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OVERVIEW OF THE HUMAN RIGHTS SITUATION OF THE ROMA IN ROMANIA

I. INTRODUCTION

By its very mandate, as organization that militates for the defense and promotion of human rights, Romani CRISS has documented and intervened in cases of torture, violence and abuse committed by law enforcement officials, as well as cases of discrimination and abuse in the field of education, health or housing.

Through their nature and effects of such type of actions, they constitute strategic lines of action for Romani CRISS, which has constantly monitored such events, drafted documentation reports, press releases, and letters of protest and has initiated actions in the court of law¹.

This document is based on our experiences in working for and with Roma communities in Romania as well as working with Romanian institutions, looking at the role of the Romanian institutions or representatives in combating discrimination against Roma in Romania.

As to human rights, the situation of the Roma in Romania continues to be worrisome. Particularly, police abuse, discrimination in the field of employment, abuse and discrimination in housing rights segregation in the field of education and health are patterns of discrimination Roma face daily. Furthermore, Roma women face multiple discrimination and are more vulnerable to abuse and violence. Romanian Government must not only remain consistent, but reinforce its policies ensuring respect and enjoyment of basic human rights and freedoms for all individuals, after EU accession.

¹ For details, see “*Respecting Human Rights in Romania: Roma – Citizens of the State of Law*”, Romani CRISS, ECA Publishing house, Bucharest, 2004.

II. RELATION BETWEEN THE LAW ENFORCEMENT OFFICIALS AND ROMA COMMUNITY

Patterns of violence, discrimination and abuse

1. Use of disproportionate/excessive force in Roma communities and use of firearms

Often, when the Police intervene in the Roma communities or when Police representatives participate in actions deployed by other institutions (e.g. the City Hall), disproportionate force is being used. To this end, the number of policemen and gendarmes is disproportionately larger than the number of community members or, especially, than in the case of similar police actions undertaken in non-Roma communities. Albeit the legal authorized actions target specific people, often, the initial objectives are exceeded; therefore, the action affects the whole or a very large part of the Roma community. In addition, the use of special intervention forces is a constant feature of these police actions.

On 8.11.2005, around 10 a.m., while heading home, a Roma girl was shot by a police officer from the Railway Transportation Police Precinct – Bucharest. The victim, C.M., accompanied by her mother and an aunt were going back home². The three women wanted to cut short the distance to their house and crossed the railways. A goods train of the Romanian Railway Company (CFR) was placed on one of the railways, thus the women had to cross one of the train's cars. The first to go into the car was the victim's aunt³, followed by the mother and the victim. When getting off, on the ladder, a police officer appeared from the opposite direction and shot the girl in the abdominal area from approximately 1.5 m away, without any warning⁴; then the policeman run away, heading to the Railway Transportation Police Precinct – Bucharest. The victim was able to move for another 2-3 meters and then fell to the ground shouting: "*mom, they shot me!*" Subsequently, she was taken to the Emergency Hospital in Bucharest with a private car.

The discussions with the community members revealed that they had been afraid of police officers and gendarmes' actions because these actions didn't aim only the people who steal iron, but the entire community. Thus, elder women and men, minors have been beaten, shots have been fired and the people live in a state of fear and insecurity.

The use of firearms, the severest expressions of these acts of violence that may have deadly consequences, occurs sometimes outside the legal framework. In case of Buhusi⁵, after the Romanian courts of law have ruled that the use of firearms had been legal, a complaint was filed to ECHR – European Court of Human Rights.

² As per C.C. and E.C declaration.

³ Idem.

⁴ Idem.

⁵ On 5 December 2002, the County Police Inspectorates Bacau and Neamt organized an intervention in Orbic neighborhood, Buhusi locality, Bacau County, in order to withhold persons wanted for theft and robbery at local level. The action took place at 11 a.m. with the participation of 45 policemen from the Troop of Protection and Rapid Intervention (TPRI), along with another 40 gendarmes from the Territorial Quarters of Gendarmes Bacau who joined the policemen, as written in the local press (Monitorul de Bacau, December 6th 2002). The police intervention in Roma community from Buhusi had as result 2 injured and 2 dead Roma persons (including a 13-year-old minor) and 4 injured policemen.

