



European  
University  
Institute

ROBERT SCHUMAN CENTRE FOR ADVANCED STUDIES

**ACCEPT**  
PLURALISM

## **The Embodiment of Tolerance in Discourses and Practices Addressing Cultural Diversity in Romanian Schools**

Cristina M. Ana  
Gabriel Andreescu  
Irina-Madalina Doroftei  
Petre-Georgian Matei  
Romanian Academic Society

**2011/08**

**3. National Case Studies - School Life  
Final Country Reports**



EUROPEAN COMMISSION  
European Research Area



SEVENTH FRAMEWORK  
PROGRAMME

Funded under Socio-economic Sciences & Humanities



**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE  
ROBERT SCHUMAN CENTRE FOR ADVANCED STUDIES**

**The Embodiment of Tolerance in  
Discourses and Practices Addressing  
Cultural Diversity in Romanian Schools**

**CRISTINA M. ANA  
GABRIEL ANDREESCU  
IRINA-MADALINA DOROFTEI  
PETRE-GEORGIAN MATEI**

**WP3: National Case Studies of Challenges to  
Tolerance in School Life**

**D3.1 Final Country Reports on Concepts and  
Practices of Tolerance Addressing Cultural Diversity  
in Schools**

© 2011 Cristina M. Ana, Gabriel Andreescu, Irina-Madalina Doroftei, Petre-Georgian Matei

This text may be downloaded only for personal research purposes. Additional reproduction for other purposes, whether in hard copies or electronically, requires the consent of the author(s), editor(s). If cited or quoted, reference should be made to the full name of the author(s), editor(s), the title, the research project, the year and the publisher.

Published by the European University Institute  
Robert Schuman Centre for Advanced Studies  
Via dei Roccettini 9  
50014 San Domenico di Fiesole - Italy

**ACCEPT PLURALISM Research Project,  
Tolerance, Pluralism and Social Cohesion:  
Responding to the Challenges of the 21<sup>st</sup> Century in Europe**  
European Commission, DG Research  
Seventh Framework Programme  
Social Sciences and Humanities  
grant agreement no. 243837

[www.accept-pluralism.eu](http://www.accept-pluralism.eu)  
[www.eui.eu/RSCAS/](http://www.eui.eu/RSCAS/)

Available from the EUI institutional repository CADMUS  
[cadmus.eui.eu](http://cadmus.eui.eu)



## **Tolerance, Pluralism and Social Cohesion: Responding to the Challenges of the 21st Century in Europe (ACCEPT PLURALISM)**

**ACCEPT PLURALISM** is a Research Project, funded by the European Commission under the Seventh Framework Program. The project investigates whether European societies have become more or less tolerant during the past 20 years. In particular, the project aims to clarify: (a) how is tolerance defined conceptually, (b) how it is codified in norms, institutional arrangements, public policies and social practices, (c) how tolerance can be measured (whose tolerance, who is tolerated, and what if degrees of tolerance vary with reference to different minority groups). The ACCEPT PLURALISM consortium conducts original empirical research on key issues in school life and in politics that thematise different understandings and practices of tolerance. Bringing together empirical and theoretical findings, ACCEPT PLURALISM generates a State of the Art Report on Tolerance and Cultural Diversity in Europe, a Handbook on Ideas of Tolerance and Cultural Diversity in Europe, a Tolerance Indicators' Toolkit where qualitative and quantitative indicators may be used to score each country's performance on tolerating cultural diversity, and several academic publications (books, journal articles) on Tolerance, Pluralism and Cultural Diversity in Europe. The ACCEPT PLURALISM consortium is formed by 18 partner institutions covering 15 EU countries. The project is hosted by the Robert Schuman Centre for Advanced Studies and co-ordinated by Prof. Anna Triandafyllidou.

The EUI, the RSCAS and the European Commission are not responsible for the opinion expressed by the author(s).

**The Romanian Academic Society (SAR)** aims to further the ideas of freedom, democracy and good governance in Eastern Europe. Starting with our own region we seek to raise the public awareness level of policy issues, contribute through research and advocacy to informed policy formulation and assist administrative reform through performance assessment.

**Cristina M. Ana** is the Executive Director of the Romanian Academic Society, a MA graduate in public procurement of the Romanian Academy of Economic Studies in Bucharest and holds a degree in Law and a degree in Psychology at the Babes-Bolyai University in Cluj-Napoca, Romania. She has worked as an expert on anti-corruption, public procurement and public policies for of the European Commission, Norwegian Embassy in Bucharest, International Organization for Migration (IOM), Mission in Ukraine, the Foreign Office, UK, FURM based project on anti-corruption, Freedom House, Radboud University Nijmegen, the Netherlands, Ghent University, Belgium. Prior to these positions she worked for the European Commission Delegation in Romania as sector responsible for justice reform and anti-corruption, in charge for both policy reporting and coordination of the projects in these fields.

**Gabriel Andreescu, Irina-Madalina Doroftei and Petre-Georgian Matei** are researchers within the ACCEPT PLURALISM Romanian team.

For further information, please contact Irina – Madalina Doroftei ([madalina@sar.org.ro](mailto:madalina@sar.org.ro))  
Romanian Academic Society  
61 Mihai Eminescu, Bucharest  
Romania 020071

Tel: +40 212 111 477; Fax: + 40 212 111 477

[www.sar.org.ro](http://www.sar.org.ro)

For more information on the Socio Economic Sciences and Humanities Programme in FP7 see:  
[http://ec.europa.eu/research/social-sciences/index\\_en.htm](http://ec.europa.eu/research/social-sciences/index_en.htm)  
[http://cordis.europa.eu/fp7/cooperation/socio-economic\\_en.html](http://cordis.europa.eu/fp7/cooperation/socio-economic_en.html)

## Table of Contents

Executive summary .....	2
1. Introduction .....	5
2. Methodology and Research Design.....	8
3. Case Study 1: Alleged Discrimination against Roma .....	9
3.1. Introduction .....	9
3.2. The Rahela case.....	12
3.2.1. General context: .....	12
3.2.2. The Ciurescu family .....	13
3.2.3. Refusal.....	13
3.2.4. Ethnic discrimination .....	14
3.3. Conclusions .....	16
4. Case Study 2: On the right to an education environment that is free of religious symbols.....	18
4.1. Constitutional and legal framework of religious education in Romanian public schools .....	18
4.2. Emil Moise's petition to the National Council for Combating Discrimination .....	18
4.3 The decision of the National Council for Combating Discrimination from November 2006 ....	19
4.4. Reactions to the NCCD decision.....	20
4.5. The Confrontation in the courts.....	21
4.6. The lesson of „Case of Lautsi” for the issue of religious icons in Romania .....	21
4.7. Final comments .....	22
5. Concluding Remarks .....	26
References .....	28
Annexes.....	30

## Executive summary

When considering religious or ethnic tolerance issues, one must observe that the pre-1990 equality philosophy assumed that there are no groups that should be treated differently, either negatively or positively, and religious expressions were prohibited altogether in any form. But, in the context of administrative reform and decentralization in education, accompanied by the increased pressure from ethnical and religious minorities to gain access to rights, a number of issues related to tolerance towards ethnic and religious diversity in schools became more visible in the past 20 years of transition to democracy. This was the result of the work done by assertive advocacy groups, of the unexpected media support or stronger political representation. For these issues policy solutions were found and are successfully being implemented, while others are only recently reaching the agenda, despite being deeply rooted into long-standing social problems.

According to the 2002 Romanian Census<sup>1</sup>, 535.140 persons declared themselves as Roma (about 2.5% of the total population), although their real number is considered to be much higher: around 1.5 million/ 6.7% of the total population<sup>2</sup>. Moreover, the Roma population is young compared to the general population, approximately 50% being under 24 years old, and many Roma suffer from poor education, lack of qualification, high unemployment rate, poverty etc. the results of the 2002 Census stating that 25.6 % of the Roma population aged over ten years old was illiterate (as compared to 2.6 % of the total population of same age). Also, the Roma children drop-out rate was over ten times higher than the one recorded for the general population (11.6% compared to 0.8%) and data from the 1998-1999 school year proved that the drop-out rate was higher in segregated Roma schools in comparison with the education system as a whole.<sup>3</sup>

The same Census revealed that 86,7% of Romanian population is Christian Orthodox, while another 11% declared themselves as belonging to other forms of Christianity (among which, Catholic – 4,7%). Thus the issue of non-Orthodox Romanian identity has always been a controversial one, especially in the midst of the post-90's debate that was placing actions against the public expression of Orthodoxy as equal to the former communist system, atheism and repression of the right to freely express one's confession.

The Romanian Constitution ensures the state's separation from church. However, the display of orthodox religious paintings in schools was not reflected in the discourse as a breach of the rights of non-Orthodox students. On the contrary, it opened the door for a number of core debates related to the connection between the Romanian Orthodox Church and the government. The debate was divided between the need to restrict the benefits that the Romanian Orthodox Church currently enjoys (to the detriment of public interest) and the public role that it presumably fulfills. The rights of other religious minorities to study in an environment that enables their free development and choice of religious identification soon became marginal.

Immediately after the fall of communism, Religion became a mandatory subject to be taught in primary and secondary schools. Religion was considered a promoter of the moral values that communism had destroyed. In most of the cases this was taught by Christian Orthodox priests, while the content was limited to Orthodox dogma and philosophy. In practice, some leeway did exist and communities that had a non-Orthodox majority were able to decide on the content of the class. However, even though the topic of teaching Orthodoxy in schools surfaced the public debate during

---

<sup>1</sup> Available at <http://www.edrc.ro/recensamant.jsp?language=0>

<sup>2</sup> Marian Preda, 'Estimarea numărului de romi din România în anul 1998', in Cătălin Zamfir and Marian Preda, eds., *Romii în România*, București: Expert, 2002, p. 13.

<sup>3</sup> *Equal Access to Quality Education for Roma. Romania. From Vol. 1: Bulgaria, Hungary, Romania, Serbia. Monitoring Report 2007* Open Society Institute, 2007, p. 342-350.



the '90s, it was only in 2001 that Religion became an optional subject. Today, the class headmasters are required to inform parents and students on the optional character of Religion. However, a study conducted in 2006 showed that only 7.8% of Romanian students knew that they can opt out of the Religion class,<sup>4</sup> reflecting the general pro-Religion trend of the public discourse.

The policy discourse and the public discourse are significantly divided on the issue of segregation of Roma children in school. The debate has been ongoing, fluctuating up and down on the public agenda, however it had never reached so high up on the agenda as it did when a Romanian Court of Appeal decided on penalizing a primary school teacher with a 10,000 Euro fine for not allowing a Roma child to attend her class. While the policy discourse was building around ensuring the right to education of the child, the public discourse was slightly skewed towards the teacher's position.

Therefore the first case, *The civil rights movement that never happened: The "racist teacher" and Roma segregation in Romanian schools (Alleged Discrimination against Roma)*, analyzed how the situation mentioned above concerning a Roma child influenced the public agenda, even though there was no evidence in the end that the teacher was discriminating on grounds of ethnicity.

Roma – non-Roma segregation in Romanian schools is widespread and generally accepted as such. It was only in May 2010 that the issue was pushed up on the public agenda by the decision of a Romanian Court of Appeal to fine a teacher who denied a Roma child attendance to her class, allegedly due to her ethnical identification as Roma. Discrimination complaints of Roma children in school had been filed before, but never before they had found such a radical solution. The newspapers that reported on the situation were divided between "justice was served" and "a bigger injustice was committed" by fining the teacher with 10,000 Euro. By looking at this particular case, identifying the forms of tolerance and their expression in daily school life according to the stakeholders and analyzing the official reaction versus the public discourse, we were able to reflect on the structural issue of Roma segregation in schools, the evolution of the public discourse towards this issue, as well as the education policy that should address it.

The second case, *On the right to an education environment that is free of religious symbols*, is relevant for public policies regarding the display of religious symbols in the classrooms. The debate on the public display of religious symbols in schools was pushed up on the agenda in 2006 when a high school philosophy professor accused his employer of breaching the rights of the non-orthodox students by hanging on the walls representations of Christian figures.

The interwar discourse on Orthodoxy as a fundamental element of the Romanian self resurfaced in the public discourse in the mid '90s, mostly in connection to the fight against the communist atheism. Despite the presumed separation between state and church, except for some few public voices the main discourse has been in favor of the state's actions to support the Romanian Orthodox Church, in the virtue of the absolute Orthodox majority of the Romanian population and the public function that the Church is thought to fulfill. Even though the debate on teaching religion in schools had been ongoing since it became a mandatory subject in January 1990, talking about displays of Christian representations in school seemed a rather progressive debate topic. However, in 2006 Mr. Emil Moise, a philosophy professor, filed a complaint with the National Council for Combating Discrimination (CNCD) claiming that paintings of Christian figures that hanged on the school's walls were a breach of the non-orthodox students' right to free choice of confession and impeded the free development of the spirit of the rest of the students. After the case reached the public agenda, Mr. Moise was literally harassed by media, politicians and the Orthodox Church. His civil lawsuit against the Romanian Government had reached the High Court of Cassation and Justice a year ago. Mr. Moise is hoping for a favourable decision of the European Court for Human Rights, where he is convinced he will obtain a ruling such as the one that forced Italy to stop displaying crucifixes in its schools. By analyzing this case it should be clear if there is a state policy for the promotion of Orthodox values in schools, and if so, then how tolerant this is toward other confessions.

