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**AD HOC COMMITTEE OF EXPERTS ON ROMA<sup>1</sup> ISSUES  
(CAHROM)**

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**THEMATIC REPORT**

**by the experts of the CAHROM thematic group on**

**CHILD/EARLY AND FORCED MARRIAGES WITHIN ROMA COMMUNITIES  
IN THE CONTEXT OF THE PROMOTION OF GENDER EQUALITY**

**following the CAHROM thematic visit to Bucharest, Romania, on 27-29 April 2015**

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<sup>1</sup> The term "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as "Gypsies".

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**ADDENDUM**

Country experts' presentations by country experts and Romanian authorities and background material

## I. INTRODUCTION TO THE THEMATIC REPORT

### 1.1 Background information about the setting-up of the thematic group

Addressing the topic of early marriage within Roma communities has long been a taboo. As an example, Recommendation Rec(2006)10 of the Committee of Ministers to member States on better access to health care for Roma and Travellers in Europe<sup>2</sup> which had been prepared with a strong involvement of Roma and Traveller women did not address it, although the Recommendation has a specific chapter on sexual and reproductive health which states: “Governments of member states should pay particular attention to the health situation of Roma and Traveller women, by ensuring comprehensive sexual and reproductive health (SRH) services and information, particularly family planning. Such services should also be made accessible for Roma and Travellers adolescent and adult men”.

One of the first attempts to address early marriage within Roma communities in an international context was when this topic was chosen by Roma women as one the main issues to be on the agenda of the 2<sup>nd</sup> International Romani Women’s Conference held in Athens, Greece, in February 2010. One of the posters of this conference illustrated the topic with the title “*Ban on early marriages, let the girls grow*”.

The Ad hoc Committee of Experts on Roma Issues (CAHROM) meeting at its 5<sup>th</sup> meeting on 14-16 May 2013 agreed to address the issue of early and/or forced marriage, as well as its relation to human trafficking. This was followed-up by a questionnaire addressed to CAHROM members<sup>3</sup> and exchanges of views with the Secretariat of the Group of Experts on Action against Trafficking in Human Beings (GRETA). In the context of the CAHROM discussion on trafficking within Roma communities and its links to child marriage, the European Roma and Travellers Forum (ERTF) and the Informal Platform of Romani Women “Phenjalipe” (Sisterhood) presented a joint paper “*Making early marriage in Roma communities a global concern*” at the 7<sup>th</sup> CAHROM meeting in Strasbourg on 14-16 May 2014<sup>4</sup>.

The initial proposal for setting-up a CAHROM thematic group on addressing and combating early and/or forced marriages within Roma communities was put forward by Romania (as a requesting country) during this 7<sup>th</sup> CAHROM meeting in May 2014 (see Appendix 1 for the official invitation). Italy, the Republic of Moldova, the Netherlands and Poland expressed immediate interest to be partner countries. The United Kingdom confirmed its interest to be a partner country at the 8<sup>th</sup> CAHROM meeting in Sarajevo (28-31 October 2015) when this thematic group was reconfirmed and scheduled for spring 2015.

At the request of Romania during the Sarajevo CAHROM meeting, the title of the thematic group/visit was broadened to *gender equality* education within Roma communities *with a focus on* early and/or forced marriages so as to address the topics from a wider perspective and to link it to gender equality in general.

On 1-2 April 2015 a preparatory meeting for the CAHROM thematic visit took place in Bucharest, Romania. This meeting was attended by Roma representatives, academics and activists, as well as by the two Romanian experts of the thematic group and Ms Isabela Mihalache from the Support Team of the Special Representative of the Secretary General for Roma issues. The meeting helped clarifying the purpose of the CAHROM thematic visit and identifying the main challenges around it in Romania. A list of recommendations was adopted by participants and presented by Ms Panait during the round table of the thematic visit on 28 April 2015. A report on the early and forced marriages within Romanian Roma communities was written by Mr Eugen Crai and served as background for the thematic visit.

<sup>2</sup> See paragraph 3.c of CM/Rec(2006)10 at:

<https://wcd.coe.int/ViewDoc.jsp?id=1019695&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>

<sup>3</sup> See CAHROM (2015)12 for the latest updated compilation of replies received from Croatia, Cyprus, Italy, the Netherlands, Norway, Poland, Spain, “the former Yugoslav Republic of Macedonia” and the United Kingdom.

<sup>4</sup> See the September 2014 updated version of this paper at: <http://www.ertf.org/index.php/documents/reports-position-papers>.

## 1.2 Composition of the thematic group of experts

The Romanian experts of the thematic group included Ms Gabriela Jeni Panait, Councillor on Roma issues to Mr Codrin Scutaru, then State Secretary in the Family Policies and Social Assistance Directorate of the Ministry of Labour, Family, Social Protection and Elderly, who had initially put forward the proposal of such a thematic group in CAHROM, as well as Mr Eugen Crai, who has been working as an independent expert *inter alia* for UNICEF-Romania. Both of them took part in the April preparatory meeting.

The background of the five partner countries' experts was wide enough to address the issue of early and/or forced marriages from various angles: Ms Maja Bova from the Italian National Office against Racial Discrimination (UNAR) approached the issue from the non-discrimination and gender equality perspectives; Ms Wiesława Kostrzewa-Zorbas working as Counsellor to the Head of the Chancellery of the Prime Minister in the Office of the Government Plenipotentiary for Equal Treatment did so from the angle of equal opportunities and equal treatment; Mr Ion Duminiță, Head of Ethnic Minorities Unit of the Academy of Science of the Republic of Moldova and Executive Director of the "Porojan" Association addressed the issue of intra-community relations and the Roma women and girls' perspective, whilst Ms Anuschka Veneman, Police officer at the Oost-Nederland Unit of the Dutch National Police brought the aspects of the role of law enforcement bodies in ensuring the protection of Roma teenagers, girls in particular, into the debate. Finally, Ms Sophie Lott, Specialist Case Worker/Designated Safeguarding Officer in the Forced Marriage Unit under the Foreign and Commonwealth Office of the United Kingdom brought the concrete experience of a specialised governmental body dedicated to forced marriages.

The diverse composition of the thematic group of experts proved to be quite relevant for addressing the topic from various perspectives during the discussions, although the diverse background of the experts did not facilitate an easy and equal country-based comparative analysis of the situation, policies and measures.

## 1.3 Agenda of the thematic visit

The agenda (see Appendix 2 of this report) prepared by the Family Policies and Social Assistance Directorate of the Ministry of Labour, Family, Social Protection and Elderly included during the first day a series of bilateral meetings with high level officials from key sectors, i.e. Mr Codrin Scutaru, then State Secretary in the Ministry of Labour, Family, Social Protection and Elderly who opened the visit; Ms Ioana Cazacu, State Secretary in the Department for Equal Opportunities between Women and Men; Mr Alin Tucmeanu, State Secretary in the Ministry of Health; Mr András György Király, State Secretary in the Ministry of Education; and Mr Daniel Vasile, President of the National Agency for Roma.

The second day was devoted to a round table discussion hosted by the Ministry of Foreign Affairs in which took part *inter alia* Ms Dana Varga, State Adviser in the Prime Minister's Office, Mr Nicolae Păun, Deputy for the Roma minority in the Romanian Parliament, Mr Mădălin Voicu, Deputy in the Romanian Parliament, as well as Romanian experts from the Department for Equal Opportunities between Women and Men, from the National Authority for Protection Children's Rights and Adoption, from the Ministry of Health and the Ministry of Education. Representatives of municipal authorities, Roma mediators, Roma academics or activists and some embassies were also present at the round table, many of whom actively took part in the afternoon debate. Discussions were sometimes very emotional highlighting the sensitivity of the topic. Interesting debates took place during the round table between "defenders" of early marriages and those who were in favour of abandoning this practice among members of the Roma community.

