



Romani CRISS

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Roma Centre for Social Intervention and Studies is a Non- profit organisation established in 1993. The founding members of the organisation are Roma Ethnic Federation (FER), Research Centre of Roma/Gypsies from the Rene Descartes University, Paris and Institute of Sociology from Romanian Academy.

Our organisation combines civic militantism with the designing and the implementation of public policy programs for the benefit of local Roma community in order to respect Roma rights as human being and minority. On the EU/US Summit from London, 18th of May 1998, Romani CRISS was awarded the award for Democracy and Civil Society, from the European Union and the United States of America.

Romani CRISS has been granted ECOSOC special consultative status by the Committee on Non-Governmental Organizations, on the 2008 regular session.

Section 1- General Remarks

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

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

In the past few years, Romania has made significant progress in the field of protection of human rights, in general, and particularly of the right of non-discrimination. The most important aspect is the adoption of specific legislation on the protection of human rights, and particularly of the right to non-discrimination. Namely, the Romanian fundamental law has specific provisions on the equality of rights, on the priority of the international legislation and on the international treaties on human rights. In 2000 the 137 Government Ordinance was adopted on preventing and sanctioning all forms of discrimination, Ordinance which was amended along this period and republished in February 2007.

Moreover, an autonomous state authority was founded, the National Council for Combating Discrimination, which is responsible to apply the Romanian legal provisions on discriminations.

Despite the existing legal framework, there hasn't been much progress concerning the public institutions representatives' attitude towards the minority of Roma. The European Commission against Racism and Intolerance Third Report on Romania, issued in 2006, notes that "some members of the Roma minority continue to live in insalubrious housing, often as a result of discriminatory measures by local authorities." Furthermore, serious cases of law enforcement officials' abuse against Roma occurred between 2005-2007, abuses often regarded as legal by the state authorities.

Section 2- Human rights situation

2.1. Administration of justice

Discrimination against members of the Roma community is still present in the Romanian judicial system. Some courts show anti-Roma prejudice and stereotypes. Thus, the Court of appeal retains that the sum of 2.000.000 lei (about 55 euros), and not the claimed 8.000.000 lei (about 220 euros), does suffice for *"covering the prejudice the respondent's behavior, and under no circumstances the certainly condemnable attitude of the respondent* may constitute a source of enrichment for the plaintiff. Furthermore, in 2005, the High Court of Cassation and Justice retains the ethnic appurtenance of the accused in motivating some criminal actions.

It is a fact that the victims of discrimination, the judges, prosecutors and lawyers are little aware of the anti-discrimination legislation. In 2007, Romani CRISS has identified two cases of discrimination against Roma in the field of administration of justice.

On the other hand, by the end of 2006, at Romani CRISS' proposal, the National Institute for Magistrates was instructed to include courses on non-discrimination legislation in the curricula for continuous training of the magistrates. A anti discrimination module on the initial period of training (stagiaire) was already existent.

2.2. Law enforcement officials' abuse

Between 2005-2007 Romani CRISS alone has documented 11 cases of law enforcement officials' abuse against Roma. This kind of actions of the law enforcement officials contribute to distrust from the side of the Roma towards police and justice in general. The victims involved in the cases in which Romani CRISS interfered hardly believe that there will be made justice for them.

In 5 cases out of 11, documented by Romani CRISS, some of the victims are minors under 18, and in some cases, even under 14. One of the most shocking intervention of the police occurred on the 8th of September 2006, in Apalina, Reghin, where 37 Roma were injured, among which 22 shot. The victims were also children, women and elder. Moreover, one person was shot from the back with 17 bullets. The police representatives, accompanied by members of the Police Department for Rapid Intervention, came into the Roma community the hand two citations.

In July 2007, in Ciurea Roma community, Iasi county, two girls, minor of age, were shot by police representatives, while an intervention for executing 10 warrants.

