

Minority Protection in Romania

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Minority Rights in Romania

I. Executive Summary

Roma have been particularly vulnerable to the acute economic deprivation that has affected Romania generally over the last decade: Roma disproportionately suffer the impact of rising unemployment and frequently live in conditions of dire poverty. These problems are greatly exacerbated by entrenched discrimination, housing segregation, poor access to public services such as health care, and even physical assault, particularly by police officers. Anti-Roma sentiment is widespread in Romanian society, and some leading political figures have given voice to prejudice rather than countering it, sometimes suggesting that Roma are to blame for the country's slow progress towards accession.

The European Commission and other EU bodies have repeatedly stressed the difficulties confronting Romania's large Roma community,¹ numbering at least 1.5 million.² In 2000, the Commission noted that Roma "remain subject to widespread discrimination throughout Romanian society" as well as low governmental commitment and "little substantial progress" in addressing this situation.³ Since then, the government has launched a series of new initiatives. In November 2000, with the provisional entry into force of Ordinance 137/2000 on the Prevention and Punishment of All Forms of Discrimination ("Ordinance 137"), Romania became the first country in the accession region to enact general anti-discrimination legislation. An April 2001 law on public administration allows for the use of minority languages in communications with public authorities. Finally, in the same month the government adopted a long term "Strategy for Improving the Roma Situation"⁴ (the "Strategy"), after years of prolonged negotiation with NGOs and other actors.

¹ See *Commission Opinion on Romania's Application for Membership of the EU*, 1997 (hereafter *Opinion 1997*); *2000 Regular Report from the Commission on Romania's Progress Towards Accession* (hereafter *2000 Regular report*); *1999 Regular Report from the Commission on Romania's Progress Towards Accession* (hereafter *1999 Regular Report*). See also European Parliament Report A5-0247/2000, 21 September 2000, p. 6.

² The 1992 Census counted 409,723 Roma in Romania. The European Commission cites 1.1–1.5 million, see *Opinion 1997*. Other observers put the figure at 1.8–2.5 million. See J.P. Liegeois, N. Gheorghe, *Roma – a European Minority*, Minority Rights Group, 1995.

³ *2000 Regular Report*, p. 24.

⁴ Ministry of Public Information, *Strategy for Improving the Roma Situation*, April 2001 (hereafter "2001 Strategy"). Government Decision 430 of 25 April 2001, Official Gazette (OG) 252, 16 May 2001.

Continued monitoring will be necessary to ensure effective government implementation of these reforms, especially given the circumstances surrounding their adoption. The 2000 election campaign was characterised by sometimes egregious anti-Roma discourse. Government institutions for improving the situation for Roma have been chronically understaffed, underfunded and marginalised, and there are no signs of improvement in the near future. One of the first decisions of the newly-elected Romanian government was to relocate the formerly independent Department for the Protection of National Minorities as a department within the Ministry of Public Information. Where the DPNM was headed by a Minister, the new Department will be led by a state-secretary.⁵

As of August 2001, Ordinance 137, prohibiting discrimination, had not yet passed the Chamber of Deputies, one of the two chambers of Parliament. It thereby remains a provisional document, subject to further alterations before final adoption. The “Council for the Prevention of Discrimination” – a government enforcement authority called for in the initial Ordinance – has not been established to date.

Adoption of the Strategy fulfils in part Romania’s short-term priorities for accession.⁶ It is intended as a ten-year programme, with four-year plans (generally scheduled to begin from 2002) suggested for implementation in the mid-term. The Strategy addresses a range of issues of importance to Roma, including community development, housing, social security, health, childcare, employment, justice and public order, education, culture and communication. However, the Strategy has little programmatic content, and it glosses over a central problem confronting Romanian Roma: violence by police officers.

Implementation of the Strategy is a matter of future design and sustained political will. Close monitoring will be necessary to ensure that activities are adequately funded and elaborated in a timely manner, and with the full participation of relevant actors. The establishment of envisaged institutional arrangements to ensure coordinated implementation and evaluation is essential. Signs to date are not encouraging: as of July 2001, deadlines for the establishment of some implementing bodies had passed without fulfilment.⁷

In the meantime, Roma and other NGOs have played a crucial role in discussions concerning the development of the Strategy and the use of significant Phare funding

⁵ Government Decision No. 13/2001.

⁶ European Commission, DG Enlargement, *Romania: 1999 Accession Partnership*, 2000, <<http://europa.eu.int/comm/enlargement/romania/index.htm>>, (accessed 22 May 2001).

⁷ 2001 Strategy, Section VIII, General Measures Plan, Nos. 2, 3, 4. By the end of June 2001, the government was to have established the Council for the Prevention of Discrimination, an Inter-ministerial Committee for overseeing implementation and a “Joint Committee” with a similar role. As of August 2001, only the latter exists.

intended to benefit Roma.⁸ Several have initiated court cases on the basis of alleged discrimination, thus putting new laws to the test of judicial application. The Commission and other European bodies should support the efforts of these groups as an important means of assisting in the implementation of current and future initiatives on behalf of Roma, and as a direct benefit to Romania's ongoing progress towards accession.

⁸ OSI Roundtable, Bucharest, 27 March 2001. *Explanatory Note: OSI held a roundtable meeting in Bucharest on 27 March 2001 to invite critique of the present report in draft form. Experts present included representatives of the government, Roma representatives, and civil organisations.*

II. Background

The Roma in Romania have proved an easy target for those frustrated by, or searching out scapegoats for, the country's difficult economic and democratic transition. Opinion polls document the pervasiveness of racist attitudes. According to an "Ethnobarometer" survey taken in 2000, 38–40 percent of non-Roma would prohibit Roma from settling in their county; 23 percent of ethnic Romanians and 31 percent of ethnic Hungarians would refuse Roma in their city, town, or village.⁹ Another recent poll found that 67 percent of the population of Romania feel resentment towards Roma. This number is higher than that relating to any other minority in Romania.¹⁰ These attitudes are reflected both in the political arena and the media.

During the campaign for presidential elections in November 2000, one candidate, Corneliu Vadim Tudor, spoke on live television of "the typology of the Gypsy Mafia... Always attacking in packs, controlling the markets and not raping their own children and parents because they are busy raping ours..."¹¹ Earlier, in 1998, Tudor had publicly promoted a manifesto proclaiming that "gypsies who do not want to work ...will be isolated in work camps."¹² Following widespread protest by NGOs and Roma groups at the time, Tudor reportedly responded "we are not interested in what Gypsies want. All this [group] should be put in jail. There is no other solution."¹³

Tudor obtained 30 percent of the national vote in the final round of the 2000 elections. His party received 21 percent of Senate seats and 19 percent of seats in the upper Chamber of Deputies. The winner of the election, President Ion Iliescu, made no attempt to denounce his opponent's manifest racism. Rather, in April 2001 he stated that Romania has "developed an immunity system against interethnic hatred, intolerance, xenophobia, extremism, anti-Semitism, and racism."¹⁴ The president has publicly used

⁹ Center for Research of Ethnic Relations, "Ethnobarometer May–June 2000".

¹⁰ Poll initiated and funded by the Open Society Foundation, cited in "Terms of reference of Phare project RO98.03.01 for the improvement of the situation of Roma in Romania", *Aven Amentza*, Nos. 12–13, 2000.

¹¹ *I want to be President*, PRO TV, Bucharest, 14 November 2000, (television programme).

¹² The Declaration was published in full in the weekly *Romania Mare* of 21 August 1998 and in the newspapers *Ziua* of 17 August and *Libertatea* of 18 August 1998.

¹³ *Cronica Romana*, "Romii nu-l iarta pe CV Tudor, dar nici el nu se lasa intimidat" ("Roma don't forgive CV Tudor but he is not intimidated"), 22 August 1998, George Toader.

¹⁴ I. Iliescu addressing a forum on inter-regional relations in the Balkans on 20 April 2001, Bucharest. *Romania Libera*, 23 April 2001. RFE/RL Newslines, 23 April 2001.

the highly offensive (in Romania) term “coloured” to refer to a Romani person,¹⁵ and has claimed that international interest in Roma is due to a Western anti-Romania “campaign”.¹⁶

Negative stereotypes are reinforced and perpetuated by both public and private media. Roma are commonly depicted as “thieves”, “beggars”, “dealers”, and “illiterates” – a “dirty” or “criminal race”. One survey of the image of Roma in the media found that “the most frequently occurring category describing Roma has to do with ‘the colour of the skin’, the second [is] ‘crime’.”¹⁷ A recent study found that between October and December 2000, twelve major newspapers published 68 articles with a negative bias against Roma; eighteen articles presented a positive picture.¹⁸ On radio and television, the same study recorded 337 seconds of negative broadcasting against Roma in the period from 7 November to 8 December 2000, as against 233 seconds of neutral reporting and no positive portrayals whatsoever.¹⁹ Another report reached a similar conclusion, noting that Romanian media present Roma generally in the context of conflict, as the aggressors.²⁰

Articles openly attacking and threatening Roma are commonplace in the Romanian press. The more nationalistic newspapers, such as *Romania Mare*, owned by Senator Tudor, actively promote racist discourse. In August 2000, Adrian Halpert, editor in chief of the Romanian daily *Libertatea* (Freedom), denounced Roma NGOs for taking a stance against common job notices specifying that “Gypsies need not apply.” The article called up stereotyped images of Roma and warned of a return of the mob violence against Roma, which had been frequent in the early nineties.²¹ In March 1999, one local paper published an article entitled “Death to Gypsies”, describing why and how Roma should be eliminated.²²

There have been few attempts by governmental or regulatory bodies to counter or challenge these views. Romania’s Council for Broadcasting has the power to sanction

¹⁵ “*Scurt pe doi*”, TVR, Bucharest, 9 April 2001, (television programme).

¹⁶ RFE/RL Newline, 20 April 2001.

¹⁷ Study conducted by the Intercultural Institute in Timisoara funded by the Council of Europe and OSI. Issues: Coverage of the Roma in the Mass Media in Romania, Project on Ethnic Relations.

¹⁸ “Nationalist Message in the Mass Media”, Report on Print and Electronic Media in Eastern European Countries, Media Monitoring Agency-Academia Catavencu, Roma Press Center, February 2001, p. 25.

¹⁹ Roma Press Center, 2001, p. 28. Antena 1 was identified as the TV station carrying most of the negative bias out of the three stations monitored.

²⁰ Media Monitoring Agency and Romani Criss, “Roma in the Printed Media”, February–August 2000, p. 6.

²¹ “On Discrimination”, *Libertatea*, 4 August 2000.

²² *Jurnal de Reghin*, 4 March 1999.

television stations for broadcasting views that incite discrimination or violence; it has never done so. Political leaders and parties do not condemn or distance themselves from racist statements by their colleagues and members. A special fund under the former government for conferences, seminars and roundtables to counter racist attitudes²³ – the National Foundation against Racism, Anti-Semitism, Xenophobia and Intolerance – appears to have had little effect. According to one participant, the campaign attracted young members of extremist parties such as the Greater Romania Party: “their approach was anti-Hungarian and anti-Gypsy [...] they tried to explain that in fact the majority is harassed by these two ethnic groups.”²⁴ The 2001 government Strategy calls for a “programme for fighting discrimination in mass media”, but does not provide further detail.²⁵

In the absence of effective public education efforts, even senior officials have seized upon the importance of minority issues to EU accession as a pretext to air racist and chauvinist anti-Roma sentiments. In March 2000, after returning from a meeting of the Romania-EU Association Council, Mr. Petre Roman, the then Romanian Foreign Minister, reportedly stated that the Romanian Government has an obligation to “protect 23 million Romanians against the few thousand Gypsies who are preventing the country from getting off the EU visa blacklist.”²⁶ In March 2000, the daily *National* reported a warning from Alliance for Romania Deputy Chairman Mugur Vintila, that “Western chancelleries are preparing Romania’s transformation into a Gypsy state” and that Roma in Romania are financed from abroad in order “to penetrate [Romania’s] power structures”.²⁷ And others have followed suit. Following the release of the Commission’s 2000 Report, one mainstream newspaper ran an article entitled, “The way of Romania towards Europe is blocked by Gypsies and Police.”²⁸ European Commissioner Gunter Verheugen, speaking to the Romanian Parliament in April 2001, nevertheless maintained the importance to accession of an “adequate strategy” for the Roma population.²⁹

²³ These included “Tolerance workshops”, “Youth and the campaign against racism, anti-Semitism, xenophobia and intolerance”, and “Tolerance in politics”. Information from the Romanian Helsinki Committee, 19 January 2001.

