



## **The Case of Early Marriages within Roma Communities in Romania**



**Bucharest 2010**

# **Are the Rights of the Child Negotiable?**

**Nicoleta Bitu      Crina Morteau**

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**The Case of Early Marriages within Roma  
Communities in Romania**

**Bucharest, 2010**

**Report realized with UNICEF Romania support within the Project  
"Early Marriages within Roma Communities: Rule of Law, Cultural  
Autonomy and Individual Rights (of Children and Women)".**

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interviewed persons and do not necessarily reflect the  
official position of UNICEF Romania.*

**Descrierea CIP a Bibliotecii Naționale a României**

**CENTRUL ROMILOR PENTRU INTERVENȚIE SOCIALĂ ȘI STUDII (București)**

**Are the rights of the child negotiable? : the case of early marriages within  
roma communities in Romania / Romani C.R.I.S.S. – Centrul Romilor pentru  
Intervenție Socială și Studii ; pref.: prof. dr. Eniko Magyar Vincze ; editor ed.  
lb. engl.: Reprezentanta UNICEF România ; trad.: Răzvan Gheorghe. – Buzău :  
Alpha MDN, 2010**

Bibliogr.

ISBN 978-973-139-143-4

I. Magyar Vincze, Eniko (pref.)

II. Gheorghe, Răzvan (trad.)

341.231.14:3-053.2

323.1(=214.58)

# CONTENT

|   |           |
|---|-----------|
| <b>I. FORWARD .....</b>   | <b>5</b>  |
| Prof. Dr. Eniko Magyar Vincze   |           |
| <b>II. REPORT SUMMARY .....</b>   | <b>10</b> |
| <b>III. INTRODUCTION .....</b>  | <b>16</b> |
| <i>Introduction .....</i>   | <i>16</i> |
| <i>Why do we need this report? Relevant data and studies for setting the terms of a debate on early marriages .....</i> | <i>20</i> |
| <b>IV. HOW DO WE SPEAK OF EARLY MARRIAGES? .....</b>  | <b>26</b> |
| <i>Definitions of different forms of marriage: Wedlock, Forced Marriage, Early Marriage .....</i>                       | <i>26</i> |
| <i>Marriage at the Roma: Anthropologists vs. human rights activists .....</i>   | <i>31</i> |
| <b>V. INTERNATIONAL AND NATIONAL LEGISLATION .....</b>  | <b>37</b> |
| <b>V.1. <i>International instruments</i> .....</b>  | <b>42</b> |
| <i>Universal declaration of human rights .....</i>  | <i>42</i> |
| <i>International covenant on economic, social and cultural rights .....</i>   | <i>43</i> |
| <i>International covenant on civil and political rights .....</i>   | <i>44</i> |
| <i>Convention on the rights of the child .....</i>  | <i>46</i> |
| <i>Convention on consent to marriage, minimum age for marriage and registration of marriages .....</i>                  | <i>49</i> |
| <i>Convention on the elimination of all forms of discrimination against women .....</i>                                 | <i>51</i> |
| <i>Beijing Declaration and platform for action Council of Europe .....</i>  | <i>53</i> |
| <i>Convention for the protection of human rights and fundamental freedoms .....</i>                                     | <i>54</i> |
| <i>Framework convention for the protection of national minorities .....</i>   | <i>56</i> |
| <i>Resolution 1468 on forced marriages and child marriages .....</i>  | <i>57</i> |

|   |            |
|---|------------|
| <b>V.2. Domestic legislation .....</b>  | <b>58</b>  |
| <i>Romanian Constitution.....</i>   | <i>58</i>  |
| <i>Penal code .....</i>   | <i>60</i>  |
| <i>Family code.....</i>   | <i>61</i>  |
| <i>Law 272/2004 on the protection and promotion of the<br/>        rights of the child.....</i>   | <i>63</i>  |
| <i>Government Ordinance 137/2000 on the prevention and<br/>        punishment of all forms of discrimination.....</i>   | <i>68</i>  |
| <i>Law 202/2002 on equal opportunities for women and<br/>        men .....</i>  | <i>70</i>  |
| <b>V.3. Policies addressed to the Roma national minority .....</b>  | <b>72</b>  |
| <i>Romanian government strategy for improving the condition<br/>        of the Roma .....</i>   | <i>72</i>  |
| <i>Decade of Roma Inclusion 2005 - 2015 .....</i>   | <i>73</i>  |
| <br>  |            |
| <b>VI. MEDIA REPORT OF EARLY MARRIAGES WITHIN ROMA<br/>COMMUNITIES.....</b>   | <b>76</b>  |
| <i>Press language used in describing early marriages within<br/>        Roma communities Reflection of the issue in the<br/>        media: the mirror of Roma organizations' and Leaders'<br/>        stand .....</i> | <i>78</i>  |
| <br>  |            |
| <b>VII. CASE STUDIES .....</b>  | <b>93</b>  |
| <i>Calderas Roma community in Sibiu - Marriage between<br/>        Ana Maria and Mihai Merchant .....</i>   | <i>94</i>  |
| <i>Roma community in Ramnicelu, Buzau County.....</i>   | <i>98</i>  |
| <i>Roma community in Ferentari, Bucharest.....</i>  | <i>107</i> |
| <br>  |            |
| <b>VIII. SUMMARY AND CONCLUSIONS OF THE ROUND TABLE on<br/>"Early marriages within Roma communities: rule of law,<br/>cultural autonomy and individual rights" .....</b>  | <b>114</b> |

## I. FORWARD

### Who and how speaks of early marriages

The present report on early marriages within Roma communities elaborated by Romani CRISS through the contribution of its authors, Nicoleta Bitu and Crina Morteau, is an activist analysis made upon a sensitive issue not only within the communities it refers to, but in the Romanian society in general. We must acknowledge once again, if we haven't done it enough by now, that the critical approach of the social area from the perspective of the most disadvantaged categories of persons (such as the Roma women) has the capacity to deeply stir the most rooted and naturalized aspects of our social life, such as the institution of marriage. What is its nature? How does it work? What are its social functions? How do the groups – in which we aspire to be accepted members – socialize us on our options regarding marriage? How does the group contribute to the preservation of a patriarchal (and heterosexual) *status quo* within and outside it? What sort of cultural conceptions does the institution of marriage regulate? What kind of interests does it serve, whose are they and who do they work against? Why is it so difficult for us to imagine life outside this institution? To what sort of denigrations and incriminations are subjected the persons who choose to find and maintain their partnerships differently than imposed by the dominant model of couple's life?

When we read this report we should not believe that the problem of marriage is an issue belonging only to the Roma, even if the hereby analysis refers to their communities. And we should not even presume that early marriage is a cultural practice pertaining to the essence of the Roma, as both the Romanian and Hungarian communities in Romania used to practice this custom until no so long ago. But those who see themselves as superior to the Roma also from this point of view wish to forget about it. Furthermore, even

nowadays we keep hearing of cases of marriages at early ages among Romanians and Hungarians, too, not mentioning the phenomenon of beginning the sexual life as early as entering puberty. However it may be, we must remember here Claude Levi-Strauss's diagnosis (made in completely different social-cultural contexts) regarding the part played by marriage and the afferent exchange of women in the preservation of social order and peaceful cohabitation. But we cannot leave out feminist Gayle Rubin's criticism regarding the latter, emphasizing that women trafficking between groups supported in fact a patriarchal type of order, in which women became objects of male transactions without having the authority to freely express their own wishes and interests.

The context of legislations discussed in this report also draws our attention that, when speaking of early marriages, we cannot limit our perspective to seeing them as couple's relationships regulated by certain innocent cultural norms, but we need to approach them as practices allowing the manifestation of phenomena of social inequalities, such as discrimination and violation of universal human rights pertaining to children and women.

Because it is a phenomenon structured on relations of power and, implicitly, of domination and subordination.

But even more important to be mentioned here is the fact that the authors of the report draw our attention on the way in which the Romanian media handled the issue of early marriages at the Roma in order to support again and again the social consensus on "who the Roma are". I would also like to add here the politicians' reactions during the time when the European Union pressured Romania for this reason. Both the media and political speeches suddenly became sensitive in relation to the "Roma women's rights", placing this "concern" in service of anti-Roma attitudes. A gesture that fits in the register of those speeches that, for example, motivate military

interventions in non-western countries by emphasizing the violation of women's rights in those countries. Apparently, these speeches adopt the arguments of feminism (of protecting women's rights). But I would like to draw attention here on the fact they are not feminist at all, on the contrary, they denigrate not only the respective communities but feminism, too, as they use the latter as a tool and, by doing so, contribute to the generation of anti-feminist attitudes within the attacked communities. Consequently, the women within these communities who activate for such rights or even adopt the feminist vision become even more vulnerable before patriarchal community practices.

In such situations they can do nothing else than what the authors of the hereby report are doing. To resume the issue and discuss it in their own way, with their own emphases and sensitivities, to build both powerful and authoritative stands against anti-Roma racism, as well as against the sexism within their own communities. They are the most entitled to do it: because they own the practical experience of the intersection between racism and sexism, because they know – as they live it and analyze it (also) through their own experiences – how ethnic identity manifests itself through gender identity and vice versa (as being of Roma ethnicity does not mean being a universal Roma but means, for example, being of Roma ethnicity of feminine gender, the same as being a woman does not mean being a universal woman but, for example, a woman of a certain ethnicity).

Critical and auto-critical feminism (however blamed it may be in Roma, Romanian or Hungarian academic, political or media circles in Romania) provide the authors, me and us all with analytical instruments making possible to demonstrate the ways in which women, their bodies and their social roles become symbols of communities perceived in ethnic and national terms. There can be noticed that they are attributed the role to mark the ethnic-national identity and to preserve the differences/boundaries between different



groups (gender differences, such as the different set of norms regarding femininity, thus become central in ethnic identification and self-identification). In our case, Roma community norms regarding women, sexuality, marriage, reproduction, etc. aim to prove the purity, thus the cultural superiority of Roma over the non-Roma society, which is perceived by the Roma as characterized by immorality and impurity.

The argument according to which early marriage protects the girl's virginity and avoids immorality, considered characteristic for sexual relations with several partners started at an early age within the majority population, fits in this register. On the other hand, giving the norms regarding early marriages and women in Roma communities the power to define the latter, non-Roma reproduce the idea that Roma communities would be pre-modern, or if you wish, uncivilized and primitive. Thus – for example by treating the phenomenon of early marriages in the context of interethnic relations – the "Roma woman" gets to be perceived by and subjected to gendered norms both in her own community and by the majority population, becoming even the instrument through which the two communities inter-relate and contest each other. In this hypostasis, the Roma woman is denied all the legal rights and any moral entitlement to choose whether she wants to become such an instrument or symbol, in all cases and by all parties. Always subordinated to a larger and nobler unit than herself (such as family, community, ethnic group or nation), woman's legitimacy to question her subordination is disputed.

Of course, when hearing this statement some might say that the appeal to the individual rights of women can be considered part of the western feminist speech, regarded as something foreign to our land and hearts. Therefore – not entering here in debates on liberal feminism or of an another type – I am quick to emphasize that when I appeal to the women's moral entitlement, or when the authors refer to their rights, they do not plead for a conception placing the individual

outside his or her social relations, but ask for a world in which women (too) can participate as partners to the public debate on the issues concerning them (which in fact sum up all social problems). And for the creation of conditions for them not to be considered traitors if they analyze phenomena defined as taboo by masculine stands, or if they draw other visions on life than those predominant in the community they want to be part of. Their role is not easy at all, not even at the language level. For they have to invent a new way of speaking of discrimination, disadvantages, identity and other connected problems, able to succeed in breaking the binary opposition between the universalistic human rights language and the particularistic language of culture (or of cultural rights), but also between the majority feminism and the masculine ethnic movement. And beyond it but, in fact, through this language, they will demonstrate (as they already do) that the cultural tradition (for example of early marriages) which the masculine speech (both Roma and non-Roma) appeals to is a construction that expresses the visions on life of those who have access to the symbolic power of defining "who we are".

Deconstructing the idea of homogenous Roma culture, by introducing the perspective of gender difference into the community that lives through this culture and (re)produces it in its daily life, is not an attack on cultural identity. On the contrary, it is a contribution to the acknowledgement of the internal diversity of this identity and of everyone's ability within that respective community – regardless of gender, age, etc. – to participate in defining the problems and finding the solutions. Feminism is not an enemy of the other identity politics, even if it systematically denounces essentialisms of any kind, including its own. But it surely is a form of activism directed against any regimes of power, criticizing them from the perspective of the subordinated and disadvantaged, thus being able to mobilize cross-ethnic solidarities, too.

Prof. Dr. Eniko Magyari-Vincze

## II. REPORT SUMMARY

The hereby report represents a first step in the attempt to bring into discussion the dilemmas related to early marriage. It does not make an "x-ray" of the phenomenon or establishes its amplitude. We hope that publishing a study making the inventory of different situations in the phenomenon of early marriages and defining them according to international norms, an analysis of isolated initiatives up to date, as well as an inventory of international and national legislation regulating certain rights, will contribute to the creation of a framework for well informed discussion between actors in the Roma civil society, in order to produce a well informed public stand, whichever it may be.

At the same time, correct information regarding certain terms has the role to "educate" us all in the need for a nuanced speech and intervention in such cases.

Early marriages with the role to "unite" minors' destinies in the spirit of rules invoked by traditionalism in order to preserve the moral and physical health of the community have generated criticism both from the media and several civic groups in Romania, and from certain Roma opinion leaders, promoters of fundamental rights and freedoms for the Roma.

The main criticism brought to the practice of early marriages is that it constitutes an abuse on children; the perpetuation of this cultural practice constitutes an obstacle for the emancipation of the community, as the minors (boys and girls), exponents of the development potential of the community, are restricted access to fundamental rights of the child, such as the right to education and to a normal development according to their age.

## **Divided opinions**

The first group consists of those considering that the emancipation of the Roma community and its alignment to European standards can only be supported by constant efforts to reach a higher level of education which, in its turn, represents the entry gate towards the social status desired in society's organizational diagram. Therefore, renouncing to arranged marriages between minors and allowing them access to school represents one of the solutions for increasing the chances of emancipation of the Roma community in general.

In the second group we can find the supporters of the idea that renouncing to certain traditional practices, among which early marriage, too, represents the sure path towards the disappearance of the Roma culture. In traditional leaders' view, increasing children's sense of responsibility by conferring them the status resulting from marriage, within the community, is the only way to preserve the healthy moral, unaltered traditions and live spirit of the community, as well as the sure way to resist to the "ills of the modern society" (drugs, prostitution, human trafficking, etc). In its support also come the survival strategies of Roma communities throughout their history of marginalization.

## **Method of the report**

The Romani CRISS report is elaborated following an analysis based on: case studies, interviews with persons involved in early marriages and the representation of this cultural practice in the media, whose role of initiating the debate on the subject is acknowledged. The report constitutes both an invitation to reflection for the whole democratic society in Romania and abroad, and a working instrument that will hopefully aid the approaches aimed at establishing a framework to allow the future harmonious development of the persons and groups preserving this practice.

Even from the beginning, the report highlights the special importance of a coherent and "friendly" analysis of the early marriages issue and of presenting this cultural practice using a well argued public speech, focused on details, on particular cases and avoiding the tendency to generalize. The authors are aware of the risk of a public discussion on this issue: if the approach is defective, traditional Roma groups may become "criminalized" and thus suffer irreparable prejudices.

This approach is based on the hypothesis that early marriages violate the individual rights of Roma children and youth within traditional communities in favor of the collective rights of the respective community.

The essential question deriving from this hypothesis and inviting us to common reflection would be: does the perpetuation of a "problematic" (controversial) cultural practice within a traditional community have priority over the universal human rights, in our case the rights of the child?

### **Steps... Stages... Other relevant studies in the discussion of the debated issue**

There is no doubt that the issues of reflection launched by the report represent a point of interest for the democratic society in the countries of Europe and the world, in general, considering the legal aspects colliding with the cultural practice of early marriages. In 1999, the Council of Europe elaborated a report on the situation of women in Central and Eastern Europe, pointing out important aspects such as the arranged marriage, prostitution and human trafficking. It was followed by other initiatives of several bodies at European level, interested in the situation of Roma women in the states of former Yugoslavia, Bulgaria, Slovakia and the Ukraine. These studies reveal that the traditions of Roma communities lead to inequalities between women and men and between girls and boys, especially regarding the

access to education/schooling. In the communities covered by a research in Serbia, if at the primary school level the percentage of girls' attendance to school is higher (43.4% girls compared to 40% boys), the attendance of girls to high-school decreases to 4.6%, remaining higher than the boys, at 3.7%.<sup>1</sup>

The present paper mentions the *United Nations Development Program* (UNDP) country reports, revealing the fact that gender differences place Roma women (girls) on an obvious inferior position than men (boys). Also, the research carried out by UNDP reveals an inequitable assignment of domestic duties for girls and boys in Roma communities: 17.58% of the girls do not attend school because they have to watch over younger brothers or sisters, while the percentage of boys having to do the same work is 8.9%.

The research carried out in 2004 by the *Education 2000+ Centre* in 11 Romanian counties fits in the same pattern, showing that the low level of education and the persistence of parental models regarding early marriage represent the main causes of early marriages and births in Roma communities.<sup>2</sup>

Another dimension of early marriages is that they do not belong exclusively to the Roma community and even if they do belong to it, they are not always motivated by the culture of the group in which they are practiced. The *Come Closer: Roma Inclusion and Exclusion in Today's Romanian Society*<sup>3</sup> research underlines

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<sup>1</sup> *Virginity – Freedom of Choice*, published by the Centre for Roma Women, Bibja, Belgrade, with the support of the Open Society Institute. Initiative for Roma Women of the Programme for Women, 2005.

<sup>2</sup> *Early Marriage and pregnancy in Roma communities*, Report for the Education 2000+ Centre, authors Malina Voicu, Raluca Popescu, 2006.

<sup>3</sup> *Come Closer: Roma inclusion and exclusion in today's Romanian society*, research carried out within the S.P.E.R. (t.n. "HOPE") campaign, "Consolidating

the fact that marriage has a "traditional" function in richer communities, the social function of managing the family's wealth and heritage, and the function of "escaping" poverty in other types of communities, where solid alternatives for the future do not exist.<sup>4</sup>

The report presents certain attempts to approach the issue of early marriages, such as:

- Alexandra Oprea's<sup>5</sup>, who tries to bring into light the intersectionality between gender and race discrimination in the case of early marriages, showing how external racism to the Roma community, marginalization, as well as gender relations within Roma communities have a greater effect on women and girls. These phenomena, combined with the lack of response from the state, transform early marriages into an issue related not only to internal constraints, but to exterior ones, too<sup>6</sup>;
- the one of Amare Rromentza, in which we find an anthropological approach of marriages within traditional Roma communities<sup>7</sup>;

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institutional capacity and developing partnerships to improve the perception and condition of the Roma" project, financed by the European Union, editors Gabor Fleck and Cosima Rughinis.

<sup>4</sup> The same paper mentions the case of the community in Mimi, Ploiesti, where *"girls in secondary school perceive love and marriage as an opportunity to escape the extreme poverty in which they live, to break free from their overcrowded households where they have to look after their younger brothers, sisters and cousins and to start their own families, in which they expect to work less"*.

<sup>5</sup> Alexandra Oprea, Roma activist, feminist, originating from Romania, is a political science graduate and wrote a series of articles on Roma women and their multiple oppression in several specialized publications, such as the OSI EUMAP journal, the Essex Human Rights Review, the European Journal of Women's Study, ERRC.

<sup>6</sup> *Children's Marriage: a cultural, access to education or racial problem? Deconstructing a dimension in understanding the oppression of the Roma*, Alexandra Oprea, ERRC newsletter 2/2005.

<sup>7</sup> Amare Rromentza – *Romanipen* – [www.amarerromentza.org](http://www.amarerromentza.org).

- the project of the Roma Christian Centre, Sibiu, who attempted an approach of change occurring from within the community<sup>8</sup>.

### **What is new about this report?**

One of the novelties brought by this study compared to other theoretical and research attempts of the early marriages issue is the analysis and the clarification of the distinction between forms of marriage involving minors: arranged marriage, forced marriage and early marriage.

The description of each type of marriage and, through case studies and interviews, of the "mechanisms" involved in these cultural practices transforms the hereby paper, hopefully, into a real departure point for future approaches to study thoroughly the early marriages issue.

The conclusions of the report further underline the need for common action, undertaken by the Roma community and the authorities, to support Roma children in benefiting of all of their legal rights and, wherever the case may be, to raise parents' awareness regarding their children's need to enjoy a normal development and to gain a social status by their own choices.

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<sup>8</sup> The *Between tradition and law* project of the Roma Christian Centre in Sibiu, financed by the Contact Point for Roma and Sinti Issues of the Organization for Security and Cooperation in Europe (2005 – 2006).



### III. INTRODUCTION

Through this report completing and continuing several others (see the annex with the list of bibliographic resources), Romani CRISS, with the financial and moral support of the UNICEF Representation in Romania, sets out to take a step forward in the discussion on early marriages in Roma communities in Romania.

We are trying, on one hand, to gather relevant information on the subject (definitions, legal aspects, as well as the responsibility of different social actors) and, on the other hand, to create the framework for a first "acknowledgement" of the conflict of values between the rule of law, cultural autonomy<sup>9</sup> and individual autonomy<sup>10</sup>, individual rights (of women and children).

We first need to clarify the different positions among us, actors in the Roma and non-Roma civil society, taking the responsibility for our lack of action in *pressing*, *stimulating* and *supporting* the state to respect its own laws. It is essential in our discussion to explain the duality of human rights activists for the Roma, of activists promoting gender equality and protection of the child, as well as of state institutions enabled to watch over the respect of these rights, when the violation of the right is committed by a member of the same community/group.

To point out this duality we present below a paragraph from the statement of Romani women activists in May 2006<sup>11</sup>: "*Roma*

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<sup>9</sup> *Draft law on the statute of national minorities*, Article 55 (1) defines this autonomy as "right of a community to have decisional powers in matters regarding its cultural, linguistic and religious identity, through organs appointed by its members".

<sup>10</sup> See Mihaela Miroiu's definition in *Roads towards autonomy – Feminist political theories*, p. 25, Polirom Publishing, 2004.

