



European network against racism

ENAR

Shadow Report 2009-2010

ENAR SHADOW REPORT 2009/2010

Racism and Discrimination in Romania

Valeriu NICOLAE (coord.)

**Raluca BANCIU (Communities vulnerable to racism,
Access to goods and services)**

Florin BOTONOGU (Housing and Social Inclusion)

**Raluca NEGULESCU (Policing and ethnic profiling,
Racist violence and crime, Anti-discrimination)**

**Diana TONEA (Employment, Media and Migration and
Integration)**

George ZAMFIR (Education and Health)

Policy Center for Roma and Minorities

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

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

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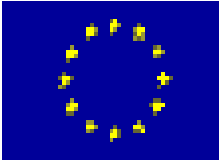
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1. providing analysis and policy advice on PROGRESS policy areas;
2. monitoring and reporting on the implementation of EU legislation and policies in PROGRESS policy areas;
3. promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
4. relaying the views of the stakeholders and society at large

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I. Executive summary

Our research illustrates that Roma remain the most discriminated group in terms of racism for the period covered 2009-2010. Prejudices against Roma continued to be reinforced through various channels, solidifying to the overall negative perception of Roma who remain marginalized in the larger society. Discriminatory practices against Roma are not limited to hate speech or racist rhetoric, but also strident in the behaviour of the majority population towards Roma.

An important number of Roma continue to migrate for medium and long periods of time to other countries in Western Europe. Upon their return to Romania most of these people have serious problems in re-accessing social services in Romania. The most catastrophic is the situation of Romani children – only exceptionally they will be able to re-enrol in school and even less in kindergartens.

Religious discrimination against the Greek-Catholic community was registered during the year. Anti-Semitic incidents were also recorded. As in the case of violence against Roma the incidents targeted the Jewish community have been poorly addressed by the responsible bodies. Immigrants continue to be victims of marginalization in society and at the policy level.

Employment

Roma are most exposed to discrimination in relation to employment. Denying access to employment on grounds of Roma ethnic background is an obstacle for 41% according to the Social Inclusion Barometer (2010). According to the same research, 79% of those polled think that non-Roma have much better chances of being employed. The second most vulnerable group when it comes to employment are migrants. Some of the recorded incidents show that migrants are subject to: abusive behaviour; lack of employers' compliance with national labour legislation; discriminatory treatment; denial of relevant information, accessibility issues; etc. Also, new working permits are being issued for the same employers sanctioned for human rights abuses.

National and local authorities continue to fail to deal with such issues.

Main recommendations:

- Programmes targeting unemployment and underemployment in Roma communities need to be correlated with policies at the national level;
- Address short term employment followed by long periods of unemployment characteristic to many Roma communities;
- Allocate resources to cover required services for immigrant workers such as Romanian language courses, interpreting, translations and professional training courses;
- Centralise information on employers which fail to respect immigrants' rights and prohibit the issuance of new work permits.

Housing

The Romanian government continues to fall short of taking any significant actions to improve the living conditions of Roma communities. Scarcity of funds at the national and local level, inability or unwillingness to use structural funds, and lack of segregated data prevented any significant improvement in this field.

Main recommendations:

- Make use of structural funds for the improvement of the living conditions in deprived Roma communities.

Education

Cases of segregation and discriminatory practices involving Roma children continue to be reported. Although public authorities and NGOs pilot a series of initiatives meant to address the problem, there are no or limited coordinated efforts at the national level.

Main recommendations:

- The Ministry of Education should collect segregated data on Roma children's performance;
- Evaluation of the anti-discrimination and anti segregation policies and projects by the Ministry of Education and the NGOs in order to increase their efficiency;
- The Ministry of Education should introduce mandatory classes on intercultural dialogue and minorities' history thought by specialized teachers;
- Introduction of antidiscrimination and human rights courses in the pedagogical module for teachers.

Health

A quarter of Roma aged 18-54 and 49% of those over 55 have a bad or very bad health status mainly because of restricted access to medical services. Although there are enough cases which prove Roma discrimination in accessing health services, there are no studies on the barriers Roma face in accessing Romanian medical services. Because of decentralization, many Roma health mediators lost or are in danger of losing their jobs.

Main recommendations:

- The National Doctors' Council must clarify the administrative means of tackling discrimination complaints and act as an objective mediator;
- The Ministry of Health must sanction the local authorities which either prevent or obstruct the work of Roma health mediators;
- Medical Schools must introduce anti-discrimination topics in their curricula.

Racist violence and crime

It is difficult to assess trends in racist violence and crime because of an obvious lack of public information or any other reliable data collection for a long period of time. Empirical data seem to indicate an increase in racist motivated incidents and violence against Roma during 2009 compared to previous years. We saw also a sharp increase in Anti-Gypsy rhetoric and the almost complete failure of public authorities to find solutions. Furthermore, a number of police raids in Roma communities ended up in violence and police abuse.

Main recommendations:

- Develop a functional prevention mechanism able to curb racially motivated violence;
- Improve dialogue between public authorities, NGOs and communities;
- Encourage victims to report hate crimes and better address these occurrences, also by developing mechanisms to prevent victimization;
- Raise awareness regarding such occurrences and develop training modules for the police to increase their knowledge about Roma communities.

Access to main utilities and public goods

Data shows that access to healthcare, education, insurances is significantly lower for the Roma minority. There are still many cases when lack of legal documents prevents Roma from accessing public goods and services.

Main recommendations:

- Initiate broader campaigns to provide Roma with birth certificates and other legal documents;
- Initiate public campaigns to change negative attitudes within Romanian public institutions but also at the larger society level.

Media

The Romanian media constantly breaches ethical and professional norms when it reports on Roma. The overwhelming number of articles dealing with Roma associates negative subjects with Roma ethnicity. Hate speech and abusive language are the “normality” on media websites and forums. In 2009 the Ministry of Justice initiated a legislation proposal to censor comments on websites but it was refuted by the civil society as it restricts freedom of speech.

Main recommendations:

- Raise awareness on the risks of spreading such messages in the public space;
- Implement best practices in moderating public forums targeted at eliminating hate speech from comments;
- Increase awareness about accountability issues and laws concerning the publication of racist, xenophobic and discriminatory messages;
- Pursue monitoring activities and content analysis;

- Initiate legal action against racist websites or editorial houses if mitigation proves ineffective;
- Promote successful Roma stories.

Anti-discrimination framework

The existing anti-discrimination Romanian legislation is extensive and covers all grounds combined with all fields of life which is more than the minimal requirements of the Council's anti-discrimination directives; however its implementation reveals multiple failures. The National Council for Combating Discrimination (NCCD) lacks funds, human capacity and legal framework to be efficient. Serious constitutional limitations and dependence on political appointments for its decision and management body seriously hinders its impact in Romanian society.

Main recommendations:

- Revise the application of the administrative regulations of the NCCD and better observe the law when appointing the members in the Steering Committee¹;
- Enforce tougher and timely sanctions for public figures guilty of racist and xenophobic attitudes;
- Ensure the implementation of anti-discrimination legislation in Romania.

Migration and integration

Migration and Integration are not included in the public agenda and there are no relevant political, institutional and legislative developments in 2009/2010. Migrants continue to be marginalized in all aspects of society and at the policy level. Asylum seekers, tolerated persons, stateless persons, victims of trafficking and labour immigrants remain a low priority for the Romanian Government, and little attention is paid to their interests and inclusion needs into Romanian society. Previous developments, since 2007, did not solve the existing deficit of legislation and immigration specific policies targeting vulnerable migrant categories. Lack of policy coherence between immigration, labour, and development policies corroborated with lack of cooperation between institutions and civil society have a disastrous effect within the above mentioned communities. Victims of trafficking continue to face indifference and discrimination from the society at large.

Main recommendations:

- Improve data collection on immigrants;
- Base specific policies on data and existing European positive practices;
- Local authorities need to have legal binding responsibilities towards the social inclusion of migrant communities.

¹ Regarding the expertise and background of the appointed members.

Social inclusion of vulnerable groups

Data shows a rise in the number of vulnerable people in 2009 while the efforts towards social inclusion were severely limited. Unemployment rose in 2010, the state pays social benefits to almost 30,000 more families - 36.5% more than 2009 (data for the first trimester). The economic crisis and the increased number of vulnerable people led the government rethink and re-evaluate the social welfare system.

Main recommendations:

- A critical assessment and evaluation of existing social inclusion programmes of vulnerable groups;
- Develop better programmes and improve the flow of structural funds to address the social inclusion of vulnerable groups;
- An increased focus on neglected groups such as young people from orphanages or released prisoners.

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III. Introduction

This report covers the period between January 2009 and March 2010 but we thought it relevant to mention the exceptional developments in the second part of 2010, when thousands of Roma were deported from France to Romania and Bulgaria. The forced expulsions were an exceptional event but a logical result of unabated blatant racist and xenophobic speeches of both Italian and French high rank officials in the past years. These events shed light on the failure of both EU and Member States policies to address the social inclusion of the Roma. It also underlines the incapacity of the Romanian governments to elaborate and implement efficient policies meant to integrate its most vulnerable groups. A shock for defenders of human rights these evictions need to provide a lesson for the dangers of neglecting to curb both anti-Gypsyism and the social inclusion of Roma within the European Union. Policies targeting Roma are short term and mainly crisis driven. Social inclusion of Roma is an extremely complex and long-term process, the more delayed the worse the short and medium terms effects.

Both at the European and Romanian level, developments in this period show a worrisome increase in racism and Anti-Gypsyism. Exceptional events took place in Hungary, Italy, Bulgaria, Romania, Czech Republic and Slovakia. In Romania, Roma remain the most discriminated group as the majority of the population share a high degree of discriminatory attitudes towards them. The main groups which face discrimination and racism in accessing employment were Roma and migrant workers. The Romanian government failed to take any significant actions to improve the living conditions of Roma communities. Cases of segregation and discrimination of Roma children still persist in the Romanian educational system. Roma suffer from precarious health because of discrimination, limited access to medical services and improper living conditions. Incidents reveal a worrisome increase in the number of racially motivated violent attacks targeting Roma. Data proves that access to basic utilities and public services such as healthcare, education, insurances is significantly lower in the case of Roma minority. The Romanian media continues to breach ethical and professional norms when it reports on Roma people, and perpetuate the stigma. The existing anti-discrimination legislation is extensive, comprehensively covering all grounds in relation to all fields covered by the two EC directives; however its implementation continues to be rather unsuccessful. In relation to immigration and integration, the problem remains outside the public agenda and there were no or limited political, institutional and legislative developments. With regards to social inclusion, there was an increase in the number of vulnerable people in 2009, while little (if any) efforts towards their social inclusion were made. However, the Romanian government seems to be willing to take into consideration several changes in the design of the social work system.

In the first section of the report we look at the most vulnerable groups to discrimination and racism in Romania. The second section elaborates on cases of discrimination and best practices in terms of employment, housing, education,

health, racist violence and crime, access to goods and services and media. The third part addresses developments in relation to political and legal contexts concerning anti-discrimination, criminal justice, racism as crime, counter terrorism, ethnic profiling, migration, integration and social inclusion. The last chapter consists of a list of recommendations.

IV. Communities vulnerable to racism and discrimination

With an estimated population of 1.2 million², Roma remains the group with the highest probability of suffering discrimination. Along with HIV/AIDS infected people and LGBTs, Roma are the least accepted minority group³. According to a poll from 2009, 48% of Romanians agree with the statement “Roma are a shame for Romania” and 72.4% with “most Roma violate laws”. When it comes to education 31.2% of Romanians think “there should be special classes for Roma children” (while 32.5% think that “Roma should not travel abroad”). More than one in five Romanians agreed with the sentence “there should be places where Roma should not be allowed”⁴. Recent studies have pointed out that when it comes to education, health, housing and employment, Roma encounter various forms of discrimination which hinders their access to equal opportunities and resources.

In 2009, NCCD (National Council for Combating Discrimination) recorded 62 complaints⁵ related to race and 28 related to nationality. The small decrease in the numbers compared to previous years (528 in 2009, 836/837 in 2007/2007) is the result of an amendment to the anti-discrimination legislation (G.O. no. 137/2000, republished) and GEO no.75/2008 which has limited NCCDs competence⁶. Besides this, the institution didn't have a president for several months because of the lack of quorum as the mandate of 6 members out of 9 expired while the Parliament delayed the appointment for several months.

The discrepancies between the majority population and the Roma minority have multiple reasons and are rooted in a long history of discrimination and exclusion. Lack of property, segregation and lower than average levels of education together with extreme poverty lead to the existing situation and a vicious circle of exclusion. Education - a proxy variable for income and (indirectly) for the quality of life - is just one of the social services that the Roma find difficult to access. Low educational levels and poor quality of education, ensures that Roma are not very competitive on the labour market. In 2009 just 22.9% were economically active and out of those only 71.5% were involved in the official economy⁷. Some

² Official data from the 2002 census indicate that the Roma population reached 535,250 (2.5% of the population). Estimations made by NGOs put the Roma population even higher, up to 2 million people.

³ Observatorul Social 2010, *Barometrul de Incluziune Socială, Sondaj Reprezentativ la nivel național (Social Inclusion Barometer)*, http://www.observatorul-social.ro/pdf/Barometrul_de_Incluziune_Sociala_Populatie_si_Grupuri_vulnerabile.pdf, accessed on September 7, 2010.

⁴ INSOMAR 2009, *Fenomenul Discriminării în România – percepții și atitudini (Discrimination in Romania, perceptions and attitudes- commissioned by the equality body)*, <http://www.cncd.org.ro/files/file/Fenomenul%20discriminarii%202009.pdf>, accessed 7 September 2010.

⁵ National Council for Combating Discrimination, Annual Report 2009, p. 18.

⁶ *Ibid.*, p. 17.

⁷ Romanian Civic Alliance 2010, *Decade watch Report on Romania: Intermediary Evaluation of the Roma Inclusion Decade 2010*, <http://www.acrr.ro/download/publicatii/DecadeWatch-2010-RO.pdf>, accessed September 5, 2010.

efforts to eliminate discrimination from the educational system were taken, but as the non-governmental organisation Romani CRISS notices, there is still an important percentage of segregated schools. Data from 2008 estimated that 67% of Roma schools are still segregated⁸.

Early education continues to be neglected as access to kindergartens remains very difficult for most poor Roma families. Limited access to kindergartens and primary school has a negative impact on their future development. Furthermore, particular attention should be paid to Roma girls who have an overall lower rate of school attendance⁹.