After exhausting all domestic legal means of intervention, the case has been submitted to the European Court of Human Rights.

To this end, the ECRI Report – European Court against Racism and Intolerance shows their concern that “*during a raid on a Roma community by about 70 police officers and members of the special forces, two people, including a 13 year-old-minor, suffered gunshot wounds*”⁶.

2. Acts of torture, violence and abuse

The cases of torture, violence and abuse of law enforcement officials affects disproportionately the Roma, mainly due to the police officers’ prejudice and stereotypes against Roma, on one hand and due to the poor legal knowledge of Roma, on the other.

The Targu Carbunesti case⁷, regarding a young Roma who died on Police custody, is before the High Court of Cassation and Justice, in order to be established whether the felony of mistreatment and torture have been committed.

In November 2005, in case of Pata Rat –Cluj County⁸, a criminal complaint has been lodged for the felony of abusive behavior, body harm, threatening and destruction. In 02.08.2006, representatives of the Cluj-Napoca City Hall and community police burnt down 10 Roma shacks. According to the declarations of the Roma, the community police have also physically abused two Roma women, one of them having been slapped and another aggressed with an electrical device. Despite legal and political initiatives assumed at the central level, the local authorities in Cluj-Napoca have relapsed into misbehavior. They are, ignorantly or mens rea, failing to identify a legal and pro-active solution to solve the problems the Roma face. Instead, they repeatedly abuse Roma. The case has been documented by Romani CRISS, in partnership with Romano Suno.

The very next day, 03.08.2006, the police and gendarmerie have conducted an action in Bontida village, Cluj County. According to the Roma, 5 Roma individuals have been physically abused by the gendarmerie. Two of the five were minor of age. The 5 individuals have been conducted to the local police station; three of them claim having been beaten in the gendarmerie van, and the other two in the police station. So far, three of them have obtained medical certificates. They also claim that for the 30 minutes the two individuals were abused in the police station, the parents have not been permitted access to their minor children, despite legal obligation for the law enforcement officials to do so. Only afterwards, have the parents been granted access. Police head of Bontida village claims that the gendarmerie has stated that there has been no abuse. The case has been documented by Romani CRISS, in partnership with Romano Suno.

⁶ The third Report on Romania - 2006, para.105.

⁷ On 5 April 2002, N.B. is arrested for the felony of theft and he is detained in the arrest of Police Tg. Carbunesti, Gorj County until 15 May, while reclamations have been filed as the detainee was tortured. On 15 May he is transferred to the Penitentiary Tg. Carbunesti and, on 4th of June he is urgently taken to the Penitentiary Hospital Jilava. Colonel Dan Marcusan, commandant of Jilava hospital, said: “*he was in a pretty severe state when he came and the treatment was performed in the Intensive Care Unit. The evolution was unfavorable and, the next day, at 10.20, he died despite all resuscitation maneuvers...*”

The forensic certificate issued by the Forensic Service within the City Hospital “Dr. Maria Burghel”, Ilfov County, states as direct cause of death the heart failure on background of atypical severe pneumonia.

⁸ In November 2005, approximately 80 police officers and special intervention forces organized two raids in the Pata Rat community. These actions resulted in the injuring of at least 5 Roma people and the burning down of 15 Roma houses. The Pata Rat community is placed on the garbage dump of Cluj Napoca municipality, where the Roma are building themselves houses, with the tacit agreement of the City Hall.

On 07.08.2006, in the midst of an evacuation process in Piatra Neamt⁹ undertaken by the Piatra Neamt municipality with the support of the community police, a Roma woman claims to have been physically abused by a representative of the community police. The woman, seconded by eye-witnesses claims the community police officer has grabbed her neck with his hand and he has pushed her against the wall, thus hitting the wall with her head.