The choice was made by the Romanian authorities not to organise any field visit to Roma communities having in mind the sensitivity of the topic. However, a valuable effort was made by the organisers to bring at the roundtable representatives of Roma associations - both conservative and modernist - as well as Roma women anthropologists and activists (including Delia Grigore and Nora Costache), community leaders and representatives of traditional Roma communities who shared their own experience.

## II. INTRODUCTION TO THE TOPICS OF CHILD/EARLY AND FORCED MARRIAGES IN THE CONTEXT OF THE PROMOTION OF GENDER EQUALITY

Although the topic in itself stirs controversies, a rational and balanced approach for the identification of realistic solutions for the prevention of early and/or forced marriages at community, regional, national and international levels, is the only approach that can aspire to be effective and efficient.

### 2.1 Definitions and approaches

With a view to approaching the topic of this report, the group of experts felt necessary to provide clarification as regards definitions of terms and concepts from the perspective of international standards and from the perspective of each respective national context. It also reflects the views of (traditional) Roma communities as regards certain concepts.

#### 2.1.1 At the international level

- *Gender equality*

In its Recommendation **CM/Rec(2007)17 on gender equality standards and mechanisms**<sup>5</sup>, the Council of Europe's Committee of Ministers recalls that gender equality is a principle of human rights and women's human rights are an inalienable, integral and indivisible part of universal human rights. Gender equality is also a requirement for the achievement of social justice and a *sine qua non* of democracy<sup>6</sup>.

- *Violence against women and domestic violence*

The Council of Europe has undertaken a series of initiatives to promote the protection of women against violence since the 1990s. In particular, these initiatives have resulted in the adoption, in 2002, of the Council of Europe Recommendation Rec(2002)5 of the **Committee of Ministers to member states on the protection of women against violence**. The Parliamentary Assembly has also taken a firm political stance against all forms of violence against women. It has adopted a number of resolutions and recommendations calling for legally-binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence. A Europe-wide campaign ran, from 2006-2008, to combat violence against women, including domestic violence. The campaign showed how much national responses to violence against women and domestic violence varied across Europe. The need for harmonised legal standards to ensure that victims benefit from the same level of protection everywhere in Europe was becoming apparent. The Council of Europe therefore decided it was necessary to set comprehensive standards to prevent and combat violence against women and domestic violence. In December 2008, the Committee of Ministers set up an expert group mandated to prepare a draft convention in this field. **The Convention on preventing and combating violence against women and domestic violence** (known as **the Istanbul Convention**) was adopted by the Council of Europe Committee of Ministers on 7 April 2011 and entered into force on 1 August 2014. Italy was among the first State Parties to this Convention. The Convention entered into force in Poland exactly one year later. The United Kingdom, the Netherlands and Romania have signed the Convention (on 8 June 2012, 14 November 2012 and 27 June 2014 respectively) but have not yet ratified this instrument. The Republic of Moldova has not even signed the Convention.

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<sup>5</sup> See CM/Rec(2007)17 at <https://wcd.coe.int/ViewDoc.jsp?id=1215219&Site=CM>. See also the **Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)** and its protocols, in particular **Protocol No. 12 to the ECHR** guarantees the enjoyment of any right set forth by law without discrimination on any ground such as sex. It is also worth recalling the rights set forth in the **revised European Social Charter** which must be secured without discrimination on any ground such as sex, and other instruments, such as the **Council of Europe Convention on Action against Trafficking in Human Beings**.

<sup>6</sup> In its **Declaration on equality of women and men adopted on 16 November 1988**, the Committee of Ministers of the Council of Europe had already affirmed that equality of women and men was a principle of human rights, and a *sine qua non* of democracy and an imperative of social justice.

The Istanbul Convention provides several definitions for the purpose of this particular Convention:

- a. **violence against women** is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
  - b. **domestic violence** shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;
  - c. **gender** shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;
  - d. **gender-based violence against women** shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.
- **Child**

The **1989 United Nations Convention on the Rights of the Child** defines a child as “*every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier*”.<sup>7</sup>

- **Child marriage (early marriage)**

**Resolution 1468(2005) of the Parliamentary Assembly of the Council of Europe on Forced marriages and child marriages** defines child marriage as “*the union of two persons at least one of whom is under 18 years of age*”<sup>8</sup>. In this Resolution, the Parliamentary Assembly of the Council of Europe shows its deep concern about the violations of human rights and the rights of the child which are constituted by forced marriages and child marriages and **draws attention on the fact that, under the cloak of respect for culture and traditions, there are authorities which tolerate forced marriages and child marriages, although they violate the fundamental rights of those involved.**

In most of the reports, notably those from the **United Nations Population Fund (UNFPA)**, which are covering child marriage in several South East European countries<sup>9</sup>, it is defined as the “*union of two persons, officially or unofficially, at least one of whom is under eighteen years of age*”.

“Early marriage” is commonly used in place of “child marriage”, for example in UNICEF documents<sup>10</sup>.

- *In the opinion of the experts of the thematic group, the appropriate term to designate this practice is “child marriage” instead of “early marriage”; the first expression reflects accurately the gravity of the facts, i.e. a child is the victim of this practice.*
- *The group of experts has therefore decided to use “child/early marriage” in this report and to rename the full thematic report as follows: “Thematic report on promoting gender equality within Roma communities with a focus on child/early and forced marriages/unions”.*

<sup>7</sup> See the definition of a child according to the UN Convention of the Rights of the Child, Article 1 at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. See also General Comment 4 of the Committee on the Rights of the Child: Adolescent Health and Development in the Context of the Convention on the Rights of the Child, 20, U.N. Doc. CRC/GC/2003/4 (2003); and General Recommendation 21 of the Committee on the Elimination of Discrimination against Women: Equality in Marriage and Family Relations, 36, U.N. Doc. HRI/ GEN/1/Rev.5 (2001).

<sup>8</sup> Council of Europe Parliamentary Assembly Resolution (2005)1468 on Forced marriages and child marriages, available at <http://www.refworld.org/docid/43f5d5184.html>.

<sup>9</sup> See for instance UNFPA report “Child marriage in Kosovo - Overview” from November 2012 at <http://eeeca.unfpa.org/sites/default/files/pub-pdf/unfpa%20kosovo%20overview.pdf>.

<sup>10</sup> The state of the World’s children 2006, page on early marriage: <http://www.unicef.org/sowc06/profiles/marriage.php>.

Although the **minimum legal age for marriage** varies across Europe (usually between 16 and 18), the **UN Committee on the Elimination of Discrimination against Women (CEDAW)** and the **UN Committee on the Rights of the Child (CRC)** recommend that governments set the minimum legal age for marriage to 18<sup>11</sup>. According to this standard, the results that follow consider all marriages between people below the age of 18 as early marriages.

