

# **Romania - Submission to the UN Universal Periodic Review**

15<sup>th</sup> session of the UPR - Human Rights Council

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## INTRODUCTION

Under the universal periodic review, the submitting organizations have used primarily information collected by Romani CRISS, during 2008 until present, since Romania was most recently evaluated under the UPR. Romani CRISS, as well as human rights local monitors' organizations, are documenting cases in the field cases of violation of human rights of the Roma communities' members. The current submission will focus on the following areas: **right to human dignity; right to life; right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, right not to be discriminated against; freedom of movement and right to leave any country; right to a standard of living adequate for the health and well-being – with a particular focus on housing and medical care; right to education.**

The submission will also look at developments since the previous review, particularly normative and institutional framework, for the promotion and protection of human rights.

### 1. DEVELOPMENTS SINCE THE MAY 2008 SESSION

#### Content of recommendation no 6

*To continue to respect and promote the human rights of vulnerable groups, including the Roma communities and to continue to take further action to ensure equal enjoyment of human rights by Roma people, as well as to take further appropriate and effective measures to eliminate discrimination against Roma and ensures in particular their access to education, housing, healthcare and employment without discrimination, and gives a follow up to the recommendations of the United Nations human rights bodies in this regard.*

The Romanian Government has reported on the implementation of this recommendation, among others, as follows:

1. *“The Romanian Police, Border Police and Romanian Gendarmerie continued their efforts in order to enlist national minorities, in particular Roma, to entrance exams organized by police and gendarmerie schools”*

In spite of this example of best practice, the conduct of law enforcement officials in the Roma communities still comes in violation with international human rights standards. During 2008-2012, Romani CRISS has documented 37 cases of misconduct of law enforcement officials in the Roma communities: excessive use of firearms, violence and abuse against Roma. For further information, please see cases described under “Right to life” and “Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment” sections.

2. *“The Government maintained the institution of the Roma Health Mediators, who facilitate the communication between members of the Roma community and the health personnel and also their access to health care services”*

As a result of the decentralization of the services of public health, the number of Roma health mediators decreased from around 600 to about 250. Romani CRISS received about 100 complaints

from health mediators confronting themselves with issues caused by this process and assisted 35 of them, in cases such abusive dismissals, even based on ethnic grounds. Mayors refused to contract the health mediators, in some localities, although there were no implications of the local budget as the Ministry of Health was financially supporting the salaries ever since the decentralization started. Romani CRISS also disseminated this information amongst the Mayoralties. Communication with the Mayoralties was initiated, in order to solve the health mediators' issue. Therefore, although it has been representing a best practice in terms of public policies for Roma in Romania, the health mediation system confronts itself with serious issues, caused primarily by the decentralization process.

### 3. *The Social Housing for the Roma Communities program*

The pilot program was approved in 2008. As the Romanian Government reported, by 2010 a number of 301 apartments were expected to be constructed. Firstly, there is no public information provided by the Ministry of Regional Development and Tourism or by the National Agency for Roma with regard to the status of implementation of this program. According to the Government's Decision which approves this pilot program, the communities were to be selected based on recommendations made by the National Agency for Roma and local authorities. As a result, the civil society – NGOs working in the Roma communities, were excluded from consultation regarding the communities to be included in the program. There was no transparency on the process of selection of the communities. In the past almost 4 years, the only progress made (according to the scar available information) was that the locations were established. There is no information whether there will be assured proper infrastructure for these housing establishments and access to public utilities, or whether there will be taken measures to prevent potential residential segregation.

### 4. *“In case of evictions [...] the Government seeks the appropriate solutions to provide adequate housing alternatives available within the existing financial constraints.*

Forced evictions, put into practice by the local authorities without respecting legal procedures, have continued in the past 4 years. Romani CRISS has continued to document such cases. International organizations criticize the failure of the Romanian state to provide legal protection of the right to housing: “Although some Roma people live in permanent structures with legal tenancy, the authorities consider many longstanding Romani dwellings as “informal” or illegal, and their inhabitants do not have any documentary proof of tenancy, which makes them more vulnerable to evictions. Currently, Romanian law does not protect these people from forced evictions, even though these are illegal according to international standards binding Romania.”<sup>1</sup>

For further details, please see the section on “Right to a standard of living adequate for the health and well-being (with particular focus on housing and medical care).”