<sup>11</sup> *Joint Statement of the European Romani Women Activists*, Bucharest, May 3<sup>rd</sup>, 2006, with the occasion of the European Meeting on Harmonizing the Policies on Roma

*women acknowledge the existence of double standards in the movement for the protection of Roma rights. Double standards should not exist. You cannot fight racism in the majority society while you are discriminating within your own community".*

Why? Because early marriages, if not analyzed and presented through a coherent public speech, can prejudice traditional Roma groups by the perception of these acts as deviant, even their criminalization being possible.

The violation of the rights of children (boys and girls) is tolerated and accepted by several social actors in the name of the freedom of groups belonging to national minorities to manifest their culture. Tolerance, in this case, can be manifested through ignorance, as long as the problem is far away from us, it is not ours, and it does not concern us. In this case we have a clear situation of conflict of values between cultural autonomy, certain rights of national minorities and individual rights.

Another reason is that the phenomenon of early marriages in Central and Eastern Europe is very few researched, its amplitude not being precisely known. In addition, on the background of laws regarding the legal age for wedlock<sup>12</sup>, there are cases where couple's life begins early, without a record of such cases.

To present as clearly as possible the diversity of this phenomenon, encountered not only at the Calderas Roma or at groups considered as "traditional", but also at other Roma groups, we studied several forms of early marriage.

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<sup>12</sup> In this study we use *wedlock* to define the form of legal marriage registered with both parties' agreement, in order to be able to distinguish between legal marriage with bilateral agreement and other forms of marriage/matrimony that do not involve both parties' agreement but can be legally registered (see forced marriage).

Being confronted with a clear lack of data on the amplitude of the phenomenon, we used case studies, interviews and the analysis of press articles as research methods of the concurrence of factors influencing early marriages within Roma communities.

Considering the low level of understanding and prioritization of the issue, the complexity of problems faced by Roma communities (ethnic belonging, economic status, social class, gender equality, etc.), the lack of specialized human resources and data in this field, the difficulty to correctly identify/approach the intersectionality<sup>13</sup> between gender and ethnic group, etc., we find that the legislation in Romania does not provide all the members of the Roma community with the necessary instruments to create a non-discriminatory and equitable framework for the gender dimension.

In the hereby paper, we started from the hypothesis that these early marriages violate the individual rights of Roma children and youth in favor of the collective rights, of the community.

Are early marriages parts of the Roma minority's culture?

If so, does the perpetuation of a problematic aspect of the life of Roma communities have precedence over universal human rights, in our case of the child?

In the attempt to appropriately respond to these challenges, we propose an inventory and a discussion on both the national and international legislation regulating different types of rights, such as marriage. This inventory reflects the aspect of intersectionality and eventual conflicts between different types of rights, of children, of women and of national minorities.

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<sup>13</sup> Krenshaw K, The African American Policy Forum – The Intersectionality of Race and Gender Discrimination.

We can consider that regarding the debates on early marriages in certain Roma communities, even since 2003 *the media has positively and significantly participated to their opening and sustaining.*

In a society such as ours, in order for the cohabitation between the majority and the (Roma) minority or between minorities themselves to be in terms of mutual acceptance, *the need for a continuous effort of mutual knowledge and understanding* remains. Only so the general message and image transmitted by the media regarding the Roma minority will end with sustaining racist perceptions and attitudes, by describing Roma's cultural side on the principle of inferiority and not promoting Roma's positive elements, the continuous contribution and participation of the Roma community to the permanent evolution of both the Romanian and European society.

Until now, Roma activists in Romania had a rather timid approach of the issue, up to the moment when the media started to become interested in the subject, beginning with Ana Maria Cioaba's marriage. We rather reacted to the input of the media, given that Roma activists' approach in that period was purely contextual and not strategic, and based on constant monitoring, analysis and long term objectives. This type of reaction can also be seen in the chapter dedicated to the media representation of early marriages. We learned in time, starting with Ana Maria Cioaba's marriage and continuing with the marriages in Ramnicelu and the scandal in Strehaia, of the stands of different Roma organizations in the press and TV shows.

Although Roma activists have by now debated (as it will be shown in the report) the controversial aspects in the life of Roma communities at regional and European level, we consider that an objective discussion between Roma organizations in Romania, supported by

solid arguments and accurate information, would constitute a step towards maturity and intervention.

Therefore, what decisions can we take regarding our action as social actors, being certain that we can no longer ignore the existence of this phenomenon and that it flagrantly collides with fundamental human rights?

### **Why do we need this report? Relevant data and studies for setting the terms of a debate on early marriages**

Until 2003, discussions on early marriages within Roma communities took place in an informal manner, between Roma women activists or in other groups of Roma activists, too, no group having the courage and strength to exit this "circle" in which recognizing a problem without consolidating stereotypes on Roma communities, although necessary, is very difficult to take place.

However, throughout time there have been attempts to reach this issue from the perspective of gender equality and equal access to education for boys and girls originating from Roma communities practicing early marriage, from the perspective of combating human trafficking in the South-Eastern European countries<sup>14</sup>, as well as from the perspective of the rights of the child.

These attempts date as far back as 1999<sup>15</sup>, when several so called "taboo" aspects such as arranged marriage, prostitution and human trafficking were listed in a Council of Europe report on the situation of Roma women in Central and Eastern Europe. They continued with the series of researches on the cult of virginity in Roma communities

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<sup>14</sup> *Awareness raising among Romani activists on anti-trafficking in human beings* project of the OSCE ODIHR, 2004.

<sup>15</sup> See the Council of Europe Report, *Situation of Roma/Gypsy women in Europe*, p. 10, roma\mgsrom\doc99\MG-S-ROM (99) 9; author Nicoleta Bitu.

in Macedonia, Montenegro, Serbia<sup>16</sup>, Bulgaria, Slovakia and the Ukraine.

**One of the main conclusions of these researches is that the traditions of Roma communities lead to inequalities between women and men or girls and boys, especially regarding the access to education.**

The combination between the economic status, patriarchal attitude, stereotypes regarding the Roma community and children marriages continue to affect the age up to which Roma girls attend school. Roma women have a lower level of education compared to the majority society and Roma men<sup>17</sup>. In meeting these discrepancies, European recommendations ask for a particular attention to be given to the situation of Roma women, and show that Roma women are "*a group in a larger state of need than men*"<sup>18</sup>. Multiple discrimination and Roma women's different experiences than Roma men's lead to the need to evaluate their situation, taking into consideration a series of particular characteristics such as: geographic origin, family type, age, educational level, family and economic status, number of pregnancies and births, etc.

Continuing the series of attempts to analyze gender differences in the access to education, the country reports of the United Nations Development Program (UNDP) that led to the regional report<sup>19</sup> are worth mentioning here. The latter, in analyzing data gathered in Romania, shows clear gender differences when the obstacles in

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<sup>16</sup> *Virginity – Freedom of choice*, published by the Centre for Roma Women, Bibja, Belgrade, with the support of the Open Society Institute, Roma Women Initiative – Network Women Program, 2005.

<sup>17</sup> Written comments of the European Roma Rights Centre regarding Hungary forwarded to the United Nations Committee for the elimination of discrimination against women with the occasion of Session 39, July 23<sup>rd</sup> – August 10<sup>th</sup>, 2007.

<sup>18</sup> Andreescu, Gabriel, *Nations and Minorities*, Polirom Publishing, Iasi, 2004, p. 189.

<sup>19</sup> *Avoiding the dependency trap – Roma in Central and Eastern Europe* published by the UNDP, 2003.

access to education are listed<sup>20</sup>, especially **marriage**: if in the boys' case 5.99% do not attend school because they are married, **girls'** percentage is almost double, reaching **10.99%**. Another factor not to be ignored and resulting from the research is that the percentage of girls not attending school because they have to look after their younger brothers and sisters is of 17.58%, while the boys' one is 8.09%, revealing how domestic duties are very clearly and unevenly divided between school-aged girls and boys.

Worth noticing are also the two reports of the Education 2000+ Centre which, over two years, draws attention on its own research carried out in 2004 in 11 Romanian counties<sup>21</sup> and continued by a second project developed in other counties in the country<sup>22</sup>, both financed by the UNICEF Representation in Romania. According to these studies, the main factor leading to early marriage and birth in Roma communities is the baggage of education of the household, and Roma girls abandon school mainly because of the persistence of the early marriage model, of the low level of education and the traditional role related to the household, still dominant in the community, community's control being stronger than personal will<sup>23</sup>. The latest research of the Education 2000+ Centre<sup>24</sup> reveals that Roma women get married on average 4 years earlier than the Romanian population in its whole and give birth to their first child earlier. The age at marriage differs from one community to the other, them being divided between traditional and modern. If in the case of modern communities we can say that girls get married at the age of

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<sup>20</sup> See <http://roma.undp.sk>, chapter data/national data set/Romania.

<sup>21</sup> Surdu, Mihai and Surdu, Laura, *Early pregnancy and marriage in the case of young Roma women*, Ro Media Publishing, Bucharest, 2005 (report elaborated for the Education 2000+ Centre).

<sup>22</sup> Voicu, Malina and Popescu, Raluca, *Early marriage and pregnancy in Roma communities*, Education 2000+ Publishing, Bucharest, 2006 (report for the Education 2000+ Centre).

<sup>23</sup> Idem, p. 7 and onward; for details, also see p. 31.

<sup>24</sup> Idem, p. 7.

adolescence or first youth (17–21 years old), in the case of traditional ones girls get married at as early as the age of early adolescence (12–14 years old).

*"No law hinders Roma women from benefiting of all civil and political rights. Such an approach is blind both to gender discriminations within the Roma community, and to the total inequality of opportunities"*<sup>25</sup>. Studies such as *"Broadening the Agenda – The Status of Romani Women in Romania"* (RPP-OSI Budapest, 2006) clearly and convincingly show that Roma women constitute the most vulnerable category of population in Romania because of the discrimination and social exclusion they face as a result of the intersection between race, gender and economic status. 78% of the participants to this research considered that abortion was the main method of contraception and 63% declared that women had fewer rights than men in Roma communities. This demonstrates the hypothesis that Roma women require a special intervention for the real equalization of opportunities, taking into consideration that "implementing affirmative policies creates more social equity than not implementing them"<sup>26</sup>.

Alexandra Oprea<sup>27</sup> wrote a series of articles trying to bring into light the intersectionality between gender and race discrimination in the case of early marriages, showing how external racism to the Roma community, marginalization, as well as gender relations within Roma communities have a greater effect on women and girls. These

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<sup>25</sup> Miroiu, Mihaela, *Road towards autonomy – Feminist political theories*, Polirom Publishing, Iasi, 2004, p. 90.

<sup>26</sup> Idem.

<sup>27</sup> Alexandra Oprea, Roma activist, feminist, originating from Romania, is a political science graduate and wrote a series of articles on Roma women and their multiple oppression in several specialized publications, such as the OSI EUMAP journal, the Essex Human Rights Review, the European Journal of Women's Study, ERRC.



phenomena, combined with the lack of response from the state, transform early marriages into an issue related not only to internal constraints, but to exterior ones, too<sup>28</sup>.

Another important document describing in a clear and nuanced language the aspect of contradictions regarding the Roma culture and rights, as well as the diversity of the Roma culture is the *Joint Statement of the European Romani Women Activists*<sup>29</sup>, signed by more than 30 Roma women activists, members of two European networks for Roma women. It underlines that:

*"There is no sole absolute definition of what a **genuine Romani woman** is. Roma women are diverse throughout Europe. The concepts of **genuine Romani woman** and **not Romani woman enough** do not exist. We are aware of our differences and we accept and appreciate them as such; We wish to preserve our Romani culture but at the same time we acknowledge that there are practices in breach of human rights in the case of Romani women;*

*We, Romani women activists, acknowledge the fact that these practices harm both young women and men and need to be eliminated. These practices are not "Roma practices" exclusively, but they exist and have existed in all patriarchal societies/communities. Although these practices are present in the midst of the Roma community, it does not bear the exclusive responsibility to surpass them. We, human rights defenders for Romani*

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<sup>28</sup> *Children's Marriage: a cultural, access to education or racial problem? Deconstructing a dimension in understanding the oppression of the Roma*, Alexandra Oprea, ERRC newsletter 2/2005.

<sup>29</sup> *Joint Statement of the European Romani women activists*, Bucharest, May 3<sup>rd</sup>, 2006, with the occasion of the European Conference on Harmonizing the Policies on Roma.

*women, believe that the law should take precedence and that culture should not be used as an excuse when these practices are used."*

It is a general opinion that eliminating the phenomenon should take place with actions coming both from the authorities and traditional communities. A first attempt in this respect came within the *Between Tradition and Law* project of the Roma Christian Centre in Sibiu, financed by the Contact Point for Roma and Sinti Issues of the Organization for Security and Cooperation in Europe (2005 – 2006). Following a series of discussions carried out in traditional communities and the application of a questionnaire to some members of these communities, one of the conclusions was that change regarding early marriages occurs anyway within traditional communities and, even if it is slower, it should not be imposed.

During the *"Traditions and change, individual and collective human rights – Gender equality within Roma affairs"* regional meeting in Warsaw, October 2006, organized by the OSCE Contact Point for Roma and Sinti Issues and the Roma Women Joint Initiative of the Open Society Institute, Mr. Florin Cioaba openly spoke of the conclusions of the activities within the Christian Centre project and of the fact that regardless whether they (the Calderas Roma community) wished to emancipate or not, Roma communities and implicitly the girls and boys within would modernize, as within the communities there was a trend to increase the age at marriage and, also, to reach a higher level of education.

We arrive to the conclusion that, by only enumerating some of the approach attempts of the early marriages issue, the subject is not as taboo as we imagined, and that what we actually lack is correct information as well as a discussion in a formal framework.

#### IV. HOW DO WE SPEAK OF EARLY MARRIAGES?

When we speak of early marriages we are speaking of several forms of marriage at the same time, without clearly making the distinction between them. The main factor influencing the differences between several forms of marriage is the freedom of choice and its obstruction as well as the legal definition of the age of maturity at which such decisions can be made.

Following these factors we identify several forms of marriage: *forced marriage*, *early marriage* or *arranged marriage*. These categories are not always distinct, early marriage having some elements of forced marriage.

However, in order to be able to discuss these aspects, we start from the basic definitions of forced and early marriage. We use the term of **marriage** for **any form of couple's cohabitation, partnership** and the term of **wedlock** to define the **legally registered marriage**. Therefore, traditional forms of couple's cohabitation between persons below the legal age for wedlock (as defined above) are named marriages.

**Wedlock** is the "*spiritual before carnal union*" according to the definition provided by Jean Carbonnier<sup>30</sup>, given that the legal definition of marriage does not include all social and moral aspects. In the Explicative Dictionary of the Romanian Language (DEX), the definition provided for **wedlock** is the **legal union, freely agreed between a man and a woman with the aim to establish a family** *or* a convention sealed by a marital status deed between a man and a woman that took on the obligation to establish a family<sup>31</sup>. Article 3 in

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<sup>30</sup> *Earth and sky in marriage (Terre et ciel dans le mariage)*, Jean Carbonnier, 1950.

<sup>31</sup> <http://dexonline.ro/search.php?cuv = casatorie>

the Family Code<sup>32</sup> mentions that *only the marriage registered before the marital status delegate raises the rights and obligations of spouses provided in the hereby Code* and Articles 25 and 26 regulate the responsibilities within a marriage.

According to article 16 of the Universal Declaration of Human Rights, *"Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses."*<sup>33</sup>

**Forced marriage<sup>34</sup>** represents a collocation used to describe **the union of two persons at least one of whom has not given their full and free consent to the marriage, or their consent is not valid.**

*"Forced"* includes the constraint to accept marriage through threats or other means of psychological pressure<sup>35</sup>.

Forced marriage has been practiced within the wealthy class in Europe until around the 1900s and is still practiced in Southern Asia, the Middle East and Africa. Forced marriages are also practiced in Western Europe within immigrant communities, the women being those most frequently forced, although men can also be victims of this type of marriage<sup>36</sup>.

Early marriage has been practiced throughout history in several cultures in the world and Europe, but beginning with industrialization

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<sup>32</sup> Family Code, Art. 3 and Law 288/2007 amending and supplementing the Family Code.

<sup>33</sup> [http://legislatie.resurse-pentru-democratie.org/drepturi\\_onu.php](http://legislatie.resurse-pentru-democratie.org/drepturi_onu.php)

<sup>34</sup> Resolution 1468/2005 of the Parliamentary Assembly of the Council of Europe regarding forced marriage and child marriage – <http://assembly.coe.int/Documents/AdoptedText/TA05/ERES1468.htm>

<sup>35</sup> Forced Marriage – Civil Protection Act, 2007, Great Britain and Wales. [http://en.wikipedia.org/wiki/Forced\\_marriage](http://en.wikipedia.org/wiki/Forced_marriage)

and the movements for the rights of the child and women, the amplitude of this phenomenon has decreased.

As a response to forced marriages, Great Britain adopted in 2007 the Civil Protection Act – Forced Marriage, through which victims of forced marriages can submit complaints for the application of court restrictions for protection. Great Britain is one of the most advanced countries regarding the legislation for the protection of victims of early marriages.

The **arranged marriage** implied both parties' agreement to be assisted by parents or a third party (the match-maker) in finding their spouse.

The differences between forced and arranged marriages are very subtle. What separates them very clearly is the free, unconstrained consent of future partners. The stages by which an arranged marriage transforms into a forced one are presented below<sup>37</sup>.

|     |     |     |                        |     |     |     |                      |
|-----|-----|-----|------------------------|-----|-----|-----|----------------------|
| (1) | (2) | (3) | (4)<br><b>arranged</b> | (5) | (6) | (7) | (8)<br><b>forced</b> |
|-----|-----|-----|------------------------|-----|-----|-----|----------------------|

1. Parent/s starts to think about their child getting married.
2. Parent/s begins to talk about their child's marriage, perhaps suggesting or looking for potential partners.
3. The topic of marriage is freely discussed, resulting in a mutual acceptance or rejection of ideas or options.
4. An agreement to marry is made. Whilst the families of those who are marrying are involved in the process, the final decision lies with those who are to be married. Arranged marriage takes place.
5. Marriage is discussed, but with no mutual acceptance or rejection of ideas.

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<http://www.forcedmarriage.nhs.uk/definitions.asp>

6. There is pressure to marry, which may take the form of emotional blackmail or appeals to conform to traditional family roles and values.
7. Demands to accept a marriage proposal are accompanied by physical, mental and/or emotional pressure and violence.
8. The people concerned are maneuvered into going through the marriage ceremony against their will. Forced marriage takes place.

**Early marriage**<sup>38</sup>, the marriage of children, has two different forms of manifestation practiced in some communities. The first is that of marrying a minor girl to an adult male, through arranged and forced marriage, without the legal marriageable age being met.

The second practice is a form of arranged marriage in which the parents of two children from different families arrange a future marriage. This way the two children become "betrothed" until they are both considered to be of a marriageable age. Evaluating this age very much depends on the culture of the group, but most of the times it is at or after the onset of puberty.

Betrothal is a different act than the actual wedding, when the girl's virginity constitutes a central element in the arrangement.

The general factors determining forced or early marriages can be<sup>39</sup>:

- the pressure of patriarchal culture;
- the importance of preserving girl's honor and virginity;
- the way of reaffirming man's place in the family and mother-in-law's role;

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[http://en.wikipedia.org/wiki/Child\\_marriage](http://en.wikipedia.org/wiki/Child_marriage).

<sup>39</sup> Directorate General on Human Rights, *Forced marriages in the Council of Europe member states. Comparative study on legislation and policy initiatives*, prepared by Ms. Edwige Rude-Antoine, Strasbourg, 2005, p. 30.

- insuring an image before the group/community;
- parents' wish to make sure that youth do not lose their cultural and traditional values and do not become too "modern";
- religiously justified reasons to preserve the image and role of the woman;
- the impact of racism on the community which leads to compact communities, without mixed socialization;
- some families' concern regarding the "mixing" of marriages;
- etc.

Other factors can also play a part in addition to those above, such as:

- the economic ones, for keeping wealth inside the community and ensuring a "well-standing" boy to the girl;
- avoiding certain social problems such as drug use, sexually transmitted diseases, etc.;
- the model of the community of reference.

While forced and early marriages significantly decreased in the developed countries, they persist in Africa and Southern Asia, as well as in some areas of the former Soviet Union. In 2003, the International Centre for Women Studies estimated that more than 51 million girls under 18 years were married and the figure was expected to rise to over 100 million in the following ten years. Similarly, in 2006, experts estimated that 38% of young women aged between 20 and 24 years from fifty less developed countries, were married before the age of 18 years.

In *"Early Marriage: a Harmful Traditional Practice"*, UNICEF estimates that 48% of women aged between 15 and 24 years were married before the age of 18 years, in Southern Asia.

UNICEF estimates that in Africa, 42% of women aged between 15 and 24 years were married before the age of 18 years. In Niger, 27.3% of women between 15 and 19 years old were married before the age of 15 years.

According to *"Kidnapping for Marriage in a Kyrgyzstan Village"*, forced marriages have risen considerably since the dissolve of the Soviet Union. Stealing the bride or kidnapping is the most common form of forced marriage in this region. Bride thefts were documented in Kyrgyzstan, Kazakhstan, Turkmenistan, Uzbekistan, Azerbaijan, Armenia, Georgia, Tajikistan and Albania. "Kidnapping the bride" becomes more and more common. Human Rights Watch found that approximately 40% of urban women were victims of kidnapping, while 60 to 80% of rural women were victims. Forced or early marriages do not narrow down only to these regions of the world. In Afghanistan, for example, the Independent Human Rights Commission estimated that more than 38% of women were victims of forced marriages. In Albania, some families encourage young girls to get married early for them not to be kidnapped on the way to school. UNICEF declared that 54% of girls in Afghanistan were victims of early marriage. In Great Britain, 250 cases of forced marriage are reported every year<sup>40</sup>.

### **Marriage within Roma communities**

Marriages within traditional Roma communities are mentioned in many ethnological and anthropological works that do not analyze the age at marriage. The opinions on the causes of this phenomenon are divided: from explaining it as a strategy to survive racism and slavery, to displaying it as an inheritance from the Indian origin of the Roma people.