Most of the times, the representatives of the Ministry of Interior, of the General Police Inspectorate, when asked for an official position regarding this type of incidents, claim that the police uses firearms only to defend themselves from the violence of Roma. Identifying and documenting this type of cases, in this period of time, Romani CRISS has identified patterns of violence, discrimination and abuse, presented below.

a. The use of disproportionate/excessive force in Roma communities and use of firearms.

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

To this end, the ECRI Report – European Court against Racism and Intolerance shows their concern that *"during a raid on a Roma community by about 70 police officers and members of the special forces, two people, including a 13 year-old-minor, suffered gunshot wounds"*¹.

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

The Targu Carbonești case², regarding a young Roma who died on Police custody, is before the High Court of Cassation and Justice, in order to be established whether the felony of mistreatment and torture have been committed.

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

¹ The ECRI Third Report on Romania - 2006, para.105.

² On 5 April 2002, N.B. is arrested for the felony of theft and he is detained in the arrest of Police Tg. Carbonești, Gorj County until 15 May, while reclamations have been filed as the detainee was tortured. On 15 May he is transferred to the Penitentiary Tg. Carbonești and, on 4th of June he is urgently taken to the Penitentiary Hospital Jilava. Colonel Dan Marcusan, commandant of Jilava hospital, said: *"he was in a pretty severe state when he came and the treatment was performed in the Intensive Care Unit. The evolution was unfavorable and, the next day, at 10.20, he died despite all resuscitation maneuvers..."*

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

c. Mechanisms to ensure impunity for the perpetrators

In many situations, the illegalities are not investigated adequately and remained, in fact, unsanctioned, despite the fact that non-governmental organizations report and well document these cases³. In addition, the people involved (victims and/ or witnesses), experts (such as coroners) and human rights activities are being intimidated.

Therefore, a physician has admitted before the court of law that he had been threatened with death by a police officer in order to falsify the medical papers regarding the death of a person while in police custody⁴.

The mechanisms of ensuring impunity include, on one hand, exertion of pressure upon the people involved so they would not testify in court or they would not carry out all necessary actions and, on the other hand, the criminal investigation led to the decision of not prosecuting the cases. All cases litigated by Romani CRISS against law enforcement official, on grounds of unlawful conduct, resulting in bodily harm and even death, have been lost in front of the Romanian courts of justice. At present a couple of them are in front of the European Court of Human Rights. All these aspects are actually related to the administration of justice which is the essential element of the state of law, which is still missing to the Romanian society.

An important recommendation is to raise the level of the liability of the police commandment departments. The police operations must be planned and conducted taking into consideration the risks analysis. The use of firearms must be conditioned by procedural actions. Another important aspect is the intern investigation. ECRI recommends that the Romanian authorities set up an institution responsible for ensuring compliance with the principles of non-discrimination included in the Code of Professional Conduct for the police officers⁵. The internal system of investigation is still lacking independence and needs reformation.

2.3. Access to education

The right to education, as fundamental human right, is guaranteed by the law. Given the main objectives of the educational process – to provide information and resources in order to facilitate the subsequent access to the labor market, as well as to prepare the student for socialization and value internalization⁶ – the right to education is relevant in terms of: quality of education, segregation, affirmative actions and multicultural education.

In 2007, a Memorandum of cooperation between the Council of Europe, OSCE, the National Agency for Roma, National Council for Combating Discrimination and the working group of non-governmental organizations was signed. In this context, as a result of the lobby of these actors, an Order was adopted by the Ministry of Education, Culture and Youth, Order for preventing Roma children scholar segregation and for desegregation of the segregated schools.

The Order was adopted in July 2007. Therefore, the desegregation of the schools where Roma students are separated from the others should have been started in September 2007. Romani CRISS has started monitoring the implementation of the Order. Until now, few school managers were aware of the Order.