## **Content of recommendation no 10**

*To continue its efforts in combating discrimination and to take additional measures to fight discrimination against minorities, including the Roma population, as well as homosexuals and persons living with HIV/AIDS, and to continue the adoption of measures, including awareness raising programs, against negative prejudices and discrimination against people living with HIV and sexual minorities.*

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<sup>1</sup> <http://www.amnesty.org/en/library/asset/EUR39/004/2011/en/5f9becde-66e9-4262-bb3a-ff1c3681046d/eur390042011en.pdf>

The Romanian Government has reported on the implementation of this recommendation, among others, as follows:

*The 2007-2013 National Strategy for Implementing Measures on Preventing and Combating Discrimination, which is still under implementation, focuses on categories most exposed to discrimination such as Roma, persons with disabilities and people living with HIV/AIDS.*

The body responsible of the implementation of the National Strategy for Implementing Measures on Preventing and Combating Discrimination.

Although the Strategy included a provision regarding the functioning of a mechanism of consultation with key actors in combating discrimination, until present, no action was carried out to this end.

Further, there are many observations with regard to the actual functioning of this body need to be stressed. Although it was the sole institution committing to actively combat discrimination, including against Roma people, few remarks need to be marked down.

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

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

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

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

The quality of the expected expertise the NCCD's Steering Board decreased and the activity of the whole institution have started to be influenced by different political parties due to the nomination procedure of the members of the Steering Board.

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

A recent study conducted by Romani CRISS indicates the National Council for Combating Discrimination is not known very well among Roma people<sup>2</sup>. The Roma respondents who heard about the activity of the National Council for Combating Discrimination claim very low level of trust in this institution.

As a result of the low level of anti-discrimination expertise, lately, the decisions of the National Council for Combating Discrimination are not motivated – legislation and jurisprudence is strictly enumerated on several pages, but there is no actual motivation of the solutions of this body. The interpretation of the law is frequently retrograde: for example, the territorial competence was interpreted in a manner characteristic to the doctrine before World War II. Further, the National Council for Combating Discrimination has recently stated, in a decision, the anti-discrimination law doesn't apply to legal entities, which is clearly against the provisions of EC Directive 2000/43.

### **Content of recommendation no 11**

*To continue to work on improving the situation of children's rights, in particular Roma children's right in the areas of health care and education and to work on the negative attitudes and prejudices by the general public, in political discourse and media presentations, on police brutality and discrimination and to raise awareness of the need to improve the overall situation of human rights; and to guarantee better the rights of the child, especially the rights to civil registry, education, health and protection against violence.*

In the field of access to education of Roma children, programs were implemented both by the Romanian Government and by the civil society, through structural funds. Besides their positive outcomes, these programs had their own shortcomings, starting with inefficiency in combating school segregation and continuing with the state assuring an extremely precarious management of the structural funds and limiting the positive outcomes of the programs implemented by the civil society. For further information on access to education of Roma children, please see the section on "Right to education".

We are particularly worried about the fact that the Romanian Government has failed to address the very important issues specifically raised within this recommendation, such as prejudices in political

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<http://www.romanicriss.org/PDF/Stereotipuri,%20prejudecati%20%20perspectiva%20romilor%20cercetare%202011.pdf>

discourse and media presentation, or police brutality. The prejudices and stereotypes among the general population remain an issue. Further, the anti-Roma speech continued to be promoted by politicians. Romani CRISS has documented such situations – for further details, see the section on “Right to dignity”.

## **2. RIGHT TO DIGNITY**

Romani CRISS has documented 16 cases of violation of human dignity of Romanian citizens of Roma ethnicity since 2008, through publication of offensive and discriminatory press articles, or discriminatory speeches of public figures (mostly politicians).

### **Cases documented by Romani CRISS**

#### **1. Teodor Baconschi, Ministry of Foreign Affairs racist declaration**

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

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

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

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

The NCCD has stated the act was discriminatory, but hasn’t applied any of the legal sanctions: fine or warning – it has made a *recommendation*, which is clearly not a sanction under the national legislation, or under the EU Race Directive 2000/43. Therefore, the decision was appealed in front of the Court of Appeal.

## **2. President Traian Basescu racist statement, 2010**

Traian Basescu was in Slovenia, when he officialy declared the following: *„we have a problem which needs to be told and which makes difficult the integration of the nomadic Roma – very few want to work. Many of them, traditionally, live from what they steal. If we won't honestly recognize the problem which the ethnicity itself has, and the problems we have in knowing the ethnicity, we won't identify the solution to the problem. I was a mayor and I offered jobs to Roma who were settled at the outskirts of Bucharest. They didn't like it and they left to another place. Of course, these were jobs suitable for their background – salubrity.*

A complaint was sent to the National Council for Combating Discrimination, which has decided it exceeded its teritorial competence. In a similar case, where a declaration of a public figure was made in France, the NCCD has sanctioned the defendant.

