to achieve a unitary implementation of the National Strategy for Improving the Situation of Roma, the activity of the Roma County Offices is coordinated, from the technical point of view, by the National Agency for Roma. The main responsibilities of the Roma County Offices are the organization, planning and coordination of activities that translate into practice the goals and tasks of the General Plan of Measures, at county level. The Roma County Office has 3-4 experts employed, from which one must be a member of the Roma community. The activity of the Roma County Offices, the experts' performances and the accomplishment phase of the General Master Plan of Measures are subject to evaluation by the Ministry of Interior and Administrative Reform and by the National Agency for Roma. Roma County Offices create, at county level, *the Joint Working Groups for Roma*, formed by under-prefects, representatives of the Roma County Offices, representatives of the Regional Offices of the National Agency for Roma, representatives of the decentralized public services of the ministries and other central public administration subordinated to the Government, which have their headquarters in those counties, school mediators and health mediators, inspectors for Roma and Roma teachers, representatives of the NGOs and delegated representatives of Roma communities. The Joint Working Groups have monthly meetings, or whenever necessary, to analyze, plan, organize and implement the sectoral activities in order to accomplish the goals and tasks of the General Master Plan of Measures at county level.

135. **Local Roma Experts** are the main mediators between Roma communities and the local public administration, as established by Governmental Decision No. 750/2005. They are responsible with organizing, planning, coordinating and running different activities in order to accomplish the aims and tasks of the General Master Plan of Measures. The Local Roma Experts must have good knowledge of problems of the local Roma community and represent this community in relation with the Municipality. They are employed by the Municipalities and are subordinated to the Mayor but also to the Roma County Offices.

136. In April 2001, the Government of Romania set up a Commission for Anti-Poverty and Promotion of Social Inclusion, which developed a National Anti-Poverty and Social Inclusion Plan (NAPinc), approved by Decision No. 829/2002. This document is a "program of social construction for the European society" and it is based on a series of principles, such as: social solidarity, accountability, social economy, social support as an instrument of social inclusion, partnership/participation etc. At Chapter 14, NAPinc deals specifically with the reduction of poverty and social exclusion of Roma. The program is intended to strengthen the participation of Roma communities in the economic, social, educational and political life of the Romanian society, and improve their access to healthcare services.

137. Romania participates in the Initiative entitled "The Decade of Roma Inclusion" (TDRI), adopted in 2004, for the period 2005-2015, by eight Central and Eastern European countries with the support of the international community. It represents the first collaborative effort of

this scope dedicated to the improvement of the Roma situation. The Decade is supported internationally by institutions such as the World Bank, the European Commission, the United Nations Development Program, the Organization for Security and Cooperation in Europe, the Council of Europe and the European Council's Development Bank. The representatives of Roma and their non-governmental organizations must participate in all implementation phases of the program. The domains that were chosen for the Decade are: education, health care, employment and housing. Also, there are cross-cut themes such as poverty, discrimination and gender issues.

138. In the field of *education*, the following actions were defined as TDRI's priorities:

- Ensuring access of the Roma to compulsory education
- Improving the quality of education
- Implementation of the integration and desegregation programs
- Extended access to pre-school education
- Improved access to post-secondary education and adult education

139. In the field of *employment*, the priority actions are:

- Improved opportunities through education and vocational training
- Extended participation in the labour market through active measures
- Reform of employment services

140. In *healthcare*, the priority actions are:

- Ensuring access to healthcare services
- Improvement of the database containing information on the Roma people's state of health
- Increased inclusion of the Roma in the healthcare services
- Improvement of the state of health in vulnerable communities

141. *Housing* has the following priorities:

- Addressing discrimination in access to housing
- Improving the living conditions in the Roma communities
- Extended access to housing

142. Between July 1<sup>st</sup>, 2005 and June 30<sup>th</sup>, 2006, Romania, represented by the National Agency for Roma, held the Presidency of this Initiative.

143. Roma Education Fund (RFE) is a structure that contributes to the elimination of the existing gap between the education of Roma and non-Roma people and to ensuring equal access to quality education, including desegregation in the educational system. RFE operates from 2005, with funding of approximately 30 million USD, in the following directions: support ideas, projects and programs that lead to the improvement of Roma's access in schools, in the context of the Roma Inclusion Decade. It operates as a grant-making agency, by making funds available and seeking funds; supports the activities that respect and include the will of the Roma people; serves as a forum of advocacy and centralizes the relevant information in this field.

#### **IV. Situation of foreigners**

144. The regime of foreigners in Romania is founded on the principle of non-discrimination in relation to Romanian citizens, in accordance with the relevant internal legislation.

145. Law No. 122/2006 regarding the asylum in Romania establishes the legal framework for foreigners applying for a form of protection or benefiting of a form of protection in Romania. According to article 5 of this Law, its provisions apply without discrimination based on race, nationality, ethnic origin, language, religion, social category, beliefs, gender, sexual orientation, age, disability, chronic non-infectious disease, HIV infection, appurtenance to a disadvantaged category, financial status, status at birth or acquired, or any other criteria.

146. Foreigners benefiting of a form of protection can enjoy their rights in the same conditions as the Romanian citizens. The law regulates *the statute of the refugee*, *the regime of subsidiary protection* (protection for foreigners and stateless persons who do not fall under the incidence of the 1951 Geneva Convention regarding the statute of the refugees) and *temporary protection* (exceptional procedure in the case of a massive flux of displaced persons from third countries). Hence, persons receiving a form of protection defined by law have the right to residence, the right to own travel and ID documents, freedom of movement, the right to work, the right to social security, the right to receive social aid and health insurance, the right to acquire movable and immovable properties (the best legal regime applicable to foreign citizens), the right to intellectual property protection, the right to personal data protection, the right to all levels of education accessible to Romanian citizens, the right to freely practice their religion and the right to religious education for their children, free access to justice and administrative assistance, the right to transfer goods brought in Romania to other countries, freedom of peaceful association and assembly in non-political associations and professional unions.

147. The regime of *temporary protection* includes the right to temporary residence, right to be informed, in written, in a language he/she understands regarding this legal procedure, right to work, right to receive assistance for maintenance, right to free basic and emergency medical services, free medical assistance and treatment for acute and chronic life-threatening diseases, adequate medical assistance for persons with special needs, access to education in the same conditions as the Romanian citizens.

148. The Governmental Decision No. 194/2002 regarding the status of foreigners in Romania stipulates, in article 78 (2), that is mandatory for public institutions to ensure the protection of foreigners against all forms of discrimination during all activities conducted by those institutions. Also, article 95 (5) contains a specific provision with reference to combating discrimination of foreigners living in accommodation centres.

149. At the same time, the Governmental Ordinance No. 44/2004 regarding the social integration of foreigners who obtained a form of protection in Romania<sup>20</sup> stipulates that foreigners who obtained a form of protection in Romania benefit from *programmes of social integration*. These programmes are worked out and implemented based on the needs of the beneficiaries, without discrimination and in observance of their cultural specificity.

150. Such programmes comprise a set of measures and activities whose aim is to facilitate the integration of foreigners and their active participation to the social, economic and cultural life of the Romanian society, with a view to preventing and combating their social marginalization. They last 6 months with the possibility of an extension for another 6 months. Participation is ensured upon request by the Romanian Office for Immigration. The programmes are run with the cooperation of relevant national public institutions, local communities and NGOs, under the coordination of the Romanian Office for Immigration (ROI) within the Ministry of Interior and Administrative Reform.

151. Foreigners enlisted in these programmes can follow free language classes (organized by the Ministry of Education in cooperation with ROI), social and psychological counseling and courses for cultural accommodation, in accordance with an individual integration plan accustomed to the needs of each adult participant. The latter are held in order to familiarize foreigners with the traditions and values of the Romanian society and are organised by ROI's specialized personnel.

152. Moreover, the foreigners who obtained a form of protection in Romania have access, in the same conditions as the Romanian citizens, to a place of work and working conditions, housing, health care, public pension, social assistance and social insurance systems and to all levels of education.

153. This Ordinance also provides for various social measures meant to assist foreigners in their integration process, such as the possibility of housing in special centres managed by ROI (for those who lack financial resources), access to a social house or to subsidies for rent, facilities in finding a place to work (with the support of the National Agency for Employment) etc.

154. Governmental Ordinance No. 41/2006, modifying and supplementing G.O. No. 44/2004, stipulates that the programmes of social integration also apply to foreigners who have a right to residence in Romania, as well as for citizens of the European Union. Their integration process comprises special courses of cultural accommodation, counselling and teaching of Romanian.

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<sup>20</sup> Approved by Law No. 125/2004.

155. Based on a study undertaken by ROI for the period July 2006-July 2007, a number of 167 foreigners received a form of protection and 47 of them were included in integration programmes (28% chose to benefit of these programmes). To these 47, one can add 40 foreigners who received a form of protection in previous years and continued their integration programmes as special cases (persons with disabilities, seniors, unaccompanied minors, one parent families, victims of torture).

156. Other relevant data from the above-mentioned ROI's study are listed below:

- 64% of the adult foreigners had a job
- 91,8% had a rented house or a private property house
- 25,3% finalized their studies in Romania
- 46,3% had medical insurance
- 35,5% benefited from social services

#### **V. Gender-related dimension of racial discrimination**

157. The Law No. 202/2002 on equal opportunities between women and men (republished in the Official Gazette No. 150/ March 1<sup>st</sup>, 2007, following its subsequent modifications), establishes the legal framework in the field of equal opportunities between women and men. The law is centred on the concept of *multiple* discriminations, covering all grounds of discrimination, including gender and race.

158. This law was modified and supplemented by Governmental Ordinance No. 86/2004 which also created the *National Agency for Equal Opportunities between Women and Men (NAEO)* as the specialized public institution, subordinated to the Ministry of Labour, Family and Youth. NAEO is responsible for monitoring the implementation of the principle of equal opportunities and for developing specific policies.

159. The Law punishes multiple discriminations. In accordance with article 4 (h) of this law, multiple discrimination means “any discriminatory act based on two or more discrimination criteria”.

160. The provisions of Law No. 202/2002 - Chapter VII - regarding contraventions are to be read in conjunction with the relevant provisions of Governmental Ordinance No. 2/2001 regarding the legal regime of contraventions. Thus, the G.O. No. 2/2001 mentions, in article 10 (2), the following: when more than one contravention is reported at the same time (as in the case of multiple discrimination), sanctions for these contraventions are to be added up but they cannot exceed double of the maximum amount of the fine for the most serious of them or the highest time for community service to be applied under the provisions of this Ordinance.

161. The public institution which sanctions multiple discriminations, including discrimination based on gender or race, is the National Council for Combating Discrimination.

162. NAEO drafted *the National Strategy for Equal Opportunities between Women and Men 2006-2009*, which contain actions to improve the situation of vulnerable categories such as Roma women, elderly women, women as sole providers for the family, women with handicap, etc. The existing data indicate that such categories are the most exposed to marginalisation and social exclusion, including multiple discriminations.

163. In order to integrate women in risk of marginalisation and social exclusion, the Strategy focuses, among others, on:

- Promoting the principle of transparency at all levels of the employment process and career promotion
- Identifying working opportunities and providing information for women exposed to marginalisation and social exclusion

164. The Agency is kept regularly informed about the specific problems of women that suffer from multiple discriminations. In order to ensure full integration of these problems in all its programs and policies, the Agency maintains a constant dialogue with specialized nongovernmental organizations.

165. According to the 2007 Euro Barometer regarding discrimination published by the European Commission, ethnic origin is the most widely spread form of discrimination in Romania. According to the same source, being a man in Romania is an advantage. Women of other ethnicity than Romanian, especially Roma women, are one of the categories most exposed to multiple discriminations.

166. With regard to the specific situation of the Roma women,<sup>21</sup> the main challenges encountered by this group are the following:

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<sup>21</sup> A study carried out by the Open Society Institute within the Program for Roma Participation “Broadening the Agenda, the status of Romani women in Romania” shows that 43% of Roma women believe that they have no equal rights with men and the reason would be the inequalities resulting from the difference of social status and heritage. The study also discloses that 67,9% of Roma women are housewives and only 11% are legally employed. Another study carried out by UNDP “Faces of Poverty, Faces of hope” launched in 2005 shows the gender gaps on the labour market as follows: 20% unemployed Roma men compared to 35% unemployed Roma women. The differences between Roma men and Roma women are accentuated from the perspective of the type of activity carried out on the labour market; these gaps are probably influenced by the formal and informal education. In this respect, 23% of the Roma women (above 16 years of age) did not benefit from formal education and 35% of elder Roma women were in the same situation. Only 3,7% attend high school education. Hereto, 14% of Roma men above 16 years of age benefited from formal education, and 16% from the elder Roma men benefited from formal education.

- Existence of a patriarchal system and community norms that prevent Roma women from developing a professional career
- Multiple discrimination, especially when it comes to access to services and services supply
- Insufficient promotion of diversity and multiple identities of women in the Romanian society

167. In light of the increased vulnerability of the Roma women, the Romanian authorities adopted special measures to address their situation, taking into account both ethnically-motivated prejudices at the level of society and behavioural and cultural patterns within the Roma communities.

168. The National Agency for Roma has launched in 2006 the national campaign “With Us, Among Us, About Us, Women”, which intends to keep Roma women better informed in order to improve their access to health services. The campaign has two major components:

- The course “School for Mothers - Health Education”: young mothers and pregnant women are informed about care standards for children between 0-3 years, the costs and benefits of inscribing on the lists of family physicians and the consequences of refusing the services and assistance provided by the health system. The civic participation of women is also encouraged, including by taking a stance in cases of discrimination in providing medical assistance. The Roma Health Mediators (see below) are entrusted with the responsibility to encourage women’s participation to these courses with are held in the city halls, private medical offices or public health centres.
- “The Medical Caravan” focussed on preventive health measures (e.g. explaining the risks of untreated infectious diseases).

169. In the education area, given the poor school attendance rate of Roma girls, measures have been taken to raise the awareness of the parents, to stimulate Roma young girls to attend compulsory school and to prevent school abandonment.

170. In the health area, both the National Strategy for Improving the Situation of Roma and the National Health Programmes include measures regarding reproductive health and the establishment of education and information centres for family health. The main beneficiaries of these centres are Roma women.

171. The Ministry of Public Health established a system of community medical nurses and Roma health mediators, as an interface between providers of medical and social services and the community, in order to improve the health status of the population, especially for persons with low socio-economic status, without medical insurance and those living in rural areas uncovered by family physicians.

172. A *community medical nurse* has the following main attributions:

- Medical activity within the community (limited curative activity for vulnerable persons and in cases of diseases with social determinants and public health impact)
- Prevention activity
- Health status surveillance, especially in the areas not covered by physicians or in the areas with difficult access because of geographic conditions or hard working conditions

173. The *Roma health mediator (RHM)* has the following main attributions:

- Improving communication between the Roma community and the state authorities
- Facilitating the medical assistance for the Roma community
- Increasing the medical knowledge within the Roma community

Due to the implementation of the Roma health mediators system, the number of jobs for Roma women in their community has increased.

174. The number of Roma Health Mediators has increased as follows: from 67 in 2002 to 308 in 2006, while the number of Community Nurses has increased from 160 in 2002 to 805 in 2006.

175. While an important number of Eastern European countries plan to initiate or to expand RHM programmes, Romania was the first country in which a programme of this nature was launched and, overall, it has proved to be quite a successful model of intervention in the Roma communities. The budget allocated to this programme reflects this growth - from 20,000 Euros in 2002 to 1,000,000 Euros in 2006.

176. The Program of Community Nurses runs parallel to the RHM Programme. They both have an important role for the underprivileged communities and they have proved successful in practice. Yet, they have distinct roles. While the RHM mediates between a Roma community and the health care system, the Community Nurse provides health care, including health promotion and health prevention in the disadvantaged and underserved communities. However, the local administrative and health authorities are, sometimes, not fully aware of their competencies and potential. Therefore, the management of the two programmes would benefit from improved communication and coordination at national and local level (see also paragraphs 327-354 below).

## **VI. Other measures**

177. The framework for the restoration of community assets taken over by the state in an abusive way, including on a discriminatory basis, during the communist regime has been gradually developed since 1990. The targeted communities were mainly those of national and ethnic minorities, as well as the religious denominations.



178. The following legal documents have been adopted following the completion of the last periodic report:

(a) Governmental Emergency Ordinance No. 242/2000<sup>22</sup> modifying Governmental Ordinance No. 105/1999 regarding the rights granted to persons persecuted by the regimes instated in Romania from September 6<sup>th</sup>, 1940 to March 6<sup>th</sup>, 1945, for ethnic or racial reasons. This legal provision modifies the monthly subsidy (calculated in relation to the years of detention, deportation or dislocation in other localities) for certain categories of persons falling under the incidence of the initial law;

(b) Governmental Emergency Ordinance No. 36/2002<sup>23</sup> regarding the property rights of the Federation of the Jewish Communities from Romania over the religious centres, cemeteries and other goods destined for the activities of the Mosaic Cult. This Ordinance regulates the legal regime of the right to property of the Federation of the Jewish Communities from Romania over religious centres, confessional cemeteries, ritual bathhouses, ritual slaughterhouses and other religious objects that are part of its patrimony;

(c) Law No. 66/2004 modifying Governmental Emergency Ordinance No. 83/1999<sup>24</sup> regarding the return of real estates that used to belong to citizens of Romanian national minority communities. The real proprieties belonging to communities of national minorities in Romania, taken over in an abusive way, with or without a legal title, by the state, cooperative organisations or other legal persons, in the period between March 6, 1945 and December 22, 1989, are to be returned to the initial owners under the provisions of the law. The Ordinance defines “community of national minority” as a private legal entity, established in accordance with the law, which represents the interests of citizens belonging to a national minority community that owned immovable properties taken over in an abusive way and proves itself as a successor of the initial owner;

(d) Governmental Ordinance No. 94/2004<sup>25</sup> regarding the return of real estates that used to belong to religious denominations. The real proprieties belonging to religious denominations in Romania, taken over in an abusive way, with or without a legal title, by the state, cooperative organisations or other legal persons, in the period between March 6, 1945 and December 22, 1989, are to be returned to the initial owners under the provisions of the law. According to October 2007 national statistics, the situation of returned buildings looks as follows: Romanian Orthodox Church 518, the Roman-Catholic Church 405, the Greek-Catholic

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<sup>22</sup> Approved by Law No. 367/2000.

<sup>23</sup> Approved with modifications by Law No. 598/2002.

<sup>24</sup> Republished in the Official Gazette No. 797/1 September 2005.

<sup>25</sup> Approved with modifications by Law No. 501/2002.

Church 652, the Calvinist Church 456, the Jewish Cult 394, the Unitarian Church 39, the Evangelical Church B.A. 298 and the Evangelical Church 16, other cults 34 files. Agricultural land and forests have also been confiscated from various religious communities in Romania and are subject to the restoration process under other specific regulations.

### ARTICLE 3

#### Racial segregation

179. Segregation is prohibited both by Romanian domestic law and applicable international law. Notwithstanding the ongoing efforts of the Romanian authorities in the area of combating all forms of discrimination, some cases of segregation practices in schools have been reported in connection with the Roma pupils. De facto segregation in Romania is not a consequence of a law or a public policy but a continuation of certain prejudices. However, the Romania authorities deemed necessary to address the phenomenon, in accordance with the general recommendation XIX relating to article 3 of the Convention.

180. The high proportion of Roma children living in Roma-majority or exclusive settlements, often situated in the outskirts of the majority communities and infrastructure, has led to a situation where schools serving these settlements and neighbourhoods have (almost) exclusively Roma children.<sup>26</sup> “Roma schools” do not exist as such, insofar as they do not have a legal status different from other schools and were not created specifically for Roma students. In reality, schools built in and around Roma areas naturally attract Roma students. Because a substantial amount of school funding is local, some of these schools tend to be poorer than others in wealthier regions (on a county-by-county level, the percentage of schools with large Roma students varies dramatically). The fact that the schools are poorer and predominantly Roma often leads to the withdrawal of non-Roma students. Even if there are no legal barriers in registering or transferring children to other schools, in practice there are a set of mentality and economic barriers.

181. Also, there were some reports of local school-driven initiatives to place Roma children in separate classes, even though in mixed schools, or of isolated cases of channelling them into special schools for children with intellectual disabilities (some Roma children have been registered with these schools to take advantage of meals and accommodation benefits).

182. “Well-intentioned” segregation occurred in situations where schools had children from very traditional Roma families (e.g. using traditional clothing). The school managers perceived Roma parents to have concerns about their children adopting behaviour or forming relationships that would be inappropriate to family customs and traditions if they were allowed to mix with non-Roma children or “Romanianised” Roma.

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<sup>26</sup> According to the Romanian Institute for the Quality of Life, about 1/3 of the Romanian Roma population lives in homogenous Roma communities, about 1/3 lives in mixed Roma/non-Roma communities and the other 1/3 - in predominantly non-Roma communities.

183. “Unintentionally” segregated classes arose from practices such as placing all late-enrolling children in the same class (often the children of Roma occupational travellers) or keeping all-Roma class groups intact when students transferred from an all-Roma pre-school or primary school into an ethnically mixed school.

184. The Ministry of Education, Research and Youth (MoERY) prohibits the setting up of pre-school, primary and secondary classes comprising exclusively or mainly Roma students. This kind of arrangement is considered a form of segregation, irrespective of the explanation called upon. In 2004, the Ministry issued an internal regulation (notification No. 29323/20.04.2004), prohibiting segregation of Roma children in the educational system and outlining that schools and school inspectors must take action to identify and eliminate any segregation practices. The Inspectors for Roma education could formulate action plans to address such cases, while the school itself had to ensure that the percentage of Roma students is in line with the overall percentage of Roma children in the area within the last three years.

185. In 2007, MoERY adopted Order No. 1540/19.07.2007 formally banning segregation of Roma children in schools and, subsequently, approved the Methodology for preventing and eliminating school segregation of Roma children.

186. Several measures have already been taken in order to enforce Order No. 1540/19.07.2007 and the relevant methodology.