²⁴ Information from the Romanian Helsinki Committee, 19 January 2001.

²⁵ 2001 Strategy for Improving the Situation of Roma, Section VIII, No. 106.

²⁶ RFE/RL Newline, 23 March 2000.

²⁷ Cited in *Statement submitted by the European Roma Rights Center (ERRC) for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 57th Session, on the occasion of its Thematic Discussion on Roma*, 15–16 August 2000, p. 9 (hereafter “ERRC 2000”).

²⁸ I. Alezandrescu, “Drumul României spre Europa barat de tigani si politie” (“The way of Romania towards Europe is blocked by Gypsies and Police”), 9 November 2000.

²⁹ “Officialii au semne de intrebare privind independenta justitiei” (“Officials have questions on judicial independence”), *Financiar*, 27 April 2001.

III. Minority Protection: Law and Practice

Romania's legal framework for the protection of minorities has been enhanced by the enactment of several anti-discrimination and minority rights laws in the last year. Evaluation of the new laws' effectiveness must await monitoring of their implementation by courts and administrative agencies, as well as final passage of the new anti-discrimination ordinance and of its accompanying enforcement body.

Romania has ratified the main international documents addressing racial and ethnic discrimination as well as the Framework Convention for the Protection of National Minorities ("FCNM").³⁰ Bilateral treaties with Hungary (1996) and Ukraine (1997), oblige Romania to implement the standards of the FCNM and of Council of Europe Recommendation 1201 to safeguard its national minorities.³¹ Romania's Constitution gives international treaties precedence over domestic laws, should conflicts arise.³²

A. Protection from Discrimination

The provisional entry into force, in November 2000, of Ordinance No. 137/2000 on the Prevention and Punishment of All Forms of Discrimination³³ gives Romania the most comprehensive anti-discrimination framework among the EU candidate countries. The Ordinance was developed by the (now defunct) Department for the Protection of National Minorities (DPNM), with the collaboration of a number of NGOs. It was adopted under unusual circumstances in August 2000, as the final act of the outgoing government: under Romanian law, the government has legislative powers during periods of parliamentary recess. It has since passed the Senate,³⁴ following which certain changes (including the elimination of "sexual orientation" as a ground for discrimination) were introduced by the parliamentary Legislative Council.³⁵ As of August 2001, the law is awaiting approval from the Chamber of Deputies.

³⁰ See Appendix A to Overview report.

³¹ The Bilateral Treaty with Hungary was signed on 16 September 1996 in Timisoara by both parties. The Bilateral Treaty with Ukraine was signed on 3 May 1997 in Kiev and on 2 June 1997 in Constanta.

³² Constitution of the Republic of Romania, 1991, Art. 11, para. 2 (hereafter "Constitution").

³³ Official Gazette 432/02.09.2000 (Ordinance 137/31.08.2000).

³⁴ The Senate adopted the Ordinance on 1 March 2001, altering only the administrative fines, which were increased. The present report refers to the text of November 2000, which may differ from the final text.

³⁵ Information provided by Minority Rights Group, Interights and the European Roma Rights Center under the auspices of the joint project, "Implementing European Anti-Discrimination Law, July 2001" (hereafter "MPG, Interights, ERRC, 2001").

While it remains provisional until enacted in final form by Parliament, the Ordinance marks a significant supplement to Romania's Constitutional guarantee of "equality without any discrimination" on grounds of, *inter alia*, race, nationality and ethnic origin,³⁶ and to heretofore unenforced provisions in the Penal Code prohibiting racial discrimination by public officials.³⁷

A number of important provisions of the EU Race Equality Directive are contained in Ordinance 137.³⁸ The law provides a definition of discrimination³⁹ and specifically prohibits discrimination in access to employment, health and other public services, education and housing.⁴⁰ The law gives human rights NGOs *locus standi*,⁴¹ and allows victims to sue for damages and for injunctions against, or reversal of, the discriminatory action.⁴² Sanctions are provided for in the form of administrative fines.⁴³

Certain Directive provisions are not covered. There is no clear definition of "indirect discrimination" – the Ordinance covers "active" and "passive" behaviour, and prohibits "regulations or orders" resulting in "effects liable to favour or disadvantage, in an unjustified manner, a person, a group of persons or a community."⁴⁴ The Ordinance does not provide for reversal of the burden of proof in cases of *prima facie* discrimination: a draft provision to this effect was withdrawn before adoption by the government.⁴⁵

The Commission's 2000 Regular Report welcomed the adoption of the Ordinance as "a very positive step" but went on state that "both further secondary legislation and

³⁶ Constitution, Art. 4.

³⁷ E.g., Penal Code, Art. 247: "Any public official held guilty of restricting the use or exercise of civil rights or of creating situations in which a citizen is treated as inferior on the ground of nationality, race, sex or religion shall be liable to imprisonment between 6 months and 5 years." Cases can only be initiated *ex officio* by investigative organs.

³⁸ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. The Race Directive is part of the *acquis communautaire* and must therefore be transposed into domestic legislation as part of the EU accession process.

³⁹ Ordinance 137/2000, Art. 2 (1): "any difference, exclusion, restriction or preference based on race, nationality, ethnic appurtenance, language, [...] or any other criterion, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms in the political, economic, social and cultural field or in any other fields of public life."

⁴⁰ Ordinance 137/2000, Sections I–V.

⁴¹ Ordinance 137/2000, Art. 22.

⁴² Ordinance 137/2000 Art. 21 (1).

⁴³ Fines range from € 20–1,000. The Senate has proposed that the minimum limits be doubled.

⁴⁴ Ordinance 137/2000, Art. 2 (2).

⁴⁵ OSI Roundtable, Bucharest, 27 March 2001.

revised institutional arrangements will be necessary before the provisions contained in Ordinance 137 can be applied. It therefore remains too early to assess the effectiveness of this measure.”⁴⁶

Ordinance 137 also provides for the establishment of a specialised monitoring and enforcement body: the National Council for the Prevention of Discrimination (“Consiliul National pentru Combaterea Discriminarii,” “CNCD”), subordinate to the government.⁴⁷ The CNCD is to have jurisdiction to receive complaints regarding violations of the Ordinance’s anti-discrimination provisions, and to impose fines and/or other measures of an administrative nature.⁴⁸ The CNCD was to have been established by 24 May 2001.⁴⁹ However, as of August 2001, no measures had been taken.

There have been no successful lawsuits concerning racial discrimination in Romania to date. Two such cases have been lodged with Romanian courts since the adoption of Ordinance 137 and are presently pending.⁵⁰ There are no official public records of complaints of racial or ethnic discrimination against minorities. However, numerous international and domestic organisations have catalogued the existence of persistent and widespread discrimination against Roma.⁵¹ The Ombudsman’s office has received such complaints, and is currently reviewing several, but reports that, when requested, prosecutors have refused to initiate investigations in this area.⁵² Enforcement of anti-discrimination norms has also been hindered by official refusal to acknowledge the extent of discrimination or of the long-term incapacity of the legal system to address it.⁵³

⁴⁶ 2000 Regular Report, p. 21.

⁴⁷ Ordinance 137/2000, Art. 23.

⁴⁸ Ordinance 137/2000, Art. 20(3). For more on the CNCD see under “Institutions”.

⁴⁹ See 2001 Strategy.

⁵⁰ The cases, concerning discrimination in access of Roma to employment and services, have been brought by the NGO Romani Criss. OSI Roundtable, Bucharest, April 2001.

⁵¹ See e.g., US Department of State, “Country Reports on Human Rights Practices 2000, Romania”, noting that that “discrimination and instances of societal violence against Roma continued.”

⁵² Information from the Office of the Ombudsman, 25 June 2001.

⁵³ For example, the 1999 government report to the Council of Europe on the application of the FCNM claimed that “Romanian citizens, without any distinction based on race or nationality, may enjoy equally all the principles and freedoms provided for in the Constitution and the law, and may participate to the same extent in political, economic, social and cultural life, without privilege or discrimination. Report submitted (on 24 June 1999) by Romania pursuant to Article 25 para. 1 of the Framework Convention for the Protection of National Minorities (hereafter “State Report 1999”).

1. Education

The Romanian Constitution assures general education to all. The right of equal access to education is set forth in both the Law on Education⁵⁴ and Ordinance 137.⁵⁵ Neither has been applied in the courts. In practice, the Roma minority is widely denied access to education.

The low attendance rate of Roma children in the Romanian educational system has been long documented. Data from 1996 showed that a majority of the 70,000 persons without education in Romania belonged to the Roma minority.⁵⁶ According to sociologists Elena and Catalin Zamfir, 27 percent of the Roma population has not attended more than a few years of school – in 1992 an estimated 50 percent of 7–10 year-old Romani children attended school regularly.⁵⁷

The government explains these low levels as due to a “lack of interest on the part of Roma/Gypsies in going to school and learning a trade.”⁵⁸ A UN Special Rapporteur, by contrast, notes that “the prevalence of anti-Roma feeling in schools, and particularly among many teachers, discourages parents from sending their children to school. Since teachers are assessed on the basis of the percentage of successful pupils, they tend to reject Roma children, fearing poor school results.”⁵⁹

⁵⁴ Law on Education, Art. 5: “Romanian citizens have equal rights of access to all levels and forms of education irrespective of their social and material background, sex, race, nationality, political and religious belonging.”

⁵⁵ Ordinance 137/2000, Art. 15(1): “denying the access of a person or of a group of persons to the state-owned or private education system of any kind, degree or level, on account of their appurtenance to a race, nationality, ethnic group [...] shall constitute an offence.”

⁵⁶ *Than rromano*, Studies on Roma, Nos. 4–5, 1999–2000, p. 43.

⁵⁷ E. Zamfir, C. Zamfir, *Children at Risk in Romania: problems old and new*, Florence, Italy, Unicef Child Development Center, 1996, cited in C. McDonald, “Roma in the Romanian Educational System: barriers and leaps of faith”, *European Journal of Intercultural Studies*, Vol. 10, No. 2, 1999, p. 184. A study by the University of Bucharest in 1993 showed that 80 percent of Roma have no vocational training. United Nations High Commissioner on Human Rights, Report by Mr. Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights, resolution 1998/26, Addendum, Mission to Hungary, Czech Republic and Romania (19-30 September 1999), E/CN.4/2000/16/Add.1, para. 67.

⁵⁸ *Report of the Romanian government to UN Committee on the Elimination of Racial Discrimination, Fifteenth Periodic Report of the States Party due in 1999, Romania*, CERD/C/363/Add.1, para. 133(a).

⁵⁹ E/CN.4/2000/16/Add.1, para. 69.