---

<sup>4</sup> [http://www.proeuropa.ro/norme\\_si\\_practici.html](http://www.proeuropa.ro/norme_si_practici.html)

The research revealed that in Mehedinti county, where the alleged Roma segregation in school had taken place, the Roma children were encouraged to come to school, without being separated from the Romanian children. This happened especially in villages where teachers were in the position of losing their job if their classes hadn't reached a certain number of pupils. Therefore, there are many cases of schools that function in a multiethnic environment without discriminating against minorities. There is no need for new legislative proposals (the law is very clear and comprehensive) but the recommendation is to popularize best practices and implement them in other schools across the country.

As regards to religious education and the presence of religious icons in schools, the law is also clear: religious diversity is accepted and pupils can study their own denomination, or not study at all religion after primary school. But the research found cases of intolerance towards religious diversity in schools (in some parts of Romania these are isolated cases, but in other parts they can be encountered more often – only a more detailed research devoted to this issue could be able to determine the real situation). One can consider that the presence of religious icons in classrooms is a sign of disrespect towards non-Orthodox pupils and that the public mobilization against the CNCD decision was preaching for minimal tolerance of religious minorities. But in fact, the situation is much more nuanced and the real issue at stake is the teaching of religion (compulsory in primary school) versus teaching the history of religions. The same moral values can be passed on in an abstract way, without the involvement of Religion as a school subject. The general recommendation is the separation of state and church, and more particular, replacing in the school curriculum the Religion discipline with History of Religions.

The research conclusions were that the institution in charge of assuring a non-discriminatory environment for ethnical or religious variety/differences – the National Council for Combating Discrimination – is efficient and capable of discerning and taking the right decisions. It correctly concluded that the Roma child was not discriminated against (as the researcher had the opportunity to discover during the field work) and that religious icons have a place in religion laboratories, not in everyday school life. What made a difference were the public opinion and their reaction and lobby with other state institution.

### **Keywords**

Roma segregation, religious tolerance, acceptance, respect, school life

## 1. Introduction

Midway between the equalitarian institutional inheritance and the continuing reforms, the Romanian education system seldom made it to the public agenda for religious or ethnic tolerance issues. Furthermore, the "education reform" meant, in most cases, superficial changes, such as the reconfiguration of the national exams or the baccalaureate, and only recently, more profound changes have been implemented - the introduction of efficient financing systems and decentralization.

Romania ranks among the last EU countries for the PISA tests, which measure the efficiency of education systems<sup>5</sup> - in 2009, we ranked 49 of the 65 countries participating (in reading), and in 2006, we were the 47th of 59 (in science).<sup>6</sup> Today, the Romanian educational system and the structure of compulsory education are governed by Law no.1/2011. According to the law, state education is generalized and free, "In Romania, education is a national priority." (Art.2, paragraph 7) and "Lifelong learning is a right guaranteed by law" (Art. 13, paragraph 1). Moreover, Art.2, paragraph 4 mentions that "The state ensures equal access of Romanian citizens at all levels and forms of primary, secondary and higher education and lifelong learning, without any form of discrimination." and "The same rights are ensured for citizens of other EU Member States, Members of the European Economic Area and Swiss Confederation." (Art.2, paragraph 5).

The law requires compulsory general education to be 10 classes (ages 6-16), including primary level (preparatory class and classes I-IV) and lower secondary level (classes V-IX), this obligation ending at age 18, while upper secondary education (classes X-XII/XIII) is optional. By 2020, upper secondary level will become compulsory, as well. The age for enrollment in the preparatory class is 6 years old until the school year starts, but children who reach the age of 6 by the end of the calendar year may be enrolled if the parents or legal guardians make a formal written request. The transition from 9th grade to 10th grade takes into consideration an assessment portfolio that includes three written tests on subjects of Romanian language and literature, mathematics and sciences and foreign language (four for the minorities – including mother language) and two tests held during the year (evaluating the use of computer and the civic and social competences).

When considering religious or ethnic tolerance issues, one must observe that the pre-1990 equality philosophy assumed that there are no groups that should be treated differently, either negatively or positively, and religious expressions were prohibited altogether in any form. But, in the context of administrative reform and decentralization in education, accompanied by the increased pressure from ethnical and religious minorities to gain access to rights, a number of issues related to tolerance towards ethnic and religious diversity in schools became more visible in the past 20 years of transition to democracy. This was the result of the work done by assertive advocacy groups, of the unexpected media support or stronger political representation. For these issues policy solutions were found and are successfully being implemented, while others are only recently reaching the agenda, despite being deeply rooted into long-standing social problems.

According to the 2002 Romanian Census<sup>7</sup>, 535.140 persons declared themselves as Roma (about 2.5% of the total population), although their real number is considered to be much higher: around 1.5 million/ 6.7% of the total population<sup>8</sup>. Moreover, the Roma population is young compared to the general population, approximately 50% being under 24 years old, and many Roma suffer from poor education, lack of qualification, high unemployment rate, poverty etc. the results of the 2002 Census stating that 25.6 % of the Roma population aged over ten years old was illiterate (as compared to 2.6 % of the total population of same age). Also, the Roma children drop-out rate was over ten times higher than the one recorded for the general population (11.6% compared to 0.8%) and data

---

<sup>5</sup> These assessments are to determine the extent to which students acquire at the end of compulsory education (around the age of 15) the three "literacies" - mathematics, science and reading.

<sup>6</sup> We are equally bad at the TIMSS and PIRLS assessments.

<sup>7</sup> Available at <http://www.edrc.ro/recensamant.jsp?language=0>

<sup>8</sup> Marian Preda, 'Estimarea numărului de romi din România în anul 1998', in Cătălin Zamfir and Marian Preda, eds., *Romii în România*, București: Expert, 2002, p. 13.

from the 1998-1999 school year proved that the drop-out rate was higher in segregated Roma schools in comparison with the education system as a whole.<sup>9</sup>

A recent study<sup>10</sup> concludes that as the percentage of Roma children in schools increases, the quality of the material endowments (specialized laboratories, gyms, libraries etc.) available in the respective schools decreases. The schools in which there is a significant number of Roma pupils have qualified teachers and school counselors in a smaller degree. Furthermore, the teachers' knowledge regarding the topics of discrimination, intolerance and racism is poor, requiring continuous training focused on changing their mindset about Roma persons. Also, there is poor awareness of the ethnicity discrimination to which the Roma minority in Romania is subjected, and along with it, a lack of strategies to prevent and combat discrimination in the schools. In the schools surveyed, 76% of students who failed the exams in 2008-2009 are Roma, confirming the inadequacy of educational and teaching strategies in an environment of intercultural and interethnic.

The right to education in minority languages was the main ethnic debate issue in school life before 2000. The 1995 Education Law granted the right of education in minority languages as a result of prompt and massive pressure from Hungarian parents. The issue was long debated in the mid-'90s, and it got to be included in the Law only following prompt and massive mobilization of Hungarian parents. Today, Law no. 1/2011 embodies different articles regarding cultural diversity in schools. Art. 3 states that the educational system has to respect a number of principles, including "the principle of recognition and guaranteeing the rights of persons belonging to national minorities and the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity" and "the principle of freedom of thought and independence of ideology, religious dogma and political doctrine;". Another important specification is that "Persons belonging to national minorities have the right to study and receive instruction in their mother language at all levels, types and forms of university education, according to the law." (Art. 45, paragraph 1)

The 2002 Romanian Census revealed that 86,7% of Romanian population is Christian Orthodox, while another 11% declared themselves as belonging to other forms of Christianity (among which, Catholic – 4,7%). Thus the issue of non-Orthodox Romanian identity has always been a controversial one, especially in the midst of the post-90's debate that was placing actions against the public expression of Orthodoxy as equal to the former communist system, atheism and repression of the right to freely express one's confession.

The Romanian Constitution ensures the state's separation from church. However, the display of orthodox religious paintings in schools was not reflected in the discourse as a breach of the rights of non-Orthodox students. On the contrary, it opened the door for a number of core debates related to the connection between the Romanian Orthodox Church and the government. The debate was divided between the need to restrict the benefits that the Romanian Orthodox Church currently enjoys (to the detriment of public interest) and the public role that it presumably fulfills. The rights of other religious minorities to study in an environment that enables their free development and choice of religious identification soon became marginal.

Immediately after the fall of communism, Religion became a mandatory subject to be taught in primary and secondary schools. Religion was considered a promoter of the moral values that communism had destroyed. In most of the cases this was taught by Christian Orthodox priests, while the content was limited to Orthodox dogma and philosophy. In practice, some leeway did exist and communities that had a non-Orthodox majority were able to decide on the content of the class. However, even though the topic of teaching Orthodoxy in schools surfaced the public debate during the '90s, it was only in 2001 that Religion became an optional subject. Today, the class headmasters are required to inform parents and students on the optional character of Religion. However, a study

---

<sup>9</sup> *Equal Access to Quality Education for Roma. Romania. From Vol. 1: Bulgaria, Hungary, Romania, Serbia. Monitoring Report 2007* Open Society Institute, 2007, p. 342-350.

<sup>10</sup> Gelu Duminičă, Anda Ivasiuc, „O școală pentru toți? Accesul copiilor romi la o educație de calitate”, București: Vanemonde, 2010.

conducted in 2006 showed that only 7.8% of Romanian students knew that they can opt out of the Religion class,<sup>11</sup> reflecting the general pro-Religion trend of the public discourse.

Special education still exists in Romania. Legally, this is a form of education addressed to students with severe disabilities. However, after 1989, with the reform of the social assistance system, special schools were enrolling children with different disabilities, independent of the type of disability or their specific needs, children from former communist orphanages and Roma children. This is an issue that reached the agenda in the beginning of the '90s following reports made by Western European human rights activists. As a result, children without families were placed in families, most of the children with severe disabilities remained enrolled in special schools, while others – mostly those who did have families – were enrolled in regular schools, or opted for home schooling. Even though none of these issues have made it to the agenda in the past 20 years, there are three severe tolerance related aspects that arise from this institutional arrangement.

First, the degree of intolerance towards disabled children in mainstream school is significantly high: from the school policy not to enroll these children in their classes, to parents' pressure not to have them studying along their children and architectural barriers, there is a high disincentive for disabled children to attend mainstream schools. Second, the transition to secondary mainstream schools of post-institutionalized teenagers has proven to be extremely difficult, as they are tolerated but still fail to get respect. Third, the Roma issue has not yet been solved. Roma activist groups are still reporting cases of Roma children who are denied enrollment in mainstream schools and are sent by school principals to pursue special education. These cases have not reached the agenda and have not been addressed in any way in the national policy discourse.

The policy discourse and the public discourse are significantly divided on the issue of segregation of Roma children in school. The debate has been ongoing, fluctuating up and down on the public agenda, however it had never reached so high up on the agenda as it did when a Romanian Court of Appeal decided on penalizing a primary school teacher with a 10,000 Euro fine for not allowing a Roma child to attend her class. While the policy discourse was building around ensuring the right to education of the child, the public discourse was slightly skewed towards the teacher's position.

Therefore the first case, *The civil rights movement that never happened: The "racist teacher" and Roma segregation in Romanian schools (Alleged Discrimination against Roma)*, analyzed how the situation mentioned above concerning a Roma child influenced the public agenda, even though there was no evidence in the end that the teacher was discriminating on grounds of ethnicity.

Roma – non-Roma segregation in Romanian schools is widespread and generally accepted as such. It was only in May 2010 that the issue was pushed up on the public agenda by the decision of a Romanian Court of Appeal to fine a teacher who denied a Roma child attendance to her class, allegedly due to her ethnical identification as Roma. Discrimination complaints of Roma children in school had been filed before, but never before they had found such a radical solution. The newspapers that reported on the situation were divided between "justice was served" and "a bigger injustice was committed" by fining the teacher with 10,000 Euro. By looking at this particular case, identifying the forms of tolerance and their expression in daily school life according to the stakeholders and analyzing the official reaction versus the public discourse, we were able to reflect on the structural issue of Roma segregation in schools, the evolution of the public discourse towards this issue, as well as the education policy that should address it.

The second case, *On the right to an education environment that is free of religious symbols*, is relevant for public policies regarding the display of religious symbols in the classrooms. The debate on the public display of religious symbols in schools was pushed up on the agenda in 2006 when a high school philosophy professor accused his employer of breaching the rights of the non-orthodox students by hanging on the walls representations of Christian figures.

The interwar discourse on Orthodoxy as a fundamental element of the Romanian self resurfaced in the public discourse in the mid '90s, mostly in connection to the fight against the

---

<sup>11</sup> [http://www.proeuropa.ro/norme\\_si\\_practici.html](http://www.proeuropa.ro/norme_si_practici.html)

communist atheism. Despite the presumed separation between state and church, except for some few public voices the main discourse has been in favor of the state's actions to support the Romanian Orthodox Church, in the virtue of the absolute Orthodox majority of the Romanian population and the public function that the Church is thought to fulfill. Even though the debate on teaching religion in schools had been ongoing since it became a mandatory subject in January 1990, talking about displays of Christian representations in school seemed a rather progressive debate topic. However, in 2006 Mr. Emil Moise, a philosophy professor, filed a complaint with the National Council for Combating Discrimination (CNCD) claiming that paintings of Christian figures that hanged on the school's walls were a breach of the non-orthodox students' right to free choice of confession and impeded the free development of the spirit of the rest of the students. After the case reached the public agenda, Mr. Moise was literally harassed by media, politicians and the Orthodox Church. His civil lawsuit against the Romanian Government had reached the High Court of Cassation and Justice a year ago. Mr. Moise is hoping for a favourable decision of the ECtHR, where he is convinced he will obtain a ruling such as the one that forced Italy to stop displaying crucifixes in its schools. By analyzing this case it should be clear if there is a state policy for the promotion of Orthodox values in schools, and if so, then how tolerant this is toward other confessions.

