



ROMANIAN POLICE STRATEGIC INITIATIVE

**An Interim Report by European Dialogue prepared for
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1. Aims and Objectives of the Strategy

The Romanian Strategic Police Initiative aims to deliver a model for the assessment of policing policy and practice (including baseline data for police reform) in relation to the Roma, in compliance with the European Convention on Human Rights (ECHR). The rationale of this project is based on the recommendations of the OSCE Action Plan for Roma and Sinti Policing Chapter.

The Government of Romania, namely the Ministry of Interior and Administration, has been collaborating with OSCE-ODIHR-CPRSI and Romani Criss (Roma Centre for Social Intervention and Studies) to develop a systematic assessment model relating to policing and human rights policy and procedures. The project is owned by the Ministry of Administration and Interior (MAI) and the General Inspectorate of Police. The Institute for Research and Criminality Prevention (IRCP) is leading the implementation of this work in Romania. European Dialogue is responsible for coordinating the input of UK experts in providing training material and expertise, as well as overseeing the project operation.

The positive commitment of the Romanian government towards establishing a policing culture founded on the principles of human rights frames the more specific objectives of the project: to improve the situation of the Roma and to institute community engagement as a core value of law enforcement and policing practice.

Overall, such an initiative should both contribute towards reducing tensions between the Roma and the wider community, and to modernising policing policy and practice in Romania in line with international standards. In undertaking this project, the Romanian Police are leading the development of best practice in the field of minority group policing within Europe.

2. Partners and Participants

Government of Romania (Ministry of Interior and Administration)
General Inspectorate of police
Institute for Research and Criminality Prevention
Gendarmerie
OSCE – ODIHR - CPRSI
Romani Criss (Roma Centre for Social Intervention and Studies)
European Dialogue
UK - OSCE experts (Chris Taylor, John Slater, Dr Robin Oakley)

3. Police Training methodology by UK experts

3.1 The rationale

In essence, the strategic initiative seeks to review the current policy and practice of the Romanian Police in relation to the Roma community, with the ECHR acting as the reference point for standards to be met. The procedural approach to the process of self-assessment was inspired by the UK-OSCE experts' professional experience of an analogous process in the UK, and founded on the rationale of the US military West Point model. It is understood that the starting point for such a review lies in appraising the

existent policy in the light of international Human Rights principles. Methodological principles were established prior to carrying out the assessment (section 3.3.2)

Nevertheless, even if policy and legislation should concur with international standards, failures of practice and implementation often emerge as a result of sub-optimal leadership and weak supervisory structures. The focus of assessment thus seeks to identify not only the adverse practices at the level of individual officers' work, but also the institutional and structural dysfunctions along the chain of command, which allow for discrepancies between practice and policy. Thus, reasons for non-observance of guidelines might range from shortfalls in policy to failures at the level of implementation. Such a model, however, does not set out to blame the individual practitioner, but rather to recognize the failings at the organizational level and establish a strong hierarchy of responsibility within the police institution.

Therefore, a comprehensive model should seek to provide professional training at all levels along the chain of command, as well as develop internal communication strategies so as to fundamentally institutionalize the need to secure and protect human rights. Such processes would be fruitless though in an environment devoid of any well-defined hierarchy of responsibility or of any internal monitoring strategy.

The model also addresses equally important issues of institutional prejudice, prevalent amongst both the Police towards the Roma, and the Roma community towards the Police – with reference to Article 14 of the ECHR. Essentially, 'external' partners also play an instrumental role in holding the police force accountable in the endeavour to improve human rights standards. However, and in this case especially, Roma NGOs act not only as 'critical friends' in evaluating the performance of the police's self-assessment process, but also participate as equal partners in providing both data and a counterweight view-point. This latter role is crucial in ensuring an open debate as a means of overcoming the two-way prejudice. Thus, in fulfilling this function, Romani Criss has held a consultative meeting with Roma NGOs from across Romania, to provide information about Roma concerns and data on trends in patterns of abuse, pertinent both as evidence for the implementation of police self-assessment and as a response to it.

What remains problematic is that the wider population might be prejudiced against the Roma, thus complicating the role of the police as they police 'by consent of the public'.

Ultimately, one should not lose sight of the fact that the Romanian Police Strategic Initiative aims to both improve the police as an institution and heal the fraught relations between the Roma community and the Police force.

3.2 The method of self-assessment

In line with the above-mentioned aims, by undertaking the self-assessment of its policy and procedures in relation to ethnic minorities, the police force should comply with a methodology which:

- Is **generic** and **thematic**. The formal framework should not set out to model relations exclusively with a single ethnic group - only the implementation of this process is viable in relation to a specific minority group.
- Allows for **cultural sensitivity**
- Endorses the need for a **change** in the institutionally entrenched '**culture**' of practices
- Accepts the input of **outside partners** acting as 'critical friends', in providing a balanced **critique** of and a **counterweight perspective/opinion** on the internal self-assessment process
- Is capable of **managing opposition and the interaction of differing power bases**

The framework highlights the following key issues/activities in the process

- Organize data collection and collate the relevant up-to-date documentation
- Assess for ECHR compliance
- Manage a balance of strict confidentiality and debate with 'critical friends' at each stage of the process
- Seek to build a network of mutual support

3.3 Generic Policy Framework as validation methodology

Based on the principles set out in various charters of international policing and Human Rights standards (*ECHR, UN, European Code of Police Ethics, OSCE-ODIHR Policing Chapter recommendations*), the Generic Policy Framework outlines the core values of the policing model to be achieved, ultimately, compliance with ECHR standards. Moreover, it draws policy reviewers' attention to key areas, where compliance might prove most problematic.

3.3.1 Core values

According to a report by Chris Taylor, effective policing means protecting human rights and there should be no conflict between the two. Neither should there be any conflict between policies, instructions or guidelines. However, there is a need to verify and demonstrate that policing policies and practice robustly reflect this.