A. Dissemination and information of the school inspectorates and schools:

- Written information transmitted by MoERY to the County school inspectorates regarding the adoption of the order
- Posting the order on the ministry’s website
- Training provided for inspectors, headmasters and teachers regarding possible segregation situations, the educational benefit of desegregation, possible implementation difficulties
- Involvement of representative community stakeholders in the information process regarding segregation/desegregation and mediation actions (where needed)
- Involving the trained school mediators, who are mostly representatives of the Roma community, in the communication process between the local authorities/educational authorities and the Roma community and in the process of school desegregation
- Establishing local and county support groups, including representatives of educational and local authorities, of parents, local community and other stakeholders, with the aim of discussing all the issues related to education of children coming from disadvantaged communities, including segregation and finding solutions to the problems, including necessary resources

- B. Evaluation of the existing situation:
- Written request from MoERY to the county school inspectorates to make an assessment of the segregation situations and to elaborate an action plan for desegregation
  - Reports from the counties sent to the MoERY, assessing the segregation situations and presenting the desegregation plans
- C. Monitoring plan:
- Monitoring visits in all the counties involved in the PHARE 2005 Programme “Access to education for disadvantaged groups”, by teams including ministerial representatives and technical assistance (TA) members
  - Monitoring report of the TA regarding the desegregation component of the PHARE project
- D. Measures that will be taken in the future:
- Continuing monitoring activities of the desegregation component of the PHARE 2005 programme “Access to education for disadvantaged groups”
  - Monitoring activities of the desegregation process established by the county school inspectorates
  - Cooperation with NGO’s in the monitoring of the segregation situation, including whistle blowing. Currently, the NGO “Romani Criss”, in collaboration with the authorities, is working on a pilot project, in a number of counties in different parts of Romania, aimed at identifying the best modalities to translate into practice the above-mentioned methodology

#### **ARTICLE 4**

##### **Legislative, judicial, administrative and other measures against the promotion and incitement to racial discrimination**

###### **I. Legislation and jurisprudence**

187. According to article 30. 7 of the Romanian Constitution, any instigation to national, racial, class or religious hatred and any incitement to discrimination are prohibited by law.

188. In accordance to article 15 of Governmental Ordinance No. 137/2000 on preventing and sanctioning all forms of discrimination, any public behaviour with a nationalistic-chauvinist character, any incitement to racial or national hatred or any behaviour aiming to prejudice a person’s dignity or to create an intimidating, hostile, degrading, humiliating or offending atmosphere against a person, a group of persons or a community on grounds of race, nationality, ethnic origin, religion, social category or disadvantaged category, beliefs, gender or sexual orientation is sanctioned as a *contravention*, unless the act fall under the incidence of criminal

law. Such contraventions are sanctioned with a *fine* from 400 to 4000 RON (in cases of discrimination against natural persons) or from 600 to 8000 RON (in cases of discrimination against a group of persons or a community). Sanctions apply to both natural and legal persons.

189. The Penal Code (as modified by Law No. 278/2006) incriminates, in article 317, the *incitement to discrimination*, defined as any incitement to hatred on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, opinions, political affiliation, beliefs, wealth, social origin, age, disability, chronic non-infectious disease or HIV infection. Incitement to discrimination is punishable by imprisonment between 6 months and 3 years or by fine. Information on the courts' cases under art. 317 of the Penal Code can be found in paragraph 429 of the present report.

190. Likewise, the Government adopted the Emergency Ordinance No. 31/2002<sup>27</sup> prohibiting organisations and symbols with fascist, racist and xenophobic character and the glorification of those guilty of committing crimes against peace and humanity.

191. According to the provisions of the Ordinance (art. 2.a), a *fascist, racist or xenophobe organisation* means any group formed by three or more persons, who activates temporarily or permanently, to promote fascist, racist or xenophobe ideology, concepts or doctrines, as well as ethnical, racial, religiously-motivated hatred and violence, superiority of some races and inferiority of others, anti-Semitism, incitement to xenophobia, use of violence to change constitutional order or democratic institutions, extremist nationalism. This category could also include organisations (with or without legal personalities), parties and political movements, associations and foundations, commercial entities, as well as other legal entities that correspond to the elements of the above-mentioned definition.

192. *Fascist, racist or xenophobic symbols* are defined as flags, emblems, badges, uniforms, slogans, greeting formula or any other symbols that promote ideas, concepts and doctrines mentioned in the definition above (art. 2.b). The *creation* of a fascist, racist or xenophobic *organisation* is punished by imprisonment for a term between 3 and 15 years and interdiction of certain rights. A similar punishment applies for joining a fascist, racist or xenophobic organisation, as well as for supporting in any way such an organisation (article 3).

193. At the same time, *the distribution and sale*, by any means, or *preparation* of fascist, racist or xenophobic *symbols* and intention to distribute these symbols are punished by imprisonment from 6 months to 5 years and interdiction of certain rights. The same punishment is applied for the use in public of fascist, racist or xenophobic symbols (article 4).

194. The glorification of those guilty of committing crimes against peace and humanity, as well as the promotion of fascist, racist or xenophobe *ideology*, through propaganda, done, by any means, in public is punished by imprisonment from 3 months to 3 years and interdiction of certain rights. The concept of *propaganda* is defined as systematically spreading or justifying ideas, concepts or doctrines, with the intention to persuade or attract new followers (article 5).

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<sup>27</sup> Approved with modifications by Law No. 107/2006, subsequently amended and supplemented by Law No. 278/2006.

195. Questioning, negating, approving or justifying, by any means, in public, the Holocaust, the genocide or crimes against humanity or his effects is also punished by imprisonment for a term between 6 months and 5 years and interdiction of certain rights or by fine (article 6).

196. Law No. 107/2006, modifying the Emergency Ordinance No. 31/2002, offered an extended definition for the Holocaust so as *to include the Roma ethnics*. Hence, Holocaust means the systematic persecution supported by the state and the annihilation of European Jews by the Nazi Germany, as well as by its allies and collaborators in the period 1933-1945. At the same time, the definition acknowledges that, during the Second World War, a part of the Roma population living in the country was subject to deportations and annihilation.

197. According to articles 12 and 13 of E.O. No. 31/2002, it is forbidden to put up or maintain, in public places, statues, statuary groups, memorial plaques regarding persons guilty of committing crimes against peace and humanity. At the same time, it is forbidden to give the names of persons guilty of committing crimes against peace and humanity to streets, boulevards, squares, marketplaces, parks or other public places.

198. After 2003, based on the above-mentioned legal provisions, approximately 25 streets and squares, as well as a military graveyard in the county of Iasi have changed names. A few statues in the capital and the city of Slobozia have been removed.

199. The new Law No. 504/2002 of the *audio-visual* contains two important provisions meant to combat discrimination in the audio-visual programmes. Article 29 stipulates that publicity, including auto-promotional publicity, and teleshopping must not include any form of discrimination based on race, religion, nationality, gender or sexual orientation and must not cause offence to religious and political beliefs of TV viewers and radio listeners. According to article 40 of the Audio-visual Law, it is forbidden to broadcast programs which contain any form of incitement to hatred on grounds of race, religion, nationality, gender or sexual orientation.

200. The Law No. 504/2002 also created the National Council of the Audio-Visual (NCAV) as an autonomous public institution, under parliamentary control, which guarantees the observance of the public interest in the field of audio-visual communications.

201. In accordance with art. 17 (d), the Council is authorized to adopt normative decisions in support of its role to ensure the application of anti-discrimination policies regarding race, gender, nationality, religion, political beliefs and sexual orientation. A person whose rights and legitimate interests are infringed during an audio-visual broadcasting has the right to submit a complaint to the National Council of the Audio-Visual.

202. The Council has the competency to monitor the implementation of the Audio-Visual Law and to issue *decisions, instructions and recommendations*. NCAV's decisions constitute secondary legislation to Law No. 504/2002 mentioned above. For cases of law violations, the Council has the power to apply *sanctions* such as public notices, contraventional fines, withdrawing the audio-visual license etc. The Council can decide to withdraw the audio-visual license in cases of multiple breaches of provisions prohibiting incitement to national, racial or religious hatred (article 95.a).

203. Furthermore, the Code of regulations on the audio-visual content (The Audio-Visual Code), approved by Decision No. 187/2006 of the President of the National Council of the Audio-Visual, details the anti-discrimination provisions in the audio-visual field. Thus, Article 46 prohibits any form of anti-Semitism and xenophobia in audio-visual broadcasting, as well as any discrimination on grounds of race, religion, nationality, gender, sexual orientation and ethnic origin. Article 47 forbids apologetic presentations of crimes and abuses of totalitarian regimes - Nazism and communism, of authors of such crimes and abuses and the denigration of their victims.

204. Before the adoption of this Code, similar provisions had been included in other normative acts of the NCAV (Decision No. 80/2002; Decision No. 248/2004; Decision No. 130/2006). They represented the legal basis of the sanctions applied by NCAV during the said period for various forms of discrimination encountered in radio and TV broadcasts.

205. Article 12 of the Audio-Visual Code also mentions that “any pejorative or discriminatory reference to ethnic origin, nationality, race and religion of a child as well as to an eventual handicap is prohibited”. According to article 71, news programmes and debates on topics of public interest of political, economic, social and cultural nature must respect the principle of non-discrimination on grounds of race, ethnicity, religion, nationality, gender, sexual orientation and age.

206. Information on the sanctions applied by the National Council of the Audio-Visual is included under the reporting requirements for article 6 (see paragraphs 430-432 below).

## **II. Measures aiming specifically at combating anti-Semitism, Holocaust denial and xenophobia**

207. Manifestations of anti-Semitism and xenophobia are still reported at various levels of the society, despite the firm political commitment of the authorities to fight against them. The general approach consists of assuming the past and drawing the necessary lessons, in order to educate for the future and find the best way to respond to any form of discrimination and intolerance.

208. In 2003, under the auspices of the Romanian Presidency, there was established an International Commission on the Study of the Holocaust in Romania. The Commission composed of researchers from various countries and chaired by professor Eli Wiesel, Nobel Prize winner, issued a Report in November 2004. Following the recommendations contained in the document, the Government of Romania established a National Institute for the Study of Holocaust in Romania and declared a National Day of Remembrance of the Holocaust, to be commemorated every year on October 9. Recently, it has been inaugurated the construction site of the Holocaust Memorial, in Bucharest, whose objective is to address the need, in respect of all Romanian citizens, to learn about the Holocaust.

209. Romania organized an international conference addressing the problem of the Holocaust (Iasi, 28-29 June 2006).

210. The Ministry of Education adopted the educational strategy regarding remembrance of the Holocaust, which provides for optional courses studying the Holocaust as history subject-matter, with the support of the first textbook on the history of the Holocaust launched in 2005 by the “National Institute for the Study of the Holocaust”. A “Guide on teaching about the Holocaust” was edited and distributed free of charge in schools throughout the public education system. The Ministry of Education provided trainings for a number of 500 professors from secondary schools, others being trained abroad, including at Yad Vashem Institute. In 2003, 2004 and 2005, the Romanian authorities organized, in cooperation with the Council of Europe, 3 seminars on teaching about Holocaust. A newly set Commission for the study of Roma slavery endeavours to provide historical data to be used in the education process, thus helping the young generation to better understand and address the deep roots of discriminatory attitudes and clichés.

211. In 1994, Romania became member of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research (ITF), an intergovernmental organization established in 1998, with 24 states currently participating in its work, focused mainly on commemoration and research of the Holocaust and gathering political support for related initiatives.

212. Romania actively participated in all OSCE conferences dedicated to the fight against discrimination and intolerance (Vienna 2003, Berlin, Paris and Brussels 2004, Cordoba 2005). In 2007, Romania hosted, in Bucharest, a High-Level Conference on Combating Discrimination and Promoting Mutual Respect and Understanding, event that aimed at reviewing the implementation of the broad range of OSCE human dimension commitments in the field of anti-discrimination.

213. As mentioned above, since 1997, the Government allocates every year a special budgetary fund for programmes against racism, anti-Semitism, xenophobia and intolerance. Several awareness projects on Roma and Jewish problems have been financed and supported through this mechanism run by the Department for Inter-Ethnic Relations.

## ARTICLE 5

### **Rights especially guaranteed by the Convention**

#### **(a) The right to equal treatment before the tribunals and all other organs administering justice**

##### *Courts*

214. The Constitution establishes the fundamental principles for the organization and functioning of the judicial authority: legality, independence and impartiality. According to art. 124 of the Constitution, justice shall be one, impartial, and equal for all.

215. Law No. 304 /2004, republished, on the organization of the judiciary, stipulates, in article 7, that all persons are equal before the law, without any privileges and discrimination. Access to justice can not be restrained. Justice is carried out equally for all, without any distinction based on race, nationality, ethnic origin, language, religion, gender or sexual orientation, opinion, political affiliation, wealth, social origin or status or any other such



discriminating criteria. According to art. 10 of Ordinance 137/2000, republished, refusal to grant administrative and judicial public services based on a person's ethnic origin and nationality is discriminatory and constitutes a contravention.

216. Justice is administered by the High Court of Cassation and Justice, and the other courts set out by the law. Judicial proceedings are public and conducted in the Romanian language. However, according to art. 128 of the Constitution, the Romanian citizens belonging to national minorities have the right to express themselves in their mother tongue before the courts of law. The right of Romanian citizens belonging to national minorities to express themselves in their mother tongue before courts is detailed in Law No. 304/2004 (see para. 99 above). At the same time, foreign citizens and stateless persons who do not understand or do not speak the Romanian language are entitled to assistance by means of an interpreter, which, in criminal law suits, is provided for free.

217. Within the judicial activity, the Public Ministry represents the general interests of the society, and defends legal order, as well as the citizens' rights and freedoms. The Public Ministry discharges its powers through public prosecutors. The public prosecutor's offices attached to courts of law coordinate and supervise the criminal investigation activity of the police.

218. The Superior Council of Magistracy guarantees the independence of justice. It is composed of magistrates, representatives of the civil society and the Minister of Justice. The Council proposes to the President of Romania the appointment of judges and public prosecutors. The Council has the exclusive competence to make decisions regarding the career of members of the Judiciary (promotions, transfers, sanctions), their disciplinary liability and their defence against any acts that harm their independence and impartiality. The laws regulating the Statute of Judges and Public Prosecutors (303/2004), the Judicial Organisation (304/2004) and the Superior Council of Magistracy (317/2004) shape better the framework of the professional career of the Judiciary (judges and prosecutors), so as to ensure the effectiveness of the act of justice and to increase their accountability in the exercise of their office. At the same time, they enhance the transparency of procedures regarding selection, promotion, appointment into leadership and professional evaluation.

219. The Constitutional Court guarantees the supremacy of the Constitution. The judges of this Court are appointed by the chambers of the Parliament and the President. The Constitutional Court has the following powers, amongst others: to adjudicate on the constitutionality of laws, treaties or other international agreements, to decide on objections as to the unconstitutionality of laws and ordinances, brought up before courts of law or commercial arbitration, to solve legal disputes of a constitutional nature between public authorities. The provisions of the laws and ordinances in force, as well as those of the regulations, which are found to be unconstitutional, cease their legal effects, unless brought in line with the provisions of the Constitution. Treaties or international agreements found to be unconstitutional cannot be ratified.

220. A special emphasis was placed on the *professional training provided to magistrates* on issues related to discrimination, including the obligations assumed by Romania under international conventions. At the same time, the topic of human rights was included among the priorities set out by the Superior Council of Magistracy in the allotment of state budget resources for the continuous training of magistrates.

221. In this context, the National Institute of Magistracy (NIM) took the following measures in the period 2001-2007:

- Between **2001** and **2003**, NIM, in collaboration with various European foundations, provided training on the European Human Rights Conventions for magistrates and NIM trainers (training of trainers) - 9 seminars for 161 participants. Also, in 2001, the Netherlands Helsinki Committee organized a 6 day study tour to the European Court of Human Rights in Strasbourg for 1 NIM expert and 1 former NIM trainees (judge).
- In **2004**, 10 seminars were organized, for 206 magistrates, on the topic of civil and criminal aspects of the European Convention on Human Rights - CEDO (these seminars also facilitated discussions on issues related with discrimination).
- In **2005**, 260 magistrates attended 13 seminars on the topic of civil and criminal aspects of the European Convention on Human Rights, organized in collaboration with European foundations and the Romanian NGO “Centre for Legal Resources” (these seminars also facilitated discussions on issues related with discrimination).
- For NIM’s initial training modules, since **2006**, the number of hours dedicated to studying human rights as well as European law has been extended to a period of time covering a year. The training courses offered by NIM aim at helping the magistrates acquire thorough legal knowledge on national and international law, without repeating what has already been taught to them while at university.
- 7000 CDs containing information regarding the jurisprudence of the European Court of Human Rights, the Court of Justice of the European Communities, as well as newly passed internal legislation, case-law of Romanian courts, relevant books and periodical leaflets were acquisitioned in **October 2006** and distributed free of charge to all judges and prosecutors. In addition, a CD containing the legal cases lost by Romania to the European Court on Human Rights translated into Romanian, the governing regulation of CEDO, as well as the two manuals elaborated by NIM, within the Twinning Phare Programme RO/02/IB/JH-10, “CEDO - civil aspects and CEDO - penal aspects” was distributed free of charge to all Romanian magistrates at the end of **2006**.
- In **2006**, 240 magistrates attended 15 seminars on the topic of civil and criminal aspects of the European Convention on Human Rights, organized in collaboration with European foundations and the Romanian NGO “Centre for Legal Resources” (these seminars also facilitated discussions on issues related with discrimination).
- In **May 2006**, NIM organized the Inter-institutional Symposium with the theme “The Elimination of All Forms of Racial Discrimination”. At this event, all relevant Romanian state agencies were invited to participate, in particular representatives of the judiciary and the police, as follows: 20 Romanian magistrates and 7 experts from the National Council for Combating Discrimination, the General Police Inspectorate, the National Institute of Statistics, the Commission for Human Rights and the Issues of National Minorities within the Romanian Chamber of Deputies and the non-governmental organization “Centre for Legal Resources”.

- Also, **in 2006**, NIM organized 1 seminar on topics related to the “Elimination of All Forms of Racial Discrimination” theme, which was attended by 24 magistrates and 1 expert from the Romanian Ombudsman.
- **In 2007**, NIM organized 14 seminars, in collaboration with European foundations and the Romanian NGO “Centre for Legal Resources”, on the topic of civil and criminal aspects of the European Convention on Human Rights (these seminars also facilitated discussions on issues related with discrimination). A total number of 247 magistrates and 15 experts from NIM, Ministry of Justice, Superior Council of Magistracy and National Penitentiary Administration were present at these seminars.
- Also, **in 2007**, NIM organized 3 seminars on topics related to the “Elimination of All Forms of Racial Discrimination” theme, one seminar in collaboration with the National Council against Discrimination. They were attended by 64 magistrates and 4 experts from the Ministry of Justice and the Superior Council of Magistracy.

#### *National police*

222. Over the reporting period, the national police intensified its efforts towards meeting the criteria and standards set out in the International Convention Regarding the Elimination of All Forms of Racial Discrimination, as part of the overall efforts of the Romanian authorities in the human rights area. The Romanian Police acted in order to direct and align its priorities and actions to the principles of democracy and rule of law, a special attention being given to the observance of human rights and fundamental freedoms.

223. *The Law No. 218/2002 regarding the organization and functioning of the Romanian Police and Law No. 360/2002 regarding the statute of the police officer* decided on the demilitarization of the Romanian Police, in accordance with international obligations assumed by Romania and the new democratic status of the country.

224. Law No. 218/2002 stipulates in article 26 (1) that the Romanian Police “defends the life, physical integrity, the freedom of people, the private and public property and other rights and legitimate interests of the citizens and of the community”. Also, article 31 (2) stipulates that “(..) the police officer must fully observe human rights and fundamental freedoms, provided by the law and the European Human Rights Convention”.

225. The adoption of Law No. 360/2002 was a significant achievement, with great impact on the daily activity of the Romanian police. This law states explicitly that police officers are civil servants, acting in observance of the rule of law and serving, with priority, the interests of the citizens and the community. The law reaffirms, in art. 4 (1), the police officer’s commitment to observe human rights and fundamental freedoms, the Constitution and national laws. This commitment is also mentioned in the oath taken at the moment of enlistment in the police force.

226. Law No. 360/2002 further stipulates, in article 3, that the police officer conducts his/her activity in accordance with the principles of impartiality, non-discrimination, proportionality

and gradualism. In addition, article 10, paragraph (1), regarding the selection of police officers, provides that “employment is open to any person regardless of race, nationality, gender, religion, financial status or social origin.”

227. The Minister of Interior approved, by Decree No. 260/20.05.2002, *the Code of Conduct of the Employee of the Minister of Interior* (MI). According to this document, the MI employees must observe and enforce the law without distinction based on race, colour, gender or sexual orientation, language, religious beliefs, opinions, social or national origin, financial status or any other criteria that may lead to discrimination.

228. *The Code of Conduct and Deontology of the Law Enforcement Officials* was approved by Governmental Decision No. 991/2005. This document has been prepared with the support of French and Belgian experts from the Council of Europe and sets out the principles and rules that govern the police officer’s and gendarme’s conduct, as well as their behaviour in various circumstances, such as public relations, use of force, investigation of suspects and illicit acts. According to the Code of Conduct, in cases where the intervention of the law enforcement official results in a temporary limitation of freedoms and rights, the duration of this limitation must be reduced to the minimum needed to reach the legitimate objective that justified the adoption of such measures.

229. In accordance with the principles of equality, impartiality and non-discrimination, the gendarme or police officer must act in the same way in relation to all persons, applying the same measures for similar illegal acts, without being influenced by ethnicity, nationality, race, religion, political or other opinion, age, gender, sexual orientation, financial status, national or social origin or by any other reasons (article 6).

230. Article 7 paragraph (3) of G.D. 991/2005 states that “the police officer must fulfil his/her duties and accomplish his/her mission in an objective and equitable manner, by observing and protecting human rights and fundamental freedoms as stipulated in the Constitution and other laws, in accordance with the Universal Declaration of Human Rights, European Human Rights Convention, European Code of Police Ethics and the provisions of treaties Romania is party to.