Unfortunately, the legal provisions regarding segregation are not enough for eradicating this phenomenon. In Bihor County a school principal tried to mix the segregated classes, in order to have a proportional number of Roma and non-Roma in each class. The parents of the non-Roma students protested against this measure, and finally moved their children in another school, because they didn't want their children to learn next to their Roma classmates.

In 2007, Romani CRISS has identified and documented 9 cases of segregation of the Roma students. The National Council for Combating Discrimination has made a decision for 3 cases, mentioned the schools are indeed segregated and that this act represents discrimination. Romani CRISS has lodged complaints into the court of law also. Though not a

³ ECRI Second Report on Romania - 2001, par. 46.

⁴ For details see the case report: N.B. vs. Tg. Carburnesti Police.

⁵ ECRI, Third Report on Romania, 2005, Par 107.

⁶ See *Iulius Rostas – Separated, but Equal? Roma within the Educational Systems in Central and Eastern Europe*.

state policy, in practice segregation does occur, leading to educational and social malfunctions, particularly in terms of unequal quality of education.

2.4. Housing rights

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

Romani CRISS has identified in this period (2005-2007) 10 cases of violation of the housing rights, committed by public authorities (forced evictions, environmental racism, and residential segregation). Besides the action of litigation, Romani CRISS has been part of the civil society actions of lobby in the field of housing. In 2007, a mixed working group for the improvement of the housing conditions' of the Roma was formed, through the Ministry's of the Development, Public Works and Housing Order.

Recommendations

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

2.5. Access to health services

The discrimination against Roma in the field of health is against the obligations which the Romanian state assumed by signing the international treaties. Guaranteeing the right to health without discrimination is a provision of many human rights international instruments.

Article 12 of the International Covenant on Economic Social and Cultural Rights is the most inclusive provision in the field of health.

Romani CRISS has trained over 500 health mediators among which 450 are working subordinated to the Ministry of Health. They work in the Roma communities, in order to create a bond between the Roma and the medical staff and

improve the communication between them. Some of the health mediators, as well as human rights local monitors, identified cases where medical staff refuse to treat Roma, on the ground of their ethnicity.

In 2007 Romani CRISS has identified 2 cases of discrimination in the field of health , one of mal praxis, where the victim resulted to be a two year old Roma boy, who passed-out, and one of segregation of Roma women in maternities.

2.6. Hate speech

„To the chambergaze and to the crematory with all of you, Gipsies and Homosexuals!“. This is a comment posted on a video from www.youtube.ro. This is only an example of the hundreds of such comments posted on internet forums. Romani CRISS and the Institute for Public Policies has issued a 2007 report on „Monitoring the discriminatory attitudes in Romanian internet space“.

The prejudices and the stereotypes against Roma, and even the racial hate are still frequent in Romania. Romani CRISS has identified 18 cases on affecting human dignity in the past 2 years. The public opinion is very much influenced by the media and by the public individuals from Romania. In what concerns media, both written press and television often portray Roma as delinquents. 2007 was an eventful year concerning public discriminatory speech against Roma. For instance, the president of Romania, Mr. Traian Basescu, called a journalist „pussy“, took the journalists' cell phone, which was recording, and said to his wife, in his car: „How aggressive that stinky gypsy was!“

The Prime Minister, Calin Popescu Tariceanu, declared that “The Ministry of Interior and Administrative Reform in Bucharest shall send a team of five police officers to help catch and repatriate the Roma who commit felonies at Rome“, while mentioning very clearly “These Roma commit all possible crimes from violent theft, prostitution to robbery and drug trafficking“. Furthermore, he stated that “the role of Romanian policemen is to teach their colleagues from Italy to deal with the psychology and modus operandi of Roma who commit crimes“.

Other two politicians were involved in similar events in 2007.

Freedom of expression seems to protect the perpetrators of hate speech. But freedom of expression must be exercised with responsibility and within the limits of the law. The International Covenant on Civil and Political Rights has provisions about the relation between freedom of expression and responsibility (Art 19, [2], [3]).