Systematic self-assessment is the foundation stone from which the Romanian police can build and develop with integrity and HR firmly at its core.

Democratic values of policing

'Policing by consent' (for and with citizens) means citizens grant police with powers and resources; in turn, police officers need to be accountable to and trusted by citizens to work on their behalf. Accordingly, this defines the need for dialogue and a moral consensus between the two, supported by the primacy of the 'rule of law'.

Human Rights

ECHR underpins the European Code of Police Ethics, signed by all 45 members of Council of Europe, itself subdivided under four main headings:

- *Promotion of human rights*

Already in place in Romania, training of all police force, with institutional acceptance of equality and diversity. Fairness not about treating all the same as have to allow for most vulnerable – need for sensitivity.

- *Fair and justified use of police powers*

Need for accountability and assurance police powers are not abused. Need to act with minimum intrusion.

- *Development and maintenance of systems to promote HR*

Expressed support not sufficient, rather protection of HR has to be introduced as a core institutional value of police work and become embedded in police culture as the founding responsibility of police activity. Need for systems to maintain, reinforce these rights and then other systems to evaluate their effectiveness (in terms of equality, diversity, confidentiality, sensitivity and inclusion). Need for minority representation.

- *Support of a positive obligation to securing HR*

Need for systems and structures to assess all new decisions, policies, procedures for HR compliance.

Overall, the Romanian Police Strategic Initiative purports to assess, analyze and evaluate existing systems, policies, laws and procedures in support of the above. In due course, this process should result in a set of recommendations for change, which the Steering Group will need to consider in advance.

3.3.2 Analyzing compliance

In applying the questions in the GPF (namely, the policy assessment criteria), the aim is to consider what needs to be appraised in terms of new policy from the ECHR perspective. The GPF constitutes not only a 'prompt' for reviewers of policy, but should also prove essential for any assessment of compliance (whether internal or judicial). The following are the principles established by the UK experts prior to the analysis of Romanian police

Interference

Central to the assessment process is the evaluation of existing policy, legislation or practice regarding their potential to interfere with individual's rights as set out in the ECHR. The reviewer should nonetheless bear in mind that the ECHR refers to both negative and positive obligations, and that there is always a balance to be achieved between public interest and the protection of individual rights.

Legitimate aim

The ECHR allows for the measured limitation of rights as a means of enabling the State to achieve overarching objectives necessary in a democratic society. The main 'legitimate aims' referred to in the ECHR are

- Interests of national security
- Interest of public safety
- Prevention of crime and disorder
- Protection of health or morals

Protection of rights and freedom of others

Note that some inalienable rights such as 'freedom from torture, inhuman or degrading treatment' are absolute rights and can not under any circumstances be infringed upon in the name of a 'legitimate aim'.

Legality

All policing methods which might interfere with the rights of an individual should be founded on a clear legal basis. If there is no such legal framework for a power, authority or direction, then this surely reveals a discrepancy. While legislation does not provide protection from non ECHR compliance, the process should at least open up a debate about the issues at stake.

Proportionality

A balance must be struck between the importance of the policy or procedural aim and its adverse effect on the individual or community. The greater the adverse effect, the more important the aim must be, if the action is to be justified and proportionate. If proportionality between the level of police intrusion and the imperative is not respected, a less restrictive alternative should be sought – in accordance with the principle of 'least intrusion'. Overall, a focus on proportionality also highlights that reliance on statutory power is in no means sufficient.

Documenting decisions

This point appraises issues of transparency in police decision-making and accountability for decisions made and actions taken. Recording the outcomes of action is important in providing a means of reviewing the effectiveness of intervention. A documented decision-making process should at least show a reasoned and reasonable approach to the circumstances being disputed.

Publication

It is a requirement for police to have policies in place which publicly document the legal basis for powers, fulfilling society's/individual's right to information regarding public institutions. This provides necessary clarity and transparency in what are service directions informing the practice of policing. While not explicitly mentioned in the ECHR, there nonetheless remains a need to ensure the visible legitimacy of the existence and exercise of power, authority or direction.

Appeals, representations

An essential feature of the 'equality of arms' principle establishes that proceedings which determine civil rights and obligations should be adversarial. Hence, policy should spell out the individual's right to appeal and make representation in respect of the police exercise of power, authority or direction.

Review and accountability

Insofar as it is unlawful for a state to act counter to ECHR rights, it is effectively prudent to carry out a self-assessment of policy in relation to human rights standards to minimize the risk of breaches. While not a protective endeavour, assessment does constitute a useful defensive exercise

for controversial areas of policing. It provides the implementing body with both legal (to the law) and democratic (to the public) accountability. Effective mechanisms for individuals to make complaints regarding police behaviour, such as formal grievance procedures, should also be regarded as an integral part of accountability structures.

Independent Scrutiny

Independent scrutiny fulfils a two-fold function: on the one hand, by providing a means of review where there exists a dispute over ECHR rights; on the other, by meeting the requirement of Article 1 (of the ECHR), stating the need for independent investigations. It is agreed that the greater the level of actual or potential invasion of rights or curtailment of freedoms involved, the more independent a review must be – either by a senior officer or by a layperson.

4. Chronology & function of completed activities (Nov 2004 – May 2006)

4.1 Busteni workshop between MAI, Romani Criss and OSCE experts - November 2004

This workshop was organized by Romani Criss in cooperation with the Ministry of Administration and Interior with assistance from the UK-OSCE experts and European Dialogue.

This introductory event saw the formulation of a draft protocol initiating the project's work programme between the OSCE-ODIHR-CPRSI and the Romanian Police, for submission to the Romanian Government. Thus, an agreement was made to implement a self-assessment of Romanian policing policy/procedures vis a vis international standards. This would be used to, over time, develop new policy and codes of practice for community based, transparent and accountable law enforcement. This draft was outlined in consultation with Romani Criss, which was made responsible for organizing regular meetings with Roma NGOs and coordinating their input.

