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FROM HATE SPEECH TO HATE CRIME

= A ROMA PERSPECTIVE =

-Draft-

I. OVERVIEW OF THE LEGAL FRAMEWORK IN ROMANIA¹

§1 The European standards referred to in this paper are those provided by the Directive 43/2000² and the Directive 78/2000³ of the European Union, the OSCE Action Plan for the Improvement of the Situation of Roma and Sinti in the OSCE Area⁴ and the ECRI General Policy Recommendations no. 2⁵ and no. 7⁶. An overview of the antidiscrimination legal guarantees under constitutional, criminal and civil/administrative law is presented, following roughly the structure of ECRI General Policy Recommendation no. 7, emphasizing the missing elements⁷.

¹ For a detailed legal overview, see enclosed ANNEX 1. Also, for a detailed legal analysis, see Romani CRISS, *Protectia legala impotriva Discriminarii si Politicile Publice fata de Romi* (Legal Protection against Discrimination and Public Policies towards Roma), Bucharest, 2007.

² The Council Directive 2000/43/EC of 29 June 2000 implementing the Principle of Equal Treatment between Persons irrespective of Racial or Ethnic Origin, *Official Journal L 180 - 19/7/2000*.

³ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, *Official Journal L 303 , 02/12/2000 P. 0016 - 0022*.

⁴ See decision of the Permanent Council of OSCE no. 566 of November 27, 2006.

⁵ The ECRI General Policy Recommendation no. 2: Specialized Bodies to Combat Racism, Xenophobia, anti-Semitism and Intolerance at National Level is available at

http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B02/1-Recommendation_n%B02.asp#TopOfPage,

last visited on 17.11.2005.

⁶ The ECRI - European Commission against Racism and Intolerance, General Policy Recommendation no. 7 on National Legislation to Combat Racism and Racial Discrimination is available at http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B07/3-Recommendation_7.asp#TopOfPage,

last visited on 17.11.2005.

⁷ The purpose of the paper is not that of offering an in-depth analysis of the Romanian anti-discrimination legal framework, hence, it does provide a comprehensive assessment and comparison on all items, but it highlights the most relevant shortcomings, according to the opinion of the author, of the domestic legislation.

§2 Directive 43/2000, also known as the Race Equality Directive, and Directive 78/2000 – Employment Equality Directive set the minimum standards in the field of antidiscrimination legislation. As Community law, they are compulsory for Member States. The Directives provide certain objectives that are to be met, but it leaves to the states the decision on the methods to be used for their achievement. ECRI General Policy Recommendations are not compulsory for the member states of the Council of Europe, but are valuable instruments that guide the work of ECRI.

§3 Despite constant progress of the Romanian anti-discrimination legislation, certain issues are still of concern. The Governmental Ordinance no. 137/2000 for preventing and sanctioning all forms of discrimination has been modified four times so far and it has been republished in the Official Gazette⁸. The most recent change, in 2006, has brought together a number of NGOs, working on developing a law proposal. Nevertheless, major elements of the proposal have not been included in the draft sent by the Government to the Parliament.⁹

1) *As for Constitutional Law*

In respect of anti-discrimination, the Romanian Constitution¹⁰ enshrines the general principle of equality before the law (art. 16) and the protection of rights of persons belonging to national minorities, as well as the limits of the exercise of such rights (art. 6)¹¹. However, despite the 2003 changes, the Romanian fundamental law falls short from the standards in the field, since it still doesn't ensure the possibility of limitation to the exercise of the right to assembly or association, provided such limitation seeks combating racism¹².

⁸ Governmental Ordinance 137/2000 has been modified and adopted by Law 48/2002. Further modifications of the Governmental Ordinance (G.O.) 137/2000 have been produced by G.O. 77/2003, which itself has been approved and modified by Law 27/2004 and modified by Law 324/2006. The Governmental Ordinance has been republished in the Official Gazette, Part I, no. 99 of 08 of February 2007.

⁹ The National Council for Combating Discrimination (NCCD), in consultancy with a group of NGO experts, including Romani CRISS, has finalized a draft proposal for the modification of the anti-discrimination, available at www.cncd.org.ro.

¹⁰ The Romanian Constitution of 1991 has been modified and completed by Law no. 429/2003, approved by national referendum.

¹¹ Art. 16 of the Romanian Constitution reads as follows: "(1) Citizens are equal before the law and public authorities, without any privilege or discrimination. (2) No one is above the law", whereas art. 6 states "(1) The State recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity. (2) The protection measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens" (Official translation available on the House of Deputies web site at www.cdep.ro).

¹² ECRI General Policy Recommendation no. 7 states that "The Constitution should provide that the exercise of freedom of expression, assembly and association may be restricted with a view to combating racism" (paragraph 3).