231. Article 15 of G.D.991/2005 establishes that “the police officer must promote and develop, on a non-discriminatory basis, a good relation between the institution he/she represents and the community and must ensure an effective cooperation with representatives of local and central public authority, non-governmental organisations, the population and minority groups, including ethnic ones.”

232. Over the reporting period, the General Inspectorate of the Romanian Police launched *a program aiming to encourage the enlistment in the force of persons belonging to national minorities*, as well as their enlistment to entrance exams organized by police schools (see para. 241 below).

233. Given the requirement for an ethic conduct of the police officers, a special attention is given to providing *an adequate professional training*. Information on the training received by law enforcement officials in the area of human rights and anti-discrimination is included under the reporting requirements for article 7 below.

*Civil servants*

234. The code of conduct of *civil servants* (approved by Law No. 7/2004) establishes the principle of equal treatment of citizens by public institutions and authorities. According to the law, the civil servants must apply the same legal regime in identical or similar situations (see paragraphs 270-271 below).

**(b) The right to security of person and protection by State against violence and bodily harm**

235. Article 22 (a) of the Constitution states that the right to life, as well as the right to physical and mental integrity of persons are guaranteed; torture, any kind of inhuman or degrading treatment are prohibited. The homicide (first degree, qualified) is incriminated by the Criminal Code (with different imprisonment time limits). Homicide includes all deaths caused by wilful murder or manslaughter. Mass murder and serial killing are regulated by special rules and have increased punishment limits.

236. According to article 23 of the Constitution, individual freedom and security of a person are inviolable. Search, detainment or arrest of a person is permitted only in cases and under the procedure provided by the law. Preventive detention cannot exceed 24 hours. Preventive arrest can be ordered by a judge and only in the course of criminal proceedings. During the criminal proceedings, the preventive arrest may only be ordered for 30 days at the most and further extended for periods of 30 days each, without the overall length exceeding a reasonable term, and no longer than 180 days. After the lawsuit has begun, the court is bound, according to the law, to check, on a regular basis and no later than 60 days, the lawfulness and grounds of the preventive arrest, and to order at once the release of the defendant if the grounds for the preventive arrest have ceased to exist or if the court finds there are no new grounds justifying the continuance of the arrest. The decisions by a court of law on preventive arrest may be subject to the legal proceedings stipulated by the law.

237. Any person detained or arrested shall be promptly informed, in a language he/she understands, of the grounds for his/her detention or arrest, and notified of the charges against him/her, as soon as possible; the notification of the charges shall be made only in the presence of a lawyer of his own choosing or appointed ex officio. The release of a detained or arrested person shall be mandatory if the reasons for such steps have ceased to exist, as well as under other circumstances stipulated by the law. A person under preventive arrest has the right to apply for provisional release, under judicial control or on bail.

238. Any person is presumed innocent until found guilty by a final decision of the court. Penalties are established or applied only in accordance with and on the grounds of the law. The freedom deprivation sanction can only be based on criminal grounds (*nullum crimen sine lege*). The defendant is entitled to the benefit of a lesser punishment enacted by the law (*mitior lex*).

239. The Criminal Procedure Code details the constitutional norms regulating the preventive arrest. The preventive arrest of a defendant during criminal prosecution may be ordained only by a judge, for a period of time not exceeding 30 days. The person arrested may lodge a complaint to the Court about the legality of the judge warrant and the court is bound to pronounce itself

and motivate the decision. The judges may grant extensions of this time period; however none of them may exceed 30 days, while making sure that the total duration of preventive arrest during criminal prosecution does not exceed a reasonable time limit. In no circumstances may total duration exceed 180 days. Any person taken into custody or arrested has to be promptly informed in a language he/she understands on the reasons of such a decision and notified of the indictment as soon as possible. The notification of the indictment shall be made only in the presence of a lawyer. The release of the person is mandatory if the grounds of indictment disappeared. A person under arrest has the right to apply for provisional release under juridical control or bail.

240. The right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person is also guaranteed by the Romanian Criminal Procedure Code (art. 5<sup>1</sup> - the respect of human being dignity). If the person taken into custody or preventive arrest is responsible with a childcare, dependant or an elderly/ill person, the judiciary body has to inform the legal authority responsible for the protection of such a person. The offender taken in custody can be temporarily released during the trial, under judiciary control or with bail, based on a judge's decision. If the person taken into custody is ill and this malady makes the detention regime impossible, if a detained women is pregnant or has a child under 1 year or if, because of special circumstances, the execution of the punishment would have serious consequences for the convicted person or for his/her family, the Court may decide to release him/her. The detainee can be released for good behaviour if some legal conditions are accomplished.

241. With the purpose of responding to the occurrence of and preventing discriminatory acts perpetrated by police officers against Roma, the General Inspectorate of the Romanian Police worked out and applied "*The Program regarding the contribution of the Romanian Police to the improvement of the situation of Roma*". The General Police Inspectorate also launched a program aiming at encouraging the enlistment in the force of persons belonging to national minorities, in particular Roma, as well as their enlistment to entrance exams organized by police schools. The Police Academy in Bucharest allocates annually a number of seats to candidates from the Roma minority. There were 10 seats both in the period 2006-2007 and 2007-2008, out of which 6 were occupied in each of the two school years by Roma candidates through competitive examinations. At present, there are 71 persons of Roma ethnicity employed in the structures of the Ministry of Interior - 45 men (11 officers and 34 agents) and 13 women (3 officers and 10 agents).

242. Starting with 1994, the Romanian Police promoted partnership relations with NGOs in the field of human rights protection, including Roma NGOs. The collaboration was focused on several areas such as: support for social inclusion of Roma; anti-crime education among Roma communities; improving the relationship between the police and multicultural communities by increasing the level of trust of Roma in the local authorities; preventing, identifying and diffusing tensions between Roma and the majority population; combating discrimination. Since 2000, 9 *important projects* have been implemented in the above-mentioned action fields. In addition, the police county offices had regular meetings with county representatives of the Social-Democratic Organization of Roma from Romania (organization represented in the Parliament), as well as with representatives of Roma communities under their respective jurisdiction with a view to prevent inter-ethnic tensions and to fight criminality. The content of some of the most important projects is summarized below:

- *Prevention and management of conflicts in multicultural communities. Training sessions for police officers (2000-2001)* - organized in partnership with the Police School in the city of Câmpina and the “*Centre for Multicultural Diversity*”; each of the 6 training modules (communication, intercultural education, human rights, mediation and knowledge of the legal framework) had 25 participants (13 police officers and 12 students)
- *Prevention and management of conflicts in multicultural communities. Training sessions for police officers (2002-2003)* - organized in partnership with the “*Centre for Multicultural Diversity*”; 150 participants (72 students of the Police Academy and 78 agents of the rural police). The program targeted 6 communities and focused on raising the level of communication and identifying solutions to specific problems.
- *Prevention of violence in interethnic conflicts (April-June 2004)*, organized in partnership with the “*Foundation for Democratic Changes*”. There were 8 trainings sessions with officers policing multicultural communities. The participants (200 agents) received a manual of good practices on this specific topic.
- *Promoting good governance in multicultural communities. Access and participation of the ethnic minorities in the public life*, developed in partnership with the “*Resources Centre for Ethno-Cultural Diversity*” (2003-2006). It included training sessions on topics such as: relations police-community, strategic planning, prevention of all forms of discrimination, good governance in multiethnic communities etc. (63 police officers participated), as well as meetings between the police, the local authorities and the ethnic minorities in such communities.
- *Local support for neutral intervention in conflicts*, organized in partnership with the “*Foundation for Democratic Changes*” and the “*Resources Centre for Roma*” (2003-2004), aimed at facilitating the interaction between Roma mediators and local communities. It included 12 meetings between authorities and representatives of the local communities. The conclusions of these meetings resulted in the publishing of a handbook.
- *Conflict resolution capacity building for the Romanian police (May 2005-July 2006)*, organized in partnership with the “*Danish Centre for Conflict Resolution*” and the “*Regional Centre for Facilitation and Negotiation - Iasi*”. It provided training for 15 police officers in the field of human rights and conflict management, as well as 42 training sessions (1 per each county) for 871 police officers assigned in multicultural communities throughout the country.
- *Memorandum of cooperation concerning the Strategic Initiative: Roma and Police in Romania (2005)* between the Ministry of Interior and Administrative Reform, Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights - Contact Point for Roma and Sinti and the “*Roma Centre for Social Intervention and Studies - Romani Criss*”

- *Promoting good governance in multicultural communities. Access and participation of the ethnic minorities in public life*, implemented in partnership with the “*Resources Centre for Ethno-Cultural Diversity*” (April-June 2007) - information campaign (“*Mission possible*”) carried out in 6 counties, designed to persuade students belonging to ethnic minorities to consider a career in the police. The campaign consisted of: printing posters (1300) and leaflets (1800) in several languages (Romanian, Hungarian, Romani), displaying information materials in schools, high schools and police headquarters; organizing 23 meetings with students in high school; advertising in the main local newspapers and on the Internet.
- *Police and ethnic minorities* (January 2007-December 2008), in partnership with the “*Regional Centre for Facilitation and Negotiation*” - Iasi” and “*Resources Centre for Ethno-Cultural Diversity*” - 30 training sessions for local police officers, 610 participants assigned to intercultural communities.

243. At the local level, in each county, partnerships concluded between the Police Inspectorate and representatives of the civil society aim to implement a number of projects focusing on reducing school abandonment rate amongst Roma students, the unemployment rate amongst Roma ethnics and the issuing of identity cards.

244. The General Inspectorate of the Romanian Police established a *Consultative Committee on the Relation between the Police and the Roma minority* whose main tasks are: to monitor the implementation of the plan of actions entitled “Justice and public order”, contained in the relevant Strategy; to analyze cases of interventions by the police in Roma communities and to issue recommendations in this respect; to disseminate good practices in the field of relations with Roma communities; to issue recommendations regarding activities to be carried out in order to improve the relations of the police with the Roma minority.

245. In spite of the efforts undertaken by the Romanian authorities, over the past years, non-governmental organizations and individuals continued to report cases of abuses and excessive use of force by the police, including against members of the Roma minority.

246. The Ministry of Interior has paid great attention to complaints regarding *the conduct of police officers*, which are thoroughly verified, and the results are communicated to the petitioner. In order to eliminate suspicions regarding the results of internal investigations, the Ministry has constantly submitted such complaints to the competent authorities (public prosecutor or court). These cases are the object of criminal or administrative investigations, and when illegal actions committed by police officers are identified, measures of penal, administrative or disciplinary nature are being taken. The complaints addressed to the Romanian Police are investigated by its own control bodies.

247. Between 2003 and August 2007, 570 complaints containing allegations of abuses and ill treatment perpetrated by police personnel were filed with the General Police Inspectorate, out of which 72 were qualified as abusive conduct, illegal arrest and abusive prosecution, ill treatment, torture (8 committed by police officers and 64 by police agents). Appropriate sanctions of disciplinary and criminal nature have been applied.



248. *Excessive use of force* by police officers is subject to disciplinary, civil and penal measures. Thus, in 2007, 2 police agents received disciplinary sanctions and 2 were subject to criminal investigations. In another case of the same year, 3 police agents were discharged from the force and were subject to criminal investigations.

249. *All cases of firearms use* by police personnel are reported to the General Police Inspectorate. When they resulted in death or injury, a prosecutor is immediately seized upon the case. The number of cases of firearms use by Romanian police officers has diminished. Between 2006 and 2008, there have been 216 cases, as follows: 2006 - 130, 2007 - 61, 2008 - 24. The law on the regime of arms and ammunition is currently under evaluation in the light of the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the relevant jurisprudence of the European Court of Human Rights.

250. As mentioned before, a number of measures have been taken by the Police, in order to ensure that police officers are familiar with national and international legal provisions in the human rights field.

251. The human rights protection policy for police personnel focuses on adapting the legal framework to ensure the observance of human rights, rigorous selection system of personnel, continuous training within an institutionalized framework during the whole carrier, periodic checks/inspections or as a result of complaints filed by citizens/public or private institutions, setting up specific mechanisms to deal with human rights issues. Thus, in 1992, the Committee on human rights and humanitarian law was set up as a consultative organ of the minister of interior on aspects regarding protection of human rights and enforcement of humanitarian law by the personnel.

252. The issue of human rights is included in the process of continuous training in which police officers from police detention centres are taking part on a monthly basis. During 2006-2008, 217 police officers were trained in educational institutions belonging to the Ministry of Interior and Administrative Reform.

253. A control plan for preventing and combating violations of rights of detained/arrested persons committed by police personnel has been elaborated. During the last two years, 57 complaints regarding violations of procedural rights of persons under investigation have been investigated, out of which 15 were filed by persons held in police arrests (detained or arrested). As a result of these investigations, 6 policemen were disciplinary sanctioned and 5 complaints were submitted to the prosecutor's office.

254. National or foreign NGOs have access to visit police detention centres and to discuss with persons arrested or detained. During 2007-2008, there have been 32 requests to visit police detention centres from the representatives of NGOs, who discussed in private with 281 persons, on non-discriminatory basis.

255. Concrete measures have been adopted in order to solve **the problem of Roma persons who do not have identity documents**, including information campaigns among the Roma communities on the importance of holding IDs and on the requirements to obtain them. Disabled persons and persons without income are exempted from fees paid for the issuance of these

documents. Mobile units have been set up in order to photograph persons who cannot walk. County public services specialized in issuing ID cards keep a permanent relationship with local Roma leaders and with representatives of the county offices for Roma.

### *Hădăreni Case*

256. On July 12, 2005, the European Court of Human Rights (ECHR) rendered a judgment in the case of *Moldovan and Others v. Romania (No. 2)* (application No. 41138/98 and 64320/01), involving originally 25 applicants, Romanian nationals of Roma origin. 18 applicants had agreed to a friendly settlement of their case with the Romanian Government. With regard to the remaining applicants, the Court held that there were a continuing violation of Article 8 (right to respect for private and family life and home) of the European Convention on Human Rights, a violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention, a violation of Article 6 § 1 (right to a fair hearing) on account of the length of the proceedings and a violation of Article 14 (prohibition of discrimination) taken in conjunction with Articles 6 § 1 and 8.

257. At the time the facts occurred, the applicants lived in Hădăreni, in the Mureș county (Romania), where they were agricultural workers. In September 1993 a row broke out between three Roma men and two non-Roma villagers from Hădăreni. One of the latter was stabbed in the chest and eventually died. After the killing, the three Roma men fled to a nearby house. A large, angry crowd gathered outside, including the local police commander and several officers. The house was set on fire. Two Roma were beaten to death and the other burned to death. By the following day, 13 Roma houses had been completely destroyed, together with the personal property. The Roma who fled the scene were prevented afterwards by the other villagers to return to their homes.

258. The Roma residents of Hădăreni lodged a criminal complaint against those allegedly responsible, including six police officers. In September 1995, all charges against the police officers were dropped. During the trial, the court established that the villagers, with the authorities' support, had set out to have the village "purged of Gypsies". Five villagers were convicted of extremely serious murder and 12 villagers, including the former five, were convicted of other offences. The court sentenced them to various terms of imprisonment (between one and seven years). The appellate court convicted a sixth villager of extremely serious murder and increased the sentence of one of the defendants; the other defendants had their sentences reduced. In November 1999, the Supreme Court upheld the convictions for the destruction of property but reduced the charge of extremely serious murder to serious murder for three of the defendants. In 2000, two of the convicted villagers received a presidential pardon.

259. The Romanian Government subsequently allocated funds for the reconstruction of the damaged or destroyed houses. Eight were reconstructed, though the applicants maintained that those houses were uninhabitable and three other houses destroyed have not been rebuilt at all. A report ordered by the Government confirmed partially their allegations.

260. Mureș Regional Court delivered its judgment in the civil case on 12 May 2003. It awarded the applicants pecuniary damage in relation to the houses destroyed of between ROL 130,000,000 and ROL 600,000 (approx. 3,250 - 15 Euro). The court rejected all the

applicants' requests for non-pecuniary damages as unsubstantiated. It was not until 24 February 2004 that the applicants (except Petru (Gruia) Lăcătuș, who received nothing) received awards in respect of non-pecuniary damage, ranging from ROL 100,000,000 to ROL 20,000,000 (approx. 2,500 - 500 Euro).

261. In 2000, the applicants lodged a complaint with the European Court of Human Rights. They alleged that - following the destruction of their houses - they could not live in their homes and had to live in very poor, cramped conditions. They also complained that the authorities failed to carry out an adequate criminal investigation, which prevented them from bringing a civil action in damages against the State regarding the misconduct of the police officers concerned. Several applicants also complained about the length of the criminal proceedings. They further submitted that they had suffered discrimination. They relied on Articles 3, 8, 6 and 14 of the European Convention.

262. In the Court's view, a number of factual elements taken together (involvement of State agents in the burning of the applicants' houses and the failure to prosecute them, the refusal for many years to award pecuniary damages for the destruction of the applicants' belongings and furniture, discriminatory remarks about the applicants' Roma origin made during the trial, the rejection of the applicants' requests for non-pecuniary damages, the fact that most of the applicants did not return to their village and others) indicated a general attitude on the part of the Romanian authorities which perpetuated the applicants' feelings of insecurity after June 1994 and affected their right to respect for their private and family life and their homes. The Court concluded that the above-mentioned attitude and the repeated failure of the authorities to put a stop to breaches of the applicants' rights amounted to a serious violation, of a continuing nature, of Article 8 of the Convention.

263. The Court concluded also that the applicants' living conditions and the racial discrimination to which they had been publicly subjected by the way in which their grievances were dealt with by the various authorities, constituted an interference with their human dignity which, in the special circumstances of the case, amounted to "degrading treatment" within the meaning of Article 3. The Court therefore held that there had been a violation of Article 3.

264. The Court found that the length of the civil proceedings instituted by the applicants did not satisfy the reasonable-time requirement and therefore held, unanimously, that there had been a violation of Article 6 § 1. However, the Court decided that there had been no violation of Article 6 § 1 as regards the applicants' effective access to a tribunal.

265. The Court observed that the applicants' Roma ethnicity appeared to have been decisive for the length and the result of the domestic proceedings. Among other things, it took note of the repeated discriminatory remarks made by the authorities throughout the whole case and their blank refusal until 2004 to award non-pecuniary damages for the destruction of the family homes. The Court also observed that the Romanian Government had not provided any justification for the difference in treatment of the applicants. It concluded accordingly that there has been a violation of Article 14 taken in conjunction with Articles 6 and 8.

266. Under Article 41 (just satisfaction), the Court awarded the applicants the following sums in respect of pecuniary damage and non-pecuniary damage: 60,000 euros (EUR) to Iulius Moldovan; EUR 13,000 to Melenuța Moldovan; EUR 11,000 to Maria Moldovan; EUR 15,000

to Otilia Rostaş; EUR 17,000 to Petru (Gruia) Lăcătuş; EUR 95,000 to Maria Floarea Zoltan and EUR 27,000 to Petru (Dîgăla) Lăcătuş. On October 3, 2005, the Romanian Government paid the respective sums to the applicants, with the exception of two who either could not be reached or indicated a wrong number account.

267. Following the friendly settlement with 18 applicants, the Romanian Government paid a total of EUR 262,000 (individual awards ranging from EUR 11,000 to EUR 28,000) covering the pecuniary and non-pecuniary damage and for costs and expenses. In addition, the Government of Romania designed a specific Program of development for the community of Hădăreni 2006-2008, aimed at preventing and combating discrimination, preventing and managing conflicts that could lead to violence, stimulating Roma's participation in the political, social, economic and cultural life, improving the relations between various components of the local community of Hădăreni, forging a partnership between the community and the local authorities, raising the standard of living of the inhabitants, irrespective of their ethnicity, especially by improving their access to the educational infrastructure etc. According to the 2007 revised version of the Program, the United Nations Program for Development (UNDP) assumed the task of implementing the program, while the National Agency for Roma supervises and evaluates the implementation. The budget of the Program is approx. 3,500,000 RON (1 million Euros).

268. As of November 2007, UNDP has already performed the following activities: refurbishment of the Community Centre (former Cultural Centre), refurbishment of the educational infrastructure (school, IT equipment), road and sewage rehabilitation and rebuilding of 6 houses owned by the Roma involved in the events that took place in 1993.

### **(c) Political and civil rights**

269. The Law No. 14/2003 on *political parties* regulates the topic of *political representation and participation in the public life in conditions of equality and non-discrimination* among citizens. At the same time, this law (art. 3.2) bans political parties which, through their statute, programmes, ideological propaganda and other activities, infringe upon the provisions of art. 30 (7) of the Romanian Constitution (which prohibits any instigation to national, racial, class or religious hatred, as well as any incitement to discrimination). As presented in annex II to this report, the national and ethnic minorities are represented in the Romanian political life.

270. The *Code of Conduct of Civil Servants* (approved by Law No. 7/2004, further modified by Law No. 50/2007) establishes, in article 3 (c), *the principle of equal treatment of all citizens by public institutions and authorities*. Civil servants must uphold the principle of equality before the law and public authorities, by promoting similar or identical solutions in similar situations and by eliminating all forms of discrimination based on nationality, religious beliefs, political opinions, financial status, health, age, gender or any other reason (article 12, paragraph 3). Therefore, civil servants are bound to apply the same legal treatment in identical or similar situations. At the same time, civil servants must maintain their independence and impartiality by adopting a neutral and objective attitude in relation to any interests of political, religious or financial nature in the exercise of their functions (article 3, paragraph d). Violations of provisions of Law 7/2004 entail the disciplinary liability of civil servants (for serious cases, also civil or penal liability).

271. The National Agency for Civil Servants monitors the implementation of Law No. 7/2004 by public authorities and institutions. Based on the periodic reports of the public authorities (there are standard reporting formats and specific reporting timelines), the Agency elaborates national reports (quarterly and annually) on the implementation status of the Code of Conduct, which are publicized on its website. Law No. 50/2007, modifying and complementing Law No. 7/2004, introduced, for all public authorities and institutions, the requirement to designate a civil servant, mainly from the human resources department, having the role to ensure ethic counselling and to monitor the implementation of the rules of conduct.