In 2010, 45% of the employed Roma did not have a steady job and 55% of them had no legal documents for the work they were doing¹⁰. In this field too, the intersection between gender and ethnicity make Roma women more vulnerable to discrimination. The integration on the labour market of Roma women is significantly lower. Most recent data shows that 26.6% of Roma women work on a regular or daily basis, compared to 52.4% of Roma men¹¹.

Apart from indirect discrimination - prejudices against the Roma, lack of identification papers, or lack of access to better employment - are common cases of direct discrimination. In 2009 the mayor of Tarlungeni, Brasov County, erected a wall between Roma dwellings and the rest of the population. This not only separated the two communities (Roma and non-Roma) but also lead to serious difficulties for Roma to access public services.

The Jewish community continues to be another group vulnerable to discrimination. Despite a very small number¹² - during 2009 incidents involving public anti-Semitic statements, vandalism against property, Nazi symbols, articles with an anti-Semitic content and organizations (Noua Dreapta- The New Right) promoting nationalist, pro-Nazis, anti-Semitic ideas¹³ were recorded. NCCD sanctioned two of them¹⁴.

⁸ *Ibid.*

⁹ Bițu, Nicoleta; Morteau, Crina, 2009, *Drepturile copiilor sunt negociabile? Cazul mariajelor timpurii în comunitățile de romi din România. (Are Children's Rights Negotiable? The case of early marriages in Romania's Roma communities)*. Romani Criss, Unicef UNite for Children. <http://www.unicef.ro/&files/drepturile-copilului-nu-sunt-negociabile.pdf>, pg. 10, 15; accessed on October 5th 2010.

¹⁰ Observatorul Social, *Barometrul de Incluziune Sociala 2010, Sondaj Reprezentativ la nivel national (Social Inclusion Barometer)* http://www.observatorul-social.ro/pdf/Barometrul_de_Incluziune_Sociala_Populatie_si_Grupuri_vulnerabile.pdf, accessed 7 September 2010.

¹¹ Fleck G. and Rughinis C., eds. (2008), *Come closer. Inclusion and Exclusion of Roma in Present-Day Romanian Society*, Bucharest: National Agency for the Roma.

¹² The 2002 census indicates a number of 5, 785 Jews living in Romania.

¹³ US Department of State, *2009 International Religious Freedom Report Romania*, <http://www.state.gov/g/drl/rls/irf/2009/127332.htm>, accessed 7 September 2010.

¹⁴ National Council Against Discrimination *Annual Report 2009*, p. 50.

The legal action, which is still pending started in 2008 following the desecration of a couple of hundred Jewish tombs. Another incident, similar to the one in Bucharest happened in Botosani, at the Jewish Cemetery. The mayor of Constanta and his son wore Nazi symbols at a fashion show and as with the cases above the decision is still pending. Anti-Semitic ideas continued to be displayed on the internet and used in discourses of mainstream politicians¹⁵.

NCCD sanctioned a number of cases of discrimination targeting the Hungarian minority.

Other identified vulnerable groups are asylum seekers and tolerated persons; both groups are in rather dire situations due to the very low interest of Romanian authorities to address their plight. Romanian legislation is consonant with that of the European Union¹⁶, but there are multiple aspects that impede on the ability of these groups to integrate; even if under Government Emergency Ordinance 44/2004¹⁷, the rights of persons having a form of protection is granted under the same conditions as for Romanian citizens, implementation lags behind when it comes to access these groups have to things such as labour market, pensions, education, housing, the medical system, social security and social aid.

Insufficient social assistance in reception centres and lack of interpreters burdens the access to health care services. Immigrants are also vulnerable to discrimination, abusive treatment and lack of compliance with national legislation regarding working conditions. The few reports (carried out by ARCA-FRRM¹⁸ or Soros Foundation¹⁹) on immigrants provide little information on the immigrants in the informal economy.

¹⁵ US Department of State, International Freedom Report, 2009, <http://www.state.gov/g/drl/rls/irf/2009/127332.htm>, accessed 7 September 2010.

¹⁶ E.C., 2005, *A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union*, http://eurlex.europa.eu/LexUriServ/site/en/com/2005/com2005_0389en01.pdf, accessed on 25 September

¹⁷ Government Emergency Ordinance 44/2004

¹⁸ ARCA-FRRM, 2010, *Let's speak! Study on the working conditions of foreigners in Romania*, <http://www.soros.ro/ro/publicatii.php?cat=15#>, accessed on 25 September 2010

¹⁹ Louis Ulrich et al, *The Beneficial Regularisation of Immigration in Romania*, Soros Foundation Romania, Bucharest, 2010.

V. Manifestations of racism and religious discrimination

V.i Employment

The labour market in Romania is characterised by an imbalance because of mass migration of Romanians to Western European Countries. Representatives of the national employers' association signalled the need to counterbalance this phenomenon through importing a labour force, although this has changed in the light of the present economic crisis due to a labour surplus. The proportion of Roma among the working-age populations remains very low and exclusion influences their participation in the labour market. Additionally, while at the global level there is a growing phenomenon of transnational commuting of the international work force, Romania seems unable to adapt and to design mechanisms to address the growing abuse of human rights of immigrant workers on its territory. This chapter elaborates on findings about two main groups vulnerable to discrimination and racism on the labour market: Roma and foreign workers.

The main group prone to discrimination on the labour market is the Roma minority. Studies show that only 22.9% of Roma are economically active, of which only 71.5% are occupied in the formal economy²⁰. Around 40% of the Roma population are dependent on state benefits. Besides the lack of professional qualification, low competitiveness, illiteracy, overall discrimination, health issues, precarious living conditions and extreme poverty, another source of exclusion is the lack of identity documents- between 1.9 and 6% of Roma lack identity cards²¹.

A study released by the World Bank estimates that Roma exclusion on the Romanian labour market, leads to losses of 887 million Euros in annual productivity and 202 million Euros in fiscal losses. The report argues that the main cause for their exclusion on the labour market is their under-qualification. Findings show that only one in two Roma of working age is actually working and only one in eight has sufficient professional skills. Low educational levels are reflected in much lower earnings compared to the majority population - employed Roma earn 55% less. Better-educated Roma can expect much higher earnings - 144% more than the Roma with primary education²². Although the study is highly relevant in stressing out the gap in education and its fatal consequences for

²⁰Romanian Civic Alliance (2010), *Decadewatch Report on Romania: Intermediary Evaluation of the Roma Inclusion Decade 2010*: <http://www.acrr.ro/download/publicatii/DecadeWatch-2010-RO.pdf> accessed on 5 September 2010.

²¹ US State Department (2009), *Human Rights Report: Romania*, March 11 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/index.htm>, accessed on 5 September 2010.

²² World Bank (2010), *Economic Costs of Roma Exclusion*, April 2010, http://siteresources.worldbank.org/EXTROMA/Resources/Economic_Costs_Roma_Exclusion_Note_Final.pdf accessed on 5 September 2010.

Roma, it is not clear whether low access to the labour market and lower earnings are a direct result from low education or exclusion, or a combination of both.

The case for high levels of discrimination on the labour market is confirmed by an inter-ethnic opinion barometer in 2010, which reveals that the main perceived reason for unemployment is ethnicity for 41% of interviewed Roma, while 79% of all interviewees claim that non-Roma have the better of being employed. Additionally, Roma are ten times more prone to being laid off compared to the majority. Also, 45% of working Roma do not have a stable job and are usually employed on temporary/seasonal/daily basis signalling low access to the formal labour market. While 72% would accept labour in the informal market, 55% of working Roma are employed on the black market. Revenues of Roma families are almost three times lower than those of the majority²³. The NCCD 2009 Annual Report shows that over 43% of persons polled claimed that they would not hire Roma because they perceive them as “lazy and thieves” and that 25.3% would not want to have a Roma colleague at work²⁴.

Nonetheless, while the overall women’s rate of unemployment is higher than that of men, Roma women face multiple discrimination. They often lack education, skills, work experience or access to the formal economy²⁵. The inter-ethnic 2010 opinion barometer reveals that 66% of interviewed Roma women were not active on the labour force, however it is not clear whether this is because discrimination or other factors such as the traditional role of Roma women²⁶.

Concerning complaints and legal cases, according to the NCCD²⁷ an obvious example of discrimination against Roma at the workplace was the abrogation of the Local Expert on Roma Issues position by local counsellors in a certain locality²⁸. The abrogating act was considered to be discriminatory by the NCCD, which issued a warning while the court confirmed the NCCD decision²⁹.

²³ Observatorul Social (2010), *Barometrul de Incluziune Sociala 2010, Sondaj Reprezentat la Nivel National*, http://www.observatorul-social.ro/pdf/Barometrul_de_Incluziune_Sociala_Populatie_si_Grupuri_vulnerabile.pdf, accessed on 5 September, 2010, p.5.

²⁴ CNCD (2010), *CNCD Annual Report 2009*, <http://www.cncd.org.ro/noutati/Comunicate-de-presa/Lansarea-raportului-de-activitate-al-institutiei-pe-anul-2009-78/>, accessed on 5 September 2010.

²⁵ US State Department (2009), *Human Rights Report: Romania*, March 11 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/index.htm>, accessed on 5 September 2010.

²⁶ Observatorul Social (2010), *Barometrul de Incluziune Sociala 2010, Sondaj Reprezentat la Nivel National*, http://www.observatorul-social.ro/pdf/Barometrul_de_Incluziune_Sociala_Populatie_si_Grupuri_vulnerabile.pdf, accessed on 5 September, 2010.

²⁷ CNCD (2010), *CNCD Annual Report 2009*, <http://www.cncd.org.ro/noutati/Comunicate-de-presa/Lansarea-raportului-de-activitate-al-institutiei-pe-anul-2009-78/>, accessed on 5 September 2010.

²⁸ The governmental decision H.G. no. 430/2001 envisioned the need to hire experts on Roma issues at the local authority level. The positions have been created in order to enhance the working capacity of local authorities with local communities towards betterment of living conditions for Roma.

²⁹ CNCD (2010), *CNCD Annual Report 2009*, <http://www.cncd.org.ro/noutati/Comunicate-de-presa/Lansarea-raportului-de-activitate-al-institutiei-pe-anul-2009-78/>, accessed on 5 September 2010.

1. The National Employment Agency in cooperation with Roma NGOs developed countrywide employment caravans and job fairs for Roma. The initiative led to 8192 Roma employed between January 2009 and March 2010³⁰. However the initiators provided no indication about the duration or quality of those jobs. A country report reveals that the results of such initiatives are modest, and that the available information is insufficient to properly evaluate the programmes.³¹ Also, according to the Inclusion Barometer 2010, only 2% of the polled Roma declared to have found jobs through this programme.³² The critique is that these programmes were done without any attempt to achieve policy coherence at the national level which would contribute to keeping them in the labour market- like fiscal incentives for the employers, support for social economy initiatives, etc. Other initiatives include special professional trainings for Roma and youths that drop out from school, and training programmes for employers.

There are plenty of other NGOs offering employment counselling, mediation and professional assistance services to Roma. One of them is Ferentari Community Development Association (ADCF):

2. Asociația de Dezvoltare Comunitară Ferentari (Ferentari Community Development Association) (ADCF)

The community of Ferentari, Bucharest, suffers from, among other things, lack of access to the labour market, mainly because of low professional qualifications and low levels of education. Precarious relationships between institutions and beneficiaries is another obstacle in employment. Low access to the formal labour market often turns into illegal temporary employment. ADCF plays a mediation role in the community of Ferentari by providing counselling and informative sessions to the ones willing but unable to access the services offered by the local agency for employment (ALOPM). This partnership with the local authority enables ADCF to improve relations between institutions and beneficiaries on the one hand, and to offer support in accessing services – such as on how to look for employment, professional qualification training, awareness raising on the importance of a job and identification of the ones looking for a job - on the other hand³³.

30 Ministry of Labour (2010), *Statistics*, http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20statistic/2009/somaj4_68.pdf, accessed on 5 September 2010.

31 Commission of the European Communities (2010), *Commission Staff Working Document, Joint Report on Social Protection and Social Inclusion*, http://www.mmuncii.ro/pub/imagemanager/images/file/Domenii/Incluziune%20si%20asistentat%20sociala/Raportari%20si%20indicatori/120809Raportare_tara_EN.pdf accessed on 5 September 2010.

32 Observatorul Social (2010), *Barometrul de Incluziune Sociala 2010, Sondaj Reprezentat la Nivel National*, http://www.observatorul-social.ro/pdf/Barometrul_de_Incluziune_Sociala_Populatie_si_Grupuri_vulnerabile.pdf, accessed on 5 September, 2010, p.5.

33 Asociația de Dezvoltare Comunitară Ferentari (2010), *Activity Report 2009-2010*, <http://asociațiaferentari.blogspot.com/>, accessed on 5 September 2010.

The second main vulnerable group to discrimination and racism on the labour market are immigrants. The phenomenon has only gathered some visibility in the last two years after mass media revealed subhuman working and living conditions of some foreign workers. Some legislative progress meant to regulate the foreign access to labour market³⁴ was recorded in 2007 (Emergency Government Ordinance No. 56/2007), yet there is a need for both legislative and institutional interventions, accompanied by efficient implementation mechanisms. The general inaction of the local authorities is often justified by xenophobic rhetoric about protecting local labour or Romanians in general against immigrant workers.

The UN Special Rapporteur on the Human Rights of Migrants questioned Romania on information provided to them that migrant workers recruited by private companies based in Romania lack protection at the end of their contracts, have their identity documents taken by the employer, are misinformed about labour conditions and state benefits and lack access to medical services as well as counselling support and consular protection. In addition, the Rapporteur highlighted the fact that Romania has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although repeatedly advised to do so.³⁵

According to the Romanian Immigration Office (RIO)³⁶, around 60% of the work permits issued during the first semester of 2009 were provided to Chinese and Turkish citizens, 8% were issued to Moldavians and 5% to Bengalis. The majority of the working permits were issued in Bucharest and the jobs were mostly in the construction sector. Although official controls of companies have increased from 611 in 2008 to 2067 in 2009, only 176 foreign citizens were discovered to be working illegally. Nonetheless, many employers chose not to declare the foreign labourers, which is reflected in the value of fines during 2009 (around 60 000 Euros).³⁷ In addition, it is claimed that although the Territorial Labour Inspectorate is monitoring activities on workers' rights, it is insufficient because of the low frequency of check-ups, legal obstacles and the inefficient sanction system based solely on fines. As pointed out by practice, even if sanctioned, a significant number of employers continue to use the same illegal practices facilitated by the unsupervised recruitment process³⁸.

34 Emergency Government Ordinance No. 56/2007, where the Romanian authorities endorse the current policy of controlling the number of immigrants for employment, by setting a quota. Although EU states generally establish such quotas, in Romania, the quota is currently two times higher than the actual number of foreign workers.