In terms of hate speech¹³, the Romanian Constitution, in line with ECRI recommendation no. 7, provides for certain limitations to freedom of expression, particularly in regard to instigation to “*national, racial, class or religious hatred, any incitement to discrimination*”. Nevertheless, the ECRI standard is not fully met since the Romanian Constitution limitation to free speech is related only instigation to hatred and incitement to discrimination which, in practice, means less of a protection from hate speech, than that proposed by ECRI¹⁴ through the limitation of free speech with a view to combating racism.

2) *As for Criminal Law*

As concerns the criminal law, the main relevant legal texts are the Criminal Code (articles 75 c¹, 166, 247 and 317) and the Urgency Governmental Ordinance no. 31/2002.^{15\}

Law 278/2006 making changes to the Criminal Code has brought significant changes in terms of aggravating legal responsibility for crimes that have been committed with a racist motivation, as well as extending number of grounds for crimes sanctioned by articles 247 and 317 from four¹⁶ and respectively two¹⁷ grounds to sixteen.

Thus, there has been included motivation based race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political appurtenance, belief, wealth, social origin, age, disability, non-contagious chronic disease, HIV/AIDS infection as an aggravating circumstance in committing a crime¹⁸. Consequently, the Romanian legal system has chosen the Sentence Enhancement Law rather than Stand Alone Hate Crime Law.

¹³ On freedom of expression, art. 30 of the Romanian Constitution reads as follows: “(1) *Freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of communication in public are inviolable.*

(2) *Any censorship shall be prohibited.*

(3) *Freedom of the press also involves the free setting up of publications.*

(4) *No publication shall be suppressed.*

(5) *The law may impose upon the mass media the obligation to make public their financing source.*

(6) *Freedom of expression shall not be prejudicial to the dignity, honor, privacy of a person, and to the right to one's own image.*

(7) *Any defamation of the country and the nation, any instigation to a war of aggression, to national, racial, class or religious hatred, any incitement to discrimination, territorial separatism, or public violence, as well as any obscene conduct contrary to morality shall be prohibited by law.*

(8) *Civil liability for any information or creation made public falls upon the publisher or producer, the author, the producer of the artistic performance, the owner of the copying facilities, radio or television station, under the terms laid down by law. Indictable offences of the press shall be established by law.* “

¹⁴ Namely, par. 3 of the ECRI General Policy Recommendation no. 7.

¹⁵ Urgency Governmental Ordinance no. 31/2002 regarding the prohibition of organizations and symbols of fascist, racist or xenophobic nature and of promotion of the cult of persons guilty of crimes against peace and against humanity.

¹⁶ Article 247 only provided protection for the following grounds: race, nationality, sex and religion.

¹⁷ Article 317 only provided protection for the grounds of race and nationality.

¹⁸ According to art. 75, letter c¹ of the Romanian Criminal Code.

Article 166 prohibits and sanctions propaganda in favor of totalitarian state.

The Criminal Code (art. 247) also bans the limitation of rights or creation of a situation of inferiority, based on race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political appurtenance, belief, wealth, social origin, age, disability, non-contagious chronic disease, HIV/AIDS infection sanctioning it with imprisonment from 6 months to 5 years.

Instigation to hate based on race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political appurtenance, belief, wealth, social origin, age, disability, non-contagious chronic disease, HIV/AIDS infection is sanctioned with imprisonment for a period from 6 months to 3 years of a fine (art. 317 of the Criminal Code).

Urgency Governmental Ordinance no. 31/2002 prohibits certain deed such as constituting, supporting or joining a racist, fascist or xenophobic organization; public use of racist, fascist or xenophobic symbols, public contesting or denial of the Holocaust, promoting, through propaganda, the cult of a person guilty of having committed crimes against peace and humanity and promoting through propaganda, a racist, fascist or xenophobic ideology.¹⁹

3) *As for Civil Law*

Governmental Ordinance no. 137/2000 generally provides legal protection in line with the EU 43/2000 Directive (Race Equality Directive). Also, law 202/2002 on equal opportunities and treatment between men and women²⁰ has also been adopted and republished. Relevant provisions are also to be found in laws such as the Labor Code²¹, law 84/1995 on education or law 148/2000 on publicity.

II. CASELAW²²

Substantially discriminated against, in all fields of public life, Roma have been subject to some of the most serious human rights violations in history. From slavery to Holocaust, from police abuse to pogroms, from day-to-day discrimination to social injustice, they are all deeply routed in the conscience of Roma individuals.

¹⁹ UGO no. 31/2002, articles 3-6.

²⁰ Republished in the Official Gazette, Part I, nr. 150 of 1 March 2007.

²¹ Namely, Law 53/2003.

²² The present section generally provides case-law documented by Romani CRISS. Cases documented by other NGOs are also presented. All translations are unofficial, made by Romani CRISS, unless otherwise stated.