- ***Forced marriage***

**Resolution 1468(2005) of the Parliamentary Assembly of the Council of Europe on Forced marriages and child marriages** defines forced marriage as “*the union of two persons at least one of whom has not given their full and free consent to the marriage. Since it infringes the fundamental human rights of the individual, forced marriage can in no way be justified*”.<sup>12</sup>

Forced marriage can therefore be defined by the lack of consent – either as decided by an adult woman or by virtue of her being under the age of the legal consent (usually 18 but may vary pending national legislation) in the decision to enter a marriage with a particular spouse. Several parameters can however vary from a country to another such as the age of legal consent, the age of sexual consent, the matrimonial age, family, etc.

➤ ***The group of experts considers that the key parameter to define forced marriage is the lack of free consent of the person. Not every child marriage is a forced marriage, unless a third party (usually an adult) is involved. When two young people get “married” or decide to be in an official or unofficial union, it does not have to be considered as a forced marriage or union.***

### ***2.1.2 At the domestic level***

A comparative summary analysis of the legal interpretation of these terms in each of the participating country of the thematic group was deemed necessary for the purpose of this thematic report:

- ***Age of sexual consent***

The age of sexual consent vary across Europe. The ages of consent are currently set between **14** and **18**. **The vast majority of European countries** set their ages in the range of **14** to **16**; only five countries do not fit into this pattern: Ireland (17), Cyprus (17), Malta (18), Turkey (18) and the Holy See (18).

In **Italy**, the age of sexual consent is **14**. A close-in-age exception allows those aged 13 to engage in sexual activity with partners who are less than 3 years older. The age of consent rises to 16 if one of the participants has some kind of influence on the other (e.g. teacher, tutor, adoptive parent, etc.). Not knowing that the victim is underage is not a legal defense, except when it was unavoidable ignorance. If the minor involved is under the age of 10, the crime can be punished even without a complaint and the punishment is aggravated.<sup>13</sup>

The age of sexual consent in **Poland** is **15**, as specified by the Polish Criminal Code, Article 200 § 1, which reads: “*Whoever subjects a minor under 15 years of age to sexual intercourse or makes him/her submit to another sexual act or to perform such an act shall be subject to the penalty of the deprivation of liberty for a term of between 2 and 12 years.*”

<sup>11</sup> “Protecting the girl child: Using the law to end child, early and forced marriage and related human rights violations”, Equality Now, January 2014, [http://www.equalitynow.org/sites/default/files/Protecting\\_the\\_Girl\\_Child.pdf](http://www.equalitynow.org/sites/default/files/Protecting_the_Girl_Child.pdf) .

<sup>12</sup> See PACE Resolution 1468(2005) at <http://www.refworld.org/docid/43f5d5184.html> .

<sup>13</sup> <http://www.diritto.it/codici/titolo/75-codice-penale-dei-delitti-contro-la-persona> .

The new Criminal Code of **Romania**, which came into force on 1 February 2014, sets a general age of sexual consent of **15**. However, sexual acts that do not include penetration may be performed from age **13**. There is also a close-in-age exemption: the sexual acts are not punished if the age difference between the partners is less than 3 years. The law sets several other restrictions in regard to children under 13. In addition, it is illegal for an adult to engage in acts of sexual penetration with an adolescent under 18, if the adult abuses the authority or influence they have over the child in order to gain the sexual access. The relevant articles of the Criminal Code are Art. 220, Art. 221 and Art. 222. All these laws are gender neutral and apply regardless of the sexual orientation of those involved.<sup>14</sup>

The age of consent in **the Netherlands** is **16**, as specified by the Dutch Criminal Code at Article 245<sup>15</sup> and Article 247<sup>16</sup> respectively:

"A person who, out of wedlock, with a person who has reached the age of twelve but has not reached sixteen, performs indecent acts comprising or including sexual penetration of the body is liable to a term of imprisonment of not more than eight years or a fine of the fifth category." (Art 245).

"A person who, with a person whom he knows to be unconscious or physically unable to resist or to be suffering from such a degree of mental defect or mental disease that he is incapable or not sufficiently capable of exercising or expressing his will in the matter or of offering resistance, performs indecent acts, or who, with a person who has not yet reached the age of sixteen (16) years, out of wedlock, performs indecent acts, or by whom the latter is enticed into performing, or submitting to such acts, out of wedlock, with a third party, is liable to a term of imprisonment of not more than six years or a fine of the fourth category." (Art 247).

Close-in-age exceptions (for consensual acts between adolescents close in age, within "social-ethical norms") are at the discretion of the prosecution. Acts such as a *ménage-à-trois*, or an unequal relationship, e.g. the perpetrator (17) was not in love while the victim (15) was, can also be considered outside "social-ethical norms".<sup>17</sup>

The age of consent in the **Republic of Moldova** is also **16**, per Article 174- "*Sexual intercourse with a person under 16*", and Article 175- "*Perverved Actions*"<sup>18</sup>. Article 174 reads as follows:

(1) *Sexual intercourse other than rape as well as any other acts of vaginal or anal penetration committed with a person certainly known to be under the age of 16 shall be punished by imprisonment for up to 5 years.*

(2) *The person who committed the act set forth in par. (1) shall not be subject to criminal liability if he/she is similar to the victim in terms of age and physical and mental development.*<sup>19</sup>

Articles 171 and 172 provide harsher penalties for Rape and Violent Sexual Actions (including physical or mental coercion) against juveniles.

In the **United Kingdom** the age of sexual consent is now **16** in all four jurisdictions (England, Wales, Scotland and Northern Ireland) but it used to be different and still exceptions may vary from one jurisdiction to another. The age of consent in **England and Wales** is **16** regardless of sexual orientation or gender, as specified by the Sexual Offences Act 2003<sup>20</sup>. However, if person A is over the age of 18 and is in a position of trust to person B who is under the age of 18, it is illegal for A to engage in sexual activity with B. Section 47 of the Sexual Offences Act 2003 makes it an offence to pay for or promise payment for

<sup>14</sup> <http://www.avocatura.com/11491-noul-cod-penal.html>

<sup>15</sup> <http://wetten.overheid.nl/cgi-bin/deeplink/law1/title=WETBOEK%20VAN%20STRAFRECHT/article=245/>.

<sup>16</sup> <http://wetten.overheid.nl/cgi-bin/deeplink/law1/title=WETBOEK%20VAN%20STRAFRECHT/article=247/>.

<sup>17</sup> <http://www.juridischkennisportaal.nl/wiki/strafrecht/ontucht-cq-feitelijke-aanranding/jurisprudentie-ontucht-leeftijdsverschil.htm>.

<sup>18</sup> See [Criminal Code of the Republic of Moldova \(2002, amended 2009\) \(English version\)](#).

<sup>19</sup> Art.174 in version of Law No. 277-XVI dated 18.12.2008, in force as of 24.05.2009.

<sup>20</sup> [Sexual Offences Act 2003](#).

sexual services of a person under 18 where the 'client' does not reasonably believe that person is over 18, or in any event for a person under 13. Since 1 December 2010, the age of sexual consent in **Scotland** is also **16**, regardless of sexual orientation or gender. Before that date, it was 16 for girls (under a statutory offence) and 14 for boys (the common law age of puberty). However, consensual sex with a girl aged between 13 and 16 is not rape, but a lesser offence; on 1 December 2010 this has been given the specific name of "having intercourse with an older child". The age of consent in **Northern Ireland** is **16**, regardless of sexual orientation or gender, as specified by the *Sexual Offences (Northern Ireland) Order 2008*. The reason the age of consent was lowered from 17 to 16 in the 2008 Order was to bring it in line with the rest of the United Kingdom.