## 2. Methodology and Research Design

The current report encompasses desk research and fieldwork as research methods in order to thoroughly study the problems of tolerance embodiment in discourses and practices addressing cultural diversity in Romanian schools. Firstly, the desk research contributed to collecting the information on which it was decided which case studies are best suited in the ACCEPT framework. It also provided relevant literature on the subject, statistical data and important legal texts, as well as relevant newspaper articles and news, outlining the background of the cases. Secondly, the fieldwork was organised in two separate activities, according to the two different case studies, and consisted in interviewing persons who could provide valuable information and insights. Thirdly, a discussion group was held with 10 Ph.D. students specialized in Roma issues, contributing with comments related to the case study regarding Roma segregation in Romanian schools. Critical discourse analysis was used as research method in order to analyse the materials and interviews.

The case study *Alleged Discrimination against Roma* is mostly based on the qualitative interviews held in Mehedinti County, in different villages and Turnu Severin city, between 21st and 25th of March 2011. Court decisions on the discrimination of Roma child in school were also analyzed and a considerable amount of mass-media articles covered the subject (around 40 articles- news stories from national and local newspapers, news websites- generating online comments), completing the overall picture for the case study. There were 8 interviews taken in Mehedinti county, especially in the villages where the alleged discrimination against a Roma child happened (the village of origin and the one in which the little Roma girl was transferred to school), ranging from the victim, her father and her lawyer, to 3 school directors from the schools involved and one county inspector involved in the case or one journalist who investigated the case. Therefore, the interviewees were all directly connected to the case, and of relevance for it, helping to shed light on the case, while the interview guide can be found in the Annexes. The problems encountered comprised in the refusal of three additional officials directly involved in the case to make public their opinion in the present report, accepting only to have an informal discussion with the researcher.

In the second case study, *On the right to an education environment that is free of religious symbols*, there were used for the desk research documents from (a) international institutions: European Parliament; European Court for Human Rights; (b) international NGOs: European Humanist Federation, Center for Inquiry; (c) Romanian institutions: Romanian Parliament, National Council for Combating Discrimination, Ministry of Education, Research, Youth and Sport; (d) private sector: the Romanian Orthodox Church, the Adventist Church, NGOs. Also, published field reports of NGOs such as

the ones of Solidarity for the Freedom of Conscience, Pro Europa League were taken into account when the case study was written.

In terms of fieldwork, there were 5 interviews taken in order to complete the second case study. The interview questions took into account the fact that such a small number of questionnaires (and answers) cannot provide any information on subjects of a statistical nature like: social tolerance/intolerance, mentality, public respect for religious diversity. Instead the study focused on circumscribed information concerning certain educational contexts and educational categories that vary from the situation of the majority. Accordingly, the researcher did two interviews in a region (Mures) with a representative religious diversity (a) with the mother of a primary school little girl who understood the nature of the issue of the presence of religious symbols in schools; (b) with the leader of an organization involved in research on the issue of religious education. The other three interviews, taken in Buzau county, involved (i) one student who had requested to not attend religious education classes; (ii) one adventist parent; (iii) Emil Moise, who found himself in the center of the debate on the presence of religious icons in public schools. The questions were meant to elicit as much information as possible on the manner in which those concerned thought of the situations they faced and, conversely, the reactions to their unusual attitudes. Given the purpose of the interviews, the questions varied from case to case. They have been reproduced as part of the dialogues.

Therefore three interviews were taken in Buzau, the place from where the complaint started and where the issue aroused. The other two interviews were taken in Mures county, because on one hand one can find there a variety of denominations (it is a multiethnic, multicultural and multi-religious county) and talk to parents whose children study in schools with various denominations. On the other hand, the leader of a NGO researching in the area of religious education who could bring valuable insights to the ACCEPT research of religious tolerance/intolerance/acceptance in schools is based there.

### **3. Case Study 1: Alleged Discrimination against Roma**

#### **3.1. Introduction**

The case study will show that even though the situation examined proved not to be a discrimination case according to the court decision, the public debate it generated and its impact on the public policy are worth being presented.

On March 21, 2007, Rahela Ciurescu, a 9 years old girl, was denied access into the classroom by Elena Daba, teacher at Voloiac school (a remote village in Mehedinti county). Three years later, Elena Daba, meanwhile sued by Rahela's father, who accused the teacher of discriminating against his daughter for being a Gypsy, was condemned by a Romanian court to pay 10.000 Euro as compensation for the moral suffering endured by Rahela. Provoking numerous debates in Romania, this case was highly visible and its final verdict was highly celebrated both in the Romanian and the international mass-media, by numerous Roma NGOs, as a significant advance in the struggle against ethnic discrimination in schools<sup>12</sup>.

The public debates around Rahela's case were about discrimination and segregation and about the acceptance of the Roma children in school. These debates proved to be very interesting as they speak of the presence or absence of adequate treatment for a girl who should be respected as a child irrespective of her ethnicity.

---

<sup>12</sup> 'Romania court orders 10,000-euro payout for barred Roma girl (<http://www.eubusiness.com/news-eu/romania-minority.4w0/>, accessed 2011.4.11)', (2010.5.27): Some Roma NGOs hailed this verdict „as a blow against segregation in a country which has one of the largest Roma communities in Europe, although many hide their ethnic origin fearing discrimination. [...] Roma rights nongovernment organization Romani Criss praised the court's decision. "The amount is a first. This decision must become a signal for all those using discrimination and segregation in education, which is a fundamental right".

The discriminatory attitude towards the Roma minority is widespread in Romania<sup>13</sup> and the school attendance rate of the Roma children is smaller than that of the rest of population<sup>14</sup>. Consequently, it might appear that Roma discrimination, the lower rate of school attendance among the Roma children and that specific refusal to accept Roma children in schools appear somehow interconnected. This is what the public debates generated by the Rahela's case concentrated on.

Still, the situation of the alleged discrimination against Rahela proved to be different. On the one hand, the teacher's refusal to accept a child in the classroom was damaging to the child, and neither the local authorities (school administration directorate and mayor's office in Voloiac) nor the County School Inspectorate Mehedinti (Inspectoratul Scolar Judetean, hereafter ISJ) could solve this problem in due time, prolonging the embarrassing situation for weeks. But on the other hand, it was uncertain whether ethnic discrimination was the real cause for this case or just a pretext.

In order to better explain this case, the case study is divided into two main parts.

The first part briefly describes the general situation of the Roma, the measures taken in the last years against school segregation, and the debates generated by the case in the media, while the second part presents in more detail the case of young Rahela.

According to the official census of 2002, in Romania, 535,140 people declared themselves as Roma (about 2.5% of the total population<sup>15</sup>). However, their real number is considered to be much higher: around 1.5 million/ 6.7% of the total population<sup>16</sup>. In Romania, the Roma population is young compared to the general population: approximately 50% of the Roma are under 24 years old while the general population of the same age is approximately 25%.

Many Roma suffer from poor education, lack of qualification, high unemployment rate, and poverty. For instance, according to the 2002 census, 25.6 % of the Roma population aged over ten years old was illiterate (as compared to 2.6 % of the total population aged over ten years old). According to the same census, out of the general population aged over 10 years old, only 5.6% had not graduated any school as compared to 34.3% of the Roma<sup>17</sup>. Much more Roma children drop out of school than non-Roma (at least this was the situation 13 years ago<sup>18</sup>): in 1998, the drop-out rate recorded for the general population was 0.8% while 11.6% of Roma children stopped going to school (ten times higher) and data from the 1998-1999 school year proved that the drop-out rate was higher in segregated Roma schools in comparison with the education system as a whole<sup>19</sup>.

When discussing the issue of Roma school segregation, some researchers classify as segregated those schools where the Roma children are concentrated in other classes than the non-Roma children or where the Roma children constitute most or even the entire population of the school. Although in Romania, similarly to other Eastern European countries, there were few Roma children in the special schools for children with intellectual disabilities one could encounter residential segregation: not the consequence of a public policy, but of the geographical isolation of the Roma (usually poor) communities concentrated in slums and neighborhoods, sometimes far away from the center of the village.<sup>20</sup> Such segregated schools are within or close to the Roma neighborhoods. Many of these segregated schools were described as overcrowded, registering high drop-out rates and not having

---

<sup>13</sup> Bogdan Păunescu and Delia Bobîrsc, *Fenomenul discriminării în România. Raport sintetic*, București: Consiliul Național pentru Combaterea Discriminării, 2010, p. 27.

<sup>14</sup> Cătălin Zamfir and Elena Zamfir, *Țigani în ignorare și îngrijorare*, București: Alternative, 1993, p. 93-100; Mihai Surdu and Judit Szira, *Analysis of the Impact of Affirmative Action for Roma in High Schools, Vocational Schools and Universities. Working Paper No. 3*, Roma Education Fund, GALLUP, 2009, p. 24

<sup>15</sup> <http://recensamant.referinte.transindex.ro/?pg=8>, accessed 2011.4.12.

<sup>16</sup> Marian Preda, 'Estimarea numărului de romi din România în anul 1998', in Cătălin Zamfir and Marian Preda, eds., *Romii în România*, București: Expert, 2002, p. 13.

<sup>17</sup> Mihai Surdu and Judit Szira, *Analysis of the Impact of Affirmative Action for Roma in High Schools, Vocational Schools and Universities. Working Paper No. 3*, Roma Education Fund, GALLUP, 2009, p. 24.

<sup>18</sup> Unfortunately more recent data only refers to specific groups and communities.

<sup>19</sup> *Equal Access to Quality Education for Roma. Romania. Volume 1: Bulgaria, Hungary, Romania, Serbia. Monitoring Reports 2007*, Budapest: Open Society Institute/EU Monitoring and Advocacy Program, 2007, p. 342-350.

<sup>20</sup> Mihai Surdu, 'Educația școlară a populației de romi', in Cătălin Zamfir and Marian Preda, eds., *Romii în România*, București: Expert, 2002, p. 121-122.



enough qualified teachers<sup>21</sup>. The buildings where the schools function are improper for study, most of them lacking running water and heating.

The geographical segregation is not the only reason for school segregation. One could observe among some non-Roma parents the phenomenon of “white flight”: withdrawal of their children from the schools with many Roma pupils in order to have them enrolled at other schools.<sup>22</sup>

In April 2001, the Romanian government adopted the Roma Strategy which aimed at the improvement of the condition of the Roma through social inclusion measures and in April 2004, the Ministry of Education and Research issued a notification<sup>23</sup> (29.323/20 April 2004) on the School Segregation<sup>24</sup> stipulating the following: “Segregation is a very serious form of discrimination [...] segregation in education involves the intentional or unintentional physical separation of Roma from the other children in schools, classes, buildings and other facilities, such that the number of Roma children is disproportionately higher than that of non-Roma compared to the ratio of Roma school-aged children in the total school-aged population in the particular area [...] the Ministry of Education and Research prohibits the setting up of pre-school, primary and lower secondary classes comprising exclusively or mainly Roma students. This way of setting up classes is deemed a form of segregation, irrespective of the explanation called upon”<sup>25</sup>. Seen as a mere recommendation, not as an order, the notification was not carried out.

It is worth mentioning that 2007 was the year when Rahela’s case received a lot of attention from the media and more people in the public space became aware of the segregation of Roma children in schools.<sup>26</sup> There was no other case that was so actively debated in the mass-media as Rahela’s case, and the debates it caused led to a series of legislative measures taken by the public authorities.

In May 2007, the public attention brought to this case led to the opening of an ex-officio investigation of the National Council for Combating Discrimination into Rahela’s case (the mass-media articles made lots of people express their sympathy for Rahela. For instance, readers of „Adevarul” sent presents and letters to encourage her, and the school director got indignant letters from citizens criticizing E.Daba for not allowing a child into her class etc. Besides, some high-ranking officials from the Ministry for Education continued to show their intention to solve this case as soon as possible and sent the Ciurescu siblings to a seaside resort and provided them with free school supplies etc<sup>27</sup>). The Council pronounced its decision concerning the reported discrimination in October 2007. Also later in 2007, after the adoption of the Ministerial Order nr. 1540/19 July 2007 which prohibited any form of segregation in the educational system, the Ministry of Education adopted, an internal regulation which demanded that the schools identify and eliminate any segregation practices.

Amongst the positive measures stipulated in the 2007 regulations of the Ministry of Education, it is worth mentioning that starting with the 2007-2008 school year, the classes with a majority of Roma children were forbidden and the schools were encouraged to hire Roma teachers<sup>28</sup> in order to offer positive models to the Roma pupils.

The Roma enrollment in schools increased over the last two decades. One of the reasons for the increase, among others, seems to be the conditioning of the school allowance benefit on school attendance (stipulated in the Law no.61/1993); another reason could also be the possible increase in

---

<sup>21</sup> Mihai Surdu, 'Educația școlară a populației de romi', in Cătălin Zamfir and Marian Preda, eds., *Romii în România*, București: Expert, 2002, p. 121-122.

<sup>22</sup> Claude Cahn and Dimitrina Petrova, *Stigmata. Segregated Schooling of Roma in Central and Eastern Europe*, Budapest: European Roma Rights Center (ERRC), 2004), p. 12.

<sup>23</sup> internal norm targeting school inspectorates, kindergarten and schools.

<sup>24</sup> *Equal Access to Quality Education for Roma. Romania. Volume 1: Bulgaria, Hungary, Romania, Serbia. Monitoring Reports 2007*, Budapest: Open Society Institute/EU Monitoring and Advocacy Program, 2007, p. 377-378.

<sup>25</sup> *Equal Access to Quality Education for Roma. Romania. Volume 1: Bulgaria, Hungary, Romania, Serbia. Monitoring Reports 2007*, Budapest: Open Society Institute/EU Monitoring and Advocacy Program, 2007, p. 358.