35 UN General Assembly (2010), *Report of the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante: Mission to Romania*, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/121/02/PDF/G1012102.pdf?OpenElement>, accessed on 5 september 2010.

36 Romanian Immigration Office (2010), *Raport privind activitatea O.R.I. în anul 2009 pentru combaterea muncii nedecarate a străinilor*, <http://ori.mai.gov.ro/api/media/userfiles/raport.pdf>, accessed on 5 September 2010.

37 Ibid.

38 ARCA-FRRM (2010), *Let's speak! Study on the working conditions of foreigners in Romania*, <http://www.soros.ro/ro/publicatii.php?cat=15#>, accessed on 5 September 2010.

Furthermore, a study on the immigrant communities and their working conditions³⁹ reveals the effects of a minimal integration policy. Interviews with Chinese, Indian and African immigrant workers revealed that often the goal for their presence in a foreign country like Romania is not necessarily the integration or insertion in the various spheres of the society: education, justice, politics and economy. The study argues that the failure of these communities to perceive Romania as “home” or the place they would like to live in the following years only reveals the ineffectiveness or the lack of integration programmes. The voluntary social exclusion on the part of some of the immigrants, by choosing to support and reinforce current practices on accommodation, segregation and cultural disintegration, is augmented by the general lack of information on the study of Romanian language and the lack of concrete actions targeting integration on behalf of the authorities. Overall, this leads to the denial of fundamental rights of these communities.⁴⁰

V.ii Housing

The research available showed that the Roma are the most affected group by housing discrimination in Romania. On February 24, 2009, the UN Special Rapporteur on Adequate Housing, Mrs. Raquel Rolnik, issued a report on housing conditions in Romania⁴¹, based on information she had received from the government. This report highlights improper living conditions, segregation and lack of access to public services or adequate housing. It also mentions the governmental efforts to improve the situation. A methodology for intervention and a pilot study aimed at identifying solutions for the poor and vulnerable people are presented as a step forward.

However, according to the EU FRA⁴² report released in 2009, only 3% of Roma were discriminated against in terms of housing in the previous year. This means that this form of discrimination least affects the Roma compared to the other services Roma perceive as discriminatory. We believe the numbers are misleading with regards to the current situation. In addition, not all interviewed Roma were searching for accommodation in the specified timeframe, and the question was flawed, as not many Roma use a renting agency. In our

³⁹ Louis Ulrich et al (2010), *The Beneficial Regularisation of Immigration in Romania*, Bucharest, Soros Foundation Romania.

⁴⁰ Ibid.

⁴¹ U.N. General Assembly, Human Rights Council, Special Rapporteur on Housing (2009) *Report of the Special Rapporteur on the Right to Adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Follow up to country recommendations – Romania*, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=49c78d342&skip=0&coi=ROM&querysi=housing&searchin=title&display=10&sort=date>, accessed on 5 September 2010

⁴² European Union Agency for Fundamental Rights, *EU-MIDIS: European Union Minorities and Discrimination Survey. Main Results Report*, December 2009 http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_ROMA_EN.pdf, accessed on 5 September 2010

experience, it is rare that Roma themselves are aware of what discrimination in housing means. In countries with a large number of segregated Roma neighbourhoods like Romania and Bulgaria, the above-mentioned report shows very little discrimination in housing. Complemented by a lack of awareness at the local authorities' level in relation to housing discrimination, this leads to a whole range of discriminatory practices that are not acknowledged, reported or sanctioned.

The most visible form of discrimination is segregation. Segregated Roma settlements are created by local authorities on the outskirts of the cities or even inside, and are often presented as a good housing alternative. Improper living conditions are a form of discrimination if we compare Roma settlements to other neighbourhoods. Lack of basic services or roads poses serious threats to personal health and represents major barriers to inclusion. Environmental racism increased although the Romanian legislation contains clear provisions against it. Roma are not relocated even when environmental racism is acknowledged. Sanctions against local authorities are rarely applied. The final form of discrimination is insecurity of tenure. Lack of property documents makes Roma settlements vulnerable to demolitions. Romanian legislation does not protect people without documents from forced evictions and does not take into account the historic determinants of the insecurity of tenure in Roma communities. Furthermore, unless reported by victims and publicised by local NGOs, the media remains the main source of information on housing discrimination.

In 2009, housing discrimination was very much related to ethnic conflicts. In such cases Roma houses were damaged or completely destroyed. Romani CRISS documented the conflict between Hungarians and Roma in the villages of Sâncrăieni and Sânmartin. On 31st May 2009, 400 Hungarians from Sânmartin damaged 40 houses belonging to Roma, accusing them of anti-social behaviour. For the next two months 50 out of 170 Roma never returned to the village, living with their entire families in the woods. This case was reported by Romani CRISS in the country shadow report for CERD⁴³ and cited by the US Department of State – 2009 Country Report on Human Right Practices⁴⁴. *For more details see Sections V.v and V.vi.*

With regards to housing discrimination practices reported by the Romanian media, the Policy Center for Roma and Minorities has developed a media-monitoring programme since 2009. When it comes to Roma, housing is one of the main themes presented by media. The main subjects are:

⁴³ Romani CRISS, Alianta Civica a Romilor din Romania (2010) *Shadow Report for the Committee on the Elimination of Racial Discrimination*, <http://www.romanicriss.org/Shadow%20report%20CERD%20Romania%20-2010.pdf>, accessed on 5 Septemebr 2010

⁴⁴ U.S. Department of State (2010), *Human Rights Report: Romania*, March 11 2010, <http://www.state.gov/g/drl/rls/hrrpt/2009/index.htm>, accessed on 5 September 2010

- Illegal houses built by Roma on private property and environmental racism⁴⁵;
- Illegal evictions⁴⁶;
- Ignorance in addressing environmental hazards⁴⁷;
- Segregation⁴⁸;
- Improper living conditions⁴⁹.

While there are several structural causes that generate and perpetuate housing discrimination, the only way to address it is by improving and enforcing Romanian legislation. Although Roma are the most affected by housing deprivation, they are not even mentioned in the Housing Law (No. 114/1996) as a group in need of social housing. There are no clear statistics on Roma who benefit from social housing governmental programmes. Criteria for selection and allocations of social houses are made by local authorities, without any obligation on their part to provide segregated data about beneficiaries.

Although Romania has ratified the UN-ICESCR⁵⁰, forced evictions are carried out without ensuring minimum rights specified by the General Comments no. 4 and no. 7. Romanian legislation on evictions needs a lot of improvement in this sense, like forbidding segregation, evictions during winter and homelessness as result of evictions. When it comes to relocation, segregated settlements are the most common choices.

In 2009 **Habitat for Humanity Romania, in partnership with Soros Foundation Romania**, built 5 houses for Roma in Baltesti village, Prahova County and another 5 in Vantori village, Neamt County. The houses were built with the direct involvement of the beneficiaries. The project "A house, a future" as launched in 2009⁵¹. Other local good practices include restoring the property of the land where Roma already have houses⁵². Unfortunately these practices are not disseminated at national level.

⁴⁵ Informatia zilei (2010), *Romii din comuna Coroieni au ocupat abuziv terenurile localnicilor*, <http://www.informatia-zilei.ro/mm/2010/02/22/rromii-din-comuna-coroieni-au-ocupat-abuziv-terenurile-localnicilor/>, accessed on 5 Septemebtr 2010

⁴⁶ Adevarul (2010) *Romii din Malu Vanat Risca sa ramana pe drumuri*, http://www.adevarul.ro/locale/pitesti/Rromii_din_Malu_Vanat_risca_sa_ramana_pe_drumuri_0_256774486.html, accessed on 5 Septemebtr 2010

⁴⁷ Monitorul de Vrancea (2010) *Primarul Daniel Nicolas: "Famiiliile de romi sunt victimele excluziunii sociale a guvernului Boc"* http://monitorulvn.ro/monitorul_de_vrancea-2-36815.htm, accessed on 5 Septemebtr 2010

⁴⁸ Romania Libera (2009) *Dezbaterile "R.L" La Brasov, zid antiromi ca in Cisiordania*, <http://www.romanialibera.ro/exclusiv-rl/dosar/dezbaterile-r-l-la-brasov-zid-antiromi-ca-in-cisiordania-144392.html>, accessed on 5 September 2010

⁴⁹ Adevarul (2010), Slatina: *Primaria vrea sa-l evacueze pe romii datornici din G6*, http://www.adevarul.ro/locale/slatina/Slatina-Primaria_vrea_sa-i_evacueze_pe_rromii_datornici_din_G6_0_260374169.html, accessed on 5 September 2010

⁵⁰ United Nations International Covenant on Economic Social and Cultural Rights.

⁵¹ Habitat for Humanity Romania (2010), *O casa, un viitor pentru familiile defavorizate*, http://www.habitat.ro/detalii/o_casa_un_viitor_pentru_familii_defavorizate/proiect-10.html?projecttabs=3, accessed on 5 September 2010

V.iii Education

The research available shows that the Roma remain the most vulnerable ethnic group to discrimination in access to education in Romania. Their vulnerability is linked to the poor quality of education in schools but also to:

- poor living conditions and the indirect costs of education, even though primary and secondary education are free of charge in Romania;
- Roma traditions regarding marriage and an overall reluctance towards prolonged education resulting from the low returns on higher level education as compared to the effort put into it⁵³;
- fear of assimilation, of losing traditions and specific values,
- limited knowledge of Romanian and an overall lack of Romani speaking teachers⁵⁴.

One of the difficulties in assessing Roma children's performance in education is the lack of data on Roma drop-out rates in comparison to the rest of the population⁵⁵. In 2005, The Ministry of Education estimated that the drop-out rate of Roma is between 12 and 20% higher than the rest of the population⁵⁶. The abandon rate in pre-university education, according to the Romanian NIS statistical yearbook on 2009, increased from 1.5% in the 2003/2004 school year to 2% in the 2007/2008 at the primary and secondary education level. During the same period, the drop-out rate increased from 2.4 to 2.9% at the high school education level⁵⁷.

In 1996, once the Hungarian minority started to be part of the governing coalitions, the educational policies for Roma minority mirrored those designed for the Hungarian minority. This model, focused on cultural autonomy and mother tongue learning was considered a good practice⁵⁸. Policies of desegregation were proposed and implemented much later⁵⁹. This included the initiative of the

⁵² Unirea (2009), *Romi din Sebes adusi cu picioarele pe pamant*, http://www.ziarulunirea.ro/art.php?cat=18&pg_id=35022, accessed on 5 Septemeber 2010

⁵³ Fleck, Gábor, and Cosmina Rughinis, *Come Closer. Inclusion and Exclusion of Roma in Present-Day Romanian Society*. Bucharest, 2008, p. 157
http://www.sper.org.ro/pdf/cercetare/engleza/final_reports/Come_Closer.pdf accessed 12 September 2010

⁵⁴ Bogdan and Lupu, Simona, Serviciile de educație (Educational Services), Comisia Prezidențială Pentru Analiza Riscurilor Sociale și Demografice in *Riscuri și inechități sociale în România (Risks and social inequalities in Romania)*, Bucuresti, 2009, p.162,
http://www.presidency.ro/static/CPARSDR_raport_extins.pdf, accessed 13 September 2010

⁵⁵ Open Society Institute, *Equal Access to Quality Education For Roma, Romania*, 2007, p 351

⁵⁶ Ministry of Education Research, Youth and Sports, Strategy for early education
<http://www.edu.ro/index.php?module=uploads&func=download&fileid=2416> (accessed on 13.09.2009)

⁵⁷ The high school level in Romania covers the 9th to 12th grades, ages 15 to 18.

⁵⁸ Magyari-Vincze, Eniko, and Harbula, Hajnalka. 'Country Report on Education: Romania.' *EDUMIGROM Background Papers*, Central European University, Center for Policy Studies, Budapest, 2008, p.26
http://www.edumigrom.eu/sites/default/files/field_attachment/page/node-1817/edumigrombackgroundpaperromaniaeducation.pdf, accessed 2 September

⁵⁹ *Ibid.*, p. 27.

Ministry of Education, Research and Youth from 2007⁶⁰ which makes school segregation illegal. Until recently, segregation was justified as a mean to protect minorities.

School segregation leads to discriminatory access to higher quality education and low interaction with other children. Liliana Lacatus, school inspector for the Roma minority in Cluj-Napoca, states that the Cluj county School Inspectorate received many complaints from parents who accused other parents or teachers of discrimination. The parents of non-Roma children are against the presence of Roma pupils in mixed classes and put pressure on the professors to have segregated classes. This happens although their children accept their Roma colleagues⁶¹. Directly related to the process of segregation is the fact that many teachers prefer interacting with “top” or “average” pupils, disregarding the pupils with a lower performance⁶². Roma children sometimes end up in special schools as teachers let them fail a grade three times or psychologists evaluate them negatively after the fourth grade⁶³.

The phenomenon of segregation is still not properly documented, but according to a study in 2007, at least half of the Roma children go to classes where half or more of their colleagues are Roma- 50% in urban areas and 59% in the rural areas⁶⁴.

An evaluation of the affirmative action policy in education (published in 2009) states there is a huge imbalance between the number of Roma from the rural and urban areas. Only 29% of secondary cycle Roma children and respectively 20% of the Roma university students come from a rural area⁶⁵. The short period between the announcement of the number of places available and the end of the registration period remains a serious obstacle for the Roma students interested in accessing the reserved places⁶⁶.

⁶⁰ Ministry of Education, Research and Youth, Order No. 1.540/19.07.2007 on forbidding school segregation of Roma children and the approval of the Methodology for the prevention and elimination of school segregation for Roma children, published in the Official Journal No. 692/11.20.2007

⁶¹ Ravoiu, Tudor. *Discriminarea si abandonul scolar problemele copiilor romi*, <http://www.citynews.ro/cluj/din-oras-10/discriminarea-si-abandonul-scolar-problemele-copiilor-romi-75107/>, accessed 13 September 2009

⁶² Voicu, Bogdan and Lupu, Simona, Serviciile de educație (Educational Services), Comisia Prezidențială Pentru Analiza Riscurilor Sociale și Demografice in *Riscuri și inechități sociale în România (Risks and social inequalities in Romania)*, Bucuresti, 2009, p.162, http://www.presidency.ro/static/CPARSDR_raport_extins.pdf, accessed 13 September 2010

⁶³ Magyari-Vincze, Eniko, and Harbula, Hajnalka. 'Country Report on Education: Romania.' *EDUMIGROM Background Papers*, Central European University, Center for Policy Studies, Budapest, 2008, p. 40, http://www.edumigrom.eu/sites/default/files/field_attachment/page/node-1817/edumigrombackgroundpaperromaniaeducation.pdf, accessed 12 September 2010

⁶⁴ Voicu, Bogdan and Lupu, Simona, Serviciile de educație (Educational Services), Comisia Prezidențială Pentru Analiza Riscurilor Sociale și Demografice in *Riscuri și inechități sociale în România (Risks and social inequalities in Romania)* (Bucuresti, 2009), p.163, http://www.presidency.ro/static/CPARSDR_raport_extins.pdf, accessed 13 September 2010

⁶⁵ Roma Education Fund, *Analysis of the impact of affirmative action for Roma in high schools, vocational schools and universities*, (2009), p. 12, http://www.romadecade.org/files/ftp/Gallup_Romania_english.pdf, accessed 11 September 2010

⁶⁶ *Ibid.*, p. 13

As pointed out by reports issued by Roma Education Fund, within the Roma population a significant gender imbalance exists when it comes to accessing education⁶⁷. According to an exploratory research in 2004, Roma girls marry on average 4 years earlier than the national average, 20.5 and also have their first child earlier⁶⁸.