- *Matrimonial age*<sup>21</sup>

In **Romania**, according to the new Romanian Civil Code which entered into effect on 1 October 2011, and Article 4 of the Romanian Family Code, the age for marriage is legally established at the age of **18 for both men and women**<sup>22</sup>. The second paragraph of Article 272 of the new Romanian Civil Code stipulates that for solid reasons, the minor who is already **16** years old can marry, on the basis of a medical certificate, with the approval of his/her parents, or of his/her legal guardian, if applicable, and with the authorization of the competent Guardianship Court or with the authorization of the general directorate for social assistance and child protection.

In 2007 the Law 288/2007 for the modification and completion of Law 4/1953 – Family Code<sup>23</sup> provided for the first time a common legal minimum age for marriage for both men and women, set to the age of 18. However, the amended Article 4 of the Family Code stipulated that for solid reasons, the minor who is already 16 years old can marry, on the basis of a medical notice, with the approval of his/her parents, or if case be, with the approval of his/her legal guardian and with the authorization of the competent County General Directorate for Social Assistance and Child Protection.

Until 2007, the minimum age for marriage in Romania was different for men and women: men could marry at the age of 18 and women could marry at the age of 16. For solid reasons the Local Council could approve, based on the notice from an “official physician”, the marriage also if the woman was already 15 years old.

In **Italy**, capacity to marry requires the age of **18 for both men and women**; in case of important reasons, an exception can be made by the juvenile court if the spouse has reached the age of 16<sup>24</sup>. From a strictly legal standpoint, minimum legal age for marriage in Italy is therefore **16** years old. In the Italian system, according to the Civil Code, an emancipated minor is whoever has attained the age of 16 - but not yet 18 -, and has been admitted by the juvenile court, to marry. In this case, upon application by the person concerned, the Court ascertains his/her mental and physical maturity and the validity of the reasons put forward in the instance after hearing the prosecutor, the parents or the guardian. The judicial decree can be challenged before the appellate court within a period of ten days from notice; but the court of appeal decision cannot be challenged before the Court of Cassation afterwards and the person concerned comes to emancipation. The emancipation occurs prior to marriage and remains valid even if the marriage contract is subsequently declared invalid.

<sup>21</sup> For an overview of social policy and family law: marriage, divorce and parenthood in Council of Europe member States, see [http://www.coe.int/t/dg3/familypolicy/Source/4\\_1\\_i%20Legislation%20on%20marriage.pdf](http://www.coe.int/t/dg3/familypolicy/Source/4_1_i%20Legislation%20on%20marriage.pdf).

<sup>22</sup> Article 272 (“Matrimonial Age”) paragraph 2 of the new Romanian Civil Code.

<sup>23</sup> *Legea 288/2007 pentru modificarea si completarea Legii 4/1953 – Codul Familiei*.

<sup>24</sup> Art. 84 par. 1 of the Italian Civil Code.

Also in **the Netherlands**, capacity to marry also begins at the age of **18 for both men and women**<sup>25</sup>. If the woman is pregnant, exceptions can be made if the spouses have reached the age of **16**<sup>26</sup> and have the consent of their parents<sup>27</sup>; where other important reasons are at stake, the Minister of Justice may grant an exemption from the age requirement<sup>28</sup>.

In **Poland**, capacity to marry requires the age of **18 for both men and women**<sup>29</sup>; the court dealing with matters relating to guardianship can make exceptions if the female spouse has reached the age of **16**<sup>30</sup>.

Article 14 of the Family Code of the **Republic of Moldova** provides for the minimum marriage of **18 years old for men and 16 for women**. For serious reasons a reduced marriage age for men, not more than with two years, may be admitted. Diminishing the marriage age should be permitted by a local public administrative authority in the residential area of the persons wishing to get married on the basis of their application and the agreement of teenager's parents.

In the **United Kingdom** (England, Wales and Scotland), capacity to marry requires the age of **16 for both men and women**. In England and Wales, minors need the consent of their parents.

- **Family**

**In Romania**, "family" is defined in the Constitution. Article 48 "Family" stipulates in paragraph 1 that "*the family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education and instruction of their children*", and in paragraph 2 that "*the terms for entering into marriage, dissolution and nullity of marriage shall be established by law. Religious wedding may be celebrated only after the civil marriage*"<sup>31</sup>.

- **Forced marriage**

In the **United Kingdom**, **early or child marriage is considered by law as a forced marriage**. The Forced Marriage Unit (FMU) under the Foreign and Commonwealth Office defines forced marriage as follows: *A forced marriage is where one or both people do not (or in case of people with learning disabilities, cannot) consent to the marriage and pressure or abuse is used*<sup>32</sup>. In other words, a forced marriage is a "a marriage conducted without the valid consent of one or both parties and where duress is a factor"<sup>33</sup>. Adults who lack "capacity" as defined under the Mental Capacity Act 2005 are classed as not being able to consent and any marriage they enter into is classed as "forced". The United Kingdom makes a distinction between "**forced marriage**" and "**arranged marriage**". In an *arranged marriage*, the families take a leading role in choosing the marriage partner (or suitor), but both parties are free to choose whether to enter into the marriage or not, have the final say and can decline at any point. In the case of a *forced marriage*, the person has no choice/possibility to change his/her mind during the process due to the pressure put on people to marry against their will which can be physical (including threats, actual physical violence and sexual violence) or emotional and psychological (for example, when someone is made to feel like they are bringing shame on their family). Financial abuse (taking your wages or not giving you any money) and sexual abuse can also be a factor. In some case people may be taken abroad without knowing that they are to be married. When they arrive in that country, their passport/travel document may be taken to try to stop them from returning to their country.

<sup>25</sup> Article 1:31, paragraphs 1 of the Dutch Civil Code.

<sup>26</sup> Article 1:31, paragraph 2 of the Dutch Civil Code.

<sup>27</sup> Article 1:35, paragraph 1 of the Dutch Civil Code.

<sup>28</sup> Article 1:31, paragraph 3 of the Dutch Civil Code.

<sup>29</sup> Art. 10 § 1 Polish Family and Guardianship Code.

<sup>30</sup> Art. 10 § 1 S. 2 Polish Family and Guardianship Code.

<sup>31</sup> Official translation of the Constitution: [http://www.cdep.ro/pls/dic/site.page?den=act2\\_2&par1=2#t2c2s0sba48](http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2#t2c2s0sba48).

<sup>32</sup> This definition is taken from the booklet "What is a forced marriage?" published by the Forced Marriage Unit.

<sup>33</sup> Extract from Sophie Lott's PowerPoint available in the Addendum to this report.

### 2.1.3 From the perspective of (traditional) Roma communities

Although terms such as “legal consent”, “matrimonial age”, child marriage”, “forced marriage”, “family” are legally defined both at domestic and international levels as seen above, these terms do not have necessarily the same meaning from the perspective of (traditional) Roma communities. This perception gap and different understanding of a same word were obvious during some of the discussions that took place during the round table between representatives of traditional Roma families and Romanian officials or academics of Roma origin that were defending a “modernist” and “legalist” approach. Traditional Roma communities perceive early marriage as the norm and a custom. They also claim it as a mean to keep children inside the community and avoid mixed marriages.

- **A “union” as opposed to a “marriage”**

First of all, one too often abusively uses the term “*marriage*” to describe the practice according to which Roma families agree to formalize in the community the unofficial [meaning legally-speaking unregistered] *union* between their children as husband and wife and agree to their living as a couple outside the girl’s family home; both spouses or at least the girl is below the legal age of marriage.