272. Regulations governing the civil servants selection policy are contained in Law No. 188/1999 and in the Governmental Decision No. 1209/2003 on the organisation and development of civil servant's career. Both legal documents ensure the *equal access of citizens to public functions/positions*. Article 3 (c) of G.D. No. 1209/2003 mentions the *equality of chances* as one of the underlying principles in the organisation and development of the civil servant's career and recognizes the vocation to such a career of all persons, in accordance with the conditions set by the law.

273. According to article 7 of Law No. 677/2001 for the protection of persons concerning the processing of personal data and the free circulation of such data, *the processing of personal data related to ethnic or racial origin* is prohibited, except for certain situations explicitly mentioned in this law.

**(d) Economic, social and cultural rights**

274. Law No. 116/2002 on the *prevention and combating of social marginalisation* aims to guarantee real access of all persons, in particular the young people, to fundamental rights such as the right to work, the right to housing, the right to medical insurance and the right to education. The social nature of the Romanian state, as provided for in the Constitution, implies the adoption of measures meant to avoid the degradation of the standard of living and to preserve the dignity of all citizens.

275. The law defines "social marginalisation" as "the peripheral social position of isolation of persons and groups with limited access to the economical, political, educational and communication resources of the community"; "the absence of minimum social conditions of life".<sup>28</sup> The State must ensure, through its relevant institutions and in cooperation with civil society and labour unions, real access of all citizens to the fundamental rights mentioned above.

276. In order to compensate for the disadvantaged socio-economic backgrounds of some pupils, including those coming from the Roma communities, the Government implemented, starting with 2002, the so-called "croissant and milk" programme, dedicated both to pre-school and

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<sup>28</sup> The level of the net monthly income, which may determine the categorization of a person as socially marginalised, is annually established by Governmental Decision. The Government has the obligation to present an annual report to the Parliament regarding the situation of the marginalised persons and families, as well as the programme to combat this phenomenon.

school children up to the fourth grade. Under this programme, the children are provided for free with a croissant and a small bottle of milk every school day. Approximately one million children benefited from this programme between 2002-2004 and approximately 1,5 million in the 2005 school year.

277. Also, the “Second Chance” Programme was initiated in 2000, aiming at preventing the social and professional exclusion of young people from very poor families who have dropped out of compulsory education and have not achieved the minimum competencies for getting a job. The programme was taken over by the Ministry of Education in 2003 and gained national coverage through the PHARE project “Access to education for disadvantaged categories”.

**(i) Right to work**

278. The right to work is guaranteed by the Romanian Constitution. The Code of Labour, approved by Law No. 53/2003 with subsequent modifications, defines and bans direct and indirect discrimination. The working relations are based on the principle of the equality of treatment for all employees and employers (art. 5). Any direct or indirect discrimination against an employee, based on criteria such as sex, sexual orientation, genetic characteristics, age, national origin, race, colour of the skin, ethnic origin, religion, political options, social origin, disability, family condition or responsibilities, union membership or activity is forbidden.

279. Direct discrimination is represented by actions and facts of exclusion, differentiation, restriction, or preference, based on one or several of the criteria mentioned above, the purpose or effect of which is the failure to grant, the restriction or rejection of the recognition, use or exercise of the rights stipulated in the labour legislation (art. 5.3). Indirect discrimination is represented by actions and facts apparently based on other criteria than those stipulated above, but which produce the effects of direct discrimination (art. 5.4).

280. In accordance with article 6, any employee who performs a work has to benefit from adequate working conditions for the activity carried out, social security, labour safety and health, as well as the observance of his/her dignity and conscience, without any discrimination. At the same time, all employees who perform a work shall have their right to equal payment for equal work, right to collective negotiations, right to personal data protection and right to protection from unlawful dismissal recognized.

281. According to article 258, the internal regulations of the employer have to comprise, inter alia, rules on the observance of the principle of non-discrimination and the elimination of all forms of dignity infringement.

282. Ordinance No. 137/2000 (art. 5-8) sanctions as contraventions the following forms of discrimination based on race, nationality, ethnicity, religion, appurtenance to a social or disadvantaged category, beliefs, sex or sexual orientation, age:<sup>29</sup>

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<sup>29</sup> Such contraventions are sanctioned with a fine from 400 to 4000 RON (in cases of discrimination against natural persons) or from 600 to 8000 RON (in cases of discrimination against a group of persons or a community). Sanctions apply to both natural and legal persons.

- Conditioning the participation of a person in an economic activity or his/her free choice and exercise of a profession
- Refusal of any legal or natural entity to hire a person, as well as conditioning the filling in of a position by means of a job advertisement or a competitive examination
- Discrimination committed by the employers against their employees with regard to granting social facilities
- Discrimination of a person in his/her working or social protection relations

283. Natural and legal persons involved in mediation services and distribution of work places must ensure the equal treatment of all applicants, their free and equal access to information regarding supply and demand on the labour market and opportunities to obtain a job or a qualification. Also, they must refuse to support the employers' discriminatory requirements. All information related to the race, nationality, ethnicity, sex or sexual orientation of applicants for a job or any other private information is confidential (Ordinance 137/2000).

284. Annex IV to this report presents the national employment situation based on the 2002 census, focusing on the participation to the labour market and preferred fields of professional activity on the criterion of ethnicity.

285. The National Strategy for Employment recognizes the *difficulties certain categories may encounter in their access to the labour market* such as Roma ethnics, foreigners, persons with disabilities, school drop-outs or, more generally, persons under risk of social marginalization.

286. The National Action Plan for Employment (2002-2003; 2004-2005; 2006-2010) is a programmatic document of the Romanian Government which contains an analysis of the employment situation and provides for implementation measures in accordance with the objectives set out in the Governance Programme for 2005-2008 and the National Strategy for Employment for 2004-2010.

287. The institution coordinating the implementation of the above-mentioned measures is the National Agency for Employment -NAE (a national public institution supported by a network of 42 county agencies).

288. The National Action Plan for Employment 2004-2005 contains some general objectives for fighting against discrimination, such as:

- Ensuring the access to the labour market of foreigners who were granted a form of protection in Romania
- Ensuring the access to education for disadvantaged groups and decreasing with 15% the rate of school drop-out at the level of compulsory education

289. The National Action Plan for Employment 2004-2005 also sets out a few concrete measures such as:

- Increasing with 15% the percentage of Roma ethnics employed on work contracts out of the total number of persons programmed to be employed
- Organizing, on an annual basis, job markets to address the specific needs of the Roma minority
- Organizing professional training courses where at least 1.5% of the registered unemployed must be Roma ethnics and at least 0.3% - unemployed persons with disabilities

290. The National Action Plan for Employment 2006 has a separate chapter on the issue of the access to the labour market of Roma ethnics and acknowledges a series of social problems for this category such as: poverty, low participation in the national education system; lack of qualifications and experience on the labour market, a history of non-involvement in the formal economy; a high number of children per family and very young mothers; poor housing conditions; living in socially disadvantaged rural and urban areas.

291. The National Reform Programme (NRP) 2007-2010 is a document which presents Romania's priorities, drawn up in the context of the *European Strategy for Growth and Jobs* (the revised Lisbon Strategy - RLS). The NRP sets up some general objectives for combating discrimination:

- Developing training programmes for teaching and administrative staff in order to provide them with the knowledge and skills in the field of social inclusion
- Promoting cooperation and communication between parents, educators and community members in order to support the increase of minority and disadvantaged groups' access to pre-school education
- Stimulating the employment of the groups exposed to the risk of social exclusion and of other vulnerable groups with the focus on measures aiming at providing health care and social assistance services for the dependent persons
- Promoting vocational training programmes to stimulate the employment of the persons in groups exposed to the risk of social exclusion and other vulnerable groups
- Implementing awareness campaigns and fighting against discriminatory attitudes towards the Roma population

292. The National Action Plans for Employment are complemented by NAE's annual programs for employment. Thus, the National Action Plans for Employment 2007 had, among its objectives, the employment of certain target categories with difficulties in accessing the labour market, including Roma ethnics (10, 125), immigrants (20), refugees (15), foreigners (15). Apart from national action plans for employment, NAE has been actively involved in the implementation of the National Strategy for the improvement of the Roma situation, by elaborating employment programmes tailored to the needs of this minority. It also designated a focal point for Roma issues within each county employment agency.



293. Other measures applied by public authorities to stimulate the employment of Roma comprise their employment in the mediation services (to facilitate direct collaboration between the authorities and the Roma communities), temporary employment in public works, granting allowances to the unemployed who found jobs before the expiration of the unemployed period etc.

294. The outcomes in the implementation of employment programmes for the Roma can be summarized as follows: in 2001, a number of 5,188 Roma ethnics were employed; 270 Roma ethnics participated to professional training courses and 205 further managed to get employed. The most solicited professions on the labour market were: iron worker, painter and mason; in 2002, a number of 5,535 Roma ethnics were employed; 282 Roma ethnics were included in professional training courses; 80 of them were further employed on a labour contract basis. The most demanded professions were: tailor, car mechanic, flower grower, cook, mason. In 2003, a number of 8,781 Roma ethnics were employed, out of which 2,496 were women; 202 Roma ethnics participated to vocational training courses and 91 of the graduates were further employed. The main professions they were skilled in were: mason, painter, tractor operator, plant grower, textile worker, industrial operator in the garments industry and animal breeder. In 2004 a number of 9,079 Roma ethnics were employed; 282 Roma ethnics were included in vocational training courses and 98 of them were further employed. Most of these Roma ethnics participated to training courses for the following professions: salesmen, mason, animal breeder, textile worker, industrial operator in the garments industry, carpenter and plant grower. In 2005 a number of 10,366 Roma ethnics were employed, out of whom 2503 were women. A number of 1,601 Roma ethnics were included into professional training programmes, out of which 561 were women. They were skilled in the following professions: mason, stone worker, painter, textile worker, salesman, waiter and construction worker; in 2006, a number of 13,810 Roma persons were employed, out of which 3,515 were women. A number of 2,283 Roma persons benefited of vocational training programmes, out of which 755 were women. They received training for the following occupations: mason, stone worker, painter, textile worker, salesman, waiter and construction worker, plant growing worker, horticultural designer.

295. In 2007, a number of 15,987 Roma persons were employed, out of which 4,927 were women. A number of 1,613 Roma persons took part to vocational training programmes, out of which 509 were women. They were qualified for the following occupations: mason, stone worker, painter, textile worker, salesman, waiter and construction worker, plant growing worker, horticultural designer.

296. The above-mentioned statistics indicate that the number of persons of Roma ethnicity benefiting from NAE's services has increased annually. NAE's Programme for 2008 set as target the employment of 11,090 Roma ethnics and the participation of 2,143 Roma persons to professional training courses.

297. By April 30, 2008, the number of Roma ethnics who have benefited from the special measures in the field of employment raised to 19,647, out of whom 6,083 were employed as follows: 4,330 - mediation; 1,256 - information and counselling on job opportunities; 190 - professional training; 20 - by means of granting allowances for those who found jobs before the expiration of the employment period; 53 - by means of granting allowances for the unemployed

over 45 years who found jobs; 4 - by means of other measures to stimulate workforce mobility; 5 - by means of subsidizing the employers which hire young graduates; 2397 - public works; 40 - by means of measures set out by the Law on preventing and combating marginalization.

298. Active measures to integrate Roma on the labour market were also initiated by NGOs. The projects launched by Roma NGOs are mostly of economic nature and usually aim at generating incomes, creating jobs and vocational training courses. Such projects are: initiation of small businesses (brick-making workshops, wood-processing workshops, ready-made clothes, production of household items or hand-made objects etc), support for the Roma entrepreneurs' activity, providing qualifications for jobs in demand on the labour market, counselling for finding a job.

299. With the aim to better promote the employment objectives at the local level, the Ministry of Social Solidarity and Family signed, in 2004, cooperation *protocols with the Roma experts* within the county governmental offices (*prefecturi*) and other interested non-governmental organizations addressing Roma issues. The protocols were renewed in 2005 for an undetermined period of time. The main purpose of these partnerships was a more efficient cooperation between the Roma communities and the local public authorities, with the aim to improve the access to the labour market for as many Roma ethnics as possible.

300. Starting with 2003, **job markets** have been organized each year for **Roma ethnics**. Besides the objective to create adequate conditions for employers to satisfy their employment needs and to facilitate the employment of Roma ethnics, these job markets offered the opportunity to campaign the fact that Roma ethnics are interested in work so that the employers would come to accept them as future employees. Also, Roma ethnics had the possibility to discuss with representatives of economic agents and find out which are the requirements for getting a job.

301. Some difficulties were encountered given the reduced access to information about these job markets by some Roma. At the same time, even if the job offer was diverse and it included positions requiring basic, medium and higher education, the number of vacancies was not totally covered as the candidates failed to fulfil all the requirements in terms of either qualifications or education. Following the organization of job markets, the number of Roma ethnic employed was as follows: 1,523 in 2003; 2,257 in 2004; 1,129 in 2005; 1,116 in 2006 and 1,187 in 2007.

302. **A protocol signed between the National Agency for Employment (NAE) and the National Agency for Roma in 2005** established the framework to implement joint actions to improve the employment situation of Roma. NAE is the governmental agency with the central role in the implementation of provisions regarding Roma employment in the National Strategy to Improve the Situation of Roma.

303. In August 2005, the National Agency for Employment in cooperation with the National Agency for Roma and with the support of local authorities launched the "**Employment Caravan for Roma**" with the purpose to inform Roma ethnics about their rights and duties, as well as about the services they can benefit in order to become employed. In 2005, 915 Roma communities were visited, which brought the number of participants to this event to 11408 (4875 were women). Out of those, 1496 persons were employed (330 were women).

304. The “Employment Caravan for Roma” was also conducted during 2006 and 2007. In 2006, 2,903 Roma communities were visited. The reported data showed that 70,917 persons took part in these events, out of which 29,076 were women. Out of those, 4,219 were employed, out of which 1,188 were women. In 2007, 2,852 Roma communities were visited, 46,545 persons attending these events, out of which 19,637 were women. 3,753 were employed, out of which 1,199 were women.

305. Starting with 2006, NAE implements the **Special Employment Programme** for communities with a large number of Roma ethnics, as part of the national employment programme. Based on this programme, 7,954 persons were hired in 2006 and 7,844 persons in 2007, exceeding the initial targets.

306. *Workshops and round tables* have also been organized at the local level in order to identify obstacles and find the best solutions for the employment of Roma. The National Agency for Employment in cooperation with the National Agency for Roma organized training courses at the local level with the participation of representatives from the county agencies for employment and the Roma experts within the county governmental offices.

307. In December 2007, NAE organized, with the support of UNDP, *the Social Support Centre for Roma in the city of Blaj*. The direct beneficiaries are members of the Roma community in the city and its surroundings. Its main objectives are: improving Roma’s access to public services, including health services, increasing their level of participation on the labour market, improving their professional training and combating prejudices existing at the level of public opinion about the Roma.

308. NAE is also involved in two other projects financed from the Social European Fund, having as objective the improvement of the Roma situation, namely:

- Supporting the Roma communities in the development regions North, West and Center - Romania”, in cooperation with the Resource Centre for Roma Communities
- Together on the Labour Market”, in cooperation with the Roma Centre “Amare Romentza”

309. The difficulties encountered by the employment agencies with regard to the inclusion of Roma ethnics on the labour market relate to the fact that:

- Some Roma do not declare their identity
- Many of them live in rural communities where there are no job vacancies and they have to travel long distances to urban areas in order to get employed
- Many of them lack basic education which impedes their chances of employment
- There is a high abandon rate from courses of vocational training and a strong reluctance to enlist in such courses

310. Another problem identified by researches and studies is a relatively passive, unconcerned behaviour among some members of the Roma communities in relation to employment which can be explained by a lower education level (accountable, in turn, for more limited aspirations), the lack of identity papers (an important number of Roma does not have identity cards or birth certificates; therefore, apart from lack of employment, they cannot participate in elections, cannot benefit from social protection, cannot buy or sell properties, their children can not benefit from their lawful allowances or other forms of state support etc), lack of qualifications demanded on the labour market, the perpetuation of life patterns of former generations (the personal choice pattern which determines the individual to make his/her choice to accept or reject a certain form of social participation).

311. Roma ethnics also invoke the obstacle of ethnic discrimination in their access to the labour market. The perceived discrimination differs from one residential environment to the other. Those living in rural areas may feel more discriminated, as they are more exposed to ethnic prejudices in compact, small communities. Discrimination may also appear in the urban areas. Young persons with a higher level of social expectations are prone to perceive the treatment they receive as discriminatory. However, in many cases, what appears to be a discriminatory element, it can be, in reality, a justifiable barrier in the process of getting employed on a competitive labour market. Not only members of Roma ethnic groups have difficulties in finding a job, but also all unqualified and under-educated persons, people with a precarious health, population in rural areas with no economic opportunities etc.

312. Cases of discrimination by limiting/denying access to the labour market (e.g. advertisements for jobs including notes such as “Roma excluded”) can be and have been sanctioned by the National Council for Combating Discrimination.

313. The problem of Roma ethnics is a complex one because it does not relate only to employment but also to education, housing, health. The approach must be comprehensive tackling simultaneously each of the above-mentioned aspects.

314. The National Agency for Employment intends to improve the outcomes of its actions addressed to Roma ethnics mainly by:

- Making local level partnership more efficient - establishing partnerships with Roma NGOs in order to conduct activities focused on Roma communities
- Externalizing several services currently provided by the National Agency for Employment to other providers (Roma NGOs) specialized in counselling, mediation, professional training and, at the same time, strengthening the latter’s capacity to take over the new prerogatives; such externalization is meant to broaden these services and to bring them closer to the Roma communities
- Participating, either as an applicant or as a partner, in various projects aiming at improving Roma situation

**(ii) Right to form and join trade unions**

315. In accordance with art. 6 of Ordinance 137/2000, discrimination of a person based on race, nationality, ethnicity, religion, appurtenance to a social or disadvantaged category, beliefs, age, sex or sexual orientation in exercising the right to join a trade union and to access associated facilities is sanctioned as a contravention.<sup>30</sup>

**(iii) Right to housing**

316. The refusal to sell or rent a plot of land or a building for housing purposes, based on race, nationality, ethnicity, religion, appurtenance to a social or disadvantaged category, beliefs, age, gender or sexual orientation, is sanctioned as a contravention in art. 10 of Ordinance 137/2000,<sup>31</sup> except when such a restraint is objectively justified by a legitimate purpose and the ways of reaching this purpose are adequate and necessary.

317. In accordance with article 12 of Ordinance 137/2000, any behaviour consisting in forcing a person or a group of persons belonging to a race, nationality, ethnic group or religion, or a community to unwillingly leave their residence, deportation or diminishing their living standards with a view to determine them to leave their traditional place of residence constitutes contravention. Forcing a group of persons belonging to a national minority to leave the place, area or regions where they live as well as a group belonging to the majority population to settle in areas or regions inhabited by a population belonging to national minorities represent violations of the above-mentioned ordinance.

318. At the same time, any behaviour aiming to determine a persons or a group of persons to move or chase them away from a building or neighbourhood on grounds of their race, nationality, ethnicity, religion, belonging to a social category or to a disfavoured category, beliefs, gender or sexual orientation, constitutes contravention.

319. Regarding the Roma population, poverty contributed to cases of geographical residential isolation. Poverty was related with living marginally, which was, in turn, equated with low access to education.

320. The Romanian system of social housing needs to be further consolidated as the need greatly surpasses the supply. Building, distributing and managing social housing are responsibilities of local authorities. The housing law stipulates income thresholds for eligible tenants and several grounds for priority, but concrete allocation criteria are established at the local level. The law also limits the rent level and states that the local budget must subsidize the

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<sup>30</sup> Such contraventions are sanctioned with a fine from 400 to 4000 RON (in cases of discrimination against natural persons) or from 600 to 8000 RON (in cases of discrimination against a group of persons or a community). Sanctions apply to both natural and legal persons.

<sup>31</sup> Such contraventions are sanctioned with a fine from 400 to 4000 RON (in cases of discrimination against natural persons) or from 600 to 8000 RON (in cases of discrimination against a group of persons or a community). Sanctions apply to both natural and legal persons.

rent. Therefore, this places a fiscal burden on the local authorities. Authorities have gradually restarted to build social houses within the program of the National Agency of Housing, functional since September 1999. Still, the Agency is more concentrated on building housing for young employed people. Given the higher rates of unemployment, Roma people have an inferior accessibility to housing provided by the local authorities to young families. Nevertheless, recent years have witnessed several initiatives by local public authorities to address this issue. PHARE support has also pushed Roma housing on the national policy agenda. Several ministries are involved in planning solutions for Roma housing issues such as: solving ownership issues related to houses and agricultural terrain; rehabilitation of housing and environment in Roma neighbourhoods; supporting firms and NGO's involved in providing infrastructure and utilities in Roma neighbourhoods; supporting projects of housing construction and rehabilitation in Roma communities; supporting local Roma initiatives of housing rehabilitation and construction; building social housing allowing non-discriminatory access to Roma.

321. The Government of Romania, through the Government Decision No. 522/2006, created the framework for the strategy regarding the improvement of Roma condition, by promoting social inclusion measures; one of the actions presented in the GD No. 522/2006 referred to housing: (a) improving the Roma access to a decent housing and public services (e.g. water, electricity, sewerage and heating systems); (b) allocating the local financial resources dedicated to housing constructions for disadvantaged groups, including Roma people; (c) developing a data base and a strategy regarding the rehabilitation of deteriorated houses as a result of natural disasters; (d) implementing the housing construction/rehabilitation strategy. In order to apply the provisions of GD No. 522/2006, the Ministry of Development, Public Works and Housing (MDPWH) defined the Annual Action Plan including measures for improving Roma situation. During the next period, there will be determined the allocations from the MDPWH's budget in order to implement to actions foreseen for 2008. The main action fields are: (i) Financing the infrastructure programs aiming the ensuring of decent living conditions in urban and rural areas, including those populated by Roma communities (electricity, water, sewerage, paving the communal roads, sanitization); (ii) continuing the approach and the solving of problems regarding the property right over the land and houses belonging to Roma people and re-enacting the property right; (iii) total and/or partial financing of projects and programmes regarding the housing rehabilitation works and the housings construction in underprivileged communities, including those inhabited by Roma people; iv) ensuring the direct involvement of the beneficiaries (including Roma) in designing, realizing and actual building of the objectives, both as volunteers and as employees.