In the last couple of years many initiatives and projects started at the national and local levels meant to improve access of Roma to education (e.g. school mediators). However, problems remain, such as discriminatory attitudes of non-Roma parents towards Roma pupils and their rejection within the schools.

Roma ACCESS Tomis Association created and maintained after-school centres in three segregated schools in Constanta from December 2008 to December 2009. A total number of 60 Roma and non-Roma children benefited directly, while 15 teachers participated at three workshops dedicated to intercultural awareness. During the project, the children's school performance increased by 15 to 20% as proven by average grades, the dropout rate was zero and the absenteeism rate decreased by 80%⁶⁹.

The Impreuna Agency gave information regarding Roma communities' access to qualitative education in 75 Roma communities from 25 counties. The programme is entitled "Empowering the Roma Communities in monitoring and influencing the local agendas in Romania"⁷⁰.

V.iv Health

The most vulnerable group to discriminatory access to medical services, as in most other public services in Romania, is the Roma. Although there are studies⁷¹ on the health status of Roma, there are few studies focused on Roma's access to health services. A survey based on self-perceived health status concludes that they have normal access to medical services; they visit the doctor, although 23.5% of the women from 16 to 20 years old have never visited a gynaecologist. According to the same report, one in five Roma needed medical care and did not receive it, along with the 47% who did not visit the doctor because they were not insured, invoking economic barriers⁷². The 2009 EU MIDIS comparative report, states that 11% of the Roma in Romania feel they have been

⁶⁷ *Ibid.*, p. 29; Voicu, Bogdan and Lupu, Simona, Serviciile de educație (Educational Services), Comisia Prezidențială Pentru Analiza Riscurilor Sociale și Demografice in *Riscuri și inechități sociale în România (Risks and social inequalities in Romania)* (Bucuresti, 2009), p.162, http://www.presidency.ro/static/CPARSDR_raport_extins.pdf, accessed 13 September 2010

⁶⁸ Surdu, Mihai, *Sarcina si casatoria timpurie in cazul tinerelor Roma (Pregnancy and early marriage in the case of young Roma girls)*, 2004, p. 28 (report fo Centrul Educatia 2000+)

⁶⁹ http://www.galasocietatiicivile.ro/view_proiect_competitie.php?id=216

⁷⁰ http://www.agentiainpreuna.ro/files/rapoarte/raport_2009.pdf

⁷¹ Wamsiedel, Marius, 2009, EU – MIDIS.

⁷² Wamsiedel, Marius et al., *Sanatate si comunitatea Roma: Analiza asupra situatiei din Romania* (Bucharest: Romani Criss, 2009), available at: http://www.romanicriss.org/index.php?option=com_content&task=view&id=29&Itemid=56 accessed 8 October 2010

discriminated against when accessing medical services, the lowest figure in the report, compared to the other six countries from Central, Eastern and Southern Europe⁷³.

Roma's health status is precarious, compared to the Romanian general population. In the North-West region of Romania, approximately a quarter of the Roma aged 18-54 and 49% of those over 55 years of age declared a bad or very bad health status, due to the restricted access to medical services. In 2007 life expectancy in Romania was 73.27 years, the highest it has ever been⁷⁴. The Romanian Roma have a life expectancy 10 to 15 years lower⁷⁵.

48% of Roma have a family doctor, yet most cannot have full access to medicine because of economic constraints⁷⁶. Some progress was recorded as of 2009, Roma without identity cards can access primary medical care in special centres in Bucharest⁷⁷.

There are factors of latent discrimination towards Roma inbuilt in the health care system at the level of eligibility and in the relationship between the patient and the medical personnel. The national programme of health mediators, adopted by the Government in 2002, is an important method of increasing Roma access to health services⁷⁸. The NGO Romani Criss initiated the health mediators programme in 1996 and it was extended at the national scale⁷⁹.

In 2009 The Roma Centre for Health Policies "Sastipen" recorded three cases of discrimination in public health institutions. Those cases were all from the same town, Targu Neamt, in Neamt county, and are related to the same gynaecologist. The Roma Centre for Health Policies Sastipen analyzed the cases and filed complaints with two organisations: the Doctors's Council in Neamt county and the Ethics Council and at the National Council for Combating Discrimination. Sastipen notes that while hospitalized to give birth, a Roma woman signed a statement written by nurses, in the presence of the accused doctor and three nurses. The statement - which contains her testimony that she received proper medical treatment - should have been taken in front of the Ethics Council,

⁷³Fundamental Rights Agency, *European Union Minorities and Discrimination Survey, Data in Focus Report, The Roma*. 2009

⁷⁴ Wamsiedel, Marius et al., *Sanatate si comunitatea Roma: Analiza asupra situatiei din Romania*, Romani Criss, 2009, available at: http://www.romanicriss.org/index.php?option=com_content&task=view&id=29&Itemid=56 accessed 8 October 2010, p. 16.

⁷⁵ Agentia Nationala a Romilor, http://www.anr.gov.ro/html/Deceniul_2.html

⁷⁶ MIGHEALTHNET, *Information network on good practice in health care for migrants and minorities in Europe* http://mighealth.net/ro/index.php/Pagina_principal%C4%83, accessed 12 September 2010

⁷⁷ Ibid. (*There is no further information on the website*)

⁷⁸ Popescu, Livia. *Serviciile de ingrijire a sanatatii (Health care services)* Comisia Prezidențială Pentru Analiza Riscurilor Sociale și Demografice in *Riscuri și inechități sociale în România (Risks and social inequalities in Romania)* (Bucuresti, 2009), p. 145

http://www.presidency.ro/static/CPARSDR_raport_extins.pdf, accessed 13 September 2010

⁷⁹ Romani Criss, *Scurt istoric al programului de mediere sanitara*, <http://www.romanicriss.org/Istoric%20al%20program%20mediere%20sanitara.pdf>, accessed 12 September 2010

according to the legal procedures. On 15 October 2009 the Ethics Council of the hospital concluded that the accusations were invalid. Sastipen questioned the procedures, based on the legal status of the Committee who analyzed the case, with no results. On July 7, 2010 the NCCD decided that discriminatory practices occurred in one of the three cases and the doctor received a warning.⁸⁰

Other cases of discrimination are reported by Romani Criss. The NGO discovered a family doctor in Vartop village who repeatedly refused to give a consultation or treat Roma patients. There have been cases in maternity wards in Galati and Braila when, although the mothers were Romanian citizens, hospital personnel wrote "gypsy" on the children's birth certificates under the rubric "nationality of the mother". Romani Criss filed complaints to the NCCD with regards to these cases.⁸¹

Lastly, due to the decentralization process undergone by the Ministry of Health, many health mediators are in danger of losing their jobs. At the end of 2008, in Romania there were 498 hired health mediators⁸², the highest number since the programme began in 1996. From July 1, 2009, the health mediator is under the responsibility of local authorities'. Some of these authorities declined responsibility and argued that there is no need for a health mediator or that there are no funds, despite the fact that the salaries of the mediators are provided by the Ministry of Health. Daniel Radulescu, the ex-coordinator of the health mediators' project, estimated 200 hired health mediators will remain at the end of the decentralization process⁸³.

V.v Policing and ethnic profiling

Ethnic profiling is an illegal practice in Romania. A number of recent cases (2009 and first semester of 2010) involving Roma seem to indicate that the Romanian police officers record ethnicity and engage in ethnic profiling. Media monitoring performed by various bodies indicated a clear trend of highlighting the Roma ethnicity of presumed criminals⁸⁴.

Several Romanian NGOs⁸⁵ which documented disproportionate use of police force against Roma warn about the gravity of such occurrences and the negative rising trend in this respect. The official justification for such incidents refer to the self-defensive reaction of the public order enforcement bodies to alleged hostility of Roma⁸⁶.

⁸⁰ Information provided by Madalin Morteau, The Roma Center for Health Policies Sastipen

⁸¹ U.S. Department of State. 2009 *Human Rights Report: Romania*, <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136053.htm>, accessed 13 September 2010

⁸² "The health mediators have the main role of facilitating communication between the Roma communities and the medical personnel, contributing to an increased level of efficacy of the interventions in public health" (Ministry of Health and Family, *Order no.619* in 2002, Technical Norms, art. 5, http://www.cdep.ro/pls/legis/legis_pck.htm_act_text?id=37616)

⁸³ Petru Zoltan, http://www.divers.ro/focus_ro?wid=37452&func=viewSubmission&sid=10618

⁸⁴ See Policy Center's media monitoring exercise.

⁸⁵ Mainly these are cases documented by Romani Criss and Apador-CH.

⁸⁶ U.S. Department of State *Human Rights Report: Romania, 2009*.

On July 26, 2009, in Speranta District in Piatra Neamt⁸⁷, six Roma persons were violently abused during a police intervention which was meant to arrest one person. The tear gas used affected 20 persons⁸⁸. Romani Criss provided assistance to the victims by filing a legal complaint regarding the disproportionate use of police force which included verbal threats and property damage (some houses had their windows broken).

Ethnic profiling of Roma followed by police abuse is reflected in the approach police forces have in cases of forced evictions. An analysis of these practices since 2004⁸⁹ based on reports of Romani CRISS reveals an increase in violence against Roma communities: “(...) an increase in evictions coupled with regular police raids, with cases of police violence, beatings, detention for a short period, and even burning of houses”⁹⁰.

Cases from 2007 and 2008 involving police abuse were still unresolved in 2009⁹¹. In the first trimester of 2010, no decision was reached by the European Court of Human Rights in the case *Tanase and Others v. Romania*⁹² (in 1991, 2,000 non-Roma forced the Roma in Bolintin Deal to run away from the community as a result of violent attacks against 24 Roma families whose houses were destroyed).

A good practice undertaken by the Romanian police is the collaboration with Roma mediators in dealing with conflict situations in Roma communities⁹³.

V.vi Racist violence and crime

We were unable to find any coherent data collection based on sound methodology related to racist violence and crime⁹⁴. A qualitative analysis of racially motivated violent incidents indicates an aggravating trend in racism. Premeditated acts of racially motivated violence targeted two communities – the Roma and the Jews.

⁸⁷Romani Criss, *Annual Report*, 2009, p. 12, available at: <http://www.romanicriss.org/Raport%20anual%20Romani%20CRISS%202009.pdf>.

⁸⁸Romani Criss 2009 Annual Report, p. 12 - <http://www.romanicriss.org/Raport%20anual%20Romani%20CRISS%202009.pdf>.

⁸⁹ NIȚĂ, Delia-Luiza, Romania RAXEN National Focal Point, *Thematic Study. Housing Conditions of Roma and Travellers*, Center for Legal Resources, March 2009, http://www.crj.ro/userfiles/editor/files/RAXEN-Roma%20Housing-Romania_en.pdf, pp. 39-41.

⁹⁰ *Ibid.*, pp. 39-40.

⁹¹ U.S. Department of State *Human Rights Report: Romania, 2010* specify the following cases: a group of Roma in Satu Mare beaten by the police officers in May and July 2008, police raids on Romani communities in Liesti, Galati County, and in Ciurea, Iasi County, in 2007.

⁹² *Tanase and Others v. Romania*, Application no. 62954/00, Council of Europe: European Court of Human Rights, 26 May 2009, available at: <http://www.unhcr.org/refworld/docid/4a535d4d2.html> accessed September 3, 2010.

⁹³ U.S. Department of State *Human Rights Report: Romania, 2009*.

⁹⁴ The analysis *Quality of official criminal justice data collection mechanisms on racist crime/violence in EU27* places Romania in Tier 4 – ‘there is a total absence of any publicly available official criminal justice data on racist crime’ – Fundamental Rights Agency of the European Union Annual Report 2009, p. 28.

Some disparate data collection efforts in monitoring and centralizing data on racist violence are reflected in the report released by the EU Fundamental Rights Agency in December 2009 - *European Union Minorities and Discrimination Survey*⁹⁵. Though revealing an increasing trend in violence against Roma in Romania⁹⁶, the report presents data available for 2008. Its main pieces of information indicate in percentages an increase in the occurrence of assaults and threats and of serious harassment in the past 12 months as compared to the past 2-5 years⁹⁷. Within a comparative EU framework, the degree of violence against Roma in Romania seemed to be the lowest. However, the survey was applied between May 17 and June 25, 2008, before the violent incidents in Sânmartin and Sâncrăieni, cases that recommend a reconfiguration of the relevant indicators in defining the intensity of racist violence.

The incidents from 2009 in the two communities from Harghita district – Sânmartin and Sâncrăieni – are indicative of an aggravation of anti-Gypsyism in Romania. They also point to an increase in institutional racism among public authorities as they either supported or tolerated racist solutions for inter-ethnic conflicts. The protocol in Sânmartin⁹⁸ – a parallel system of law based on racist premises – imposed unilateral conditions to the Roma population were considered unfit for a democratic EU country⁹⁹. Furthermore, the active involvement of extremist groups in the process only adds to the aggravation of anti-Gypsyism in Romania. The most disturbing development resides in the spill-over effects of such practices that generated racist replicas in other communities with a considerable Roma population¹⁰⁰.

Documentation on the developments in Sânmartin, Harghita county, as of May 2009¹⁰¹, seems to mirror events of almost 20 years ago, when social and political chaos lead to explosions of racial violence.

⁹⁵ European Union Agency for Fundamental Rights, *EU-MIDIS: European Union Minorities and Discrimination Survey. Main Results Report*, December 2009.

⁹⁶ The report presents the analysis of a survey interviewing 500 Roma on various discrimination related issues, including racist violence. The report is based on a comparative approach at European level targeting immigrants in European countries, the Roma being a relevant component in the analysis.