The Ministry of Administration and Interior committed to (1) act as the national-level partner with OSCE in defining good practice and to (2) determine and implement the project activities with Romani CRISS, in consultation with the UK-OSCE experts.

With this strategic initiative, the Romanian Government effectively took on the task of implementing the Policing Chapter recommendations of the OSCE Action Plan for Roma and Sinti, and of developing a model of good practice to be disseminated across the OSCE area. The practical implications provide for

- the systematic assessment of current policing policy and practice in relation to international standards
- the capacity-building programme for Roma NGOs as partners for the Ministry in this assessment and subsequent projects in order to improve relations between Roma and Police.

4.2 Memorandum of Understanding between MAI, OSCE-ODIHR and Romani Criss - June 2005

The official Memorandum of Understanding follows from the directions indicated in the aforementioned draft protocol. As a background, it expresses the willingness and ability of all parties to co-operate on this project. Most importantly, it articulates the Ministry of Administration and Interior's intention to further develop the implementation of the 'Justice and Public Order' chapter of the governmental strategy for improving the situation of the Roma. Moreover, the Romanian Police Strategic Initiative is to be carried out in accordance with international standards on Human Rights and Policing, and should translate into a model of good practice.

The memorandum envisages the following activities:

- Police self-assessment to identify the strengths and weaknesses of existing policy and practice in relation to international standards
- Capacity-building for Roma NGOs to equip them to participate as MAI partners especially at the local level
- Training police officers at the local level, initially as a pilot project in 4 counties, to develop communication skills between Roma and Police
- Setting up a Steering Committee comprising representatives of all the signatory parties for the supervision and coordination of activities.

The Steering Committee constitutes an organ of Police institutions to co-ordinate project work, provide a forum for discussion and consultation between the government, senior ranking police officers, the Gendarmerie and Roma NGOs. The Steering Committee can invite other stakeholders as appropriate

4.3 Workshop with Roma Associations - 18th July 2005

Prior to the first formal meeting of Steering Group, Romani Criss organized a meeting of workshop session with a wide range of Roma NGOS/Associations to identify Roma concerns vis a vis policing. The key concerns of Roma communities were then fed into the agenda of the Steering Committee meeting. It was stressed that the data/information that Romani Criss develops was for consultative purposes only and does not supercede the police assessment of their own policy and practices. The data must be evidence based and well-researched. Romani Criss should act as a 'critical friend' – ensuring that both police and Roma concerns are addressed in the assessment outcomes.

In preparation for this meeting, Romani Criss produced two main 'Reflection documents'; the first outlining some of the legal standards which may be violated in relation to Roma and the second drawing out cases indicating detrimental police behaviour towards Roma. The ensuing discussion highlighted a series of common areas of concern on the part of the Roma community in relation to Police activity: Police raids in local

communities, the specific behaviour of policemen in their treatment of Roma, Fines, Forced evictions, Roma and Police in the media.

As a result of the meeting, Romani Criss also submitted suggestions and guidelines for the Steering Committee to review in its first meeting.

4.4 First formal meeting of Steering Group - 20th July 2005

In this first gathering of the Steering Committee the UK-OSCE experts gave introductory presentations on the conduct and value of a professional and formal assessment of police policy & practice. This process is based on a methodology (outlined above) developed and implemented in the UK in response to the incorporation of the European Convention on Human Rights into British legislation. The members of the Steering Group first of all agreed that this methodology was acceptable and appropriate to the Romanian case. Technical details and training materials would be provided by UK experts in advance. The Steering Committee also accepted a change in composition with the leading government representatives being replaced by the lead implementer, namely the IRCP.

Overall, the meeting outlined the main functions of the Steering Group:

- Commission and resource the work of the assessment process
- Strategic management of the programme
- Quality assurance of outputs
- Approve the project work, funding and expenditure
- Review/referral of risk to the appropriate departments
- Approval of product descriptions
- Nominate individuals in charge of the implementation of the project

Finally, the IRCP, in taking on the leading role of coordinator and administrator, appointed a project manager, a human rights' lawyer and a small team responsible for the running of the project.

4.5 Romanian Police Assessors training - 5-7th December 2005

This session led by the UK-OSCE experts provided training for senior representatives of the Romanian Police in how to assess police law, strategies and directions for compliance with the ECHR by analyzing the reasons for failure in compliance. The UK trainers also sought to emphasize the detrimental effects of crime, disorder and prejudice on the rights and freedom of citizens. By firmly grounding the practical exercise of self-assessment in the conceptual framework of human rights, this project was ascertained as a model instituting principle-based leadership and supervision, accountability and scrutiny. Self-assessment thus involves assessing the risk of non-compliance, and then managing that risk by proposing a reasonable, proportionate and effective response to it.

In the absence of any pre-determined thematic priorities for assessment, the course exercises focused upon the use of force. In this instance, the exercise established the need to change current regulations and guidance, but also highlighted the effective absence of clear guidance and accountability systems.

The training also led into discussion of stereotyping, prejudice and labeling, particularly in the context of Roma/police interaction and participants recognized the need to change and the current absence of guidance and training. Discussion also included the role of Romani CRISS, as Roma NGO partner, in the consultation and assessment process as 'critical friends' of police, stressing their vested interest in the change process but also their independence.

The task of the assessors can thus be summarized as follows: in consultation with Romani Criss, the assessor should identify themes and collate all the documents relating to it. If there is a policy in place, one should check for ECHR compliance; if not, the officer should apply the Generic Policy Assessment Tool (see General Policy Assessment Framework in annex), then refer back to the relevant policy unit. After a review of alternative policy proposals is made, the chosen compliant policy should be made public.