Other cases of violence and abuse against Roma have been reported in counties such as: Tulcea, Salaj, Bacau, Neamt, Maramures, Cluj, and Brasov¹⁰.

Note also that in the last Country Report on the Progress towards Accession to the European Union, the European Commission draws attention that “*The Romanian authorities should demonstrate, at all levels, that the country applies a zero-tolerance policy on racism against Roma or against any other minority or group and that this policy is effectively implemented.*”¹¹.

3. Mechanisms to ensure impunity for the perpetrators

In many situations, the illegalities are not investigated adequately and remained, in fact, unsanctioned, despite the fact that non-governmental organizations report and well document these cases¹². In addition, the people involved (victims and/ or witnesses), experts (such as coroners) and human rights activities are being intimidated.

Therefore, a physician has admitted before the court of law that he had been threatened with death by a police officer in order to falsify the medical papers regarding the death of a person while in police custody¹³.

The mechanisms of ensuring impunity include, on one hand, exertion of pressure upon the people involved so they would not testify in court or they would not carry out all necessary actions and, on the other hand, the criminal investigation led to the decision of not prosecuting the cases. All these aspects are actually related to the administration of justice which is the essential element of the state of law.

4. Intimidation and harassment of the human rights activists

One of the human rights local monitors contracted by Romani CRISS has been harassed by the Police¹⁴.

In Salaj, the local police have started a series of harassment and threatening actions against the local monitor contracted by Romani CRISS, using various methods (threatening telephone calls,

⁹ See Section IV – Housing Rights and Annex no 1 – case no. 7 – Piatra Neamt, for details on forced evictions in general of respectively for this specific case of forced eviction.

¹⁰ See Country Report of the US State Department on Romania – 2004 and “*Respecting Human Rights in Romania*” Roma – *Citizens of the State of Law*”, Romani CRISS, ECA Publishing House, Bucharest, 2004.

¹¹ European Commission Monitoring Report on Romania – October 2005, page 19.

¹² ECRI Second Report on Romania - 2001, par. 46.

¹³ For details see the case report: N.B. vs. Tg. Carbunesti Police.

¹⁴ See Open Letter of Romani CRISS sent to the Romanian Government regarding the case C3-C4, Salaj County.

investigation at the Police precinct, house calls, etc). Such actions, ordered by the local authorities (City Hall and local Police) affect the human dignity and security.

The fact that the human rights local monitor is systematically harassed by using Stalinist methods has the purpose of intimidating the monitor in his activities of documenting possible abuses or human rights violations. This practice used by different law enforcement officials represents a severe violation of minimal standards on human rights and fundamental freedoms.

Conclusions and Recommendations

The measures of preventing and combating such abuses may be, in general, classified in three categories:

- *Raising-awareness measures* – that should aim both potential aggressors, as well as potential victims. These include raising-awareness activities for the police officers in terms of illegality and consequences of the actions, and, for potential victims, actions of promoting available remedies (legal education);
- *Legal action* – legal actions should mainly aim at actions before the courts of law and disciplinary actions
- *Advocacy at national and international level* – for such type of law violation is absolutely necessary to use advocacy at national and international level. This may include press releases, open letters, and letters of protest, statements, and reports to various national and international institutions.

There is a clear need of adding more coherency to the present distribution of tasks for the police, community police and gendarmerie.

One of the most necessary actions is the public condemnation by the Romanian police leaders and State officials in regard to acts of abuse, discrimination and violence committed by law enforcement officials. The public condemnation should be doubled by prompt and adequate investigation of these illegalities and by presenting to the public opinion the sanctions applied in these cases by the Public Ministry representatives. This would highly contribute to further the progress made in terms of transparency and accountability.

In terms of procedure, the Government should take into consideration the establishment of an independent special commission to investigate and sanction the abuses committed by the Police representatives.

Denial at top level of abuses committed by some of Police representatives constitutes an important barrier in acknowledging the illegality of such behaviors and, in the same time, a signal of tolerance raised to racist actions against Roma minority¹⁵. Therefore, the representatives of the public Ministry should make efforts to raise awareness at all levels about the illegality of such behaviors, from criminal and administrative point of view.