The authors of the report notice the lack of analysis of the modern Roma culture, in continuous change and adaptation to modernism, finding only works presenting the tradition "idyllically", without a trace of critical analysis. We do not want to undermine through this

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<sup>40</sup> <http://www.stopvaw.org/Forced and Early Marriage.html>



affirmation the importance of the Romani culture or of initiating actions to strengthen it.

The age at the first pregnancy, compared to that of the majority, is worth mentioning in the analysis of early marriages within Roma communities. The latest research at national level<sup>41</sup>, *Come Closer* (2008), indicates a three years difference between Roma women's age at first birth and that of a comparative sample of non-Roma women. The majority of Roma women in the sample, 55%, had their first pregnancy when still minors, compared to 14% out of the comparative sample.

The types of marriages encountered in Roma communities are *legal* (registered before the marital status delegate) or of *concubinage*<sup>42</sup>, as well as those involving *arranged marriages* (with or without "paying" for the girl), *early marriages*, *stealing the girl* or *youth's "runaway"*<sup>43</sup>.

We are aware that, in addition to cultural practices, there are another series of factors influencing early marriages in some Roma communities, such as: social status, isolation, urban or rural area, parents' level of education, family models<sup>44</sup> or belonging to a certain Roma kind<sup>45</sup>.

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<sup>41</sup> *Come Closer: Roma Inclusion and Exclusion in Today's Romanian Society*, research carried out within the S.P.E.R. campaign, "Consolidating Institutional Capacity and Developing Partnerships to Improve the Perception and Condition of the Roma" project, financed by the European Union, editors Gabor Fleck and Cosmina Rughinis.

<sup>42</sup> We can describe concubinage as an emotional, physical and intellectual relationship, involving the partners' cohabitation, but without legal benefits.

<sup>43</sup> During the *International Conference on Harmonizing Roma Policies*, Bucharest, May 3<sup>rd</sup>, 2006.

<sup>44</sup> UNICEF – <http://www.studiidecaz.ro/pdf format.php?cid = 312>

<sup>45</sup> In the *Early Pregnancy and marriage in the case of young Roma women* study (2004), Mihai Surdu had a better represented sample of Roma kinds (considered as "more traditional") such as: the Ursarea (43.2%), the Calderas (18.4%) and the Laiesi (11.5%) – p. 10.

In describing the Roma culture, as in describing other peoples or "traditional communities", there is the risk to "idealize" it by using abstract, "ideal types", as if Roma cultural practices were unique, valid for all Roma, unchanged by time, "perfect" instruments of accommodation and competition with the surrounding social environment.

We are aware of the diversity of Roma groups as well as of the dynamism of the culture of the community and the changes occurred over the last 50 years within traditional Roma communities, starting with men's garb and continuing with changes in women's garb (the length of the skirt remained the same, but with different cuts and colors). However, these changes continue not to be explored in studies and researches, remaining undocumented.

The *History and Traditions of the Roma* study (Ministry of Education, Research and Youth and the UNICEF, 2003)<sup>46</sup> defines the creation of a family and marriage as a process of formative acts, "... *not being a fulfillment of love, more the less of pleasure, but a sacrificial act carried out to ensure the continuity and posterity of the kind – kada mukha o Del (as laid by God)*".

We need to underline that the traditions and culture of the respective group are not always the reasons for early marriage, there being situations in which the social-economic status and the competition between families – the "fame" – represent the main factors in initiating marriage between minors (see the case in Ramnicelu).

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<sup>46</sup> Ministry of Education, Research and Youth and the UNICEF, *History and traditions of the Roma*, by Petre Petcut, Delia Grigore and Mariana Sandu, RO Media Publishing, Bucharest, 2003.

In the competition between families, girls' "fame", image and status, as well as their virginity, play a central part in gaining respectability within the community. Regardless of the economic situation of the families organizing the marriage, the event needs to be marked with "fame", which makes us think of the expense for status, an expense without economic justification in all Roma groups practicing early marriage (see the case in Ferentari/Bucharest).

Traditional marriage at the Roma takes place through the consensus of the two families – "*xanamik*" (parents – in-law) – without the need for external officializing it. Only through marriage the "*o chavo*" (boy) and the "*i chai*" (girl) become members of the group as "*rom*" (man of ours, husband, Roma) and "*romni*" (woman of ours, wife, Roma)<sup>47</sup>.

The so called "*price of the bride*", the amount of money paid by the groom's family to the girl's family, is in fact a type of payment for the future children that are to belong to the husband's family and that he has to take over against a symbolic cost, thus strengthening his reputation and status within the community. The most important asset of the Roma marriage is the girl's *virginity*. In most of the cases, the money is used to dower the new couple, the solidity and durability of the marriage, the cohesion between the families-in-law and the proper treatment of the girl in the new family. The "*price of the bride*" is the acknowledgement of the girl's value and material contribution to the family after marriage (*„i rromni kerel buti and-o kher"* – the wife works in the house), and represents the future bride's protection within the husband's family as well as a guarantee of mutual respect ("*pakiv*"), a reward from the boy's family to the girl's family, without the function of exchange but of representation, offered traditionally in gold, not money<sup>48</sup>.

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<sup>47</sup> Amare Rromentza – *Romanipen* – [www.amarerromentza.org](http://www.amarerromentza.org).

<sup>48</sup> Idem.

There are also other forms of marriage in the traditional Roma culture. One of them is the possibility to mutually choose a *"bora"* (*daughter-in-law*), the brother in a family marrying his brother-in-law's sister. This ritual exchange – *"paruvimos"* – cuts the wedding expenses to half (the weddings take place together), cancels the payment for the bride, but shows risks in the case of a unilateral divorce which may lead to the other party's divorce, too, only the *"kris"* – Roma traditional court – being able to decide to dissolve one marriage and maintain the other.

What we retain from the description provided by our colleagues from Amare Rromentza is that we are dealing with *an arranged marriage involving economic exchanges, perceived in a stereotypical manner by those outside the traditional community*. We do not identify in the description elements of forced marriage which constitutes in fact the violation of rights and laws. However, if the legal marriageable age is 18<sup>49</sup>, then these types of marriages are illegal even if partners' consent exists.

Another form of marriage in Roma communities, this time not only in the very traditional ones, but also in settled or compact urban communities, is the runaway, *o nasimos*. In this case both parties' consent may or may not exist. There are cases in which both partners agree to runaway, but there are others where the girl is stolen without her agreement.

*"... In fact, you know, I don't come to school anymore because the boys steel you. They steel girls here. If a boy sees a girl he likes, he steels her, takes her somewhere, sleeps with her and that's it: the girl is*

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<sup>49</sup> Law no. 4/1953 – Family Code, republished in the Official Bulletin no. 13 on April 18<sup>th</sup>, 1956, with its subsequent amendments and supplements (Law no. 288/2007 for the amendment and supplement of Law no. 4/1953 – Family Code, published in the Official Monitor, Part I no. 749 on November 5<sup>th</sup>, 2007. The law came into force on November 8<sup>th</sup>, 2007).

*married. They wanted to steel me once before. The boys storm into the school, chase us. He came with his friend and took me. I barely escaped. How much I begged him! This is how they dragged me around. They took me to his home. I was lucky that he let me go when my friends arrived..."*<sup>50</sup>

The *runaway* ends after searches, old swear and punishment of the girl<sup>51</sup> for dishonoring the group and, in some cases, the marriage takes place after the intervention of the *kris Romano*.

However, there are situations in which tradition is degraded, when traditional marriage and economic exchange are used in human trafficking<sup>52</sup>, especially of women from Balkan countries to Western European countries, where continuously increasing Roma immigrant communities search for brides in the countries of origin. Thus, a traditional practice accepted by some members of the community was transformed into an illicit activity, contributing to the strengthening of stereotypes regarding the Roma.

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<sup>50</sup> *Life in the Gutter – the Pupil* article in the National Geographic Romania, November 2006, p.40. For more information visit: <http://www.natgeo.ro/locuri-si-oameni/comunitati/tiganii-viata-in-mocirla/>.

<sup>51</sup> Ministry of Education, Research and Youth and the UNICEF, *History and traditions of the Roma*, by Petre Petcut, Delia Grigore and Mariana Sandu, RO Media Publishing, Bucharest, 2003, p. 102.

<sup>52</sup> See the report of the *Awareness raising among Romani activists on anti-trafficking in human beings* round table, organized by the OSCE ODIHR, Belgrade, 2004.

## V. INTERNATIONAL AND NATIONAL LEGISLATION

*What decisions can we take regarding our actions, being certain that we can no longer ignore the existence of this phenomenon and that it flagrantly collides with fundamental human rights?*

*What role does the state have in perpetuating and preserving it in certain communities?*

*"The collectivity must respect the maximum of individual rights in concordance with the presentation of the group"<sup>53</sup>, therefore the right of respect to private life, the right to social life and education, to freedom of expression, are rights that cannot be omitted to young Roma men and women when facing marriage, either legal or not.*

Even if *"the existence of a collectivity cannot be hindered either by the state or by its individuals' claims"<sup>54</sup>*, the present situation of early marriages within traditional Roma families can no longer be considered just a "cultural" aspect, especially on the territory of a European state. Terrible practices to women (such as early marriages) are ignored by the group they belong to in the name of preserving cultural autonomy and arrive to be criticized in a way that creates an image of the entire culture as primitive.<sup>55</sup>

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<sup>53</sup> William Pentey in Andreescu, Gabriel, *Nations and Minorities*, Polirom Publishing, Iasi, 2004, p. 123.

<sup>54</sup> Idem.

<sup>55</sup> Oprea, Alexandra, *The arranged marriage of Ana Maria Cioaba, intra-community oppression and Romani feminist ideals*, European Journal of Women's Studies, Vol. 12 (2), SAGE Publication, London, 2005, pp. 133-148.

We find that the Romanian legislation does not provide Roma women and Roma communities in general with the necessary instruments to create a non-discriminatory and equitable framework for the gender dimension and not only, although *inequality can only be contested by contesting racism and including the gender* (Simone de Beauvoir).

As mentioned in several studies, governmental policies based on statistics separating or not treating gender and race simultaneously, often fail in approaching the multiple or intersectional discrimination faced by Roma women. Several governmental policies for Roma are silent to gender equality issues, or include erroneous directions<sup>56</sup>.

We also consider that *"policies addressing gender frequently refer to issues related to marriage, use of contraceptives or parental responsibilities. Governmental strategies are essential to the improvement of the situation of Roma women, and governments should incorporate the gender perspective in their strategies for Roma, initiate a research to better identify women's interests and the problems affecting them, beside the traditional role of motherhood"*<sup>57</sup>.

It is *"necessary to understand how gender, ethnicity and class function together and simultaneously"*, respectively *"how relations of power build the difference and how multiple forms of oppression influence (and are influenced by) different types of diversity"*<sup>58</sup>. Conceptually,

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<sup>56</sup> European Roma Rights Centre and European Roma Information Office, *The situation of Roma in an enlarged European Union*, report for the European Commission, 2004, recommendation 78.

<sup>57</sup> Idem

<sup>58</sup> Magyari-Vincze, Eniko *"Social exclusion at the intersection between gender, ethnicity and class – A look from the perspective of reproductive health at Romani Women"*, European Studies Foundation Publishing, Cluj, 2006, p. 75.

the problems of women and Roma and the solutions to these problems can be of the same nature, as they: have a similar history of oppression, are diverse within the group, require *mainstreaming* policies, benefit at present of positive actions, etc.

Consequently, the inclusion on the political agenda of measures for solving the problems faced both by Roma girls and women would lead to a sure and accelerated solution of problems in general, destined either to the Roma or to the majority population in general (women and men).

Early marriages are a dispute between practice and the legal system theory, both domestic and international, and potential measures for solving, legally reorganizing the practice of intervention by public authorities may lead to solving the problems of other groups at risk (for ex. single-parent families, families with domestic violence, etc.). At the same time, the debates and reactions to them (for ex. Roma civil society programs) support the common redefinition of what the Roma culture/tradition represents or not.

The domestic and international legal provisions presented henceforth do not encourage or allow the practice of these early marriages, regardless of their (cultural) character<sup>59</sup>. *"Every human being below the age of eighteen years"*<sup>60</sup> is considered to be a child and enjoys his or her specific rights, and the whole of the society must participate to their promotion and respect. According to the

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<sup>59</sup> In *Resolution 1468 on Forced marriages and child marriages*, 2005, The Parliamentary Assembly of the Council of Europe shows its deep concern about the violations of human rights and the rights of the child which are constituted by forced marriages and child marriages and draws attention on the fact that, under the cloak of respect for culture and traditions, there are authorities which tolerate forced marriages and child marriages, although they violate the fundamental rights of those involved.

<sup>60</sup> *Convention on the rights of the child*, Article 1



provisions in the *Family Code*<sup>61</sup>, marriages can be completed after reaching the legal age of 18 years<sup>62</sup>.

In this respect, in the case of early marriages, public institutions mandated to implement non-discrimination and gender equality, and not only them, should take notice and act according to the law, with a special regard to the partnership with the Roma community and, implicitly, with the organizations promoting the rights of national minorities and equal opportunities for women and men.

Unfortunately, by invoking "tradition", authorities do not intervene effectively and efficiently for preventing or eliminating the violations of the rights of the child which are constituted by early marriages<sup>63</sup>. The lack of institutional response leads, in most cases, to the lack of social protection of the young couple and to the denial of protection offered to the family by the state.

Invoking "tradition" in the case of early marriages, either done by Roma or by state institutions, is nothing else than a violation of individual rights in favor of collective ones. Do individual rights (cultivating a lifestyle allowing the best physical, mental, spiritual, moral and social conditions, the freedom of expression and of choosing one's partner, or each individual's educational and professional development) have precedence over preserving the traditional aspects of a group?

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<sup>61</sup> Law no. 4/1953 – *Family Code*, republished in the Official Bulletin no. 13 on April 18<sup>th</sup>, 1956, with its subsequent amendments and supplements.

<sup>62</sup> However, if there are "solid reasons, the minor at the age of sixteen years can be married based on a medical note, with the consent of parents or, by case, legal guardian and with authorization from the general directorate of social assistance and protection of the child in his or her area of residence" – Family Code, Article 4.

<sup>63</sup> This mention can also be found in Point 3 of *Resolution 1468 on forced marriages and child marriages*, Parliamentary Assembly of the Council of Europe, adopted in 2005.

The Convention on consent to marriage, minimum age for marriage and registration of marriages<sup>64</sup> reaffirms that the states *"should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, inter alia, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded"*.

The Romanian legislation contains no specific provision regarding the condition of Roma girls and women, more the less regarding early marriages. However, acknowledging the harmonization of domestic provisions in accordance to the European Union requirements, we consider that the definition of *multiple discrimination* in Law 2002/2002 on equal opportunities for women and men, with its subsequent supplements, Art. 4 Par. h, according to which it represents *"any act of discrimination based on two or more criteria of discrimination"*, is an important instrument for initiating a coherent approach regarding the evaluation and improvement of the condition of Roma women.

The concept of *"multiple discrimination"* was introduced by the lobby initiative of a group of Roma women (with the support of the Roma Centre for Social Intervention and Studies – Romani CRISS) in the first half of 2006, parallel to the process of amending and supplementing Law 202/2002.

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<sup>64</sup> Opened for signature and ratification by the United Nations General Assembly Resolution 1 763 A (XVII) of November 7<sup>th</sup>, 1962, New York. Entered into force on December 9<sup>th</sup>, 1964, in accordance with Article 6. Romania signed the Convention on December 27<sup>th</sup>, 1963.

*"A society based on respect for the law can very well be racist and sexist"*<sup>65</sup>, therefore, in the context of practices of early marriage within traditional Roma families, in the elaboration and implementation of special policies and programs, at central and local level, meant to provide the most efficient intervention, it is necessary to find the aspect of preserving the tradition of the group.

The domestic and international legal provisions presented below regarding marriage, family relations, the right to private life and development of the child/youth, constitute an indispensable instrument in debating the solutions on the early marriages phenomenon in some (traditional) Roma communities in Romania.

These mentions will support us in analyzing and elaborating an appropriate framework for intervention in the case of these practices (protecting and promoting the best interest of the child), but will also support the cultural determination, Roma or not, of the phenomenon.

## V.1. International instruments

The *Universal Declaration of human rights*<sup>66</sup> states in Article 16, regarding marriage, that *"Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family"* (from the legal point of view). Marriage *"shall be entered into only with the free and full consent of the intending spouses"*. According to the same Article (16, Par. C), family is considered *"the natural and fundamental group unit of society and is entitled to protection by society and the State"*.

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<sup>65</sup> Dimitrina Petrova, *The denial of racism*, 2000, available at [www.errc.org/cikk.php?cikk=1218](http://www.errc.org/cikk.php?cikk=1218)

<sup>66</sup> <http://www.un.org/overview/rights.html>

The *International covenant on economic, social and cultural rights*<sup>67</sup> states, in Article 2, that signatory states guarantee that *"the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"* and also, in Article 3, that states engage to *"ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant"*.

The provisions of the Covenant and its signatory states recognize, in Article 10, that *"the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses"* (Par. 1). Also, Par. 2 of Article 10 mentions that *"special protection should be accorded to mothers during a reasonable period before and after childbirth"*.

Paragraph 3 of Article 10 recognizes that *"special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal*

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<sup>67</sup> Adopted and opened for signature by the United Nations General Assembly Resolution 2200A (XXI) of December 16<sup>th</sup>, 1966. Entered into force on January 3<sup>rd</sup>, 1976, in accordance with article 27. Romania ratified the Covenant on December 9<sup>th</sup>, 1974. More information available at [http://www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm)

*development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law".*

The states parties to the ***International covenant on civil and political rights***<sup>68</sup> "undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights" (Article 3).

Article 5, Paragraph 1 underlines that "*nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant*" and that "*there shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent*" (Paragraph 2).

The ***family*** is defined by Article 23, paragraph 1, as "*the natural and fundamental group unit of society and is entitled to protection by society and the State*", while "*the right of men and women of marriageable age to marry and to found a family shall be recognized*" according to the same

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<sup>68</sup> Adopted by the United Nations General Assembly on December 16<sup>th</sup>, 1966 and entered into force on March 23<sup>rd</sup>, 1976, in accordance with Article 49, for all provisions except Art. 41; and on March 28<sup>th</sup> for the provisions of Art. 41. Romania ratified the Covenant on December 9<sup>th</sup>, 1974, through *Decree no. 212*, published in the "*Official Bulletin of Romania*" Part I, no. 146/November 20<sup>th</sup>, 1974. For more information visit [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm).

Article, Paragraph 2. *"No marriage shall be entered into without the free and full consent of the intending spouses"* (Paragraph 3) and, consequently, as mentioned in Paragraph 4 of Article 23, *"States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution"*<sup>69</sup>.

Article 24 states that *"every child shall have, without any discrimination as to race, color, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State"* (Paragraph 1).

Article 26 of the Covenant clearly expresses that *"all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race,*

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<sup>69</sup> In other instruments for the protection of human rights, the family is defined as *"the natural and fundamental group unit of society and is entitled to protection by society and the state. The right of men and women of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of non-discrimination"* (American Convention on Human Rights) or as *"the natural unit and basis of society, protected by the State which shall take care of its physical and moral health"* (African Charter on Human and Peoples' Rights).

Interesting is the duty of the state, according to the African Charter, to assist the family in its *"mission of custodian of morals and traditional values recognized by the community"*, combined with the obligation of the state to *"ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions"* (for details: Birsan, Corneliu, *European Convention of Human Rights. Comments on Articles. Volume I, Rights and Freedoms*, C.H. Beck Publishing, Bucharest, 2005, p. 848).

*color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". At the same time, according to Article 27, "ethnic, religious or linguistic minorities and persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language".*

The ***Convention on the rights of the child***<sup>70</sup> defines the child in its first Article, as *"every human being below the age of eighteen years"* and ensures the rights set forth in the Convention<sup>71</sup> *"irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status"* (Article 2).

Taking into consideration the provisions of the Convention regarding the rights of the child, the state must undertake *"all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members"* (Article 2) and *"ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take*

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<sup>70</sup> Adopted by the United Nations General Assembly on November 20<sup>th</sup>, 1989 and entered into force on September 2<sup>nd</sup>, 1990. The Convention was ratified by Romania through law 109/September 18<sup>th</sup>, 1990 (published in Official Monitor 199/September 28<sup>th</sup>, 1990).

<sup>71</sup> <http://www.unhchr.ch/html/menu3/b/k2crc.htm>.

*all appropriate legislative and administrative measures"* (Article 3).

As party to this Convention, the Romanian state has the responsibility to ensure that *"the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision"* (Article 3).

In order to assure to the child *"the right to express his or her views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child"*, according to Article 12 in the Convention, *"the parents and, when applicable, legal guardians have the duty to ensure that the decisions affecting the social, economic or cultural life of the child are in accordance with the views of the child"*.

According to Article 13, *"the child shall have the right to freedom of expression"* and, respectively, to Article 14, the right to *"freedom of thought, conscience and religion"* and the *"freedom to manifest one's religion or beliefs"*. Consequently, the state must provide *"all appropriate legislative, administrative, and other measures for the implementation of the rights"* (Article 4) and for the respect of the rights and duties of the parents or legal guardians.

The state has to provide protection to the children, young girls and young boys in Romania, for them not to be *"subjected to arbitrary or unlawful interference with his or her*



*privacy, family"* (according to Article 16)<sup>72</sup>, through administrative measures at local level and specific programs to meet such situations.

*"Legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child"* are necessary, as stated in Article 19 of the Convention.

According to the same Article, *"such protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement"*.

Article 27 of the Convention on the Rights of the Child<sup>73</sup> recognizes *"the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development"* and mentions *"the parent(s)' or others' responsible for the child responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development"*. Considering this article, as well as other mentions in the Convention, the state must adopt *"in accordance with national conditions and*

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<sup>72</sup> Provision that can also be found in the Universal declaration of human rights, Article 12. For more, visit <http://www.un.org/Overview/rights.html>.

<sup>73</sup> For more information visit <http://www.unhchr.ch/html/menu3/b/k2crc.htm>.