Moreover, allegedly many Roma children are tracked to special classes with a lower quality of teaching, segregated from majority children.⁶⁰ Such classes offer virtually no prospect for continuing on to higher education or skilled employment. Other factors affecting the ability of Romani families to ensure that their children attend school include poverty and a lack of the necessary documentation. Many Roma are unable to obtain identification cards (see below), and thus cannot enrol their children in school.⁶¹

Government Measures

The Ministry of National Education (renamed the Ministry of Education and Research by the present government) has taken a number of steps to encourage improved access to education for Roma. Special university slots for Roma were designated as early as 1992,⁶² and today approximately 150 Roma students are able to enrol in Romanian universities each year as a result of Ministry-sponsored positive action programmes.⁶³ Existing quota programmes at universities and educational colleges have been judged successful.⁶⁴

In September 2000, at the request of Roma communities, the Ministry issued a new regulation to create a framework for improved access to vocational schools, secondary schools, and universities for Roma students.⁶⁵ Universities in Bucharest and Cluj-Napoca are to organise admission of Roma students to special government-financed places in the faculties of social assistance, law, psychology and philosophy. Roma students competing for these places must be recommended by a Roma civic, political, or cultural organisation.

2. Health Care and Other Forms of Social Protection

Ordinance 137 makes it an offence to “deny [...] access of a person or of a group of persons to public health services (choice of a family doctor, medical assistance, health insurance, first aid and rescue services or other health services) on account of their

⁶⁰ McDonald, p. 184.

⁶¹ McDonald, p. 190.

⁶² OSI Roundtable, Bucharest, 27 March 2001.

⁶³ Quoted from *The Ethos of Education for National Minorities in Romania*, Ministry for National Education in Romania, 1999/2000 School Year, Cluj Napoca, 2000. Relevant norms: orders of the Ministry of National Education 3577/15.05.1998, 5983/26.11.1999, 3294/01.03.2000 and the E/CN.4/2000/16/Add.1, p. 19, para. 83.

⁶⁴ Orders of the Ministry of National Education No. 3577/15.04.1998; 5083/26.11.1998 and 3294/1.03.2000.

⁶⁵ Order of the Ministry of National Education No. 4542/18.09.2000 on the Access of Young Roma in Vocational Schools, High schools, Colleges and Faculties and Universities.

appurtenance to a race, nationality, ethnic group[...].⁶⁶ This provision does not cover discrimination in access to private health services.

Health Conditions

Romani life expectancy is significantly lower than that of the majority population, and child mortality in Roma communities is higher.⁶⁷ Roma suffer disproportionately from digestive, heart and infectious diseases directly connected with poor nutrition and living conditions: “lack of safe drinking water, hygiene and substandard living conditions often result in [...] infectious digestive diseases.”⁶⁸ Roma children suffer vitamin deficiencies, malnutrition and anaemia to a greater degree than their non-Roma peers.⁶⁹ A high risk of AIDS has been reported in some areas: 96 of the 300 Roma children in the town of Marasesti are allegedly HIV positive.⁷⁰

For Roma children, poor health has been compounded by vulnerability to abuse and grossly inadequate state protection. A substantial proportion of Romania’s estimated 60,000 children in institutionalised care, for whom conditions have been worsening in recent years, are of Roma origin.⁷¹ Reportedly these institutions have been complicit in trafficking children to Western countries for prostitution and other illicit purposes.⁷² In 1998, one international NGO recorded 101 cases of children, mostly Roma, being taken to Germany and Italy and being forced to work as beggars or petty thieves.⁷³

Access to Health Services

A great number of Roma do not have practical access to medical care of any kind. Access to emergency services is limited for the many Roma who live in remote areas

⁶⁶ Ordinance 137/2000, Art. 11.

⁶⁷ I. Zoon, *On the Margins, Roma and Public Services in Romania, Bulgaria, and Macedonia*, Open Society Institute, 2001, p. 79.

⁶⁸ L. Vircan, *Elements of a Strategy for Improving the Health in Romani Communities: Presentation of the Status of Health in Romani Communities on the Basis of Information Received from Public Health Directors*, Romanian Ministry of Health, 2000, (unpublished), cited in Zoon, p. 80.

⁶⁹ Zoon, pp. 79–80.

⁷⁰ OSI Roundtable, Bucharest, 27 March 2001.

⁷¹ See *2000 Regular Report*, p. 19, “urg[ing] the government to provide sufficient financial provision to maintain acceptable standards of care.”

⁷² US Department of State, *Country Reports on Human Rights Practices – 2000*, Romania at <<http://www.state.gov/g/drl/rls/hrrpt/2000/eur/index.cfm?docid=881>>, accessed 25 July 2001.

⁷³ US Department of State, 2000.

lacking basic transport and communications infrastructure.⁷⁴ Long-term unemployed Roma are not eligible for non-contributory health insurance, as they are ineligible for social support benefits.⁷⁵ According to some, less funding is allocated for social protection programmes in districts and settlements where the majority of the potential beneficiaries are Roma.⁷⁶

A UNICEF study concludes that racial prejudice is “often insidiously manifested in the health care services and is not recognised as such,” and health care institutions and medical staff practice a “discriminatory sociology” in that they “do not welcome Roma”.⁷⁷ The Ministry of Health reports that 30 percent of Romanian Roma are not registered with a family doctor “because they do not have identity documents, doctors are reluctant to receive Romani patients and some Romani patients are not interested in registering.”⁷⁸ Those who are registered often avoid visiting the doctors for lack of trust and fear of being ignored or humiliated.⁷⁹

Reports of family doctors refusing to treat Roma even if they have health insurance are frequent. Denial of regular medical care sometimes affects the entire Roma population of villages or neighbourhoods. In 1999, the local doctor in the village of Geoagiu (West Romania) refused to examine Roma patients, thus leaving 650 people without medical care.⁸⁰ In 1998, doctors in another village, Stefanesti in East Romania, denied health care to all 182 families from the Roma neighbourhood by refusing to enrol Roma as patients under the health insurance programme.⁸¹ There are persistent allegations of Roma being refused entry to city halls where social assistance offices are located.⁸² Between September 1999 and August 2000, one county hospital in Iasi allegedly refused entry to Roma patients, by order of the local health office.⁸³ This discriminatory practice reportedly ended following a phone inquiry from a government official.⁸⁴

⁷⁴ Zoon, pp. 88–89.

⁷⁵ Zoon, pp. 80–81.

⁷⁶ Zoon, p. 41.

⁷⁷ UNICEF Romania and CRISS, *Improving Primary Health Care: Public Health and Cultural Research with Roma communities in Romania*, 1998, cited in Zoon, pp. 81–82.

⁷⁸ Zoon, p. 83.

⁷⁹ Zoon, p. 86.

⁸⁰ Zoon p. 84.

⁸¹ Zoon p. 83.

⁸² Interviews with the ProEurope League and Romani Criss, Bucharest, October 2000. See also Zoon, p. 39.

⁸³ OSI Roundtable, Bucharest, 27 March 2001.

⁸⁴ European Roma Rights Center, *State of Impunity: Human Rights Abuse of Roma in Romania*, 2001 (forthcoming), p. 63 (hereafter “ERRC 2001”).

Similarly, Roma inhabitants of Pata Rat, a community living on a garbage dump next to the city of Cluj Napoca, are not accepted by any medical institution. In August 2000, three Roma children died and several adults were hospitalised after drinking contaminated water at the Pata Rat garbage dump of Cluj Napoca. Unknown numbers of Roma who survive by collecting recyclable materials on garbage dumps on the outskirts of other large cities throughout Romania are exposed to similar health risks.⁸⁵

Social Protection

A number of existing laws providing for social benefits, although neutral on their face, contain provisions that discriminate against Roma. For example, the Law on Social Support stipulates that beneficiaries of social support must have permanent residence in the place where they apply for social benefits.⁸⁶ A significant number of Roma applicants have difficulty complying with this requirement, due to migration from rural to urban areas in search of work, loss of employment, evictions and lack of identification papers. One recent study estimated that 25 percent of Roma from Hunedoara county cannot show proof of residence.⁸⁷

Also by law, child allowances do not increase after four children.⁸⁸ This policy has a disproportionate impact on Roma, who often have large families.⁸⁹ The families of children lacking identity documents are not entitled to receive the child support allowance mandated by law, and have difficulties obtaining health care and registering for school.⁹⁰

Government Measures

The 2001 Government's Strategy for Improving the Roma Situation calls for cooperation with NGOs, to "elaborate national plans" for a number of measures aimed at improving access to health care, including vaccination campaigns and enrolling all Roma in social

⁸⁵ Information from the former Minister of the DPNM, Bucharest, September 2000.

⁸⁶ Law 67/1995. See also Governmental Decisions No. 125/1996 and 173/1998.

⁸⁷ Zoon, p. 34.

⁸⁸ Law 119/1997 on Additional Benefits for families with children; Government Decision 443/1997 on the methodology for payment of additional benefits for families with children. Three categories of lump sum are offered – for two, three, or "four or more" children. See Zoon, pp. 31–32.

⁸⁹ I. Zoon, "Statement prepared for the Commission for Security and Cooperation in Europe", June 2000.

⁹⁰ Law 61/1993 on Child Allowances as amended by law 261/1998. The law established a universal right to child support, regardless of parental income or employment. This right is conditional on school attendance, and is thus considered an educational incentive. A flat sum (c. € 4.5 per month) is received per child; a significant number of the c. 5 million children receiving the allowance are Roma. Zoon, p. 31.

insurance schemes within a year.⁹¹ Deadlines for proposals are outlined, but the measures do not identify explicit implementation mechanisms. The programme does not include measures to address discriminatory practices by medical professionals.

3. *Housing*

Ordinance 137 stipulates that “the refusal to sell or rent a plot of land or building for housing purposes, to grant a bank credit or to conclude any other kind of contract with a person or group of persons on account of their appurtenance to a race, nationality, ethnic group [...] shall constitute an offence.”⁹²

Access to ownership

Before 1990, most Roma families were forced to settle by the Communist regime; many were set to work on publicly-owned state farms. When these closed after 1991, Roma employees were among those who lost their jobs and their public housing. A 1991 Land Law allowed those who had owned land prior to collectivisation to apply to reclaim it; others – including most Roma – were not entitled to land unless supplementary plots existed.⁹³ Although much “supplementary” land has been distributed on this basis to those who were not previously landowners, Roma applicants have consistently been informed that there is not enough land for them.⁹⁴

Police evictions of Roma from flats and the destruction of Romani settlements with bulldozers have recently received media coverage as examples of “upholding the law”. According to a July 2001 editorial in a leading Romanian newspaper “destruction of

⁹¹ 2001 Strategy, Chapter VIII, 42–51. The plan calls for cooperation with NGOs and other relevant bodies, to elaborate national plans for improving access to public medical services (deadline 10 February 2002); training and co-ordination of medical mediators (deadline 10 April 2002); including all Roma in the social insurance system within one year (deadline 30 September 2001); developing projects of sanitary information, medical control and family planning for Roma women (deadline 25 March 2002); mobile medical units (deadline 10 June 2002); vaccination campaigns and campaigns for TBC, HIV/AIDS, dermatological infections and sexually transmissible diseases (permanent); financial benefits for medical staff in very poor regions (deadline 30 August 2001); initiating recruitment and training programmes for sanitary mediators, nurses, medical assistants and doctors within the Roma communities, through affirmative measures (deadline 25 March 2002).

⁹² Ordinance 137/2000, Art. 12.

⁹³ Land Law 18/1991. By 2000, about 80 percent of denationalised land had been redistributed. Zoon, p. 123.

⁹⁴ D. Ringold, *Roma and the Transition in Central and Eastern Europe: Trends and Challenges*, World Bank 2000, p. 13. Also OSI Roundtable, Bucharest, 27 March 2001. Zoon, p. 123.

Romany settlements has become much of a fashion lately.”⁹⁵ Significant numbers of Roma who lack official documents are unable to obtain building authorisation or residence permits, and thus live under constant threat of forced eviction.