4.6 UK experts' visit to the Romanian Police - 12-16 March 2006

This session was intended for the Romanian Police to present the early results of their self-assessment for review by the UK-OSCE experts. The experts hence provided assistance by evaluating those results with regard to the next steps in the action plan set out by the ICPR. Most of the experts' work with the Romanian Police officers consisted in providing practical advice on the collation and dissemination of police statistics, re-emphasizing the need for transparency and for objective assessment. A discussion around the concepts of Community and Proximity policing, based on documentation from the experts also created a fertile ground on stressing the importance of achieving a balance between victim-focused and enforcement policing.

A brief of the session's results and achievements was transmitted to the senior police managers about policy implications. Also, a first step was taken in outlining the format and structure of the report to come out of the assessment process.

An informal meeting between the UK-OSCE experts, representatives of the Ministry of Administration and Interior, and of the ICPR gave the opportunity for the experts to brief the partners about the level of achievement. The Steering Group reformed into the 'Permanent Consultative Group' with a consensual agreement over the inclusion of senior Gendarmerie officer. The consultative role of Roma NGOs would also required extra support for their capacity-building.

Overall the project partners confirmed they would participate in the OSCE – CoE – Government of Romania Bucharest May Conference and that a report of the experts' visit together with the early results would constitute the basis for the Police presentation at this conference.

4.7 Bucharest Conference 'International Conference on the Implementation and Harmonization of National Policies on Roma, Sinti and Travellers: Guidelines for a common vision' - May 2006

This conference co-organized by the Council of Europe, the OSCE and the Government of Romania, effectively proposed to develop a set of jointly agreed criteria to measure progress in implementing the aforementioned recommendations and Action Plans made by the Council of Europe and the OSCE-ODIHR Chapter on Police and Roma. Other objectives on the agenda

included improving the inter-agency co-operation and synergies of relevant actors in sharing their experience, best practice and lessons learnt, as well ensuring the effective participation of Roma. A set of presenters focused on discussing appropriate modalities to combat racism and intolerance. Overall, this conference brought together the input of international organizations and sought to emphasize the need for cooperation in developing better political planning *for the Roma, with the Roma*.

Progress results of the Romanian Police Strategic Initiative were presented by Mrs. Margareta Flesner (IRCP) and Mr Costel Bercus (Romani Criss) in the working group III on 'Relations between the Police and Roma, Sinti, and Travellers: implementation, assessment and harmonization'. Dr. Robin Oakley (Consultant to the OSCE High Commissioner on National Minorities) briefly reviewed the direct relevance of the HCNM's recent publication of '*Recommendations on Policing in Multi-ethnic Societies*' (www.osce.org/hcnm), to the situation of Roma vis-à-vis the police. In his experience, it is important to address the specific situation of Roma-police relations in individual states (and also localities within such states) – though always with reference to a general framework of internationally recognised professional standards for policing multi-ethnic societies supported by examples of good practice.

A report on the Working Group on Policing was prepared by Chris Taylor acting as a rapporteur. Implicit in the report of the working group are two general points. First, the recognition that safe communities are key to quality of life, but fear of victimisation and intimidation faced by Roma communities, including disorder, makes life miserable for many people and anxiety remains high. Second, the police alone cannot solve all these problems of crime and disorder; public agencies (for example, employment, housing and education authorities) and local people need to play their part.

5. 2006 Completion and project outputs

5.1 Finalizing the Romanian Strategic Police Initiative

By December 2006, ED will complete the Romanian Police Strategic Initiative and deliver a model of how to audit/assess policing policy and practice (including baseline data for police reform). We will also deliver a full report on methodology and training, expected outcomes and problems which may have to be addressed, thereby delivering a model which can be replicated in other states. In addition to improving police-Roma relations in Romania, a major purpose of the Romanian Police Strategic Initiative is to produce a **replicable model** for dissemination across the OSCE states. The model will be accompanied by the Systematic Self-Assessment prepared by the Romanian Police as a practical example. The wider objective or goal of this project is that other (national) police forces adopt, adapt and implement this model and undertake a systematic assessment of their own work. This model when written up by UK expert/ED will outline the step-by-step methodology of police systematic self-assessment, provide the relevant training material and present a well-defined set of 'expected results'. Also included will be an objective evaluation of the performance of the Romanian Police against the formal model set out above.

The programme will also explore how the implementation and consequent outputs of this new policy direction by the Romanian police can be monitored at local level, and seek to develop a follow-on project to do this.

5.2 Activities

1. The ICPR has produced a draft assessment report and the UK-OSCE experts have responded with detailed comments proposing strengthening of the report in a number of respects.
2. An updated progress report of the Romanian Police Strategic Initiative by representatives of the Institute and Romani Criss will be presented to the OSCE governmental delegations at the side event of the OSCE Human Dimensions on 11th October.
3. A two-day visit to Bucharest by the UK policing experts, John Slater and Robin Oakley, on 18-19th October to work with the Institute to discuss the draft report on the basis of their commentaries and make recommendations on further work to be done. This will include advice on guidelines to be issued to all ranks of the police service to enable implementation of strategic assessment.
4. Attendance at Consultative Committee meeting by UK experts 18-19th October in Bucharest to ensure that advice and guidance on the next steps in implementation is given to all ranks of the police and to Ministerial representatives.
5. Discussions, briefing meeting with Romani Criss to review and take comments on Report by Romani Criss
6. The Romanian Ministry of Administration and Interior will publish the Final Report of the Romanian Police Strategic Initiative in December 2006
7. Collecting documentation and reviews etc, then compiling and writing the Final Project Report/Replicable Model outlining the methodology and including an assessment of results gained in Romania to be published on OSCE website and ED website

5.3 Final Project Outputs

1. The successful completion of the first stage of the self-assessment process by the Romanian Police marks a distinctive step towards institutional reform in compliance with EU accession requirements.
2. A published, high-quality policy document by the Romanian police which can be used as a campaigning and lobbying tool for Roma and other minority NGOs to improve policing practice. This assessment will deliver, if monitored by civil society/Roma, an improved police service and improved relations between the police and the Roma community.
3. A Final Project Report including training materials and evaluation to be made available on the OSCE website.
4. A replicable model of police assessment and reform to be disseminated and used as a blueprint for the practice of police systematic assessment throughout other OSCE states.