➤ **The experts of the thematic group consider that it would be more appropriate to speak about *unions* instead of *marriages*, in particular when there is not official record of the marriage. Some of these unions can be consensual or can be forced, namely under the pressure of adults or family members.**

Marriage is together with the birth of a child a crucial moment of celebration in the life of Roma. In the Roma context, “marriage” is generally described as an **affinity** between two families, sometimes between two communities. In traditional Roma communities, early marriage is still practiced and it is not perceived as a violation of the right of the child or as a violation of family law. This is a very well-prepared process of choosing the family with which one wishes to be affiliated; preserving the **virginity** of the girl is a sign of respect for the groom's family and is a prosperity issue for the wedding itself. This practice was common in traditional communities as a rule of honor at the individual development outside the family and the community did not come into play.

- **The importance of purity and virginity as opposed to age**

Whilst the majority society focuses on the *age* to determine whether a “marriage” or “union” is legally feasible and morally acceptable, traditional families practicing early/child marriages put emphasis on the **virginity**, especially on the girl’s virginity. The importance of the virginity of the Roma girl at the time of her marriage finds its roots in the dual concept of *pure* and *impure* that marks the *Romanipe(n)* (Roma identity in Romani). The virginity of the bride symbolizes the immutable principle of reproductive ritual cleanliness and an extreme respect for her family and the family of her fiancé<sup>34</sup>. The extreme importance given to the virginity (of the girls in particular) and also to inter-community unions explain why throughout Europe still many Roma parents decide to take out their children, and girls in particular, out of secondary schools when they reach the age of 13 or 14 and sometimes even earlier.<sup>35 36</sup>

<sup>34</sup> Source : Michaël Guet, *Dosta! Voir les Roms autrement*, Editions de l’Aube, avril 2014 (unofficial English translation).

<sup>35</sup> See CAHROM thematic report (2012)6 on school drop-out and absenteeism of Roma children covering the Netherlands, Hungary, Spain and Sweden, as well CAHROM thematic report CAHROM (2013)5 on school attendance of Roma children, in particular girls covering Finland, Latvia, Norway and Sweden.

<sup>36</sup> School drop-out generated by early marriages ranges from 4% (Duminica, Ivasiuc, 2010) to 6.6% (Surdu, Magyari-Vincze, Wamsiedel, 2011) in the investigated communities – source: Eugen Crai’s report “*Early and force marriages in Roma communities in Romania*” (April 2015) available in the Addendum.

- ***Early marriage: a form of protection as opposed to an archaic arrangement between families***

Considered in post-industrial modern societies as a sign of an archaic way of seeing marriage as an arrangement between two families, early marriage - from the point of view of families that still practice it - actually tries to shield the young from the difficulties and frequent trauma of seeking and changing partners and to free them from the enormous worry of looking for the proper match in life. Included in the receiving family from an early age, before the onset of the deceptive feeling of individual love, the girl will have enough time to adapt to the new way of life and to understand the new family. The result is a lifelong marriage, with fewer risks of break-ups than in modern marriages, which are based on the partners' free choice. The traditional community wants to control and protect a fact, which is in any case seen to be happening in the modern lifestyle too, i.e. the early beginning of sexual life. The difference is that in modern society, this onset of sexuality is uncontrolled, mainly happening in secret, without family acceptance or blessing, and so it can be a potential danger both for the individual and for the community. In the traditional society, the sexual fact is protected and controlled, blessed by the family in a complicated customary system of rituals, meant to purify and support the couple. More than that, after marriage, both families continue to feel responsible for the good development of the new couple, they have the right and the duty to smooth the way for the new established family, to become involved whenever difficulties occur, and to help the husband and wife forward to reconciliation and mutual understanding. This is just another way of keeping the family united for a lifetime<sup>37</sup>.

- ***Dowry: a sign of respect of the bride's purity as opposed to a commercial transaction***

The girl's family sells the girl as a bride and the boy's family buys her. This is how it sounds from the outsider's point of view on the Romani traditional marriage. Actually the process has nothing to do with what could be called a commercial transaction. Nobody is selling anybody. The price of the so-called bartered bride is a symbolic way of honouring the bride's purity/virginity and her family. Traditionally expressed in gold, it is not a trade value, but, on the contrary, it is a value of representation and a symbol of honour. You cannot sell this gold and buy something else in its exchange, because this gold is not for sale; it is the *pakiv* (respect, honour, trust, honesty, faith) of the family. Another issue is that not all Roma groups practice this custom<sup>38</sup>.

- ***The role of the family/community as opposed to the individual***

It should always be kept in mind that within Roma communities, the terms *family* and *community* are almost synonymous. A family does not resume itself to the parents (and often to a single parent) and their children, as often the case in modern societies; one speaks within Roma communities about extended families, i.e. *endaj* (in Romani) or *vitsa* (Romanian variant of Romani). Extended families imply a sense of belonging, solidarity and shared responsibility, manifested also by Roma customs of greetings and blessing rituals. There are associated with a number of values: self-respect and mutual respect; respect of the elderly; respect between the genders and the generations; respect of the Roma and respect of the non-Roma (*gadgé, payos*). For every Roma, the family- in its extended conception - is a fundamental value, and so is the child. The adult individual as such is therefore less important. A Roma person without family has less prestige leading to a different image within the community than a person with family. But this did not mean that persons without family are excluded from the community. On the contrary, such persons are usually taken care of by the others.<sup>39</sup>

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<sup>37</sup> Abstract of the intervention of Delia Grigore, PhD and anthropologist (Romania) entitled "*Romanipe – Roma Identity Patterns between Archetype and Stereotype*", contained in the report of the Seminar "Cultural identities of Roma, Gypsies, Travellers and related groups in Europe, organised by the Council of Europe in Strasbourg on 15-16 September 2003. The report was produced by Alexandra Raykova, General Rapporteur of the Seminar.

<sup>38</sup> Ibid.

<sup>39</sup> Abstracts of the interventions of Miranda Vuolasranta (Finland) and Angelina Dimitri-Taikon (Sweden) contained in Alexandra Raykova's report of the 2003 Seminar "Cultural identities of Roma, Gypsies, Travellers and related groups in Europe.

- ***The myth of Roma women's inferior position in the family***

A common stereotype says that the Roma woman has an inferior position in the traditional male-ruled families. Actually, the traditional community, being based on preserving the experienced pattern, its balance and harmony, ensures that the man and woman play specific complementary roles in the family, none of them inferior, but different. Becoming a mother - *dai* -, in other words becoming responsible for her children, the woman gains social status and power. Liberated from the impurity of sexual life and of giving birth, the old woman - *i phuri* -, becomes a real authority, possessing secret magic powers which allow her to see the future, to cure diseases and to protect the community against evil. At the individual level, the way how persons originating of mixed marriages (involving a Romani spouse and another from the majority) are perceived, varies considerably from one local context to another but in many cases the perception is negative, especially in Western countries, and would deserve a specific study<sup>40</sup>.

One of the members of a traditional Roma family said at the roundtable: "A good Rom is responsible for his family". He explained the concept of the "*Pativaly Romni*" (the faithful, honoured and respected Roma woman). Monogamy as opposed to polygamy was highlighted as a cultural characteristic of the Roma conception of a family.