In September 2000, police forcibly evacuated twelve Roma families from a building in Bucharest, in which they had been lodged while performing work for a construction firm. Allegedly, the families in question had conducted repairs on the building and asked formal permission from the municipality to stay. The municipality reportedly refused, and had the families evicted and driven in trucks to housing on the outskirts of the city unfit for habitation.⁹⁶ In spring 1999, police and army troops allegedly evicted approximately forty Roma families living illegally in a hotel in the city of Cluj Napoca.⁹⁷

Segregated Housing

Residential segregation is the rule rather than the exception throughout Romania. One commentator observes: “the main responsibility for the segregated status quo lies with the state, which, for decades, has conducted forced settlement policies, displacements, resettlements, demolitions, and, in the last ten years, systematic eviction of Roma from their central state-owned apartments.”⁹⁸ Segregation has been and continues to be fostered by the actions of local and national authorities in urban development. In May 2001, the municipal authorities of Targu Mures reportedly announced plans to evict the Romani residents of the last remaining unsegregated street in the city. As of July 2001, the eviction had not taken place.⁹⁹ In the town of Barlad, the mayor announced a plan in March 2001 to move all Roma residents to a separate village. The action was called off following the intervention of Romani CRISS, an NGO which defends the rights of Roma in Romania.¹⁰⁰

Segregated Romani communities are characterised by extremely poor living conditions and lack of access to public services. According to a 1997 study, 36 percent of Roma houses have a separate kitchen, compared with the national average of 90 percent; 20 percent of Roma houses have a modern bathroom and modern toilet (national average: 47 percent); 86 percent of Roma houses have electricity (national average: 96 percent). Two thirds of Roma houses are heated with wood and coal; one quarter of Roma declare that they do not own the land on which their house is built.¹⁰¹

⁹⁵ V. Stan, “Racism and Legality”, *Cotidianul*, 5 July 2001.

⁹⁶ Romani Criss, *Medeleni case report*, 2000. See also ERRC 2001, p. 59.

⁹⁷ Zoon, p. 122.

⁹⁸ Zoon, p. 123.

⁹⁹ ERRC 2001, p. 60.

¹⁰⁰ ERRC 2001, p. 58.

¹⁰¹ V. Burtea, “Chances of Roma population”, *Social Research Magazine*, nr. 3/1997 (issued in 1999), pp. 33–34, 141. The study was conducted by the Research Institute for the Quality of Life.

Local authorities have financed few projects to improve housing conditions for Roma. More often, housing “initiatives” foster racial segregation and provide degrading accommodation. For example, Roma in Deva live in former pigsties and in Bacau, Roma have been offered old garages near the garbage dump as “public housing”.¹⁰²

Government Measures

The 2001 Strategy calls for a “national plan that solves [...] the problems raised by the ownership right over the lands and dwellings owned by Roma and reconstitute[s] the landed property right.” No indication is given as to what this means in practice or how it is to be achieved; a four-year plan is to be presented by April 2002. Other aspects of the programme include rehabilitating Roma dwellings, and creating basic infrastructures (“power, drinking water, sewerage, gas, sanitation services”).¹⁰³ There are no measures to address *de facto* racial segregation.

A UN Special Rapporteur noted an example of “good practice” in 2000, whereby non-Roma and Roma residents of Nusfalau (Salaj County) actively participated in the construction of ten “social houses” for Roma families,¹⁰⁴ with international financial support. Practices such as these might be usefully incorporated into governmental policy and replicated in other communities. The Strategy currently limits activities to “conceiving the financing criteria” for such projects.¹⁰⁵

4. Other Goods and Services

Ordinance 137 prohibits discrimination in access to a wide range of public accommodations and services, including “hotels, theatres, cinemas, libraries, shops, restaurants, bars, discotheques or any other service providers, whether they are public or private property, or by public transportation companies (by plane, ship, train, subway, bus, trolley-bus, tram car, taxi or by any other means of transport).”¹⁰⁶ Roma are routinely denied admission to establishments open to the general public. Only recently have the first legal challenges to such practices come before the courts.

Two civil lawsuits have been brought on the basis of Ordinance 137 to date, both concerning refusal of access to services on the basis of race. The first case gained some

¹⁰² Organisation for Security and Cooperation in Europe, *Report on the Situation of Roma and Sinti in the OSCE Area*, 2000, p. 14

¹⁰³ 2001 Strategy, Section VII, Nos. 23–25.

¹⁰⁴ E/CN.4/2000/16/Add.1, p. 18.

¹⁰⁵ 2001 Strategy, Section VII, No. 26.

¹⁰⁶ Ordinance 137/2000, Art. 13.

notoriety in Romania, due to its starkly discriminatory nature. Following a wedding in the city of Craiova in early 2001, an ethnic Romanian bride and her guests entered a restaurant, while the Romani groom and his guests were barred. The case was documented by the Party of Roma, which also brought the suit.¹⁰⁷

The second case was brought by Romani CRISS.¹⁰⁸ On 26 January 2001, two Romanian citizens of Roma ethnicity were denied entrance into the Angeli bar in the town of Pitesti (Arges county). On 2 February 2001 “a member of Romani CRISS together with three other Roma from Pitesti agreed to try and enter the bar. [...They] were stopped by the bodyguards, and told to leave the premises since the owner prohibits access to Gypsies (“tigani”).” The event was recorded on audio tape, and a suit was filed with the Pitesti court on 8 March 2001, under the provisions of the Ordinance.¹⁰⁹

While these lawsuits are novel, the instances of racial exclusion at issue are far from isolated. A recent investigation carried out by Romani CRISS and the European Roma Rights Center (ERRC) found four Bucharest night clubs which regularly deny entry to Roma.¹¹⁰ In Targu Jiu (Gorj county), following violent confrontations between police and some Roma individuals in late 2000 (see below), the local Chief of Police denied all Roma access to the town’s main dance halls.¹¹¹ The Ombudsman’s Report for 2000 documents several cases in which Roma were denied access to shops (in Craiova and Iasi), restaurants (in Craiova and Galati) and discos (in Craiova and in Vrancea).¹¹² In at least one of these cases, a complaint was filed with the police and local administrative bodies, but no official response has been received to date.¹¹³

The effect of overt discrimination in access to public goods and services is amplified by the geographical isolation of many Roma communities, who often live far from most commercial enterprises and public buildings. Public transportation does not reach all

¹⁰⁷ MPG, Interights, ERRC, 2001.

¹⁰⁸ Romani Criss, Documenting Reports, January–March 2001.

¹⁰⁹ Case No. 3525/2001, registered with the court of first instance; a first hearing was scheduled for 23 April 2001.

¹¹⁰ ERRC 2000, p. 34.

¹¹¹ “Rromii din Targu Jiu vor sa dea in judecata politia” (“Roma of Targu Jiu want to sue the police”), *Cotidianul*, 15 November 2000, p. 5.

¹¹² *Departamentul pentru problemele privind ordinea publica, serviciile militare si speciale, penitenciare, institutii de reeducare pentru tineri, protectia minoritatilor, cultelor si strainilor, a consumatorului si contribuabilului*, (“Special Report on Activities Regarding Public Order, Military and Special Bodies, Penitentiaries, Minorities, Religious Cults, Foreigners, Consumers and Tax-payers”), 2000 (hereafter “Ombudsman 2000”).

¹¹³ Ombudsman 2000, IV.e.4.

Roma districts and, where it does, it is generally inferior to that provided for non-Roma neighbourhoods.¹¹⁴

Racial discrimination in access to goods and services is not addressed in the government Strategy.

5. *Employment*

Ordinance 137 prohibits discrimination in access to employment in the areas of, *inter alia*, hiring, advertising and dismissal, and also in the allocation of duties and benefits in the workplace.¹¹⁵ These are all areas in which Roma in Romania have reported experiencing discrimination.

In August 2000, the Romanian Parliament enacted a Law on Public Advertising.¹¹⁶ The law prohibits the use of discriminatory statements on the grounds of race, sex, language, origin, social origin, ethnic or national identity in advertisements.¹¹⁷ Public administration officials are charged with the identification of violations and are empowered to impose fines of between 5–40 million Romanian lei (c. € 200–1,600), payable by both the sponsor and the publisher of the advertisement.¹¹⁸

To date none of the above provisions have been enforced.

Unemployment

The economic crisis affecting Romanian society as a whole has had a disproportionate impact on Roma communities. Many Roma who worked previously in state-owned industry or on cooperative farms became unemployed in the last decade. Social benefits were rescinded as a result, including company-provided residency permits in urban areas and housing granted to seasonal agricultural workers.¹¹⁹

¹¹⁴ Zoon, p. 127.

¹¹⁵ Ordinance 137, Articles 5–9.

¹¹⁶ Law on Public Advertising, Official Gazette, 2 August 2000. Some commentators suggest that the Law was passed at least partly in response to continuous protests from Roma NGOs against racist and discriminatory advertisements.

¹¹⁷ Law on Public Advertising, Art. 6(d).

¹¹⁸ Law on Public Advertising, Art. 18.

¹¹⁹ N. Gheorghe, A. Mirga, *The Roma in the Twenty-first Century: A Policy Paper*, Project on Ethnic Relations, May 1997, <<http://www.eurozine.com/online/articles/20010305-es-per.html>> (accessed 24 July 2001).

Today, unemployment rates among Romanian Roma are extremely high, with the result that 79 percent of the Roma population reportedly live below the poverty line, compared to a national figure of 31 percent.¹²⁰ In 1998, the EU estimated that only ten percent of the Roma population was engaged in the formal labour market.¹²¹ According to a 2000 report of the Ombudsman, 51 percent of the Roma population is of working age, but only 16 percent of Romanian Roma work. Employed Roma are reportedly less likely to be promoted than their non-Roma colleagues.¹²² According to a 1997 study, among working Roma, only 3.6 percent had jobs requiring higher education; 74 percent of employed Roma were paid the legal minimum wage.¹²³

Discrimination in Hiring

Advertisements indicating that “no Roma need apply” are printed regularly in newspapers, including mainstream papers such as the daily *Romania Libera*. Numerous protests to the General Prosecutor against such advertisements, brought by Roma NGOs and others, have yielded no results to date. In a 1999 interview with a representative of the Office of the OSCE High Commissioner on National Minorities, a Government official stated that advertisements explicitly barring Roma “were much too common to be prosecuted.”¹²⁴ Reportedly this practice extends to the public sector: in 2000, a Bucharest public employment office allegedly posted an announcement specifying that none of the listed jobs were available to Roma applicants.¹²⁵

According to Romani CRISS, following enactment of the Law on Public Advertising in 2000, the business paper *Anuntul Telefonie* published a job offer stating: “Total Protect hires security guards, Roma excluded.” The NGO subsequently contacted both the newspaper and the company. The newspaper claimed the publication of the ad was an error and that the responsible employee had been fired. The company agreed to apologise publicly to the Roma ethnic group.¹²⁶ Similar results will need to be replicated and widely publicised if the practice of overtly discriminatory job solicitations is to be curbed. In addition, absent vigorous enforcement of anti-discrimination guarantees in employment, even the successful elimination of racist advertisements will do little to improve Roma access to jobs.¹²⁷

¹²⁰ Zoon, p. 28.

¹²¹ Terms of reference of Phare project for the improvement of the situation of Roma, Chapter 4.1.

¹²² E/CN.4/2000/16/Add.1, p. 16.

¹²³ *Social Research Magazine*, nr. 3/1997 (issued in 1999), pp. 33–34, 141.

¹²⁴ OSCE 2000, p. 32.

¹²⁵ Dumitru, “Europa ne da o noua tema: Rromii” (“Europe gives us new homework: Roma”), *Curentul*, 19 September 2000.

¹²⁶ Romani Criss Report, 2001, unpublished.

¹²⁷ MPG, Interights, ERRC, 2001.