1) From Hate Speech

A. On 29 May 2003, the « 24 Ore Muresene» local newspaper, had published a press article signed by Mircea Panaiot, called “New and old crows”.²³

“Definitely there’s no animal, regardless of age or gender, who hasn’t had any incident, no matter how small, with crows...” Article published in the local newspaper “24 de Ore Muresene” (in Mures county, on 29 May 2003).

On 03.06.2003, Romani CRISS filed a complaint to the National Council for Combating Discrimination (NCCD) against “24 Ore Muresene” newspaper, based in Targu Mures, and the author of the press article, Mircea Panaiot, claiming the promotion of a behavior affecting human dignity, which created a degrading, humiliating and offensive environment against Roma minority.

²³ The column presenting the article, namely Opinions, had as an introduction the sub-title “Of the animals” and the motto: “Any resemblance with actual facts or persons is absolutely...intended”. The article read as follows: “Definitely there’s no animal, regardless of age or gender, who hasn’t had any incident, no matter how small, with crows: starting with their nerve when cutting you off on a line, the injurious croaks when apostrophizing you to the aggressiveness displayed before the law enforcement bodies, there couldn’t be another surprise for the rest of the animals. Like all the other animals, the crows have their own black sheep, as well as whites. It’s obvious that the crows which don’t put a label on their foreheads and live within the law, pay their taxes and try to raise their kids in this mad world are not the ones drawing attention and indignation of the public opinion. Only the prowlers, hoodlums, thieves and crooks come in front. Their anti-social acts are covered by the media at the maximum, not some common life of an integrated crow. Or, the society doesn’t differentiate much when labeling someone. The indignation of the rest of the animals is reflected upon all crows in general. The public opinion is too desperate and irritated with the virulence and wild violence they have to face every day, so they don’t make any difference among crows anymore. Still, I believe that nowhere in the world artists have to present all kinds of niggers and crows. At least a landscape with crows in tents and an old crow with a pipe in the toothless mouth. If one organized an exhibition on this topic, we’d see that even refined, philosopher artists, are taken away by the flow and present touching images of voluptuary gypsy woman and tents in the sunset. Along the years, some of them filled the merchant’s rooms and boyar’s houses with dark paintings of the same old toothless crow, smoking heavily from the pipe and the same attracting gypsy woman promising sinful pleasures. Actually, the rest of the animals considered crows’ life only in operetta pictures. And, interesting to notice, the crows’ metters in these idyllic landscapes are fortune telling, music bands, pottery, but never begging or stealing. If we were to present to the European countries a selection of these pictures, most of them would ask themselves, thrilled and touched to discover such a pleasant and peaceful world: who are these, sir? Too few would recognize in the pictures the people from more modern titles: “Beggars invasion in France and Spain”, “Network of crows smuggling cars in Italy”, “Gangs of crows shoplifting in Germany”, and “Family of crows eating cooked swans in Austria”. I wonder how our cultural perception would modify if, instead of the thousands of heads with cheerful wagon people and the well-known gypsy women lying provocatively on silk that we find in any petty shop we discovered contemporary pictures with the same subjects. For instance, depictions with chiefs of clans bribing policemen, with gangs of bus lifters, with drunks of the crows with dirty parliamentarians and mayors, with clan fights on the courts of law halls, with young crows putting holes in the gas pipes or stilling electric cables and railroads, with the mob of the crows from all the country’s markets. I am convinced some schooled crows will immediately rise to inform Europe about the persecution of the honest minority by the local chauvinist population”.

The Director College of the NCCD decided that on 14.07.2003 that the facts did constitute discrimination based on ethnic ground, the human dignity of Roma has been violated and it has fined the author of the article with approximately 60 Euros²⁴.

The Targu Mures court of justice (Judecatoria) has decided on 27.10.2006 to partly admit the a civil complaint filed by CRISS and it has decided to oblige the company to publish public apologies in the "24 Ore Muresene" newspaper and to pay 1 leu (approximately 0.3 Euros) as moral damages. Currently, the decision is in the process of being enforced.

B. On 26.05.2006, Romani CRISS came across the information (through the romlink@yahoogroups.com), that there is a racist web-site that incites to racial hatred, namely the www.nouadreapta.org web-site.

"The Gypsy community represents an explosive criminal potential. Burden with their condition, impulsive, united in evil, the Gypsies represent a foreign and impossible to integrate community. That is why it's the duty of the people in power to act."

"Faced with deadly threat that endangers the our very existence as a people, we have a sacred duty to give a warning signal and to take URGENT measures so that the name of our country stays written with one "R" (and not two "R"s, like, more or less seriously, deputy Madalin Voicu has predicted). The necessity of urging our defensive actions is crucial due to the negative influence the Gypsy subculture has on our youth. Today's teenagers are not aware of this danger anymore, and even more, they started to express certain sympathy to the Gypsy way of life".