¹⁵ During the meeting for the presentation of the Romanian Police 2005 annual report, the Ministry of Administration and Interior stated that there had been only one case of abusive behavior (in Constanta county) by the Ministry's representatives.

III. RIGHT TO EDUCATION

1. Background

The right to education, as fundamental human right, is guaranteed by the law. Given the main objectives of the educational process – to provide information and resources in order to facilitate the subsequent access to the labor market, as well as to prepare the student for socialization and value internalization¹⁶ – the right to education is relevant in terms of: quality of education, segregation, affirmative actions and multicultural education.

An official problem acknowledged by the Ministry of Education and Research is segregation of students in ethnic criteria within the educational system. On 20.04.2004, as result of the civil society and other actors' lobby, the Public Ministry issued Notification no. 29323 that bans segregation of Roma children in the educational system.

The Notification condemns segregation as a “severe form of discrimination”¹⁷ and shows that its consequence is unequal access to quality education.¹⁸ In addition, the Ministry implements projects and programs, such as the PHARE program “*Equal access to education of disadvantage groups, with focus on Roma*”.

2. Situations of segregation in education

Despite the Ministry's official acknowledgment and addressing of this issue, cases of segregation in education are still encountered, at level of school or classes, in different regions of the country.

Thus, in Jilava village, Ilfov County, there are two middle schools, Middle school no.1 and middle school no.2.

The ethnic structure of Middle School no.2 is of approximately 80% Roma students and 20% Romanian students, at a total of 168 students. In return, Middle School no.1 is attended by approximately 10% Roma students, at a total of 460 students.

The distance between the two schools is of 800-1000 meters. The Roma community in the commune is placed at approximately 500 m from Middle School no.2, respectively 1500 m from Middle School no.1. The Middle School no.1 has obvious superior conditions as it has been renovated.

The Roma students' parents declared themselves not satisfied with the quality of education in School no.2, with the material conditions and with the fact that the principles of the two schools did not allow Roma children' enrolment in School no.1.

¹⁶ See Iulius Rostas – *Separated, but Equal? Roma within the Educational Systems in Central and Eastern Europe*.

¹⁷ Concretely, the Notification stipulates that „**Segregation is a very serious form of discrimination. Except for schools / classes where al subject matters are taught in Romani Language**, segregation in education involves the intentional or unintentional physical separation of Roma from the other children in schools, classes, buildings and other facilities, such that the number of Roma children is disproportionately higher than that of non-Roma compared to the ratio of Roma school-aged children in the total school-aged population in the particular area”

¹⁸ Segregation has as consequence the unequal access of children to quality education. Separation in kindergartens and schools leads invariably to a lower quality of education in the groups, classes or schools with other ethnic majority of school population.

In Middle School no.1 from Glina village, Ilfov County, in school year 2004-2005, the ethnic structure presented as follows:

- 1st grade A – 22 students of which 5 Roma (23 % Roma – 77% Romanians)
- 1st grade B – 23 Roma students (100% Roma – 0% Romanians)

- 2nd grade A -18 students, none of them Roma (0% Roma – 100% Romanians)
- 2nd grade B -21 students, all Roma (100% Roma – 0% Romanians)

- 3rd grade A 18 students of which 5 Roma (23 % Roma – 77% Romanians)
- 3rd grade B 14 students, all Roma (100% Roma – 0% Romanians)

- 4th grade A 19 students of which 3 Roma (16% Roma – 84% Romanians)
- 4th grade B 15 students of which 4 Roma (27% Roma – 73% Romanians)

The secretary motivated the separated classes based on ethnic criteria by the fact that Roma enrolled to school later than the other students, and they school has already formed one class.

Similar situations have been identified and documented in Catelu village – Ilfov County, Bobesti village – Ilfov County, Piteasca village – Ilfov County, Targu Frumos – Iasi County, Roman – Neamt County, Ungheni – Mures County, Constanta – Constanta County.