<sup>26</sup> <http://www.ziare.com/articole/discriminare+fetita+romia>

[http://86.124.112.57/actualitate/Doamna-primeste-clasa-tigani-prosti\\_0\\_40197307.html](http://86.124.112.57/actualitate/Doamna-primeste-clasa-tigani-prosti_0_40197307.html)

<sup>27</sup> 'Prima vacanta la Mare din viata elevei Rahela (<http://stiri.kappa.ro/actualitate/18-06-2007/prima-vacanta-la-mare-din-viata-elevei-rahela-138086.html>, accessed 2011.3.20)', (2007.6.18).

<sup>28</sup> <http://www.lexex.ro/Ordin-1540-19.07.2007-82075.aspx> accessed 2011.4.19.

the self-identification of Roma as a result of the affirmative measures for Roma<sup>29</sup>, and the shift in the public policy related to eradicating the segregation of Roma children, born by active public debates like that generated by Rahela's case<sup>30</sup>, that although it was considered not to be a case of discrimination on ethnic grounds, it brought a lot of media attention, it generated intense public debates and has put pressure on the public authorities to bring the desired public policy change through active measures like the Ministerial Order nr. 1540/19 July 2007.

School year	Pupils who identify themselves as Roma
2008/2009	266.673
2007/2008	263.409
2006/2007	260.105
2005/2006	243.008
2004/2005	220.000
2003/2004	183.176
2002/2003	158.128
1989/1990	109.325

Table Gheorghe Sarau (21.3.2011)<sup>31</sup>

The Rahela case has helped increasing the acceptance towards Roma children in schools, has helped diminish the segregation, and had actively brought in a public policy change that was long expected, by common efforts of mass-media (through the huge coverage this case had, from 2007 to 2011), state authorities like the National Council for Combating Discrimination (through their ex-officio investigation and their formal decision), School Inspectors (through their multiple inspections into the matter), the Ministry of Education (through their adopted measures against segregation that occurred the same year, 2007), and not lastly through the input of the Courts<sup>32</sup> (by taking the case to court).

It is to believe, by the noted timely public policy change, that public debates generated by the Rahela case as an alleged discrimination case against Roma children, have played a very important role in the development of the policy against segregation of Roma in Romania. It is for the future monitoring of the policy to note if the implementation of the public policy adopted in 2007 will have a real impact on decreasing the segregation of Roma, and if other cases are equally treated in terms of attention in the media, promptitude of the public authorities and legislative response if case may be, or lack thereof.

### 3.2. The Rahela case

#### 3.2.1. General context:

Both Butoiesti and Voloiac are two communes located in the eastern part of Mehedinti county, near Strehaia, an area with a relatively dense Roma population (Caldarari and Rudari sub-groups). In Butoiesti, the village with a more important community of Rudari is Jugastru (with its own school which has the first four grades)<sup>33</sup>, and its counterpart in Voloiac is Cotoroia (the same system)<sup>34</sup>. The school attendance among the Rudari children is appreciated by the school directors as good. Furthermore, all the Rudari children from Jugastru graduate the first four grades of their village school and then they attend the main school in Butoiesti (grades one to eight), which only few manage to graduate. This failure is due to the fact that most of Rudari children begin to work to support their

<sup>29</sup> *Equal Access to Quality Education for Roma. Romania. Volume I: Bulgaria, Hungary, Romania, Serbia. Monitoring Reports 2007*, Budapest: Open Society Institute/EU Monitoring and Advocacy Program, 2007, p. 347-348.

<sup>30</sup> <http://ziarero.antena3.ro/articol.php?id=1180130255>

[http://www.adevarul.ro/actualitate/Doamna-primeste-clasa-tigani-prosti\\_0\\_40197307.html](http://www.adevarul.ro/actualitate/Doamna-primeste-clasa-tigani-prosti_0_40197307.html)

<http://www.gds.ro/Eveniment/2011-04-27/Fetita+de+etnie+roma+scoasa+afara+de+la+ore+castiga+din+nou+in+instanta>

<sup>31</sup> Gheorghe Sarău, 'Realizările MECTS și ale partenerilor săi in anii 2009 și 2010, privind învățământul pentru romei, activități de viitor, propuneri', 21 martie 2011 [unpublished manuscript].

<sup>32</sup> The details of the court cases are presented at page 17 of the Report.

<sup>33</sup> (<http://recensamant.referinte.transindex.ro/?pg=3&id=1706> accessed 2011.5.11)

<sup>34</sup> (<http://recensamant.referinte.transindex.ro/?pg=3&id=1755> accessed 2011.5.11)

families.<sup>35</sup> A certain interest in enrolling the Rudari children is expressed by the teachers themselves. In the mid 1990s, because of the diminishing birth rate, it became more difficult for teachers to preserve their jobs unless the number of children forming a class reaches a certain rate. Consequently, the teachers became more interested in the Roma children whose school attendance was traditionally limited.<sup>36</sup>

### 3.2.2. The Ciurescu family

In March 2007, Pompiliu Ciurescu, a Pentecostal Rudar<sup>37</sup> from Butoiesti (Jugastru village), left for Greece for a few months as a seasonal agricultural worker. His wife, F.G., had died in 2006, leaving him with three minor children. Having no relatives left in Butoiesti who could look after his children during his absence, he decided to transfer them to Voloiac (about 20 km away) where his aunt, M.V., promised to take care of them. Pompiliu Ciurescu contacted the heads of the Butoiesti and Voloiac central schools and informed them about his situation and intention to transfer his three children.<sup>38</sup> Although such transfers take usually place during school holidays, both the Administration Council of Butoiesti school (March 19)<sup>39</sup> and of Voloiac school (March 21) accepted immediately this transfer. P.C. went to Greece leaving his children in Cotoroia (a village in Voloiac) in his aunt's care.

On Wednesday, 21 March, 2007, the three children went to the central school in Voloiac for the first time. Daniel (ten years old, student in the fourth grade, assigned to teacher Sabina Draghici's class), Iosif (seven years old, student in the first grade, assigned to Valentina Firuleasa's class) and Rahela (nine years old, student in the third grade, assigned to Elena Daba's class). If Daniel and Iosif were immediately accepted by their new teachers, the situation was surprisingly different for their sister, Rahela, whose access into the classroom was denied by Elena Daba. The efforts made by the local school directorate and by ISJ Mehedinti to convince Elena Daba were in vain.

### 3.2.3. Refusal

The reasons for Elena Daba refusal to accept Rahela into her class seemed to be, according to the statements of the parties expressed during interviews, the following: 1) the competition between two families for the position of director of the main school in Voloiac, augmented by 2) financial interests, 3) the alleged racism (invoked against Daba) and 4) the alleged illegal transfer (invoked by Daba against the school director).

Working hypothesis:

- A. link between racism - racially motivated refusal and condemnation of discrimination,
- B. the refusal to accept a child in class turned to be later explained by racist prejudices against Roma.

Possible scenarios following the hypothesis formulated:

- 1) Hypothesis A: it was ethnic discrimination, Rahela was confronted with a racist teacher;
- 2) Hypothesis B: it was not ethnic discrimination; that refusal remains an abuse but was nevertheless due to other reasons than ethnic discrimination.

Gradually, the research conducted pointed towards the verification of the second work hypothesis, that racism was not necessarily the trigger for the refusal, but the rivalry between the teacher that refused Rahela's access into the classroom and the director of the school<sup>40</sup>.

---

<sup>35</sup> Interview with Vasile Ghebauer, school director in Butoiesti, 25<sup>th</sup> of March 2011

<sup>36</sup> Off the record discussion with Ion Tufis (deputy school inspector), 22<sup>nd</sup> of March 2011; Interview with Violeta Jozsa, school inspector, 23<sup>rd</sup> of March 2011.

<sup>37</sup> A „Roma” subgroup known otherwise as Baiesi, or Lingurari who, although do not speak Romanes, are mainly heteroidentified as Gypsies.

<sup>38</sup> Interview with Pompiliu Ciurescu, father of Rahela Ciurescu, on the 25<sup>th</sup> of March 2011, Butoiesti.

<sup>39</sup> See the minutes of the Butoiesti School Administrative Council, 2007, p. 102-104.

<sup>40</sup> Daba and Draghici families: The Draghici family: its members: Constantin (mayor and teacher), Valentin (school director in 2007) and their wives, Cornelia and Sabina Draghici (teachers). The Daba family: Elena Daba, who refused accepting Rahela in her classroom and her husband, Ion, retired math teacher and former director of the school.

### *Simultaneous teaching*

There was another more specific reason which made E. Daba refuse Rahela Ciurescu into her class in March 2007: the supplement for simultaneous teaching. Because certain schools, especially in the countryside, do not have enough qualified teachers or enough pupils for the first four grades, sometimes teaching is carried out simultaneously. The teachers that perform simultaneous teaching get a certain salary supplement of 5-7%. Daba was unhappy because she lost her supplement of 5-7%. If the number of pupils had decreased, then the school should have given up the third position, Valentina Firuleasa should have left the main school and Elena Daba could have had again those two classes simultaneously (with supplement). Both the deputy school inspector<sup>41</sup> and the school directors from Butoiesti (Vasile Ghebauer<sup>42</sup>) and Voloiac (Gheorghe Danciulescu, director in 2011<sup>43</sup>) admitted that in addition to the family disputes, it was that supplement and not the alleged ethnic discrimination that triggered Daba's refusal. Even Valentin Draghici, the director of the Voloiac school in 2007 (seen by Daba as a personal enemy), recognized the importance of this supplement in the refusal.<sup>44</sup>

### *Alleged illegal transfer*

When the three Ciurescu children were transferred on 21 March 2007, Daba claimed that the transfer was illegal and did all she could to prove it, by appealing to school regulations which seemed to work in her favor. She first of all claimed that the transfer should take place only during school holidays and not in the middle of the school year (as it happened), and secondly, she tried to show that it was not an exceptional transfer (which could have been admitted during the school year) because it did not respect the article 148 of the School Rules, which regulated such exceptional transfers (neither did the childrens' parents officially<sup>45</sup> change their address, nor was there any decision of a medical authority recommending it etc.)<sup>46</sup>. Furthermore, when accepting that transfer, the Administration Council of Voloiac school should have consisted of more persons. Elena Daba also claimed that the father's signature was false, and that she was intrigued by the fact that although the three children lived with their aunt in Cotoroia, a village of Voloiac, where there was a school which the children could have attended, they were transferred to the central school in Voloiac.

On Wednesday, March 21, 2007, she refused to accept Rahela into her class. Focusing exclusively on the treatment suffered by Rahela, the distinction is made between two periods:

1) March 21 – middle of April 2007<sup>47</sup>: although Rahela came to school, she had to spend her time in her brother's classroom because she was not accepted by her teacher.

2) Middle of April - June 2007 (end of school semester): after unsuccessful attempts to convince the teacher to accept Rahela, the girl was transferred to another school in Cotoroia, where her aunt lived. In July 2007, her father came from Greece and transferred all his three children back to Butoiesti.

### 3.2.4. Ethnic discrimination

Taking into consideration that the premise of the study is the manifest racism of the teacher, the distinction should be made between two notions: 1) the abuse which was not explained by ethnic discrimination – explained at point 2.3, 2.3.1, 2.3.2; 2) the ethnic discrimination.

(Contd.) \_\_\_\_\_

As revealed during the interviews, there was a strong rivalry between Daba and Draghici long before March 2007. Elena Daba did not accept the replacement of her husband and consequently she did not recognise Valentin Draghici's authority as director .

<sup>41</sup> Off the record discussion with Ion Tufis (deputy school inspector), 22nd of March 2011.

<sup>42</sup> interview with Vasile Ghebauer, school director in Butoiesti, 25<sup>th</sup> of March 2011.

<sup>43</sup> Interview with Gheorghe Danciulescu, school director in Voloiac (2010-up to the present), 23rd of March 2011:

<sup>44</sup> Interview with Valentin Draghici, school director in Voloiac (2005-2010), 24<sup>th</sup> of March 2011.

<sup>45</sup> Father left for Greece but did not formally change his address.

<sup>46</sup> Daba made use of the article 148 of the Ministry Order nr. 4925/08.09.2005 „Rules of organization and functioning of the school” where it was specified that : „The pupils may be exceptionally transferred during school year, in compliance with articles 136-145, in the following situations: a) if their parents address is changed for another locality; b) if a transfer recommendation is issued on the basis of a medical examination conducted by the Department of Public Health”; see the interview with Violeta Jozsa, school inspector, 23rd of March 2011.

<sup>47</sup> After the Easter holiday (8-15 April 2007).

2) Since May 24-up to the present.

On May 24, 2007, the mayor of Voloiac sent a letter to C.N.C.D. presenting that E. Daba had refused Rahela's presence into her class because of her ethnic origin and two days later, on May 26, an article was published in a national newspaper, „Adevarul”. Both the letter sent by the mayor and the article signed by Gogonea reached the C.N.C.D.<sup>48</sup>. Soon after receiving the mayor's letter and the article, the C.N.C.D. started its investigation asking Elena Daba, the mayor, the school directorate and the School Inspectorate to present their own arguments. On October 15, 2007, the C.N.C.D. board analyzed the case presented by its investigators, admitted the existence of an abuse, but decided unanimously that there was no circumstantial evidence supporting the ethnic discrimination<sup>49</sup>.

