



Bucharest, August 17, 2016

Dear Commissioner,

Thank you for your letter of 23rd of June regarding the human rights of the Roma population; I am grateful for the opportunity to respond and clarify some of the aspects of concern raised in your letter.

#### *Anti-Roma public rhetoric*

I share your concern in respect to the anti-Roma public rhetoric, as an extremely concerning phenomenon throughout Europe. It is even more concerning when promoted by politicians and public opinion leaders.

The Romanian legislation on hate speech is fully compliant with European and International standards in the field. The legal text (*Article 369 of the Romanian Criminal Code Criminal:Inciting the public, using any means, to hatred or discrimination against a category of individuals shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.*) is inclusive; it refers to a criminal offence committed by any person, irrespective of his/her status/position etc.

Romanian politicians are increasingly active in taking public stances to condemn discriminatory behaviour towards Roma persons. A recent incident, involving vandal racist inscriptions during the celebration of the Roma day in Bucharest, was strongly condemned publicly by four ministers. They joined in a public gesture to erase the racist inscriptions by themselves, thus sending a clear message against any form of discrimination.

#### *Forced evictions of Roma*

The New Romanian Civil Procedure Code ("the Code") includes a special procedure in case of eviction, which takes into consideration, in a balanced manner, the need for appropriate procedural safeguards in order to ensure the respect of the fundamental right to a fair trial and the protection of the property right, as guaranteed by the Constitution of Romania. The special procedure of eviction is a jurisdictional procedure; the Code sets out that the tenants' eviction may be carried out only following a court decision.

A series of protective measures were also established to ensure social protection for the evicted persons, such as Housing Law no. 114/1996 (provisions for persons or families whose economic situation does not allow buying or renting a house on the market) or Government Decision no. 1237/2008 regarding social housing for the Roma community. The Ministry of Regional Development and Public Administration is currently considering amending the Housing Law no. 114/1996, to improve the criteria for access to social housing to respond better to the current needs.

**Nils Muižnieks Commissioner for Human Rights**  
**Council of Europe**

We continue to pay special attention to other impediments to the access of Roma persons to their right to housing. As mentioned in your letter, the lack of documents is a matter of concern, as it leads to limited access to social aid and the enjoyment of citizens' rights. The Government Strategy for the inclusion of persons belonging to the Roma minority provides for concrete measures in respect to the issue of identity and property documentation. In 2014-2015 only, The National Agency for Roma (ANR) has funded 30 projects across the country (with a total amount of 1 mil. EUR), aiming to provide persons of Roma ethnicity with identity documents and papers certifying property rights. As a result, over 4,500 persons benefited from ANR funding. Starting 2016, the projects were scaled up and taken over by the National Program for Cadastre and Land Registry and implemented by the National Agency for Cadastre and Land Registry. In 2015, ANR conducted 32 awareness raising campaigns on the importance of identity and property-related documents targeting Roma communities in 21 counties in Romania. 1,542 persons participated in the working sessions, while thousands have been informed through the online campaign. With the help of Prefectures' offices, ANR also carried out an exhaustive screening of all counties to identify the households of persons belonging to Roma minority to be included in the National Program for Cadastre. The screening revealed 137,000 household to be included in the Program between 2016 and 2020.

### *Segregated education of Roma children*

The Governmental strategy on the inclusion of Romanian citizens belonging to the Roma minority promotes inclusive education and aims at reducing the school segregation and the ethnic discrimination by establishing an identification and direct intervention system to eradicate school segregation cases. The responsible institutions are committed to implementation and monitoring including through appropriate budget allocation for the years 2014-2020.

Among the concrete measures to boost the inclusion process, I am pleased to mention the increase in the share of Roma pupils who receive support through the "School after school" or "Second chance" programmes, as well as continuing to provide facilities and allocate designated places for those who wish to attend high school, vocational training or higher education. Special programmes were created to facilitate the access to education and prevent school drop-out in addition to training programmes for teachers and parental counselling. We currently aim at placing school mediators in all of the 1,680 school units where the number of Roma pupils is over 15%. The respective schools will receive additional jobs. At least 500 trained mediators are expected to be placed during 2016.

In order to follow on the outcomes and indicators included in the Government Strategy, the document also provides for the establishment of a collecting and monitoring data system, which is meant to be implemented in all educational institutions with a 15% share of Roma pupils, by 2020.

In 2016, a new Department for Social Inclusion and Educational Partnerships was created within the Ministry of National Education and Scientific Research (MNESR). By Order of the Ministry of Education, a Ministerial Commission for Roma was established along with the Technical Working Group and the Bureau for Monitoring and Evaluation, all of which are responsible for implementing the Romanian Government's Strategy for the inclusion of Romanian citizens belonging to the Roma minority for 2014-2020.