"You have stayed aside and been the witness of aggressions of Gypsies. Of acts of violence, rudeness and criminality of this ethnic group that harms dignity and endangers the majority. How much longer will you stand this humiliation? How much longer will you stay aside? If you wanted to scream before, to fight, to protest, you couldn't. Because you were alone! But now, you are not alone anymore! Now there is Noua Dreapta! Nationalist youngsters have now the possibility to fight in an organized manner against everything that is threatening the present and the past of Romanian people! Don't limit yourself to saying we are right! Give up your role as a spectator and join Noua Dreapta now, while we still have something to fight for!

Selection of paragraphs from articles posted on the NGO's website (Noua Dreapta Christian Forum Organization, 28.04.2006).

²⁴ More specifically, through Resolution no. 215/14.07.2003, the Director College of the NCCD decided "The presented facts represent acts of discrimination, according to art. 2 paragraph 2, art. 19 of GO 137/2000 - on preventing and sanctioning all forms of discrimination, with subsequently additions and completions; "the offender M.P. will be sanctioned with a contraventional fine in total value of 2 million ROL (approximately 60 Euros - n.n.)"

Romani CRISS has filed a civil complaint to the National Council for Combating Discrimination (NCCD) as well as a criminal denouncement to the Prosecutor's office.

In the complaint to the NCCD, Romani CRISS claimed the violation of Governmental Ordinance no. 137/2000 (art. 2, para. 3 and art. 19). The NCCD decision no. 271 of 19.09.2006 stated that there has been a violation of the Ordinance (art. 2, para. 1 – direct discrimination, art. 2, para. 3 – discriminatory behavior and art. 19 – right to human dignity). Further more, three authors of the articles have been fined with a warning, 1000 RON (about 400 USD) and 1500 RON (about 600 USD) respectively. The Noua Dreapta organization has been fined with 2000 RON (about 800 USD). The NCCD decision has been motivated on the right to not be discriminated against and the limits of the freedom of expression, as prescribed in Romanian and international legislation, as well as the European Court of Human Rights case-law. Nevertheless, the NCCD decision was not put in practice and none of the perpetrators has been actually fined, due to the fact that they could not be properly identified.

As for the criminal side of the case, CRISS has argued that art. 3, para. 1 and 2, art. 4 and art. 5 together with art. 2, letter a) of the Urgency Governmental Ordinance no. 31/2002, as well as art. 317 of the Criminal code have been violated.

The Prosecutor's office within the Bucharest Tribunal has decided not to initiate criminal action in the case²⁵. The Prosecutor motivated, inter alia, that:

- The Noua Dreapta organization is not a fascist/Nazi organization because *“to the totalitarian etatist centralism of fascism, Noua Dreapta opposes participative democracy and distributism”*. We stress that the Prosecutor has limited to quoting the statutory provisions of Noua Dreapta organization.
- As for the articles, it couldn't be established for sure who were the authors and who decided that they be published, showing that two of the defendants have neither contested nor admitted to have had written the articles. Another defendant has stated that it can't say for sure if the article published under his name belongs to him in the form presented, but that 5-6 years before he had written an article with a similar name. Other persons have denied any form of involvement.
- Furthermore, the Prosecutor stated that *“the functioning of numerous organizations that have been created legally such as: Miscarea Legionara, Noua Dreapta etc., and the existence*

²⁵ According to the resolution of the Prosecutor's office within the Bucharest Tribunal issued on 26.02.2007.

of some of their publications, constitutes a reality that cannot be ignored..... We are in the presence of the materialization of the freedom of expression which, if it functions in other cases, it must function, within the limits of the law, also in favor of the persons accused by Romani CRISS organization”.

CRISS has contested the resolution of the prosecutor, claiming, inter alia:

- The reasoning of the resolution is contradictory and biased, since the prosecutor tried through all his arguments to justify the racist and discriminatory acts against Roma;
- The decision is based solely on the declarations of the defendants that stated their innocence.
- The prosecutor has willingly misinterpreted the content of the racist articles, by referring to the neutral parts and leaving out the serious and degrading parts.
- The prosecutor either didn't understand the real dimension of the case or has just expressed his sympathy for the Noua Dreapta organization.

The Bucharest Tribunal has denied CRISS complaint stating, inter alia, that “.... Art. 9 and 10 of the European Convention of Human Rights that protect the author of a publication that is of good-will, in a democratic society public persons expose themselves to the permanent control of citizens that, under the reserve of good-will may draw the attention of the public to some situations considered illegal”. The Bucharest Court of Appeal has maintained the previous decisions²⁶.

In March 2008, Romani CRISS has filed a complaint to the European Court of Human Rights, claiming the violation of articles 3, 6, 8, 10, 13, 17 and art. 14 together with articles 3, 6, 8, 10 and 13, as well as article 1 of Protocol 12 of the ECHR.