- ***Some historical grounds of child/early marriage***

The practice of child/early marriage has been influenced by history, particularly in the Romanian context, when Roma were enslaved in the territory of the present Romania (principalities of Wallachia and Moldavia in the 13<sup>th</sup> and 14<sup>th</sup> centuries). Slavery was abolished in the two Romanian principalities only in the middle of the 19<sup>th</sup> century. During the five centuries of slavery, the slave status placed Roma outside the society and the human condition, because the owners considered them as goods. As slaves, the Roma were subject to violence and cruelty, including rape and torture. Roma children were separated from their parents and sold, given away or exchanged. Many stories also evoke a feudal right known as "*ius primae noctis*" (the right of the first night or *droit de cuissage* in French) when the lord could take the virginity of his serve during the night of her wedding. There is no actual written evidence of such practice but symbolic gestures used as signs of social superiority and coercive domination over slaves and peasants were developed by the aristocracy in the 15<sup>th</sup> century. As a result, Roma parents tended to marry their daughters at an early age to avoid smear and sometimes separation from their children.

An additional outcome of the time of slavery was a high number of children among Roma families since Roma women slaves increased the number of slaves by giving birth.<sup>41</sup>

## **2.2. The need to avoid stigmatization, stereotypes and generalization when addressing the phenomenon of early/child marriage within Roma communities**

The group of experts wished to emphasize that any serious debate around the phenomenon of early marriage must start from the premises of the following conclusions:

### **2.2.1 Child/early marriage is a still a relatively wide-spread phenomenon in the world**

During the thematic visit, several interlocutors recalled that early marriage is not a feature peculiar to the Romani culture; all traditional cultures share this custom. Indeed, child marriages were widespread in pre-industrial societies around the world and considered legitimate practices<sup>42</sup>. Early and forced marriages represented a social and cultural phenomenon that persisted until the early 20<sup>th</sup> century in Europe, in general, and even later than this in South East Europe.

<sup>40</sup> Ibid.

<sup>41</sup> Michaël Guet, *Dosta! Voir les Roms autrement*, Editions de l'Aube, avril 2014 (unofficial English translation).

<sup>42</sup> See pp.27-28, Romani CRISS and UNICEF *The case of early marriages in Roma communities in Romania. Are the rights of the child negotiable?*, Alpha MDN Buzău, 2010, available at [http://www.unicef.org/romania/Early\\_marriages\\_Romani\\_CRISS.pdf](http://www.unicef.org/romania/Early_marriages_Romani_CRISS.pdf).

Despite the above remarks, a number of local interlocutors, experts of the thematic group and representatives of international organisations, noted that a strong focus was placed rather unequally on the Roma communities as a whole, generating a real labelling/stigmatisation risk<sup>43</sup>.

Moreover, at the European Union level, the only indicator which is systematically monitored is the adolescent fertility rate, which cannot be considered a proxy indicator since the adolescent pregnancies and births have a variety of causes and are not characteristic only to married adolescents.<sup>44</sup>

### 2.2.2 *Child/early marriage does not appear only within Roma communities*

Mr Nicolae Gheorghe, Romanian Sociologist and former Senior Adviser of the OSCE-ODIHR Contact Point for Roma and Sinti Issues, once said: “*We cannot create a Roma problem, the early marriages, when they have been practiced for long in the other cultures too, we risk creating a stereotype out of this phenomenon*”<sup>45</sup>.

Child marriages are still present in some non-Roma traditional rural communities in Romania<sup>46</sup>. The Romanian expert, Mr Eugen Crai, affirms in his report<sup>47</sup> that adolescent girls aged 15-19 account for approximately 10% of the births annually in Romania.

During the thematic visit, the president of the National Agency for Roma provided the following data collected by the Romanian National Statistics Institute on *women under the age of 18* that gave birth, which could be one indicator to identify child/early marriage, although, as pointed out by the Polish expert, it does not necessarily relate to the phenomenon of child/early marriage/union but rather to the phenomenon of under-aged motherhood of girls.

Romania	2013	2012	2011	2010
Overall population	9,219	9,420	9,424	9,889
Ethnic Romanians	7,652	7,860	7,968	8,354
Ethnic Roma	1,138	1,111	1,037	1,115
Ethnic Hungarians	242	289	265	269
Ethnic Turks	123	137	130	135
Other	64	23	24	16

The above data show that the phenomenon of “early pregnancy” - which could be linked in some cases to early marriages - is not exclusively a Roma phenomenon but appears in the majority population, as well as in other ethnic minority groups. The general trend observed between 2010 and 2013 in Romania is towards a slight decrease of the number of birth by girls who are less than 18 years old, although from the above statistics the phenomenon does not seem to decrease among Roma ethnic girls<sup>48</sup>. In addition, as it was highlighted by the Council of Europe representative during the roundtable, the above data are based

<sup>43</sup> *Making Early Marriage In Roma Communities A Global Concern*, European Roma And Travellers Forum & Romani Women Informal Platform “Phenjalipe”, 2014.

<sup>44</sup> On the same line, see the Polish expert’s comment regarding the table appearing on the next page.

<sup>45</sup> See page 2 of Romani Criss and Euroregional Centre for Public Initiatives joint submission addressed to the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child to support the development of a General Comment/Recommendation on harmful practices at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/RomaniCRISSandECPI.pdf>.

<sup>46</sup> See p.3. Centrul Educația 2000+ and UNICEF, *Sarcina și căsătoria timpurie în cazul tinerelor Roma* [Early pregnancy and early marriage in the case of young Roma women], September 2004.

<sup>47</sup> See his report “*Early and force marriages in Roma communities in Romania*” (April 2015) in the Addendum to this report.

<sup>48</sup> A research conducted in Romania in 2002 indicated that “35% of Roma girls got married below the age of 16 years old” [ndlr: which was the legal age at that time]. “The percentage of Roma girls that got married below the age of 18 years old is rising from 44.6 for the generation of 25-29 years to 52.1 for the generation 20-24 years”. See Institutul pentru Cercetarea Calității Vieții, *Indicatori privind comunitățile de Romi din România*, Editura Expert, Bucharest, 2002, p.8.

on self-declared ethnicity. Therefore, if one extrapolates the fact that there are three times more Roma living in Romania than the census results show (about 1,800,000 compared to 620,000), this could lead to the conclusion that half of the girls who give birth before the age of 18 in Romania are of Roma ethnic origin. Still, this indicates that early marriage is not a purely Roma phenomenon in Romania.

It is not a specific Roma phenomenon in other countries either. As an example, in the United Kingdom, the statistics collected by the Forced Marriage Unit in 2014 show a prevalence of early marriages within certain population groups originating from Pakistan, India and Bangladesh<sup>49</sup>. The British expert however underlined that the approach followed by the United Kingdom is not focusing on the religion in order to avoid putting the prejudice on one specific religion.

➤ *The experts of the thematic group agreed that irrespective of the ethnic background of the communities where the early marriage phenomenon is manifest, a change in such practice is needed for the complete realisation of the human rights of each girl and boy, of each woman and man.*

### 2.2.3 *Child marriage is not a “Romani tradition” and not related to Romani culture as such*

Already during discussions within CAHROM in 2014, the ERTF and Phenjalipe - through their joint paper - highlighted the danger of further stereotyping and victimising Roma communities by labelling early or child marriage in Roma communities as a cultural specificity. They considered that child and early marriages must be addressed in a comprehensive manner, taking into account the specific situations that exist, as well as the historic and socio-economic factors contributing to this practice and its perpetuation. In addition, the ERTF/Phenjalipe joint paper sought to deconstruct the view that state authorities bear no responsibility for early and child marriage, which is a widespread stance sustained by their labelling as so-called “internal Roma cultural practices”<sup>50</sup>.