### *Police violence affecting Roma*

Romania has already taken important steps to address outstanding issues in respect to police violence affecting Roma. The Committee of Ministers welcomed and validated measures in the context of the supervision of the execution of Barbu Anghelescu group of cases.

A police complaints mechanism was recently implemented within the Romanian judicial system. In October 2015, the Prosecutor's Office attached to the High Court of Cassation and Justice (POHCCJ) issued *the Strategy for increasing the effectiveness of investigations*

*conducted in cases of ill-treatment applied by State agents in connection with the exercise of their professional duties.* According to the Strategy, the POHCCJ reorganised the activity by appointing hierarchically superior prosecutor's offices for cases involving police violence. The prosecutor's offices attached to county courts and courts of appeal conduct the criminal investigation by themselves in the vast majority of cases. In addition, the appointment of specially designated prosecutors to deal with such cases within each prosecutor's office was formally regulated. Moreover, a prosecutor appointed by the heads of prosecutor's offices attached to the courts of appeal monitors the manner in which criminal investigations are carried out in such cases. The designated prosecutors inform the POHCCJ annually concerning these investigations. The monitoring entails the extent to which the ECHR's standards regarding the effectiveness of the investigation are being followed. Each prosecutor dealing with this type of cases forwards relevant specific information every three months.

I strongly believe that preventive work also has an important role. Therefore, it is important to mention that the Romanian Police organises training activities on human rights, fighting discrimination, victims' protection and assistance, and, more specifically, Romani language and culture.

In respect to data collection, as a member of the EU, Romania transposed in its legal system the EU *Directive 95/46/EC concerning the protection of individuals regarding processing of data with personal character and the free movement of such data*. Consequently, Law no. 677/2001 *for the protection of individuals regarding processing of data with personal character and free movement of such data* precisely regulates the interdiction to *processing of data with personal character related to racial or ethnical origin, political, religious, philosophical beliefs or convictions of a similar nature, of union membership*.

Notwithstanding, the legislation concerning protection of personal data establishes a legal framework on the modalities for processing special data categories in specific cases, in order to conduct criminal activities investigation, as a result of an offence. These provisions may apply in the hate crimes cases, respectively in the manner in which these data are collected and processed, as defined by the Law.

Starting October 2015, Romania can record statistical information on the application of the aggravating circumstance provided under *article 77 letter h)*<sup>1</sup> of the Criminal code at courts level.

#### *Execution of Valentin Câmpeanu judgment*

The Romanian Government have submitted a revised action plan, focusing on the substantial change in the living conditions at Poiana Mare Hospital and the measures adopted by the High Court of Cassation and Justice (POHCCJ) in order to increase the efficiency of the criminal investigations regarding crimes perpetrated against institutionalized individuals who are in a vulnerable situation.

The Prosecutor General has set up a framework in which all the decisions not to prosecute crimes perpetrated against institutionalized individuals who are mentally challenged and/or with mental health issues will be analysed both by the Prosecutor's Office's attached to the Court of Appeal and by the POHCCJ. The POHCCJ - Bureau for Guidance and Control undertook a nationwide supervision activity over 176 investigations regarding vulnerable individuals and has overturned the decision to discontinue criminal investigations in 3 cases. The Government have also noted the collaborative protocol concluded between the POHCCJ and the Centre for Legal Resources in view of assuring bilateral communication, consolidating

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<sup>1</sup> Art. 77 - Aggravating circumstances

(...) h) the offense was committed for reasons related to race, nationality ethnicity, language, religion, gender, sexual orientation, political opinion or allegiance, wealth, social origin, age, disability, chronic non-contagious disease or HIV/SIDA infection, or for other reasons of the same type, considered by the offender to cause the inferiority of an individual from other individuals.

the aspects of prevention and awareness, the enhancement of investigation techniques, continuous training, the assessment and promotion of adequate legislative solutions.

Furthermore, the Government noted amendments brought from 2012 to present to the mental health legal framework, on the procedure and protection safeguards accompanying a non-voluntary hospitalization; they also underlined that national preventive mechanisms have been put in place to monitor through visits and inquiries the respect of human rights for persons placed under the State's custody in different facilities where they may find themselves deprived of their liberty, including psychiatric hospitals, psychiatric wards in general hospitals or residential institutions accommodating persons with disabilities. These aspects are to be presented in detail in the supervising procedure before the Committee of Ministers in other cases concerning Romania.

The major deficiencies in the implementation of the legal framework in Mr. Câmpeanu's case stemmed out from the domestic authorities' ignorance of his vulnerability, given his disability and absence of a proper legal representation. Without ignoring that Roma population may find themselves in vulnerable situations also, it is the Government's opinion that in the case at hand, the applicant's ethnicity had no bearing on the national authorities' decisions or on the Court's findings.

Please accept, dear Commissioner, the expression of my highest consideration. I am looking forward to continuing our constructive dialogue and cooperation.

Dacian Julien Cioloș

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by several loops and a trailing flourish.