322. The housing issue of Roma population is integrated in the MDPWH's actions connected to the housing actions, the actors' identification and the necessary actions for solving the sectoral components of the housing area, being a part of the measures included in the action plan for improving Roma condition. MDPWH collaborates with the Roma National Agency in the sectoral field of **Roma housing strategy**, part of the project IDF Grant "*Developing the Institutional Capacity for the Programme on Roma Social Inclusion*" (financed by the World Bank). In this respect, MDPWH's actions aim the creation of a coherent legal framework allowing on one hand, the improvement of living quality of Roma population, and on the other hand, the possibility that the representatives of these communities could become beneficiaries of the programs coordinated by MDPWH.

323. Based on allocations from the state budget, MDPWH launched a program designed to build social housings for Roma (30 apartments in 2007). The Ministry is working on new regulations and methodologies with a view to assess and improve the living conditions of the population affected by social exclusion, including Roma population. The Local Housing Programme (LHP) will be the framework for adjusting the housing stock and the orientation tool for the future residential development, as well as the main instrument to favour Roma social and residential integration. MDPWH will strive to solve the problem of validating the informal Roma settlements. At the same time, MDPWH is updating its data base regarding the informal Roma settlements (created either during the 50's and the 60's when policy of forced settlement of the Roma was being implemented or during the 90's when Roma settled spontaneously in the outskirts of districts or cities). MDPWH is also working on improving the legislation designed to prevent the informal conditions.

324. The governmental program "*Partnership for Roma Support - 2003*" has granted 1,6 million Euros for projects in 3 areas, including housing. The PHARE Program for supporting the Strategy of Improving the Roma Situation 2004-2005 also provided grants in several areas, including small infrastructure and social housing. While housing projects were not excluded from programmes addressing the Roma situation, high costs associated with building or repairing houses did not attract many applicants. Therefore, more recently, housing was granted explicit priority in the design of projects for Roma communities, acknowledging the relevance of housing for human rights and welfare.

325. In January 2008, the MDPWH and the Roma National Agency signed a framework agreement whose objectives are: (a) improving Roma access to a decent dwelling and public services such as running water, electricity, sewerage, roads and heating systems according to the present legislation; (b) developing a data base and a strategy regarding the rehabilitation of the houses deteriorated by natural calamities; (c) developing an efficient and coherent strategy for regional development; (d) implementing pilot projects for building social housings for Roma population in 14 localities throughout 8 regions of Romania; (e) sustaining by the MDPWH of small infrastructure projects (roads paving, water adduction) whose beneficiaries are Roma communities.

**(iv) Right to public health, medical care, social security and social services**

326. Unless the act falls under the incidence of criminal law, the Ordinance 137/2000 sanctions as contravention the discrimination of a natural person, a group of persons or a legal entity, by means of refusing to grant administrative and juridical public services and denying the access of a person or group of persons to health public services - choosing the general family physician, medical assistance, health insurance, first aid or other health services, on account of race, nationality, ethnicity, religion, belonging to a social or disadvantaged category, beliefs, sex or sexual orientation. Refusal to grant a bank credit or to conclude any kind of contract based on the discriminatory grounds mentioned above also constitutes contravention, except the situation when this restraint is objectively justified by a legitimate purpose and the ways of reaching this purpose are adequately and necessary (art. 10).

327. The Romanian health system follows the social insurance blueprint. The system of social insurances for health represents the main tool to finance the necessary health protection for the population. One of its fundamental principles is the equitable and non-discriminatory access to a package of basic services for the insured. Therefore, the insured is entitled to medical services on an equal basis and without any distinction based on race, nationality, ethnic origin, language, religion, sex, political affiliation or any other discriminatory criteria forbidden by law. The accessibility to medical services is closely monitored by the Ministry of Public Health.

328. According to Law No. 95/2006 regarding the reform of the health system, title VIII - „Social insurances for health”, the main objective of the health system is to assure “the protection of the insured in a universal, equitable and non-discriminatory manner while using efficiently the National Fund for social insurances for health”.

329. The accessibility to medical services is determined by balancing the offer (the availability of care facilities) with the request for medical care. The disparities in the access to medical care may appear for at least four reasons: economical (there are direct costs supported by the population - co-payments, costs for treatment and hospitalization and indirect costs - transport cost, waiting time); inappropriate geographical location of care facilities; unequal quality of the same type of services; poor information level about the risk factors and the healthcare system.

330. These types of inequities could generate different health status of various population groups. The communities living in distant geographical locations or in difficult economical conditions are the most vulnerable. All these disparities are showed and monitored through basic health status indicators (expectancy at birth, infantile mortality, general mortality determined by evitable causes of death, longer health years).

331. The Minister of Health created, by Order No. 629 dated June 1, 2006, the National Agency for Health Programmes within the Ministry of Public Health. Its main tasks are elaborating, coordinating and evaluating the national health programmes financed from the state budget and the National Fund for social insurances for health.

332. In accordance with Law No. 95/2006, the national health programmes aim to evaluate, prevent, treat and control the diseases with a major impact on the population health status.

333. A special attention was given to the Roma communities, given their vulnerability to discrimination and their limited access to medical care.

334. No health data are routinely collected on basis of ethnicity. Only if specific surveys are done, health data on Roma are collected. As a consequence, there are very few quantitative data on the health status of Roma.

335. Between January and June 2006, a PHARE programme entitled “Evaluation of the health status and the access to medical assistance in the Roma communities” was developed in Romania. This programme (made by an international expert team) evaluated the access of the Roma population to medical services and proposed an Action Plan to the Ministry of Public Health in order to improve the situation.



336. The inclusion of the mediators in the health system was a first important step made by the Government in applying the Strategy for Improving the Roma Situation (G.D. 43/2001). It was designed to address the complex health issues faced by the Roma minority, in particular the issue of the Roma access to public health services. The health mediator project was launched by a non-governmental organization Romani Criss - Roma Centre for Social Intervention and Studies, which eventually became a partner of the Ministry of Health, in the implementation process.<sup>32</sup> Based on the Minister of Health Order No. 619/2002 regarding the functioning of the health mediation system, the NGO Romani Criss was entrusted with the responsibility for training the health mediators and for monitoring and evaluating the mediators' activity.

337. The Program of **Roma Health Mediators** (RHMs) was, together with the Community Nurses (CN) Programme, included in the National Programme No. 3 - Health of Family and Child. They were both subordinated to the Ministry of Public Health (MPH) and managed by the Institute of Mother and Child. As of 2006, the two programmes were transferred to the National Programme No. 2 - Prevention and Control of Non-transmissible diseases. With the transfer, monitoring responsibility was shifted to the National School of Public Health and Health Management.

338. The mediators are being trained in different fields such as communication, basic techniques in working with groups, settlement of disputes, patients' rights, hygiene (personal, of the households, of foods), general information about diseases, health insurance system and its benefits. The training manual was developed by Romani Criss.

339. During their practical work, some of the *Roma health mediators* (RHMs) received further training in specialised areas, such as reproductive health or tuberculosis (TB) control. The reproductive health training started in 2005 and was conducted by trained trainers (there are 13 trainers currently). By June 2006, 102 RHMs have been trained in reproductive health issues already.

340. The role of the RHMs is to facilitate the communication between members of Roma community and the health personnel, to facilitate access of Roma people to health care services and to educate members of Roma communities on health related issues (hygiene, reproductive health, nutrition, etc.). The RHMs register all pregnant women and explain the importance of gynaecology and obstetrics consultations, register infants and children, educate the community members on reproductive health issues (in particular the importance of pregnancy monitoring, contraceptive methods, family planning etc.), assist the medical personnel in vaccination campaigns (by explaining the need of vaccination to the community members, assisting in the vaccination process and accompanying children and mothers to the general practitioners), explain the benefits of the health insurance system and assist in obtaining health insurance membership and other missing identity documents (e.g. ID cards, documents for welfare benefits), accompany community members to a general practitioner, etc.

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<sup>32</sup> Agreement between the Ministry of Health/OSCE/ODIHR – Contact Point for Roma and Sinti Issues and Romani CRISS, signed in 2001 and renewed in 2005.

341. RHMs are women with completed mandatory education, selected on the basis of community leaders' recommendations. They are recognized and respected by the community and must have good communication skills. By early 2006, 233 RHMs had been employed by the Public Health Offices. This number does not include the RHMs working with various local projects.

342. Each RHM reports once a month to a supervisor at the district health office on the following: number of community members, children and pregnant women in community (in the last month and altogether); description of work relations with authorities and general practitioner; number of people without identity papers and number of solved cases; number of persons not registered with a general practitioner; number of identified cases of tuberculosis, HIV/AIDS, sexually transmitted diseases; number of identified drug addicts; number of abandoned children; performed health education activities; description of vaccination campaigns; number of women informed on reproductive health issues (family planning, pregnancy health, STDs, HIV/AIDS, cervical and breast cancer) and domestic violence; information on identified cases of discrimination against community members.

343. Since its inception in Romania, the RHM project has been subject of debate at several international conferences as similar RHM approaches are developed in other countries as well.<sup>33</sup>

344. Evaluations found that RHMs fulfil a very important role. They are respected by the community; their advice is well perceived and welcomed. They helped many families to get IDs, health insurance and to enrol with a family physician. However, better work could be done in the area of supervising the RHMs by the local health authorities and making use of their reports.

345. At the same time, the role of the local health authorities in assessing needs of the Roma and other disadvantaged categories and in drawing up plans could be further clarified and strengthened. Medical staff would benefit from information and counseling on intercultural communication and from practical information with regard to the Roma situation. Current pilot experiences in this field need to be acknowledged and used.

346. The Ministry of Public Health has been among the most active ministries in terms of policy development to improve the health of the Roma population. Apart from the HRM project, there is a recognized need to develop other activities in areas like health data collection, general practice, national programmes, and rare diseases, all need attention and action.

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<sup>33</sup> The experiences with the RHM were extensively compared and discussed during a seminar organised in December 2005 in Bucharest entitled "Past and Future Projects and Policies: how to impact Roma health most effectively." At this seminar, the Open Society Institute presented a report "Mediating Romani Health". The report assesses the RHM programs in Finland, Romania and Bulgaria. Among other conclusions, this report suggests that RHMs should focus on mediation that improves access to health care for Roma people and reduces their discrimination in the health sector. Other suggestions call for more training of the mediators, improved coordination of their work, etc.

347. In order to eliminate any possible form of racial discrimination, the Ministry of Public Health has the following middle and long-term priorities:

- Strengthening the role of the Ministry of Public Health in improving the health status of the Roma community
- Improving the efficiency of the Health Insurance system by increasing its coverage and the quality of health services
- Strengthening the public health support to Roma communities
- Improving the care provided to Roma communities by family physicians and nurses
- Stimulating the sharing of information and innovations in the health sector

348. **Community Nursing** (CNs) is a relatively new phenomenon in Romania, as well as RHMs. The programme was introduced in 2001, as a part of the National Programme No. 3 - Health of Family and Child.

349. CNs define health and social problems in poor communities (mainly in rural areas and small towns), they report social cases to the local public authorities and health cases to a health inspectors within the local health authorities. CNs must work closely with family physicians, the city hall, the county directorate for mother and child protection. Currently, there are 500 trained CNS, working in 24 counties.

350. The methodology for training the CNs was developed by the Institute for the Mother and Child, with the financial support from UNICEF and UNFPA. A basic requirement to become CNs is to be a nurse who has graduated a 3-year nursing school.

351. CNs are employed by the local health authorities through hospitals, in the same manner as RHMs. They work on annual contracts which can be renewed only 3 times. Their work is supervised by a physician inspector, responsible for the programme on mother and child and by a nurse working with the local health authorities. These two officials also supervise the RHMs.

352. Many *national and local projects* have been undertaken over the years, trying to provide specific health services for the Roma.

353. The Ministry of Public Health is implementing, together with the JSI Research and Training Institute (a US based non-profit organization) and other partners, the Romanian Family Health Initiative, meant to improve access to reproductive health services, mainly for the disadvantaged population groups. Within this project, General Practitioners (GPs) were trained in reproductive health consulting and services and free of charge contraceptives were provided through their offices. All population is covered by the project. A major success was the development of a strategy for universal access to family planning services which was implemented within the last 5 years with funds from the JSI.

**(v) Right to education and training**

354. The legal framework of Romania's education system consists of the Constitution, Education Law (94/1995 as amended), ordinary law and ordinances and policy decisions made by the Ministry of Education, Research and Youth (MoERY).<sup>34</sup> The Law on Education grants all Romanians equal access to all levels and forms of education, regardless of social origin and financial situation (...) race, nationality". Article 12.2 of the Law states that "the organization and content of the education cannot be structured by exclusive and discriminatory criteria, such as ethnicity".

355. Denying the access of a person or a group of persons to the public or private education system of any kind, degree or level, based on race, nationality, ethnicity, religion, belonging to a social or disadvantaged category, beliefs, age, sex or sexual orientation constitutes a contravention according to article 11 of O.G. 137/2000.<sup>35</sup> This provision is applicable to all stages and levels of education, including admission or enrolment in education institutions and students' examination. A requirement to prove a person's or a group's belonging to an ethnic group as a condition for access to education in their mother tongue constitutes contravention. The exception to the rule is represented by the candidates applying for the secondary and higher education system for places allotted specifically to a certain minority, in which case they must prove their belonging to that minority by means of a document issued by a legally established organization of the respective minority (art. 11 of O.G. 137/2000).

356. The above-mentioned provisions cannot be interpreted as a restriction of the right of an education institution to reject the application of a person whose knowledge and/or prior results do not meet the required admission standards of that institution, as long as the refusal is not based on that person's race, nationality, ethnicity, religion, belonging to a social or disadvantaged category, beliefs, sex or sexual orientation (art. 11 of O.G. 137/2000). At the same time, any restriction occurring during the establishment or licensing of education institutions in accordance with the national legislation based on race, nationality, ethnicity, religion, belonging to a social or disadvantaged category constitutes contravention (art. 11 of O.G. 137/2000).

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<sup>34</sup> Since the 2003-2004 school year, education has been compulsory from ages six (the beginning of primary school) to sixteen. At fourteen, students either continue to attend high school or a vocational programme. If the student graduates from high school, he or she may attend a university or other form of tertiary education. Public per-university education is controlled by the central MERY through the County School Inspectorates. The MERY is responsible for setting the national educational policy and the school inspectors are responsible for the quality of education in their respective county.

<sup>35</sup> Such contraventions are sanctioned with a fine from 400 to 4000 RON (in cases of discrimination against natural persons) or from 600 to 8000 RON (in cases of discrimination against a group of persons or a community). Sanctions apply to both natural and legal persons.

357. The Ministry of Education, Research and Youth (MoERY) considers that education is a key instrument for preventing social exclusion of disadvantaged groups, especially Roma. This could be achieved only through a thorough social inclusion of all categories of children and youngsters in the compulsory education system.

358. Priority has been given to preventing and combating school abandonment of the Roma children, as well as to the problem of segregation. In this context, special attention was also awarded to children with special needs and those coming from socio-economic disadvantaged areas.

359. Beginning with 2001, the Ministry of Education, Research and Youth (MoERY) implemented a number of **PHARE Programs** (in 2001, 2002, 2003, 2004, 2005, 2006), seeking to consolidate the services network meant to enable marginalized, disadvantaged groups to fully participate in the social, economic and cultural life. They aimed, inter alia, at encouraging school attendance and graduation, offering a second chance for those who did not graduate secondary schools, training inspectors and school mediators and establishing quotas for Roma children in secondary and vocational education.

360. The PHARE projects “Access to education for disadvantaged groups” supported MoERY’s efforts to translate into practice the principle of equal opportunities in education, regardless of individual characteristics such as physical or mental impairments, cultural or socio-economic background, mother tongue, ethnic origin, geographically remote area of origin. They are part of the education policy reform. 36, 99 million Euros have been committed for these projects.

361. The 2001 PHARE pilot project was developed in 10 counties and expanded in 12 new counties, during the 2003 PHARE project. Through the PHARE 2004 project, the institutional building component was put in place in the remaining 20 counties, out of which 14 participated in the grant scheme, developed through the 2005 PHARE project. The 2006 PHARE project will make a national evaluation, covering all counties, regarding the impact of the measures and good practices piloted and designed in previous PHARE projects (2001, 2003, 2004 and 2005).

362. The access to lifelong learning is also ensured by the training programmes that are delivered under these projects for professionals working in the educational field: directors, inspectors, trainers, school mediators, teachers, students coming from targeted communities.

363. Good results and success stories related to PHARE projects “Access to education for disadvantaged groups” reveal that:

- Approximately 850 teacher trainers from all 42 counties were trained on themes such as inclusive education, active teaching methods, school based curricula development and implementation, second chance and remedial education programmes
- The local training programmes have been developed in all counties and the Teacher Training Houses supported them
- Approximately 4000 Roma pupils, youngsters and adults have been enrolled in the *Second chance programme* (for primary level and for lower secondary level)

- After school/remedial teaching programmes and intensive kindergarten programmes have been developed in 25 counties with a good participation and are currently developed in 11 new counties
- Subjects related to the Roma culture are present in the newly designed curriculum for the Second Chance programmes and the latter has been extended in all counties
- Approximately 381 school mediators have participated or are currently participating in the mediator training programme
- 36 Resource Centres for Inclusive Education have been established in participating counties
- Approximately 300 participating schools and another 150 schools, currently selected, have developed and develop activities for parents participation in education
- Counties participating in the project have financed works and procurement activities and approximately 300 schools from disadvantaged communities already ensure a friendly educational environment

364. Other success stories are:

- The development of the school mediators' network and their role in improving school enrolment and school participation of Roma children. Mediators act as an interface between school and community, having an important role in increasing participation of Roma parents in the school life.
- The revision and development of the Second Chance programme, both for primary and lower secondary education. Targeting children and youngsters who dropped out of school, the programme represents a very flexible educational offer, giving the possibility of getting recognition for competences acquired in informal settings, the implementation of a modular curriculum and a student-centred approach. The lower secondary Second chance programme offers a unique combination (in the Romanian education system) of general and vocational education, ensuring increased chances for the graduates to find a job.

365. Over the reporting period, the Ministry of Education, Research and Youth adopted pieces of *relevant legislation* such as: Order MoERY No. 1529 / 18.07.2007 regarding the development of diversity theme in the curriculum and Order MoERY No. 1540/19.07.2007 regarding the ban on segregation of Roma children in schools and approved the Methodology for preventing and eliminating school segregation of Roma children (see paragraphs 179-186 above).

366. The PHARE financial scheme made it possible to disseminate and strengthen the positive experience gained in various smaller projects initiated either by the ministry itself or NGOs. Expansion of successful pilot projects developed before the PHARE "Access to education" projects was implicitly the goal of these large-scale programmes.

367. The **Roma Education Fund** (REF), established alongside the “Decade of Roma Inclusion 2005-2015”, is currently funding several projects in Romania. Most are run by NGOs.

368. MoERY adopted also a *plan of measures* designed to implement the provisions of the Strategy in the field of education. Below are listed a number of activities currently underway (organized and / or financed by MoERY and / or other public authorities in cooperation with nongovernmental or private entities):

- Creating, in the County School Inspectorates, special positions for inspectors on Roma education, responsible for the participation of Roma children in education, as well as for the teaching of Romani language. Out of the 42 inspectors, 26 are Roma.
- Providing annually special seats in high-schools, arts and trades schools for Roma children. If, in 2002, 1350 seats were allocated for Roma children, in 2007 there were more than 3000 special seats.
- Providing annually special seats in universities for Roma. If in the academic year 1998-1999, 149 special seats for Roma were offered in 8 universities, in 2007 there were 454 special seats in 39 universities. Additionally, 200 seats for training Roma people to become primary education teachers were allocated at the Open Distance Learning Department CREDIS of the Bucharest University, as a result of the partnership between the Bucharest University, UNICEF and the current PHARE Programmes “Access to education for disadvantaged groups” implemented by MoERY. The Roma students will also acquire the competence to teach Romani language or/and Roma history and tradition.
- Financing, through county school inspectorates, Roma language and history teacher positions (420 positions in September 2007). In 2006-2007 school year, a number of 25.000 pupils, out of 250.000 Roma pupils which have assumed their Roma identity, chose to study Romani language and literature and Roma history and traditions.
- Annual organization of a Romani language national contest. 200-250 Roma children who excel at local, county and national level in this competition, are invited to participate in the summer camp for Romani language, culture and creation, annually financed by the Ministry of Education, Research and Youth, at the seaside.
- Revising and developing the syllabus for Romani language (for first to fourth grades) and Roma history and traditions (for sixth and seventh grade) with Roma authors;
- Beginning with September 2003, a class with tuition in Romani language has been established at Măguri School - Lugoj, Timiș county (80 pupils in 2006/2007 school year).
- Starting with March 2004, MoERY, in partnership with UNICEF and “Save the Children” organisation, has initiated a multi-annual national programme of training non-Roma teachers, who work in classes or kindergartens with Roma children, so that

they become aware of the Roma pupil's specific needs, inter-cultural problems etc. (ROMANIPEN training topic). There are on-line, followed by "face to face" training course for non-Roma teachers working with Roma pupils.