*within its means, appropriate measures to assist parents and others responsible for the child to implement this right and will in case of need provide material assistance and support programs".*

The mentions in Article 32 of the Convention assure to the child the right *"to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development"*.

Parents, legal guardians or any other person must respect the right of the child *"to education, and with a view to achieving this right progressively and on the basis of equal opportunity"* (Article 28 of the Convention) and protect the child *"against all other forms of exploitation prejudicial to any aspects of the child's welfare"* (Article 36).

As a solution for the respect and promotion of the rights of the child in the states that ratified the Convention on the Rights of the Child, Article 42 states that *"States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike"*.

The ***Convention on consent to marriage, minimum age for marriage and registration of marriages***<sup>74</sup> is based on the provisions of the Universal Declaration of human rights enounced below and, at the same time, reminds that *"the General Assembly of the United*

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<sup>74</sup> Opened for signature by the United Nations Organization General Assembly Resolution 1 763 A (XVII) of November 7<sup>th</sup>, 1962. Entered into force on December 9<sup>th</sup>, 1964, in accordance with Article 6. Romania signed the Convention on December 12<sup>th</sup>, 1963.

*Nations declared that certain customs, ancient laws and practices relating to marriage and the family were inconsistent with the principles set forth in the Charter of the United Nations and in the Universal Declaration of human rights*"<sup>75</sup>.

The Convention reaffirms that states *"should take all appropriate measures with a view to abolishing such customs, ancient laws and practices by ensuring, inter alia, complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty, establishing appropriate penalties where necessary and establishing a civil or other register in which all marriages will be recorded"*. This mention of the Convention shows with no room for interpretation that the state must get involved through urgent and specific measures for prevention and elimination of early marriages. According to Article 1 in the Convention, *"the full and free consent of both parties, such consent to be expressed by them in person"*<sup>76</sup> is legally required in order to legally register a marriage. The persons without the minimum age provided by national legislation cannot legally enter into marriage, *"except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses"* (according to Article 2). For this reason, most marriages concluded by young Roma families do not have legal foundation.

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<sup>75</sup> <http://www.unhchr.ch/html/menu3/b/63.htm>.

<sup>76</sup> A "consent" of children up to 14 years old for starting couple's life – involving sexual relations and family engagement – is hard to be explained, without the intervention and pressure from the family and, respectively, from the community. Recent studies confirm that youth in Romania have their first sexual contact at a younger and younger age, but this does not imply *family engagement* as in the case of Roma families and especially Roma girls (most of the times excepting the case of boys when regarding school, social life, profession, etc.)

Consequently, we consider that *"freedom to marriage, opting for independence and rejecting early marriages are essential, and any fact compromising these principles should be rejected"*<sup>77</sup>.

The ***Convention on the elimination of all forms of discrimination against women***<sup>78</sup> condemns discrimination against women in all its forms and, according to Article 2, Par. 6, states that signatory states should *"take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women"*.

Discrimination against women is defined in Article 1 of the Convention as *"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field"*.

Article 10 of the Convention requires states to provide women *"equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women" the: "same conditions for career and vocational*

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<sup>77</sup> Directorate General on Human Rights, *Forced Marriages in Council of Europe member states. a comparative study of legislation and political initiatives*, prepared by Ms. Edwige Rude-Antoine, Strasbourg, 2005.

<sup>78</sup> The Convention on the Elimination of all forms of discrimination against women was adopted by the United Nations General Assembly on December 18<sup>th</sup>, 1979. It was ratified by Romania on January 7<sup>th</sup>, 1982. For more information visit: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

*guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training" (Par. 1); "reduction of female student drop-out rates and the organization of programs for girls and women who have left school prematurely" (Par. 6); "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning" (Par. 8).*

The Convention reconfirms, in Article 16, Paragraph 1, both men's and women's rights to: *"enter into marriage" (Point. 1); "freely choose a spouse and to enter into marriage only with their free and full consent" (Point. 2). It also provides "the same rights and responsibilities during marriage and at its dissolution" (Point. 3) and "the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (Point 5).*

*"The betrothal and the marriage of a child", according to Article 16, Par. 2, "shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory".*

In this respect, *"States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention" (Article 24).*

The *Beijing Declaration and Platform for Action*<sup>79</sup> considers child marriages to be a harmful practice, discriminatory in the access to the educational process, especially for girls (art. 39 and 71) recommends specific measures to be undertaken for improving the protection of girls.

The attitudes and practices on early marriages and pregnancies led to school early dropout and a poor scholastic performance of girls compared to boys, most of the times because of patriarchal attitudes, household duties of girls after marriage, etc. (see point 259 of the Declaration).

Early marriages *"continue to be an impediment to improvements in the educational, economic and social status of women in all parts of the world"*. Generally, *"early marriage and early motherhood can severely curtail educational and employment opportunities and are likely to have a long-term adverse impact on their and their children's quality of life"*, as mentioned in point 268 of the Platform for Action.

According to point 274, paragraph "e", in order to eliminate all forms of discrimination against girls, the signatory governments should *"enact and strictly enforce laws to ensure that marriage is only entered into with the free and full consent of the intending spouses; in addition, enact and strictly enforce laws concerning the minimum age for marriage"*.

According to point 277, in order to eliminate negative cultural attitudes and practices against girls, governments and

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<sup>79</sup> The Declaration and Platform for action were adopted by the Fourth World Conference on Women on September 16<sup>th</sup>, 1995. For more information visit: <http://www.un.org/womenwatch/daw/beijing/index.html>.

nongovernmental organizations should *"develop policies and programs, giving priority to formal and informal education programs that support girls and enable them to acquire knowledge, develop self-esteem and take responsibility for their own lives; and place special focus on programs to educate women and men, especially parents, on the importance of girls' physical and mental health and well-being, including the elimination of discrimination against girls in food allocation, early marriage, violence against girls, female genital mutilation, child prostitution, sexual abuse, rape and incest"*.

## COUNCIL OF EUROPE

The ***Convention for the protection of human rights and fundamental freedoms***<sup>80</sup> as amended by Protocol 11 and accompanied by the Additional Protocol and Protocols 1, 4, 6, 7, 12 and 13, states in Article 8 the right to respect for private and family life, mentioning that *"everyone has the right to respect for his private and family life, his home and his correspondence"* (Par. 1) and that *"there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of*

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<sup>80</sup> Was adopted in Rome on November 4<sup>th</sup>, 1950 and entered into force on September 3<sup>rd</sup>, 1953. Romania ratified the Convention by Law no. 30/May 18<sup>th</sup>, 1994, published in the "Official Monitor" no. 135/May 31<sup>st</sup>, 1994. For more information visit: <http://www.echr.coe.int/nr/rdonlyres/d5cc24a7-dc13-4318-b457-5c9014916d7a/0/englishanqlais.pdf>.

*health or morals, or for the protection of the rights and freedoms of others" (Par. 2)<sup>81</sup>.*

In this regard, *"national authorities are recognized the right to incriminate certain acts referring to private life, such as the exploitation of persons vulnerable by their age or physical and mental condition"<sup>82</sup>.*

Article 10, Freedom of Expression, paragraph 1, states that *"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers".*

The right to marry, according to Article 12, is provided starting from the legal *"marriageable age"*, when *"men and women have the right to marry and to found a family, according to the national laws governing the exercise of this right".*

*"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status"*, according to Article 14 on the prohibition of discrimination.

For avoiding any misunderstanding of the Convention, Article 17 on the prohibition of abuse of rights states that *"nothing in this Convention may be interpreted as implying for any State,*

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<sup>81</sup> Unfortunately, Article 8 is not clear on the case in which the girl betrothed by her parents moves into the home of her future husband's family.

<sup>82</sup> Birsan, Corneliu, op. quote, p. 595.



*group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention”.*

The ***Framework Convention for the protection of national minorities***<sup>83</sup> requires signatory states to *“guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited”*, according to Article 4, Paragraph 1 and, also, to adopt *“adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities”* (Paragraph 2). *“The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination”* (Paragraph 3).

The Romanian state, as signatory of the Framework Convention, recognizes, according to Article 9, that *“the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems that persons*

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<sup>83</sup> The Framework Convention for the protection of national minorities, established in Strasbourg on February 1<sup>st</sup>, 1995, was ratified by Romania through the law no. 33/1995, published in Official Monitor no. 82/May 4<sup>th</sup>, 1995.

*belonging to a national minority are not discriminated against in their access to the media".*

Article 20 in the present Convention states that *"in the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities"*.

Carrying on, Article 21 mentions that *"nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States"* and Article 22 states that *"nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party"*.

It is important to add that Parliamentary Assembly of the Council of Europe adopted in 2005 ***Resolution 1468 on Forced marriages and child marriages***<sup>84</sup>. In this document, the European institution manifests its concern regarding the violation of human rights and of the rights of the child in particular, by forced marriages and child marriages. By child marriages the Parliamentary Assembly understands *"the union of two persons at least one of whom is under 18 years of age"* (Article 7).

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<sup>84</sup> <http://assembly.coe.int/Documents/AdoptedText/TA05/ERES1468.htm>.

The Resolution of the Parliamentary Assembly draws attention on the fact that *"under the cloak of respect for the culture and traditions of migrant communities, there are authorities which tolerate forced marriages and child marriages although they violate the fundamental rights of each and every victim"* (Article 3). The problem firstly affects girls and young women, and the effects of marriage are drastic for married children. The children's physiological wellbeing is affected, and most of the time they face obstacles in attending school, consequently causing prejudices to their intellectual and social development.

## V.2. DOMESTIC LEGISLATION

The fundamental rights and freedoms stated in Title II of the revised ***Constitution of Romania*** refer, among others, to the right to life, to physical and mental integrity, to form a family, respectively to exercise the rights and freedoms.

Article 22, Paragraph 1 in the fundamental law states: *"The right to life, as well as the right to physical and mental integrity of person are guaranteed."* Although the three fundamental rights are indissolubly connected, they cannot be confounded from the juridical perspective.

The right to mental integrity is protected and considered of having constitutional value, the juridical regarding the human being as a complex of elements in which the physical and mental cannot be separated<sup>85</sup>. The rights comprised in Article 22 of the Constitution<sup>86</sup>

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<sup>85</sup> Mihai Constantinescu, Antonie Iorgovam, Ion Muraru, Elena Simina Tanasescu, *Constitution of Romania Revised. Comments and Explanations*, All Beck Publishing, Bucharest, 2004, pp. 35–37.

are protected in relation both to public authorities and other citizens, i.e. all subjects of law<sup>87</sup>.

Regarding the family, Article 48 states in Paragraph 1 that *"the family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education and instruction of their children"*. The right to marry and to found a family is a fundamental right more rarely regulated by the Constitution, although it represents one of the elementary rights of human beings, this right arriving to the man and woman of marriageable age<sup>88</sup>. None of the domestic legal provisions contain measures to protect the young couple (of up to 1618 years of age) formed after an early marriage<sup>89</sup>.

The *"exercise of rights and freedoms"* is regulated by Article 57 in the Constitution: *"Romanian citizens, foreign citizens, and stateless persons shall exercise their constitutional rights and freedoms in good faith, without any infringement of the rights and liberties of others."* If the Constitution of Romania and the entire normative system comprise numerous protection mechanisms to guarantee citizens' rights against abuses by public authorities, the only form of guarantee regarding the protection of rights against possible abuses by other

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<sup>86</sup> The right to life, physical integrity, mental integrity, the right not to be subjected to torture or to any kind of inhuman or degrading punishment or treatment, the right not to be subjected to the death penalty.

<sup>87</sup> Mihai Constantinescu, Antonie Iorgovan, Ion Muraru, Elena Simina Tanasescu op. quote, p. 38.

<sup>88</sup> Mihai Constantinescu, Antonie Iorgovan, Ion Muraru, Elena Simina Tanasescu op. quote, pp. 99 and onward.

<sup>89</sup> The young family created without legal forms (in concubinage) does not benefit of any measure of protection from the Romanian state, not even from the perspective that they are minor persons and need additional support. Even from the beginning, the persons in these families show a lack of poise as their relationship is not recognized and, subsequently, they cannot take part in legal income generating activities, they cannot benefit of all the rights (and duties) of a family (financial aid, counselling), etc.

individual subjects of law is precisely the behavior of these individual subjects, which needs to comply with the rules prescribed by Art. 57 of the Constitution<sup>90</sup>.

The *Romanian Penal Code* states in Title III, Chapter II, the "*offences related to sexual life*", respectively rape, sexual act with a minor, seduction, sexual perversity, sexual corruption, incest and sexual harassment.

According to Art. 197 Par. 1, the offence of *rape* is constituted by the "*Sexual act of any form, with a person by constraining the person or by profiting of his or her impossibility to defend or express personal will...*"<sup>91</sup>. The fact is more serious when "*grave harm was caused to the bodily integrity or health of the victim*"<sup>92</sup> or when "*the victim did not reach the age of 15 years*"<sup>93</sup>.

The offence of "*sexual act with a minor*" is regulated by Art. 189 in the Penal Code, which states in Par. 1: "*Sexual act of any form, with a person, who did not reach the age of 15 years is punished with imprisonment from 3 to 10 years and prohibition of certain rights*".

Paragraph 1 of Article 199 in the Penal Code incriminates the offence of "seduction" as such: "*The act of that person, who, by promise of marriage, determines a person of feminine*

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<sup>90</sup> Mihai Constantinescu, Antonie Iorgovam, Ion Muraru, Elena Simina Tanasescu op. quote, p. 114.

<sup>91</sup> The punishment for the offence of rape as defined by Art. 197 Par. 1 in the Penal Code is imprisonment from 3 to 10 years and prohibition of certain rights.

<sup>92</sup> Art. 197, Par. 2, Letter e; the punishment in this case is imprisonment from 5 to 18 years and prohibition of certain rights.

<sup>93</sup> Art. 197, Par. 3; the punishment in this case is imprisonment from 10 to 25 years and prohibition of certain rights.

*gender younger than 18 years to have a sexual relation with him, is punished with imprisonment from 1 to 5 years".*

According to Article 247, *"the hindrance made by public servants of the use or exercise of the rights of a citizen, or the creation for the citizen of situations of inferiority on the grounds of race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political affiliation, convictions, wealth, social origin, age, disability, non-contagious chronic illness or HIV/AIDS infection, is punished with imprisonment from 6 months to 5 years".*

Title IX<sup>94</sup>, Chapter I of the Penal Code, referring to "Offences against the family", regulates the offence of *"Ill treatments applied to the minor"*. Thus, according to Article 306<sup>95</sup> ill treatments applied to the minor represent: *"The grave endangerment of the physical, intellectual or moral development of the minor, through measures or treatments of any kind, committed by the parents or by any other person entrusted to raise and educate the minor."* The punishment for committing this offence is imprisonment from 3 to 15 years and prohibition of certain rights.

The ***Family Code***<sup>96</sup> stipulates the equal opportunities for women and men (Art. 1, 25), the freedom to choose a partner or to have equal

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<sup>94</sup> Title IX of the Penal Code refers to "Offences causing damage to relations of social cohabitation".

<sup>95</sup> Art. 306 was amended by the Government Emergency Ordinance no. 143/2002.

<sup>96</sup> Law no. 4/1953 – Family Code, republished in the Official Bulletin no. 13 on April 18<sup>th</sup>, 1956, with its subsequent amendments and supplements (Law no. 288/2007 amending and supplementing Law no. 4/1953 – Family Code, published in the Official Monitor no. 749 on November 5<sup>th</sup>, 2007. It came into force on November 8<sup>th</sup>, 2007).

rights over the child. The rights and duties stated by the Family Code are provided *"only by the marriage registered before the marital status delegate"* (Article 3).

We can find probably one of the most essential provisions of the Family Code in Article 4, on the minimum marriageable age. It mentions that the minimum marriageable age is 18 years, but if there are *"solid reasons, the minor at the age of sixteen years can be married based on a medical note, with the consent of parents or, by case, legal guardian and with authorization from the general directorate of social assistance and protection of the child in his or her area of residence"*. At the same time, Article 20 states that *"the marriage registered against the provisions on the legal age will not be declared null if, in the meantime, the spouse who did not have the marriageable age reached it or if the wife gave birth to a child or is pregnant"*.

Also, Article 6 prohibits marriage *"between relatives of straight kinship as well as between relatives of collateral kinship until the fourth degree inclusively"*. *"The man and the woman have equal rights and duties in marriage"* (Article 25).

Although the rights and duties of spouses are not explicitly described, considering the functions of marriage (of cohabitation, loyalty and moral and financial support<sup>97</sup>) we can understand that they imply the "duty" of spouses to have intimate relations, based on mutual affection.

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<sup>97</sup> [www.avoconsult.ro/casatoria-conditiile-incheiere-desfacere-nulitate-a-casatoriei-civila-religioasa-obliga](http://www.avoconsult.ro/casatoria-conditiile-incheiere-desfacere-nulitate-a-casatoriei-civila-religioasa-obliga). 38 | Page

The Family Code states, regarding the rights and duties of both parents (living together) towards minor children, that *"the minor child lives with his or her parents"* (article 100).

According to article 101, the parents of the minor child (under the age of 18 years) *"have the duty to take care of the child. They are obligated to raise the child, to care for the physical health and development, the education, the professional training and preparation of the child, in accordance to his or her capacities"*.

Article 108 states that *"the tutorial authority is obligated to exercise an effective and common control on the way parents fulfill their duties related to the person and patrimony the child"*, and *"if the physical health or development of the child is endangered by the exercise of parental rights, by abusive behavior or grave negligence in fulfilling parental duties, or if the education, the professional training and preparation of the child are not made in spirit of devotion to Romania, the court of law, at the request of the tutorial authority, will pronounce the decline of the parent from parental rights"* – see article 109 of the Family Code.

***Romanian Law 272/2004 on the protection and promotion of the rights of the child<sup>98</sup>*** describes the principle of best interest of the child, in Article 2, Paragraph 2, as also taking priority *"over the rights and duties of the child's parents, legal guardians, or other persons legally responsible for him or her"*. At the same time, *"in all actions and decisions concerning children, whether undertaken by public authorities and authorized private institutions, as well as courts of law,*

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<sup>98</sup> Law no. 272 on June 6<sup>th</sup>, 2004, Published in the Official Monitor, Part I, no. 557 on June 23<sup>rd</sup>, 2004.



*the best interest of the child shall be a primary consideration*", according to Article 2, Paragraph 3. Public authorities and authorized private bodies have the duty to *"involve the family in all decisions, actions and measures taken in connection with the child and support the care, upbringing, development and education of the child in the family"* (Article 2, Par. 4). In order to eliminate any sort of interpretation, Article 4 of the Law defines the child as *"a human being below the age of 18, who has not acquired full capacity of exercise, according to the law"* (Par. a)<sup>99</sup>, the extended family as *"the child, his or her parents, and their relatives up to the 4th degree of kinship"* (Par. c), and the substitute family as *"the persons, other than those who belong to the extended family, and who provide care and support for bringing up the child, according to the law"* (Par. d).

Article 5, Par. 2 of Law 272/2004 states that *"the parents' main responsibility is to raise and ensure the proper development of the child; they have the duty to exercise their rights and to fulfill their duties towards the child, having the child's best interests as a primary consideration"*. Equal opportunities and non-discrimination are to be observed in the protection and promotion of the rights of the child (Article 6, Par. b), regardless of ethnicity and gender.

The children are guaranteed the rights *"without any discrimination, and irrespective of race, color, gender,*

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<sup>99</sup> However, Law no. 4/1953 – Family Code provides that: if there are "solid reasons, the minor at the age of sixteen years can be married based on a medical note, with the consent of parents or, by case, legal guardian and with authorization from the general directorate of social assistance and protection of the child in his or her area of residence". At the same time, as mentioned by Article 20, "the marriage registered against the provisions on the legal age will not be declared null if, in the meantime, the spouse who did not have the marriageable age reached it or if the wife gave birth to a child or is pregnant".

*language, political or any other opinion, nationality, ethnic affiliation or social origin, financial situation, degree and type of disability, status at birth or acquired status, shape, development or other types of difficulties of the child, of the parents or legal representatives, or of any other distinction", according to Article 7. The right to freedom of expression is ensured to all persons, regardless of age. "The child has the right to freedom of expression", according to Article 23, and this right must be promoted and ensured especially by parents or legal guardian by providing "information, explanations and advice according to the children's age and degree of understanding, as well as allow them to express their own point of view, ideas and opinions". Article 24 states that the child has the "capacity to discern" and the "right to freely express his or her opinion regarding any matter which involves him or her", and that the "right to be heard grants to the child the possibility to request and receive any pertinent information, to be consulted, to express his or her opinion, and to be informed about the consequences which his or her opinion may generate, if observed, as well as about the consequences of any decision involving him or her"<sup>100</sup>.*

At the same time, according to Article 27, *"the child belonging to an ethnic, religious or linguistic minority, has the right to have his or her own cultural life, to declare his or her ethnic and religious affiliation, to practice his or her religion, as well as the right to use his or her own*

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<sup>100</sup> Marriages of children up to 16 years old causes debates also on their "capacity to discern" when agreeing to a marriages well as on the (defining) role and position of parents in providing children with *pertinent information (...) about the consequences which his or her (child's) opinion may generate, if observed, as well as about the consequences of any decision involving him or her* (the child).

*language with other members of the community to which the child belongs".*

Article 30 ensures to the child *"the right to be brought up together with his or her parents. The parents must ensure, in the appropriate manner for the developing capacities of the child, the necessary guidance and advice that are needed in order to properly exercise the rights stipulated by the present law".*

*"The child has the right to be brought up in an environment which would allow the child's physical, mental, spiritual, moral and social development and the parents have the duty to supervise the child, cooperate with the child and respect the child's personal and private life and dignity."* Also, the parents must *"inform the child on all acts and deeds which may affect him or her and take into account the child's opinion and undertake all the necessary measures for the realization of the rights of their children"* (Article 32).

The child has the right to benefit of a *"living standard which would enable his or her physical, mental, spiritual, moral and social development and the parents or, if the case, other legal representatives have the primary responsibility to ensure, as much as they possibly can, the best living conditions necessary for the raising and development of the children"* (Article 44). The child has *"the right to receive an education which would allow him or her to develop his or her capacities and personality, in non-discriminatory conditions. The child's parents have priority in choosing the type of education which the child is to receive, and must enroll the child in school, and ensure the child's regular attendance of the classes"*, according to Article 47.