⁹⁷ *Ibid.*, p.168.

⁹⁸ The protocol in Sânmartin is a set of rules agreed by local public authorities and highly contested by NGOs which stand for a compromise solution for the inter-ethnic conflict in Sânmartin in 2009. However, this document proposes an unilateral approach imposing conditions designed especially for the Roma population. For more details and a critical analysis of this issue, please consult the press release issued by the Centre for Legal Resources available at http://www.crj.ro/userfiles/editor/files/CLR_press_release_racial_regulations_in_Romania%2027_07.pdf

⁹⁹ Centre for Legal Resources, Press Release, *The Nazi Uniform, the racial laws, and Romania of the year 2009*, 27.09.2009, Bucharest -

http://www.crj.ro/userfiles/editor/files/CLR_press_release_racial_regulations_in_Romania%2027_07.pdf

¹⁰⁰ See MP Urban's Balotești Protocol and the NGOs reactions – ENAR Romania, Anti-racist Protest letter against the Balotești Protocol, 16 December 2009, http://www.crj.ro/userfiles/editor/files/Letter_of_protest_EN_16_dec.pdf

¹⁰¹ *Presentation of the Sânmartin report*, 7 October 2010 http://www.osce.org/documents/odihr/2009/10/40508_en.pdf; *US Department of State 2009 Report on Human Rights:Romania*.

Forced eviction, property damage and racial violence against the whole Roma community as part of the revolt of 400 non-Roma cohabitants in Sânmartin is a signal of a state unable to defend the rights of its own citizens. Passivity and indifference displayed by the local authorities in cases of racist motivated violence constitute clear indicators of a rise in anti-Gypsyism.

Violence in Sânmartin broke out after an incident involving six Roma who used the property of some Hungarian minorities as grazing fields for their horses¹⁰². The consequences of the clash led to a mob of 400 non-Roma who damaged 40 Roma households and other goods¹⁰³. All information available relating to the incident show that the violent acts were premeditated. Open hostility prevented the Roma from returning at their houses for several weeks. The mediation coordinated by the public authorities failed to achieve an equitable solution. The result was a protocol labelled by some civil society representatives as highly racist¹⁰⁴. The failure of the official bodies is also reflected by the U.S. Department of State report which points to the lack of assistance to Roma families, including children, who had to hide themselves in the forest¹⁰⁵. Five months later, the situation had still not improved because of difficulties in the reintegration process of Roma, while solutions to repay and fix the damage inflicted on Roma property were difficult to reach¹⁰⁶.

The Sâncrăieni incident – a locality in the proximity of Sânmartin - is the first manifestation of the spill-over phenomenon mentioned above¹⁰⁷. Arsonist acts perpetrated by the majority population against Roma property ended with a set of rules agreed upon by the public authorities and other relevant parties. Similarly, the Balotești protocol¹⁰⁸ addressed to a group of Roma by the MP Iulian Urban contained a set of racist unilateral conditions exclusively imposed to Roma¹⁰⁹.

¹⁰² U.S. Department of State *Human Rights Report: Romania, 2009*.

¹⁰³ Romani Criss 2009 Annual Report, available at <http://www.romanicriss.org/Raport%20anual%20Romani%20CRISS%202009.pdf>, p. 6.

¹⁰⁴ Such as Centre for Legal Resources, Press Release, *The Nazi Uniform, the racial laws, and Romania of the year 2009*, 27.09.2009, Bucharest - http://www.crj.ro/userfiles/editor/files/CLR_press_release_racial_regulations_in_Romania%2027_07.pdf or public protest letter of ENAR Romania against replica documents of the Sanmartin protocol such as Balotesti Protocol - http://www.crj.ro/userfiles/editor/files/Scrisoare_de_protest_Balotesti_16_dec.pdf accessed 30 July 2010. Another perspective on the Protocol - *Presentation of the Sânmartin report*, 7 October 2009 - http://www.osce.org/documents/odhr/2009/10/40508_en.pdf.

¹⁰⁵ U.S. Department of State *2009 Human Rights Report: Romania*.

¹⁰⁶ *Presentation of the Sânmartin report*, 7 October 2009 - http://www.osce.org/documents/odhr/2009/10/40508_en.pdf

¹⁰⁷ The incident occurred on July 9, 2009.

¹⁰⁸ Member of the Romanian Senate, Mr. Iulian Urban proposed for part of his constituency, the locality of Balotești, a protocol similar to the ones in Sânmartin and Sâncrăieni in an attempt to regulate in a discriminatory way the behaviour of the Roma in this community. Well known for his xenophobic and anti-Gypsyist rethoric, Mr. Urban has a blog - <http://www.urbanulian.ro/> - where he vehiculates racist attitudes and statements. The protocol was criticized and contested by human rights NGOs part of ENAR Romania - http://www.crj.ro/userfiles/editor/files/Letter_of_protest_EN_16_dec.pdf

¹⁰⁹ Public protest letter of ENAR Romania against replica documents of the Sanmartin protocol such as Balotesti Protocol - http://www.crj.ro/userfiles/editor/files/Letter_of_protest_EN_16_dec.pdf accessed 30 July 2010.

As far as the Jewish minority is concerned, racist violence manifestations involve mainly acts of vandalism. The Centre for Monitoring and Combating Anti-Semitism in Romania warns about the rather soft approach the public authorities take concerning the perpetrators of such acts. Thus, few of the persons responsible for vandalism are punished because they are labelled as harmless groups - children, drunks or persons with mental disorders¹¹⁰. Among the most serious incidents are the desecration of 20 tombstones in April 2009 and drawing of anti-Semitic signs (swastikas and graffiti) in public areas in Bucharest during May and June 2009¹¹¹.

V.vii Access to goods and services in the public and private sector

Roma, elder people, unqualified youngsters from rural areas and unqualified workers, are at the highest risk of employment outside the regulated market. The informal sector¹¹² is mainly associated with low-level specialization, precariousness and an uncertain income. The 56% of Roma are at risk of being employed in the informal sector (compared to 12% in the Romanian majority)¹¹³. The majority of the interviewed Roma (67.3%) believe that their ethnicity matters in a negative way; 38.3% say that they face discrimination in access to education and 35.9% claim that they are discriminated against when accessing health care. In the case of the majority of population, the percentages are 1.6%, 1% and 1% respectively.

Data¹¹⁴ shows that 76% of Roma consider that their income does not suffice their basic needs, compared to 33% of the majority. Employment is considered the most urgent need by 47.0% of those interviewed¹¹⁵. The average monthly global income of Roma households is 657 RON, that is approximately €153 (exchange rate of the National Bank of Romania in September 8th), less than half of the poverty line in Romania (60% of the median income).¹¹⁶ The second issue raised was infrastructure/roads (24%), followed by poverty (17.9%) and access to

¹¹⁰ U.S. Department of State *Human Rights Report: Romania*, 2009.

¹¹¹ *Ibid.*

¹¹² Informal sector refers to “informal activities and employment that take place outside formal structures such as official credit markets, tax administration, labour law and social security schemes” (OECD Development Centre. 2008, *Report on Informal Employment in Romania. Working Paper no. 271.* <http://www.oecd.org/dataoecd/19/13/41012694.pdf>, accessed on September 5th 2010

¹¹³ Stăncunlescu, Manuela, 2009, *Riscuri, vulnerabilități și soluții pe piața a muncii (Risks, vulnerabilities and solutions on labor market)*, Comisia Prezidențială pentru Analiza Riscurilor Sociale și Demografice în Riscuri și Inechități Sociale în România (Presidential Commission for Analysis of Social Demographic Risks and Social Inequalities in Romania), București, p.44. http://www.presidency.ro/static/CPARSDR_raport_extins.pdf, accessed 5 September 2010

¹¹⁴ S.P.E.R. 2009, *Barometrul Relațiilor Interetnice (Interethnic Relations Barometer)*; p.7 http://sper.org.ro/admin/uploads/File/2_ETN_Raport_partial_Romi.pdf, accessed 5 September 2010

¹¹⁵ *Ibid.*, p. 8

¹¹⁶ Observatorul Social (2010), *Barometrul de Incluziune Sociala 2010, Sondaj Reprezentativ la Nivel National, (Social Inclusion Barometer)* http://www.observatorul-social.ro/pdf/Barometrul_de_Incluziune_Sociala_Populatie_si_Grupuri_vulnerabile.pdf, accessed on 5 September, 2010; p6

running water (14.8%)¹¹⁷. 52% of Roma declare that they are not at all satisfied with their lives compared to 19% of the majority population¹¹⁸.

In 2007, more than a quarter of Roma did not have documents for their houses (either property or tenant papers)¹¹⁹. This constitutes a serious barrier for accessing other public services.

Roma's access to basic utilities¹²⁰ is significantly lower than the majority of population: 86% of the auto-identified Roma households do not have sewage and similar percentages do not have running water inside their houses (the percentage is less for households having a source of water in the backyard); 87% do not have access to a gas supply.

Because of direct exclusion, such as lack of identification documents or documents that certify the right to medical services, access to health services is more difficult for Roma. Indirect exclusion encompasses costs of services (formal or informal) and difficulty to reach medical institutions. According to a 2009 study, a quarter of the Roma aged 18-54 described their health condition as being bad or very bad; this percentage goes up to 49% for those over 55 years old¹²¹. Almost one in two Roma children (45.7%) have not received a complete set of vaccinations, 44.3% of Roma have never been to the dentist, one in five Roma accused ethnicity as being the reason for not receiving medical care. These forms of exclusion also impact the access for Roma children to education¹²².

NCCD recorded three cases of discrimination related to ethnic origin in 2009 in the field of access to public goods or employment¹²³. In two of the cases access to public places was denied to three Roma; two of them were forbidden to enter a local swimming pool and another person was not served and was forced to leave a restaurant. In the third case, the local expert on Roma issues lost his/her job after the unlawful abrogation of the position.

Discrimination on language criteria was documented by the US Department of State in relation to a Roman Catholic Csango community- an ethnic group which uses a Hungarian dialect. The Roman Catholic Bishop of Iasi banned any religious services in their mother tongue.¹²⁴ With regards to discrimination on

¹¹⁷ S.P.E.R. 2009, *Interethnic Relations Barometer*, p.8.

¹¹⁸ *Ibid.*, p.4.

¹¹⁹ Badescu, Gabriel; Grigoras, Vlad; Cosima, Rughinis; Voicu, Malina; Voicu, Ovidiu 2007; Roma Inclusion Barometer; Fundatia pentru o Societate Deschisa; <http://www.edrc.ro/docs/docs/cercetari/Barometrul-incluziunii-romilor.pdf>, accessed 5 September 2010; p 35

¹²⁰ *Ibid.*, p.33.

¹²¹ Administratia prezidentiala- Comisia pentru analiza riscurilor sociale si demografice 2009; *Riscuri si inechitati sociale in Romania*; p.134

¹²² Romanian Civic Alliance 2010, *Decadewatch Report on Romania: Intermediary Evaluation of the Roma Inclusion Decade 2010*, <http://www.acrr.ro/download/publicatii/DecadeWatch-2010-RO.pdf>, accessed 5 September 2010; p28

¹²³ NCCD 2009, Annual report, p46-47

¹²⁴ US Department of State, Country Report on Human Rights Practices. Report on Romania. 2009; <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136053.htm>

religious grounds, in 2009, unlike previous years, there were no reported incidents on the use of public halls for religious activities. However, two main issues continued to be present in the field of religious discrimination, namely the resistance of the Orthodox Church to return churches claimed by the Greek Catholic Church and denying the Greek Catholic Church, the Baptist Church and the Adventist Church to bury their members in communal cemeteries. Demolitions of Greek Catholic Churches or parts of them by the Orthodox Church occurred in five parts of Romania (Badon - Salaj Couty, Ungheni-Mures County, Zalau - Salaj County, Soconzel - Satu Mare County, Sapanta - Maramures County). One of these incidents is reported to be just an accidental fire¹²⁵.

V.viii Media, including the Internet

Romanian mass-media is regularly criticized for breaching ethical and professional norms when it reports on Roma communities. Cases of Anti-Semitism were recorded in the period covered by this report. This chapter elaborates on the two communities vulnerable to racism and discrimination in media and subject of Cyber Hate: Roma and Jewish communities.

Several organizations signalled the degradation of journalistic discourse and raised the issue of accountability. These organizations believe that Romanian print media abuses the rights of some citizens and communities and breach ethical and professional norms inside the editorial offices¹²⁶. Professional norms were ignored by the media in several cases, most visible in the case of Marian Cozma, the Romanian handball player allegedly murdered in Hungary by ethnic Roma. Journalists did not respect the presumption of innocence of the accused they unjustifiably mentioned their ethnicity and associated Roma ethnicity with criminality. A number of Romanian journalists published false information, incited violence and interfered in the private life of the player's family. Complaints were submitted to the National Council of Audiovisual and the NCCD¹²⁷.

A study on the image of the Roma in the media highlights some repetitive themes: migration of Roma, criminality and violent acts. Social subjects such as poverty, limited access to education and other social services, discrimination and abuse by authorities were rarely reported. For the studied period, two thirds of TV news shows and one third of written articles present Roma in a negative and stereotypical light. Concerning TV news, more than half of them associated Roma to negative stereotypes such as a promiscuous nomadic life, violence or criminality. TV news in generally dissociates Romanian citizens from Roma with Romanian nationality, fostering racism and xenophobia¹²⁸.

¹²⁵ Ibidem.

¹²⁶ ActiveWatch (2010), *FreeEx*, <http://www.activewatch.ro/FreeEx>, accessed on 12 September 2010.

¹²⁷ Mediafax (2009), *AMP, APEL și CJI fac apel la responsabilitatea jurnaliștilor*, <http://www.mediafax.ro/cultura-media/amp-apel-si-cji-fac-apel-la-responsabilitatea-jurnalistilor-3958968>, accessed on 13 September 2010.

¹²⁸ S.P.E.R. (2010), *Imaginea etniei rome în presa scrisa și în stările TV (Raport de analiza media)*,

The main subjects in the written media referred to social cases (81), followed by migration issues (55 times), criminality (42), public and administration (29), Cozma case (17), culture and tradition (16) and the campaign initiated by Jurnalul National, (see below) (14). The actions mostly associated with Roma were the implementation of inclusive measures for Roma communities (13 times), poverty (11), stereotyping and stigmatizing formulations (10), global situation of Roma in Romania (7), nomadic life (15), rape (7), Roma status in Europe and consequent attacks against them (6), criminality (18), theft (6) and homicide (5). The analysis shows that there is a predilection towards negative subjects in the case of articles concerning Roma. For the period mentioned, the majority of the articles were neutral towards the Roma and approximately 32% were negative. Only 1% of the covered articles had a positive attitude towards them¹²⁹.