C. On 19th of May 2007, The President of Romania, Mr. Traian Basescu has made racist and sexist declarations

“The President and his wife, Maria Basescu, were in a commercial center for shopping, accompanied by media representatives. At the commercial center's exit, the journalist restarts to interview the President, who replied: “Hey, pussy, don't you have work to do today?” after which he took the journalist's mobile phone. Shortly after, the President of Romania is overheard on the recorded material on the telephone he took by force from the journalist. He said to his wife: “How aggressive was this stinky gypsy woman!”²⁷

²⁶ Penal decision of the Bucharest Court of Appeal n. 1283 of 06.09.2007.

²⁷ For a more detailed presentation, see the intimation lodged by Romani CRISS on 21st of May 2007

Therefore, CRISS has filed a complaint to the National Council for Combating Discrimination, claiming the violation of art. 2, par. 4 and art. 15 from the Government Ordinance 137/2000 republished.

CRISS has asked the National Council for Combating Discrimination, to provide the following:

- Finding that Mr. Traian Basescu has committed two discriminatory acts;
- Sanctioning the two discriminatory acts committed by Mr. Traian Basescu;
- Compelling Mr. Basescu to present public excuses, within a conference press, with the participation of minimum three daily newspapers and two central televisions;
- Compelling Mr. Basescu to establish a regular or permanent consulting mechanism, regarding the issue of Roma community and the issue of gender equality.
- To establish a regular or permanent consulting mechanism, regarding the issue of Roma community and the issue of gender equality.

The NCCD has decided the following:

- there has been no discrimination based on gender, motivating just that there are more meanings to the word “pussy” (pasarica) in Romanian language, but it didn’t even present the meanings or an explanation as to why there would be non-discriminatory.
- There has been a discrimination act based on ethnicity and sanctioned the President with a warning.
- NCCD has also appealed to the President of Romania and the political class and opinion makers to constantly and actively promote the principle of equality and fight against discrimination.
- NCCD has stated that it lacks legal competences to compel Mr. Basescu to present public excuses and to establish a regular or permanent consulting mechanism.

CRISS has contested the NCCD decision to the Bucharest Court of Appeal, asking to establish the discrimination act based on gender and the compelling of the President to establish consultation mechanism and to present public apologies. The case is pending.

D. The Prime-Minister of Romania has presented Roma communities in Italy as groups that commit al kind of criminal acts.

"..... it is about the number of Romanians, Romanian citizens, attention, I say, Romanian citizens of Roma origin that constitute many times a group with extremely dangerous criminal characteristics that is multiplying in Rome. Because I want you to understand very well, it Italy has made itself remarked in the 20s because of the Mafia, I don't want Romania to affect its image because of these groups that commit all possible crimes, starting with mugging, prostitution, drug trafficking, pedophilia and it can be continued"²⁸ The prime Minister of Romania – 30.05.2007.

CRISS has complained to the National Council for Combating Discrimination (NCCD), stating that art. 2, para. 4 and art. 15 of the Ordinance no. 137/2000 had been violated.

CRISS has asked for the following:

- Application of the principle of burden of proof.
- Establishing that there has been a discrimination act on ethnic ground by the Prime-Minister and, subsequently by the Government of Romania.
- Sanctioning the discrimination act.
- Compelling Mr. Tariceanu to present direct public excuses, within a conference press, with the participation of minimum three daily newspapers and two central televisions;
- Compelling the Government to issue a press releasing apologizing for the discrimination act.
- Compelling the Government to organize two public debates on hate-speech and freedom of expression.

The NCCD has decided that there has been no discrimination act, thus rejecting all of our claims.²⁹

CRISS has contested the NCCD decision to the Bucharest Court of Appeal, asking to establish the discrimination act based on ethnicity and the compelling of the Prime Minister and the Romanian Government to do the above-mentioned actions. The case is pending.

²⁸ For a more detailed presentation, see the intimation lodged by Romani CRISS on 4th of July 2007.

²⁹ See decision no. 180 of 17.07.2007 of the NCCD.

2) To Hate Crime

- A. *A police action in Reghin, Mures County, Romania to hand over two invitations for two local men has resulted in 37 Roma persons being beaten or shot.*

"..... I'll shoot you, Gypsy!"³⁰ Policemen to Roma informal leader, gun-pointing him

From 10 to 12 September 2006, a team from Romani CRISS carried out a documenting visit in regard to the case of Police force intervention in the community from Apalina, Mures County. The case is being documented in partnership with Liga Pro-Europa.

During the preliminary documentation (discussions and declarations of the Roma and meeting between the Roma and local authorities' representatives), the following were ascertained:

On 07.09.2005, around 16.00 – 16.30, two inhabitants of Apalina neighborhood met with a police officer from the Mures County Police Inspectorate, namely a community policeman for the relation with Roma communities. A discussion/ altercation arose, as result of which the policeman reported to the Inspectorate that he had been assaulted.