6. Building on Achievements – Further recommended developments

The completion of the Romanian Strategic Initiative in 2006 constitutes a substantial achievement for all parties involved. It has assisted the Romanian Police to progress further in their path of institutional reform in compliance with human rights standards, and in particular by addressing continuing sources of tension in their relation with the Roma community. Moreover, Roma NGOs benefit from both capacity-building and a potential strong lobbying tool to further monitor the work of the Romanian Police. With the Romanian Police acting as a leader in the process of self-assessment, this initiative will contribute a unique replicable model to be used by police forces in other national settings across the OSCE area.

Nevertheless, one should not overlook the fact that the completion of this project marks only the first step in the process of institutional reform for the Romanian Police. Consequently, much more is required if international standards are to be met, this being most obvious in the case where policies and laws exist, but practice does not follow. Ultimately, this initiative will raise issues of awareness, training, supervision and leadership, which are essential problems to be tackled, but lie beyond the terms of reference of this project.

The General Police Inspectorate (ICPR as agents) should draw up an action plan, which sets out its approach about how it will monitor compliance with the ECHR after the first phase of assessments. It will be good practice for the Action Plan to contain a timetable for necessary activities. The Action Plan should be reviewed at regular intervals to ensure it is effective. Mention of it should be made in the Inspectorate's Strategic Plan.

The Inspectorate should also consider how best to manage the creation and implementation of any proposed Action Plan, possibly by appointing at least one senior official as the person who has responsibility for ensuring that all staff employed by the Inspectorate are made aware of the implications of ECHR compliance. It is generally recognised that the compatibility of legislation and procedures with the ECHR is not something that can be resolved in a one-off assessment. A continuous process of review is therefore necessary as new issues emerge and the European Court of Human Rights (ECtHR) case law develops.

Furthermore, familiarity with the ECHR should become a core skill for all police staff. Therefore, it is expected that the Romanian Police should henceforth seek to develop adapted training strategies (also for the Gendarmerie) for officers at all levels along the hierarchy. Ultimately, for sustainable progress to be made, further efforts should go into appraising the structures of leadership and supervision towards strengthening the 'chain of responsibility'. A strong communication strategy involving representatives of community groups, would also prove invaluable in facilitating the practice of community policing.

Monitoring of implementation at local level, which tests the commitment to and the effectiveness of communication of guidelines to all levels of the police service, will also be valuable follow-on work. The UK experts, supported by European Dialogue, will discuss with Romani Criss how their network of local Human Rights Monitors can work with their local Roma

communities to monitor police practices. ED has already established links with the Open Society Justice Initiative (whose coordinator, Rebekah Delsol, is based in London), who are undertaking a wide ranging programme of initiatives addressing 'racial profiling' in policing, including in relation to Roma, and who have expressed interest in future co-operation.

Supplementary documents

General Policy Screening Framework (Appendix 1)

Needs analysis for capacity-building for Roma NGOs (Appendix 2)

OSCE Action Plan for Roma and Sinti – Policing Chapter
http://www.osce.org/documents/odihr/2003/11/1562_en.pdf

OSCE Action plan for Roma and Sinti – Recommendations on Policing for action by Participating States – MATRIX OF GOOD PRACTICE by Dr R. Oakley (Appendix 3)

European Code of Police Ethics
[http://www.coe.int/t/e/legal_affairs/legal_co%2Doperation/police_and_internal_security/documents/Rec\(2001\)10_ENG4831-7.pdf](http://www.coe.int/t/e/legal_affairs/legal_co%2Doperation/police_and_internal_security/documents/Rec(2001)10_ENG4831-7.pdf)

European Convention on Human Rights
<http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>

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Appendix 1. Generic Policy Screening Framework

Issue	Questions
Screening for potential interference and discrimination	<p>Is there within the content of this policy/guidance document (its attendant powers, authorities or directions) any potential to interfere with an individual's Convention rights?</p> <p>Is there within the content of this policy/guidance document (its attendant powers authorities or directions) any potential for it to be discriminatory in its application or provision of Convention rights?</p>
Human rights principles	<p>Does the policy/guidance contain a statement defining what the legal basis is for the policy and any attendant powers, authorities or directions?</p> <p>Does the policy provide details of what could be construed as the legitimate aim(s) for any potential interference with an individual's rights by virtue of exercising the policy, its attendant powers, authorities or directions?</p> <p>Does the policy provide for the need to follow a clearly defined decision-making process in considering the grounds, impacts and other relevant information when deciding an appropriate course of action?</p> <p>Is it explicit within the policy what the minimum standards are in relation to documenting and evidencing such decision-making?</p> <p>Does the policy provide practitioners with clear guidance on establishing:</p> <ul style="list-style-type: none"> ▪ The lawfulness of their actions? ▪ A legitimate aim for their actions (exemptions and derogations)? ▪ Justifying the proportionality of their actions in achieving their aim? ▪ Documenting decisions made, consultation processes, and outcome?
Delineating between policy and tactics	<p>Does the policy incorporate police tactics that would make it impractical to place in into a public domain? (It is recommended that tactical information is excluded, on the ground of security, to preserve the integrity of operational methodology.)</p>
Presumptions, publication, assessment and inspection	<p>Does the policy contain a presumption to public disclosure or, on the grounds of public interest, justification for any reservation to this rule?</p> <p>Does the policy contain a presumption that, when a power, authority or direction is exercised, individuals have a right to make representations, to legal advice, appeals procedure, etc?</p> <p>Does the policy contain a presumption about maintaining monitoring systems, assessments of training and responsibilities for inspection?</p> <p>Does the policy contain presumptions about the level of independent scrutiny of decision-making and complaints?</p>
Compliance	<p>Does the policy contain a certificate that it has been drafted in accordance with the values and the principles underpinning the Convention?</p>
Legal proofing	<p>Has the policy been legally proofed for human rights compliance?</p>
Policy Review	<p>Has the policy been given a review date to ensure ongoing compliance with the ECHR in the light of emerging human rights case law?</p>