Several Romanian interlocutors met by the experts during the thematic visit stressed indeed the fact that child marriage in Romania is not a cultural practice of the Roma community nor is exclusively practiced by Roma, although it occurs more often in traditional Roma communities compared to non-Roma ones.<sup>51</sup> Today, many Roma families in Romania and other countries in Europe have abandoned this practice and have adopted the values of modern life. In the Roma communities Mr Eugen Crai investigated, an estimated 25-30% of Roma women aged 15-19 are married<sup>52</sup>. This means that 70% at least are not.

The anthropological research on early marriages realised in the context of the report *Come closer - Inclusion and exclusion of Roma in Present-Day Romanian Society* argues about the diversity of marital practices in Roma communities and that only in a few Roma communities early marriages may be associated with traditions, for the rest of the communities where it is manifest, the causes are rather related to poverty and poor education. Alexandra Oprea’s findings said the same: “one of the underlying rationales behind a family's arrangement of a child marriage is preservation of the girl's virginity and, by extension, the family's honour. Often, when a Romani girl is thought to be involved in prohibited activities (i.e., fraternising with boys), or if her body has developed rather quickly for her age, the parents' reaction may be to marry her off. However, these decisions always take place within a larger context where educational and employment opportunities are lacking for both parents and children. Parents' educational level correlates with when and whether they choose to arrange their daughters' marriages.”<sup>53</sup>

<sup>49</sup> For more precise data per nationality, see the British expert PowerPoint in the Addendum to this report.

<sup>50</sup> See page 4 of the September 2014 updated version of ERTF/Phenjalipe paper available at: <http://www.ertf.org/index.php/documents/reports-position-papers>

<sup>51</sup> Same reference as footnote 14.

<sup>52</sup> See his report “*Early and force marriages in Roma communities in Romania*” (April 2015) in the Addendum to this report.

<sup>53</sup> Idem

The cultural diversity of the Roma communities and consequently the diversity of practices related to marriage is also highlighted in Alexandra Oprea's article published by ERRC in 2005 *Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*. Within this Roma feminist critical analysis of early marriages in Roma communities it is explained that "it is imperative to note that arranged child marriages vary with the community in question: in Romania, arranged marriages are most common in Calderaş Romani communities, whereas they are seldom practiced by Caştale Roma. Apart from comprehending that only some Roma arrange the marriages of their children, it is also important to differentiate between arranged marriages and child marriages; not all arranged marriages involve underage actors. There are many variations of arranged marriages, aside from the textbook cases of parents arranging the marriages of their unsuspecting children, who meet for the first time on their wedding day."<sup>54</sup>

In this ERRC article from 2005, it is also documented the various forms of resistance of Roma women and men to the practice of early marriage: "There are many different types of resistance. It does not always come in the extreme cookie-cutter "desert the community, never to return again" package, though some Romani women also "choose" this path. Obviously, these choices have to be looked at critically in their contexts and cannot be considered complete victories. The outcome can hardly be considered a triumph when one is forced to choose between disassociating herself from the people she loves (to face a racist and sexist world alone) and succumbing to virginity tests and early marriage. My point is to illustrate that Romani women are not passive ciphers. Whether by disassociating from community and family or by defiant participation, Romani women are actively resisting their subordination. Some young men also refuse to let family members dictate their marriage choices. One male in particular, whose parents were married during their teens, has been actively resisting his parents' attempts to arrange his marriage. As a result of seeing his mother endure immeasurable suffering at the hands of his father - a consequence he attributes to his parents' incompatibility in lieu of marrying at such a young age - he rebuffs his family's match-making efforts. When shown pictures of potential mates, his phrase of choice is: "What am I, shopping for a car?" He is perceived as an anomaly for being a twenty-eight-year old bachelor; sometimes he is even taunted as being gay. I should also mention here that I am often asked by fellow community members if I am a lesbian. Their logic is that since I am attractive and there appears to be nothing wrong with me, being twenty-four years old and unmarried must mean that I am gay."<sup>55</sup>

#### **2.2.4 The phenomenon of child/early marriage is not limited to Romania and to partner countries of this thematic group**

In order to reassure some of the Romanian interlocutors during the thematic visit who expressed concerns that organising the thematic visit in Romania on such a sensitive topic might be misused as a way to single out Romania and contribute to a Romania-bashing which is sometimes quite present in Western media, the Council of Europe representative indicated that feedback from various CAHROM members and also various thematic visits showed that the phenomenon of early marriage within Roma communities was common throughout Europe, though at various degrees.

As an example, during the thematic visit on Roma women's empowerment and gender dimension of Roma inclusion policies/strategies held in Lithuania on 3-6 June 2014, "the experts found that early marriage was frequently present among Roma communities living in Lithuania. In the Kirtimai settlement, the average marriage age within the Kalderash Roma is 14-16 in comparison with 16-18 within the Lithuanian Roma group. Early marriage was strongly supported by Roma male leaders met during the visit. Although two Roma women activists expressed disagreement about this practice, their voice is hardly heard beyond some families."<sup>56</sup>

<sup>54</sup> *Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*, Alexandra Oprea, 2005, ERRC.

<sup>55</sup> Idem

<sup>56</sup> See CAHROM (2014)11. The conclusions of this thematic report are accessible on the CAHROM public website at: <http://www.coe.int/en/web/portal/cahrom>.

During a recent CAHROM thematic visit to Ireland<sup>57</sup>, a Traveller family explained that early/child marriage is also a common practice among Irish Travellers as a way to prevent mixed marriages.

To give another example, the several times awarded 2009 documentary movie by Laura Halilović, a Roma woman and film director living in Italy, *Io, la mia famiglia Rom e Woody Allen* (Me, my Gypsy Family and Woody Allen) supported by the Dosta! campaign of the Council of Europe, illustrates *inter alia* the family pressure for early marriage.

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<sup>57</sup> See CAHROM (2016)9 thematic report on the empowerment and participation of Roma and Travellers in consultative mechanisms and advisory bodies, with a focus on Roma youth and women (visit to Dublin, Ireland, on 8-10 February 2016).

### III. SIZE, COMPOSITION AND SITUATION OF ROMA (AND TRAVELLER) GROUPS, WITH A FOCUS ON THE SITUATION REGARDING CHILD/EARLY MARRIAGES

#### 3.1 Romania

According to the Romanian National Population Census from 2011<sup>58</sup>, only 621,573 persons out of a total population of 20,121,641 declared themselves as being Roma, i.e. 3.08 % of the total population. It should be noted that the number of self-declared Roma increased compared to the previous censuses from 2001 (535,140) and 1992 (401,087).

During the thematic visit, the National Agency for Roma (NAR) gave an estimate of 1.5 to 2 million Roma living in Romania which is in line with the Council of Europe's current estimate of 1.8 million<sup>59</sup>, therefore close to 9% of the total population. Romania has the second highest number of Roma population in Council of Europe's member States, after Turkey.

According to above Agency, and based on the population census results, out of the self-declared approximate 620,000 Roma living in Romania, 230,000 are living in urban areas and 390,000 in rural areas. About one third of the self-declared Roma population in Romania (244,000) speaks the Romani language.