Around 17.00-17.30, two police cars with approximately 7-8 police officers in them, dressed as civilians, and a Special Force van, with another 7 policemen dressed and black, with masks on their faces, entered in the Roma community from Apalina neighborhood, on Caprioarei Street.

The civilian dressed policemen called the leader of the Roma community, Mr. B.I. to discuss in reference to two subpoenas. B.I. walked approximately 10 m on Caprioarei St. and noticed that two Special Forces policemen who sat in the front of the van were getting ready their sprays and guns. B.I. asked them: *"What are you doing with the sprays? It's ok, nothing it's going to happen!"*

The two Special Forces policemen got off the van and the one in the right side started to use the spray and to hit the people around the van, mainly women and minors. The driver of the van came to B.I., put a gun to his head and said: *"I will shoot you, Gypsy!"*, and pushed him like this for almost 6 meters. Then a civilian dressed police officer yelled at him to leave the man alone because he was the Roma leader and because they called him to come there. The Special Force policeman left B.I. alone and walked to minor K.P. who was coming

³⁰ For a more detailed presentation, see the intimation lodged by Romani CRISS on 4th of July 2007.

towards them, without being armed or shouting. The Special Forces policeman hit the minor in the ear with a black-color object. K.P. fell at the ground, unconscious and bleeding. Then the two Special Forces policemen started to kick K.P. and stopped when the other police officers yelled at them to leave him alone or he would die. The civilian dressed policemen, along with K.P. and his parents went in the cars, drove back on Caprioarei Street and left for the hospital to provide him medical care.

Meanwhile, another 3 Special Forces policemen got off the van and sprayed and hit a group of approximately 10-15 people.

While the cars drove back on Caprioarei Street, the driver of the van shot the first fire. Another two policemen got off the van and, along with two more got off in the street and started to walk on the street in opposite directions, shooting at and hitting more people. The rest of the police officers continued to do the same thing in the Street.

Then all of them gathered round the van, one got in, took the wheel, other 3 positioned themselves in front of the van and the other 3 in the back of the van, continuing to fire. Some of them ran out of ammunition.

During the intervention, the Special Forces policemen used the following weapons: tear gas (spray), tear grenades, rubber sticks, guns and pistols with rubber small shots and bullets.

Until the present, a number of 37 victims were identified: 20 men and 17 women; 32 adults and 7 minors; 22 shot people and 15 hit or gun threatened; 36 Roma and 1 Romanian.

CRISS has supported 45 victims to file criminal complaints concerning the violation of articles 250 (abusive behavior) and articles 180-182 (bodily harm) of the Criminal Code.

The case has been divided in two files, one pertaining to attempt to murder against C.S. (to the Prosecutor's Office within the Targu Mures Tribunal) and a second one for the rest of the victims (to the Prosecutor's Office within the Reghin Court of Justice). All complaints, in both files have been rejected by the prosecutors offices stating that there no criminal charges will be pressed.

B. Romanian citizens of Roma origin in Italy are subject to police abuse and racist violent attacks³¹

In the night from 10 to 11 August 2007, in a camp located under a highway, near Livorno, Italy, arson took place, followed by the death of four Romanian children of Romani origin with age between 4 and 10. In the night of 17 August 2007, an extremist group, GAPE - The Armed Group for Ethnic Cleansing, claimed responsibility for the arson and for the death of the four children, and gave an ultimatum to the Roma people living in Italy³².

In December 2006, the inhabitants of small village close to Milan have put on fire camps of Roma expelled from another zone.

The lack of reaction of the Italian authorities is the more worrisome as this year's attacks have not been isolated. In the precedents years, there have been more attacks targeted against Romani population. In Milan, in the evening of 12 November 2007, over 60 barracks from two Romani camps have been burned. On 18 and 19 September 2007, some 30 persons with faces covered, armed with chains, cudgels, stones and bottles, threw Molotov cocktails at a Romani camp from outskirts of Rome. (Source: Mediafax at www.mediafax.ro).

According to Mediafax news agency, on 11th of May 2008, the Roma camp in Via Navara, Milan, was burned down with Molotov cocktails. On 20 November 2007, in Torino, a group of Italians burned down 10 improvised barracks, with Molotov cocktails, on Germagnano Street, where 35 persons lived. (Source: Mediafax, www.mediafax.ro).

A man of Roma origin has been beaten up by Italian police in the town of Milan, on June 20, 2008. In a purely Stalinist manner, the Italian police have beaten up the Roma parent of a young girl for having presented to the media the fact the child himself has previously been subject to violence the police³³.

On 13-14 May 2008, assailants burned two Romani camp in Naples to the ground, causing the approximately 800 Roma residents to flee while Italians stood by and cheered. The incident occurred after an Italian woman claimed that a Roma girl had broken into her apartment to steal her baby. Afterwards, all Roma camps have been destroyed and another Roma camp (on Virginia Wolf Street) has been burned.