Prior to the C.N.C.D. decision, the teacher had already faced other charges. In July 2007, Pompiliu Ciurescu came home and sued against Daba claiming his daughter had been discriminated against for being a Gypsy and accused the teacher of racism. Consequently, in September 2007, the Strehaia court decided that E. Daba was to pay 1000 lei (250 euro) for abuse of office (article 246/Penal Code)<sup>50</sup>, but without being able to prove that the abuse was motivated by discrimination (the article 247/Penal Code)<sup>51</sup>.

If initially, in July 2007, P. Ciurescu claimed 10.000 lei (about 2.500 Euro)<sup>52</sup> only a few months later, in December 2007, he claimed 100.000 Euro from both the teacher and from the School Inspectorate which he accused of not having more firmly intervened against the teacher to help his daughter. He based his action on article 998, 999 and 1000 of the Civil Code, on the ECHR (articles 1, 14) and on the 2nd article of the first Protocol of ECHR (education rights).

In January 2009, the Strehaia Court decided partially in favor of his action. Without taking into account the ethnic discrimination, the court admitted that the teacher's refusal produced damages to the pupil by infringing her education rights. The teacher's argument on the illegality of the transfer was declared invalid because the teacher was not entitled to censor the decision of the Administration Council of the school. Consequently, both the teacher and the School Inspectorate were sentenced to pay 1500 RON (about 400 euro) compensation to the victim of the abuse.<sup>53</sup> All these three protagonists appealed against the decision: 1) Elena Daba (no racial discrimination); 2) the School Inspectorate Mehedinti (refused to accept any penal solidarity with E. Daba, stressing that the work contract was only between the teacher and the school) and 3) Pompiliu Ciurescu (derisory amount of money compared to the suffering endured by his daughter).<sup>54</sup>

In November 2009, the Court of Appeal Craiova admitted the appeal of ISJ, excluding its responsibility and in February 2010 the Mehedinti Court found the teacher guilty of provoking psychological damage to the pupil, infringing upon her education rights. The court stated that Daba did not have the right to deny a child's right to schooling, censoring the decision of the Administration Council, and if she had doubts on the transfer she should have complained to the authorities. Her refusal produced damages which were compensated according to the impact on the involved persons,

---

<sup>48</sup> CNCD was created in 2002. Its tasks are to investigate and sanction cases of discrimination.

<sup>49</sup> For their investigation, C.N.C.D. made use of the ECHR (article 14, and the 12th Protocol, 1st article), of the Romanian Constitution (article 16 on equality), and of the Romanian Government Ordinance nr. 137/2000 on Prevention and Combating of all forms of Discrimination.

<sup>50</sup> (<http://legeaz.net/cod-penal-actualizat-2011/art-246-cpen>, accessed 2011.4.16) Art. 246 Abuse of public servant [clerk] against public interests of persons. The deed committed by the public servant who, in the exercise of his duties, with knowledge, does not fulfill a duty, or fulfills it improperly and thereby causes injury to a person's legal interests, shall be punished with imprisonment from six months to 3 years.

<sup>51</sup> (<http://legeaz.net/cod-penal-actualizat-2011/art-247-cpen>, accessed 2011.4.16) Art. 247 Abuse of public servant [clerk] consisting of rights infringement. The limitation by a public servant of a person's rights or creating a situation of inferiority on the grounds of race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political affiliation, belief, property, social origin, age, disability, non-contagious chronic illness or HIV/ Aids infection, is punished with imprisonment from 6 months to 5 years.

<sup>52</sup> "Când am citit în «Adevărul», am plâns" ([http://www.adevarul.ro/actualitate/citit-Adevarul-plans\\_0\\_38397579.html](http://www.adevarul.ro/actualitate/citit-Adevarul-plans_0_38397579.html) , accessed 2011.2.18)', *Adevarul*, (2007.7.26).

<sup>53</sup> Strehaia Court, file 2088/313/2007, Decision nr. 143, 29th of January 2009

<sup>54</sup> Mehedinti Court, file 2088/313/2007, Decision nr. 210/A, 1st of June 2009.

to the importance of the affected values etc. Because the initial compensation was declared not to correspond to the principle of proper compensation, Daba was sentenced to pay 5000 Euro.

Daba appealed against this sentence but she lost (May 2010). The amount of money she had to pay as compensation was increased to 10.000 Euro. The Court ignored the C.N.C.D. decision (according to which there was not ethnic discrimination). Gheorghita Stoian, the lawyer of the Ciurescu family, managed to win the case by focusing on the general infringement of the right to education and downplayed the tensions within the school as possible trigger of the case while insisting on the ethnic discrimination as main reason for the refusal.<sup>55</sup>

### 3.3. Conclusions

The final court decision in Rachelia's case stipulated that the teacher would pay 10.000 EUR compensation and motivated its verdict by referring to both the infringement of the fundamental right to education and to the discrimination against Rachelia, although the references to the ethnic discrimination were rather vague as the lawyer herself admitted: "I think you'll find in the court decisions few references to the principle of ethnic discrimination. I think they avoided making such references. They are [mentioned] in the witness testimonies... In the end, the court mentioned the effect, the infringement of her education right, and not the cause, that she refused to accept her because she was a Gypsy. There were vague references to this situation."<sup>56</sup>

The Court started with the consequence (the refusal in the classroom) but ignored the context which produced it: "The court is not bound to consider the chronology of the conflict that exists in that school, but to assess whether the defendant caused to the pupil mental trauma and whether the refusal to accept the pupil is objectively legitimated by the alleged unlawful transfer made between the two education units"<sup>57</sup>. The Court also stated that the defendant had violated two articles of the Romanian Constitution: article 16 which guaranteed the right to equality and article 32: "the right to education is ensured by the compulsory general education system", the article 26 (paragraph 1) of the Universal Declaration of Human Rights (hereafter UDHR): "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory" and the article 14 on discrimination of the European Convention on Human Rights (hereafter ECHR): "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."<sup>58</sup>

Because that child was Roma, the abuse fell under ethnic discrimination: "discrimination in this case was caused by the defendant Daba Lenuta as a teacher and the victim of discrimination [...] whose right to education was denied. [...] Violating the right to education of the child for a period of two to three weeks will be sanctioned. [...] We appreciate that the scene witnessed by the child whose access to education was denied had a negative impact on the child psyche, left a scar on her soul. [...] The refusal of that pupil by the defendant, her exclusion in relation to other children, shook the confidence of this Roma child in the education system and consequently she will see her future with disbelief. [...] She placed the child in a position of inferiority to the other pupils who perceived her in accordance with the attitude expressed by their own teacher"<sup>59</sup>.

This decision is important not only because the Court showed sensitivity to the needs of a Roma child but even more important because the trial was seen as setting an important precedent for dealing with similar cases. In the end, the reasons for which that teacher had denied a pupil's right to be in the classroom years ago counted less. Both the Court and the Romanian mass-media made a very visible example of that teacher accused of racism. Soon after the verdict had been pronounced, the ethnic discrimination became the only reason for that refusal mentioned by the mass-media. The mass-

---

<sup>55</sup> Interview with Gheorghita Stoian, the lawyer of the Ciurescu family, on the 24th of March 2011.

<sup>56</sup> Interview with Gheorghita Stoian, the lawyer of the Ciurescu family, on the 24th of March 2011.

<sup>57</sup> Appeal Court Craiova, file 8011/101/2009, Decision nr. 706/19<sup>th</sup> of May 2010.

<sup>58</sup> Appeal Court Craiova, file 8011/101/2009, Decision nr. 706/19<sup>th</sup> of May 2010.

<sup>59</sup> Appeal Court Craiova, file 8011/101/2009, Decision nr. 706/19<sup>th</sup> of May 2010.

media was interested especially in the novel aspects and simplified the whole case, labeled Daba as a racist teacher which was condemned to pay for discrimination<sup>60</sup>, she was said „to have refused a pupil in the classroom merely because the pupil was a Roma and because she would not accept Roma in her classroom”<sup>61</sup> etc. (author’s note).

This case is used to discourage ethnic discrimination. From this point of view it is appreciated as useful and having a dissuasive effect; the lawyer of the Ciurescu family stated that “as a result of solving this case, I believe it will stop in Romania any other tendency to act similarly [...] It is very important to promote tolerance among teachers. And punishing intolerance is equally important.”<sup>62</sup> The journalists were equally impressed: “It is unique in the history of education, I think! To pay 10.000 Euro for not accepting a pupil in the class. And this is a lesson for others: do not act like her!”<sup>63</sup>. Consequently, the numerous articles on this case provoked animated debates among readers, many of them showing sympathy for Rahela and for the Roma pupils in general. They became more sensitive to the Roma pupils, seen as helpless and innocent. The public’s tendency was to condemn this kind of discrimination in schools, mainly because the school was generally seen as a solution to the Roma integration. Practically, discriminating against the Roma children was seen as compromising such expectations: “justice was done, she shouldn’t have humiliated her like this, even if she is a Roma, she is a child. [...] As a teacher, she shouldn’t have differentiated between the children”<sup>64</sup> and “basically the teacher deserved her fate. No matter what you have against the Gypsies, she was a girl, a child. Although just a poor Gypsy, still she came to school to get educated, not to steal”<sup>65</sup>.

Actually, not only the current research, but also CNCD's own investigation led to the conclusion that the Rahela Case was not one of ethnic discrimination. There was indeed an abuse against the child for which the culprit was fined with a considerable amount of money (10 000 euro). But the real reasons didn't involve the fact that Rahela was a Roma. And although the official institutions stated the lack of ethnic discrimination or didn't mention it as influencing their decision, the public perception was that the teacher received her punishment for being unjust to a Roma child. Thus, the entire case raised an entire debate in the public agora regarding discrimination against Roma in schools, bringing out, as a result of these discussions, a higher awareness towards Roma issues.

Therefore this case is not to be measured in terms of the anti-discrimination laws. It did not contribute to the appearance of new laws dealing with the ethnic discrimination. Instead, it proved to be an interesting and useful case because it inspired many in Romania, making people more sensitive to the Roma pupils’ needs and to the problems these pupils are confronted with. On the other hand, the condemnation of that teacher who had refused a Roma pupil in the class was seen as an exemplary punishment meant to discourage discrimination in schools.

---

<sup>60</sup> Cristina Popescu, 'Eleva de etnie romă, umilită la școală, a primit despăgubiri ([http://www.adevarul.ro/scoala\\_educatie/clasele\\_primare/Eleva\\_despagubita\\_pentru\\_ca\\_a\\_fost\\_umilita\\_0\\_242376180.html?commentsPage=1](http://www.adevarul.ro/scoala_educatie/clasele_primare/Eleva_despagubita_pentru_ca_a_fost_umilita_0_242376180.html?commentsPage=1), accessed 2011.2.18)', (2010.4.12); 'O profesoara din Mehedinti va plati daune de 10.000 de euro unei fetite rrome (<http://www.ziare.com/articole/discriminare+fetita+rroma>, accessed 2011.2.18) ', (2010.5.21); 'O profesora va plăti 10.000 de euro daune pentru că nu a vrut să primească în clasă o elevă romă (VIDEO) (<http://www.antena3.ro/romania/o-profesora-va-plati-10-000-de-euro-daune-pentru-ca-nu-a-vrut-sa-primeasca-in-clasa-o-eleva-rroma-video-99777.html> , accessed 2011.2.18)', (2010.5.21); 10.000 Euro Entschädigung für Rassismus ([http://www.punkto.ro/articles/10.000\\_Euro\\_Entschadigung\\_fuer\\_Rassismus-516.html](http://www.punkto.ro/articles/10.000_Euro_Entschadigung_fuer_Rassismus-516.html) , accessed 2011.2.28)', (2010.5.21); Alin Ghiciulescu, 'Învățătoare amendată pentru rasism (<http://www.gds.ro/print/151076> accessed 2011.2.18)', (2010.5.22); Cătălin Căruntu, 'Învățătoarea rasistă i-a fentat pe executori ([http://www.adevarul.ro/actualitate/eveniment/Invatatoarea\\_rasista\\_i-a\\_fentat\\_pe\\_executori\\_0\\_341966214.html](http://www.adevarul.ro/actualitate/eveniment/Invatatoarea_rasista_i-a_fentat_pe_executori_0_341966214.html) , accessed 2011.2.18)', *Adevarul*, (2010.9.25).

<sup>61</sup> 'Invatatoarea din Mehedinti, care nu a primit o eleva roma la clasa, si-a vandut casa (<http://www.asinfo.ro/index.php?module=Pagesetter&func=viewpub&tid=5&pid=5541>, accessed 2011.2.18)', (2010.9.27).

<sup>62</sup> Interview with Gheorghita Stoian, the lawyer of the Ciurescu family, on the 24th of March 2011.

<sup>63</sup> Interview with Iulian Gogonea, the „Adevarul” journalist, 21st of March 2011.

<sup>64</sup> Comment nr. 5, in Alin Ghiciulescu, 'Rămâne fără casă dacă nu achită despăgubirea (<http://www.libertatea.ro/stire/ramane-fara-casa-daca-nu-achita-despagubirea-289177.html>, accessed 2011.2.18)', *Libertatea*, (2010.5.24).

<sup>65</sup> Comment nr. 52, in Alin Ghiciulescu, 'Rămâne fără casă dacă nu...

## **4. Case Study 2: On the right to an education environment that is free of religious symbols**

### ***4.1. Constitutional and legal framework of religious education in Romanian public schools***

Religious symbols have started appearing in Romanian public schools at the beginning of the year 1990. At the same time, the Romanian Orthodox Church had promoted religious education classes, after making the appropriate request to the Ministry of Education, pledging that classes would have ethical and informative content, and the financial needs would be covered by the church. The Constitution adopted in December 1991, upholds the right to religious education for religious denominations in Romania, according to each denomination's specific needs. In public schools, religious education was to be organized according to the law.<sup>66</sup>

The Education Law, which would regulate these details, was passed in the year 1995. It established classes with confessional content within the public education system. „Religion” became a school subject, part of the curriculum, starting in primary school and up to high school. According to the law, „Religion” was a required class in primary school, and optional in secondary school, high school and vocational school. Following a complaint by 57 members of the Chamber of Deputies, the Constitutional Court<sup>67</sup> decided that the provisions of the law should be understood as “requiring” only that religion be included in the curriculum.