Conclusions and recommendations

Given the complex nature of the different forms of segregation in education, the implication of different actors (Roma and non-Roma parents, teachers, County School Inspectorate, Public Ministry, civil society) and the existence of a number of cases, it is necessary to have a comprehensive approach and a sustained intervention. In parallel, intervention measures should be developed through projects and programs (governmental or non-governmental), as well as legal actions before the courts of law or specialized institutions.

- One of the necessary measures is the development of a strategy to eradicate segregation in education and initiation of public campaign against segregation in education (the campaign may be part of this strategy). The public campaign should focus primarily on MER representatives (teachers and school principles, school inspectors, etc), but also on Roma and non-Roma parents. The secondary target group could be State representatives, civil society and general public;
- The 29323 /2004 notification for desegregation must be granted greater legal force, by adopting a Ministerial Order or a Governmental Decision;
- In the same time it's necessary that the court of law sanctions the cases of segregation so that a message could be sent: segregation is, in fact, illegal and may be repercussions as result of law violation.

IV. HOUSING RIGHTS

INSTITUTIONAL RACISM AT LEVEL OF LOCAL PUBLIC AUTHORITIES

*= A reflection upon abusive use of local power
and public function in Romania =*

1. Development of non-governmental mechanisms of monitoring violation of human rights in Roma communities

In the last years, Romani CRISS has developed a mechanism of documenting situations on violation of human rights and fundamental freedoms, through a network of monitors at local level, which functions in 10 counties of the country. The local monitors of Romani CRISS have been trained to document cases of discrimination, abuse or violence against persons of Roma ethnicity or local Roma communities in Romania. Their role is of link in mediating the tensional situations at local level between the majority population and the Roma population; they document cases of human rights violation and ensure provision of legal assistance to victims who request Romani CRISS support for repair of the violated right, within the Romanian juridical system and the European Court of Human Rights in Strasbourg.

After three years of functioning and development of monitors' capacity to use the domestic and international legal system, Romani CRISS has focused on documenting cases of discrimination, abuse or violence in specific areas of action, such as education, housing and health.

2. Patterns of discrimination and abuse on housing and living conditions of Roma population

Romani CRISS expresses its concern regarding the existence of certain patterns of discrimination or abuse on housing and living conditions of Roma population in Romania.

Through the network of monitoring and combating discrimination against Roma, Romani CRISS focused on the legal and administrative situation of the areas inhabited by Roma. Since 2000, Romani CRISS has been indignant with the racist policy of local public authorities to evict and segregate Roma from the cities to the "margins of society". This concern is manifested in the context of more cases and situations documented at local level in several areas of the country, which might denote an extremely dangerous phenomenon. Until the present, the governmental authorities do not have any action instrument that would "correct" the decisions adopted by Local Councils regarding the demolition of Roma's peripheral houses or the Roma's eviction from the neighborhoods of the cities they live in.

3. The lack of efficiency of governmental initiatives at local level and exclusion policies against Roma in Romania

Through a Governmental Decision, the Government of Romania adopted a strategy aiming at improving the living conditions for Roma. This strategy is also the subject of European Union's periodical evaluations regarding the progresses made by Romania in the process of adhesion, on different chapter of negotiation, among which the "political criterion" and the improvement of Roma

situation in Romania. In the present, there is a major discrepancy between the political will at governmental level and what happens at local level.

The herein document tries to emphasize in fact the local public authorities' practice regarding Roma communities, in relation to the above mentioned Governmental Strategy. We want to express publicly an alarm signal that, at local level, Roma in Romania confront new forms of marginalization and exclusion that implicitly determine a policy that might be assimilated to "mass extermination". This statement does not refer to the classical method of extermination, but to more subtle and apparently neuter methods developed in the last years. Such practices may be identified and acknowledged when quantifying various actions conducted by different public actors on forced eviction of Roma communities.