- Training courses for Roma teachers in the field of Roma language and history; 40 scholarships offered by MoERY to train Roma as teachers and educators; 55 Roma benefiting from scholarships offered by MoERY acquired university degree to teach Romanes; scholarships for young Roma professors who took jobs in Roma communities.
- Program "*A second chance*" expanded to include 4000 Roma pupils.
- Summer preparatory kindergarten for Roma children who did not attend the pre-school education (over 100 in 2006).
- Study on forms of segregation in 15 counties (covered by the PHARE project 2003); training and monitoring visits.
- Training sessions with teachers from 15 counties on issues related to multiculturalism (PHARE 2003); training sessions at national level for trainers, directors and inspectors (PHARE 2004) on issues related to multiculturalism, history and culture.
- Workshops and seminars to train trainers and inspectors working in the field of education for Roma in all 42 counties.
- Training courses for 105 (2006) and 200 school mediators (2007).
- Insertion in the curriculum of topics related to multiculturalism and combating discrimination (at all levels of education).
- New (3) and re-edited (4) textbooks in Romani language; 2 bilingual textbooks for the "Second chance" Programme (primary and secondary school).
- Publication on education in Romani language (1 volume / year); informative bulletin on education for Roma people (2 / year); other publications about Roma - "*Roma History and traditions*", "*Roma tears - testimonies of the Roma deported in Transnistria*".
- Public campaign entitled 'Diversity - a chance for the future' 2007 - promoting mutual knowledge and acceptance of the cultural, ethnic and linguistic differences.
- Festivals (2) of Roma traditional songs and dances.

369. Since 2002, the *Roma school mediators* have played an important role in the framework of all educational projects financed by PHARE funds. Given the positive experience gained in the implementation of health programmes (Roma health mediators), the mediator has been recognized as an important stakeholder. Experience gained at the NGO and governmental level made it possible to clarify the statute and training requirements for this job.



370. The position of school mediator has been a recognized occupation in the Classification of Occupations in Romania since 2002. According to the Code of Occupations, the school mediator is part of the “Other personnel in education” category. The main responsibilities of a school mediator include the following: data collection, helping to ensure that all children of compulsory school age are enrolled, working to prevent dropping out by communicating with parents and local authorities, facilitating pre-school enrolment for Roma children, mediating between families and school authorities to promote social inclusion, identifying potential problems, helping to disseminate information throughout the Roma community, supporting teaching staff. Mediators also support children directly and liaise with the community on a variety of levels.

371. The selection of the school mediators is a result of recommendations from the inspectors for Roma education and also from the local community Roma leaders. Some of the criteria taken into consideration are: residency in the locality, Roma ethnicity, communication skills, possessing good standing within the local community and coming recommended by a local Roma organization, speaking the language used in the community. A high-school level education is considered important but they must have completed compulsory education.

372. Mediators’ training has a strong focus on practice and covers topics such as: children protection legislation, communication, ICT, Romani language, Roma culture, community involvement. In 2006, the training took place in three main regions of the country (Neamt, Cluj, Arieseni).

373. In light of the ongoing process of decentralization in Romania and responsibilities being delegated more to the local level, the local authorities are expected to have an increased role in facilitating the hiring of school mediators.

374. *Members of national minorities are entitled to study and receive instruction in their mother tongue at all levels and forms of education.* In vocational schools, secondary and post-secondary public education, instruction is provided in the mother tongue. At their parents’ request, Roma students in grades 1-2 may enrol in additional curriculum composed of three to four classes weekly for Romani language and literature and one class weekly on the history and traditions of the Roma in grades 6-7. Many Roma families also choose to study in Romanian or Hungarian.

375. Progress has been made in strengthening the process of teaching Romanes in schools and consolidating the network of Romani language teachers. Today Romanes is taught as a mother tongue (a separate subject) by approx. 480 Roma and non-Roma teachers. The number of pupils studying Romanes and Roma history and culture has risen from 50 in 1990 to over 25 500 now. The number of teaching staff has also increased as a result of involving young Roma high school graduates in the education system as unqualified teachers to work with children from Roma classes as primary school tutors or teachers of Romanes as mother tongue.

376. The Ministry of Education, Research and Youth has organised a partnership with co-financing from UNICEF in the implementation of the following programmes:

- Producing educational materials for Roma language and history (a Romanian - Roma dictionary, tapes of Roma sayings and stories, three tapes of Roma history - in Romanes, Romanian and Hungarian, a Roma history and tradition manual for the

teachers of Romani language, a three-language illustrated vocabulary in Romanes, Romanian and Hungarian for pre-school and first grade Roma pupils, a literacy manual in Romani language etc.)

- Offering scholarships for young Roma who teach Romani language in schools, in order for them to be able - in parallel with their educational activity in schools - to complete the 3 years long university training, to become accredited Romani language teachers, through Open Distance Learning at CREDIS Bucharest
- Continuation of training of 50-60 Roma students, in annual summer schools for Romani language and culture, so that they would be able to teach Romani language and Roma history in the educational system

**(vi) Right to equal participation in cultural activities**

*Prevention campaigns combating the discriminatory behaviour in football*

377. Due to the escalation of manifestations and incidents with racist character on the stadiums, UEFA decided to adopt drastic measures in order to combat racism in football. Therefore, actions of informing, preventing and sanctioning this type of manifestations became the number one priority of the supreme body of the European football. In order to achieve this objective, UEFA established new behaviour rules of mandatory character for all persons involved in football. Breaching these rules triggers severe sanctions for the football clubs.

378. Given the occurrence of such manifestations in Romania, especially at important games between Bucharest football teams, the National Council for Combating Discrimination (NCCD) initiated, in 2003, the prevention campaign “*Together against discrimination*” aimed at combating discriminatory behaviour in football. On this occasion, Romania started its active participation in the annual European campaign “*Action Week against Racism in Football*” organised by the FARE network (Football against Racism in Europe). During the European week of action against racism, at the beginning of the football games, Romanian players and referees wore bands and T-shirts with anti-discrimination messages. Also, the players symbolically showed the red card to the spectators/ supporters as a sign of disapproval toward discriminatory behaviours. The supporters received leaflets and informative folders regarding the negative effects of discriminatory behaviour and the stadium commentators informed the supporters about the campaign and its objectives. All events have been organised with the support of football clubs, the Romanian Football Federation and the Professional Football League.

379. NCCD organized this campaign annually, during the week declared by FARE as “*Action Week against Racism in Football*”. The campaign efforts focussed mainly on games between football teams classified in top positions of the National First League, such games having the highest audience among TV spectators. It should be mentioned that these highly disputed games were the ones usually registering discriminatory shouts. As part of the campaign activities, there were shown banners with the campaign slogan, the players and referees wore t-shirts with anti-discrimination messages at the beginning of the games and informative materials were distributed among supporters in the stadium.

380. In October 2005, in addition to the usual actions on the stadiums, NCCD, together with the National Agency for Sport, organized a football challenge between teams of deputies, journalists, representatives of non-governmental organizations from the Roma community (Romani CRISS) and NCCD. At the end of this football challenge, the President of NCCD handed to the winner team a symbolic prize of fight against discrimination in football.

381. In the spring of 2006, following the qualification of two Romanian teams - "Rapid" and "Steaua" - in the quarters of the UEFA Cup, NCCD, together with Romanian Football Federation and Youth National Authority, organized the prevention campaign regarding discriminatory behaviours and promotion of fair-play on the stadiums entitled "Let the Racism in OFSAID!". These two teams were well-known for the occurrence of racist manifestations at their games which were sanctioned by NCCD. Both the public and mass-media considered the intensely publicized campaign "Let the Racism in OFSAID!" to be a success.

382. Another demonstrative football game was organized in 2006, between teams composed of journalists and personalities working with non-governmental organizations in the field of human rights protection. The game was open by Mr. Jonathan Scheele, the Head of European Commission in Romania. The President of the Romanian Football Federation was also present at this event.

383. Between October 27 and 29, 2006, National Council for Combating Discrimination, together with the Romanian Football Federation and a number of nongovernmental organizations (the Roma Initiative Office of the Open Society Institute, the Press Monitoring Agency, the European Roma Grassroots Organization and McCann Eriksson, organized the campaign "*Racism affects football*" during "*The European Week of Action against Racism*"). The role of this campaign was to stimulate social dialogue and to promote tolerance and fair-play in football. At the beginning of the games, the players and the referees wore T-shirts with anti-discrimination messages and showed to the fans banners with the campaign slogan. Those games have been broadcast and the sports commentators informed the viewers about this event. The audience was estimated at more than 2,3 million viewers. There were almost 130.000 supporters on the football stadium. During the campaign, most of the written media informed the readers about this event. Articles about the campaign were read by at least 650.000 readers. On October 28<sup>th</sup>, 2006, the event appeared on the first page of the most popular sports newspaper, "Gazeta Sporturilor". In the same newspaper, there was an op-ed on the same subject. The number of copies sold that day by "Gazeta Sporturilor" was estimated at 650.000.

384. During this campaign, on October 28<sup>th</sup>, 2006, a symbolic football Cup was organized in Bucharest, in the "Tei" Student Campus. 16 football teams took part, representing all football clubs. The players were children from age groups 10 and 11. The teams for each age category, situated on the first three positions, received the Cup awards "Football against Racism".

385. In 2007, the NCCD, together with the Association of Amateur and Professional Football Players and the Open Society Institute, launched a project aimed at combating discriminatory behaviour and violence on the stadiums and outside the football fields, as well as at promoting social dialogue through sport. This project includes a media campaign "Racism spoils the game.

Violence destroys lives” undertaken by the Ogilvy Group. It contains a social advertising spot of 30 seconds (organised pro-bono by the Ogilvy agency), actions on the stadiums (both at national and international games), media announcements and activities in schools.

386. A player of Roma ethnicity from one of the National First League football teams “*Steaua*”, Mr. Bănel Nicolîță, was designated the Romanian “Antiracism Ambassador”, becoming a member of the international network of players promoting tolerance and fair-play. This concept was created by the International Federation of Professional Football Players and was integrated in the above-mentioned campaign “*Racism spoils the game. Violence destroys lives*”.

387. Based on the NCCD’s evaluation and experience, the efficiency and impact of these anti-discrimination campaigns increased in the course of the last four years, including in terms of media visibility. The Romanian Football Federation and the football clubs became more aware and more sensitive to discriminatory actions on the stadiums, especially against the backdrop of UEFA’s strict and severe sanctions for racist manifestations.

388. Discrimination is especially caused by the existence of stereotypes and prejudices and it could be eliminated in time through information and education, including by constantly developing prevention and awareness campaigns. Taking into consideration the positive effects of the prevention campaigns in football, NCCD is currently considering extending these activities to other sports.

#### *Combating discrimination in the mass-media*

389. Combating discrimination in the mass-media is under the constant attention of the relevant Romanian authorities. Apart from the activity of the National Council of the Audio-Visual (described under article 6 below), the National Council for Combating Discrimination took several initiatives to monitor the written press with the aim to see whether it observes the anti-discrimination legislation. NCCD found several discriminatory advertisements published in the daily press and initiated actions ex officio.

390. As an example, in 2003, following such a monitoring exercise, NCCD sanctioned with a notice the following daily newspapers: “România liberă”, “Național”, “Evenimentul Zilei”, “Monitorul de București”, “Adevărul”, “Ziarul”, “Ziua” for publishing advertisements conditioning a certain post or job on discriminatory criteria (age, sex, nationality).

391. In the same year, NCCD issued an Order, published in the Official Gazette No. 235/7.04.2003, regarding the obligations of the employers or their representatives, as well as of the authors of the advertisements and their representatives with reference to conditioning an advertisement and /or job offer on discriminatory criteria and publishing such an advertisement.

392. According to this Order (No. 1/2003), the employers who are advertising a post/job offer, by means of a publicity message, irrespective of the communication channel, have the obligation to rule out any privileges and discrimination, to ensure the free access of all persons to all phases

of the employment process, irrespective of race, nationality, ethnicity, appurtenance to a social or disadvantaged category, language, religion, sex and sexual orientation. Also, the authors of the advertisement and the legal representatives of the media trusts/societies have the obligation to refuse the dissemination of the advertisement if it restrains access for interested persons based on discriminatory criteria mentioned above.

393. Individual journalists have also been sanctioned by NCCD. As an example, a journalist received a fine of 2 000 000 lei (ROL) in 2003 for publishing a discriminatory article (inciting to racial discrimination) about the behaviour of Romanian citizens of Roma ethnicity in Europe.

394. It should be underlined that the members of the Romanian Press Club (press societies and individual journalists) pledged to uphold the Deontological Code of the Journalist. This document provides, inter alia, that the race, nationality and belonging to a minority (religious, linguistic, sexual) should not be mentioned unless the subject-matter of the press article specifically refers to a problem connected to this information.

#### **(vii) Right of access to places of service**

395. Denying the access of a person or group of persons to the services provided by theatres, cinemas, libraries, museums and exhibitions, to the services provided by shops, hotels, restaurants, bars, discotheques or any other service providers, whether they are public or private property, as well as to the services provided by public transportation companies - by plane, ship, train, subway, bus, trolley-bus, tram car, taxi or by any other means of transport, based on race, nationality, ethnicity, religion, appurtenance to a social or disadvantaged category, beliefs, age, sex or sexual orientation, is sanctioned as a contravention in art. 10 of Ordinance 137/2000,<sup>36</sup> except when such a restraint is objectively justified by a legitimate purpose and the ways of reaching this purpose are adequate and necessary.

396. In accordance with art. 14 of OG 137/2000, denying the access of a person or of a group of persons to public places on grounds of race, nationality, ethnicity, religion, appurtenance to a social or disadvantaged category, beliefs, sex or sexual orientation constitutes contravention.

397. NCCD jurisprudence includes cases of sanctions for violations of the legal provisions mentioned above. The situation of decisions on grounds of discriminatory access to services and public places is as follows: 2003 - 21 decisions and 9 sanctions (5 warnings and 4 fines), 2004 - 10 decisions, 2005 - 12 decisions and 6 sanctions (3 warnings and 3 fines), 2006 - 9 decisions and 1 fine, 2007 - 134 decisions and 3 sanctions (2 warnings and 1 fine).

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<sup>36</sup> Such contraventions are sanctioned with a fine from 400 to 4000 RON (in cases of discrimination against natural persons) or from 600 to 8000 RON (in cases of discrimination against a group of persons or a community). Sanctions apply to both natural and legal persons.

## ARTICLE 6

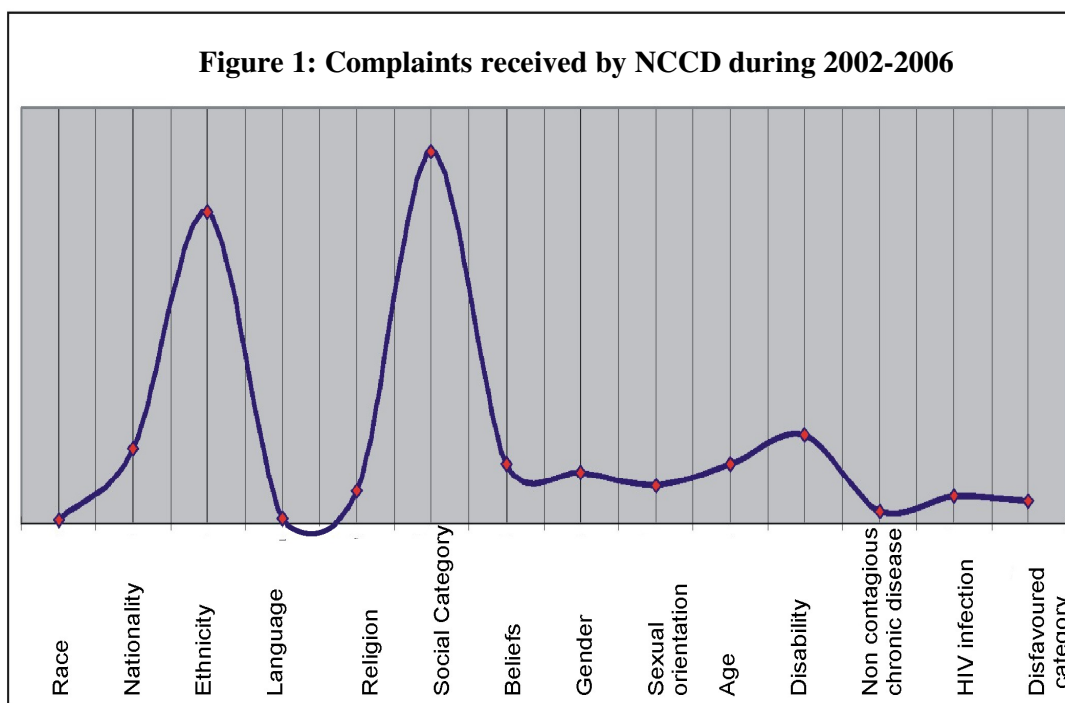
### Effective protection against any acts of racial discrimination

#### I. Protection and remedies through the National Council for Combating Discrimination (NCCD)

398. As mentioned above, NCCD can act at the request of a legal or natural person or *ex officio*. The Steering Board (the deliberative body of NCCD) analyses petitions and complaints received and decides on the appropriate measures, including punitive sanctions (contraventional fines, warnings), following the investigations carried out by the specialized personal of the Council (The Inspection Team). The sanctions applied by NCCD can be appealed in the administrative court.

399. Based on the Council's practice, the most frequent forms of racial discrimination occur on the grounds of ethnicity, targeting with priority Roma persons. Discriminatory acts in sports, especially during football matches, have also been frequently registered.

400. Taking into account the National Council for Combating Discrimination statistics (2001-2007), acts of discrimination based on ethnicity hold an important share in the total number of filed complaints (fig. 1).



401. The complaints filed with the NCCD in 2007 based on the ethnic criterion, with reference to the Roma minority, totalled 82. The number is relatively comparable with those lodged in 2006 - 63 complaints, although the process seems to be on a slightly ascending trend.

402. Between 2002 and 2007, the table of *complaints involving discrimination on the grounds of ethnicity and race* is as follows (fig. 2):

**Figure 2**

**Complaints lodged before the NCCD on racial/ethnic ground**

Ground	2002	2003	2004	2005	2006	2007
Race	0	0	1	1	2	0
Ethnic origin	34	66	45	85	69	83
National origin	1	12	21	39	20	39
Total complaints lodged before NCDD	134	473	353	382	432	836
Percentage of complaints on racial/ethnic ground	25,37%	13,95%	13,03%	22,51%	16,43%	10%

403. The complaints regarding discrimination on the grounds of ethnic origin cover situations manifested in *different fields of activity*, as follows:

- Employment: access to a job
- Mass-media, especially articles that have a degrading or biased content regarding the Roma minority or persons belonging to the Roma community
- Public speeches, especially in situations that create a hostile environment or lead to the violation of human dignity
- Access to public services or in public places: clubs, restaurants etc.
- Access to the housing market: renting real estates or, in some cases, eviction
- Education, especially cases of segregation of Roma children, hostile behaviour towards the teachers of Roma ethnicity
- Sports, especially violent verbal manifestations infringing upon the human dignity
- Advertising, especially real estate ads
- Justice: the unequal application of the law
- Public administration, especially the behaviour of public servants towards persons belonging to the Roma minority

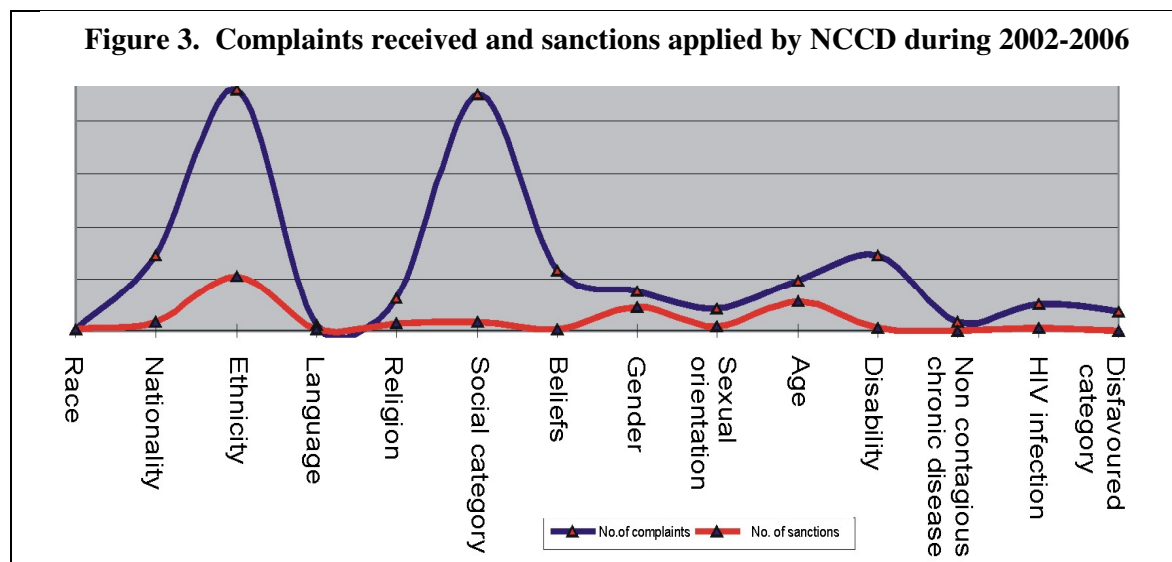
404. *An analysis of the 2007 complaints on the ethnic criterion* indicates the following prevalent domains in which acts of discrimination against the Roma minority were reported:

- Right to personal dignity and honour - 35 complaints
- Access to public services - 22 complaints

- Education, cases of segregation of Roma - 11 complaints
- Employment, professional activity - 10 complaints
- Access in public places - 4 complaints

405. According to the law, any person may lodge a complaint for being discriminated against. In this regard, a complaint may be addressed by a person, a group of persons or a legal person (NGO, trade unions, etc). With regard to alleged acts of discrimination against Roma in 2007, 33 complaints were filed by men, 15 - by women. A number of 27 complaints were addressed by legal persons and only 7 - by groups of persons. Also, based on the area from where the petitions are received, the urban environment represents the source of majority of complaints (67), while only 15 complaints were received from the rural area. Bucharest (the capital) registers the highest number of complaints (30).