One can note, at that moment, the attempt to make religion, in its confessional form, a central and mandatory element of students' education, contrary to the principles of religious freedom.<sup>68</sup> At the same time, religious icons became ubiquitous in schools. The purpose and implications of the presence of religious symbols have not been publicly addressed until the year 2006, and no evaluation of the situation was conducted by the Ministry of Education.

In Romania, 86.7 percent of the population declare themselves as orthodox. Today, the Romanian Orthodox Church has an overwhelming presence and power in influencing the religious education system. Even though the provisions concerning religious education in the Romanian Constitution cover all 17 recognized (religious) denominations<sup>69</sup>, in essence, the presence of religious symbols is basically the case concerning religious icons. Where great confessional diversity exists, religious symbols are not displayed. Investigations taking place in Tirgu Mures show that in schools where Catholic, Orthodox, and neo-Protestant believers exist in comparable numbers, religious symbols are missing. However, the subject of students' participation in religion classes has been raised by some parents. Parents are often in situations where they have difficulties in dealing with problems that arise from the teachers' dogmatic attitude. In one of the cases under investigation in Tirgu Mures, a first grade girl was traumatized by the public ridicule she was subjected to by her roman-catholic teacher. Everything started from the different way in which Protestants versus Catholics cross themselves.<sup>70</sup>

### ***4.2. Emil Moise's petition to the National Council for Combating Discrimination***

Although (religious) icons have invaded schools, having an overwhelming visibility in the corridors, the religion laboratories and the classrooms, the implications of the presence of religious icons within the educational institutions have not been noticed at the level of decision makers and public opinion. Some understanding of the issues existed only within several NGOs involved in promoting tolerance within ethno-culturally diverse communities. The Pro Europa League pointed out

---

<sup>66</sup> Article 31 (7), Romanian Constitution, 1991.

<sup>67</sup> Complaint of June 25<sup>th</sup> 1995.

<sup>68</sup> Including religion classes that are both mandatory and confessional infringes, according to the European Court of Human Rights (ECtHR) jurisprudence, the provisions of art. 8 of the European Convention on Human Rights.

<sup>69</sup> Beginning with 2003, the Jehova's Witness organization has also become a recognized (religious) denomination.

<sup>70</sup> Interviews with J.K.



as early as the beginning of the '90s the discriminatory potential of the religious education classes and the display of religious symbols in public educational establishments.<sup>71</sup>

On August 12<sup>th</sup> 2006, Emil Moise, who taught philosophy at high-school level, father of a student at the „Margareta Sterian” Arts High-School in Buzau, sent a petition to the National Council for Combating Discrimination (NCCD) in which he requested, as a representative of his daughter, „a repeal of the discriminatory situation created by the presence of religious symbols in public schools”.<sup>72</sup> Mr. Moise had two arguments: (a) the discrimination against agnostics and people of a different confession than that represented by the religious symbols affects the children's autonomous and creative personality development; b) acceptance of religious symbols, and specifically of Christian-Orthodox ones, can enforce the idea of the inferiority of women, and hence infringes upon equality of chances.

Emil Moise had previously researched the issue of religious education in public schools and had published his results.<sup>73</sup> Moreover, he was at the time the chair of the Buzau office of the Solidarity for Freedom of Conscience, organization dedicated to promoting the separation between church and state. Hence he was privy to the discussions among the leaders of several NGOs aimed at starting a petition regarding the discriminatory effect of the presence of (religious) icons. Emil Moise requested that action be taken in this respect, but a petition addressed to the National Council for Combating Discrimination (NCCD) was postponed because some of the leaders were concerned about finding an auspicious time. In 2006, a proposal to amend and extend the Ordinance no. 137/2000 regarding the fight against discrimination was to be debated in Parliament, in which context the status of the National Council for Combating Discrimination was to be strengthened. The situation seemed unfavorable to a courageous decision by the NCCD, which could have had large effects on a public opinion manipulated by the main religious and political actors interested in conferring a confessional character to religious education. Practically, at the time of his petition addressed the NCCD, Emil Moise also had to stand against the opinions of colleagues involved in several non-governmental organizations. The Buzau teacher explained his position as arising from his personal experience in school, which showed him the grave consequences of religious education as it is taught in Romania. The "dissidence" of Mr. Moise underscores the importance of addressing the issue of religious education, and the way in which it relates to the issue of religious icons, while giving priority to the actual circumstances in schools over the theoretical arguments.<sup>74</sup>

#### ***4.3 The decision of the National Council for Combating Discrimination from November 2006***

The Steering Committee of the NCCD, convened on November 21<sup>st</sup> 2006, ruled unanimously that the presence of (religious) icons in the public institutions constitutes discrimination according to Romanian law. Among the arguments of the Steering Committee is the notion that public education establishments must be “neutral” (excerpt from the Steering Committee). The State, through the creation of public education establishments, ensures the right to education and access to culture, as well as fulfills the requirement for organizing mandatory education. Neutrality requires the state to elaborate the curriculum in a way that conveys information about religions and science to the students *objectively and critically, and guarantees a pluralistic approach*. The state recognizes and finances confessional education and ensures the access to religious education in public schools in answer to the wish of the parents. But the unlimited and uncontrolled presence of religious symbols in public educational establishments can infringe upon the establishment principle and the freedom of conscience, leading to discriminatory effects. The unlimited and uncontrolled presence in public educational establishments of religious symbols like the religious icons amounts to an infringement on the principle of religious neutrality of the State. The Ministry of Education and Research, through

---

<sup>71</sup> Interview with S.E.

<sup>72</sup> Considers their presence lawful only in religion laboratories, or during orthodox religion classes.

<sup>73</sup> Emil Moise, “Church-State Relation in the Religious Education in Romanian Public Schools”, *Journal for Studies of Religion and Ideologies*, no. Spring 2004, vol. 3, no. 7, pp. 77-100.

<sup>74</sup> Interview 3: E.M.

omitting to provide regulations on this issue, does not fulfill its *positive obligation* to create a framework that ensures the defense of pluralism of beliefs.

Religious symbols should be displayed in public educational establishments only within areas assigned to the teaching of religion. *The lawful purpose* is to create and support public educational establishments that ensure the right to education and access to culture, as well as the requirement for organizing mandatory education.

The Steering Committee of the NCCD recommended that the Ministry of Education and Research drafts and implements, within a reasonable period of time, regulations regarding the presence of religious symbols in public educational establishments. The norms should ensure the equal right to education and access to culture; should respect the right of parents to ensure their children are educated according to their religious and philosophical views; should respect the non-religious, neutral character of the State and the autonomy of religious denominations; should ensure the freedom of religion, conscience and beliefs of all children equally; should display religious symbols only during religion classes or within areas assigned exclusively to the study of religion.

#### **4.4. Reactions to the NCCD decision**

The day of November 21<sup>st</sup> 2006, on which the NCCD decision was made public, was the beginning of a fervent public debate, with accusatory inflections that explain the „scandal of the religious icons” moniker.<sup>75</sup> The debate also took place at the institutional level. The Ministry for Education and Research announced the submission of the NCCD document for debate within the education commissions of the Romanian Parliament. On January 22<sup>nd</sup> 2006, the Education Commission of the Chamber of Deputies argued that the presence of religious symbols and icons in schools falls under the competence of local communities and parents. Hence, it recommended that the Ministry of Education and Research not make any decision supporting their removal from schools.

On November 23<sup>rd</sup> 2006, the Romanian Patriarchy expressed its concern over the NCCD decision, describing a possible measure to ban the presence of religious icons in schools as „a brutal and unjustified measure to restrict religious freedom” that „would lead to a discrimination of believers in Romania.”

Other religious denominations, although obviously concerned about the overwhelming presence of Orthodox icons, did not make public statements regarding this issue, with the exception of the Seventh-Day Adventist Church, which on November 30<sup>th</sup> 2006 publicly stated the following: „Religious symbols are a form of expression of belief and a statement of religious identity, with an important role in the education of children. [...] However [...], the use of religious symbols in public schools, while minority churches encounter difficulties in teaching religion, could amount to harming the religious feelings of students belonging to minority denominations and to discrimination. [...] the State and its institutions, including public schools, should not be involved in promoting and supporting the teachings and values of any particular religion or religious confession...”

Well-known civic personalities and leaders of NGOs who supported the idea of a petition regarding the discriminatory effect of the presence of religious icons expressed, in a press release, their support for the NCCD decision of November 21<sup>st</sup> 2006. A few days prior to the decision, on November 13<sup>th</sup> 2006, they had sent NCCD an open letter that argued their position in detail, to conclude: „The secular, neutral and equidistant character of public education in Romania should be guaranteed, and the right of religious denominations to educate their believers, in places of worship or confessional schools, according to the precepts of the cult should be recognized.”<sup>76</sup>

---

<sup>75</sup> The frequent use of this phrase can be checked using Google.

<sup>76</sup> Among the signatory NGOs are: Centrul Educația 2000+, Societatea Culturală Noesis, Asociația Pro Democrația, Asociația Jurnaliștilor Independenți din România, Centrul Român de Studii Globale, Centrul de Studii Internaționale, Asociația Culturală și Amicală Română de la Strasbourg, Asociația Hyde Park, Asociația D Media, Centrul pentru Jurnalism Independent, Centrul de Resurse Juridice, Miliția Spirituală, Agenția de Monitorizare a Presei, Solidaritatea pentru libertatea de conștiință, ACCEPT, Centrul Parteneriat pentru Egalitate, Liga Pro Europa. Also signing in their own name: Ion Bogdan Lefter, Liviu Andreescu, Mihaela Miroiu, Mircea Toma, Renate Weber, Ruxandra Costescu.

The stakes behind the presence of religious icons in public educational establishments in Romania lead to a relatively new phenomenon: the mobilization of NGOs closely linked to the Romanian Orthodox Church. They tried to hijack the „civic society” symbol traditionally promoted by democratic NGOs and to use it against liberal democracy. The Civic Media Association announced that, together with over 100 other NGOs, it appealed the NCCD decision in court.<sup>77</sup>

Public personalities also became involved. The public statements in favor of keeping religious icons in schools of several members of the Academy: Mariana Nicolesco, Constantin Bălăceanu Stolnici, Dinu C. Giurescu, Eugen Mihăescu, Florin Constantiniu, Augustin Buzura, Virgil Căndeă, Dan Berindei, were highly publicized.<sup>78</sup> Voices demanding a nondiscriminatory manner of using religious icons in the public arena were visibly numerically inferior.<sup>79</sup>

The scandal of religious icons was a front-page topic for the press for months after the NCCD decision. The vast majority of TV shows discussing the event and of newspaper and periodicals articles had a militant character. Not only nationalist-orthodox mass media, but also mass media previously categorized as pro-democratic, expressed its support for the presence of religious icons in schools.<sup>80</sup>

Following his endeavor, the teacher Emil Moise became the target of a public smear campaign. In Buzău he was harassed in various ways by his school's administration, the local school inspectorate and the Buzău and Vrancea Episcopate.<sup>81</sup>

#### **4.5. The Confrontation in the courts**

Court appeals against the November 21<sup>st</sup> 2006 decision of the NCCD Steering Committee have been submitted by the Ministry of Education and Research (MER) and by the Bucharest branch of the “Pro-Vita for the Born and Unborn” Association. On June 11<sup>th</sup> 2008, the High Court of Cassation and Justice (HCCJ) accepted the MER appeal. On May 22<sup>nd</sup> 2009, HCCJ, according to this precedent, also accepted the Pro-Vita Association appeal against the decision of the Bucharest Court of Appeals, who decided as follows: „[...] it is the protection of freedom of conscience of other person itself that is the foundation of the NCCD decision to recommend banning the display of religious icons in the public schools, institutions that are not only accessible to all, but, moreover (...) the students that do not share this belief are not in a position to choose to evade the presence and the message of this religious symbol.” Based on these arguments, the Bucharest Appellate Court found the NCCD decision to be entirely legal and thorough.<sup>82</sup> However, the decisions by the High Court of Cassation and Justice maintained the *status quo* of the presence of religious icons in public education establishments.<sup>83</sup>

In these circumstances, in February 2010, Emil Moise sent to the European Court of Human Rights a petition against the infringement, by the Romanian State, of the Protocol 2 of ECHR (right on education) and of Art. 9 of ECHR regarding the freedom of thought, conscience and religion. The issue of religious icons in Romanian schools thus became a European issue. On March 18<sup>th</sup> 2011, the Moise vs. Romania case suddenly increased its significance.

#### **4.6. The lesson of „Case of Lautsi” for the issue of religious icons in Romania**

The essence of the Grand Chamber's message in the Case of Lautsi vs. Italy is that the presence of religious passive symbols in public schools, when these don't affect the children's critical mind and are not associated with intolerant practices, is acceptable and within the margin of

<sup>77</sup> See: <http://www.salvati-icoanele.info/category/stiri/>.

<sup>78</sup> <http://stiri.kappa.ro/social/23-03-2007/consiliul-discriminarii-dat-in-judecata-in-urma-scandalul>.

<sup>79</sup> See Ion Bogdan Lefter, Renate Weber, Alina Mungiu-Pippidi, Smaranda Enache ș.a.