Appendix 2

O.S.C.E./O.D.I.H.R./C.P.R.S.I Project Police and Roma: Towards Safety for Multi-Ethnic Communities Activities in Romania

NEEDS ANALYSIS FOR CAPACITY-BUILDING FOR ROMA NGO's

(Some suggestions for discussion, based on UK experience)

1. What role will Roma NGOs play in cooperation with police to implement policing recommendations of OSCE Action Plan?
2. What competences are needed by Roma NGOs in order to be able to play this role effectively?
3. What training and other activities should be undertaken to meet these needs?

1. Role of NGOs

Assessment Exercise

- Contribute Roma perspective on key issues to be addressed in the assessment.
- Contribute Roma perspective on appropriate standards of conduct and good operational practice in policing situations involving Roma.
- Organise regional round-tables for consultation with Roma communities at the local level.
- Provide independent quality assurance for the assessment, and thus confidence in the assessment among Roma communities.

Other areas of activity covered by OSCE recommendations

Training:

- Contribute to the design, delivery and evaluation of training for police, both in the academy and at the local workplace.

Dialogue & Consultation:

- Establish mechanisms for regular dialogue with local police, and for police to consult regularly with Roma communities on matters related to policing.

Recruitment:

- Assist police to identify and implement methods to increase Roma recruitment, and encourage/support individual Roma who are interested to work as police.

Roma rights awareness:

- Promote awareness of rights and responsibilities among Roma communities on matters related to policing, including how to report crime and how to make complaints about police behaviour.

Partnership structures:

- Promote establishment of formal partnership structures at the local level between Roma and police for these purposes, and support Roma participation in meetings and joint activities.

2. Police-Related Competences Required by NGO's

1. Knowledge

- Police powers, operational procedures & standards of conduct relating to issues of concern
- Procedures for citizens to report crimes
- Structure of local police, ranks, contact points, etc
- Police training: organization, curriculum, training methods
- Procedures for making complaints about police behaviour
- Procedures for recruitment and selection of police

2. Attitudes

- Respect in principle for police role in law enforcement/crime prevention
- 'Constructively critical' attitude towards performance of police role
- Willingness to recognize/encourage good practice as well as condemn bad practice
- Willingness to cooperate with police in joint problem-solving

3. Skills

- Presentational skills (e.g. for training, formal meetings)
- Negotiating and mediating skills (conflict resolution, building cooperation, casework)
- Advocacy skills (casework, complaints, promoting proactive attention to issues)
- Analysis of problems (especially for prevention, problem-solving approach)
- Monitoring and evaluation skills
- Ability to gain support in Roma community for NGO to engage in police-related work
- Ability to promote participation by Roma in dialogue and cooperation with police
- Ability to separate cooperative work with police from campaigning/adversarial casework
- Confidence in interacting with police, especially in police environments

3. Designing Capacity-Building Training & Other Activities

The training should be designed to develop the knowledge/attitudes/skills that are currently lacking or weak. NGOs therefore first need to identify which competences they already have, and which they do not. The objectives of the training should be to bridge the gap.

Knowledge and familiarity with the police organization is likely to be the main area of need. Input by police is therefore likely to be an important component of any capacity-building training programme.

Provision of written documentation is likely to be an efficient way of meeting the need for knowledge and information. This should be read prior to the course, so that time during the course can be spent on questions, clarification, and discussion of examples and implications.

Visits to police stations and training academies, and accompanying police officers while they carry out their work, can also be useful ways for representatives of NGOs to gain a better understanding of policing.

Robin Oakley
Draft at 051204

O.S.C.E. Action Plan for Roma and Sinti

RECOMMENDATIONS ON POLICING FOR ACTION BY PARTICIPATING STATES

MATRIX OF GOOD PRACTICE

Introduction

1. This matrix sets out indicators of good practice relating to the recommendations on policing contained in the *OSCE Action Plan for the Improvement of the Situation of Roma and Sinti in the OSCE Area*. The matrix is intended to assist participating states to implement the recommendations by:

- a) Indicating 'good-practice' standards for policing policy and practice on Roma-related issues against which current practice can be assessed.
- b) Setting out the basis for a 'vision' of good relations between police and Roma to which individual participating states may aspire.

2. The matrix takes the form of a 'completed version' of a basic template designed for use by participating states to assess their compliance with the seven recommendations on policing in the OSCE Action Plan. The basic template merely includes the 'test' questions in the second column, and participating states would provide their answers on the current state of policy and practice in the third column. The present matrix indicates in the third column what 'good practice' answers to these questions might be.

3. The format for the matrix is based on that used in the booklet *Policing in a Democratic Society: Is your Police Service a Human Rights Champion?*, published for the Council of Europe's Police and Human Rights Programme by the Austrian Ministry of the Interior (2000).

4. The order of the OSCE recommendations, as set out in the Action Plan, has been changed to provide a more logical sequence for elaborating the matrix.

5. The present matrix is a draft version which will be revised following the pilot 'systematic assessment' of policing policy and practice on Roma-related issues to be conducted in Romania during 2005.