Article 48 continues to state that *"the education institutions must undertake all measures that are necessary to provide regular obligatory tax-free education for all children and to organize special training courses for children who cannot meet the demands of the national curriculum, in order to prevent their early employment"*.

In case of *"any forms of violence, including sexual violence, harm or physical or mental abuse, maltreatment or exploitation, abandonment or neglect"*, Article 85 provides the child with the right to be protected through measures undertaken by *"the staff of the public or private institutions who come into contact with the child through the nature of their profession and have suspicions concerning a potential case of child abuse, neglect or maltreatment"*, that *"must urgently notify the general directorate for social security and child protection"*.

The provisions of Article 87 ensure the right of the child *"to be protected against exploitation and not to be forced to perform any work with a potential risk and which is likely to compromise the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. In situations when school-age children avoid the educational process and conduct various types of activities in violation of the law, the education institutions must immediately notify the public social security service. In the event of such situations, the public social security service, together with the county school inspectorates and the other competent public institutions must undertake measures in view of the educational re-integration of the child"*.

*"Child **abuse** means any voluntary action of a person who has a relation of responsibility, trust or authority towards the child, through which the life, the normal physical, mental, spiritual, moral and social development, the bodily integrity, and the physical and mental health of the child are endangered" (Article 89).*

Furthermore, according to the same Article (89), *"child neglect means the omission, either voluntary or involuntary, of a person who is responsible for upbringing, caring for and educating the child, to undertake any measure which is subordinated to this responsibility, and which results in endangerment of the physical, mental, spiritual, moral and social development, the bodily integrity and the physical and mental health of the child".*

*"The local public administration authorities must involve the local community in the process of identifying the needs of the community and solving at the local level the social issues involving children", according to Article 103, and to this end "consultative community structures can be created for this purpose, which may include, but which are not limited to, local businessmen, priests, teachers, doctors, local counselors and police officers".*

***Government Ordinance 137/2000 on the Prevention and punishment of all forms of discrimination<sup>101</sup>*** is the main legislative instrument on the combat of all forms of discrimination and presently regulates the activity of the *National Council for the Combat of Discrimination<sup>102</sup>* (CNCD).

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<sup>101</sup> Government Ordinance 137/2000 (republished) on the Prevention and Punishment of All Forms of Discrimination, published in Official Monitor no. 99 on February 8<sup>th</sup>, 2007.

<sup>102</sup> According to Article 19, the CNCD is the state authority in the field of discrimination, under parliamentary control, with attributions on preventing acts of discrimination,

The provisions of Law 137/2000 guarantees to all citizens, among others, the right to marry and choose their partner, the right to freedom of opinion and expression, economic, social and cultural rights, etc. (Article 1). Law 137/2000 defines in Article 2 concepts such as direct and indirect discrimination, victimization, command to discriminate or harassment<sup>103</sup>.

Thus, **discrimination** consists of *"any distinction, exclusion, restriction or preference on the grounds of race, nationality, ethnicity, language, religion, social category, convictions, gender, sexual orientation, age, disability, non-contagious chronic illness, HIV infection, belonging to a disfavored category, as well as on any other criterion, with the purpose or effect of restricting, removing the recognition, use or exercise, in conditions of equality, of human rights and fundamental freedoms or of rights provided by law, in the political, economic, social and cultural field or in any other fields of public life"* (Article 2). The discrimination has an aggravating circumstance in the case of *"any distinction, exclusion, restriction or preference based on two or more criteria provided above"* (Article 2, Point 4).

**Positive actions** are defined as *"those measures undertaken by public authorities or legal bodies of private law in favor of a person, a group of persons or a community, with the purpose to ensure their natural development and to effectively realize*

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mediating acts of discrimination, investigating, establishing and punishing acts of discrimination, monitoring acts of discrimination, as well as providing specialized assistance to victims of discrimination. For more information visit: <http://www.cncd.org.ro>.

<sup>103</sup> *Indirect discrimination and harassment*, for example, are also defined by Law 202/2002 on Equal opportunities for women and men, with its subsequent amendments and supplements.

*their equal opportunities in relation to the other persons, groups of persons or communities” (article 2, point 7)<sup>104</sup>.*

The ***disfavored category*** defined by Law 137/2000 is *“that category of persons which either lies in a position of inequality in relation to the majority of citizens because of identity differences to the majority, either confronts a behavior of rejection and marginalization” (Article 4).*

***Law 202/2002 on Equal opportunities for women and men<sup>105</sup>*** is the law regulating the operation of the National Agency for Equal Opportunities for women and men (ANES) as a specialized body of central public administration, with legal personality, subordinated to the Ministry of Labor, Social Solidarity and Family<sup>106</sup>. ANES coordinates the activity of the National Commission in the Field of Equal Opportunities for Women and Men (CONES), consisting of representatives of ministries and other specialized bodies of central public administration subordinated to the Government, of autonomous administrative authorities, trade unions and employers' associations representative at national level, as well as of representatives of nongovernmental organizations, appointed by

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<sup>104</sup> Law 202/2002 on Equal opportunities for women and men also defines *positive actions* as *“special actions, temporarily undertaken with the purpose to accelerate the realization in fact of equal opportunities for women and men and which are not considered actions of discrimination”*. Affirmative policies are also addressed to the Roma national minority, best known being those in the field of education (for ex. *Order no. 454/2000 on supporting the access of Roma youth to vocational schools, high schools, university colleges and faculties*).

<sup>105</sup> Republished on the grounds of Article III of Government Emergency Ordinance no. 56/2006 for the amendment and supplement of Law 202/2002 on Equal opportunities for women and men, published in the Official Monitor of Romania, Part I, no. 768 on September 8<sup>th</sup>, 2006, approved with amendments and supplements by Law 507/2006, published in the Official Monitor of Romania, Part I, no. 10 on January 8<sup>th</sup>, 2007, giving the texts a new numbering.

<sup>106</sup> Order 939/2006 designated ANES as the *Body for implementation of year 2007 – European Year of Equal Opportunities for All*.

consensus. County Commissions in the Field of Equal Opportunities for Women and Men (COJES)<sup>107</sup> operate in each county and Bucharest.

Law 202/2002 provides definitions on direct and indirect discrimination, harassment and sexual harassment or positive actions. Article 4, Paragraphs a – h, defines multiple discrimination as *"any act of discrimination based on two or more criteria of discrimination"*. This concept is often used for describing the situation of Roma girls and women<sup>108</sup>.

**Direct discrimination** (Par. a) is *"the situation in which a person is treated less favorably, on the grounds of gender, than another person is or was treated in a comparable situation"*; **indirect discrimination** (Par. b) is *"the situation in which an apparently neutral disposition, criterion or practice would disadvantage especially the persons of a certain gender in relation to the persons of the other gender, except the case when this disposition, criterion or practice is objectively justified by a legitimate purpose, and the means for reaching this purpose are adequate and necessary"*. The National Strategy on Equal Opportunities for Women and Men 2006 – 2009<sup>109</sup> implemented by ANES sets out to establish a series of *"measures and guarantees meant to eliminate all forms of direct or indirect discrimination and to allow the exercise of*

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<sup>107</sup> COJES consists of representatives of de-concentrated public services and of other specialized bodies of local public administration and of local administrative authorities, of trade unions and employers' associations, as well as of local representatives of NGOs, appointed by the latter.

<sup>108</sup> The concept of *"multiple discrimination"* was introduced by the lobby initiative of a group of Roma women (with the support of Romani CRISS) in the first half of 2006, parallel to the process of amending and supplementing Law 202/2002.

<sup>109</sup> *Government Decision 319/2006* – on the approval of the ANES Strategy and Action Plan – has three main lines: political life, economic life and participation to decision making. See Official Monitor, part I, no. 270 on March 3<sup>rd</sup>, 2006 regarding the ANES Action Plan.



*human freedom and fundamental rights based on the principle of equal opportunities and treatment for women and men*"<sup>110</sup>. Unfortunately however, ANES has limited competencies, mainly focusing on action in the field of employment.

### V.3. Policies addressed to the Roma national minority

Regarding the measures undertaken by the Romanian state on the situation of the Roma, the *first governmental initiative* comprehensively approaching the problems of the Roma is represented by the ***Romanian Government Strategy for Improving the Condition of the Roma***<sup>111</sup>. In this respect, the National Agency for Roma<sup>112</sup> implements, coordinates, monitors and evaluates the measures in the sectorial fields of social intervention, comprised in the Strategy for Improving the Condition of the Roma.

The Strategy for Improving the Condition of the Roma (i.e. Government Resolution 430/2001) does not provide measures addressed directly to the issue of Roma women, but one of the lines of action of the Strategy<sup>113</sup>, addressing "Child Welfare" (Point G.), states the necessity of initiating measures to prevent the abandon, abuse or negligence of the child, as well as all the forms placing the child in difficulty and, also, of rendering public opinion sensitive about the rights of the child and about the problem of the child and family lying in a risky or difficult situation (Point 11).

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<sup>110</sup> National Strategy on Equal Opportunities for Women and Men on the 2006 – 2009 Period, <http://www.anes.ro/documentecheie/strategia.htm>.

<sup>111</sup> Government Resolution 430/2001, published in Official Monitor no. 252 on May 1 6<sup>th</sup>, 2001, with its subsequent amendments and supplements, available at: <http://www.anr.gov.ro/docs/Politici/Hotarare nr 430.pdf>.

<sup>112</sup> <http://www.anr.gov.ro/index.html>.

<sup>113</sup> The lines of action are: Public Administration, Housing, Social Security, Health Care, Economy, Justice and Public Order, Child Welfare, Education, Culture and Denominations, Communication and Civic Involvement.

The first mention in the field of "Child Welfare" within the Romanian Government Strategy for Improving the Condition of the Roma, that of "*securing a non-discriminative participation of the Roma women in programs of child care and education*", can be interpreted as discriminatory from the perspective of Roma men's parental rights and duties, who cannot be recognized and ensured their non-discriminatory participation to programs of care and education for their children.

At the same time, it is worth noticing that the Strategy does not approach "taboo problems" (such as early marriages and pregnancies, school segregation of Roma children, the concept of multiple discrimination, etc.), uncomfortable for the authorities and not considered to be priority by specialists and the Roma civil society, at the time it was adopted.

Initiated by the Open Society Institute and the World Bank in 2003, the ***Decade of Roma Inclusion 2005 – 2015***<sup>114</sup> is an unprecedented political engagement assumed by the governments of nine states<sup>115</sup>, with the purpose to act in view of eliminating the discrimination and unacceptable differences between Roma and the rest of society. The priority fields of the Decade are education, employment, health care and housing, with *transversal fields – poverty, discrimination and gender dimension*. In addition, each state party prepared action plans in the priority fields and established institutional mechanisms to implement the engagements assumed within the Decade of Roma Inclusion 2005 – 2015<sup>116</sup>.

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<sup>114</sup> See: [www.romadecade.org](http://www.romadecade.org).

<sup>115</sup> Bulgaria, Croatia, the Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia and Slovakia.

<sup>116</sup> Hauptert, Andy (coordinator) *Decade Watch – Roma rights activists assess progresses achieved within the Decade of Roma Inclusion / 2005–2006*, Createch Lrd. Publishing, Hungary, 2007.

In Romania, the coordinating body of the Decade of Roma Inclusion 2005 – 2015 is the National Agency for Roma<sup>117</sup> (ANR), which held the position of Secretariat and Presidency during the first year of the Decade, 2005 – 2006<sup>118</sup>, and proposed for adoption the Action Plans of the Decade of Roma Inclusion 2005 – 2015 in the priority fields. The plans under work on the official website of the ANR<sup>119</sup> mention Roma women as target group in the field of healthcare, through the measure of "campaigns/caravans in all Roma communities for health education, especially children's and women's health education, on preventing infectious diseases and drug addiction" or just by increasing "Roma's access to public health services by including them in the health insurance system (...), with emphasis on women's and children's health issues". In the field of employment we can find provisions such as "providing an information campaign especially targeting Roma women" or "implementing a specific program to provide Roma women the capacity to manage a private business". The plan in the field of housing does not provide specific measures for Roma women, but the one in the field of education states "increasing Roma girls' participation to school" as target.

Unfortunately, governmental or nongovernmental institutions in the field of protection of the rights of the child or women are not included in the category of "responsible institutions" for implementing the objectives of the Action Plan.

The Decade of Roma Inclusion 2005 – 2015 promoted the participation of Roma civil society to the elaboration and implementation of the action plans, including to monitoring the way they were put into

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<sup>117</sup> [www.anr.gov.ro](http://www.anr.gov.ro).

<sup>118</sup> [http://www.anr.gov.ro/docs/deceniu/Raport\\_intermediar\\_romana\\_209.pdf](http://www.anr.gov.ro/docs/deceniu/Raport_intermediar_romana_209.pdf).

<sup>119</sup> The documents have been subjected to public debate until May 17<sup>th</sup>, 2007: [http://www.anr.gov.ro/site/planurile\\_deceniu.htm](http://www.anr.gov.ro/site/planurile_deceniu.htm).

practice, through the *Decade Watch* initiative<sup>120</sup>. Romania is represented in this initiative by the Roma Civic Alliance in Romania<sup>121</sup>.

However, we can see by the lack of initiatives of the Romanian Government within the Decade of Roma Inclusion 2005 – 2015, as well as by the *Decade Watch 2005–2006* Evaluation Report<sup>122</sup>, that Roma children marriages are not considered situation requiring immediate and strategic intervention from public authorities in Romania (be it in the form of studies, programs, applying sanctions, etc.) although European recommendations, and not only, draw attention on the issue<sup>123</sup>.

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<sup>120</sup> *Decade Watch* is an initiative of a group of Roma activists and researchers, aiming to evaluate the progress achieved within the Decade of Roma Inclusion 2005 – 2015. For more information visit: [www.decadewatch.org](http://www.decadewatch.org).

<sup>121</sup> For more information visit: [www.acrr.ro](http://www.acrr.ro).

<sup>122</sup> Reference to the fact that the Decade Watch 2005–2006 Evaluation Report does not contain mentions regarding the dimensions of equal opportunities for women and men and poverty in the initiatives of the Decade, "due to reasons pertaining to the amplitude of the study", "but there is the intent to accomplish this in the next volume".

<sup>123</sup> See Resolution 1468/2005 of the Parliamentary Assembly of the Council of Europe on Forced marriages and child marriages – <http://assembly.coe.int/Documents/AdoptedText/TA05/ERES1468.htm> or Resolution of the European Parliament on the Situation of Roma Women in the European Union – <http://www.europarl.europa.eu/sides/getDoc.do?pubRef = -//EP//TEXT + TA + P6-TA-2006-0244 + 0 + DOC + XML + V0//EN>

## VI. MEDIA REPORT OF EARLY MARRIAGES WITHIN ROMA COMMUNITIES

The media teaches us *who* our Roma ethnic co-citizens are, *what* they do, *where* they are, *how many* they are, *how* they are, *why* they are like that and *what defines them* as a national minority in Romania. Why? Because the schools and cultural institutions in Romania left this space unexplored, untouched.

In order to grasp the importance of the media in meeting the early marriages phenomenon, we will present below a few aspects of its participation to opening and sustaining debates (and not only), taking into consideration the way it reports on certain situations of early marriage or on government initiatives connected to early marriages in some traditional Roma communities. Furthermore, we wish to present in this chapter the role and shape of media reports on early marriages in determining Roma's image in general, and Roma women's in particular.

In order to determine the degree and way in which the central and local printed press in Romania reflected the Roma community in the published articles, Romani CRISS<sup>124</sup> elaborated the *Roma Minority's Image in the National and Local Press – Results of Press Monitoring between October 2006 – August 2007*<sup>125</sup> study.

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<sup>124</sup> For more information visit [www.romanicriss.org](http://www.romanicriss.org).

<sup>125</sup> In the elaboration of the study we monitored the electronic issues of eight national dailies and six local dailies, as follows: Adevarul, Cotidianul, Evenimentul Zilei, Jurnalul National, Libertatea, Romania Libera, Ziua and Gandul (at national level); Buna ziua Brasov, Transilvania Express, Telegraf, Ziua de Constanta, Ziarul de Iasi and Ziua de Iasi (at local level – in three regions of the country).

This analysis of press appearances showed that Roma's presence in the media was not negligible<sup>126</sup>. The study showed that, if we weigh the total number of articles against the number of months considered, we would arrive to a figure of approximately 145 articles per month, i.e. almost 5 articles per day regarding the Roma ethnic group. Comparing the first month (October 2006) and last month (August 2007) of monitoring, we noticed an increase of the number of articles in the last month: 321 compared to 161<sup>127</sup>.

The results of the Romani CRISS monitoring reveal the attitude of journalists towards Roma in the press at central level as positive in only 14% of cases, compared to 41% negative attitude or 45% neutral attitude<sup>128</sup>.

The articles in which the journalist had a negative attitude mainly used derogatory or biased terms referring to Roma: *"Damn crows"* or *"Ask yourselves one thing: How many Gypsy women of those with long skirts have you seen working in a factory or for an employer? How many have you heard of having worked somewhere?; and, of course, the women pumping out Gypsy babies, representing the raw material, like on the conveyor belt"*.

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<sup>126</sup> During the monitoring period, October 1<sup>st</sup>, 2006 – August 31<sup>st</sup>, 2007, 1958 articles appeared in the press at central level and 584 at local level; a total of 2182 articles reflected the Roma community. The key words followed were: Roma, Roma ethnic group, Gypsy, Gypsy child, Gypsy woman, Gypsy leader, coloured or darkish.

<sup>127</sup> Roma Centre for Social Intervention and Studies – Romani CRISS, *Roma Minority's Image in the National and Local Press – Results of Press Monitoring between October 2006 – August 2007* Report.

<sup>128</sup> In analyzing journalist's attitude towards the presented minorities (negative, neutral or positive), we considered as *positive* attitude the articles presenting a cultural, social event or project promoting an action with and for the Roma, where mentioning the ethnicity is relevant, as the action is specific. *Negative* attitude was considered to be the unjustified mention of ethnicity in relation to undesirable actions (criminality), biased articles or those using derogatory terms regarding Roma. Articles observing the deontology were considered as journalist's *neutral* attitude.

Journalist's positive attitude was reflected by the promotion of programs, projects or actions with and for the Roma at local level (regarding job fairs for the Roma, education, identity documents, Roma history and traditions, International Day of Roma) or excerpts from international reports on the situation of Roma in Romania.

According to the Romani CRISS study, local dailies tend to report more activities, projects and programs for and with the Roma implemented at local level, the central press being less interested by this aspect. At the same time, journalist's language in the articles in which he or she had a negative attitude is more virulent in the case of local press. The only common theme of all publication is the direct connection between ethnicity and criminality.

Although lately the media has offered attention and has controlled the language used in presenting the news in order to be as "politically correct" as possible, and the (Roma) civil society has tried to develop an as efficient as possible communication with the press, through different programs, we still hear or read that Roma are "*Gypsy children*", "*Gypsy women*" that "*don't work, but have babies instead*" in the "*Gypsy camp*", etc.

*"Wedding with Pistols and 70 Turkeys" (Rondul de Sibiu, September 29<sup>th</sup>, 2003)*

*"Young Roma Male, Aged 28, Originating from Oravita, was Arrested in Italy, Charged with the Kidnapping and Rape of a 12 Year Old Girl"*<sup>129</sup>

*"Only what the Gypsy Leader or Court Establish to be a Crime"*<sup>130</sup>

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<http://www.evz.ro/articole/detalii-articol/794044/Fetita-violata-de-un-tigan-in-Italia-/>.

*"Wonderful Setting, According to a Few Innocent Gypsy Women, Trying to Describe the Feast from the Street" (Ziua, May 10<sup>th</sup>, 2007)*

*"Gypsy Wedding Carried out with all Rituals – Blend of Luxury and Kitsch worthy of a Kusturica Film, but also with Bride and Groom of Early Age"*

*(<http://www.Romanialibera.ro/a10646/tiganii-si-1-ipocrizia-multiculturala.html>)*

*"In Strehaia Roma Children are Injected to be able to have Sex" – "Roma children are injected to be able to have sex at young ages, declares a 15 years old boy, married at 11 years to a 10 year old girl. After two years of torment he ran away from the bride and abandoned school."<sup>131</sup>*

Programs/researched developed up to date or articles printed in the press, the public display, demonstrate that Roma women are visible only when the debated issues highlight negative stereotypes on the Roma minority and most of the times report on Roma women's reduced ("bizarre") experiences (and not, for example, on: the diverse forms of discrimination of Roma women, the high number of Roma women working without legal forms, etc.).

Probably due to reduced data on the situation of Roma women in Romania, to the lack of understanding by the majority in general, and by the press or central institutions in particular, regarding the effects

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<sup>130</sup> <http://www.Romanialibera.ro/a10646/tiganii-si-ipocrizia-multiculturala.html>. Gazeta de Sud, October 3<sup>rd</sup>, 2007.

<sup>131</sup> Gazeta de Sud, October 3<sup>rd</sup>, 2007.



of multiple discrimination<sup>132</sup> Roma women face, or to the invisibility of problems specific to Roma women in the general context of problems faced by Roma, etc., the presence of Roma women, both in the media and the general speech, continues to be mostly limited to early marriages and pregnancies (as if they were a display of sexuality)<sup>133</sup>.

Furthermore, the context presented by some articles leaves the impression that Roma women indulge in their situations: being "supported", having many children, not attending school, not developing themselves professionally, etc. The Romani CRISS study identified a number of 17 articles on early marriages within Roma communities where the journalist's attitude was almost exclusively negative.

*"Gypsy Women Must Stay Home" (Jurnalul National, 2003)*

*"Ask yourselves one thing: How many Gypsy women of those with long skirts have you seen working in a factory or for an employer? How many have you heard of having worked somewhere?; and, of course, the women pumping out Gypsy babies, representing the raw material, like on the conveyor belt" (Romani CRISS press study, 2007)*

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<sup>132</sup> Law 202/2002 on Equal Opportunities for Women and Men, with its subsequent amendments and supplements, defines *multiple discrimination* in Art. 4, Par. h, as *any act of discrimination based on two or more criteria of discrimination*.