4. Violation of right to property, forced evictions and environmental racism

Lately, cases of violation of Roma's right to property in Romania and abusive demolition of their homes have been reported. Although local authorities prevailed over Law 50/1991, their actions were illegal and didn't respect the provisions of the law mentioned before. In what regards forced evictions, the local authorities didn't respect exactly the legal procedure. In the last years it grew subtly an **environmental racism** against Roma, by evicting and placing them near the garbage dumps, the purification stations or industrial areas at the outskirts of the city, in inhuman conditions. The uncertain juridical situation on this topic allows the local public authorities, the City halls or Local Councils to adopt initiatives leading to such forced evictions, followed by placement of Roma in a situation much more difficult than the previous one. In all these cases, the most affected categories of population are the children (hundreds of children end up living in inhuman conditions, although they are the ones supposed to enjoy a special attention and protection from the State), women and older people, without any defense tools against such situations.

5. Specific situations on eviction, exclusion or marginalization of Roma in regard to housing rights in Romania

In view of initiating a dialogue with central and local public authorities on this area, Romani CRISS exemplifies a part of the cases that have been documented through the network of monitoring and combating discrimination against Roma, through the human rights local monitors. These specific situations confirm the similarities shown by different local authorities in evicting, excluding or marginalizing Roma.

Annex 1: Cases: eviction, exclusion or marginalization of Roma in regard to housing rights in Romania

Conclusions and recommendations

As international human rights bodies (ECRI) also recommended Romanian authorities, it is necessary to take steps to ensure that members of the Roma community have access to decent housing. On the other hand, it is of utmost importance to impose penalties on local government officials who engage in discriminatory practices against Roma, amongst others, the area of housing.

Peculiarly, Romani CRISS retains the following recommendations:

- in-depth analysis of the law, policy and practice concerning forced evictions, in the view of making sure that the legal procedure is followed and that no individual or group, of Roma or Non-Roma origin, disproportionately suffers the consequences;
- in elaborating and implementing future programs and strategies, due attention must be paid to human rights law and standards, including ICESCR General Comments no. 4 and 7 and CERD General Recommendation no. XXVII concerning the discrimination against Roma, particularly paragraphs 30 and 31 in the field of housing;
- Monitoring the situation of the Roma and taking firm action against any discriminatory practice, including local authorities and private owners that negatively impact the access of Roma to adequate living conditions, including housing, in accordance with relevant provisions of CERD General Recommendation no. XXVII;
- Implementing programs and policies aimed at facilitating nondiscriminatory access of low income Roma families to housing and services, in accordance with G.D. 430/2001 and the CERD General Recommendation no. XXVII;
- Developing adequate system for monitoring the implementation of the housing rights, such as a inter-ministerial commission, with the active participation of the Ministries involved, the local authorities and civil society;
- Adopting legal measures in order to legalize Roma settlements. Elaborating new plans that include Roma settlements. Registering Roma as persons with stable domicile in the places they actually live in;
- Ensuring effective legal protection against racial segregation and ending the separation of Roma communities for non-Roma communities through walls, other physical barriers
- Ensuring dissuasive action against environmental racism against Roma by various local authorities;
- Setting up monitoring systems for the identification, documentation and reporting of the housing rights abuse and discrimination at national and local level.

V: Situation of Women Rights in Romania

Women belonging to the Roma minority face multiple discrimination, particularly in fields like education, health, employment or participation to public and political life. There is a strong concern regarding the lack of efficient solutions addressing the situation of Roma women and children. In the same time, the fact that gender equality is far from being addressed by mainstream women groups or Roma women activists should constitute a matter of concern.

The employment rate among Roma population in Romania is much lower than in case of majority population at national level (47% in comparison to 61,7%). There are four times more Roma housewives than in the case of majority women, which indicate the low participation on labor market of the Roma Women.

The Roma men are professionally qualified in a higher percentage than the women as there are 37,1% Roma women without a professional occupation and 15,3% men.¹⁹

Another recently published study of the UNDP, "Faces of Poverty, Faces of Hope", shows that 35% of the Roma women in Romania, aged between 25-54, are unemployed, therefore a four times higher percentage than the majority women.