The NCCD decision was appealed in front of Bucharest Court of Appeal. The appeal was approved by the court and the NCCD has to start a new investigation and pronounce another decision.

## **3. RIGHT TO LIFE**

### **1. Agrişteu police abuse**

A young Roma man passed away in the context of a police intervention in Agrişteu, Mures county on 10 June 2012.

At around 7:00 PM on the day in question, following an intervention of police and gendarmerie enforcement officials, two Roma man were shot; one fatally. According to Romani CRISS interviews with the victim's relatives and members of local community, an altercation occurred among two minors, one Roma and one Hungarian. The father of the Hungarian child admonished the Romani child, and several members of the community gathered around, including the mother of the Romani child. Shortly afterwards, two police officers from the locality came to the location. An older brother of the Romani child tried to pull him out of the courtyard of a house but he was moved on, and the police officers used tear-gas spray against him.

Shortly afterwards, the police accompanied by members of the gendarmerie went to the Roma community, looking for the Romani child's brother. The police officers exclaimed: "This is him, get him!", indicating towards a Roma family who wasn't connected at all with the conflict described above. L.F. was in front of the house together with another individual. At the sight of the gendarmes approaching, his brother L,D, immediately shut the gates of the courtyard. The gendarmes forced entry through the gates, entered the courtyard and hit the family members, the father and his five sons. The family responded and L. D. was subsequently shot in the leg, above the knee, as well as in the back. According to testimonies several shots were fired, creating a chaotic situation. Seeing his brother shot, L.N.fought back, took an object and hit one of the gendarmes. As he turned and tried to run he was shot in the back, between the shoulder blade and the armpit. The bullet entered the area of his heart.

Special force police (DIAS) were also present. According to testimonies, after the use of the firearms, all the family members as well as the other individual present in the courtyard were beaten. L. N., 18 years old, died.

The actions of the law enforcement authorities violate national and international legislation, International Covenant on Civil and Political Rights<sup>3</sup>.

## **2. Plumbuita police abuse**

On May 31 2012, between 16:00 and 17:00 hours, a 24-year-old Roma man was shot in his head by police officers whilst being pursued by police. The victim died. According to testimony from the victim's relatives and members of local community, several police teams from sections six and seven from Bucharest were trying to capture two suspects who had stolen construction materials. The pursuit took place in the Petricani-Tei area. The two men jumped into the Plumbuita Lake to evade capture. Ten policemen surrounded the lake. The pursuing policemen announced that they would shoot, after which they fired two shots in the air. A policeman then fired in the direction of the two men who were stationary, treading water. The victim R.D. located in water at about 10-15 metres from shore, was fatally shot in the head. The victim's body was recovered by divers after one hour of searching. The second suspect, who managed to swim approximately 30-40 metres across the lake, surrendered to police.

The actions of the law enforcement authorities violate national and international legislation, International Covenant on Civil and Political Rights<sup>4</sup>.

## **4. RIGHT NOT TO BE SUBJECTED TO TORTURE OR TO CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

### **1. Police abuse against Roma, Clejani-2008**

In Clejani, Giurgiu county, an incident involving a Roma family and the local police occurred.

A 16 year-old was having a relationship with a girl. After few months, she decided to move in with her boyfriend, in his family's home. The father of the girl complained to police that the girl was being retained against her will by the Roma family. The family went to the police, accompanied by the minor girl, where everyone, including the girl, declared the facts: that it was the girl's decision to live in the Roma family's home.

In spite of the facts mentioned above, after two days, around 1.00 p.m. representatives of special forces came into B. family's house. Mr. B.I. asked if they had a warrant, and their answer was, according to B.I.: "the warrant is the fist and the gun!" Afterwards, B.I. was hit in the face, while the representatives of the special forces were shooting around with rubber bullets and using pepper spray. B.I.'s 14 year-old son was shot in the buttock. The girl allegedly kidnapped was screaming, because she wanted to stay there, but the special forces' representatives grabbed her and took her away from there.

<sup>3</sup> International Covenant on Civil and Political Rights, Article 6.