<sup>80</sup> Of interest is the involvement in the for-religious-icons-in-schools campaign of periodicals like *Revista 22*, *Ideii în Dialog*, *Dilema veche*.

<sup>81</sup> Interview 3: E.M.

<sup>82</sup> See Gabriel Andreescu, „The Bucharest Appellate Court on Freedom of Religion”, *NRDO* nr. 3, 2008, pp. 55-65.

<sup>83</sup> Unlike in Italy, there is no law requiring the display of symbols of the religion of the majority in schools.

appreciation of the state. Obviously, the meaning of the ECtHR decision is not one of support for the religious life, and even less one of lowering standards of fundamental rights and freedoms in the face of religious pressure.

However, Churches are certain to use the ECtHR judgement as an opportunity to legitimize an increase of their role within the state. The Grand Chamber decision could have extensive consequences on the presence of religious symbols and religious actors in the public space. Therefore, a clarification of the boundary between what is acceptable and what is not acceptable in the use of religious symbols and practices in public schools is necessary.

The new context considerably raises the stakes of „the case of Moise”. Giving intolerant Churches authority over students within public education institutions affects the European Convention aspiration „of the foundation of justice and peace”.<sup>84</sup> The stake in this case is to recall the European Convention guarantees when the state supports religious actors unfriendly towards human rights and the rights of the child.

#### 4.7. Final comments

##### *Religious icons on the schools walls are not “passive symbols”*

(Religious) icons are routinely used in Romanian public schools as elements of religious services and other religious ceremonies. These kinds of events are organized on the first day of the academic year, and on other occasions as well. There are cases when project applications for European funds are blessed by the religious-education teachers before submitting it. Teachers of religion roam around the school several times every year carrying a religious icon and sprinkling around holy water. Students, teaching staff, members of the administration are asked to kiss the icon during the procession. In this context the presence of (religious) icons is not comparable to that of crucifixes (see the Grand Chamber argument at §72), since “an icon on a wall is contrary to the nature of a passive symbol” and “it is strongly deemed to have an influence on pupils as much as didactic speeches or participation in religious activities.”

Here is a testimony about an academic year opening ceremony showing the close connection between the presence of religious symbols and religious militancy in schools:

His Holiness Archbishop Casian, the Bishop of the Lower Danube, was invited to the school opening service. After having blessed the school and the pupils attending it, after having displayed religious symbols, he held a discourse on the evil nature of religious sects, on the serious harm that they do to a religious society, and on their unfortunate impact on children so easily swayed. For approximately 30 minutes, students waiting to enter their classroom had to be present during the Bishop’s monologue, without being able to object or go away, since they were supposed to enter their classrooms accompanied by their teachers.<sup>85</sup>

A teacher of history and civics in the county of Braila was forced to resign and quit the locality after his refusal to kiss an Orthodox icon at an academic year opening ceremony. Pressures were exerted on the teacher, who identified himself as an Evangelical, through the school and through the family hosting him as well. Kissing the icon would have represented an act against the values and practices of the teacher’s own religion.

These are random examples. Using (religious) icons in schools or other circumstances with the purpose of orthodoxizing the educational environment is common practice all over the country.

##### *Icons, part of an intolerant Orthodox religious education*

---

<sup>84</sup> The European Convention on Human Rights, “Preamble”.

<sup>85</sup> Interview 3: the opening ceremony was taking place in a school in the county of Galati.

Investigations proved an undeniable connection between racial and ethnic stereotyping and Orthodox religious education. Religion teachers blame Jews for “having eventually turned their backs on Christ”, for having left the ranks of the “truly faithful”. The Orthodox faith has the “truth”, unlike the Jewish faith, which “does not know the truth”. In invoking the Apocalypse, some religion teachers argued that “during the final days, the Jews will atone for their mistakes and will return to the true faith, to Christianity, and this will signal the end of the world.”

The Religion teachers’ opinion of Hungarians was expressed as follows<sup>86</sup>:

I had a colleague in the army who was a Hungarian, suffering from imaginary wounds. They’re like this, always thinking they are underprivileged in our country and asking for a lot of rights, but in fact they’re the chauvinistic ones ... because they don’t have such rights in their country, they never give them to their own minorities...

As for the gypsies and their religious beliefs,

They’re afraid of curses and are superstitious, many of them say they work spells, but in fact what they’re doing is they play tricks. They ask you for your wedding ring for some spell and then they give it back to you and within a few days you realize it’s not real gold anymore and they’ve changed it. However, there are some gypsy women who work real spells ... but they’ve sold their souls to the devil. You may not believe me, but I have heard of cases and I know how dangerous these women are; so you should be cautious about them.

Gypsies are in general regarded as criminals.

On the other hand, we should also speak up and say openly that most of the gypsies are criminals; they break in, panhandle, rape, traffic in persons, or they practice robbery outside the country. Who do you think spoiled our image abroad? And then how can you look at a man who harmed you and who made people outside the country look at you suspiciously?

[...]

Roma are difficult to educate ... you cannot trust them ... they’re insolent and therefore one must occasionally set them straight.

The intolerance of the religious education in Romanian schools also takes the form of punishment of students who show their respect for scientific ideas. A student received a warning for asking his Religion teacher which theory was the true one: the theory of evolution, that he was taught in Biology, or creationism, that he was taught in the teacher’s class. In the end the Religion teacher told the student he would meet with trouble in his subject, and that turned out to be the case.<sup>87</sup>

#### *Religious education, icons and children’s trauma*

Facts that point to the use of threats and aggression towards children by teachers of Religion, so that the children pay attention to or wear orthodox religious symbols, are particularly serious. In one case,<sup>88</sup> students were told that, “unless you come to school with a little cross around your necks, the devil will come out and bad things will happen to you”.

The mother of a first-grade student complained that her daughter would wake up at night crying. The reason was that her Religion teacher had drawn the devil on the blackboard. Another mother had to take her daughter to the psychologist as a result of one of the stories told by the teacher during a religious education class.<sup>89</sup>

---

<sup>86</sup> See Solidarity for the Freedom of Conscience investigations.

<sup>87</sup> Interview 4: S.Ş.

<sup>88</sup> The Fine Arts High School: interview 3.

<sup>89</sup> Primary and Lower-Secondary School no. 1.

In the same school, during religion classes at primary education level, a Religion teacher told his students that “on your right shoulder you’re carrying a little angel, and a devil on the left. So pay attention to how you make the sign of the cross. If you start with the left, you’re praying to the devil.” Children in the first forms were also told that “if you enter an Adventist church, you’ll be run over by a tractor.” A prayer house of the Seventh Day Adventists is located in the immediate neighborhood of the school.

In one high school,<sup>90</sup> a teacher told his students during religious education classes that some of the non-Orthodox religious groups are “sects”.<sup>91</sup> For instance: Adventists are “a group of unbelievers who separated from the Church on the basis of mistaken teachings.”

The places of worship of other minority groups are identified as a danger to those entering them, and the religious groups in question as anti-Orthodox enemies, as in the following cases: “Adventists speak ill of the Orthodox Church ... to them the church is run by the devil and the only shelter is their home.”<sup>92</sup> Or: “The Jehovah’s Witnesses are one of the most dangerous sects ... and a form of religious fanaticism...”<sup>93</sup> The same Religion teacher urged her pupils not to talk to members of the “Witnesses’ sect” and under no circumstances let them enter their homes. In the same school a Religion teacher told the children that God only loves the Orthodox.

#### *Religious education: optional by law, compulsory in practice*

The fact that religious education has a confessional nature is a facet of the Romanian case. Hence, religious icons highlight an essentially confessional meaning. On the other hand, according to ECtHR jurisprudence, confessional religious education can only be optional. But the Orthodox educational system is compulsory in practice, forcing the students to relate to (religious) icons in a religious manner. Also, religious symbols cannot be passive because their presence in schools happens in the context of a transformation of the informative religious education into a confessional one, and the optional confessional religious education into a compulsory one.

The academic year opening ceremony is usually performed, on the first day of school, during the times normally allocated to regular classes. This schedule is obligatory for everybody, including students, who are not asked about their opinions on participating in the religious events organized by the school.

The above situation gives rise to a specific concern in Transylvania, where an important religious diversity exists. As a human rights activist states: “At the beginning of the 2000s, campaigns that announced triumphantly the inauguration of orthodox chapels, which was happening within multi-confessional environments, had started. At the same time, parents came to the Human Rights Office of the Pro Europa League to explain that they did not wish a religious education for their children. The campaign indicated the development of a new front in the area of discrimination.”<sup>94</sup>

Solidarity for the Freedom of Conscience investigations in a number of schools and high schools in the county of Buzau found that approximately 9 out of 10 of the interviewed students do not know that the subject Religion is an elective and that they may pass the academic year without choosing another subject instead.<sup>95</sup> Neither are teachers aware of the provisions of the Education Act and other norms in this respect.

Local inspectorates promote this idea of the “compulsory religious classes”. In an article concerning religious education in Romanian public schools, the author, a School Inspector for Religious Education, states that religious education as “not an elective, but obligatory”.<sup>96</sup>

Education teachers who are also priests ask their students to speak in class about the sermons delivered in one of the Orthodox churches on the previous Sundays.<sup>97</sup> There are cases when priests

---

<sup>90</sup> The Contactoare Industrial High School, Buzau.

<sup>91</sup> Even in the case of religious groups which are in fact acknowledged by the Romanian state.

<sup>92</sup> Contactoare Industrial High.

<sup>93</sup> Fine Arts High.

<sup>94</sup> Interview 2: S.E.

<sup>95</sup> Interview 3: E.M.

<sup>96</sup> The article was published in the magazine *Glasul adevarului*, no. 140/2005.

declared on the occasion of the academic year opening ceremony, that all school days should start and end with a religious prayer.

Students are often pressured to go to church, especially in rural areas. Students are graded low in Religion if they miss the Sunday service.<sup>98</sup> In one school the teacher forced children, on penalty of being considered truant, to go the Orthodox service in a local church during the religious education class.<sup>99</sup> In some cases, children are forced to purchase candles.<sup>100</sup> In the school in Joseni, the teacher-priest punished a 4<sup>th</sup> form student by keeping him standing throughout the 50-minute class, with the others watching, simply because around Easter he had watched a movie shown in the locality by members of an Evangelical group.<sup>101</sup>

Some teachers asked their students to say the Lord's Prayer in order to earn a grade in a discipline different from Religion.<sup>102</sup>

There is a real difficulty for parents to oppose the pressure of the school administration when their children are enrolled in religious education against their will. This is valid particularly in overwhelming orthodox environments, with regard to non-orthodox believers. Parents have a psychological difficulty to get knowledge about the true rules, and care to not harm their children when fighting for their religious rights.<sup>103</sup>

We stress all these empirical details because they point out important differences between the „crucifixes case” and the „(religious) icons case”. The examples given above are signs that religion can become a matter of judging educational performance - dividing children, creating prejudice among them – in spite of being isolated cases. The complaint sent to ECtHR by high-school teacher Emil Moise regarding the presence of religious icons in educational institutions in Romania could lead, given the difference in circumstances, to a different decision by the European Court of Human Rights. It could be even said that the stakes on the issue of the presence of religious symbols in public educational institutions moved from the „case of Lautsi” to the „case of Moise”. The main points of difference between the two cases are the following:

- (a) The Romanian State, in exercising its functions with regard to education and teaching, infringes on the duty of an objective, critical and pluralistic manner, and touches the critical mind particularly with regard to religion;
- (b) Religious education, which is optional by law, proves to be compulsory in practice;
- (c) Icons are not “passive religious symbols”, but play a central role as part of the religious education which is meant to pursue the aim of the Orthodoxy indoctrination. This implies:
  - (i) The large system of rights stated by law concerning other religious denominations from Romania does not limit the hate speech against them;
  - (ii) During Orthodox religious classes, teachers express intolerant opinions about people who believe in other religions;
  - (iii) Religious classes in which icons have a central symbolical role are a source of children's trauma.

Under these circumstances, “the case of Moise” becomes a theme of considerable significance for the interpretation of the European Convention guarantees.

The reactions to the decision by which the NCCD required the removal of religious icons from public schools, with the exception of religion classes and laboratories assigned to that subject, is representative for the high level and wide spread of religious intolerance in the Romanian public

(Contd.) —————

<sup>97</sup> Schools and high schools in the county of Buzau: Plescoi, Cindesti, Costin Nenitescu and GSI Bercea schools.

<sup>98</sup> See Mihaela Jigau, ed., *Invatamintul rural din Romania: conditii, probleme si strategii de dezvoltare*, Bucharest: MarLink, 2002, p. 114.

<sup>99</sup> A school in the city of Buzau: interview 3.

<sup>100</sup> See the commune of in Candesti/Buzau: interview 3.

<sup>101</sup> Interview 3: this statement of the pupil was corroborated by his class mates.

<sup>102</sup> Interview 3: the case at the Hasdeu National College.

<sup>103</sup> Interview 5.

space. The long list of public figures and institutions that had criticized Moise's initiative is not the only noticeable thing, but especially the aggressivity of the negative opinions, and the language used. Mr. Moise had felt discriminated against and had done the normal thing of addressing himself to the institution responsible for offering him justice. The following is however the terms in which his initiative was judged.

One of the leaders of the Romanian Orthodox Church (ROC), Mitropolitul Clujului, Bartolomeu Anania, called Emil Moise and his supporters "an aggressive minority", "atheist zealots" that intend to "remove religion from public education". Many priests followed his "example" on national and local televisions by using invectives against Emil Moise.