Government Measures

Government measures in the field of employment focus on providing incentives to employers to hire Roma rather than providing remedies for discriminatory hiring practices. Despite this significant limitation, reportedly some programmes have been successful, resulting in the hiring of Romani university graduates.¹²⁸ The 2001 Strategy requires public authorities and Roma representatives to propose new measures for improving Roma employment, and suggests fiscal incentives for companies hiring at least ten percent of Roma among their total employees, as well as state support for Roma entrepreneurs.¹²⁹

The National Agency for Professional Training and Employment, with the assistance of representatives of the Roma community, has launched a special vocational guidance programme for Roma to be implemented in local labour offices.¹³⁰ State-supported education programmes have produced a pool of young Roma university graduates qualified to take up such positions.¹³¹ Systematic monitoring of these programmes will be necessary to ensure effective implementation.

6. Criminal Justice

Official data on the proportion of Roma among the arrested, detained, sentenced and convicted has not been collected since 1990. Allegedly, however, police keep unofficial data on “Roma crime”, as noted by one police general in an interview on national television.¹³² It has been reported that press releases of the Bucharest police regularly identify the ethnicity of Roma suspects, and not of others.¹³³ The Romanian Police Academy apparently institutionalised the notion of “Roma criminality” in a training manual entitled “Gypsies: The Unknown Next to Us”, which highlights “the phenomenon of crime within the Gypsy minority.”¹³⁴

¹²⁸ Information from the Ombudsman’s Office, Bucharest, September 2000; OSI Roundtable, Bucharest, 27 March 2001.

¹²⁹ 2001 Strategy, Chapter VIII.

¹³⁰ E/CN.4/2000/16/Add.1, p. 18.

¹³¹ OSI Roundtable, Bucharest, 27 March 2001.

¹³² Statement of General Pavel Abraham on an April 1999 television show. Information from a participant on the show, Budapest, May 2001.

¹³³ Romani Criss and Media Monitoring Agency, *Coverage of the Roma in the Romanian Media*, Report February–August 2000; OSI Roundtable, Bucharest, 27 March 2001.

¹³⁴ Gen. T. Amza, *Tigani: necunoscutii de langa noi* (“Gypsies, the Unknown Next to Us”), 1996.

Such views have been publicly sanctioned by high ranking public officials, such as the Bucharest Chief of Police, General Mircea Bot. In a public interview, General Bot asserted, *inter alia*, that “Gypsies are grouped around well-known criminals”, and “until now the Gypsy people were used to stealing, robbing”, while today “they are focused on financial criminal acts [...]”. Concluding the interview, General Bot stated that “there are Gypsies who are born criminals” who “do not know anything else than to commit criminal acts.”¹³⁵

Reportedly, such attitudes have resulted in discriminatory practices, including the disproportionate issuance of “spot fines” to Roma for fictional offences, such as cycling without lights during daylight hours or walking alone through fields. Unpaid fines can and do lead to prison sentences.¹³⁶ Similarly, a recent independent study on prison populations documented a disproportionately high presence of Roma (close to 20 percent of adults and 40 percent of juveniles) in detention centres.¹³⁷ Systematic monitoring is required to establish more precisely the extent of racial prejudice among law enforcement bodies and the judiciary, and within the criminal justice system.

B. Protection from Racially Motivated Violence

There are no laws expressly prohibiting racially-motivated violence, and no sentencing enhancements for crimes motivated by racial hatred. Such cases are investigated, as crimes of assault, by policemen and prosecutors, generally without attention to the racial motive and only with rare success. Military prosecutors have exclusive jurisdiction over investigations of allegations against police – in general they do not prosecute police officers, and when they do, military courts do not convict them.¹³⁸ A reformed legal framework is necessary, including the subjection of police to civilian prosecutorial and judicial control, given that racially motivated violence against Roma by police and others is widely reported in Romania.

Although Roma were frequent victims of ethnic mob violence in the early 1990s,¹³⁹ by 1996 police had become the main perpetrators of violence against Roma.¹⁴⁰ Widely

¹³⁵ Interview published in *Romania Libera*, 4 December 1999, cited in ERRC 2000, p. 9.

¹³⁶ OSI Roundtable, Bucharest, 27 March 2001.

¹³⁷ “Romii din penitenciarele romanesti: proportii si caracteristici socio-culturale” (“Roma in Romanian penitentiaries: dimension and social cultural features”), *Aven Amentza*, Nos. 12–13, 2000, pp. 22–24.

¹³⁸ Romanian Helsinki Committee annual reports, 1998–2000.

¹³⁹ At least thirty such instances were recorded, during which up to 156 houses were burned and 12 individuals lost their lives. See Ombudsman 2000.

¹⁴⁰ ERRC, “Sudden Rage at Dawn: Violence against Roma in Romania”, 1996 (hereafter “ERRC 1996”).

publicised clampdowns on “interethnic violence” in Roma neighbourhoods took the form of a series of police raids described by local monitors as “excessively violent”.¹⁴¹ In 1999, the ERRC prepared a list of 19 cases of police abuse against Roma which took place between 1996 and 1998.¹⁴²

Police violence against Roma continued in 2000. In May 2000, two cases involving the shooting of Roma men by police officers were reported.¹⁴³ Also in May, a number of “special” police raided the main Roma neighbourhood in Bucharest, in the third reported raid in six months. When asked for warrants, the police allegedly replied that it was “a routine operation” and warrants were not required.¹⁴⁴ In November 2000, following an incident in which two gendarmes were hurt and one later died as a result of police intervention in a conflict in the town of Targu Jiu, more than 15 Roma were subsequently taken to the police station and beaten. The vice-president of the local Roma Party stated that the police reaction had been racist.¹⁴⁵

Racial slurs against Roma by police have been widely documented, as have arbitrary arrests, ill-treatment in custody and unwarranted use of firearms.¹⁴⁶ In February 2001, the Brasov police and the railway police organised more raids in Zarnesti railway station and in trains passing through Brasov region. Many Roma, including women and children, were forced from the trains, verbally abused, taken to the police station and fined. Police officers chanted slogans, taunting the victims with repeated references to the fate of Romanian Roma during the Romani holocaust of the 1940s. As of March 2001, there had been no response to complaints against the police officers.¹⁴⁷

¹⁴¹ M. Ionescu, N. Gheorghe, J. Tanaka, I. Haller, “Discriminatory law enforcement in cases of conflicts involving Roma in Romania, Case Study 2”, 1997, unpublished, on file with the EU Accession Monitoring Program.

¹⁴² ERRC, “Cases of Relevance to the International Convention on the Elimination of All Forms of Racial Discrimination in Romania, for consideration by the UN CERD at its 55th Session”, 2–27 August, 1999.

¹⁴³ ERRC, “Police abuse of Roma in Romania”, *Roma Rights*, No. 2, 2000, <http://errc.org/rr_nr2_2000/snap20.shtml> (accessed 25 July 2001).

¹⁴⁴ ERRC, *Roma Rights*, No. 2, 2000.

¹⁴⁵ “Dupa ce au ucis in bataie un jandarm tiganii din Targu Jiu dau Politia in judecata” (“After beating to death a gendarme the Targu Jiu gypsies sue the police”), *Cotidianul*, 15 November 2000. “Tiganii din Targu Jiu dau in judecata politia” (“Gypsies of Targu Jiu sue the police”), *Evenimentul Zilei*, 15 November 2000.

¹⁴⁶ Romanian Helsinki Committee annual reports 1998–2000 at <<http://www.apador.org>> (accessed on 26 July 2001); US Department of State *Country Reports on Human Rights Practices – 2000, Romania*; League Pro-Europe, OSI Roundtable, Bucharest, 27 March 2001.

¹⁴⁷ Romani CRISS, Roma Centre for Social Intervention and Studies, Documenting Reports January–March 2001, pp. 5–6.

Another unwarranted police raid reportedly took place on 12 January 2001, in the Zabrauti neighbourhood of Bucharest. Up to 50 Roma were allegedly arrested by police, who arrived in transporter vans and used tear gas on the victims, for minor administrative offences, such as a lack of proper documentation. According to one Romani woman present at the raid, “it makes us all feel like criminals when they come. [...] If you say that you are innocent when they try to take you away, then they beat you.”¹⁴⁸

Investigations into instances of violence against Roma have regularly failed to provide redress for victims or punishment for either civilian perpetrators or police who fail to protect Roma and their property from violent attack.¹⁴⁹ According to the 2000 report on Human Rights by the US Department of State, numerous cases of official violence against Roma remain unresolved, and law enforcement officials – police, prosecutors and judges – often show little interest in expediting inquiries.¹⁵⁰ Victims have been pressured not to file complaints, or to withdraw them. In part as a result of extended periods of official inaction, the statute of limitations has led to the closure of several files.¹⁵¹

Reportedly, notwithstanding abundant evidence of misconduct, military prosecutors have on three occasions refused to indict police officers for complicity in a 1993 incident in the village of Hadareni in which a mob of ethnic Romanians and Hungarians murdered three Roma, burned or demolished more than a dozen houses belonging to Roma, and chased all Romani inhabitants out of the village.¹⁵² In the past three years, the Romanian Helsinki Committee has documented more than ten cases in which military prosecutors have refused to indict police officers for ill treatment of Roma.¹⁵³

Government Measures

During its most recent examination of Romania, the UN Human Rights Committee voiced concerns about “police brutality against members of the Roma community.”¹⁵⁴ To date, however, government efforts have not focused on investigating or providing adequate redress for police violence. Rather, together with NGOs, the government

¹⁴⁸ ERRC 2001, p. 42.

¹⁴⁹ ERRC 2000, p. 11.

¹⁵⁰ See State Department, 2000.

¹⁵¹ See State Department, 2000.

¹⁵² Amnesty International, “Romania: Broken Commitments to Human Rights”, May 1995, as quoted in ERRC 1996.

¹⁵³ Romanian Helsinki Committee annual reports, 1998–2000.

¹⁵⁴ UN Press Releases HR/CT/99/17 of 20 July, 1999 and HR/Ct/99/19 of 21 July 1999.

has aimed to improve relations between the police and the Roma community.¹⁵⁵ In March 2000, the Romanian gendarmerie signed a “Protocol of Partnership” with Roma representatives, aimed at increasing co-operation and mutual trust.¹⁵⁶ Despite this advance, no institutional framework has been established to build on this agreement with continuous programming. The 2001 Strategy endorses further co-operation between Roma representatives and the police and aims to establish legal education programmes for Roma and to publicise cases of “police discrimination”.¹⁵⁷ As in other areas, regular monitoring will be necessary to ensure effective transposition of these broad goals into concrete programmes with specific and lasting results.

C. Minority Rights

The absence of adequate minority legislation was acknowledged in a Governmental programme for 1998–2000 which pledged the introduction of a law on national minorities, ratification of the European Charter on Regional and Minority Languages and implementation of FCNM provisions on bilingual public inscriptions and the use of minority languages in local administration. Three years on, only the last of these obligations has been partially fulfilled through the introduction of a Law on Public Administration.

1. Identity

The Romanian Constitution guarantees the right to identity of individuals belonging to national minorities,¹⁵⁸ but there is no legal definition of a “national minority” in Romanian law, nor is there legislation setting forth the right to be recognised as a distinct minority group.¹⁵⁹ In practice, the term “national minority”, as it appears in applicable laws, is understood to refer to “historical minorities” that have lived on Romanian territory for centuries, including Roma.

¹⁵⁵ For example, the General Inspectorate for Police, together with the Party of Roma, organised a meeting in February 1999 to address the involvement of Roma Communities in preventing and combating criminality. Cited in Ombudsman 2000. See also Project on Ethnic Relations, *Building Romanian Democracy; the Police and Ethnic Minorities*, 1999.

¹⁵⁶ Position paper of Romania, 2000 (unpublished document by a group of NGOs).

¹⁵⁷ 2001 Strategy, Section VIII Plan of General Measures, Justice and Public Order.