<sup>133</sup> Due to their gender (and age) – as mothers (to be) – Roma women are supported by the media and society in general for their *vulnerability* and *need of protection* (especially referring to early marriages) but, at the same time, they are blamed for belonging to the Roma ethnic group.

### *Since Ana Maria Cioaba onward...*

The story of "*Princess*" Ana Maria Cioaba's marriage has reached, undoubtedly, the highest level of media report on Roma children marriages, and since this event the media has shown a more special attention to this phenomenon. Since 2003, the number of press reports on the subject of Roma children marriages has increased, thus drawing attention on Roma girls and women and their family situation.

As described by Alexandra Oprea in her paper on Ana Maria Cioaba's arranged marriage<sup>134</sup>, press articles reflected the incontestable conflict between tradition and the law, between the oppositions of bad / primitive for the Roma minority and right / progressive for the non-Roma population. Ana Maria Cioaba's "marriage" marked the first time when Roma organizations in Romania came out with a public stand on the arranged marriages of Roma children.

Their stand was to support the Cioaba family invoking tradition although, at present, after analyzing the phenomenon, there are actions carried out by Roma associations to prevent and eliminate these betrothals/marriages<sup>135</sup>. In Alexandra Oprea's opinion, this reaction was based on the fact that the media presented traditional Roma's image as one of inferiority, of "second hand persons", entitling different public figures (Roma and non-Roma) and human rights activists to have a defensive reaction.

The families in question, pressured by the press and authorities, requested in a press release that "the media in Romania and abroad should offer this case a note of decency, and any speculation and exaggeration that could transform the marriage between the two

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<sup>134</sup> Oprea, Alexandra, op. quote.

<sup>135</sup> Romani CRISS, Amare Rromentza and the Roma Civic Alliance periodically organize working meetings in Ramnicelu, Buzau County.

young persons, Ana Maria Cioaba and Birită Mihai, into a subject of scandal should end". Even Roma women active in the feminist movement or promoting the rights of the child were discouraged to protest against children marriages, a situation caused by the dominant perceptions in the society, discriminatory against the Roma population, affecting Roma women and having precedence over those regarding the gender dimension.

The press reports of radical language (of complete condemnation of arranged marriages of Roma children) were also supported by Mr. Madalin Voicu's<sup>136</sup> statements, otherwise the only Roma person mentioned in the media, in general. Interesting is the fact that, following Mr. Voicu's statements according to whom "*our Gypsies are stupid, primitive and irritating for everybody*", the only Roma who appeared to support the rights of women and of the child was considered at that time as a traitor by most Roma and non-Roma activists<sup>137</sup>, who perceived the necessity to end early with marriages as against the Roma "culture" and "traditions".

The radical stand publicly displayed by Mr. Voicu and supported by most press reports, of eliminating early marriages in traditional Roma families, can be interpreted as a proposal to "reform" what is called "the institution of family" for the Roma, through which girls and women would become "citizens" with rights and duties. But, unfortunately, this proves to be untrue, Mr. Voicu using a language confirming stereotypes on the Roma, on one hand, and on the other hand sexist regarding Roma women.

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<sup>136</sup> Madalin Voicu is a well-known Roma politician and musician, famous violinist Ion Voicu's son; he was President of Honour of the Roma Party and, at present, is a Deputy from the Social Democrat Party. Mr. Voicu has an almost permanent media presence, however he is not considered as representative for the Roma minority by most Roma activist leaders.

<sup>137</sup> Oprea, Alexandra, op. quote.

Most of the times early marriages impose especially on girls not to benefit of fundamental rights such as freedom to choose, freedom of expression, right to a harmonious physical and mental development, to educational and vocational training, etc., and this aspect was often caught by the media.

*"The understandings are made when the children are 9-10 years old"; "at poorer families, the understanding is made much earlier, when the children are as little as 5 years old"; "betrothal is a warning signal, to let the kind know that the girls in already in a relationship with somebody" (statement of Ion Francu from Strehaia, before his 13 year old child's wedding, for the *Gandul* daily, June 28<sup>th</sup>, 2007).*

It is worth noticing that these media reports generated a series of questions regarding the initiative and stand of public authorities in Romania. Ana Maria Cioaba's "marriage" was not the first or only arrangement of this type, but even after a few days since the first media reports the authorities competent in the field have not taken notice.

*"The authorities have not yet expressed their point of view on the children's wedding" (*Libertatea*, May 10<sup>th</sup>, 2007)*

*"Marriages between children represent a phenomenon which the authorities lost control of, especially in Ramnicelu, Buzau County - a locality where Gypsies are the majority" (*Romania Libera*, May 10<sup>th</sup>, 2007)*

*"The Mehedinti County General Directorate of Social Assistance started yesterday an investigation on the*

*situation of the child forced to marry at the age of 11 years..." (Libertatea, October 5<sup>th</sup>, 2007, article signed by Alin Ghiciulescu)*

*"Stop minors' weddings – Authorities in Gorj and Mehedinti Counties are in alert. Police agents, Strehaia Town Hall councilors and representatives of the Mehedinti County Directorate for Protection of the Child closely examine two Roma families, but also witnesses that could file complains and notifications on the engagement of two Roma minors" (Gazeta de Sud, October 5<sup>th</sup>, 2007, article signed by Alin Ghiciulescu)*

The competent authorities made their positions on this matter public only after the public reaction of condemnation from Baroness Emma Nicholson, who explicitly and radically requested *"authorities in Bucharest to urgently intervene for the girl to be removed from the home of her fresh husband"* (*Monitorul de Sibiu*, October 1<sup>st</sup>, 2003. p. 4), as the bride *"was allegedly raped by the groom on the wedding night"* (DIVERS).

Media at international level, too, reflected Ana Maria Cioaba's case and, consequent of this reporting and of Ms. Nicholson's public stand, the European Commission pressured the Romanian state to take firm measures in this case. The Cioaba family showed on countless occasions their concern regarding the pressures and radical forms of intervention by the Romanian authorities in the case of early marriages, without making an in-depth analysis of the situation and acting by applying the legislation in force, parallel with specific programs and policies. The Roma Christian Centre in Sibiu, an organization coordinated by Mr. Florin Cioaba, organized a series of

debates on early marriages in Calderas Roma communities in Romania, a series entitled *"Between Tradition and Law"*<sup>138</sup>.

*"Considering that we have now entered the European Union, we must try to change this mentality, these traditions, first of all because we are breaking the law and second, I think that Roma communities themselves should realize that it is an obsolete tradition that needs to be changed. The change must start from within the communities, meaning that people need to understand this thing, and we have already tried to render Roma communities sensitive, we have even had a project on the issue of early marriages together with the OSCE, developed in several counties in the country, where there are larger Roma communities", Mr. Cioaba declared*<sup>139</sup>.

The notoriety level of the celebration event of Ana Maria's and Mihai's wedding reached one of the highest peaks, first of all because the *"party of the century"* (*Rondul de Sibiu*, 2003) was taking place in "King" Florin Cioaba's<sup>140</sup> family, an interesting character for the Romanian press and not only. He "meets" most of the "sensational" elements in order to be the subject of press articles: he is "King of the Roma", traditional, he has a "palace", he is

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<sup>138</sup> During the *"Traditions and Change, Individual and Collective Human Rights, Gender Equality within Roma Affairs"* regional meeting in Warsaw, October 2006, Mr. Florin Cioaba openly spoke of the conclusions of the activities of the Christian Centre and of the fact that regardless whether they (the Coppersmith Roma community) wished to emancipate or not, Roma communities and implicitly the girls and boys within would modernize, as within the communities there was a trend to increase the age at marriage and, also, to reach a higher level of education.

<sup>139</sup> <http://st.iri.ro/ro/content/view/109883/2/>.

<sup>140</sup> Florin Cioaba is leader of the Coppersmith (Neo-Protestant) Roma, President of the Roma Cultural Centre in Romania and Vice-President of the Roma International Union; he is Mr. Ion Cioaba's son, a well-known leader of Coppersmith Roma.

communicative, etc., and his media presence in the last years has been constant.

Ana Maria Cioaba's public presence considerably minimized the role of her husband, Mihai, contrary to the "patriarchal tradition". The fact that former Interior Minister, Doru Viorel Ursu, was the Godfather, or that the groom was minor, too, did not surpass Ana Maria's appearances or importance. For example, Mihai Birita's name (and not Dirita) was misspelled in countless articles (*Obiectiv*, 2003; *Monitorul de Sibiu*, 2003). Her age, feminine gender or origin from a traditional Roma family, each criterion or all together took part in stimulating the reaction of the public opinion (the media, public authorities, civil society, and common people).

A recent event that recorded a high number of appearances in the central press<sup>141</sup> was the "engagement" of children Pamela, 11 years old, and Dorinel, 13 years old, from Strehaiia, Mehedinti County. "*The feast*" (term used in articles on the subject) described by press representatives had a unique setting.

*"Huge tent, dozens of fiddlers (...), rich meal and latest model cars that would make even auto shows organizers jealous, designer suits together with skirts, head kerchiefs, chains, bracelets or rings"<sup>142</sup>.*

Press reports on this story had a different approach that the 2003 case, of the Cioaba family, were more ironic, directly condemned the event and caught scenes of violence between the press and the groom's parents part of the "*Gypsy aristocracy*" (*Gandul*, 2007).

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<sup>141</sup> The *Gandul*, *Libertatea*, *Ziua* dailies, etc.

<sup>142</sup> *Ziua* daily, May 10<sup>th</sup>, 2007.

"Gypsies fired the Gun at Journalists" (Libertatea, May 10<sup>th</sup>, 2007)

*"The press was the no. 1 enemy of the fairy tale wedding. Security measures generally aimed for journalists' indiscrete eyes and years to be as shut as possible. A more indiscrete cameraman got a few 'friendly' slaps on the head."* (Gandul, May 10<sup>th</sup>, 2007)

This "irritation" on both sides (both of Roma families in Strehaia and of the press) can be attributed to the reactions in 2003, after the media reports on the marriage organized by the Cioaba family, but also to the recent chain of events maintaining the Roma population in the centre of attention<sup>143</sup>. A simple search on the Internet reveals that Roma, be them children or women, are daily in the media and, most of the times, the elements of the stories are negative and leave the impression of a public's attention to a small and exotic culture, of a "non-emancipated minority".

*"Gypsies are really mad at journalists after their 'early review' of the engagement"* (Gandul, 2007), because it is not in their interest for their celebration of the betrothal of the 13 and, respectively, 11 year old children to be publicized at a large scale, after Cioaba family's exposure in 2003 through the heavy publicizing of Ana Maria's marriage, an event condemned at international level and followed by domestic measures (inquiry of the Police, the Directorate for Protection of the Child).

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<sup>143</sup> Year 2007 was marked by unprecedented situations regarding the Roma population in Romania: President Traian Basescu naming a journalist as "*stinking Gypsy*" and, also, racist statements made by the Minister of Foreign Affairs at that time, Mr. Adrian Cioroianu, and by other public figures; the "*Mailat*" case and even the fingerprinting of Roma in Italy in 2008.



The same thing could have happened in the Strehaia case, too, but most of the Roma families practicing children marriages understood the risks of a widely publicized "fame"<sup>144</sup>. Nevertheless, Romania no longer has a baroness to "stimulate" the public opinion and institutional response at the level reached in 2003.

*"It's a great shame for somebody to cause a scandal at a wedding. (.) I mean that we don't generally have problems with them"* (statement of a law enforcement agent from Strehaia in *Gandul*, 2007).

Furthermore, an article appeared in the *Libertatea* daily (2007) on children marriages *"in the name of a tradition invoked by Gypsies"* is entitled *"Wedding between Minor Cousins, in Strehaia"*. The article claims that the "wife and groom" *"are also third degree cousins, after their grandparents"*<sup>145</sup>.

A situation when the press distorted the message was related to the legislative initiative to modify the legal marriageable age to 18 years for both partners. The purpose of the initiative was to harmonize the domestic legislation with the international one and for the Romanian state to assume and implement the obligations in the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Right of the Child. However, the almost exclusive presentation, both by the press and TV

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<sup>144</sup> The definition for *fame* found at <http://dexonline.ro/search.php?cuv = fala> (t.n. online dictionary of Romanian language) is "reason to be proud of something or somebody; pride", or "unjustified attitude of superiority to others; pride; greatness; haughtiness; arrogance; conceitedness", or "celebratory public manifestation". The term, frequently used, represents for most Roma ethnics the merit to have respect from society, from the members of the group, especially in situations when celebrating family events (baptism, marriage, and even death).

<sup>145</sup> The Family Code (Law no. 4/1953) states in Article 6 that "marriage between relatives of straight kinship, as well as between relatives of collateral kinship until the fourth degree inclusively is prohibited".

stations (for ex. talk-shows, Realitatea TV), had the character to direct the reasons for the initiative towards the cases of early marriages in traditional Roma families.

*"(Minodora Cliveti) showed that she was not afraid of a possible reaction from the Roma community, a reaction that is not impossible considering that Roma girls' age at marriage is low and that - in the context of the introduction of the 200 Euros premium for marriage - Roma were encouraged to officialise their relationships." "There may be a reaction from the Roma community. There always are social categories that accept a legislative initiative and categories that reject it. We were only interested in the equality between partners. On the other hand, let's not forget that Romania is often criticized regarding marriage at early ages and, if through this initiative we could put an end to some of these criticisms, we would be even happier", the PSD Deputy added" (A.M.PRESS, March 8<sup>th</sup>, 2007)*

*"The phenomenon (of early marriages) is widespread especially among the Roma, but also in rural areas with persistent traditional values" (Romania Libera, May 16<sup>th</sup>, 2007).*

*"Senators put a bad thought on marriage. The Senators in the Juridical Commission voted yesterday an amendment to the Family Code, according to which the marriageable age would be 18 years, thus eliminating age dispensations provided to youth to get married." (Curentul, 2007)*



As a result of these appearances, a large number of nongovernmental organizations<sup>146</sup> signaled, in a letter addressed to several politicians<sup>147</sup>, the ethnical aspect that the media rendered to the initiative<sup>148</sup>, thus promoting negative stereotypes on the Roma minority. Political messages expressing unjustified fears regarding potential negative reactions from the Roma minority do nothing else but cultivate a climate of mistrust and discriminatory towards the Roma minority, as argued in the letter.

Signatory organizations also drew attention to the fact that the lack of a process of consulting the civil society and local communities may lead to dysfunctions in the implementation of this legislative proposal and recommended an ample process of consultation and a real debate on this issue, as well as the use of a neutral, balanced and

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<sup>146</sup> UNICEF Representation in Romania, Federation of Nongovernmental Organizations for the Child, Centre of Legal Resources, ACCEPT Association, Roma Centre for Social Intervention and Studies "Romani CRISS", Roma Participation Program/Open Society Institute Budapest.

<sup>147</sup> Among which the coordinator of the initiative, Deputy Minodora Cliveti.

<sup>148</sup> See articles printed by Cotidianul, Curentul, Romania Libera, A.M. Press, or TV debates at the Realitatea TV station.

non-discriminatory language in informing public opinion on this legislative initiative.

Another situation in which reasons for a legislative initiative were directed towards Roma communities was the *200 Euros premium provided by the Romanian state to couples getting married for the first time*. According to the Romani CRISS study on the extent and way in which the Roma minority is reflected in the central printed press, between October 1<sup>st</sup>, 2006 – August 31<sup>st</sup>, 2007, 12 articles were printed on this issue, in which the Roma ethnic group was unjustifiably mentioned.

The media has an important say when it comes to informing and, especially, educating citizens at macro-social level. The media is an important communication channel of governmental and nongovernmental institutions to the population as a whole and, at the same time, a promoter of public policies.

The National Agency of Equal Opportunities for Women and Men (ANES), within its 2006–2009 Strategy<sup>149</sup>, acknowledges the importance of the media in changing discriminatory attitudes and provides actions referring to "replacing cultural patterns that reflect sexist stereotypes at the society level". Also, the mentioned institution sets out to "integrate the principle of equality between women and men, especially in policies on education, science, *media*, youth and sport"<sup>150</sup>. Although Law 202/2002 provides that

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<sup>149</sup> National Strategy on Equal opportunities for women and men for the 2006 – 2009 period, <http://www.anes.ro/documentecheie/strategia.htm>.

<sup>150</sup> Consequently, the ANES area of action on *Promoting the principle of equal opportunities for women and men in culture and the media* within the *General actions plan for the implementation of the national Strategy on equal opportunities for women and men for the 2006 – 2009 Period* refers to *involving the media in rendering society sensitive on the principles which the National Strategy on Equal Opportunities for Women and Men is based on, with the aim to respect human dignity in presenting the image of women and*

*"information distributed through the media will respect the equal opportunities and treatment for women and men and will not contain, promote or provoke any form of discrimination based on the gender criterion", ANES has never taken a public stand on how Roma women are bearers of the racist image on the Roma community. The general message present in the media, regarding the Roma national minority –ethnic group, continues to support racist perceptions and attitudes and describes the cultural side of Roma on the principle of inferiority, not promoting positive elements of Roma. The interaction with the media in directly and indirectly addressing the combat of discrimination in Roma's access to healthcare services, for example, will increase the visibility of obstacles that Roma, and especially Roma women, face in accessing healthcare services<sup>151</sup> and will support the identification of the best solutions for intervention.*

Nevertheless, we can consider that regarding the debates on early marriages in certain Roma families, even since 2003 the media has positively and significantly participated to their opening and sustaining, which signifies an opening towards an intercultural society. However, in order for the cohabitation between the majority and the (Roma) minority or between minorities themselves to be in terms of mutual acceptance, the need for a continuous effort of mutual knowledge and understanding remains.

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*men, and by encouraging the use of a non-sexist and non-discriminatory language. Diverse programmes and cultural actions will aim to highlight women's roles and contributions to the Romanian history and culture. At the same time, at the level of professional training of specialists in the cultural and media fields, rendering them sensitive to the gender perspective and equipping them with necessary instruments to integrate this principle in their daily activity will be aimed at. For more information, visit <http://www.anes.ro>.*

<sup>151</sup> Roma Health Programme/Open Society Institute Budapest, *Report of the "Roma Women's Health: Strategic Talks" Meeting*, Budapest, February 2007.

## VII. CASE STUDIES

In the selection of case studies presented below we tried to illustrate several forms of marriage within Roma communities, as well as the diversity of Roma groups. What can be noticed in all case studies is that the families involved in marriages are well established financially, none being in a state of poverty.

In the Sibiu case, Ana Maria Cioaba's marriage, the blend between the private, community, cultural area and the public, political one must be noted, resulted from the multiple roles played by Mr. Florin Cioaba, Ana Maria's father. He is the leader of the Calderas Roma community in Sibiu, Pentecostal Pastor, as well as an activist involved in the Romanian and European Roma movement.

Ramnicelu, Buzau County, is selected to illustrate the fact that early and arranged marriages can take place not only in communities that have practiced them by the tradition inherited throughout history, but also in communities that have not practiced, but have "imported" them as a form of competition between families. We consider that in Ramnicelu we are dealing with a deterioration of tradition to the point of criminality.

The case study in the Ferentari district was chosen because it happened in the Capital city and was not isolated in that urban community. It illustrates one again how the economic aspect is central and persists, but in this case with the continuation of school attendance in the case of girls. It very clearly describes the type of marriage by "*runaway*" and the virginity that recurs as central motive in all types of marriages.

### ***Traditional Calderas community<sup>152</sup>, Sibiu – Marriage between Ana Maria Cioaba and Mihai Birita***

The Calderas Roma community in Sibiu is traditional and practices early marriage. The preservation of traditional values (strongly patriarchal) in the Sibiu Calderas community, through children and youth marriages, is argued by the fact that it supports a better integration of youths in the family and society, by introducing the feeling of responsibility to protect the family. They (the children) are protected against dissoluteness (drug use, prostitution, alcohol, etc.) and are supported by their parents who provide them with all the means necessary for living, until the age they can support themselves, when they become major<sup>153</sup>. Many of the members of the Calderas community in Sibiu have the opinion that children marriage can lead to an insufficient school training and even to school drop-out (especially in the case of girls), followed by the lack of a qualification or employment<sup>154</sup>.

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<sup>152</sup> The *Amare Rromentza* magazine (SATRA/A.S.R.T.A. – Amare Rromentza, 2005) describes the role and position of the Roma woman in traditional Roma families. According to the magazine, the Roma girl is shy and modest and must honour her family by preserving her virginity (bodily purity) until marriage, and not being "phride" (easy). Virginity is described as fundamental for the image and respect from the community of an unmarried girl and her family. As a young daughter-in-law, the respect provided to her husband extends to his family, especially to her mother-in-law. The husband is considered as protector of the whole family and takes care of supporting the wife and children. As mother-in-law, the woman is the "master of the house", "supervises her daughter-in-law and coordinates the family from within". The Roma wife rises in status when she becomes a mother, thus fulfilling the fundamental purpose of any family of traditional culture. The mother is the one responsible for children's education, with an increased attention towards her daughters, and manages household responsibilities. The birth of a girl is welcomed, as the girl "can be a reliable aid in household duties and for raising younger children".

<sup>153</sup> Report of the *"Early Marriages in Coppersmith Roma Communities in Romania, between Tradition and Law"* project, developed by the Roma Christian Centre in Sibiu, 2005.

<sup>154</sup> Idem.

Traditional Calderas Roma in Sibiu displays a very good financial situation. Most of them are followers of the Neo-Protestant Christian religion, belonging to the Pentecostal Christian cult, Mr. Florin Cioaba being the Pastor of the "Philadelphia" Church, build at his initiative in 2000. The Pastor occupies an important position within his community and, as any clergy representative in Romania, has a significant influence over the Roma, of whom he says that are united and "feel closer to God"<sup>155</sup>.

The most publicized event in the Calderas community in Sibiu, at national and international level, was the "marriage" of Ana Maria Cioaba, aged 14 years, to Mihai Birita, aged 15 years<sup>156</sup>. The "marriage" took place on September 29<sup>th</sup>, 2003 and caused a series of controversies, press reports on the subject surpassing dozens of articles and provoking harsh reactions from authorities in Romania and especially abroad.