<sup>4</sup> International Covenant on Civil and Political Rights, Article 6.

The case is currently pending in front of the European Court of Human Rights.

## **2. Police abuse against Roma, Acas – 2008**

On the 4th of July, 2008, F.Z. was listening to music in his yard, when four police representatives showed-up and asked him to accompany them to the police precinct. Because F.Z. didn't know the reason why he was being called to the police precinct, he refused to accompany the four police representatives. Afterwards, F.Z. was threatened by the police men that he would be shot. Meanwhile, a neighbor and his son came up and started beating up F.Z. Although the police representatives were right there, seeing what was happening, they didn't interfere.

F.Z. was taken to the hospital by his family, because he had lost his conscience. The doctor treated him badly and told him to wait outside for the ambulance. Instead of an ambulance, a police car came, handcuffed F.Z., beat him up and took him by car to the police precinct. His wife, his 51 year-old father-in-law and his 13 year-old daughter were beaten up and taken to the police precinct also.

At the police precinct, F.Z., his wife and daughter were all beaten up by police representative for about an hour. F.Z. obtained a medico-legal certificate, which recommends 40-50 days necessary for recovery, after the injuries suffered.

Moreover, his wife, F.S., overheard the doctor who consulted her after the police abuse, saying that she was pregnant and lost the baby, as a result of the physical injuries.

Furthermore, the brother of F.Z., F.I., was also taken to the police precinct. The police representatives claimed that some neighbors pressed charges against him. F.I. was beaten up by police representatives for about two hour, and threatened to confess that he was guilty. Because F.I. refused to confess something he claimed he hadn't done, he was released.

The case is currently pending in front of the European Court of Human Rights – in Romania no criminal investigation was started against the police representatives.

## **3. Police abuse against Roma, Racos – 2012**

According to the census conducted in 2002, Racos locality has 3178 inhabitants – 1822 are Hungarian ethnics, 693 Romanians and 659 Roma. According to the estimations of the Roma people, there are around 1000 Roma in the locality.

The relation of the Roma community with the mayor has been sensitive since many years ago. The mayor was arrested in the past for beating up Roma people. In 2011, a collective violence incident occurred. After a fight between a Roma family and the mayor's family, the non-Roma in the locality were incited to start violence against the entire Roma community.

Last year, the Mayor's Office from Racos has hired a private security firm – in the documentation arguing the necessity for hiring such firm, the Mayor's Office has stated clearly that such security

firm needs to deal with the Roma community, whose members commit crimes. Basically, the Racos Mayor's Office is paying, out of public funds, a private company to put into practice repressive measures against the members of a local community, and applies these measures based on the ethnic appurtenance of the citizens.

In April 2012, Romani CRISS has documented three cases of abuse against Roma in Racos, committed either by police representatives, either by employees of the private security firm, contracted by the Mayor's Office. Minors were also threatened and hit by the employees of the private security firm.

## **6. RIGHT TO A STANDARD OF LIVING ADEQUATE FOR THE HEALTH AND WELL-BEING (HOUSING; MEDICAL CARE)**

### **Access to adequate housing**

Access to adequate housing remains an issue for the Roma communities. Starting with 2008, Romani CRISS has documented 22 cases in this field.

It comprises various aspects: lack of property documents, lack of all public utilities (running water, sewerage system, street lights, salubrity services), indirect limitation of access to school or medical unit and needs both a legal and social approach.

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

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

A ministerial commission for Roma within the Ministry of Development and Housing was founded in 2006. Concepts such as environmental racism, residential segregation, were debated within the Ministry. Efforts were made to reactivate commission was reactivated in July 2010, in order to support the Ministry of Regional Development and Tourism to elaborate politics, programs and plans in the field of housing for disadvantaged groups (the Law on Housing). The efforts unfortunately failed, after a few meetings which took place. Further, the proposal for a new law on housing was not transparent at all. Currently, for the past years, it has been blocked, without any new information on the possible reactivation of the consultation, public debate or adoption.

### **CASES DOCUMENTED BY ROMANI CRISS**

#### **1. Arbore case- discrimination in the field of housing**

Romani CRISS has filed a complaint to the National Council for Combating Discrimination, against all persons living in Arbore locality, Suceava county, who signed the request which stopped the process of reconstructing the houses of the Roma cohabitants, houses destroyed after

the natural calamities, in the period July 24-27 2008. Furthermore, the complaint was lodged against the Local Council from the locality which, after the request signed by the “initiative group”, hasn’t changed the venue of the Roma and hasn’t continued the process of rebuilding the houses of the Roma.