The Campaign Rom versus Gypsy: In 2009 a national newspaper, Jurnalul National, initiated a campaign to change the term “rom” to “gypsy”. The campaign received broad public support ranging from the general public to politicians. The newspaper wanted to propose a bill in the Parliament and collect 100 000 public signatures to back-up their initiative. This comes as a result of wide spread frustrations among Romanians over the possible confusion of Romanians with Roma and therefore discrimination Romanians face at the international level. Also the term “rom” is considered by a majority of Romanians to compromise Romania’s image while confusions are constantly made at the international level between Romanians and Roma¹³⁰. Opposing attitudes came from various people, such as university professors who argue that a law cannot regulate the denomination of an ethnic group. Some emphasized that stigmatization on ethnic grounds could spark interethnic conflicts¹³¹.

Hate speech and abusive language are common on media websites and forums. Recently, there was an initiative to enact legislation to censor such comments. The Ministry of Justice initiated in 2009 a public debate on the current Act that regulates cyber crimes – Law no. 161/2003 and proposed amending it to align it with European legislation. The amendment introduces a criminal offence against those who publish racist and xenophobic materials through any informational medium. In response, NGOs claimed that the new regulation duplicates existing provisions of the Criminal Code. It argued that discriminatory speech does not necessarily promote hatred and violence, thus penal sanctions are disproportionate and unjustified in a democratic society. Furthermore, APADOR-

http://sper.org.ro/admin/uploads/File/SPER_Cercetare%20Etnobarometru%20si%20Analiza%20Media/4_Raport_Analiza%20Media1_Dec08-Mai09.pdf, accessed on 12 September 2010.

¹²⁹ Ibid.

¹³⁰ Jurnalul National (2009), *Propunere Jurnalul Național: "Țigan" în loc de "rom"*, <http://www.jurnalul.ro/stire-tigan-in-loc-de-rom/propunere-jurnalul-national-tigan-in-loc-de-rom-145427.html>, accessed on 13 September 2010.

¹³¹ Jurnalul National (2009), *Reactii la Propunerea Jurnalului National/ De la rom la referendum*, <http://www.jurnalul.ro/stire-tigan-in-loc-de-rom/reactii-la-propunerea-jurnalului-national-de-la-rom-la-referendum-145486.html>, accessed on 13 September 2010.

CH and Active Watch have attacked it on the basis it restricts freedom of speech¹³². The bill is still under debate. Meanwhile, Active Watch has already initiated an online ethics code as an alternative to state regulation.

NCCD received a complaint on several anti-Semitic comments posted on the Mediafax Press Agency website. The comments were racist and xenophobic towards the Jewish community in Romania. NCCD decided that affirmations were made by third parties, in response to the published articles and issued a recommendation. Subsequently, the press agency erased all incriminated messages, published terms and conditions for comments and introduced a selection filter banning certain phrases¹³³.

ActiveWatch, a Press Monitoring Agency started implementing a complex programme on monitoring and combating hate speech in the virtual space, called **CyberHate Watch**. The rationale for this programme is to limit the use of the internet as a medium for those willing to publish racist xenophobic or homophobic ideas and to promote discourses that instigate to hatred and intolerance. The overall objectives of the programme are: a thorough analysis of the phenomenon in Romania; propose legal interventions to forbid the publication of racist, xenophobic and discriminatory messages; increased responsibility and accountability of public institutions, internet providers and electronic press editors; raise awareness on the risks of spreading such messages on the internet. Actions are initiated on multiple levels: monitoring websites and content analysis; increase awareness among internet providers and hosts and editors of electronic press about accountability issues and laws; create a guide concerning current relevant legislation and legal sanctions- block messages, suspend and forbid websites; initiate legal action against racist websites if mitigation proves ineffective; a working group was created with members from public institutions, internet providers, editors and NGOs in order to identify solutions to prevent the phenomenon of cyber hate; etc¹³⁴

¹³² ActiveWatch (2010), *Freeex Report Press Freedom in Romania 2009*, (<http://www.activewatch.ro/uploads/FreeEx%20Publicatii%20FreeEx%20Report%20-%20May%203%202010.pdf>), accessed on 12 September 2010, p.53.

¹³³ CNCD (2010), *CNCD Annual Report 2009*, <http://www.cncd.org.ro/noutati/Comunicate-de-presa/Lansarea-raportului-de-activitate-al-institutiei-pe-anul-2009-78/>, accessed on 5 September 2010.

¹³⁴ ActiveWatch (2010), *CyberHate Watch*, <http://www.activewatch.ro/stiri/Antidiscriminare/CyberHate-Watch-60.html>, accessed on 12 September 2010.

VI. Political and legal context

As a result of the dissolution of the coalition between the Liberal Democrat Party, on the one hand, and the Conservative and Social Democratic parties, on the other hand, in September 2009, a parliamentary no-confidence vote succeeded in bringing down the government with the support of the opposition National Liberal Party (PNL) on October 13, 2009¹³⁵. “The Parliament subsequently rejected President Basescu's nominee to succeed Mr Boc, Lucian Croitoru, and Mr Boc carried on in a caretaker capacity until presidential elections in November and December 2009”¹³⁶.

The presidential elections in November 2009 led to a second round in December disputed by the incumbent Traian Băsescu (32.8%) and the Social Democrat nominee Mircea Geoană (29.8%). In spite of allegations of electoral irregularities in the runoff, Mr. Băsescu was officially declared winner over Mr. Geoană by 0,7% or 70,000 votes¹³⁷. The elected president formed a new cabinet in coalition with the Hungarian Democratic Federation of Romania (UDMR) led by Mr. Boc, the former prime minister facing a non-confidence vote in October.

VI.i Anti-discrimination

Legislative developments during 2009 indicated a positive trend in de-jure regulations of anti-discrimination in Romania. According to the study performed by the European Network of Legal Experts, Romanian anti-discrimination legislation covers more areas than the minimum required in the European legislation¹³⁸. Nevertheless, discrimination remains strident in Romania as polls show high level of rejection of discriminated groups. High-level public figures continued to make racist statements in the period covered by this report.

On April 8 2009, Law no 62/2009¹³⁹ was adopted for the enforcement of the Government Emergency Ordinance no 61/2008 regarding the implementation of the principle of equality between men and women in accessing goods and

¹³⁵Export Development Canada Country Profile, Romania, available at http://www.edc.ca/english/docs/gromania_e.pdf

¹³⁶BBC Country Profile, Romania, available at http://news.bbc.co.uk/2/hi/europe/country_profiles/1057466.stm

¹³⁷U.S. Department of State, *Background Note: Romania*, July 6, 2010, available at <http://www.state.gov/r/pa/ei/bgn/35722.htm>

¹³⁸ Isabelle CHOPIN, Eirini-Maria GOUNARI, *Developing Anti-Discrimination Law in Europe. The 27 EU members compared*, European Network of Legal Experts, November 2009, p. 13, available at http://www.migpolgroup.com/public/docs/180.DevelopingAntiDiscinEurope_Comparativeanalysis_IV_EN_11_09.pdf

¹³⁹Law nr. 62/2009 regarding the implementation of the equal treatment of men and women regarding their access to goods and services http://www.dreptonline.ro/legislatie/lege_aprobare_oug_61_2008_egalitate_tratament_femei_barbati_acces_ul_bunuri_servicii_62_2009.php

services. During 2009, the NCCD¹⁴⁰ was consulted by the Romanian Government relating to the draft of the Council of European Union's directive¹⁴¹ pertaining to equal treatment of persons regardless of religion, faith, disability, age or sexual orientation¹⁴². An in-depth analysis regarding the actual implementation of the equality directive on the labour market reveals a rather disturbing reality. According to an interview, "the implementation of anti-discrimination legislation did not lead to any significant improvement of national labour market conditions, given that not much publicity was carried out to raise public awareness around it"¹⁴³. Furthermore, a Romanian employer goes so far as to claim: "All in all, I do not consider that there are racial problems in Romania. (...) Employers are practical people and oriented towards the well-being of their business, which implies not dwelling on discrimination. Thinking about discrimination goes against their interests"¹⁴⁴.

Despite efforts to integrate European anti-discrimination law within the national legislation and in spite of rather optimistic assessments of the progress of this process¹⁴⁵, Romania still lags behind when it comes to actually combating racism and xenophobia. Rampant racism against Roma stands as a proof for an increasing tendency in both hate speech and racist violence. "Neither Romania's accession to the European Union in 2007, nor the passage in that year of anti-racist legislation by the EU, has changed anything"¹⁴⁶. Reduced progress in implementation of anti-discrimination laws continued during 2009. NCCD, despite efforts to improve its performance¹⁴⁷, issued decisions only in 8% of the filed complaints¹⁴⁸. This is in the context of a political crisis which generated difficulties

¹⁴⁰ National Council for Combating Discrimination, the Romanian equality body. A series of constitutional decisions during 2009, clarified the legal statute of the equality body. Thus, the decisions stated a series of features essential for the NCCD: independence to implement its legal-administrative prerogatives, no legal obligation to resort to this institution in case of discrimination, constitutionality validated regarding the body's decisions and the appeal system.

¹⁴¹ Final text adopted - European Parliament legislative resolution of 2 April 2009 on the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation ([COM\(2008\)0426](#) – C6-0291/2008 – [2008/0140\(CNS\)](#)) available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2009-0211&language=EN&ring=A6-2009-0149>

¹⁴² 2009 NCCD Annual Report, p. 15

¹⁴³ European Agency for Fundamental Rights, *The impact of the Racial Equality Directive. Views of trade unions and employers. Strengthening the fundamental rights architecture in EU IV*, 2010, p. 59, available at http://fra.europa.eu/fraWebsite/attachments/Racial-equality-directive_conf-ed_en.pdf

¹⁴⁴ *Ibidem*.

¹⁴⁵ See Romanița IORDACHE, *Report on the measures to combat discrimination. Directives 2000/43/EC and 2000/78/EC. Country Report 2008*, European Network of Legal Experts in the Non-discrimination field, p. 7. The author considers that the effectiveness of the anti-discrimination legislation in Romania is positively influenced by the wide range of issues covered – more than the minimum required by the European Commission. However, the reality indicated otherwise.

¹⁴⁶ Valeriu NICOLAE, *The enemy within. Roma, the media and hate speech*, 20.03.2009, available at <http://www.eurozine.com/articles/2009-03-20-nicolae-en.html>

¹⁴⁷ NCCD Annual Report, p. 25 - For a better assessment and prevention of discrimination, NCCD was involved during 2009 at the local level via its territorial offices in Buzău and Târgu-Mureș and it offered assistance to approximately 3000 people all over Romania.

¹⁴⁸ NCCD Annual Report, 2009 - Compared to the previous years, the number of petitions addressed no NCCD decreased from 837 to 528, with a considerable change in the percentage of the topics: more than 50% fewer complaints on religious criteria, almost 50% less based on nationality grounds, while the

in nominating the members of the council of directors; the institution was further incapacitated by the limitation of its prerogatives by the Constitutional Court in 2008. NCCD was deprived of the prerogative which allowed it to establish discrimination in legal acts, qualified from now on as a right exclusively granted by the Constitutional Court. A decrease in the number of complaints and a low number of self-notifications during 2009 indicate a failure of this highly bureaucratized institution to both accurately inform people about its jurisdictional areas¹⁴⁹ and to efficiently follow its mandate. Furthermore, "though provided by the Anti-discrimination Law, the NCCD did not develop so far an operational mechanism to monitor infringements of the legislation or to monitor compliance with its decisions, hence, it is difficult to assess its overall effectiveness."¹⁵⁰

The main failure of effective implementation of the anti-discrimination law is reflected in a set of incidents involving politicians and leaders who publicly made racist statements. In July 2009, the mayor of Constanța, Mr. Radu Mazăre, took part in a fashion show wearing a Nazi uniform¹⁵¹. This public appearance stirred a lot of controversy and outraged Jewish NGOs who accused the eccentric mayor of anti-Semitism. The mayor is under investigation by the prosecutor under OUG 31/2002 for the prohibition of organizations of events and wearing symbols of a fascist, racist or xenophobic nature and of the promotion of the cult of persons guilty of crimes against humanity.

The lack of enforcement of the law that condemns the denial of Holocaust¹⁵² is a distressing signal. Several events took place during 2009: book launches promoting an anti-Semitic message and denial of the Holocaust and manifestations of extreme right wing organizations. Replies to filed complaints - by the Bucharest mayoralty- were not satisfactory and suggest a worrisome lack of responsibility of the public authorities.

The lack of genuine political commitment to address racism in Romania undermines the adopted legislation. Statements such as the ones made by the Romanian Minister of Foreign Affairs, Mr. Teodor Baconschi, indicate the depth of anti-Gypsyism within Romanian society. Invoking a pathological explanation, the official figure linked criminality to the Roma community¹⁵³: *'We have some natural, physiological problems, of criminality within some of the Romanian communities, especially among the communities of the Romanian citizens of*

complaints invoking ethnic discrimination remained at the same level. A slight increase in the number of complaints was registered concerning language and race.

¹⁴⁹ Most of the complaints were rejected due to the fact that discrimination could not be validated by the institution.

¹⁵⁰ IORDACHE, Romanița, *Report on the measures to combat discrimination. Directives 2000/43/EC and 2000/78/EC. Country Report 2008*, European Network of Legal Experts in the Non-discrimination field, p. 7.

¹⁵¹ The case is exposed in the U.S. Department of State Report 2009.

¹⁵² Law 107/2006 for the approval of the Government Emergency Ordinance no 31/2002 regarding the prohibition of Nazi, racist or xenophobic organisations and symbols and of the promotion of the cult of persons guilty of crimes against peace and humanity, available at [http://www.legestart.ro/Legea-107-2006-aprobarea-Ordonantei-urgenta-Guvernului-31-2002-interzicerea-organizatiilor-simbolurilor-caracter-fascist-rasist-xenofob-promovarii-cultului-persoanel-\(MTkwNDA4\).htm](http://www.legestart.ro/Legea-107-2006-aprobarea-Ordonantei-urgenta-Guvernului-31-2002-interzicerea-organizatiilor-simbolurilor-caracter-fascist-rasist-xenofob-promovarii-cultului-persoanel-(MTkwNDA4).htm)

¹⁵³ Nicolae, Valeriu, *On racism and imbeciles*, 11 February 2010, www.policycenter.eu/baconschi.doc

*Roma ethnicity*¹⁵⁴. NGOs protested against the Romanian official and asked for his dismissal and a public apology. None of these happened. Some NGOs claim that other high level politicians such as the president – through his subsequent declarations supported Mr. Baconschi's racist approach¹⁵⁵. These occurrences are a clear sign of strengthened racist political speech in the Romanian public arena. Legally, the case against the Minister is pending before the NCCD while the legal 90 day term for issuing a decision has passed¹⁵⁶.