Beside the fact that the "*party of the century*" took place in "King" Florin Cioaba's family and raised everyone's interest and especially of the press, the event in the life of the children, Ana Maria and Florin, was regarded by the most from the start as a marriage "arranged" by the parents<sup>157</sup>. Ana Maria Cioaba's public presence was also interesting in this case. She visibly minimized the role of her husband, Mihai, contrary to the expectations of the "patriarchal tradition". The fact that the Godfather was a former Interior Minister,

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<sup>155</sup> [http://www.divers.ro/focus\\_ro?wid = 37452&func = viewSubmission&sid = 2438](http://www.divers.ro/focus_ro?wid = 37452&func = viewSubmission&sid = 2438).

<sup>156</sup> In 2003, the legislation in force in Romania allowed the marriage of youth at the age of 15 years for girls, with dispensation from their parents, and at 18 years for boys. At present, after its subsequent amendments and supplements, the Family Code provides that the minimum age of future spouses must be 18 years.

<sup>157</sup> The difference between the early marriage with the "agreement" of the children involved and the arranged marriage is debatable, as in both cases they are based on the parents' wish. Considering the stress and pressure exercised by family and society, the lack of role models and low self confidence at that age, the "agreement", the freedom of expression and to choose a partner of future spouses cannot be guaranteed.



or that the young groom was also a minor, did not receive the same amount of attention compared to the reaction generated by Ana Maria's attitude<sup>158</sup>.

According to some "statements" of close persons printed by the press, the girl did not offer her full "consent" for the religious formalizing of marriage in the local Pentecostal church. Her "runaway" from the church and, consequently, Ms. Emma Nicholson's public stand, as well as of other public figures, gave birth to radical positions on the formalizing of the two minors' marriage, such as the reaction of the "Save the Children" Organization. The organization requested the Sibiu County Directorate for Protection of the Rights of the Child to intervene in the case of the "princess's" religious wedding and to take the measure of emergency removal, "as she has been raped"<sup>159</sup>.

Although subsequent statements of the children regarding the decision to get married revealed that the desire to celebrate the wedding belonged exclusively to them, the agents of the Penal Investigations Service within the Sibiu County Police Inspectorate carried out investigations in Mihai Birita's case, the groom, for having committed the offence of sexual intercourse with a minor and to establish whether he raped Ana Maria Cioaba or not. The girl was also subjected to a test at the Sibiu Legal Medicine Laboratory, to establish whether she had sexual intercourse with Mihai Birita. (*Gardianul*, October 2<sup>nd</sup>, 2003).

The youths' families respected the authorities decisions (Directorate of Social Assistance and Protection of the Child, Prosecutor's Office adjacent to the Sibiu Court House) to separate the youths because, as

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<sup>158</sup> Mihai Birita's name (and not Dirita) was misspelled in countless articles (*Obiectiv*, 2003; *Monitorul de Sibiu*, 2003).

<sup>159</sup> <http://www.adevarul.ro/articole/cununia-anei-maria-cioaba-incalca-drepturile-copilului-si-constitutia/54955>.

mentioned in a press release from Ana Maria's father, Mr. Florin Cioaba, *"it is in the interest of the two children to have the necessary peace and for any pressure and attempt to transform a traditional event for the Roma ethnic group into a subject of scandal to end"*.

At present, the youths form a couple and in 2007 they celebrated their "second" marriage, meeting all legal requirements. According to their parents' statements<sup>160</sup>, between 2003 and their marriage in 2007, Ana Maria and Mihai continued their studies and lived separately, together with their natural families. However, even though they are of full age, Ana Maria and Mihai are young parents now (they have a child).

The entire context of Ana Maria Cioaba's marriage, the media reports and public's interest, the reactions of authorities (of intervention) and of organizations for minorities rights, human rights and rights of the child (on one hand of supporting traditions, and on the other of condemning practices of early marriage), marked a *unique moment of solidarity* – the authorities intervened in favor of the Roma child, especially Ana Maria; the press presented every piece of information in detail and the public took the information with interest, showing concern for the Roma girl; Roma organizations supported the ethnicity and justified collective rights in disfavor of individual ones; associations for the promotion of the rights of the child came out in public to defend the rights of the child and especially to protect the girl<sup>161</sup>.

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<sup>160</sup> <http://www.libertatea.ro/index.php?section=articole&screen=stire&sid=152066>.

<sup>161</sup> Unfortunately, most of the civil society in Romania is not aware that by actively supporting another vulnerable group, different from the view of gender or racial affiliation or sexual orientation, they in fact support the cause of their own group. For example, if non-Roma feminists publicly and constantly supported different initiatives of the Roma minority and vice versa, then the promotion of intercultural dialogue and diversity, implicitly of gender equality and non-discrimination, would have diminished perceptions such as: Different = Anti-Roma/Anti-Gypsy = Antifeminism.

*Ana Maria Cioaba* is the positive model of a Roma woman seen by the society in general. She is a young wife, future mother, an educated beauty, rich daughter of a "king", not shy of her ethnic belonging. Even if she was ironically named "*princess*", the event in October 2003 made her representative with or without her will, alike a princess. She highlighted for the majority what is the most important – protecting those in difficulty, such is the case of children or Roma – and launched the beginning of changes, at least at public level, regarding early marriages within traditional Roma communities.

What must be noted in this case is that the excessive publicizing of the event obliged politician Florin Cioaba to draw an opinion and a public speech, even if most of the times this speech does not correspond to reality. For example, the project implemented by the Roma Christian Center in Sibiu, financed by the OSCE ODIHR, was the direct effect of this exposure.

### ***Roma community in Ramnicelu, Buzau County<sup>162</sup>***

The locality of Ramnicelu, inhabited by approximately 2000 Roma, is located at 50 km from the city of Buzau. Most of the Roma in the locality have a balanced financial situation. They carry out economic activities through the small companies own mostly by themselves, or own producers' cards in agriculture. The level of schooling is considered to be below average, especially in the case of women, and it is estimated that approximately 70% of Roma in Ramnicelu are Christian–Orthodox, the rest being Neo–Protestant followers.

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<sup>162</sup> In describing the present case we considered: the reports of thematic meetings carried out between 2007–2008, to which the authors participated, as well as different articles printed in the local and central press on the subject of early marriages in Ramnicelu locality / Buzau County.

The Roma community in Ramnicelu is atypical regarding the "traditional" practice of children marriages as, according to statements of some community members<sup>163</sup>, they were initiated after 1990, their number increasing rapidly over the past 10 years. Although it displays a strongly patriarchal family structure (typical to the rural environment), the Roma community in Ramnicelu is not traditional. Their practice only has a traditional, patriarchal and religious influence, correlated with "principles of morality" and especially with the social position.

The first notifications regarding early marriages from the Buzau Directorate of Social Assistance and Protection of the Child date as early as 2003, but cases in that period involved young Roma girls of the approximate age of 15 years. In the case of boys, too, the age at "betrothal" was higher in the past years, being reduced at present to as low as 13 years by parents' "encouragement", invoking "tradition". The decrease of children's age at marriage entailed the decrease of girls' age at first pregnancy, from approximately 15 years (2003) to 11–12 years (2007).

The decrease of the age of children united in marriages arranged by their parents in Ramnicelu, without there being data in this respect, is due to the "fear" of Roma girls' parents regarding the decrease in the number of "well-off boys" (financially) in the community<sup>164</sup>. Situations of girls being sold have not been mentioned, but parents' wish to keep the "fortune within the family" has been noticed. Another issue drawing attention in Ramnicelu is the trend of marriage exclusively

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<sup>163</sup> The statements were made during the working meetings in the Ramnicelu commune, in January 2007, attended by representatives of central and local institutions and of the Roma and non-Roma civil society, as well as by Roma leaders and parents.

<sup>164</sup> Such attitudes were presented also in the *"Broadening the Agenda - The Status of Roma Women in Romania"* report (RPP-OSI Budapest, 2006). A few respondents within the study considered that it was better for a girl to marry early, at 15, 14 years or even earlier. Most of them argued their physical appearance and the opportunity to catch a man (p. 33).

within the community, the risk of co-sanguinization<sup>165</sup> may appear in the next years. In this regard, including the Mayor of Ramnicelu, Mr. Neculae Jugaru, warned that "marriages between relatives" took place, "which will create serious health problems in the future"<sup>166</sup>.

Public opinion interest in the cases of early marriages in Ramnicelu was triggered by the media at the end of 2006, when two 12 year old girls were brought to the maternity to give birth. Authorities' investigation revealed that the situations of the girls were not by far singular, and that in the Roma community in the locality children marriage was treated as a "lifestyle".

Both in the media and public speech there is a criticism brought to public authorities for not intervening in time and not applying the law accordingly. Compared to the state intervention in 2003, in the case of Ana Maria Cioaba's marriage, the results of the authorities in Buzau County, by 2008, indicate that the most appropriate measures to approach the children marriages phenomenon have not been identified and implemented.

The Buzau Directorate for Social Assistance and Protection of the Child (DASPC) is well known at local level for its activity of protecting the rights of Roma children at risk or involved in early marriages. At present, Buzau DASPC monitors over 100 persons<sup>167</sup>, but no situation

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<sup>165</sup> In this respect, the Romanian legislation (Law no. 4/1953 – Family Code, Article 6) prohibits the "marriage between relatives of straight kinship, as well as between relatives of collateral kinship until the fourth degree inclusively".

<sup>166</sup> [http://www.stirilocale.ro/Reprezentantii\\_romilor\\_impotriva\\_casatoriilor\\_timpurii\\_IDN316616.html](http://www.stirilocale.ro/Reprezentantii_romilor_impotriva_casatoriilor_timpurii_IDN316616.html).

<sup>167</sup> According to Ms. Cecilia Manolescu's statement, Director of the Buzau General Directorate for Social Assistance and Protection of the Child, available at: [http://www.stirilocale.ro/buzau/Mama\\_la\\_12\\_ani\\_Buzau\\_IDN144957.html](http://www.stirilocale.ro/buzau/Mama_la_12_ani_Buzau_IDN144957.html).

of declining parents from parental rights<sup>168</sup> has been made public up to date.

On January 4<sup>th</sup>, 2007, in a press release, the Buzau County Council / General Directorate for Social Assistance and Protection of the Child<sup>169</sup> announced *actions of removal of girls originating from Roma families, who get married and have sexual relations at very early ages*. The release presented the case of a 13 year old girl, seven months pregnant, who was brought to the office of a legal executor by her parents (they had previously engaged, in writing, to hand her over to the authorities of protection of the child). Consequently, the minor was committed in the Maternal Centre in the city of Ramnicu Sarat.

The press release also provided information on another minor in Ramnicelu, aged 13 years as well, who gave birth in the Ramnicu Sarat Maternity Hospital on December 30<sup>th</sup>, 2006. The minor was taken over by the hospital institution, in order to be committed in the Maternal Centre in the city of Buzau.

The Resolutions of the Buzau Court House, required by the Directorate, were implemented in both situations. *"Only at the beginning of the year (2007), 10 traditional engagements between Roma children of very young ages were signalled. The DASPC will also monitor other situations in the Ramnicelu commune and will take the appropriate measures, as in the three recent cases."*

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<sup>168</sup> *Family Code* states that "the tutorial authority is obligated to exercise an effective and common control on the way parents fulfil their duties related to the person and patrimony of the child" (Art. 108), and "if the physical health or development of the child is endangered by the exercise of parental rights, by abusive behaviour or grave negligence in fulfilling parental duties, or if the education, the professional training and preparation of the child is not made in spirit of devotion to Romania, the court of law, at the request of the tutorial authority, will pronounce the decline of the parent from parental rights" (Art. 109).

<sup>169</sup> For more information, visit: [www.dgaspcebuzau.ro](http://www.dgaspcebuzau.ro).

The Deputy General Director of the Ramnicu Sarat DASPC, Ms. Carmen Daniela Nutulescu, notified and required the help of local authorities in the respective matter on countless occasions, and accused Town Hall representatives of accepting these cases to gain the sympathy of the Roma community practicing early marriages<sup>170</sup>.

The Mayor of Ramnicelu, Mr. Jugaru, publicly declared during a working meeting on early marriages within Roma families, that he did not agree with the method of separating the girls in a maternal Centre and therefore he did not offer support in this action.

The local Police also took notice and, according to Chief Commissioner Marian Serbulea's statement, "*there are 33 penal files for sexual intercourse with minors and instigation to sexual acts with minors*" at the Buzau County Police Inspectorate. In Chief Commissioner Serbulea's opinion, these files cannot solve the phenomenon of early marriages and "*these problems can be solved within the community*"<sup>171</sup>. According to Chief Commissioner Cristian Tache's affirmations, during the working meeting organized in Ramnicelu on February 26<sup>th</sup>, 2008, by the "Amare Rromentza" Roma Centre<sup>172</sup>, the accused (girls' parents, boys who had sexual intercourse with minors as in "early marriage") were criminally condemned to suspended sentences between 6 months and 1 year, in 35 cases.

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<sup>170</sup> Affirmations during the "*Early Marriages – Traditions or Unconsciousness*" round table, organized by the Roma Civic Alliance in Romania, in partnership with the Buzau Prefecture and the "Ghi Romano" Cultural Association, on November 30<sup>th</sup>, 2007, at the Buzau County Council headquarters.

<sup>171</sup> Idem. The statement can also be found at:

[http://www.stirilocale.ro/Reprezentantii\\_romilor\\_impotriva\\_casatoriilor\\_timpurii\\_IDN316616.html](http://www.stirilocale.ro/Reprezentantii_romilor_impotriva_casatoriilor_timpurii_IDN316616.html)).

<sup>172</sup> Information on the association can be accessed at: [www.amarerrromentza.org](http://www.amarerrromentza.org).

The facts presented below make obvious the weak or lack of collaboration (and interest) between authorities in taking a common and coherent measure. Although in the case of early marriages in Roma families there is a complex background (invoking tradition) and an important lack of data on the phenomenon, the hindrances in identifying and implementing the most efficient solutions are also caused by the difficult partnership / communication between competent authorities.

Advancing to another stage in respecting the rights of the child, by the elimination of early marriages, cannot take place in Ramnicelu probably also due to the lack of "positive models" regarding the application of sanctions to parents marrying their children at ages of 12 years, provided by institutions with competencies in the field. The lack of examples of Roma families in the community publicly refusing to betroth their children at young ages (such as the case of the Cioaba family in the Calderas Roma community in Sibiu, by the example offered by Mr. Ion Cioaba's daughters) is another element that encourages the perpetuation of this practice in Ramnicelu.

The resistance of the Roma population in Ramnicelu regarding early marriages, and not only, restricts the individual rights (to freedom to choose, to freedom of expression, to educational development, etc.) of children married in these circumstances by their parents. The state prohibiting early marriages in traditional Roma communities does not imply the deprivation of the right to own cultural life, as argued by some members of Roma families, but only imposes the observance of (individual) rights of children and youth in these communities.

According to parents' press statements, these marriages represent only prior understandings between Roma families, without the marriage being consummated. Nevertheless, 12 year old girls' pregnancies, celebration parties of the "betrothals" or the fact that the young girl lives in her "future" husband's home, are real.



There are indicators that show the results of patriarchal tradition, such as the fact that many women – including Roma women and girls – do not enjoy a full respect for their freedom to choose in matters regarding fundamental decisions for their lives and that their capacity to exercise these rights is contradicted<sup>173</sup>.

The most recent betrothal that brought once again the Roma community in Ramnicelu in the centre of attention (publicized at international level), was that of little girl Marghioala Dinu, of the age of only 5 years and 10 months, betrothed to a young boy of 16 years, in the same locality.

The party took place at the local Cultural Home and, although girls' parents initially declared in the request to the Home that it was for a baptism, they subsequently admitted at the Police station (where they were called for hearings), that it was in fact the party to seal the understanding for the betrothal. They wanted to avoid in this way for their girl to be taken away and placed in a social assistance centre, such as it happened in 2007 with another girl.

The parents of the betrothed promised social workers and police agents that *"the boy would not touch the girl"* and that *"the girl would stay at her parents' until at least 12 years old, while they were telling journalists that, no matter what, they would follow their tradition"*<sup>174</sup>.

In the end, this "understanding" between children's parents results in the introduction of the girl into the boy's family, for the girl to accommodate more easily to her future family and, especially, to her future mother-in-law. Also, the betrothal is the way of the family to ensure the preservation of girl's purity up to the age of marriage (girl's virginity offers a positive image and an important status to her

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<sup>173</sup> European Parliament Resolution on the Situation of Roma women in the European Union – 2005/2164 (INI), Point B.

<sup>174</sup> [http://www.ziare.com/Logodita\\_la\\_numai\\_5\\_ani\\_si\\_8\\_luni-240725.html](http://www.ziare.com/Logodita_la_numai_5_ani_si_8_luni-240725.html).

family among the community) and at the same time to ensure the future union of the two respective children.

Within the community, Marghioala's betrothal, the 5 years and 10 months old girl, was not fully approved. For example, Roma families followers of the Neo-Protestant religion contest children marriages from the present. Although these situations (early marriages) have been signaled in the past within these families, too, they have renounced to these practices, one of the reasons being that "it is a stupidity to say that this is tradition". (*Jurnalul National* daily, 2008).

This change of mentality can be interpreted as based on internal discussions within the group of affiliation, in this case the religious organized group, and its influence over the individual and implicitly over his or her family.

Media reports on the early pregnancies of Roma girls in Ramnicelu, in January 2007, mobilized central and local institutions and Roma associations<sup>175</sup> to organize a series of working meetings, extended throughout 2007<sup>176</sup>. These meetings aimed to identify concrete and immediate measures (in accordance to provisions of national and international legislation on the rights of the child and equal opportunities for women and men) to stop the phenomenon of rising number of children marriages in Roma communities in general, and in the Ramnicelu locality in particular.

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<sup>175</sup> National Agency for Roma, Buzau Prefecture, Buzau Directorate of Social Assistance and Protection of the Child, County Police Inspectorate, County School Inspectorate, Ramnicelu Town Hall, National Council for the Combat of Discrimination, National Agency for Equal Opportunities for Women and Men, County Council, Roma Civic Alliance in Romania, "Amare Rromentza" Roma Centre, Media Monitoring Agency.

<sup>176</sup> The meetings were organized at local level, at the initiative of Roma organizations such as: Roma Centre for Social Intervention and Studies "Romani CRISS", "Amare Rromentza" Roma Centre, "Ghi Romano" Cultural Association and Roma Civic Alliance in Romania.

In a press release, the National Agency for Roma (ANR)<sup>177</sup>, following a meeting on the issue of early marriages<sup>178</sup>, presented the results of the discussions to the public, considering *"the need to develop and implement a plan of measures to inform the Roma community in Ramnicelu, focused mainly on legal, health, school and civic education"*.

According to the National Agency for Roma, the elaboration and implementation of a plan of measures for the community in Ramnicelu will take into consideration the: *"evaluation of the Roma community in Ramnicelu; facilitation of the local community development process; creation of a set of public policies for traditional communities, keeping in view the best interest and protection of the child, as well as rising the level of information and awareness of families on their rights and duties when establishing a family; organization of information and communication campaigns at national level, starting from the example of the Roma community in Ramnicelu, to increase the level of knowledge of legal provisions in force in the fields of child protection, access to education, health and development, Family Code, etc.; support to the partnership between school - local administration - community for the recruitment and employment of school, health mediators, etc., to assist the community and mediate the relations between the community and local public authorities; development of projects and programs to facilitate children's access to school and parents' access to education"*<sup>179</sup>.

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<sup>177</sup> The release is also available at: <http://www.anr.gov.ro/site/Presa.html>.

<sup>178</sup> The meeting took place on January 12<sup>th</sup>, 2007, at the headquarters of the Buzau Prefecture.

<sup>179</sup> <http://www.anr.gov.ro/site/Presa.html>.

The release also mentioned that *"at the same, the establishment of an inclusive community centre is desired, to: carryout counseling programs for the Roma community, classes for parents' education ("mothers' school", "school after school"); carryout counseling projects and programs for young mothers; provide career orientation for the youth in the Roma community in Ramnicelu; represent a good practice model of information, communication and education in Roma communities"*.

Following the events and meeting in 2007 in the Ramnicelu locality, at present there are no public initiatives from local authorities or nongovernmental organizations (of Roma, for the protection of the child, of women) addressing the phenomenon of early marriages.

### ***Roma community in Ferentari, Bucharest***

Although throughout history, in most cultures of the world the amplitude of the phenomenon of early marriages has decreased (beginning with industrialization and movements for the rights of the child and women); they are still practiced in patriarchal cultures. Regardless of the rural or urban environment, of belonging to a certain kind or of the social status, early marriages are frequently encountered in Roma families. In order to show an extended background of types that the phenomenon of early marriages has in some Roma families, we will present a situation of early marriage in the urban area – the Ferentari neighborhood / Bucharest<sup>180</sup>.

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<sup>180</sup> The material is put together based on an interview with a young Roma couple and the girl's family, on direct and participative observations of the authors, respectively on data gathered from several other materials. No sufficient quantitative or qualitative data was available or identified for the description of the case.

Ferentari is a neighborhood on the outskirts of Bucharest, in Sector 5, inhabited by a significant number of Roma. It has a bad name, especially marked by the high number of crimes and probably by the increased level of poverty present in the area<sup>181</sup>.

According to a study of the "Impreuna" (*t.n. "Together"*) Community Development Agency (2006) carried out in Bucharest, in areas inhabited by Roma such as Rahova, Ferentari and Zabrauti<sup>182</sup>, for 70% of inhabitants a household consists of more than 4 persons. 13% cannot or can very poorly read and 32% out of the interviewed are not married, the same are married, while 28% live in concubinage<sup>183</sup>.

As shown above, the types of marriage encountered in Ferentari are both *legal* marriages (registered before a marital status delegate) and *concubinage* relationships. *Early marriages* are present and, sometimes, the couple is formed by the *youths' "runaway"*<sup>184</sup>. In previous years there have also been cases of *stealing the bride*, but such actions are no longer notified at present.

*Ana* is 14 years old and *Franco*, 19. They met in the neighborhood, in the winter of 2007, and even since May 2008, they have publicly

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<sup>181</sup> (Roma) nongovernmental organizations developed a series of initiatives in the area, in the fields of healthcare, employments, etc., but these actions did not have continuity. The best known activity in the neighbourhood is in the field of children's education, the "Philip" Centre.