406. As regards the ascertaining and sanctioning of discrimination cases, there is a relative balanced report between the cases ascertained and the sanctions applied (fig. 3). An important segment both from the total registered complaints and sanctions refer to ethnic discrimination against Roma.



407. Acts of discrimination were ascertained and subsequently sanctioned in a percentage that varies between 26% from the total amount of complaints in 2002-2003, 7% from the total amount of complaints in 2004, 27% from the total amount of complaints in 2005 and 13% from the total amount of complaints in 2006. Although there is a visible difference between the complaints received and the sanctions applied (fig. 4), this can be explained by the fact that there was not possible, in many cases, to ascertain the existence of discrimination given the lack of adequate evidence, the nature of the action or other juridical aspects.



**Figure 4**

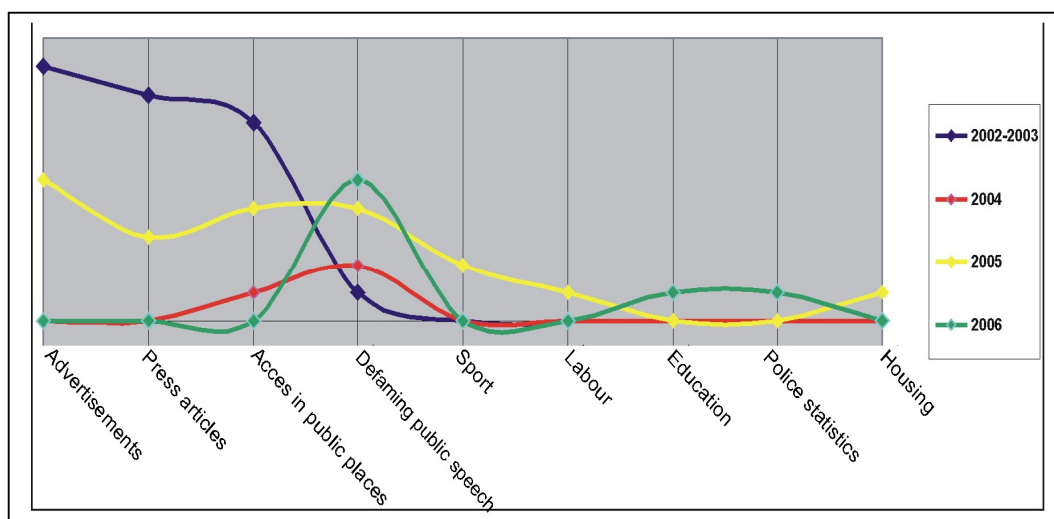
**Sanctions imposed by NCCD consisting in warnings and fines up to 1,000 Euros in 2002-2006 and in 2007**

Total number of complaints 2002-2006	Total number of sanctions	Ground of discrimination	Percentage
1 774	170	On all grounds	In approx. 10% of the cases a sanction has been imposed
299	60	Ethnic origin	In approx. 19% of the cases a sanction has been imposed
Approx. 38% from the sanctions applied related to ethnic discrimination			
Total number of complaints in 2007	Total number of sanctions	Ground of discrimination	Percentage
836	46	On all grounds	In approx. 5,50% of the cases a sanction has been imposed
83	7	Ethnic origin	In approx. 10% of the cases a sanction has been imposed of the cases a sanction has been imposed

408. The number of discriminatory acts against Roma persons sanctioned by NCCD during the years 2002-2006 varied in relation to certain type of cases or maintained a relative constant trajectory in other situations (Fig. 5).

**Figure 5**

**Manifestation of discriminatory acts according to the sanctions applied by NCCD during 2002-2006**



409. For instance, during the years 2002-2003, the ascertaining of discriminatory acts and the subsequent application of a sanction cover mainly cases of discriminatory advertisements (9 sanctions), press articles with a discriminatory character (8 sanctions), denying the access to

public places (7 sanctions), public speech infringing upon the human dignity (1 sanction) and segregation of Roma children in school (1 sanction). In 2004, there was a small increase in the number of sanctions for discriminatory public speech (2), as well as for denying access in public places. In 2005, there were only 5 contraventional sanctions for discrimination in advertising, 3 sanctions for discriminatory press articles and 4 sanctions for denying access in public places (a downward trend in comparison with 2002-2003). A small increase was registered in contraventional sanctions for discriminatory public speech (4). Also, 2 contraventional sanctions were registered for slogans with a discriminatory character during football games, one sanction in the field of employment and one sanction for denying access to the housing market. In 2006, 9 acts of discrimination were ascertained and 6 contraventional sanctions were applied - 4 sanctions for public speeches with a discriminatory character, one sanction for segregation of Roma children in school and one sanction for denying access in public places. Thus, in 2006, there were not registered any acts of discrimination in the field of advertisement, press articles, denying access to the housing or labour market. Roma non-governmental organizations played an important role in combating discrimination, assuring the connection between the discriminated persons and NCCD.

410. There have been cases solved by mediation/friendly settlement, including cases of ethnic discrimination (fig. 6).

**Figure 6**

**Cases solved by mediation**

Year	Case	Subject of complaint	Ground	Outcome
2003	D.P. vs. Club M	Denial of access in the club	Ethnicity (Roma)	Roma are allowed to enter the club
2004	Roma Party in Balteni vs. local counsellor	Hate speech against the Roma and the Roma party leaders	Ethnicity (Roma)	Public apologies and friendly settlement
2005	I.V. vs. Private Company	Denial of access into swimming pool	Ethnicity (Roma)	Roma are allowed to enter the swimming pool
2005	Romani Criss vs. newspaper	Discriminatory real estate ads	Ethnicity (Roma)	Replacement of ads, cooperation in avoiding similar ads, public apologies

411. Most of the complaints addressed to NCCD were filed by non-governmental organizations, on behalf of the victims. In cases of discrimination, Roma non-governmental organizations acted as plaintiffs in front of the court or NCCD. In addition, NCCD cooperated with NGOs, in particular with Roma organizations, on various actions and mutual projects in the field of preventing ethnic discrimination. At the same time, NCCD participated together with Roma NGOs at trainings in the field of non-discrimination.

412. Representatives of NCCD also participated at trainings in the field of human rights protection and non-discrimination, which were addressed to police officers, civil servants, judges and prosecutors and focused on Roma issues.

413. The NCCD organised, on behalf of the Romanian authorities, the 21<sup>st</sup> meeting of the Council of Europe MG-S-Rom (Group of Specialists on Roma and Travellers Issues) in Bucharest on 2-3 May 2006.

## II. The activity of the Ombudsman

414. Between 1999 and 2007, the activity of the Ombudsman regarding cases of alleged discrimination meant solving complaints received from natural persons, initiating ex officio procedures following information provided by public sources such as the media, organising investigations, issuing recommendations in cases of real human rights violations and submitting special reports to the Parliament and the Government.

415. In 1999, the institution received 194 complaints involving cases of alleged discrimination, conducted 2 ex officio procedures and 3 investigations. Among the 194 complaints, only 32% cases (61) were proven to be warranted.

416. As a relevant case, in 1999, a professor submitted a complaint regarding the fact that Roma students were not allowed to enter a disco club in the city of Craiova. Despite the publicity this case received in the media, the local public authorities did not take any measure to address the situation. Following an investigation, the Ombudsman issued a recommendation to the Mayor of the city of Craiova.

417. Another similar recommendation, following the investigation of a case of ethnic discrimination, was addressed to the Mayor of the city of Galati. The claimant - a person of Roma origin - reported that members of his family were denied access to a pizza place by the owner on account of their ethnic origin. He had also submitted complaints to the local police and the county governmental representative without having received an answer.

418. In **2000**, the number of complaints involving discrimination allegations was 152, which meant a decrease of 22 % in comparison with 1999. Only 66% (101) of these complaints were found to be cases of real discrimination, mainly on ethnic criteria. The institution conducted 4 ex officio procedures and 8 investigations in this area of activity. In **2001**, the number of complaints increased with 3% in comparison with the previous year, reaching 163. Only 39% of these (64) were proven to be warranted. The Ombudsman conducted 8 ex officio procedures and 7 investigations in this area of activity. In **2002**, the National Council for Combating Discrimination was established as a new specialized body of the central administration in charge with combating and sanctioning any form of discrimination. As a consequence, the number of complaints addressed to the Ombudsman decreased considerably to 92 cases. Among these, only 35 were proven warranted. Only one investigation was conducted in this area of activity. In **2003** there was a small increase in the number of complaints - 117 cases. Only 42% were proven warranted. 5 ex officio procedures and 5 investigations were conducted in this area of activity. In **2004**, 92 complaints were received, representing a decrease of 21% in comparison with the previous year. 6 investigations were conducted in this area of activity. These statistic evolutions may be explained by an improvement in citizens' addressability toward the National Council for Combating Discrimination, as the specialized body of the central public administration, with specific anti-discrimination responsibilities. It may also be the consequence of creating other public institution with related competencies in this field - the National Agency for Equality of Opportunities for Women and Men. In **2005**, 77 complaints were received, representing a decrease of 16% in comparison with 2004 and a decrease of 60% in comparison with 1999. Only 12 complaints were proven warranted. The Ombudsman did not conduct any investigation in this area of activity. In **2006**, 122 complaints were registered, representing an increase of 58% in

comparison with 2005. Only 18% (22) proved warranted. In **2007**, 133 complaints were registered, representing an increase of 10% in comparison with 2005. 1 ex officio procedure was initiated as a result of a press article signalling the existence of 3000 Roma ethnic without IDs. The Ombudsman conducted one investigation with the National Inspectorate for the Registration of the Population and concluded that the data mentioned in the media can not be confirmed.

419. An evaluation of the nature of complaints addressed to the Ombudsman shows that discrimination was based mainly on ethnic criteria. The main forms of discrimination are: prohibition of access in public places, discrimination in the conditions of employment, discriminatory behaviour manifested in the employment process, discriminatory implementation of the Land Act (law No. 18/1991) - in connection to the restitution of the right to property over agricultural lands, discrimination in granting social and medical care or free access to medical services of a general practitioner, the feeling of social rejection, discrimination in guaranteeing free access to justice to persons in detention (illegal immigrants, refugees) in order to defend their right to asylum or appeal the decision of extradition.

420. It is important to mention that many of the complaints regarding alleged discrimination acts have not proved to be well founded, having a mere subjective nature.

### **III. Protection and remedies through actions in the court of law**

421. For all discrimination cases, the victims are entitled to claim damages in a court of law, proportional to the act, as well as the restoration of the situation prior to discrimination or to the cessation of the situation created by discrimination, in accordance with common law. The claim for damages is exempted from judicial taxes and is not conditioned by any notice from the National Council for Combating Discrimination.

422. The period for submitting the claim is 3 years from the date of occurrence of the act of discrimination or from the date when the victim takes cognizance of the occurrence of this act.

423. The interested person has the obligation to prove the existence of the facts which may lead to the presumption that there has been direct or indirect discrimination. It is for the respondent to prove that the facts do not constitute discrimination. In front of the court of law any proof can be brought, inclusively the video and audio evidence or statistical data.

424. Upon request, the court can order that the competent authorities withdraw the license of legal entities that significantly prejudice society by means of a discriminatory action or have repeatedly violated the provisions of the Government Ordinance No. 137/2000.

425. Human rights non-governmental organisations can appear in court as parties in cases involving discrimination pertaining to their field of activity and which prejudice a community or a group of persons.

426. Starting with 2006, the judgment in discrimination cases takes place with the compulsory summon of a representative of the National Council for Combating Discrimination, in an expert quality. Thus, the number of cases where NCCD was summoned by a court of law reached 160 in 2006, 2325 in 2007 and 940 in the first semester of 2008.

427. At the same time, between 2006 and 2008, NCCD was party to a number of trials (appeals against the NCCD's decisions or cases involving NCCD competencies) as follows: 2006 - 46 trials (36 - ruled in favour of NCCD; 3 - ruled against NCCD); 2007 - 97 trials (62 - ruled in favour of NCCD; 8 - ruled against); 2008 (first semester) - 15 trials.

428. With regard to the crime stipulated in art. 247 of the Criminal Code (abuse of authority by restraining certain rights, including on discriminatory grounds), there were 9 trials in 2006 and 10 trials in 2007. There were not any final judgments for this crime in 2006 and 2007. Insofar as incitement to discrimination is concerned (incriminated by art. 317 of the Criminal Code), there were not any final judgments for this crime in the period 2006-2007.

#### **IV. National Council of the Audio-Visual**

429. According to article 66 of the Audio-Visual Code, a person whose rights and legitimate interests have been infringed during a broadcasting audio or video (including cases of discrimination) and whose rights to reply and rectification have been denied has the right to submit a complaint to the National Council of the Audio-Visual. If the Council finds the complaint justified and rules in favour of the plaintiff, the broadcasting source (the TV or radio station involved) will apply the decision in maximum 3 days from its receipt. According to art. 70, the right to reply or rectification does not preclude the person whose rights and legitimate interests have been infringed during broadcasting audio or visual to introduce an action in the court of law.

430. The Romanian authorities strived to implement the recommendation contained in para. 14 of the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination (CERD/C/304/Add.85). Thus, over the period 2002-2007, the National Council of the Audio-Visual applied 15 sanctions for breaches of the legal provisions regarding discrimination based on nationality, race, religion, gender or sexual orientation and ethnicity - 13 to TV stations and 2 to radio stations. The 15 cases of discrimination sanctioned by NCAV show the following discriminatory criteria: 6 - nationality; 5 - race; 2 - sexual orientation; 1 - race and sexual orientation; 1 - race, nationality and sexual orientation.

431. As a general observation, the said cases are connected to an increasing desire of the radio and TV stations to gain better audience shares, which led, in certain cases, to a preference for the controversial and the extraordinary, as well as to the public rhetoric of some politicians eager to promote themselves in front of the electorate. The cases are summarized below:

- “*Realitatea*” TV - sanctioned in 2007, with a public summon, for commentaries made by a TV moderator which manifested a xenophobic attitude towards the Austrian people (a violation of art. 46.2 of the Audio-Visual Code)
- “*Antena 1*” TV - sanctioned in 2006, with a public summon, for 2 sports news having a xenophobic and discriminatory content in relation to the Albanian people (in the context of a football game between Romania and Albania) (a violation of art. 46.2 of the Audio-Visual Code)

- “National” TV - sanctioned in 2006, with a fine of 10 000 RON, for broadcasting scroll messages during a talk show containing discriminatory comments towards the Hungarian minority (a violation of art. 40 of the Audio-Visual Law). NCAV considered this act a more serious violation as the show was broadcast again, the following day, with the same scroll messages
- TVR1 - sanctioned in 2004, with a public summon, for discriminatory comments on grounds of sexual orientation, made by a Romanian politician invited as guest in a talkshow, regarding members of the US Embassy to Bucharest (violations of art. 14 and 15 of Decision No. 248/2004 regarding the protection of human dignity and the right to self-image).
- “Prima” TV - sanctioned in 2007, with a fine of 10 000 RON, for broadcasting, in a satirical show, discriminatory comments on grounds of sexual orientation (a violation of art. 46.2 of the Audio-Visual Code)
- “Prima” TV - sanctioned in 2006, with a public summon, for discriminatory comments towards the Roma minority during a satirical show (violations of art. 40 of the Audio-Visual Law and art. 43.2 of the Audio-Visual Code)
- OTV - sanctioned in 2006, with a fine of 5000 RON, for discriminatory comments on grounds of nationality against a British citizen involved in a car accident (a violation of art. 46.2 of the Audio-Visual Code)
- OTV - sanctioned in 2006, with a contraventional fine of 50 000 RON, for discriminatory comments towards the Hungarian minority made in two live talkshows broadcast in two consecutive days (the discriminatory comments of the guests were also complemented by scroll SMS messages sent by viewers) (a violation of art. 40 of the Audio-Visual Law)
- OTV - sanctioned in 2005, with a fine of 30 000 RON, for allowing and reading, during a live talk show debating the “Hădăreni” case (see below), discriminatory messages against the Roma community sent by viewers, including ones inciting to violence (despite the telephonic interventions of certain public personalities disapproving the broadcasting of these messages) (a violation of art. 40 of the Audio-Visual Law)
- OTV - sanctioned in 2005, with a fine of 25 000 RON, for discriminatory comments on grounds of race, nationality and sexual orientation and for the racist speech of a Romanian politician invited in a live talkshow (a violation of art. 15 of Decision No. 248/2004 regarding the protection of human dignity and the right to self-image)
- OTV - sanctioned in 2005, with a public summon, for degrading comments against the Roma community (violation of art. 40 of the Audio-Visual Law)
- OTV - sanctioned in 2004, with a fine of 25 000 RON, for broadcasting a documentary about the marshal Ion Antonescu (former Prime-Minister of Romania between 1940 and 1944) containing an Anti-Semitic attitude (violation of art. 40 of the Audio-Visual Law)

- OTV - sanctioned in 2004, with a fine of 5000 RON, for discriminatory comments on grounds of sexual orientation and race during a live talk show (a violation of art. 40 of the Audio-Visual Law)
- INFO PRO (radio station) - sanctioned in 2006, with a public summon, for discriminatory comments against the Roma community during two broadcastings (a violation of art. 15 of Decision No. 248/2004 regarding the protection of human dignity and the right to self-image)
- EUROPA FM (radio station) - sanctioned in 2004, with a fine of 5000 RON, for commentaries containing incitation to violence against the Hungarian minority (violations of art. 40 of the Audio-Visual Law and art. 15 of Decision No. 248/2004 regarding the protection of human dignity and the right to self-image). The legal dispute between the radio station and the NCAV was terminated by a definitive and irrevocable award given by a court of law which concluded that there were no elements of discrimination in this case, as those commentaries were part of a gag

## ARTICLE 7

### Education. Culture. Information

#### I. Education in general - combating discrimination, promoting intercultural dialogue and tolerance

432. The Romanian education system is organised on the basis of the principles of respect for human rights and equal access to education, without any discrimination, based on social or ethnic origin, gender, social or religious affiliation. In accordance with art. 4 of Law No. 84/1995 (The Education Act), education has as main objective the development of human personality through: “(...)

- Education in the spirit of respect for human rights and fundamental freedoms, dignity, tolerance and free exchange of views
- Sensitivity towards human problems, moral and civic values (...)

433. The general principles of respect for tolerance, democracy and human rights, as well as elements of education against racism, anti-Semitism and other forms of discrimination - can be found, implicitly or explicitly, in the *common core curricula (compulsory)* for subjects such as Civic Education, Civic Culture, Sociology, Philosophy or in the *national curricula for optional subjects* in the area of socio-humane sciences, as it follows:

Common Core Curricula (subjects):

- Curriculum for Civic Education, 3<sup>rd</sup> grade, approved by Ordinance of the Ministry of Education and Research (OMER) No. 5198 / July 1<sup>st</sup>, 2004 (free alternative textbooks), 1-2 classes / week

- Curriculum for Civic Education, 4th grade, approved by OMER (free alternative textbooks ), 1-2 classes / week
- Curriculum for Civic Education, 7<sup>th</sup> and 8<sup>th</sup> grades, approved by OMER No. 4740 / 25<sup>th</sup> August, 2003 (free alternative textbooks ), 1-2 classes / week
- Curriculum for Civic Culture - SAM, 9<sup>th</sup> grade, all specializations, approved by OMER No. 3552 / 8<sup>th</sup> April, 2004, 1 class / week
- Curriculum for Sociology approved by OMER No. 3252 / 16<sup>th</sup> February, 2006 (free alternative textbooks), 2 classes / week, theoretical specializations - social sciences. Starting with the school year 2006-2007, 1 class / week, theoretical specializations-philology
- Curriculum for Philosophy, approved by OMER No. 5959 / 22<sup>nd</sup> December 2006 (free alternative textbooks ), 1-2-3 classes / week, varying according to different specializations

National curricula for optional subjects :

- Curriculum for Civic Culture - 5<sup>th</sup> grade (moral and civic education) and Civic Culture - 6<sup>th</sup> grade (education for the rights of the child), approved by OMER No. 4921 / 22<sup>nd</sup> September, 2003, 1 class / week
- Curriculum for Civic Education - high school, all specializations, approved by OMER No. 4730 / 22<sup>nd</sup> September, 2004, 1 class / week
- Curriculum for Mass - Media Competency - high school, all specializations, approved by OMER No. 4730 / 22<sup>nd</sup> September, 2004, 1 class / week
- Curriculum for Human Rights - high school, all specializations, approved by OMER No. 5208 / 25<sup>th</sup> September, 2006, 1 class / week

434. School contests in the area of socio-humane sciences and history have taken into consideration the need to promote education against different forms of discrimination. There have been Civic Education contests (for primary schools, 3<sup>rd</sup> and 4<sup>th</sup> grades), Civic Culture contests (for secondary schools, 7<sup>th</sup> and 8<sup>th</sup> grades) and national contests on relevant themes such as “Democracy and Tolerance” and “The History of the Holocaust”.

435. The issue of slavery and its abolition are reflected in the History curriculum (secondary and high school). Slavery is presented in its evolution, with an emphasis on the characteristics of each historical period. In high school, the concept of slavery is mentioned in relation to the African civilizations (i.e. the “negro” trade) with an emphasis on the development of racial theories in the context of slaves’ trade and exploitation. The causes of maintaining this social scourge, its manifestations, as well as the slavery abolition movements are also studied.



436. As far as the national history is concerned (the 12<sup>th</sup> grade), the issue of “gipsies’ bondage” is widely mentioned (its appearance in the Middle Ages, evolution, conditions of manifestation, historical moments that led to its abolition). At the same time, students are thought about the development of legislation concerning Roma and their partial decimation during the Second World War. The 12<sup>th</sup> grade curriculum also includes a chapter on national minorities and multiculturalism in the modern world (“*The ethnic and religious diversity and the political solutions in modern Romania. The national minorities in the 20<sup>th</sup> century Romania*”).

437. The elements mentioned-above represent just a part of the educational framework against different forms of discrimination in pre-university schools. The need to promote an intercultural understanding and dialogue is also reflected by the inclusion of implicit elements of education against discrimination at the level of other school subjects, discussions on discrimination-related topics during counselling classes, as well as by various programmes, projects and activities addressed to students, developed by non-governmental organisations.