As far as the legal obligation towards discriminated parties is concerned, the Romanian government failed to apply the decision of the European Court of Human Rights in the case *Moldovan and others v. Romania*¹⁵⁷. Romanian NGOs submitted recommendations on this issue, including Romani Criss, in a report sent to the European Council urging the necessity that the Romanian government compensates the damages suffered by the Roma community in Hădăreni¹⁵⁸.

With regards to discrimination assessment instruments, in September 2009, the National Council for Combating Discrimination launched a study¹⁵⁹ revealing the degree of discrimination within Romanian society. According to the study, Roma are the second most discriminated group in Romania, closely after the LGBT community. Stereotypes and prejudices concerning vulnerable groups remain very strong in Romanian society.

At the European level, the Fundamental Rights Agency launched in December 2009 the EU-MIDIS report¹⁶⁰ that analyzes the perceived discrimination to which ethnic minorities are exposed in the EU. Although it indicates that Roma are less discriminated in Romania compared to other EU states, the study reveals an aggravation in recent racist violence targeting Roma.

¹⁵⁴ Romanian NGOs Letter of protest, 16 February 2010, Bucharest [www.crj.ro/userfiles/editor/files/Letter%20of%20protest\(1\).doc](http://www.crj.ro/userfiles/editor/files/Letter%20of%20protest(1).doc)

¹⁵⁵ Center for Legal Resources Press Release on February 25th 2010, available at: <http://www.crj.ro/EN/The-revival-of-high-level-extremist-discourse-in-European-Romania/> The Center for Monitoring and Combating Anti-Semitism in Romania also warned against the effects of declarations of political leaders, declarations with a clear discriminatory character, in a press release also issued on February 25th, 2010, available at: <http://www.crj.ro/Revenirea-discursului-extremist-la-nivel-inalt-in-Romania-comunitara/>

¹⁵⁶ This was not the first time a Romanian Minister made a discriminatory statement regarding Roma. In 2007, Mr. Adrian Cioroianu, also Minister of Foreign Affairs, made racist references implying the necessity to banish the Roma to the Egyptian desert..

¹⁵⁷ Council of Europe, Execution of Judgments of the European Court of Human Rights, [41138/98](http://www.coe.int/t/DGHL/MONITORING/EXECUTION/Reports/Default_EN.asp?dv=1&StateCode=ROM) 12/07/2005, *Moldovan and others v. Romania*, see also http://www.coe.int/t/DGHL/MONITORING/EXECUTION/Reports/Default_EN.asp?dv=1&StateCode=ROM

¹⁵⁸ Romani Criss, and ACRR Shadow Report at CERD, p. 12. Taking place in Hadareni in September 1993, the inter-ethnic conflict in Hadareni is among the most serious incidents of racist violence in the last 20 years. During the clash, four persons died and 18 houses were affected by arsonist acts. For more details, please consult the following link - http://www.romea.cz/english/index.php?id=detail&detail=2007_16

¹⁵⁹ Opinion Survey, *Fenomenul discriminării în România – percepții și atitudini*, National Council for Combating Discrimination, August 2009, <http://cncd.org.ro/files/file/Fenomenul%20discriminarii%202009.pdf>

¹⁶⁰ European Union Agency for Fundamental Rights, *EU-MIDIS: European Union Minorities and Discrimination Survey. Main Results Report*, December 2009, fra.europa.eu/eu-midis

The efforts to curb racism in Romania materialized in a few campaigns that are worth mentioning:

1. **SPER Campaign¹⁶¹ – Stop Prejudices Against Roma** is a governmental awareness raising campaign initiated in 2007 which relied on a three-fold approach¹⁶²: a national media campaign against discrimination targeting the majority articulating the message *Know them before judging*, a national informing campaign focused on Roma (*Make a step forward- Jan angle, romale!*) and a PR campaign targeting opinion leaders.
2. **Youth Debate** – A pilot project was initiated by “Impreuna” Agency in partnership with the Ministry of Education, ARDOR (The Romanian Association of Debate, Oratory and Rhetoric) and the Policy Center for Roma and Minorities, National Network of Roma Youth and supported by NCCD, National Agency for Equal Chances and the University of Bucharest. The awareness raising campaign regarding Roma was based on Karl Popper regional and national high school debate competitions attended by 200 students in eight districts. The campaign extended and continued during 2010, planning to involve by September 2010 educational institutions in all districts of Romania and to actively involve more than 500 teachers and students.
3. **School without discrimination¹⁶³** – developed by NCCD with the purpose of informing teachers on the importance of diversity and the risks of discrimination. The campaign reached 100 teachers and 10,000 students (indirect beneficiaries).
4. **Multi-regional anti discrimination counselling services network for the social inclusion of discriminated persons¹⁶⁴** - Centre for Legal Resources, Giacomo Brodolini Foundation from Italy and the NCCD support vulnerable groups in order to facilitate their integration in the labour market via the establishment of six anti discrimination centres. Training courses in anti-discrimination targeting the staff of local authorities, social partners, journalists and experts from NGOs are also undertaken within the project.

VI.ii Migration and integration

Romania has a double faceted migration phenomenon, being both an emigration country as well as an immigration country. Nonetheless, it is also a transit country; the number of migrants, refugees, asylum seekers and persons who need a form of protection are still low and not a public priority. The phenomenon has received more attention in the last two years after the media revealed subhuman working and living conditions of some foreign workers. Some legislative progress meant to regulate the foreign access to labour market¹⁶⁵ is in place, yet there is a need for both legislative and institutional interventions, accompanied by efficient implementation mechanisms. This issue is not yet on the public agenda and there were no important political, institutional or legislative

¹⁶¹ <http://www.sper.org.ro/>

¹⁶² http://sper.org.ro/despre_proiect.html

¹⁶³ NCCD Annual Report 2009, p. 33.

¹⁶⁴ www.nondiscriminare.ro

¹⁶⁵ Emergency Government Ordinance No. 56/2007, where the Romanian authorities endorse the current policy of controlling the number of immigrants for employment, by setting a fixed number.

developments in 2009/2010. The present marginalization of these communities at the policy level could also be explained by the current economic problems; much of the priorities are focused on Romanian citizens. In this context, although the legislative framework refers to the 11 Common Basic Principles¹⁶⁶, their actual implementation lags behind. General inaction of both the national and local authority levels deepens even more discriminatory attitudes and strengthens clichés about the need to protect the local labour force or Romanians returning home from immigrant workers. This chapter elaborates on the vulnerable groups directly affected by the slow institutional response to migration, specifically: asylum seekers, tolerated persons, stateless persons, victims of trafficking and immigrants for labour.

In relation to legislation, the government generally respects the freedom of movement within the country, foreign travel and repatriation rights. Experts in public administration claim that institutional and legal developments were made, but problems remain and there is a need for further restructuring. Institutional development was marked by the creation of the Romanian Immigration Office in 2007; a result of the merging of tasks and activities of the National Office for Refugees and the Authority for Aliens, both under the Ministry of Interior. The institutional restructuring was based on a series of successful European models, but no clear rules were provided regarding the functioning of the institution. Experts in the field argue that the institution has not yet reached maturity and it is difficult to assess its effectiveness. Existing legislation often lacks enforcement, is sometimes incomplete, inconsistent and inappropriate in addressing certain vulnerable groups such as “tolerated” persons. This leads to unwanted situations such as illegal work and restricted access to employment, public health services, education, social housing and legal assistance. It is argued that there is still an acute need to reorganize the legislation in a way that clarifies the tools, methods and procedures needed to regularize immigration¹⁶⁷.

Overall we consider that policies addressing refugees and asylum seekers registered limited progress and further correlation of the national legislation with the EU would be a beneficial process. Nonetheless, while the number of immigrants are expected to rise to 200 000- 300 000 in the following five years, several problems can be identified: a deficit of legislation and immigration specific policies targeting vulnerable immigrant categories; no policy coherence between immigration policies, national emigration and development policies and the lack of cooperation between public authorities, employers and the NGOs dealing with various categories of third country nationals¹⁶⁸. Although some populations of immigrants have exceeded some of the recognized national minorities, they do not enjoy the same status and do not benefit from equal rights

¹⁶⁶ Information available at:

http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0389en01.pdf

¹⁶⁷ Louis Ulrich et al, *The Beneficial Regularisation of Immigration in Romania*, Soros Foundation Romania, Bucharest, 2010.

¹⁶⁸ Dumitru Sandu and Monica Alexandru (2009), in *Risks and social injustices in Romania*: chapter on Migration and its consequences.

and policies that recognised minorities benefit from. One example is the Code of Education that lacks sensitivity towards immigrant communities and fails to address their educational needs in their mother tongue. While there is a need to draft special education policies for the integration of children from immigrant families, statistics in relation to this are scarce. In this context, it is difficult to establish a policy for this category of students¹⁶⁹.

Local authorities have initiated small-scale pilot projects to address employment and integration issues of immigrants at the community level. However, the results of these projects were not brought to the public's attention. The critique to this approach is that the projects are done without a global strategy for social integration of immigrant communities¹⁷⁰.

According to UNHCR, the country hosted 1,069 refugees and 398 asylum seekers at the end of 2009. While national laws provide refugees and those granted protection equal access to employment, basic services, education and justice, a report revealed that asylum seekers face difficulties to access specialized health care, partially because of the lack of interpreters. Also, asylum seekers felt they did not receive enough information, social and legal assistance¹⁷¹. According to the European Commission against Racism and Intolerance (ECRI), only 4% of asylum seekers obtain a refugee status and 60% of those who do obtain it, leave Romania because they are unable to integrate. The main obstacles to their integration are the lack of recognition of their diplomas and previous work experience, as well as restricted access to the labour market. In addition, the National Employment Agency does not support refugees because of the low awareness of specific laws relating to refugees rights and their specific needs. It also lacks the resources to improve these shortfalls. ECRI also pointed out that although the law provides for free Romanian language courses to refugees, the latter do not even have access to paid courses¹⁷².

One of the most vulnerable migrant communities in Romania are the so-called "tolerated" persons- those whose asylum applications were rejected or have not requested asylum, and cannot leave the country for objective reasons-. These people are often forced into a situation of legal and social limbo, being totally dependent on NGO charity. From the institutional and policy-making standpoint, "tolerated" persons are invisible, since there are no studies or actual

¹⁶⁹ Louis Ulrich et al, *The Beneficial Regularisation of Immigration in Romania*, Soros Foundation Romania, Bucharest, 2010.

¹⁷⁰ *Ibid.*

¹⁷¹ UNHCR (2010), *Asylum Levels and Trends in Industrialized Countries 2009: Statistical Overview of Asylum Applications Lodged in Europe and Selected Non-European Countries*, p. 13, available at <http://www.unhcr.org/4ba7341a9.html>, accessed on 05.09.2010.

¹⁷² Ireland: Refugee Documentation Centre (2010), *Romania: Information on the asylum system in Romania; entitlements and rights of asylum seekers and refugees; societal attitudes towards asylum seekers and refugees; conditions of reception centres; whether there is administrative detention; access to counselling and advice; integration of refugees into society.*, 14 July 2010, <http://www.unhcr.org/refworld/docid/4c4d2cc72.html> accessed on 6 September 2010.

data about the size of this category. The rights and liberties of such people are at risk mostly because of incomplete legislation and consequent restrictions imposed by their legal status. Tolerated people are refused the right to work and have no access to medical services. While their traumatic experiences often require psychological assistance- many are believed to have serious psychological problems-, they often lack access even to basic healthcare. In addition, they have difficulties in finding sources of subsistence and they are likely to engage in illegal work, without legal protection. The only liberty they have is to remain on Romanian territory. If they choose to leave Romania for Western Europe, to apply for asylum in the destination country, they would be sent back to the country where the first asylum application was made¹⁷³.

According to UNHCR statistics, there were 306 stateless persons of foreign and national origin at the end of 2009¹⁷⁴. While the law provides for birth registration as a basic right, some children are not registered at birth and are therefore rendered stateless. Surveys indicate that between 1.9 and 6% of Roma lacked identity cards, restricting their access to public services. Although some of these stateless persons were born in the country, limited information was available on the nature of this problem¹⁷⁵.

In addition, the Special UN Rapporteur on Human Rights has highlighted that migrant women are at a higher risk of exposure to gender-based discrimination during all phases of the migration process. Women migrants often work in the unregulated sector, including domestic work and sexual exploitation and may become victims of trafficking, forced labour and other forms of exploitation. He pointed out several allegations: lack of gender sensitivity and awareness in the treatment of female victims of trafficking by police officers; multiple discrimination and victimization, a phenomenon fuelled by the media, which still labels returned trafficked victims as “returned prostitutes”¹⁷⁶. Overall, victims of trafficking continued to face discrimination from the society at large, more so in rural areas, where there are still cultural biases against trafficked women.

Also, there is a contradiction in the legislation regarding when to assist third country nationals who are victims of human trafficking. The status of ‘tolerated’ persons nullifies the right to assistance for immigrants who are victims of human trafficking or exploitation¹⁷⁷. The law permits foreign victims to request a temporary residence permit and remain in the country until the completion of the

¹⁷³ Louis Ulrich et al, *The Beneficial Regularisation of Immigration in Romania*, Soros Foundation Romania, Bucharet, 2010.

¹⁷⁴ UNHCR, *Romania Statistical Snapshot*, <http://www.unhcr.org/pages/49e48df96.html>, accessed on 05.09.2010.

¹⁷⁵ US State Department, *2009 Human Rights Report: Romania*, <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136053.htm>, accessed on 05.09.2010.

¹⁷⁶ UN General Assembly (2010), *Report of the Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante: Mission to Romania*, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/121/02/PDF/G1012102.pdf?OpenElement>, accessed on 05.09.2010.

¹⁷⁷ Louis Ulrich et al (2010), *The Beneficial Regularisation of Immigration in Romania*, Bucharest, Soros Foundation Romania.

investigation and prosecution. In 2009, no foreign victims applied for or received temporary residence permits. While the rights of victims were generally respected and identified victims were not punished for unlawful acts committed as a direct result of being trafficked, some judges continued to be disrespectful towards women who were victims of sex trafficking, discouraging them from participating in the legal procedures when judging trafficking cases¹⁷⁸.

According to the National Immigration Office (ROI), in the first semester of 2009, 28% of legal residents came from the Republic of Moldova, 17% from Turkey and 14% from China. More than half of the work permits issued were for Chinese and Turkish residents (60%). For the same period, 33% of those repatriated were undocumented migrants from China, 26% from Turkey and 12% from the Republic of Moldova¹⁷⁹.