<sup>182</sup> The "Impreuna" Community Development Agency, *Dimension of Roma Participation on the Labour Market – Case Study on the City of Bucharest, Sector 5*, 2006. For more information visit: [www.agentiainpreuna.ro](http://www.agentiainpreuna.ro).

<sup>183</sup> The "snowball" method has been used for the study and 220 persons aged between 16–50 years have been questioned (68% female and 32% male).

<sup>184</sup> The participants to the *European Meeting on Harmonizing the Policies on Roma*, Bucharest, May 3<sup>rd</sup>, 2006, commonly concluded that marriage initiated through *youths' runaway* represented a specific practice to the Roma community.

formed a couple. The moment coincides with Ana moving in with Franco, in his parents' house. Their relationship of friendship was not long standing, as it is often the case in Roma couples' relationships.

The arguments which the quick formalizing of the relationship in the case of Roma couples is based on (at least one of the partners'), coincide with some factors of early marriage. They regard both the importance of preserving the "honor", girl's virginity in order to ensure the image and status before the community, and the *model of the reference group*.

Ana's early age at the moment of initiating the relationship with Franco conforms to the *family model*. Ana's mother was married at 14 years (and had her first pregnancy, Ana, at 15 years), and her maternal grandmother was married at 13 years. Such as Franco, Ana's father was older than his wife; we can estimate that there are a higher number of early marriages involving girls younger than their partners, than those in which girls are of the same age with the boys (partners).

One of the differences encountered in "non-traditional" families (without garb)<sup>185</sup> in the Bucharest neighborhood of Ferentari, compared to the two case studies previously presented, is the fact that *the parent does not propose and decide on the marriage*, but he or she "approves" it.

Law 272/2004 on the protection and promotion of the child (Art. 24) states that the child has the "*capacity to discern*" and "*the right to freely express his or her opinion regarding any matter which involves him or her*". However, the marriage of children up to 16 years old causes debates regarding both the limit

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<sup>185</sup> Roma in this area state their belonging to the Roma ethnic group and speak the Romani language, but do not display traditional Roma garb, etc.

of their "capacity to discern" in agreeing to a "unlawful marriage", and the parents' (defining) role and position in offering children any "*pertinent information (...) about the consequences which his or her opinion (the child's) may generate, if observed, as well as about the consequences of any decision involving him or her (the child)*"<sup>186</sup>.

Ana's parents supported her decision in order to avoid a possible "shame" to the community, following Ana's "runaway" with Franco. Franco's parents did not stand against the relationship after the youths' *runaway*; they accompanied the newly formed couple to the residence of Ana's family to settle the "understanding" with her family on organizing the "brandy" party.

The "*Dance of the shirt*", of the "*brandy*", such as in the traditional Romanian culture, represents the proof of girl's virginity. Broom's relatives and other relatives offer the shirt to the girl's parents (especially the mother) and family. According to tradition, the brandy celebration is made with a lot of noise; they shout together with the fiddlers and drink red brandy<sup>187</sup>. On the contrary, if the girl is not a virgin, the brandy is white, a sign of shame for parents, of community's contempt<sup>188</sup>.

Ana's "brandy" party (celebration of her "honor" and virginity) was a moment of "fame" for her and her family, providing the image and recognition of a family statute. As the youths and their family considered, the party was a "brandy" celebration and not a full "marriage" (including the photo and video material of the event

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<sup>186</sup> Law 272/2004 on the Protection and promotion of the child – Art. 24.

<sup>187</sup> This ritual is also encountered at traditional Lippovan weddings: the day after the wedding, the bride and groom go to close relatives' homes and treat them with red brandy (sign that the bride was a virgin). For more information: [http://www.divers.ro/accent\\_ro?func=viewSubmission&sid=7212&wid=37454](http://www.divers.ro/accent_ro?func=viewSubmission&sid=7212&wid=37454).

<sup>188</sup> More information at: <http://www.foaia.hu/arhiva/anul-LIV/36/13.PDF>.

mentioned "*Ana and Franco's brandy*") as it was not formalized at the Marital Status Department or church. Nevertheless, Ana and Franco are "*married*", their mothers and fathers are *mothers-in-law* and *fathers-in-law*, their brothers and sisters, *brothers-in-law* and *sisters-in-law*.

The financial situation of the families is modest but, regardless, the event was celebrated with pomp (the expense not necessarily having an "economic sense"), in a restaurant in Bucharest, with renowned musicians and a large number of guests. Both families participated to the budget of the party but, generally, the expectations for organizing the event are higher for the groom and his family, as a sign of "appreciation" to the girl and her purity<sup>189</sup>.

The *concubinage*, illegitimate marriage, is an emotional, physical and intellectual relationship, involving the partners' cohabitation, but without legal benefits. Although it is seen by society in general as a mean to test compatibility before marriage, most Roma consider it as marriage.

For Ana and Franco, this consensual union without legal character is an alternative form of partnership, which fulfils the functions and characteristics of a full marriage – the purpose of cohabitation is to establish a family.

However, the rights and duties gained by a husband and wife after marriage are, unfortunately, not available to the young couple, although in Romania "*the state protects marriage and the family; it supports, through economic and social measures, the development and consolidation of the family*" (Family Code, Art. 1).

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<sup>189</sup> In traditional Roma families, where the so-called "*price of the bride*" is practiced, the amount of money paid by the groom's family to the bride's family symbolizes the "*virginity of the girl*", thus acknowledging the girl's value and contribution to the family after marriage, and represents the future bride's protection in the husband's family as well as a guarantee of mutual respect ("*pakiv*").



(Early) marriage for Ana (or for any girl originating or not from a traditional Roma family) means not only an engagement to her partner, but also a household responsibility (domestic work "appropriate for the wife", the "daughter-in-law") in the home where she lives, her parents-in-law's home. As a member of the family, Ana<sup>190</sup> periodically helped her mother-in-law in the family activity, flower trade, while her husband is fully employed as a waiter at a restaurant in Bucharest.

Furthermore, the young girl's needs, previously ensured by her parents, are transferred (mostly, as Ana's parents continue to support the budget of the young couple) to the "new family" (parents-in-law and her husband), after the "marriage" and change of residence.

Regarding her (legal) domicile after the marriage, Ana's official residence continues to be at her parents' address and not at the address where she actually lives with her husband and his family. According to the Romanian legislation, children under 14 years living in another house (the parents-in-law's, for example) can represent a form of illegality, as they do not live at their parents' address<sup>191</sup>.

In the discussions with Ana, she said that she considered herself "*lucky*" to have a good mother-in-law. She protects her in maintaining the household, she is open in discussions with her and eventual problems etc. and treat her like a daughter. For family planning (contraception), Ana's mother-in-law guided and accompanied her to the doctor, in view of avoiding an unwanted pregnancy at that age.

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<sup>190</sup> Even since the 2007–2008 school-year, Ana has not attended classes any more.

<sup>191</sup> Law 105/1996 on Population Record and Identity Card, with its subsequent amendments and supplements, states that "*the identity, Romanian citizenship and domicile of the minor under 14 years is demonstrated by the birth certificate of the minor and the identity card of his or her parent or legal guardian*" (Art. 10).

Although the *reproductive rights* recognize the basic rights of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health<sup>192</sup>, it is necessary that the parents and relatives ensure a standard of living allowing the child *physical, mental, spiritual, moral and social development*, in the best conditions<sup>193</sup>. Both the young couple, and their families, think that it is too early for the presence of a child in the family.

The fact that Ana is a Roma of "*vatasean*" origins and that Franco is a "*boldean*" Roma has no importance for either families (there are other cases of mix couples in their families, too, as to the Roma kind of origin). This community generally does not give much importance to the Roma kind which the girl or boy belongs to. Nevertheless, there are minor discussions (mostly ironic or as jokes) on kind differences.

*The cases presented above have the purpose to express the diversity of the early marriages phenomenon within Roma communities, encountered not only at traditional Roma, but at other Roma groups, too. These situations mark both the extent of the phenomenon, and the need to study the dimensions of these practices by taking into consideration especially the affiliation to Roma kinds or the area of origin (urban / rural), etc.*

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<sup>192</sup> Programme of Action of the International Conference on Population and Development. Geneva: United Nations, 1994, Par. 7.3 – [http://www.unfa.org/icpd/icpd\\_poa.htm#ch7](http://www.unfa.org/icpd/icpd_poa.htm#ch7).

<sup>193</sup> In this respect, see the Convention on the Rights of the Child, Art. 27, or the Family Code (Art. 101), which provides parents' obligation to raise their child *by caring for the physical health and development, the education, the professional training and preparation of the child, in accordance to his or her capacities*.

## **VIII. SUMMARY AND CONCLUSIONS OF THE *"Early marriages within Roma communities: Rule of law, cultural autonomy and individual rights"* ROUND TABLE**

The *"Early Marriages within Roma Communities: Rule of Law, Cultural Autonomy and Individual Rights (of children, women)"* was organized within the partnership between the Roma Centre for Social Intervention and Studies – "Romani CRISS", the Roma Christian Centre in Sibiu and the Roma Civic Alliance in Romania, in August, at the headquarters of the UNICEF Representation, within the same project in which the present study was elaborated and financed by the UNICEF Representation in Romania.

The round table had the objectives to:

- Create of a framework for well informed discussion between actors in the Roma civil society in order to produce a well informed public stand, whichever it may be;
- Debate the realized study.

The essential conflict that invites us to a common reflection is the following: does the perpetuation of a problematic cultural practice in the life of a traditional community have priority over the universal human rights, in our case the rights of the child? This was the basis for discussion during the round table.

Approximately 30 persons participated to the round table. In making up the list of participants, the organizers took into account different Roma and non-Roma actors and their diversity. Thus, the meeting was attended by organizations of traditional Roma and even of Adventist *"gabors"*, organizations for the protection of human

rights, rights of the child and of the woman, as well as by those activating for Roma cultural autonomy.

This diversity ensured the abundance of the debate, as well as of presented opinions. The presence and intervention of the head of the UNICEF Representation, Mr. Edmond McLoughney, placed the discussion in its international context of protection of the rights of children and, in particular, of girls.

Each participant's intervention was marked by maturity and balance, which offered the meeting a good framework for communication and a better understanding of the phenomenon. Furthermore, some participants' testimonies added value to the discussions. Their originality and diversity highlighted once again that when one speaks of Roma communities and early marriage, regardless of the group where one comes from; it represents an event that marks everyone's life.

We display below two interventions in order to point this out:

*...I do not agree with early marriages, although I have been married twice, the first time when I was 14 years old. Traditional Roma's opinion: you can't come to impose something; you can't talk about something when you don't know that thing. The largest group practicing early marriages is that of the traditional: Calderas and "gabors". Occasional meetings with leaders must be organized, for our awareness raising, because we speak of, but do not see the hardships in the community (Gabor Iancu, Coordinator, ROMA FOR ROMA Program of the Adventist Church).*

*... But from girls' point of view, does anybody hear their voice? Does anybody show what happens to these women? Negative examples from these "willow" marriages: knowing that she is to enter the family of a future husband, the girl runs away with the boy, but loses the right to return to her family. She enters another family and can't be protected by her husband, only a few years older than her. What happens to this girl later? She can't raise her head and speak her mind until she becomes a mother-in-law. When she becomes mother-in-law, if her husband respects and appreciates her, she is respected. If not, she is beaten, ill-treated. At old age she doesn't have the right to inheritance, she is at the mercy of her children. These aspects are overlooked and only the women who went through these experiences can speak of these cases... (Letitia Mark, President, Gypsy Women for their Children Association).*

Beside these personal perspectives, pointing out the negative impact of early marriage on women and men, there were opinions of participants who underlined the importance of preserving this tradition.

*... These marriages we talk about are isolated, they are not part of our traditions. It is of great value to us for the woman that marries at 18-19 years to be a virgin. More recently, if she is not, the girl's family pays for the wedding. The report: when the factors generating early marriages are referred to... what Ms. Letitia said the stages of the Roma woman. what do the parents do? They set up these marriages. What does the mother do*

*with her daughter? When the age of 13-14 years arrives, she explains her that in a few years she will get married and that she has to respect her mother-in-law and father-in-law. Washing the feet of the mother-in-law and father-in-law comes out of this respect obtained through parental education...* (Florin Motoi, President, European committee of Roma Krisinitori – informal judges).

*Nowadays, universal human rights face the question whether they are sufficient or not. I paid very much attention to what Letitia Mark said, it was an emphasis on emotion; I would like to say that there is a drama of the woman in modernity, too. There is a drama of the woman in general and traditional cultures in general, not only the Roma one, try to spare the individual of a possible drama. Studies show that human freedom in modernity brings traumas. The divorce rate, of child abandonment is higher. There are dramas and role conflicts in modernity, too. Traditional culture tries to protect the individuals. Indeed, it controls them. The daughter-in-law – mother-in-law controversy: if the daughter-in-law is submissive, when she becomes mother-in-law she will have somebody submissive. The sale: **pochines – to pay for, to prize**, is different than **bichines – to sell**. I am not saying to accept everything, we must see what goes on, what these terms mean. We must not transfer the terms, but clarify what the terms in the community mean.* (Delia Grigore, President, Amare Rromentza).

We should notice that the early marriages issue polarizes the Roma civil movement around two ideologies: a civil one, of citizen's, individual rights and another one of promoting the culture, cultural autonomy provided by the national minority statute. It is interesting

that these two perspectives originate also from the Romanian Constitution<sup>194</sup>.

### Historic dimension of early marriage

The participants underlined the importance of presenting the early marriage phenomenon from its historic perspective and the way it evolved in the European and Romanian society throughout time. It is important to place it in history in order to understand the phenomenon not only from the exclusivist, purely ethnical perspective of Roma communities, but how it affected different communities throughout time.

*Regarding the report: I need to know the historic perspective, as a non-Roma I have the impression that Roma have build a parallel system. What an early marriage means must be defined more precisely; I do not think that the Ramnicelu case can be placed together with the others, as it is a deviance. The amplitude of the phenomenon should also be considered. (Mihai Neacsu, Director, Amare Rromentza)*

The fact that since not too long ago in history, rural communities in Romania, either Romanian, or Hungarian, have practiced early marriage was underlined.

*We cannot create a Roma problem, the early marriages, when they have been practiced for long in the other cultures, too. We risk creating a stereotype out of this phenomenon. Your study, if not supported by today's reactions, will ontribute*

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<sup>194</sup> Constitution of Romania, Articles 4, 6 and 1 6.

*to the strengthening of these stereotypes.* (Nicolae Gheorghe, Sociologist)

**As a response to the need to place the phenomenon within Roma communities in a wider context, Prof. Dr. Eniko Magyary Vincze mentions and clarifies this in her forward.**

**Social-cultural dimension of wedlock/marriage, different than the legal dimension**

The discussion underlined the need to go deeply into the study on the social-cultural dimension in order to balance the legal documentation performed by the authors of this study. What stood out was the lack of data on early marriages at the level of the whole Romanian society, as well as of an up-to-date and demystified description of the Romanian culture.

*... The organizations with expertise on traditions should nuance the negative traditions affecting the image of the Roma population and establish what exactly is representative for the Roma culture and what is not. We need an analysis on traditions.* (Nicu Ion, President, Roma Acces, Constanta)

The conclusions of the report further underline the need for common action, undertaken by the Roma community and the authorities, to support Roma children in benefiting of all of their legal rights and, wherever the case may be, to raise parents' awareness regarding their children's need to enjoy a normal development and to gain a social status by their own choices.



***Recommendations Produced by the Discussions of the Round Table:***

- Involving the parents, who have the primary responsibility, and the men, as the "guilt" is higher in their case, in informing actions on early marriages;
- Using as much as possible the networks of health and school mediators in informing campaigns on the risks of early marriages, as they enter people's homes more easily and are, at the same time, agents of change both within the community and outside it;
- Establishing schools for the couple, pursuing the boy's involvement in them;
- Introducing in education elements from the culture and tradition of each student's home, to avoid stigmatization;
- Initiatives promoting Roma woman's autonomy by establishing and micro-crediting income generating activities;
- Creating a catalyst group, opinion builders from within Roma activists, to help us advance from reports, studies to monitoring the population and intervening in communities;
- Agreeing on a common statement of participating organizations on the solutions: school for girls, school for the couple, protectionist measures for the victims of domestic violence, accepting certain punitive solutions;
- Organizing campaigns within Roma communities to debate the issue of marriages at local level.
- Transforming the report into a community workers' guide.

## SELECTIVE BIBLIOGRAPHY IN ALPHABETICAL ORDER

Andreescu, Gabriel, *Nations and Minorities*, Polirom Publishing, Iasi, 2004;

Birsan, Corneliu, *European Convention of Human Rights. Comments on Articles. Volume I, Rights and Freedoms*, C.H. Beck Publishing, Bucharest, 2005;

Center for Roma Women Bibja/Belgrade, *Virginity – Freedom of Choice*, 2005;

Council of Europe – Parliamentary Assembly, *Resolution 1468/2005 on Forced Marriages and Children Marriages*;

Council of Europe, *Situation of Roma/Gypsy Women in Europe*, author Nicoleta Bitu;

Directorate General on Human Rights (prepared by Ms. Edwige Rude-Antoine), *Forced Marriages in the Council of Europe Member States. Comparative Study on Legislation and Policy Initiatives*, Strasbourg, 2005;

European Parliament, *Resolution on the Situation of Roma Women in the European Union – 2005/2164 (INI)*;

European Roma Rights Centre and European Roma Information Office, *The Situation of Roma in an Enlarged European Union*, European Communities, 2004;

Hauptert, Andy (coordinator) *DecadeWatch - Roma Rights Activists Assess Progresses Achieved within the Decade of Roma Inclusion / 2005-2006*, Createch Ltd. Publishing, Hungary, 2007;

"Impreuna" Community Development Agency, *Dimension of Roma Participation on the Labour Market - Case Study on the City of Bucharest, Sector 5*, 2006;

*Joint Statement of the European Romani Women Activists*, Bucharest, 2006;

Magyari-Vincze, Eniko, *"Social Exclusion at the Intersection between Gender, Ethnicity and Class - A Look from the Perspective of Reproductive Health at Roma Women"*, European Studies Foundation Publishing, Cluj, 2006;

Miroiu, Mihaela, *Roads towards Autonomy - Feminist Political Theories*, Polirom Publishing, Iasi, 2004;

Oprea, Alexandra, *The Arranged Marriage of Ana Maria Cioaba, Intra-Community Oppression and Romani Feminist Ideals*, in *European Journal of Women's Studies* - vol. 12(2), SAGE Publication, London, 2005, pp. 133-148;

Roma Center for Social Intervention and Studies "Romani CRISS", *Roma Minority's Image in the National and Local Press - Results of Press Monitoring between October 2006 - August 2007 Report*;

Roma Christian Centre, *Early Marriages in Calderas Roma Communities in Romania - Between Tradition and Law Project Report*, Sibiu, 2005;

SATRA/A.S.R.T.A. – Amare Rromentza, *Amare Rromentza* magazine BluePrint International Publishing, March, 2005;

Surdu, Mihai and Surdu, Laura, *Broadening the Agenda – The Status of Romani Women in Romania* Research Report for the Roma Participation Program – Open Society Institute Budapest, 2006;

Surdu, Mihai and Surdu, Laura, *Early Pregnancy and Marriage in the Case of Young Roma Women*, Ro Media Publishing, Bucharest, 2005 (report elaborated for the Education 2000+ Center);

United Nations Development Programme, *Avoiding the Dependency Trap – Roma in Central and Eastern Europe*, 2003;

Voicu, Malina and Popescu, Raluca, *Early Marriage and Pregnancy in Roma Communities*, Education 2000+ Publishing, Bucharest, 2006;

*Written Comments of the European Roma Rights Centre Concerning Hungary for Consideration by the United Nations Committee on the Elimination of Discrimination against Women* at its 39 Session, July 23 – August 10, 2007.

## FREQUENTLY QUOTED WEB PAGES:

"Amare Rromentza" Roma Centre: [www.amarerromentza.org](http://www.amarerromentza.org);  
Buzau County Council – General Directorate of Social Assistance and Protection of the Child: [www.dgasp PCBuzau.ro](http://www.dgasp PCBuzau.ro);  
College of Behavioural and Social Sciences – University of Maryland, USA:  
<http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/aks804.htm>;  
Council of Europe – Parliamentary Assembly: <http://assembly.coe.int>;  
Decade of Roma Inclusion 2005 – 2015: [www.romadecade.org](http://www.romadecade.org);  
European Roma Rights Centre: [www.errc.org/cikk.php?cikk=1218](http://www.errc.org/cikk.php?cikk=1218);  
Jean Carbonier, *Terre et ciel dans le mariage*, 1950;  
Krenshaw, K, *The African American Policy Forum – The Intersectionality between Race and Gender Discrimination*  
Legal cabinet: [www.avoconsult.ro](http://www.avoconsult.ro);  
National Agency of Equal Opportunities for Women and Men:  
<http://www.anes.ro>; National Agency for Roma:  
<http://www.anr.gov.ro>;  
National Council for the Combat of Discrimination:  
<http://www.cncd.org.ro>; National Geographic Romania:  
<http://www.natgeo.ro/l-ocuri-si-oameni/comunitati/tiganii-viata-in-mocirla/>; On-line dictionary of Romanian language:  
<http://dexonline.ro>; Pro-Democracy Association, Timisoara:  
[http://legislatie.resurse-pentru-democratie.org/drepturi\\_onu.php](http://legislatie.resurse-pentru-democratie.org/drepturi_onu.php);  
Roma Centre for Social Intervention and Studies "Romani CRISS":  
[www.romanicriss.org](http://www.romanicriss.org);  
Roma Civic Alliance in Romania: [www.acrr.ro](http://www.acrr.ro);  
United Nations: <http://www.un.org/overview/rights.html>;  
United Nations Development Programme – Slovakia:  
<http://roma.undp.sk/>;  
United Nations – Office of the High Commissioner for Human Rights:  
<http://www.unhchr.ch>.  
Wikipedia free encyclopaedia: <http://en.wikipedia.org>

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Realized and printed with UNICEF Romania support  
in 300 copies with funds offered by  
German National Committee for UNICEF