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

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

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

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

## **2. Baia Mare Municipality – wall built separating Roma from the rest of the community; forced evictions**

In June 2011, the mayor of Baia Mare announced the municipality’s intention to build a wall to separate a building inhabited almost exclusively by Roma from the other rest of the community. Romani CRISS, jointly with Sanse Egale Association and Amnesty International, have publicly condemned this illegal intention. Further, on the September 23 2011, CRISS has sent a letter to the National Council for Combating Discrimination, claiming the discriminatory behavior of the Baia Mare municipality.

On April 20 2012, the Municipality of Baia Mare issued summons ensuring that “no person or family will be evicted, and no house will be demolished without their consent”. Also, to ensure, again, strictly from the legal perspective, that people at risk of eviction are offered alternative housing. The Municipality of Baia Mare specifies relocation options, but none adequate.

On June 1 2012, despite commitments made in writing by the Municipality, in Craica community were present representatives of Police and Baia Mare’s Municipality, including the Mayor Chereches Catalin, who put a direct pressure on Roma to convince them to voluntarily leave the community and to move into social housing offered within CUPROM building. According to some Roma people, they were threatened to be left on the roads, that their houses will be demolished and they will not have a place to live, if they do not accept what is offered. One of Roma people living in Craica showed the Municipality’s representatives the received summons, saying that “no person or family will be evicted, and no house will be demolished without their consent.”

On June 1 2012, a few tens of people who were moved from Craica into the Block no 2 within CUPROM, were intoxicated, after ingestion of substances found in homes that have been distributed, requiring hospitalization.

This critical incident, that involved many children, proves only the lack of interest regarding the rights of Roma persons. The lack of a minimum improvement of the space provided as a housing within CUPROM – block 2, is aggravated by the fact that in rooms where Roma were moved, there were left recipients with toxic content, which represents a breach of the provisions regarding chemical substances.

### **3. Cantonului forced eviction**

In March 2011, the National Railway Company has introduced an eviction action, without any warrant, against 500 Roma who live near the railway in Cluj Napoca, on Cantonului street. Romani CRISS has contracted a lawyer who represented the Roma. The court was rejected the action initiated started by the National Railway Company.

### **Access to health care services**

The right to health, without discrimination, is strongly connected with the right to life and acknowledged in a host of international human rights documents. Refusal to provide medical treatment to Roma, negligence of the medical staff towards the Roma patients, ethnic segregation in hospitals, and inappropriate/abusive recoding of Roma ethnicity in medical or identification documents not only violate rights of Roma individuals but also have a negative impact on the health status of the Roma population as a whole, and undermine their human dignity and self-esteem. Discrimination and denial of the right to health and adequate healthcare contravenes the legal obligations of the Romanian state assumed by signing and ratifying the international treaties. Romani CRISS has dealt with the right to health in more depth since 2007-2008. Starting with 2008, Romani CRISS has documented a number of 8 cases of unequal access to health care services of members of Roma community, due to their ethnic background.

While for other areas legislation is adopted – even if its implementation is weak – the Ministry of Health hasn't tackled the discrimination issue in depth.

## **7. RIGHT TO EDUCATION**

During school year 2007-2008, Romani CRISS has monitored the application of the desegregation Order, NO 1540/2007. The results indicated teachers didn't know about its existence; not even all interviewed school managers knew about it. Roma parents didn't know that school segregation was prohibited by law, either. Although the Order established no segregated classes were to be formed at the level of 1<sup>st</sup> and 5<sup>th</sup> grade, this continued to be the case.

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

Art. 14 of Annex no I of the 1540/2007 Order, mentions that a permanent working group should have been founded, which should have analyze the reports and elaborate methodologies and comprehensive programs to eradicate scholar segregation and its effects on a long term. This provision wasn't put into practice, and this is why Romani CRISS has proposed the already functional model of the Commission for Roma within the Ministry of Health, in order to found a commission within the Ministry of Education.

The commission would elaborate proposals for planning, organizing, coordinating and monitoring the implementation of the Ministry of Education's strategy in the field of improving the quality of education for Roma, as well as analyzing the discrimination situations in schools, scholar segregation cases, in order to assure the principle of non-discrimination is applied in the Romanian educational system.

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

In spite of the existent domestic legislation, the practice of segregation is still a urgent matter to address.