¹⁵⁸ Constitution, Arts. 4, 6, 16.

¹⁵⁹ Considerable guidance is provided by international standards which are formally part of domestic law, such as Council of Europe Recommendation 1201.

2. *Language*

A Law on Public Administration enacted in April 2001 allows for the use of minority languages in public administration, but it is not clear that the law will benefit Roma. The law stipulates a range of rights applicable in areas where minorities constitute 20 percent of the population, such as the availability of local council agendas and decisions in minority languages.¹⁶⁰ This presents two principal problems for the Roma minority. First, counting and establishing the exact number of Roma in villages, towns and cities will be difficult, given the reluctance of Roma to self-identify. The 1992 census counted less than a third of the estimated number of Roma in Romania. Second, even if correctly counted, the Roma population is unlikely to reach 20 percent in most or all territorial administrative units, and therefore the law will have little if any impact.¹⁶¹

Introduction of the law has sparked controversy in Romania, with some public figures objecting to the possibility of increased official use of the Hungarian language. Senator Tudor characterised the law as an act of treason,¹⁶² and the mayor of Cluj-Napoca claimed it would never be applied in that city, despite its large Hungarian minority.¹⁶³ Although few public officials have highlighted the possibility of a demand for increased use of Romani languages, such an eventuality was raised in opposition to the law in parliamentary debates on its adoption.¹⁶⁴

The right to use languages other than Romanian in criminal and civil proceedings is constitutionally guaranteed¹⁶⁵ and further specified in the Criminal and Civil Procedure Codes. The Code of Criminal Procedure provides for the right of the defendant to use

¹⁶⁰ Law 215/2001 on Public Administration, Official Gazette 204 of 23 April 2001, Articles 40 (7) and 51. Also, if more than one-third of representatives in a local council belong to a minority, council meetings may be held in the language of the minority, with the provision of an interpreter.

¹⁶¹ Information from the Office of the Ombudsman, Bucharest, 1 May 2001.

¹⁶² C. Tudor, Radio Romania 1, 20 April 2001. On 19 January 2001, Tudor appealed to Parliament not to allow "the language of horses" (Hungarian) to become Romania's second official language. Transitions Online, "Minorities in Romania Granted Language Rights", 1 February 2001.

¹⁶³ G. Funar, BBC, 23 April 2001. Funar threatened to organise public protests against the law and claimed that only 12 percent of the population of Cluj speak Hungarian. The last census puts the figure at 23 percent. Transitions Online, "Minorities in Romania Granted Language Rights", 1 February 2001.

¹⁶⁴ Information from the former Minister of the DPNM, April 2001.

¹⁶⁵ The Constitution (Art. 127) provides for the right of persons belonging to national minorities to take cognizance of all acts in case files and speak before courts through an interpreter; Article 23 paragraph 5 provides for the right of detainee to be informed of a criminal charge in a language "he understands". Article 127 also provides for free-of-charge interpretation in criminal cases.

his or her language during all stages of the criminal proceedings.¹⁶⁶ The Code of Civil Procedure allows for the use of interpreters, with fees to be paid by the losing party.¹⁶⁷ In practice, however, judges have been known to insist that minority persons with even a rudimentary grasp of the Romanian language use it in official proceedings, even if they cannot fully understand the proceedings.¹⁶⁸ There are few official Romani-speaking interpreters.

3. Education

Despite progress in recent years with regard to the increased availability of minority languages classes, particularly Romani, in Romanian schools, the new government has yet to demonstrate its commitment to continue this policy.

Teaching of Romani languages in Romanian schools has increased enormously in recent years. According to one report, in the school year 1996/1997, 445 Roma students at eight schools were studying Romani, at the request of their parents.¹⁶⁹ By the year 2000/2001, according to the Ministry for Education, there were 200 teachers – both Roma and non-Roma – teaching Romani to more than 10,000 students.¹⁷⁰

The legal framework for teaching minority languages is set forth in the 1995 Law on Education, which establishes compulsory education in Romanian,¹⁷¹ but also allows for the organisation of classes in minority languages at both the primary and secondary school levels, upon the written request of parents or guardians. The law also provides for the publication of textbooks in minority languages.¹⁷² Vocational training is provided

¹⁶⁶ Criminal Procedural Code, Art. 128.

¹⁶⁷ Civil Procedure Code, Art. 142.

¹⁶⁸ Information from the former Minister of the DPNM, Bucharest, April 2001.

¹⁶⁹ These included 410 students in primary school grades I to IV and 35 in high school grades IX–XII. Council of National Minorities, *The Education System in Romania: Tuition in the Languages of National Minorities in the 1996/1997 School Year*, 1998.

¹⁷⁰ G. Sarau, *Programme strategice ale Ministerului Educatiei Nationale pentru participarea romilor la procesul de invatamant* (“Strategic programmes of the Ministry of National Education for the participation of Roma in the education process”), 2000.

¹⁷¹ Law 84/1995 Official Gazette 370, amended by law 151/1999 of 3 August republished in the Official Gazette 606 of 12 December, 1999. Article 8 states that “[e]ducation at all levels is in Romanian. In accordance with this law education may also take place in the mother tongue of national minorities and in foreign languages... Learning Romanian as the official language of the state is compulsory for all Romanian citizens.” Art. 8(1);(3).

¹⁷² Law 84/1995, Chapter IX, Arts. 118–120, 125–126.

only in Romanian, although some terminology may be taught in minority languages.¹⁷³ In 1996, the Ministry of National Education issued a set of instructions creating conditions for minority language education in both primary and secondary schools.¹⁷⁴

The former Ministry issued norms designed to create a framework for fighting illiteracy¹⁷⁵ and established a network of school inspectors for Roma issues in all 42 counties of Romania.¹⁷⁶ The Ministry also promoted training for Roma teachers,¹⁷⁷ and the publication of teaching aids for education in minority languages, including Romani.¹⁷⁸ Further support came from an NGO, the “Resource Center for Roma Communities” in Cluj Napoca, which funded the publication of a number of books for teaching and learning in Romani.

In April 2001, the new government’s Ministry of Education and Research introduced two directives which could have a negative impact on minority education, including for Roma. The first places discretion over the teaching of minority languages in the hands of school directors, thus restricting the rights of Romani parents to choose the language of education of their children. The second has reduced the number of school inspectors for minorities to one per county. Thus in counties where there may previously have been both Roma and Hungarian inspectors, there is no longer the possibility of an inspector representing each community. Reportedly, this has led to the dismissal of some Roma inspectors.¹⁷⁹

¹⁷³ Law 84/1995, Art. 122.

¹⁷⁴ “Instructions on the study of the mother tongue by pupils belonging to the national minorities who attend schools with teaching in Romanian – Appendix to the primary, secondary, vocational and high school education plans”, approved by Ministerial Order No. 4787/ 29.08.1996.

¹⁷⁵ Order of the Ministry of National Education no.3633/14.04.1999 on fighting illiteracy and Order No. 4231/ 18.08.1999 on an experimental programme to preclude marginalisation and social and professional exclusion.

¹⁷⁶ Applicable norms: Order of the Ministry of National Education No. 3363 from 1 March 1999 and Order 4219 from 17 August 1999.

¹⁷⁷ Early in 1990, the General Education Department for National Minorities of the Ministry of Education set up three classes for Roma teachers in the teacher training colleges of Bucharest, Bacau and Targu-Mures. In 1991, the Ministry of Education drew up a Romani language study programme for Roma primary school teachers (ninth to thirteenth grade) in the same three teacher training colleges. Orders of the Ministry of National Education No. 4562/16.09.1998, 3533/31.01.1999, 3113/31.01.2000 and “Methodology on the enforcement of the Instructions regarding the study of mother tongue by pupils belonging to national minorities attending Romanian schools,” No. 30257/06.04.2000.

¹⁷⁸ In 1991, a collection of Romani texts was prepared for use in courses on Romani language and literature by Roma primary school teachers. For the 1994 syllabus, a Romani language handbook was published for students in teacher training colleges, which is still used to teach Roma students in Romani alongside the Romani-Romanian dictionary published in 1992.

¹⁷⁹ Information from the Office of the Ombudsman and MEDE Consultants, Bucharest, 1 May 2001. This information has not been officially confirmed.

While Roma may establish their own schools where funds are available, the state has no legal obligation to establish minority schools or contribute to their maintenance. No schools for Roma have been established to date. In fact, Roma schools are not universally supported by Roma NGOs, some of whom fear they may lead to segregation and low standards.¹⁸⁰

Although minorities may freely set up private universities,¹⁸¹ no Roma private universities exist in Romania.

4. *Media*

There are no legal provisions specifically promoting minority language media in Romania. The Roma community publishes its own newspapers and magazines, which generally promote a positive image of Roma and Romani culture. However, these publications have a limited circulations. One Romani activist points out that public support for Romani media is scant: only one of the ten existing Roma publications receives financial support from the government (*Aven Amentza*). There are currently no Romani language programmes broadcast on Romanian National Television or on public radio. A single television programme devoted to minority issues ("Convietuiri"), rarely highlights Roma issues.

5. *Participation in Public Life*

In recent years, Romani politicians and experts have grown increasingly active in national and local political discussions. Following the 2000 elections, a handful of self-declared Roma are serving in advisory positions to the government, including in the President's Office and as sub-state secretaries. No official data exists with regard to the number of Roma (or other minorities) employed in the public service.

Romania guarantees one seat in parliament for minorities who fail to secure the required five percent electoral threshold.¹⁸² In 1996 and again in 2000 the Party of Roma

¹⁸⁰ Information from the former Minister of the DPNM, Bucharest, April 2001.

¹⁸¹ Law 84/1995, Art. 123.

¹⁸² "Organisations of citizens belonging to national minorities which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organisation only." Constitution, Art. 59(2). Minority parliamentary representation is further regulated by the Law on the Election of the Chamber of Deputies and the Senate (68/1992, Art. 4.1, 4.2) and the Law on Local Elections (Law No. 70/1991, as amended in 1996. In the 2000 elections, 18 minorities were each awarded a seat in the Chamber of Deputies under these provisions.

(“Partida Romilor”) obtained parliamentary representation as a result of this provision. Several Roma parties have achieved electoral success at the local level. In the local elections of June 2000, the Roma Party received approximately 100,000 votes, winning 180 councillor’s seats and ranking 18th of the 98 political parties and electoral alliances participating in the elections.¹⁸³ Three other Roma parties also won a number of seats, and a number of Roma have been elected to Parliament as members of non-ethnic political parties.

The government Strategy provides for the establishment of multiple implementation bodies, to include Roma representation, at both the national and local level. Members of the Framework Roma Convention – an association of Roma organisations – are to participate in a “Ministerial Commission for Roma” and a “Joint Committee” to oversee implementation. Elected Roma representatives are to participate in county level “joint work groups”, in order to “evaluate the main needs of the Roma communities and apply the supporting programs.”¹⁸⁴ None of these bodies will be composed only of Roma representatives, and there is no indication given of veto powers or proportions of representation. In order for these positions to be effective, it will be crucial to ensure that their specific competencies and responsibilities are clearly outlined and that both the public officials and population with whom they will work are duly informed.

Citizenship, Statelessness and Lack of Identification Documents

Lack of documentation is one of the most serious problems affecting the ability of the Roma community to participate effectively in public life. Identification documents – whether birth certificates, identification cards or civil marriage certificates – are a prerequisite for access to most public goods and services, including education, welfare benefits, health services, public housing, and property rights.

According to recent studies, approximately five percent of Roma in Romania lack birth certificates and four percent of those over 14 do not have identity cards. The lack of birth certificates, identity cards, and civil marriage certificates among Roma has been described as a “mass phenomenon”.¹⁸⁵ Domestic and international organisations have expressed concern about the increasing number of unregistered Roma children, who lack any form of identification.