These differences are the result of low level of education, lack or poor professional training and discrimination by the employers.

On the other hand, Roma women have not been yet explicitly put on the agenda of national and even international institutions, mainstream political parties, although Social Democrat Party referred to the improvement of health status of Roma population and "Dreptate si Adevar" ("Justice and Truth") Alliance included in their electoral offer programs on health, education, employment.

In the present government, there are only three female ministers and just 13.3% of the secretaries and deputy secretaries of state are women; there are no Roma ministers in the Romanian government and only one male Roma Member of the Parliament²⁰. In 2005, a Roma woman has been appointed Secretary of State as the President of the new established National Agency for Roma.

There are 12 Roma women out of 41 local experts, appointed by the Roma Party in year 2003 in the Prefectures within the Roma County Offices.

The Romani women representation seems to mainstream other fields of actions such as: health, education, and local administrations.

There are approximately 250 Roma health mediators, all of which are Romani women who mainly assist the Roma population in obtaining the status of medical insurance.

Representatives of Roma political parties hold 189 seats as local councilors. Romani women's political participation as voters, party members, candidates and elected candidates is much poorer than among the majority. They tend not to vote, and if they do they are often caught in the so called "family voting".

¹⁹ Indicators on Roma community in Romania 0 ICCV 2002.

²⁰ For further details, see www.gov.ro.

The electoral law still doesn't include any quota system for women participation on candidates' lists although 2004 municipal elections few mainstream parties have included a greater number of women on their lists. The Conservative Party (Former Romanian Humanist Party) included 40% women on their candidates' lists. Compared with the previous elections, there has been more public debate on women's participation to politics.

Recommendations for Government Action

- To integrate the Romani women issues in the national policies of the Government and on the agenda of the Gender Equality bodies, Commissions in Romania

Health

- To initiate and implement programmes and projects in the field of health for Roma, mainly women and children, bearing in mind their status of disadvantage due the extreme poverty and low level of education, as well as the inadaptability of the formal public health system to the cultural differences; (as recommended by 57th CERD session, 2000- "General recommendation XXVII on discrimination against Roma")
- To involve Roma associations and communities and their representatives, mainly women, in designing and implementing health programmes and projects concerning Roma groups.
- To design programs in order to increase the degree of tolerance and acceptance of the doctors, the suppliers of medical services in general.
- The decade for Roma Inclusion gave a particular emphasis on the need for governments to create Health Action Plans. To include the gender component in the process of implementation of the Decade Health Action Plans at local level.

Participation to Political and Public life

- To consider the possibility of amended the actual electoral legislation by including a quota system for women and minorities
- To include on the political agenda of the Government, political parties the issue of Romani women
- To include in Romanian regular reports, in an appropriate form, data about the Roma communities, including statistical data about Roma participation in political life and about their economic, social and cultural situation, including from a gender perspective

Labor and employment

- To create programs that would provide employment opportunities and increase the quality of life for Romani women

VI: Racial Administration of Justice

According to international organizations²¹, there is a need to assess the extent of discrimination of Roma in the process of administration of justice. In combating such discrimination, specialized training in the field of anti-discrimination for present and future judges is a must.

The Romanian authorities have organized training for law faculty students and for magistrates and law enforcement officials, in the field of international legislation, and peculiarly with regard to ECHR – European Convention of Human Rights and the jurisprudence of the European Court of Human Rights.

While appreciating the progress made so far by the Romanian authorities, CRISS considers necessary to step up the efforts in providing specialized training for magistrates, law enforcement officials and law students, peculiarly in the field of anti-discrimination, for the following reasons:

- International reports²² show the level of knowledge in the field of anti-racism among the magistrates is low. Also, the jurisprudence is limited and the magistrates prosecutors and lawyers have a poor knowledge of antidiscrimination legislation;
- Some Courts apply the law in a non-unitary manner, namely, in similar cases, they render different decisions. For Example, in two cases in which Roma individuals have been denied access to public places, the same court pronounced two different decisions. Hence, on 08.07.2004, in the first case, the Court has *“partially admitted the civil action, it has obliged the respondent to permit in the future the access of the plaintiff and it has awarded moral damages.”* Nevertheless, on 02.03. 2005, the same Court, in a similar case, has ruled entirely against the civil action;
- There are signs showing a poor knowledge of antidiscrimination legislation, which is leading to a distorted implementation of the legislation. Thus, in a public session, deliberating, the Court has maintained, inter alia: *“as the complaint is motivated in fact, it is incident the art. 22, par. 1 of the Governmental Ordinance no. 137/2000 which provides active legal standing for NGOs that have as a goal the protection of human rights in the situation in which the discrimination is present in their field of activity and it affects a community or a group of persons. Under no circumstances can the court maintain that the claimed discrimination act would affect a whole community. Indeed, on the evening of 07.07.2001, the claimed act of discrimination encompassed a group of persons, but the court considers that the use in the content of the*

²¹ See Third Report on Romania by ECRI – European Commission against Racism and Intolerance – 2006, par. 49.

²² ECRI Third Report on Romania clearly states: *“Despite the Romanian authorities’ efforts to train members of the judiciary, the latter are still largely unaware of anti-racism issues. ECRI thus notes that Romania still has no case-law on discrimination issues. As indicated above, this is partly because victims of discrimination are unaware of both the legislation and the procedure in force. However, judges, prosecutors and lawyers have not included the issue of discrimination in their modus operandi, since they are not aware of the legislation. ECRI therefore hopes that the Strategy for Judicial Reform 2005-2007 will include a clear and continuous policy for training members of the judiciary regarding the legislation on discrimination and its implementation.”* (Para. 51).

In a general manner, the May 2006 EC Report on Romania asserts: *“Training needs remain high particularly for judges, prosecutors and clerks already employed. A consistent interpretation of the law of the law at all levels of court is not fully ensured yet throughout the country.”* (page 7).

same phrase of the words "community" and "group of persons" shows the intention of the lawmaker that it would not represent merely a gathering of persons but an entity. Thus, as regards the active legal standing, the court retains that there are incident the provisions of article 22, par 2 of the G.O. no. 137/2000 that impose in cases that discrimination acts affect individuals (the court considers it cannot hold just a grammatical interpretation of the text) the existence of a mandate to and NGO, which was not present case. In this context, the court admits the existence of the lack of active legal standing of the plaintiff and it rejects the action".

- Some courts show anti-Roma prejudice and stereotypes. Thus, the Court of appeal retains that the sum of 2.000.000 lei (about 55 euros), and not the claimed 8.000.000 lei (about 220 euros), does suffice for *"covering the prejudice the respondent's behavior, and under no circumstances the certainly condemnable attitude of the respondent may constitute a source of enrichment for the plaintiff. Furthermore, in 2005, the High Court of Cassation and Justice retains the ethnic appurtenance of the accused in motivating some criminal actions.*
- There have also been instances in which a court of appeal tried to justify anti-Roma pogroms. Thus the court, generalizing in a stereotypical manner, stated *"Roma have an aggressive behavior and they deliberately infringe accepted legal norms. ... Due to their life style and the rejection of moral values accepted by the rest of the population, the Roma community has marginalized itself, having an aggressive behavior and deliberately infringing legal norms accepted by society"*.

Recommendations for Government Action

At the moment, Romani CRISS is documenting, monitoring or initiating legal action in front of courts of justice or quasi-judicial bodies in a number of 150 cases of human rights violations and discrimination of Roma. Also, CRISS published the first book in Romania on jurisprudence on discrimination on ethnic grounds.

- The Government should include a clear policy of addressing antidiscrimination law and practice by including such a policy in Strategy of Reform of the judiciary system 2007-2007;
- Training courses must be offered to all magistrates and prosecutors. Present and future judges must be granted opportunity to further develop their knowledge in antidiscrimination law.
- Better knowledge of NGO work, particularly human rights NGO work, is a must and it may be achieved by training or organizing common actions.