Researchers¹⁸⁰ point out that immigrant workers are often subject to: abusive behaviour; lack of compliance with national labour legislation; additional unpaid working hours; contractual clauses drafted in Romanian and discriminatory treatment in comparison to Romanian workers. There is also proof that there are serious information accessibility issues when it comes to public institutions. Some of the obstacles in the communication and relations with public institutions are language barriers, hostile attitudes and insufficient knowledge on the legal rights of immigrants¹⁸¹. In addition, the social and cultural stereotypes are present in the Romanian collective mentality. In terms of social integration, it is argued that immigrants from the Republic of Moldova have the highest chances to integrate due to language and cultural closeness. The Arab, African, Indian and Chinese communities have the lowest chances of integration because of clichés and prejudices present in society. Existing clichés about protecting the local labour force or Romanians returning home from immigrant workers continue to be perpetrated. While some argue that problems related to negative perceptions will be solved in time, the existing information deficit not only supports negative attitudes and discrimination towards third country nationals, it also induces segregation and isolation of immigrant communities with different cultures¹⁸².

VI.iii Criminal justice

¹⁷⁸United States Department of State (2010), *Trafficking in Persons Report 2010 - Romania*, 14 June 2010, available at: <http://www.unhcr.org/refworld/docid/4c1883cc2.html>, accessed on 05.09.2010.

¹⁷⁹National Immigration Office (2010), *Statistics*, http://ori.mai.gov.ro/api/media/userfiles/InfoStat_Octombrie_2009_text.pdf, accessed on 05.09.2010.

¹⁸⁰Georgiana Toth and Simina Guga (2009), in *Immigrant in Romania: Perspectives and risks*, op.cit., p. 40-41

¹⁸¹Iris Alexe et al (2009), *Immigrants' information needs*, Soros Romania Foundation, p.43.

¹⁸²Ibid.

VI.iii.i Racism as a crime

Among the most important legal developments in 2009 is the enforcement of the new Criminal Code which reinstates the racial motivation of a crime as an aggravating circumstance¹⁸³. However, by the end of 2008, “none of the definitions of harassment provided for in different relevant pieces of legislation are in complete compliance with the definition of harassment spelled out in the EU Directives”¹⁸⁴.

VI.iii.ii Counter terrorism

The documentation on counter terrorism mainly relate to the allegations of secret CIA prisons on the Romanian territory¹⁸⁵. It doesn't involve a racist component. The legislation is based on a non-discriminatory principle – “Any measure to restrict individual rights or freedoms has to be proportionate with the situation that generated it and to be applied without discrimination”¹⁸⁶.

VI.iii.iii Ethnic profiling

There is no relevant data on ethnic profiling collected by official bodies, nor was there any legislative change during 2009. As of 2008, information related to the ethnicity of the perpetrators no longer qualifies as public data. The police do not provide any information on criminality correlated to nationality, ethnicity or the religious affiliation of the attackers. Data on the identity of the victims is also missing from the public records. The analysis *Quality of official criminal justice data collection mechanisms on racist crime/violence in EU27* places Romania in Tier 4 – “there is a total absence of any publicly available official criminal justice data on racist crime”¹⁸⁷.

VI.iv Social inclusion

According to the National Action Plan in the Area of Social Inclusion, as presented in the Strategic National Report regarding Social Protection and Social Inclusion (2008-2010)¹⁸⁸, the main priorities are: the growth of the living standard; increased access of vulnerable groups to resources; and improving the Roma situation. In regard to the social inclusion of Roma the report writes that 4 940 Roma were employed as a result of targeted Roma actions in 2007. No data was available regarding the number of Roma employed after three or six months in

¹⁸³ New Criminal Code adopted in July 2009 by Law No.286/2009 regarding the Criminal Code to enter into force at a later, unknown date, Article 77 (h), available at [http://www.legestart.ro/Codul-Penal-2009-Romaniei-\(MzM1NzYx\).htm#art1](http://www.legestart.ro/Codul-Penal-2009-Romaniei-(MzM1NzYx).htm#art1)

¹⁸⁴ IORDACHE, Romanița, *Report on the measures to combat discrimination. Directives 2000/43/EC and 2000/78/EC. Country Report 2008*, European Network of Legal Experts in the Non-discrimination field, p. 6.

¹⁸⁵ Amnesty International 2010 Report on Human Rights: Romania, p. 2.

¹⁸⁶ Martin SCHEININ, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, UN Human Rights Council, 26 May 2010, p. 84.

¹⁸⁷ Fundamental Rights Agency of the European Union Annual Report 2009, p. 28.

¹⁸⁸ Romanian Government (2008), National Strategic report on Social Protection and Social Inclusion, http://www.mmuncii.ro/pub/imagemanager/images/file/Domenii/Incluziune%20si%20asistenta%20sociala/Raportari%20si%20indicatori/170609Raportul%202008%20-%202010%20Final%20octombrie%202008_doc.pdf, accessed on 5 September 2010

employment. An increase of school enrolment (up to 250 000 Roma children) was also reported.

In 2009, the economic crisis generated a series of perverse effects with regards to the social inclusion of vulnerable groups. Employment shortage and lack of professional qualifications have a negative impact on living standards. While Romania has one of the highest rates of working poor in the EU - the minimum salary is around 150 Euro -, there has been significant migration of the poor to other EU countries. In this context, politicians and media used extensively the migration phenomenon to generate an anti-Roma attitude among the majority population both in the country of origin and in host countries. Discriminatory legislation, such as the fingerprinting of Roma, was adopted and implemented in Italy. Additionally, migration has generated hate speech against Roma in other countries such as France, Finland and Switzerland in the pretext of petty criminality.

Emigration was also a significant phenomenon in 2009. According to official statistics¹⁸⁹ in the first trimester of 2010 the number of workers for whom the Romanian government facilitated a job in other countries was 40,811 in comparison to 134, for the same period in 2009.

Faced with serious budget deficits the Romanian government focused on cutting social expenses. According to a recent report of the Romanian Institute for Research of the Quality of Life¹⁹⁰, starting from 1998, Romania has one of the lowest percentages of expenditure on social policies (16.4%), less than half of the European average spending. It also has the smallest percentage of social spending in the national budget– 36.5%.

Another important change is the transformation of several agencies into ministerial departments¹⁹¹. The most important ones are the National Authority for the Protection of Family and Children's Rights, the National Authority for Persons with Disabilities and the National Agency for Equal Opportunities of Men and Women.

All these measures demonstrate the low priority that social inclusion policies have in the government's agenda.

¹⁸⁹ Ministry of Work, Family and Social Protection (2010) *Employment, Mobility, Unemployment and Unemployment* *Social Protection*, http://www.mmuncii.ro/pub/imagemanager/images/file/Statistica/Buletin%20stastic/2010/somaj%20site%20trim_I%202010.pdf, accessed on 29 August 2010

¹⁹⁰ Research Institute for Quality of Life Romania (2010), *Social Report - 20 years after: options for Romania*, http://iccv.ro/ICCV_Romania_dupa_20_de_ani.pdf, accessed on 29 August 2010

¹⁹¹ Romanian Government (2010), *Emergency Ordinance No.68/30.06.2010*, <http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/ORDONANTE-DE-GUVERN/OUG68-2010.pdf>, accessed on 5 September 2010

VII. National recommendations

VII.i General

Employment

- Roma: Targeted programmes towards Roma communities that suffer from underemployment should be correlated with policies at the national level focused on solutions to ensure that Roma remain active in the labour market. National initiatives could include fiscal incentives for employers and support for social economy schemes.
- Foreign workers: While in the short term the Romanian state seems able to manage and control the inflow of labour immigrants through its current policy, coherence between the legal and institutional framework on immigration and labour is essential.
- An appropriate allocation of resources is needed to cover specific services: Romanian language courses, translations and professional training courses. Nonetheless, to prevent abuses by employers, it is recommended to centralise information on employers that fail to respect employees' rights and to coordinate with Romanian Immigration Office so as to prevent the issuance of new work permits if repeated irregularities are found at the same location.

Housing

- Improved anti-discrimination legislation in housing and enforcement of existing provisions are needed. Special attention should be paid to segregated communities/ghettos.
- Preparatory measures for the absorption of structural funds available in this area.
- Make use of the recent modification of the Article 7(2) of the Regulation (EC) No. 1080/2006, that allows investment in housing in marginalized communities, as part of an integrated approach to development.

Education

- The Ministry of Education should collect segregated data on Roma children's performance;
- Evaluate the antidiscrimination and anti segregation policies and projects by the Ministry of Education and the NGOs in order to increase their efficiency;
- The Ministry of Education should introduce mandatory classes on intercultural dialogue and minorities' history taught by specialized teachers;
- Anti-discrimination and human rights courses should be introduced into the pedagogical module for teachers;

Health

- The National Doctors' Council must clarify the administrative means of tackling discrimination complaints towards medical personnel and act as an objective mediator;
- The Ministry of Health must address the rejection of mediators by the local authorities during the process of decentralization.

Racist violence and crime

- Map out the areas with a high probability of racist violence for a proper analysis of factors and the development of a prevention mechanism based on dialogue between public authorities, NGOs and communities;
- Mediate the contact between criminal-justice agencies and victims in the process of encouraging victims to report racially motivated violent incidents¹⁹²;
- Promotion of positive examples of effective investigation and effective remedies in this process of confidence building between authorities and victimized communities;
- Awareness raising campaigns to help people understand the gravity of such incidents and to make the police more sensitive and open to collaboration with NGOs who support the victims.

Access to goods and services in the public and private sector

- Discrimination against Roma is based on negative perceptions, perceptions that change over a long period of time. In order to provide models, strong reactions of institutions against discriminatory discourses and behaviours should follow public discriminatory statements or/and measures.
- Effort and resources should be invested into changing negative attitudes. This could be done through public campaigns and also in schools, through the inclusion of courses that address these issues;
- Authorized institutions should address the issuance of birth certificates and other legal documents for Roma, in order to prevent indirect discrimination.
- Evaluations of the policies that address Roma minorities should be regularly carried out so that these measures can be improved during the implementation period. This also means that more data should be collected.

Media, including the Internet

- Establish a mechanism at the civil society and public institutional level to ensure the following:
 - a. Pursue monitoring activities and content analysis;

¹⁹² OSCE Office for Democratic Institutions and Human Rights, Annual Report for 2008 *Hate Crimes in the OSCE Region – Incidents and Responses*, Warsaw, 2009, p. 61.

- b. Raise awareness of the actual risks of spreading racist messages in the media and internet;
- c. Raise awareness on discrimination faced by Roma communities and promote successful Roma stories;
- d. Increase awareness about accountability and laws concerning the publication of racist, xenophobic and discriminatory messages;
- e. Increase responsibility and accountability of public institutions (NCCD), media, internet providers and electronic press editors;
- f. Mitigate racism by issuing complaints to the internet providers or hosting platforms and initiate legal action against racist websites if mitigation proves ineffective;
- g. Propose legal interventions to forbid the publication of racist, xenophobic and discriminatory messages in the printed and online media.

VII.ii Anti discrimination

- The external communication of NCCD needs to be improved via an intensive national information campaign regarding the NCCD's legal prerogatives;
- Revise the application of the administrative regulations of the NCCD and observe the law regarding expertise when appointing members in the Steering Committee;
- Enforce tougher sanctions for public figures disseminating racist and xenophobic attitudes due to the extended negative impact generated;
- Improve monitoring regarding the actual implementation of anti-discrimination legislation in Romania.

VII.iii Migration and integration

- In order to efficiently manage immigration there is a need for an integrated approach that involves a single decision centre. Regulate immigration at the national level and correlate it with the enhanced role of local authorities in integrating immigrant communities;
- Counterbalance the general negative representation of immigrants by the society at large through discourses on the benefits of immigration;
- Regulate the status of "tolerated" persons;
- There are no clear mechanisms to assist third country national victims trafficked and exploited in Romania. The Romanian legislation should stipulate and implement a set of measures focused on the immigrant's social and legal identity: minimal standards of social welfare, medical and legal care, entitlement to work and the right to family life;
- The National Employment Agency should propose and lobby for the adoption of laws concerning refugees and their needs. It should also find solutions to recognize their diplomas and previous work experience and support their integration on the labour market. Furthermore, refugees

should be granted access to free Romanian language courses and ensure the effective implementation of existing law;

- Collect data on children from immigrant families in order to better address the educational needs in their mother tongue and facilitate their integration in the society;
- Improve data collection in order to develop effective targeted policies for vulnerable groups.

VII.iv Criminal justice

VII.iv.i Racism as a crime

- Better-coordinated effort of authorities to collect and analyze relevant data in collaboration with NGOs that monitor incidents of racist violence.

II.v Social inclusion

- Improve the monitoring and evaluation of resources used for social inclusion programmes of vulnerable groups;
- Stop governmental policies which are reacting to the economic crisis by reducing the already low resources invested in the inclusion of vulnerable groups;
- Increase focus on neglected vulnerable groups like young people from orphanages or released convicts.

VIII. Conclusion

One side of the analysis indicates that 2009 brought positive developments in anti-discrimination legislation. However, implementation of these developments continues to be a major problem - for example housing rights are still denied to many members of vulnerable groups, especially Roma. The application of existing legal provisions still fails to improve the situation of most of the discriminated groups. Widespread and unpunished racist speech remains one of the most strident and dangerous issue in Romanian society. The rise of anti-Gypsyism during the last number of years is a direct result of both failed social inclusion policies and the lack of educational measures meant to tackle widespread discriminatory attitudes towards the Roma. Top-down and bottom-up approaches focused on anti-discrimination and social inclusion remain mainly rhetorical and lack long-term vision or planning.

However, a realistic approach on the issue of racism in Romania reaches quicksand areas when it comes to the capacity of the official institutions to deal with crisis situations. The perpetuation of racist acts within the public administration apparatus adds up to the difficulty of dealing efficiently with racism. Institutional racism remains an issue of concern.

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X. Annex 1: List of abbreviations and terminology

ADCF - Asociația de Dezvoltare Comunitară Ferentari (Ferentari Community Development Association)

CPARSD - Comisia Prezidențială Pentru Analiza Riscurilor Sociale și Demografice (Presidential Commission for the Analysis of Social and Demographic Risks)

ECRI - European Commission against Racism and Intolerance

EU FRA – European Union Fundamental Rights Agency

NCCD - National Council for Combating Discrimination

RIO - Romanian Immigration Office

UN-CESCR – United Nations Convention on Economic, Social and Cultural Rights

UNHCR - UN High Commissioner for Refugees



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