One of the active members of the Academy, the historian Virgil Căndea, purported that the whole story is built on a basis of confusion on the side of people without a basic religious education, unaware of the fundamental religious components of human life: "I think however there is another thing also. There exists a conviction of the smatterer according to which an antireligious attitude is a sign of intellectual eminence. It is one of the stupid person proud that he has a personal opinion, and that is that he is an atheist. He has the gall to blaspheme, to strike at certain holy things. This is what gives the stupid person a feeling of being a man of quality. You can realize what kind of people we are talking about/they are by their excessive reactions. The miserable that slides into an exaggeration of this type feels that there is something to him."

Another member of the Academy, Constantin Balaceanu Stolnici, called Emil Moise and the supporters of removing religious icons from schools "enemies from the inside and the outside of the country, committed against our faith, our parents, grandparents and forefathers".

Public intellectuals joined the members of the Academy. The president of the Romanian Cultural Institute derided Moise, describing him as an „untreatable militant, an agitated activist, a meticulous grumpy person and a well-organized maniac. He finds intolerable violations of one principle where ordinary people see, maybe, deficiencies of cohabitation." In the same logic and style, the director of the Dilema veche magazine asserts that Mr. Moise has "a juvenile arrogance". The magazine *Ideii în dialog* and the weekly *22* gathered criticisms of the same nature.

Populist politicians burst forth against Emil Moise. The party leader Gigi Becali insulted the teacher determinedly in the electronic and written press. Well known television shows, like "Nasul", have been directed to demonize the teacher who had the "courage" to question the preponderance of some religious symbols in public schools.

The "Moise Case" led to the solidarity of highly diverse human and professional categories: leaders of ROC, members of the Academy, public intellectuals, opinion leaders, NGOs, the press, members of various denominations. The attitude and the language, converging, showed that what was bridging their differences was a pronounced religious intolerance.

## 5. Concluding Remarks

The two case studies presented focused on analyzing challenges of existent practices, rather than national traditions, because a customary practice reaches a widespread national dimension perchance by negligence and perpetuating old ways and lack of clear policy rather than by implementing coherent traditional values and national policy discourse thereof.

So far, the cases analyzed show that the policy discourse and the public discourse are significantly divided on the issue of segregation of Roma children in school. The debate has been ongoing, fluctuating up and down on the public agenda, however it had never reached so high up on the agenda as it did when a Romanian Court of Appeal decided on penalizing a primary school teacher with a 10,000 Euro fine for not allowing a Roma child to attend her class. While the policy discourse was building around ensuring the right to education of the child, the public discourse was biased towards the teacher's position. However, it never reached the status of a consolidated public policy. Therefore the first case, *The civil rights movement that never happened: The "racist teacher" and Roma segregation in Romanian schools (Alleged Discrimination against Roma)*, analyzed how the



situation mentioned above concerning a Roma child influenced the public agenda, even though there was no evidence in the end that the teacher was discriminating on grounds of ethnicity.

Roma activist groups are still reporting cases of Roma children who are still denied enrollment in mainstream schools. These cases have not reached the agenda and have not been addressed before in any way in the national policy discourse. They rather had the constructed effect of a novelty. The case analyzed has had the effect of a break in the wall, and showed that what is registered as discrimination can and will be sanctioned as such, creating the effect of uninviting the perpetrators of long established practices, and challenging them, rather than perpetrating the status quo, into re-examining their well-established ways. Whether this challenge will be taken further, to building a solid policy discourse, remains to be seen.

The second case, *On the right to an education environment that is free of religious symbols*, is relevant for public policies regarding the display of religious symbols in the classrooms. The debate on the public display of religious symbols in schools was pushed up on the agenda in 2006, when a high school philosophy professor accused his employer of breaching the rights of the non-orthodox students by hanging on the walls representations of Christian figures.

While in the first case study presented the reference is made to an unfortunate practice that got out of hand especially because of the lack of vision, policy and national standards, the second case examines a challenge to a newly founded national tradition. Despite the presumed separation between state and church, the main discourse has been in favor of the state's actions to support the Romanian Orthodox Church, by virtue of the absolute Orthodox majority of the Romanian population and the public function that the Church is thought to fulfill. Even though the debate on teaching religion in schools had been ongoing since it became a mandatory subject in January 1990, talking about displays of Christian representations in school seemed a rather contentious topic for debate. However, in 2006 Mr. Emil Moise, a philosophy professor filed a complaint with the National Council for Combating Discrimination (CNCD) claiming that paintings of Christian figures that hanged on the school's walls were a breach of the non-orthodox students' right to free choice of confession and impeded the free development of the spirit of the rest of the students. By analyzing this case, it became clear that there is a newly established tradition pushed to the public agenda by representatives of the Orthodox Church to great success, and that the state policy supports the promotion of Orthodox values in schools to the detriment of other confessions.

While the first case proves useful because it shows that a court decision might have the effect of stimulating and even forcing the birth of public policy and national standards where unfortunate practices are being comfortably perpetuated, the second one shows that carefully built policy and tradition could be deconstructed if infringing on the duty of an objective, critical and pluralistic education system.

The research conclusions were that the institution in charge of assuring a non-discriminatory environment for ethnical or religious variety/differences – the National Council for Combating Discrimination – is efficient and capable of discerning and taking the right decisions. It correctly concluded that the Roma child was not discriminated against (as the researcher had the opportunity to discover during the field work) and that religious icons have a place in religion laboratories, not in everyday school life. What made a difference were the public opinion and their reaction and lobby with other state institution.

Furthermore, the research revealed that in Mehedinti county, where the alleged Roma segregation in school had taken place, the Roma children were encouraged to come to school, without being separated from the Romanian children. This happened especially in villages where teachers were in the position of losing their job if their classes hadn't reached a certain number of pupils.

Therefore, there are many cases of schools that function in a multiethnic environment without discriminating against minorities. There is no need for new legislative proposals (the law is very clear and comprehensive) but the recommendation is to popularize best practices and implement them in other schools across the country.

As regards to religious education and the presence of religious icons in schools, the law is also clear: religious diversity is accepted and pupils can study their own denomination, or not study at all religion after primary school. But the research found cases of intolerance towards religious diversity in

schools (in some parts of Romania these are isolated cases, but in other parts they can be encountered more often – only a more detailed research devoted to this issue could be able to determine the real situation). One can consider that the presence of religious icons in classrooms is a sign of disrespect towards non-Orthodox pupils and that the public mobilization against the CNCD decision was preaching for minimal tolerance of religious minorities. But in fact, the situation is much more nuanced and the real issue at stake is the teaching of religion (compulsory in primary school) versus teaching the history of religions. The same moral values can be passed on in an abstract way, without the involvement of Religion as a school subject. The general recommendation is the separation of state and church, and more particular, replacing in the school curriculum the Religion discipline with History of Religions.

## References

- Achim, V., 1998. *Țigani în istoria României* [Gypsies in the History of Romania]. Bucharest: Editura Enciclopedica.
- Andreescu, G., 2008. *The Bucharest Appellate Court on Freedom of Religion*, NRDO nr. 3.
- Cahn, C., and Petrova, D. 2004. *Stigmata. Segregated Schooling of Roma in Central and Eastern Europe*, Budapest: European Roma Rights Center (ERRC).
- Duminică, G., Ivăsiuc, A., 2010. O școală pentru toți? Accesul copiilor romi la o educație de calitate [A school for all? Roma children's access to quality education]. București: Vanemonde.
- Jigau, M., 2002. *Invatamintul rural din Romania: conditii, probleme si strategii de dezvoltare* [Rural Education in Romania: conditions, problems and development strategies], Bucharest: MarLink.
- Moise, E., 2004. *Church-State Relation in the Religious Education in Romanian Public Schools*, Journal for Studies of Religion and Ideologies, no. Spring 2004, vol. 3, no. 7.
- Păunescu B. and Bobîrscu B., 2010. *Fenomenul discriminării în România. Raport sintetic* [Discrimination in Romania. Summary Report] București: Consiliul Național pentru Combaterea Discriminării, 2010
- Preda, M., 2002. *Estimarea numărului de romi din România în anul 1998* [The Estimation of the Number of Roma in Romania in 1998], in Cătălin Zamfir and Marian Preda, eds., *Romii în România* [The Roma in Romania], București: Expert.
- Surdu, M., 2002. *Educația școlară a populației de romi* [School education of Roma population], in Cătălin Zamfir and Marian Preda, eds., *Romii în România* [The Roma in Romania], București: Expert.
- Surdu, M. and Szira, J., 2009. *Analysis of the Impact of Affirmative Action for Roma in High Schools, Vocational Schools and Universities*. Working Paper No. 3, Roma Education Fund, GALLUP.
- Zamfir C. and Zamfir E., 1993. *Țigani între ignorare și îngrijorare* [Gypsies between ignorance and concern]. București: Alternative.

### Institutional reports and official acts:

- Appeal Court Craiova, file 8011/101/2009, Decision nr. 706/19th of May 2010
- The European Convention on Human Rights
- Mehedinti Court, file 2088/313/2007, Decision nr. 210/A, 1st of June 2009.
- Open Society Institute, 2007. *Equal Access to Quality Education for Roma*. Romania. From Vol. 1: Bulgaria, Hungary, Romania, Serbia. Budapest: Monitoring Reports in Open Society Institute/EU Monitoring and Advocacy Program
- Romanian Constitution
- Romanian Government Ordinance nr. 137/2000 on Prevention and Combating of all forms of Discrimination

Romanian Ministry of Education, Research, Youth and Sports, Ordinance nr. 1540/19.07.2007 on the Prohibition of School Segregation of Roma Children and Approval of the Methodology for the Prevention and Elimination of School Segregation of Roma Children.

Romanian Penal Code

Strehaia Court, file 2088/313/2007, Decision nr. 143, 29th of January 2009

**Websites:**

2002 Romanian Census, <http://recensamant.referinte.transindex.ro/>

The Ethnocultural Diversity Resource Center, <http://www.edrc.ro>

Pro Europa League, [http://www.proeuropa.ro/norme\\_si\\_practici.html](http://www.proeuropa.ro/norme_si_practici.html)

Mass-media websites:

<http://stiri.kappa.ro>

<http://ziarero.antena3.ro>

<http://www.adevarul.ro>

<http://www.antena3.ro>

<http://www.asinfo.ro>

<http://www.eubusiness.com>

<http://www.gds.ro>

<http://www.libertatea.ro>

<http://www.punkto.ro>

<http://www.salvati-icoanele.info/category/stiri>

<http://www.ziare.com>

## Annexes

### List of interviews

#### Case study 1

1. Iulian GOGONEA, male, journalist for “Adevarul” newspaper, 21.03.2011, Turnu Severin,
2. Violeta JOZSA, female, school Inspector in Mehedinti county, 23.03.2011
3. Gheorghe DANCIULESCU, male, Voloiac school director (2010-present), 23.03.2011
4. Valentin DRAGHICI, male, former director of Voloiac school, 24.03.2011
5. Gheorghita STOIAN, female, Ciurescu family's lawyer, 24.03.2011
6. Vasile GHEBAUER, male, Butoiesti school director, 25.03.2011
7. Pompiliu CIURESCU, the father of Rahela Ciurescu, 25.03.2011, Jugastru village
8. Rahela CIURESCU, female, the alleged discriminated child, 25.03.2011, Jugastru village

#### Case study 2

1. Smaranda ENACHE, female, leader of an organization involved in research on the issue of religious education, 5.02.2011, Tirgu Mures
2. Judit KACSO, female, mother of a primary school little girl studying in a community with various denominations, 5.02.2011, Tirgu Mures
3. Emil MOISE, male, the initiator of the debate on the presence of religious icons in public schools, March 2011, Buzau
4. An anonymous student who had requested to not attend religious education classes, March 2011, Buzau
5. An anonymous adventist parent, March 2011, Buzau

#### Interview guide for case studies

1. The problem
  - (a) Who is the interviewee? For how long has he or she held the respective position?

#### Only for school officials :

2. How many pupils study in this school? Approximately, how many of them are of a different ethnicity / religion than the Romanian / Christian Orthodox?
  - (b) What was the link with the unfolding of the events in the case? What role did it have?
  - (c) How would he or she best describe the events? What happened from his/hers point of view?
  - (d) At this point, does he or she consider the conflict resolved? Are there any issues left unsolved? Which ones and why?

#### 3. Positioning on the events

- (a) How does he/she evaluate the solution to this case? Was it a fair one, from his/hers point of view? Why?
- (b) Who was wrong in this conflict? Why?
- (c) The measures that were taken are appropriate? If they could change the solution to the conflict, what would have been theirs? How they assess the public authorities' position in this case?

#### 4. Values

- (a) What values does the interviewee think prevail in solving this conflict? What is the first thing that the other involved actors should have taken into account when taking decisions regarding their actions in the case?

- (b) In his/hers opinion, which values should be promoted by the school? Is ethnic/religious tolerance one of them?
- (c) Who should determine these values and based on which criteria?
- (d) How should these values have been taken into account in solving the conflict?

5. Attitude towards tolerance

- (a) What does he/she understand by being "tolerant" towards someone or something? What does he/she understand by being tolerant towards an ethnic or religious minority?
- (b) What is his/hers opinion on promoting cultural diversity in schools? Is it a good thing? Should school promote ethnic/religious diversity?
- (c) Do you have children? If yes, then do they have colleagues of different ethnicity or religion? Do you think being friends with a Roma child or a child of a different religion is a good thing? Why? What attitude do you think other parents should have? What is the school policy towards cultural diversity?

6. School politics

- (a) What should the school do if it ever comes down to a similar situation? What about the What about the inspectorate?
- (b) Do you believe this school is treating children of a different ethnicity or religion differently?
- (c) According to your knowledge, does this school have a program which promotes cultural diversity?