In July 2008, CRISS has sent letters to the Italian Ministry of Justice and Ministry of Interior and President of the Council of Ministers, as well as the Romanian Prime minister asking for the following information:

³¹ For a detailed presentation of the subject, see the "Security a la Italiana" Report by Romani CRISS, European Roma Rights Center, Roma Civic Alliance, Open Society Institute and the Centre on Housing Rights and Forced Evictions.

³² "We give them 20 days, beginning with 25 August, to leave the Italian territory and to evacuate the nomads' camps from all over Italy. Otherwise, another assault upon other camp with worse consequences will take place every month".

³³ For further details see http://www.everyonegroup.com/Everyone/MainPage/Entries/2008/6/29_Stelian_Covaciu_was_the_victim_of_a_violent_beating_and_threats_from_policemen.html.

I. In general, at national level:

1. How many racist attacks targeted at Romanian citizens of Roma origin have been registered in Italy since January 1, 2007;
2. In what localities have these attacks taken place;
3. How many Roma persons have been victims in each of these attacks;
4. How many persons have been identified as perpetrators in each of these attacks;
5. How many persons have been accused in each of these attacks;
6. For what crimes have the persons been accused each of these attacks;
7. What is current status of the investigation;

II. *On 13-14 May 2008, assailants burned two Romani camp in Naples to the ground, causing the approximately 800 Roma residents to flee while Italians stood by and cheered. The incident occurred after an Italian woman claimed that a Roma girl had broken into her apartment to steal her baby. Afterwards, all Roma camps have been destroyed and another Roma camp (on Virginia Wolf street) has been burned.*

1. How many Roma persons have been victims in each of these attacks;
2. How many persons have been identified as perpetrators in each of these attacks;
3. How many persons have been accused in each of these attacks;
4. For what crimes have the persons been accused each of these attacks;
5. How many of the goods (barracks, personal goods etc) belonging to the Roma people have been destroyed;
6. What judicial institutions are currently investing the case;
7. How many perpetrators have given written in front of the judicial authorities;
8. How many eye witnesses have given written in front of the judicial authorities;
9. How many Roma victims have given written in front of the judicial authorities;
10. What is current status of the investigation;

III. *In Milan, in the evening of 12 November 2007, over 60 barracks from two Romani camps have been burned. On 18 and 19 September 2007, some 30 persons with faces covered, armed with chains, cudgels, stones and bottles, threw Molotov cocktails at a Romani camp from outskirts of Rome. (Source: Mediafax www.mediafax.ro).*

1. How many Roma persons have been victims in each of these attacks;
2. How many persons have been identified as perpetrators in each of these attacks;
3. How many persons have been accused in each of these attacks;

4. For what crimes have the persons been accused each of these attacks;
5. How many of the goods (barracks, personal goods etc) belonging to the Roma people have been destroyed;
6. What judicial institutions are currently investing the case;
7. How many perpetrators have given written in front of the judicial authorities;
8. How many eye witnesses have given written in front of the judicial authorities;
9. How many Roma victims have given written in front of the judicial authorities;
10. What is current status of the investigation;

IV. *On 9 June 2008, independent activists reported that a settlement of circa 100 Romanian Roma in Catania, Sicily had been attacked and burned to the ground.*

1. How many Roma persons have been victims in each of these attacks;
2. How many persons have been identified as perpetrators in each of these attacks;
3. How many persons have been accused in each of these attacks;
4. For what crimes have the persons been accused each of these attacks;
5. How many of the goods (barracks, personal goods etc) belonging to the Roma people have been destroyed;
6. What judicial institutions are currently investing the case;
7. How many perpetrators have given written in front of the judicial authorities;
8. How many eye witnesses have given written in front of the judicial authorities;
9. How many Roma victims have given written in front of the judicial authorities;
10. What is current status of the investigation;

V. *On 25 May 2008, a Sinti girl in Brescia was stopped from going to school by some non-Romani children yelling "dirty Gypsy, dirty kidnapper".*

1. How many Roma persons have been victims in each of these attacks;
2. How many persons have been identified as perpetrators in each of these attacks;
3. How many persons have been accused in each of these attacks;
4. For what crimes have the persons been accused each of these attacks;
5. How many of the goods (barracks, personal goods etc) belonging to the Roma people have been destroyed;
6. What judicial institutions are currently investing the case;
7. How many perpetrators have given written in front of the judicial authorities;

8. How many eye witnesses have given written in front of the judicial authorities;
9. How many Roma victims have given written in front of the judicial authorities;
10. What is current status of the investigation;

None of the institutions has answered. Previous similar letters sent to the Italian national executive authorities have remained also unanswered.