¹⁸³ *Asul de trefla*, No. 85/2000, “Clear Victory of ‘Partida Romilor’ in the 2000 local elections.”

¹⁸⁴ 2001 Strategy Section VIII, Nos. 5, 6, 9.

¹⁸⁵ V. Burtea, “Identity documents and citizenship in the Roma communities,” *Diagnosis of Community Problems, Case Studies*, Ed. Expert, 2000, p. 412.

It is estimated that many hundreds of Roma may be *de facto* stateless in Romania after having given up their Romanian passports in hopes of being granted asylum in Western countries.¹⁸⁶ Stateless Roma repatriated to Romania from Germany and other Western countries lack identification documents.

The 2001 Strategy sets an end-of-year deadline for preparation of a government proposal outlining measures aimed at solving the stateless status of Roma in Romania. It also calls for Roma NGOs and the Ministry of Interior jointly to develop by 15 November 2001 a draft plan for issuing identity documents to Roma on the part of local councils.¹⁸⁷

¹⁸⁶ Information from Office of the Ombudsman, Bucharest, May 2001.

¹⁸⁷ 2001 Strategy, Section VIII, Plan of General Measures, Justice and Public Order; Social Security.

IV. Institutions for Minority Protection

A. Official Bodies

There are as yet no official bodies in place specifically to enforce anti-discrimination measures in Romania. The Ombudsman has no mandate to prosecute cases of racial discrimination, and has been unable to convince prosecutors to do so. Advisory bodies for the implementation of government policy with regard to Roma exist, but their effectiveness has been doubtful. The Department for the Protection of National Minorities (DPNM) was downgraded in size and status by the new administration in late 2000. Other planned bodies designed specifically to enforce legal norms and implement government programmes have not been created, a fact which raises questions about the government's commitment to improving the situation for Roma.

1. *National Council for the Prevention of Discrimination*

Following on the adoption of Ordinance No. 137/2000 on the Prevention and Punishment of All Forms of Discrimination (see above), a "National Council for the Prevention of Discrimination" (CNCD) was to be established by governmental decision no later than 24 May 2001.¹⁸⁸ As of August 2001, the government had not taken any steps toward the creation of this body. The CNCD will be responsible for monitoring and implementing the Ordinance, receiving complaints of infringements of anti-discrimination provisions, and imposing fines.¹⁸⁹

As noted by the European Commission, "implementation of [Ordinance 137] will require substantial effort and continuous attention."¹⁹⁰ Romani staff in other governmental agencies expect to be consulted on the development of the CNCD's implementing legislation.¹⁹¹ However, concerns persist about the involvement of Roma and other NGO representatives in the CNCD's development and about the institution's eventual operational independence.

¹⁸⁸ 2001 Strategy, Section VIII. The decision is to be taken by the Ministry of Public Information.

¹⁸⁹ Ordinance 137/2000, Art. 20(3).

¹⁹⁰ *2000 Regular Report*, p. 62

¹⁹¹ Information from M. I., expert, Office for Roma, Inter-Ethnic Department, Ministry of Public Information, 1 May 2001.

The Ordinance provides that the CNCD should be established as a “specialized body of central public administration subordinated to the government.”¹⁹² It will be important to take a number of measures to ensure that the CNCD can nonetheless act effectively and independently to establish and sanction discrimination, even where government institutions or employees are implicated. Among other things, the implementing legislation should establish clear and transparent procedures regulating access to the CNCD, ensuring fairness and impartiality in the review of complaints, and establishing the legality of decisions; set clear criteria for the selection of CNCD members; and guarantee adequate funding to hire competent staff, investigate complaints thoroughly, and publicise and enforce findings. Additionally, legislation should authorise timely judicial review of CNCD decisions, and develop a mechanism for providing independent legal assistance free of charge to victims of discrimination in pursuing their complaints in courts, both directly and upon review of CNCD decisions. Finally, the CNCD should be given the competence to conduct independent surveys, publish independent reports and make recommendations on issues related to discrimination.¹⁹³

2. *Ombudsman*

The institution of the Ombudsman (“Avocatul poporului”) was established in March 1997 with the mandate of defending the rights and freedoms of citizens against unlawful or abusive interference by public authorities. The Ombudsman exercises his powers *ex officio* or upon direct application. The Office has four departments and a staff of 40 persons. The department of the Ombudsman’s office originally designed to deal specifically with minority-related issues (the “Department for Minorities, Cults and Media”) was dissolved by a decision of the Ombudsman on 19 August 1999, reportedly due to a paucity of relevant complaints.¹⁹⁴ At present, minority issues are the responsibility of the “Department for Public Order, Military and Special Bodies, Penitentiaries, Minorities, Religious Cults, Foreigners, Consumers and Tax-payers.”

Two factors hinder the Ombudsman’s functioning with regard to protecting the Roma. One is a lack of information among Roma, national minorities in general, and indeed the general public, about the existence and competence of the Office. The annual 2000 report acknowledges that national minorities are not informed about the existence and powers of the Ombudsman.¹⁹⁵ Between January and September 2000 the Ombudsman

¹⁹² Ordinance 137/2000, Art. 23(1).

¹⁹³ Further criteria for the independence of bodies such as the Council are given in the EU Race Directive and in ECRI general policy recommendation No. 2, CRI (97) 36 of 13 June 1997.

¹⁹⁴ Ombudsman 2000, p. 10.

¹⁹⁵ Ombudsman 2000, pp. 16–17.

received 4,321 complaints, over 90 percent of which related to matters that did not fall under the Office's jurisdiction.¹⁹⁶ Of 157 complaints from Roma in 2000, only ten were judged to concern the department dealing with national minority issues – the rest were referred to other departments.¹⁹⁷

Second is the lack of an effective mechanism for treating claims of discrimination. As noted above, the Ombudsman claims that, prior to the adoption of comprehensive anti-discrimination legislation, prosecutors refused to prosecute cases recommended by the Office.¹⁹⁸ The Ombudsman is authorised to make recommendations to the relevant authorities, concerning measures for redress and compensation of persons whose rights have been violated, but cannot oblige them to act.¹⁹⁹

Reports of the Ombudsman for 1998 and 1999 mentioned nine complaints in each year from Romani individuals.²⁰⁰ The Report for 2000 lists ten complaints related to minority issues, seven lodged by Roma: three concerned denial of access to public places, (such as restaurants and pubs) and four claimed ill-treatment by local public officials.²⁰¹ The allegations are still under investigation by the Ombudsman's office. No measures have been taken so far.

Many complaints filed by Roma were referred to other departments of the Ombudsman's office for further investigation. These concerned, *inter alia*, abusive and/or discriminatory practices in the distribution of social assistance.²⁰² The 2000 Report also describes cases involving illegal police raids, acknowledging the lack of effective remedies in some cases.²⁰³ New allegations of police mistreatment against Roma victims, and organised activities against Roma by the railway police in Brasov, as noted above, were brought to the Office in 2001.²⁰⁴

¹⁹⁶ Ombudsman 2000, p. 17. The total number of complaints registered with the Ombudsman's office rose from 1,168 in 1997 to 4,379 in 1999.

¹⁹⁷ Ombudsman 2000, pp. 23–24.

¹⁹⁸ Information from the Office of the Ombudsman, Bucharest, June 2001.

¹⁹⁹ Law 35/1997 on the Ombudsman Institution.

²⁰⁰ Ombudsman 2000, p. 17.

²⁰¹ Information from the Office of the Ombudsman, Bucharest, 29 October 2000.

²⁰² 101 of these complaints are from Valcele, Brasov and 56 from Segarcea, Dolj. Ombudsman 2000, pp. 23–24.

²⁰³ These cases are described respectively in File 158/1999; File 5/1998; File 155/1999; File 580/1999; File 236/1999; Files 1086 and 1088/1999.

²⁰⁴ At least nine complaints were filed in February 2001 against railway police in Brasov County. For more see Section III.B. OSI Roundtable, Bucharest, 27 March 2001.

There is as yet no official mechanism envisaged for cooperation between the Ombudsman and the future National Council Against Discrimination.

3. *Department for Inter-ethnic Relations* (Formerly the Department for the Protection of National Minorities)

From 1997–2000, the principal official body with responsibility for minority issues was the Department for the Protection of National Minorities (hereafter, “DPNM”). Its mandate was to formulate Government policy on ethnic minorities; to draft laws; and to supervise implementation of legal provisions and public policies aimed at protecting national minorities.²⁰⁵ It was headed by a cabinet minister, who reported directly to the Prime Minister.

Between 1998 and 2000, a “National Office for Roma” within the DPNM was responsible for the development and implementation of a national strategy for the protection of Roma with a Phare budget of € two million (see below). Communications between the DPNM and the various government ministries were maintained through an “Inter-Ministerial Committee on National Minorities” starting in 1998.²⁰⁶ Among the tasks of the Committee was to ensure coordinated government support for the development and implementation of the strategy for the protection of Roma.²⁰⁷ However, the Inter-ministerial Committee met on an irregular, *ad hoc* basis and thus communications between the DPNM and the ministries were also *ad hoc*.²⁰⁸

One of the first decisions of the present government was to transform the DPNM into a new “Department for Inter-ethnic Relations” (hereafter “the Department”) within the Ministry of Public Information. The move involved a downgrading of status: whereas the DPNM was led by a Minister, who reported directly to the Prime Minister, the

²⁰⁵ The DPNM was led by a member of UDMR, the party representing the Hungarian minority in Romania. The DPNM also oversaw the distribution of government funding (13.7 billion Lei, c. € 1,907,360) in 1998 alone) among the organisations representing minorities. For a full description of the mandate of the DPNM, see Government Decree No. 17 of 31 January 1997, as amended by Government Decree No. 506 of 12 September 1997. The DPNM was complemented by the Council of National Minorities, a consultative body composed of representatives of each of the national minority groups which serves as a point of contact between the DPNM and minority NGOs. For a full description of the mandate of the Council, see Government Decree 17/1997, Article 10 as amended by the Government Decree 506/1997.

²⁰⁶ Decision of the Government no 458/1998 on the organisation and functioning of the Inter-Ministerial Committee for National Minorities”, Official Gazette 295, 11 August 1998.

²⁰⁷ Government Decision 458/1998.

²⁰⁸ Information from MEDE Consultant, Bucharest, 31 October 2000. One such meeting in September 2000 was mentioned.

head of the new Department is a secretary of state.²⁰⁹ The activities of the DPNM's "National Office for Roma", including development of a Phare-funded national strategy for the protection of Roma, have been taken over by the Office for Roma within the Department.²¹⁰ Although the Office for Roma is reportedly understaffed, the Minister of Public Information allegedly has no plans to expand it.²¹¹

The new Minister of Public Information has stated that the Department will assume DPNM's former activities, but that "the current executive is concerned with depoliticising interethnic relations...".²¹² Many NGOs are critical of the new developments, which they perceive as a signal of the diminished importance attached by the new government to minority issues.²¹³ One prominent Romani leader referred to the new Department as a "make-up solution", and a "step backward".²¹⁴ Another Romanian NGO evaluated the change in status as "a depreciation, a devaluation of the Department with practical outcomes, [which] sends a negative message."²¹⁵ The former DPNM Minister commented that "minorities are not only a matter of communication; they cover a broader area and consequently the Department of Minorities should not be included in the Ministry of Information. We are not only news, we are alive."²¹⁶

4. *Government Programmes*

The government "Strategy for Improving the Roma Situation" approved in April 2001 followed three years of debate, discussion and delay since 1998, when the National Office for Roma at the DPNM was first charged with developing such a strategy.

²⁰⁹ As of June 2001, the secretary of state for the Inter-Ethnic Department had not been appointed.