### **Ionita Asan School segregation**

In February, 2012, a complaint was lodged in front of the National Council for Combating Discrimination, as well as a civil action in front of Caracal court, against Ionita Asan school and the County School Inspectorate, with regard to the school segregation on ethnic and social category grounds, of the Roma children in 1<sup>st</sup> B grade, as well as with regard to the unequal access to quality education of the Roma children in 1<sup>st</sup> B grade, compared to the other children in 1<sup>st</sup> A step-by-step and 1<sup>st</sup> A traditional. The court rejected the action and the plaintiffs – Roma parents and Romani CRISS – have appealed the court decision. The case is still pending in front of the National Council for Combating Discrimination.

**Annex**  
**RECOMMENDATIONS**  
**Romania - Submission to the UN Universal Periodic Review**

15<sup>th</sup> session of the UPR - Human Rights Council

**Submitting organizations encourage the Human Rights Council to take into consideration the following recommendations to be put forward to the Romanian Government:**

Anti-discrimination:

1. Discrimination through association, complicity to discrimination to be introduced in the Romanian legislation.
2. To include an obligation for the authorities to promote equality and to prevent discrimination in developing their activities. One of the conditions for providing benefits or signing contracts (by authorities) should be respecting and promoting the principle of equal treatment
3. Establishing a intern regulation system of the press, regarding the discriminatory press articles
4. Reviewing the procedure of nomination of the Steering Board members of the National Council for Combating Discrimination
5. Reviewing the procedure of the National Council for Combating Discrimination of solving complaints in order to assure a reasonable timeframe
6. Adopting a mechanism for monitoring the implementation of the National Council for Combating Discrimination's decision
7. To extend the active legal standing in criminal matters for NGOs which work for protection of human rights or justify a legitimate interest

Conduct of the law enforcement officials:

1. The Ministry of Justice and the Ministry of Interior to establish an office responsible for prosecuting cases of police abuse. Independent prosecutors need to be responsible for this type of cases, taking into account the prosecutors' reluctance to start criminal investigation against law enforcement officials' representatives.
2. The Ministry of Interior to periodically collect data on police abuse and misconduct. The Group created within the Institute for Research and Preventing Crimes should be reactivated. There has been a clear regress in the activity of the Group and its focus was changed within the past years. There are no regular meetings of the Group, and the cases of police misconduct are no longer discussed and analyzed by the Group. Internal ruling should be adopted, which should establish responsibility for this particular data collection.
3. The methodology for intervention in the multiethnic communities to be revised. NGOs which document cases of law enforcement officials' abuse should be consulted on this

matter. Cultural specificities, as well as international standards for protecting human rights should be taken into account when revising the methodology.

4. The police training to be refined, as to insure the effective implementation of human rights standards (e.g. the use of the least force possible)
5. Ensuring the independence and accountability for the internal investigation mechanisms at level of Ministry of Interior and Reform in Administration, as well as in all institutions and authorities with competencies in watching the public order

#### Access to education:

1. Promoting ethno-educational inclusion and intercultural education in the education system at all levels;
2. Including in the initial and continuous training of the teachers mandatory disciplines such as intercultural education, promoting diversity in schools and in the society, preventing and combating discrimination.
3. To create the Commission within the Ministry of Education, which Order 1540 establishes
4. To include the minorities history, including Roma, in the common curricula

#### Access to health care services:

1. The Ministry of Health to adopt an Order to forbid different types of discrimination (example: segregation, the refuse to enroll patients on the beneficiaries' list).
2. The National Council for Combating Discrimination to adopt an instruction to prevent and combat any type of discrimination in access to health.
3. Reviewing the system of health mediation, in order to avoid the negative impact of the decentralization process
4. Clear administrative sanctioning mechanism at the level of the Ministry of Health to redress abuse and discrimination against Roma or other vulnerable groups
5. To insure that the cost of the financial and economic crisis are not disproportionately paid for by vulnerable groups, including through limitation of access to health care, that are inconsistent with the respect of fundamental human rights

#### Access to housing:

1. Issuing legal forms for the Roma informal settlements, in order to avoid forced evictions, which are very often conducted without assuring alternative housing for the evicted Roma
2. Better argumentatively policies at the level of the Ministry of Housing that clearly defines and sanctions forced eviction, residential segregation, environmental racism
3. The Romanian Government to undertake all administrative steps to insure that the available funds for building and renovating housing for vulnerable groups will be used immediately