On the Supplementary Human Dimension Meeting in Vienna, in July 2008, CRISS has asked the following:

- Italian authorities to start accurate, impartial and efficient investigations in order to assure the sanctions for the attackers, to the extent foreseen 16 and 17 of the OSCE Action Plan on Improving the Situation of the Roma and Sinti, according to the standards of the European Court of Human Rights.
- Italian authorities to report on the progress made in administrating justice in racist attacks targeted at Roma, at the next Human Dimension Meeting by the OSCE.
- Italian State to immediately and entirely abrogate all racist laws targeted against Romani people and to adopt comprehensive policies to prevent and combat xenophobia, racism, extremism and of the pogroms of Romani people.
- The Romanian Government to take the appropriate legal measures to protect its own citizens by having informed, objective reactions in cases with such strong racist and xenophobic nuances. In this respect, we stress that the protection of all Romanian citizens from abroad is one of the main duties of the Romanian State.
- Urgent and span measures in order to ensure the fight against racism and extremism in what concerns the young people and children.
- Taking into account the facts presented above, the insecurity in which Romani people live every day on the territory of Italy, as well as the potential ethnic conflicts which may occur, we advise the OSCE to treat the situation as a potential crisis, requiring early intervention.
- We urge the Organization for Security and Cooperation in Europe (OSCE), in conformity with its mandate to prevent the conflicts, and in particular the ODIHR and the High

Commissioner for National Minorities to respond effectively, in a proactive manner, to ensure the protection of the Roma people at risk in Italy, as stated in para. 113-117 of the OSCE Action Plan on Improving the Situation of the Roma and Sinti within the OSCE Area.

- We recommend to OSCE by its specialized structures, including the Office for Democratic Institutions and Human Rights, as well to Council of Europe, to organize a common high level fact finding mission to document the situation of Romani communities (Italian citizens, citizens from EU countries, citizens belonging to other OSCE member states) on the territory of Italy. The report of this high level mission will be submitted to the Committee of Ministers of the Council of Europe and to the Permanent Council and other relevant structures of OSCE.
- We urge the OSCE and the participating states to hold morally and politically accountable the states that fail to ensure no impunity of perpetrators of violent racist acts.
- We warn the OSCE, as well as the Italian and Romanian fact that the situation in Italy may degrade, leading to Roma being physically abused and even murdered in racist attacks by citizens or police.
- In conclusion, nothing can be changed, on the very contrary, thing will become even more grave, if the OSCE and the participating states, just make more commitments, but do not follow them, do not respect and implement them, particularly commitments made under para. 16-17 and 113-117 of the OSCE Action Plan on Improving the Situation of the Roma and Sinti within the OSCE Area.

The Italian mission has stated in the meeting that there have been some measures taken and some suspects of racist attacks have been retained at their domicile. We are unaware of any detailed information as to the facts and requirements presented above.

III. CONCLUSIONS AND RECOMMENDATIONS

The Italian authorities:

- Italian authorities to start accurate, impartial and efficient investigations in order to assure the sanctions for the attackers, to the extent foreseen 16 and 17 of the OSCE Action Plan on Improving the Situation of the Roma and Sinti, according to the standards of the European Court of Human Rights.
- Italian authorities to report on the progress made in administrating justice in racist attacks targeted at Roma, at the next Human Dimension Meeting by the OSCE.
- Italian State to immediately and entirely abrogate all racist laws targeted against Romani people and to adopt comprehensive policies to prevent and combat xenophobia, racism, extremism and of the pogroms of Romani people.

The Romanian authorities:

- Romanian authorities to conduct accurate, impartial and efficient investigations in order to assure the sanctions for the attackers, to the extent foreseen 16 and 17 of the OSCE Action Plan on Improving the Situation of the Roma and Sinti, according to the standards of the European Court of Human Rights.
- Romanian participating mission to the OSCE to report on the progress made in administrating justice in racist verbal abuse and violent attacks targeted at Roma, at the next Human Dimension Meeting by the OSCE.

The OSCE:

- We warn the OSCE to act against recrudescence of extremism in Romania, Hungary and Bulgaria, and to work in partnership with the national authorities in order to fight this trend.
- The ODIHR to work in partnership with the Romanian and Italian authorities and to provide advice as to means of alleviating tensions between Roma and Sinti and Non-Roma communities, as prescribed by paragraph 22 of the OSCE Action Plan for the Improvement of the Situation of Roma (Action plan).
- The ODIHR to work in partnership with the Romanian and Italian authorities, together with Roma communities and to step up efforts to collect information necessary to develop precise

targeted policies to combat racism against Roma and Sinti, as foreseen by paragraph 25 of the Action Plan.

- The ODIHR to work in partnership with the Romanian and Italian authorities, together with Roma communities and organizations to ensure investigating bodies and the judiciary receive proper training in unmasking racist motivation.
- The OSCE to facilitate that the ongoing cooperation between the Romanian and Italian authorities starts including a transparent and substantial cooperation in the field of combating racism and investigation of hate-motivated incidents and crimes.