²¹⁰ Project PHARE RO 9803.01. The National Office was also "responsible for maintaining and establishing relations with organisations of Roma in order to resolve their specific problems and assist their social integration." Government Decree 17/1997 as amended by Government Decree 506/1997, Art. 8.

²¹¹ The Office for Roma comprises three experts, a sub-secretary of state for Roma and a secretary. The Minister's statement was reported by participants at a meeting with the Minister on 27 April 2001, who have requested anonymity.

²¹² V. Dancu, Minister of Public Information, *Divers*, No. 02/2001, 18 January 2001, Mediafax database, at <www.mediafaxdb.ro> (Romanian only) (accessed 24 July 2001).

²¹³ G. Andreescu, Romanian Helsinki Committee, *Divers*, No. 02/2001.

²¹⁴ N. Paun, Leader of the Party of Roma and Roma representative in the Romanian parliament, *Divers*, No. 02/2001. However, a representative of Aven Amentza, characterised the current arrangement as an improvement, arguing that the position of a sub-secretary of state for Roma had been created and that more Roma are working in the new Department. OSI Roundtable, Bucharest, 27 March 2001.

²¹⁵ *Divers*, No. 02/2001.

²¹⁶ P. Eckstein Kovacs, *Divers*, No. 02/2001.

As a short-term Accession Partnership priority, development of a Roma strategy was supported by a Phare budget of € two million; the Phare grant was also aimed at increasing public awareness of Roma issues.²¹⁷

Insufficient political will and inadequate inter-governmental coordination are widely blamed for the long period of relative inactivity.²¹⁸ In order to ensure structured participation and input from the Roma community, the DPNM signed a protocol of partnership with a working group of 16 Roma NGOs. An Inter-Ministerial Sub-Commission for Roma was established in 2000 to assist in identifying “field strategies” and coordinate their implementation as part of the national strategy. However a series of meetings in 2000 brought no progress in the adoption of a national strategy.²¹⁹

In February 2001, the Framework Convention of Roma (an association of five Roma NGOs who constitute the official partner of the Government in the implementation of the 2001 Strategy)²²⁰ submitted to the Prime Minister’s office a Recommendation of General Policy.²²¹ The 2001 government Strategy was drafted by the new Ministry of Public Information, on the basis of previous work by the DPNM, and finally approved by the Government on 25 April 2001.²²² Roma representatives were consulted in the drafting process, and many see it as a positive development.²²³

The Strategy’s plan of measures covers the next four years only, with a stated aim of implementation over ten years.²²⁴ The plan sets forth guidelines and establishes general policies in areas such as community development, housing, social security, health, child-

²¹⁷ Reference No. PHARE RO 9803.01.

²¹⁸ Information from MEDE Consultants, Bucharest, 31 October 2000; OSI Roundtable, Bucharest, 27 March 2001.

²¹⁹ Information from MEDE Consultants, Bucharest, 31 October 2000. The *2000 Regular Report* observed, “work on [the national] strategy has been delayed and preparations are still at an early stage. The newly appointed Inter-ministerial Sub-Committee for Roma has met during the reporting period but proved unable to produce any substantial results. [...] The Accession Partnership’s short-term priorities still need to be met (elaborating a national Roma strategy and providing adequate financial support to minority programmes.” *2000 Regular Report*, pp. 24–25.

²²⁰ The Framework Convention for Roma consists of Partida Romilor (a political party), Romani CRISS, Aven Amentza, Community Development Agency *Impreuna* and SATRA/ASTRA.

²²¹ Unpublished Recommendation, submitted to the Prime Minister’s Office on 8 February 2001.

²²² Governmental Ordinance of 25 April 2001.

²²³ Information from M. I., expert, Office for Roma, Inter-Ethnic Department, Ministry of Public Information, 1 May 2001.

²²⁴ 2001 Strategy, Section V.

care, employment, justice and public order, education, culture and communication.²²⁵ It further provides for the establishment of implementation and oversight mechanisms, in particular a “Ministerial Commission for Roma” and a “Joint Committee” for monitoring and implementing the Strategy, both to involve representatives of the Framework Roma Convention. A network of offices for Roma are to be established within county councils, and “councillors for Roma” are to be appointed upon request, to assist local councils. “Joint work groups”, which will include Roma representatives, are to contribute to the implementation of the Strategy at the county level.²²⁶

While ambitious, the Strategy has a number of drawbacks. First, the ongoing violence and harassment Roma experience at the hands of the police is barely touched upon. The programme calls for “sanctioning the policemen who commit discriminatory acts” as an ongoing task, without offering any further indication as to whether or how police behaviour is to be monitored, or military prosecutors encouraged to act. Firmer legislation to combat racially motivated violence is not envisaged.²²⁷ The Strategy calls for partnerships between police and Roma associations only “in order to prevent and fight against delinquency among the Roma.”²²⁸

Second, the Strategy is, on the whole, broadly worded; it calls for proposals identifying problems and solutions rather than the immediate adoption of concrete steps. While this may encourage a participatory approach, it renders monitoring of implementation difficult. Third, the Strategy does not provide any cost estimates, and it is not clear how the activities foreseen for year 2001 will be funded, as the 2001 government budget does not make provision for such expenses.

Several observers have pointed out that the Roma population faces both discrimination and the debilitating effects of poverty, and have recommended that the government and the European Commission together should develop a comprehensive policy towards Roma, giving equal emphasis to both.²²⁹

²²⁵ 2001 Strategy, Sections VI, VIII.

²²⁶ 2001 Strategy, Section VIII.

²²⁷ 2001 Strategy, Section VIII, No. 65.

²²⁸ 2001 Strategy, Section VIII, No. 77.

²²⁹ OSI Roundtable, Bucharest, 27 March 2001.

B. Civil Society

Roma NGOs often lack essential resources for sustainability. Competition for limited government and international funding is intense. Nevertheless, a number of the approximately 150 NGOs in Romania promoting the rights and interests of Roma²³⁰ have formed loose alliances in the interest of influencing government policy with regard to Roma. Some have also initiated activities targeting the majority population and state officials.²³¹ Several have sought to provide legal aid to Roma victims of discrimination and violence, although these activities are still at an early stage of development. Other Romani organisations address social issues, seeking the empowerment of Roma communities.²³²

Roma NGOs have also sought to coordinate their positions on issues of common interest. At the beginning of 1999, at their initiative, representatives of 80 Roma NGOs nominated a fifteen-person Roma Working Group to represent them in working with the National Office for Roma to develop a Phare-sponsored national strategy for Roma.²³³ Roma NGOs have participated in campaigns for adoption of the Law on Public Advertising and Ordinance 137, and have joined forces to protest racist statements in the press, and to support the adoption of positive legal measures to ensure equal treatment for Roma.²³⁴

Between 1997 and 2000, the European Union funded 12 projects dedicated to improving the situation for Roma through the “Phare Democracy” and “LIEN” programmes.²³⁵

²³⁰ A list of Roma NGOs, compiled by the Resource Center for Roma Communities can be found at <<http://www.romacenter.ro>> (accessed 25 July 2001).

²³¹ Some of the activities sponsored by Roma NGOs include: improving the living standards in Roma communities, providing training, information and support to young Roma in order to prevent them from dropping out of school, improving medical and social assistance in Roma communities, training young Roma leaders and activists, improving communication among different ethnic groups in mixed communities, training of police officers, and leading information campaigns.

²³² “Terms of Reference of Phare project RO98.03.01 for improvement the situation of Roma in Romania”, *Aven Amentza*, Nos. 12–13, 2000.

²³³ The meetings – held in Mangalia and Sibiu – were supported and attended by representatives of the DPNM, the EU and the Project on Ethnic Relations. *Aven Amentza*, Nos. 12–13, 2000.

²³⁴ *Aven Amendza* Nos. 12–13, August–September 2000.

²³⁵ The LIEN programme provided funding for the following projects: to reduce discrimination against Roma through vocational education (LIEN 910/98); to ensure pre-school integration of Roma children in Tecuci (LIEN 706/98); to provide training for Roma in Magura (LIEN 604/98); to hold information sessions for the Roma community on family planning and health education (LIEN 601/98); to train 20 Roma group leaders and to offer social assistance to 60 Roma families (LIEN 522/98); capacity-building and conflict-resolution training for community organisations (LIEN 512/98); to provide literacy training and educational support for 50 Roma children and their families (LIEN 509/98); set up an Educational

Notwithstanding the importance of this support, a number of concerns have been raised. Some Roma NGOs have claimed that EU funds did not reach their targets. Others have said that the scope and application criteria of Phare programmes take little account of the real capacity of local NGOs to undertake projects.²³⁶ Still others have suggested that only a small proportion of overall funding is set aside for projects to tackle discrimination in public life.²³⁷ EU-sponsored training and educational programmes for Roma²³⁸ have also been criticised, due to the lack of professional and training experience and administrative capacity among the local NGOs who received grants.²³⁹

Despite these setbacks, the active involvement of NGOs and civil society in pressing for change in minority policy associated with accession remains crucial. Without wider public support and participation, government programmes to improve the situation for Roma can easily be misrepresented – Roma risk being scapegoated as obstacles to EU accession, and the programmes themselves lack the support from both Roma and non-Roma that is essential to their success.

Centre for illiterate Roma and to raise public awareness (LIEN 505/98); to provide training and information for women with limited access to medical and social assistance and jobs (LIEN 421/97); to improve interpersonal communications among Romanian, Roma and Ceangai children and to prevent school drop-out (LIEN 414/97); to improve the quality of life for the Roma community, create a model for the National Programme of Family Planning, train Roma consultants, publish informative materials, and facilitate access of Roma to medical services (LIEN 409/97); to train health care facilitators, improve medical and social assistance especially for women and children in Roma communities, and to facilitate relations between the Roma community and the authorities at the local level (LIEN 408/97). Information from the Delegation of the European Commission in Romania, Bucharest, 20 September 2000.

²³⁶ OSI Roundtable, Bucharest, 27 March 2001.

²³⁷ OSI Roundtable, Bucharest, 27 March 2001.

²³⁸ PDP 508/98, "Young People – The New Romanian Political Leaders, Foundation Sine Qua Non"; PDP 507/98, "Training Programme for Roma Community Leaders, Foundation Sindy Humanitas"; PDP 415/97, "Roma – Documentary about Ourselves, Foundation Video Pontes"; PDP 404/97, "Roma Between Prejudice and Ignorance", Pro-Europe League; and PDP 326/97, "Civic and Human Rights Education for Roma in Timisoara, Intercultural Center Timisoara".

²³⁹ OSI Roundtable, Bucharest, 27 March 2001.

V. Recommendations to the Government

In addition to the recommendations elaborated in the Overview Report, the following measures would contribute to enhanced minority protection in Romania:

1. Identify specific programmes and activities to realise the objectives set forth in the “Strategy for Improving the Roma Situation”, and ensure that Roma NGOs are integrally involved in programme implementation.
2. Establish envisaged institutions for overseeing implementation of the Strategy, ensuring that these institutions are vested with sufficient authority to exercise their functions efficiently.
3. Make clear and sufficient budgetary allocations for the implementation of programmes elaborated under the Strategy, and require regular and transparent reporting on expenditures.
4. Adopt mechanisms to ensure structured participation from civil society organisations in the further elaboration, implementation and evaluation of the Strategy.
5. Enact without delay Ordinance 137 (prohibiting discrimination), once it is amended to ensure full compliance with the EU Race Equality Directive.
6. Establish the Council for the Prevention of Discrimination and provide sufficient logistical and financial support to ensure its effective operation.
7. Undertake immediate efforts to improve levels of school attendance among Romani children, and to ensure that Romani children are not placed in segregated schools or classes.
8. Take immediate steps to ensure that Roma are provided with the documentation necessary to obtain equal access to public goods and services such as education, welfare, health services, and public housing.