## **II. Education and law enforcement activity**

438. In response to the recommendation contained in para. 17 of the Concluding Observations, the Romanian authorities focused on adequate training of law enforcement officials as well as on combating discriminatory practices and prejudices at the level of the law enforcement agencies.

439. The Police acted with priority to improve personnel training striving both to eliminate stereotypes, prejudices and discriminatory practices and to stimulate the participation of minorities in partnership activities. To this purpose, many courses for police officers have been organized, new professional training topics have been added in order to assure the basic level of knowledge regarding the issue of multiethnic or multicultural communities. The courses targeted mainly police officers working in teams dealing with public order, criminal investigations, crime prevention and even high-ranking personnel from the county police inspectorates.

440. During these courses or training programmes, certain aspects have been emphasized, such as:

- Human rights - presentation of rights of persons belonging to national minorities and of existing national and international regulations on the matter
- Anti-discrimination - presentation of main problems in our country, of competent institutions and complaint procedures in discrimination cases, examples of best practices etc.
- Communication - presentation of general communication rules and advices for dialogue between a police officer and a person belonging to a national minority
- Conflict solving - development of abilities, among members of the police force working with multicultural communities, to prevent, intervene and peacefully solve conflicts
- Management and elaboration of projects - presentation of general rules for project elaboration, as well as for the implementation exercise at the local level, in cooperation with NGOs

441. Upon the adoption, in 2001, of the National Strategy to improve the situation of Roma, the General Inspectorate of the Romanian Police worked out and applied “*The Program regarding the contribution of the Romanian Police to the improvement of the situation of the Roma*”, which has the following objectives:

- The prevention of discriminatory acts that can be perpetrated by police officers
- Increasing the ability of the police force to solve ethnic conflicts
- Judicial education for the Roma population
- Improving communication between the police force and Roma

Before being approved and distributed, the program was submitted to the attention of the relevant governmental authorities, as well as to the main Roma organizations.

442. The implementation of this programme produced the following results:

- Every county police inspectorate worked out and implemented local projects or action plans in order to meet the program’s objectives
- Criminal investigation and prevention officers were assigned to manage activities related to Roma people in every county police inspectorate and in the Directorate-General of the Romanian Police. Training for these police officers included advice on actions undertaken inside multicultural communities. Roma representatives were invited to participate at professional gatherings of these officers.
- Partnership protocols were concluded between local police structures and Roma associations.
- Various communities organized meetings bringing together police officers, mayors, county governor (“prefect”) representatives, as well as Roma counsellors from the county governor’s office and Roma representatives from the local communities. Such venues offered the necessary setting to discuss community problems, to find adequate solutions and clarify the roles of parties involved. In addition, there were legislation presentations, case studies etc.
- In some counties, a Roma representative was assigned in every community acting as a permanent link between the Roma community and the chief of local police forces.
- Every local police department must keep a record of disputes and measures taken to solve them.
- Cooperative actions were taken by the public order police, computerized tracking teams mayoralty and Roma associations to identify Roma persons who do not possess an ID card and to legalize their situation.

- Special social cases in the Roma community were identified and reported to the specialized institutions.

443. Starting with 2002, the General Inspectorate of the Romanian Police organized, in partnership with civil society and international organizations, a series of projects at national or local level with the following purposes:

- Training of police officers in the field of human rights, discrimination, conflict and project management in order to enable them to work better in multicultural communities, including by publishing several guidance books regarding activities conducted by police officers inside Roma communities
- Networking between Roma negotiators and local authorities
- Development of non-violent intervention abilities for local police officers working in multicultural communities
- Inclusion of Roma representatives at the local decision-making level with a view to solving more efficiently the problems that occur in local communities
- Training specialists (police officers) in the field of human rights, conflict resolution and prevention of discrimination that can later hold courses for other police officers that work in multicultural communities (the trained trainers approach)
- Supporting the Ministry of Interior in implementing the objectives stipulated in the Action Plan "*Justice and Public Order*" included in the National Strategy for improving the situation of Roma and developing a model of best practices in order to implement the recommendations regarding the national police found in the relevant OSCE Action Plan, as well as dissemination of the national model in the OSCE area

444. Below are some of the above-mentioned projects and initiatives:

- The project entitled "*Prevention and managing conflicts within multicultural communities - Stages of training for non-commissioned police officers*" (2001; 2002) - organized within the School for non-commissioned police officers "Vasile Lascăr" in the city of Câmpina, Prahova county. The training modules targeted police officers assigned to multicultural communities in 13 counties (in total 150 persons).
- The project entitled "*The prevention and solving of interethnic conflicts*" - initiated in January 2002 and carried out in association with the Foundation for Democratic Changes. It had the purpose of setting up a work team in charge of improving the capacity of Roma non-governmental organizations to mediate the conflicts within Roma communities and to facilitate the communication between the community and the representatives of the local authorities. The target group included 30 representatives of Roma non-governmental organizations. The participants benefited from a complex training program for the prevention of interethnic conflict aiming at developing practical skills of assistance and mediation.

- Local initiatives focused on the social reintegration of former detainees of Roma origin (Timiș, Caraș-Severin and Mehedinți), based on partnership agreements between the Ministry of Interior, the Ministry of Justice and the civil society.
- Programmes for Roma ethnics without identity documents, implemented through joint actions of the police, the computerized records units, local authorities and Roma associations. The program “*Equal chances for Roma children without identity documents*” was the result of a partnership between the Roma Centre for Social Intervention and Studies, the General Directorate for Computerized Records on Persons, Bucharest City Hall, the Romanian Government (the Directorate for Relations with Non-governmental Organizations).
- A partnership protocol between the Roma Party and The National Gendarmerie by which the latter engaged to perform various activities in order to protect the Roma minority, such as: establishment of joint negotiation teams which are to handle the conflict situations, invitation of the Roma representatives to the activities of public interest organized by the gendarmes structures, organization and carrying out of regular meetings at the local communities level, for the acknowledgement and observance of the specific legislation on public order.

445. Every local police post is to elaborate a record on conflict situations, mentioning current events and solutions applied. The meetings between the local Roma leaders and police representatives gradually gained a higher profile, the police officers being involved in the identification of serious social cases within the Roma communities and the notification of other competent authorities.

446. In addition to training, the Ministry of Interior (MI) placed a special focus on the selection criteria for police public servants and gendarmes, including standards of proper behaviour accepted and practiced by society. The Directorate for Management and Human Resources of the MI initiated a study (research) entitled “Adjustment of the personnel recruitment system in the Ministry of Interior and promotion of the police officer profession within the Roma communities”, as a basis for reforming personnel policies.

447. All educational institutions of the MI, both at university and pre-university levels, included human rights modules in their curricula, with an emphasis on discrimination prevention.

448. The institutionalized training is complemented with a system of continuous human rights education of the MI personnel. Consequently, a permanent program for promoting the human rights standards was created leading to inter-county courses for personnel working in all ministerial structures. These courses were conducted together with specialists from the Police Academy “Alexandru Ioan Cuza”, National Council for Combating Discrimination, Ministry of Justice, Ministry of Foreign Affairs, Romanian Institute for Human Rights, and focus on the integration of human rights standards in police activity and on the impact of international regulations on national law.

449. Considering the number and complexity of human rights issues in the activities of the Ministry of Interior, long-term training programs were developed in order to align the activities

of the MI's employees to the standards of similar ministries in other Member States, in particular the EU. At the same time, postgraduate programs and courses were elaborated for police officers that conduct activities in the field of judicial police and criminal procedure.

450. The training and education of the police officer aimed at changing the thinking patterns of the police officers, in accordance with the new profile of the Romanian National Police as defined by Law No. 218/2002.

451. The personnel policy of the MI contains a number of principles that are based on the observance of human rights and freedoms, non-discrimination, transparency, coherent and unitary regulations regarding promotions and career patterns.

452. The general training of the MI personnel was focused on the acknowledgement of the need to display a civilized behaviour in relations to all citizens, to create an environment of trust and mutual respect, to develop and maintain adequate public relations. Special training is offered to police officers who work alongside Roma at the beginning of their assignment and during their professional activities. Such courses focus on the observance of customs, tradition and lifestyle of Roma, of certain social and professional categories.

### **III. Cultural programmes - promoting multicultural diversity and tolerance**

453. *The National Cultural Centre for the Roma* (NCCR) was created in 2003, by Governmental Decision, as a public institution subordinated to the Ministry of Culture. Its activity is dedicated to the preservation and promotion of Roma cultural traditions, as well as of modern cultural manifestations of this ethnic community. The main objectives of the Centre were set out in the National Strategy for the Improvement of the Roma Situation, namely: creation of a musical ensemble, theatre and Roma museum, preservation of traditional arts and crafts. Starting with 2007, the Centre has a musical ensemble - the "Grigore Dinicu" band, composed of well-known Roma musicians. The band had numerous concerts in Romania and abroad.

454. Annually, the NCCR organises celebratory actions on the occasion of the 20<sup>th</sup> of February - Roma Emancipation Day (1856) and on the 8<sup>th</sup> of April - The Day of the Roma ethnic minority in Romania.

455. After a hesitant start, the Centre is trying, a present, to increase its profile on the cultural scene. Its strategy is built upon the NCCR's role as an interface between the Roma and the general public. The 2008 Agenda includes research activities, exhibitions, theatre and music shows and festivals, projects on multicultural dialogue. The 2008 budget, allocated by the Ministry of Culture, is 1,190,000 RON (approx. 330,000 Euros). Given its limited resources, the Centre works towards concluding strategic partnerships with relevant institutions, NGOs and private stakeholders in order to further develop several of its projects.

456. The Ministry of Culture and Religious Affairs has launched the programmes "*Pro-ethnoculture*" and "*Roma together for Europe*" with the aim to support financially the national minorities in organising various cultural events in the area of maintaining, preserving, developing and freely expressing their ethnical, cultural, linguistic and religious identity.

457. Through such programmes, the Ministry of Culture and Religious Affairs strives to ensure equal chances to all communities of national minorities in Romania in order to promote their values and cultural traditions.

458. In 2007, the most representative manifestations of the national minorities under the aegis of the above-mentioned programmes were as follows:

- The “Pro-ethnoculture” Programme - The “*ProEthnica - The Days of Ethnic Communities in Romania*” festival, took place in the city of Sighișoara, between August 17th and August 25<sup>th</sup>, 2007. This cultural event brought together all ethnic minorities in Romania, allowing them to present their traditions and customs to the public. The festival aims to support the development of an environment of harmony and inter-ethnic tolerance, as well as to help people understand the multicultural dimension of the Romanian society. Designed to be a place of tolerance, understanding and inter-ethnic knowledge, the festival takes place every year, in mid-August. At the same time, it represents an opportunity for the ethnic communities to make their cultural patrimony known and valued.
- The “Roma together for Europe” Programme - The “*GHI ROMANO*” caravan, with the participation of the Romanian National television, has undertaken an extensive programme in 13 counties in Romania, aiming at covering the entire national territory between 2007 and 2008. Its main purpose was to promote the Romani culture which preserves archetypes, symbols and traditions of immense depth.

459. The Department for Inter-Ethnic Relations joined several important European programmes and initiatives, such as:

- The *European Year of Languages* - 2001, a campaign carried out in 45 European countries. On that occasion, Romania organised seminars for teachers and local authorities, theatrical performances, youth camps, published various books.
- Several *programmes* were developed in the framework of the *Stability Pact in South Eastern Europe*, Working Table 1 such as Reviewing anti-discrimination legislation (coordinated by the Council of Europe), the “*Link Diversity Campaign*” which attracted numerous proposals for projects and for which a secretariat and a National Organisation Committee were created.
- The “*All Different, All Equal*” campaign - 2006.
- European Union’s *Year of Equal Opportunities for All* - 2007.

460. In 2002, the Department for Inter-Ethnic Relations joined the Community Action Programme to Combat Discrimination of the European Commission (2001-2006). Under the aegis of this programme, several events were organised in Romania, as follows:

- The international conference “Good Practice in the Field of Anti-discrimination Policies” (Bucharest, 2003).

- The Diversity Week in Romania - a mass media campaign and festival (Bucharest, 2005).
- The Diversity Caravan - organised in the capital and 5 other cities of Romania (2006).
- The Summer school “*Take Attitude, Stop Discrimination*” (Sibiu, 2007) - the summer school was meant to train 30 young persons from Romania and abroad in the field of non-discrimination. It was structured on theoretical and case studies training modules focused on the relationship between human rights, mass-media and civil society, as well as on national and international legislation and institutions aiming at combating discrimination.

461. “*The Diversity Week in Romania*” event was organized by DIR under the title “*The Miracle of Diversity in Romania*” in partnership with The Romanian Peasant’s Museum. The event had three components:

- Dissemination campaign, carried out between 25 April-15 May 2005, within the European campaign “For Diversity, Against Discrimination” (mass media campaign; publication and distribution of three booklets, posters and promotional materials linked to the theme of the European campaign and carrying its logo)
- Festival - fair of national minorities entitled “*Miracle of diversity*”, carried out between May 6 and 12, 2005 at the Romanian Peasant's Museum
- Seminar with the theme “Miracle of diversity - an advantage of future Europe”
  - (i) MASS-MEDIA CAMPAIGN had the following specific objectives: dissemination of information; raising public awareness; taking attitude against cases of discrimination.
    - TV spot. DIR ordered a TV spot of 30 seconds to a specialized company. This spot started to be broadcast on the 25th of April 2005 by three national TV channels with large audience in Romania (*TVR 1, TVR 2 and TVR Cultural*) and by the private news channel *Realitatea TV*. These TV channels concluded media partnerships with DIR and accepted to broadcast free of charge the spot at high hours. News about the campaign were broadcast in the TVR journals. News and interviews were also presented by the Hungarian, German and Roma languages editorial staff from the TVR. Also, CDs with the spot were offered to journalists and participants to the *Europe's Day* festivities and to other events organized during the *Diversity Week*.
    - Radio spot. This spot was made free of charge by a specialized company in two variants - a one minute variant and a longer variant. The spot was broadcast by the channels *Radio România Actualități* - the radio channel with the biggest number of listeners in Romania, *Radio România Internațional* and *Radio City FM* from Bucharest. On the 6th of May 2005 - the beginning of the festival, the Secretary of State of DIR announced the event through an interview at the *Radio Actualități*.

- The national news agency *Rompres*, as a media partner, posted a column about the *Miracle of diversity campaign* on its web page. The daily papers with wide circulation “*România liberă*” and “*Ziua*”, as well as the publications “*Săptămâna financiară*” and “*7 seri*” included posters of the event, as well as news from the event. Articles were published in other publications with which partnership agreements were concluded, as well as in electronic magazines (e.g. the virtual weekly “*Divers*” covered the event and posted a column on its website).
  - A special column on the website [www.dri.gov.ro](http://www.dri.gov.ro) was also created by the main organizer - DIR. The column *Miracle of diversity* had a link to the European website [www.stop-discrimination.info](http://www.stop-discrimination.info). During the campaign, DIR benefited from the support of the *Press Office of the General Secretariat of the Government* and the *Department of the Government’s Spokesperson*, which ensured the data flux to all the press delegations permanently accredited to the Government.
- (ii) THE FESTIVAL-FAIR “*Miracle of diversity*” was carried out during 6-12 May 2005 at the Romanian Peasant's Museum, having as main objectives: dissemination of diversity values, awareness raising, cultivating the respect for the common cultural patrimony. The main moments were:
- The official opening of the *Diversity Week* - 6th of May; the representatives of the four organizing institutions from Romania greeted the guests. During the six days of the seminar several national minority musical and choreographic ensembles performed on the scene organized within the premises of the Romanian Peasant's Museum such as the Turkish, Roma, Croat, Greek, German, Hungarian, Italian, Ruthenian, Bulgarian, Tatar, Serbian, Czech, Slovak, Russian-Lipovan, Polish, Albanian, Jewish, Ukrainian minorities.
  - The “*Inter-ethnic Fair*”- representative stands of minorities offered the possibility to exhibit from old photography to corn knitting, painted furniture, jewelry or products from traditional kitchen; popular craftsmen created traditional objects but also gave interviews; the 200 participants to the Congress of the Federal Union of European Nationalities, organized in Bucharest during that time period, also visited the fair.
  - A thematic photo exhibition *Alter Image* was organised by the *Resources Centre for Athno-Cultural Diversity*; the anti-discrimination TV spot was also presented; CDs and promotional materials with the inscription *For Diversity, Against Discrimination* were distributed to journalists and guests.
  - Launching and distribution of three booklets: *Romania, a Europe in miniature - short presentation of national minorities*, made by DIR with the support of “*Divers*” magazine and the Council of National Minorities; *Public policies for Roma in Romania, 2000-2005*, made by the National Agency for Roma; *Fight against discrimination in Romania. Legal framework. Decisions of the National Council for Combating Discrimination*, made by NCCD.



- A festival of traditional gastronomy - various restaurants from Bucharest with Hungarian, Czech, Greek, Romanian cuisine were present.
  - A jazz concert with two important and well-known musicians - Hary Tavitian, representative of the Armenian community and Johnny Răducanu, representative of the Roma community. TVR recorded this concert.
- (iii) THE SEMINAR “*Miracle of diversity - an advantage of future Europe*” was carried out in Bucharest during 9-11 May 2005, having the following specific objectives:
- Dissemination of data on the *acquis communautaire* in the anti-discrimination field and its implementation in the European states
  - Exchange of experience regarding anti-discrimination systems, models of promotion of ethno-cultural diversity and combating xenophobia and intolerance
  - Studies, financial instruments, European experiences useful to national minorities living in Romania and other vulnerable groups. The participants, in majority representatives of the relevant institutions and NGOs interested in implementing the anti-discrimination legislation, were informed about:
    - The *acquis communautaire* and the Community Action Program to Combat Discrimination (2001-2006)
    - The relation of this Programme with the Community policies in the field of employment and social affairs
    - The European Constitution and the future of national minorities
    - Models and experiences in promoting the rights of national minorities in various states; laws on national minorities
    - Evolutions in implementing the *acquis* in the EU member states; examples of good practices
    - Presentation of results of the study “Equality and non-discrimination in the EU”
    - Community financial instruments and possibilities to use them; the importance of regional development

462. In the first half of 2006, DIR organized two programmes included in the calendar of events of Romania’s presidency of the Committee of Ministers of the Council of Europe and took part in the preparations for Romania’s participation in the *All Different, All Equal* European youth campaign.

463. Between 12 May and 12 June 2006, DIR organized a new project - The *Diversity Caravan*-in the framework of the Community Action Programme to combat discrimination (2001-2006). Participants to the Diversity Caravan included 55 high school students from 5 Romanian cities (Constanța, Suceava, Cluj, Timișoara, and Turnu Severin), 8 students from Germany and the United Kingdom, as well as several social sciences teachers. The programme included a competition on the theme of European integration and anti-discrimination, case studies and a digital photo contest entitled “*Human Diversity*”.

464. A number of activities were carried out in the framework of the *European Year of Equal Opportunities for All - 2007*. The National Strategy for Implementing the European Year of Equal Opportunities for All -2007 was placed under the auspices of the Romanian Presidency. The Ministry of Labor was designated the national implementing body of the European Year of Equal Opportunities for All, due to its attributions in ensuring and coordinating the implementation of the social and political strategies. The purpose of this Strategy consists in raising awareness of the society and informing the general public on the importance of observing the right of non-discrimination and equal opportunities for all. Implementing actions have been conceived taking into account multiple discrimination and gender mainstreaming. Here are the main actions undertaken under this campaign:

- The *National Opening Conference of the European Year of Equal Opportunities for All - 2007* - March 20<sup>th</sup>, Bucharest.
- Informational campaign consisting of: creating and disseminating an educational video and audio spot about the Year, media campaign, distribution of informational materials (booklets, fliers, posters, banners) and promotional materials (badges, silicon bracelets, pens, agendas, hats, t-shirts, backpacks, etc.).
- Raising awareness campaign for high school students (creation contests for high-school students promoting diversity in the society).
- “*Running for Diversity*” marathon - Bucharest (the main objectives were making sports a good ambassador for promoting diversity; raising awareness among the general public regarding the respect and recognition of differences; creating the premises for developing a fair-play and tolerant attitude; gathering in one place all people regardless of sex, sexual orientation, religion, ethnical origin, age or disabilities in order to prove that they are equal).
- “*Equality Week*” The event took place in August 2007 at Eforie Nord (a seaside resort). Each day was focused on combating a different discrimination criterion.
- Official website of the Year - general information about the objectives of the Year at the European and national levels, as well as the actions organised during the Year in Romania were posted on a special link of the website of the National Agency for Equal Opportunities for Women and Men ([www.anes.ro/2007](http://www.anes.ro/2007)).

- Study on multiple discriminations in Romania - this study analyzes the causes and the consequences of multiple discrimination, increasing the awareness about the specific problems of victims of multiple discrimination. It also provides several recommendations for good practices concerning actions against multiple discrimination.
- Round table regarding the role of the community spiritual leaders in promoting respect and recognition of diversity in society -Cluj-Napoca. This event proposed several measures in order to intensify the dialogue between religions, the involvement of the spiritual leaders in this area.
- Round table with the representatives of the media - Bucharest. This event was focused on the involvement of the media leaders in social campaigns and on eliminating discriminative stereotypes and attitudes in all media programs. This event aimed at offering an opportunity to imagine effective measures for promoting tolerance and anti-discrimination attitudes.
- Ethnographic research concerning multiple discrimination - the purpose of this research was to gather information on the experiences of the victims of multiple discrimination, their behaviour, mentality and attitudes.
- Seminar regarding multiple discrimination on the labour market (Timișoara). The seminar debated on the causes and effects of multiple discrimination on the labour market with the view to promote good practices among the employers, identify specific measures to fight multiple discrimination and encourage social dialogue.
- The *National Closing Conference of the European Year of Equal Opportunities for All 2007* (Brașov). During this event a final Report was presented concerning the impact of each action occurred during the Year. Awards were granted to all those personalities who, during the Year, were involved in promoting diversity and non-discrimination.

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