Robin Oakley, OSCE Consultant
25 April 2005

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>1. Assess the gap between international standards on police and currently existing national practices in consultation with national police forces, NGOs and representatives of Roma and Sinti communities. (Recommendation 30)</p>	<p>(a) Have the police established a partnership with Roma NGOs for this purpose?</p> <p>(b) Have the key issues of concern in relations between police and Roma been identified?</p> <p>(c) Have the relevant international standards been identified?</p> <p>(d) Has a positive vision, based on these standards, for relations between Police and Roma been established?</p> <p>(e) Has the gap between this vision and current policing policy and practice on Roma-related issues been identified?</p> <p>(f) Has an action plan to bridge this gap been drawn up and implemented?</p>	<ul style="list-style-type: none"> • Police identified Roma NGOs that can act as effective partners • Roma NGOs have agreed terms of reference for cooperation • Appropriate partnership structure agreed and established • Police have identified issues from police perspective • Police have consulted Roma communities about concerns • Roma consultation organised in partnership with Roma NGOs • Key issues to be addressed have been agreed between police and Roma NGO partners • Relevant international human rights standards and test cases identified • Relevant international policing standards identified • Other relevant guidance on good practice identified • International standards are incorporated into domestic law where necessary/appropriate • A positive 'vision', based on international standards and national circumstances, has been agreed by the partners • Consultation was undertaken both within police, and with Roma and non-Roma communities • The vision is publicly available and communicated widely • Research undertaken to measure the gap between vision and current policy/practice • The assessment has been completed in the form of a publicly available report • The assessment included a consultation exercise with Roma • Commitment by police to address the gaps • An action plan has been drawn up and is publicly available • Resources have been allocated to support the activities • Roma NGOs and representatives have been involved in drawing up and implementing the action plan • The action plan has been implemented • The results of the action plan have been evaluated

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>2. Elaborate, where appropriate, and in close partnership with international organizations and Roma NGOs, policy statements, codes of conduct, practical guidance manuals and training programmes.</p> <p>(Recommendation 31)</p>	<p>(a) Have clear policy statements on relations between Roma and police been produced?</p>	<ul style="list-style-type: none"> • Policy statements produced that are specific to relations between police and Roma • Statements are clearly based on relevant human rights principles and domestic law • Statements set out a positive vision of relations with Roma • Statements address issues of concern to Roma communities
<p>(b) Have professional codes of conduct, relating to or covering relations between Roma and police, been produced?</p>	<ul style="list-style-type: none"> • Codes produced that address issues of concern to Roma • Codes include specific reference to police relations with Roma • Codes translate human rights principles into standards of conduct • Codes set out the legitimate aims for exercise of police powers • Codes are publicly available and accessible • Mechanisms are in place for making complaints and investigating breaches of professional conduct • Breaches attract negative sanctions; compliance is rewarded 	
<p>(c) Have practical guidance manuals, relating to or covering relations between Roma and police in support of these policies and codes, been produced?</p>	<ul style="list-style-type: none"> • Manuals produced that address issues of concern to Roma • Manuals include specific reference to relations with Roma • Manuals support implementation of policies/codes • Manuals provide detailed practical guidance on exercise of police powers on issues of Roma concern • Manuals are publicly available and accessible 	
<p>(d) Have training programmes, including a Roma-specific element, been produced in support of the above?</p>	<ul style="list-style-type: none"> • Training programmes address issues of concern to Roma • Programmes include specific reference to relations with Roma • Training programmes designed to support implementation of vision, codes of conduct and guidance manuals • Effectiveness of training programmes is evaluated 	
<p>(e) Has the experience and support of international organisations working on Roma issues been drawn on when developing the above?</p>	<ul style="list-style-type: none"> • In formulation of policy statements • In elaboration of codes of conduct • In production of practical guidance manuals • In design and delivery of training programmes 	
<p>(f) Have Roma NGOs been involved in the above activities and their implementation?</p>	<ul style="list-style-type: none"> • In formulation of policy statements • In elaboration of codes of conduct • In production of practical guidance manuals • In design and delivery of training programmes 	

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>3. Develop policies that promote awareness among law-enforcement institutions regarding the situation of Roma and Sinti people and that counter prejudice and negative stereotypes. (Recommendation 26)</p>	<p>(a) Have law enforcement institutions acknowledged that there is a need to promote awareness and counter stereotyping?</p> <p>(b) Have detailed policies been developed to promote awareness and counter stereotyping?</p> <p>(c) Have Roma NGOs and representatives been involved in this process?</p> <p>(e) Has the effectiveness of these policies been evaluated?</p>	<ul style="list-style-type: none"> • Need for awareness of the situation of Roma as a minority has been acknowledged • Existence of prejudice and negative stereotyping towards Roma has been acknowledged • Negative effects of ignorance and stereotyping identified • Inappropriateness and danger of racial profiling recognised • Right of Roma to access to justice and non-discriminatory treatment recognised • Policies developed to increase awareness of Roma and to counter negative stereotyping and racial profiling • Opportunities provided for police working in areas with Roma population to meet Roma people informally • Training includes information on Roma communities • Training includes activities to counter prejudice/stereotyping, including specific reference to Roma • Codes of conduct state requirement for fairness and non-discriminatory treatment for all ethnic groups • Selection of recruits tests for prejudicial attitudes, including towards Roma • Staff displaying prejudice or discriminating against Roma are punished/dismitted • Information on policies is publicly available and accessible • Roma involved in identifying need • Roma involved in developing policies generally • Roma NGOs act as partners for organising informal Roma-police contact • Roma NGOs and representatives involved in design and delivery of training, and production of training materials • Mechanism for monitoring and assessing outcomes established • Indicators show improved standard of behaviour by police towards Roma • Evidence of reduction in racial profiling of Roma • Indicators show awareness of policies in Roma communities

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>4. Develop policies: (1) to improve relations between Roma and Sinti communities and the police, so as to prevent police abuse and violence against Roma and Sinti people; and (2) to improve trust and confidence in the police among Roma and Sinti people. (Recommendation 28)</p>	<p>(a) Have existing problems in relations between Roma and police been acknowledged and causes identified?</p> <p>(b) Have explicit policies been developed to address these problems and improve relations?</p> <p>(c) Have policies been developed and implemented specifically to prevent police abuse and violence against Roma?</p> <p>(d) Have policies been developed and implemented specifically to improve trust and confidence in the police among Roma?</p>	<ul style="list-style-type: none"> • Police acknowledge the need to specifically address relations with the Roma community • Police consult with Roma to identify problems • Police work with Roma NGOs to analyse problems and causes • Public commitment by police to improve relations with Roma • Formal policies state how this will be done • Policies address identified problems in Roma-police relations • Policies are publicly available and accessible • An action plan has been drawn up and implemented • Responsibility for policies relating to Roma assigned to a specific officer or unit • Measures show general improvement in Roma-police relations • Policies specifically include actions to prevent police abuse and violence against Roma • Alleged instances are investigated and documented • Factors that could give rise to such abuse have been identified • Guidance and training have been introduced to prevent abuse • Measures show reduction of abuse/violence against Roma • Policies specifically include activities to improve trust and confidence in the police among Roma • Mechanisms for dialogue, consultation and joint problem-solving have been introduced • Police liaison officers for Roma appointed at local level • Initiatives have been developed in partnership with Roma NGOs/communities • Measures show concrete improvement in Roma trust and confidence in police

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>5. Develop training programmes to prevent excessive use of force and to promote awareness of and respect for human rights. (Recommendation 27)</p>	<p>(a) Have professional standards relating to human rights and use of appropriate levels of force been clearly identified?</p> <p>(b) Do training programmes for all police officers explain these standards, and demonstrate their practical implications for the work of the police officer?</p> <p>(c) Is the training provided with the necessary support and follow-up?</p> <p>(d) Is the implementation of these standards relating to use of force and human rights monitored and evaluated?</p>	<ul style="list-style-type: none"> • Relevant human rights standards have been identified • Their practical implications for policing have been identified and incorporated into codes of conduct etc. • Professional standards and procedures relating to use of force have been identified, and comply with human rights standards • Police leaders and managers make clear that all staff are required to observe these standards, including in dealings with minorities/Roma • Standards and procedures are publicly available/accessible <ul style="list-style-type: none"> • Training programmes explain the relevant human rights standards • Training programmes demonstrate their practical implications for the work of police, including examples relating to Roma • Training programmes specifically refer to principle of minimum force, and give guidance on appropriate levels of force • Subject is included in training for recruits • Subject is included in training for managers and supervisors • In-service training provided for police who did not receive such training previously • Training syllabuses are publicly available and accessible <ul style="list-style-type: none"> • Resources have been provided specifically for this training • Effectiveness of training on human rights and use of force is evaluated • NGOs (including Roma NGOs) are involved in the design, delivery and evaluation of this training <ul style="list-style-type: none"> • Complaints systems exist and are accessible to Roma • Alleged breaches investigated; proven breaches sanctioned • Case investigations are subject to independent scrutiny • Scrutiny of cases involving Roma includes Roma NGOs • Breaches of standards are monitored and analysed by the institutions, to identify causes and preventive action • Monitoring shows reduction of breaches over time

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>6. Develop policies and procedures to ensure an effective police response to racially motivated violence against Roma and Sinti people. (Recommendation 29)</p>	<p>(a) Does the law explicitly recognise and penalise racial motivation in crimes of violence?</p> <p>(b) Do the police have clear policies and procedures for responding to racial motivation as an aggravating factor in crime?</p>	<ul style="list-style-type: none"> • Law explicitly recognises racial motivation as an aggravating factor in crime • Law provides additional penalties for racial motivation • Cases provide evidence of law being used effectively by police in incidents of violence against Roma
	<p>(c) Is information routinely collected about incidents of racially-motivated violence, including identification of incidents against Roma?</p>	<ul style="list-style-type: none"> • Police routinely collect and analyse information on incidents of racially-motivated violence • Incidents against Roma are specifically identified and analysed • Result of the analysis is used to improve the effectiveness of the police response to such incidents • Relevant information is shared with other agencies who can help to prevent such incidents
	<p>(d) Is training provided for police on dealing with incidents of racially-motivated violence?</p>	<ul style="list-style-type: none"> • Training provides police with awareness of the importance of an effective response to racially motivated violence • Training informs police of the law, policy and procedures for responding to such incidents • Incidents against Roma are specifically included in this training
	<p>(e) Is the police response effective?</p>	<ul style="list-style-type: none"> • Measures of effectiveness have been introduced • Roma are more willing to report incidents • Perpetrators are successfully prosecuted • Victims satisfied with police response • Overall number of incidents has been reduced

<u>RECOMMENDATION</u>	<u>TEST</u>	<u>INDICATORS OF GOOD PRACTICE</u>
<p>7. Encourage Roma and Sinti people to work in law-enforcement institutions as a sustainable means of promoting tolerance and diversity. (Recommendation 32)</p>	<p>(a) Have the reasons for under-representation of Roma been identified?</p> <p>(b) Have specific policies been introduced to encourage/assist Roma to obtain employment?</p> <p>(c) Is the recruitment/progression of Roma in law-enforcement institutions routinely monitored?</p> <p>(d) Have the policies and initiatives been effective?</p>	<ul style="list-style-type: none"> • Importance of recruiting Roma as means of promoting tolerance and diversity recognised • Attitudes of Roma towards employment in law-enforcement institutions identified • Barriers to employment of Roma identified • Institutions explicitly encourage Roma to apply for employment • Barriers to employment removed • Initiatives to assist Roma to access employment introduced • Responsibility for promoting Roma recruitment assigned to particular officer or unit • Institutions cooperate with Roma NGOs for these purposes • Initiatives form part of wider equal opportunity policies for employment in institutions • Information is routinely collected • Information covers role, status, location, etc • Roma are willing to disclose their identity for this purpose • Survey has been conducted of experiences of Roma employees • Information is analysed and used for further development of policy • Increased number of Roma applicants • Increased number of Roma employees • Roma employees experience equal treatment and respect • Roma employees progress in their careers and remain in post