Roma is one of the 18 recognised national minorities in Romania. Though a part of the Roma community in Romania is socially integrated, educated and graduated and has access to the labour market (including in public administration), a majority of them remain socially excluded.

Sub-group affiliation is not unanimous: according to a research conducted in Romania in 2008<sup>60</sup>, 56% of the Roma respondents did not identify with a sub-group, whilst 44% of the Roma respondents also identified with a sub-group.

From those respondents who also identify themselves as belonging to Roma sub-groups, one obtains the following distribution in Romania: Vătrași (13.8%), Căldărari (5.9%), Rudari (4.5%), Spoitori (3.7%), Mătășari (3.2%), Ursari (2.7%), Cărămidari (1.5%), Gabori (1.4%), Florari (1.2%)<sup>61</sup>. Other known Roma sub-groups are Horahai (Muslim Roma), Ciurari, Cortorari, Geambași, Lingurari and Rostaș.<sup>62</sup>

The Human Rights Report – Romania 2013 of the U.S. Department of State stated under “*Forced and Early Marriage*” that illegal child marriage was reportedly common within certain social groups, particularly the Roma. There were no statistical data regarding the extent of the practice, although the media occasionally reported on individual cases.<sup>63</sup> There were no public policies to prevent child marriages or government institutions that dealt with the problem.”<sup>64</sup>

<sup>58</sup> Source: <http://www.inse.ro/cms/files/publicatii/pliante%20statistice/04-recensamantul%20populatiei.pdf>

<sup>59</sup> A decade ago, international estimated figure used to be comprised between 1,800,000 and 2,500,000 like in the European Union document from 2003 “*Support for Roma in Central and Eastern Europe*” ([http://ec.europa.eu/enlargement/pdf/brochure\\_roma\\_oct2003\\_en.pdf](http://ec.europa.eu/enlargement/pdf/brochure_roma_oct2003_en.pdf)) or in Jean-Pierre Liégeois “*Roma in Europe*” from 2007.

<sup>60</sup> Idem, page 51.

<sup>61</sup> Source: <http://www.natgeo.ro/locuri-si-oameni/comunitati/9165-neamuri-tiganesti>.

<sup>62</sup> *Come closer - Inclusion and exclusion of Roma in Present-Day Romanian Society*, Gabor Fleck, Cosima Rughinis, National Agency for Roma, 2008, page 50.

<sup>63</sup> In 2003, Florin Cioaba, former “king” of Romanian Roma who was also a Pentecostal pastor, sparked controversy when he married his 12-year-old daughter, Ana-Maria, to a boy aged 15. On 27 March 2014, his son and new self-proclaimed “king” said that he and the *Stabor* (the unofficial Roma community courthouse made of clan elder leaders also known as *Kriss*) had agreed that the tradition of Roma marrying under the age of 16 must stop and those defying the ruling would face exclusion from the community. See more at <http://www.turkishweekly.net/news/164965/romania-gypsy-king-bans-39-child-marriages-39.html>.

<sup>64</sup> *Romania 2013 Human Rights Report*, United States Department of State, page 20 (<http://www.state.gov/documents/organization/220533.pdf>).

As regards data on early and forced marriages within Roma communities in Romania, the Romanian experts underlined that numbers are completely irrelevant when dealing with human rights violations since each woman and each man, each girl and each boy should benefit of all human rights guaranteed by law. Numbers, however, are relevant for public policies since a government needs to assess first the situation correctly and to devise consequently effective and efficient operational action plans.

In Romania there are limited data on overall early or forced marriage as a social phenomenon in the general population. However, when it comes to Roma communities there is a growing number of collected evidence which results in unequally focusing on this particular ethnic community.

Data at national level for the general population<sup>65</sup> provided by the National Institute for Public Health show that adolescent girls aged 15-19 account for approximately 10% of the births annually in Romania. The same 10% of the total annual number of abortions belong to the group of adolescent girls (11% in 2005 and 9.6% in 2010), while 4,000 abortions annually are performed on girls with an age below 15.

Moreover, a comparative study between Roma and non-Roma women concerning the age at first birth, conducted in 2008, showed that *“there is a gap of around three years between the age at first birth of women in the Roma sample, compared to those in the comparative sample. A majority (55%) of women in the Roma sample carried their first pregnancies while minors of age, compared to 14% in the comparative sample. 16% of women in the comparative sample carried their first pregnancy after 25 years, compared to 5% of women in the Roma sample”*<sup>66</sup>. This study actually claims, based on the qualitative analyses conducted in various communities, that *“the non-Roma people living in poor conditions, in the segregated neighbourhoods with a high rate of Roma population, in ghettos or in poor rural areas, have similar marital/ family planning behaviour”*<sup>67</sup>.

After 1989 the first exploration of early marriages in the Roma communities from Romania belonged to the Romanian Research Institute for the Quality of Life (RIQL). According to the RIQL study<sup>68</sup> published in 2002 (with data collected in 1998) the statistics aspiring to be representative at national level related to early marriage were:

- 35% of Roma women were married before the age of 16;
- 31% of Roma women were married when they were 17-18 years old;
- 26% of Roma women were married at an age in between 19-22 years old;
- 8% of Roma women were married after being 22 years old.

A second exploration of early marriages in Roma communities was undertaken by UNICEF Office in Romania in 2004 when a survey<sup>69</sup> was conducted in selected Roma communities from 11 counties within the Project “Let’s build together the images of our daughters”, a joint undertaking of UNICEF and Education 2000+ Centre. According to this survey the statistics related to early marriage showed that:

- 24.5% of Roma girls aged 12-18 were married;
- 13.3 % of Roma girls aged 12-18 had the experience of giving birth to a child while 10% of this group had the experience of two births;
- 7% of Roma girls aged 12-18 underwent an abortion procedure.

<sup>65</sup> *Raport național de sănătate a copiilor și tinerilor din România 2014*, Institutul Național de Sănătate Publică - Centrul Național de Evaluare și Promovare a Stării de Sănătate, 2014, pg. 7

<sup>66</sup> *Come closer - Inclusion and exclusion of Roma in Present-Day Romanian Society*, Gabor Fleck, Cosima Rughinis, National Agency for Roma, 2008, pag. 91

<sup>67</sup> *Idem*, pag. 34

<sup>68</sup> *Indicatori privind comunitățile de romi din România*, Editura Expert, București, 2002

<sup>69</sup> *Sarcina și căsătoria timpurie în cazul tinerelor romi*, Mihai Surdu, UNICEF, CEDU 2000+, 2004

However, within this survey, when asked at what age would be appropriate for a girl to get married, the majority of the Roma respondents (67%) indicated that the appropriate age for marriage would be after the age of 18 (44.6% indicated the appropriate age as between 19 and 25 years old and 22.4% indicated the appropriate age for marriage at the age of 18). To complete the statistical data, 31.9% of the Roma respondents indicated that the appropriate age for girls' marriage would be under the age of 18, while 1.1% indicated an age above 25. Also it is mentioned in this report that all girls who got married abandoned the school as a consequence.

A third undertaking to assess the dimensions and dynamics of early marriages in Roma communities represented a continuation of the joint efforts of UNICEF and Education 2000+ Centre within the Project "Roma girls go to school, too". This third research<sup>70</sup> brought in data from the census of Romania's population of 2002 and made a step further in the analysis of the causes of early marriages in Roma communities using various methodologies and correlations. The data extracted from the population census of 2002 provided in this research showed that:

- 0.7% of the Roma female population below the age of 15 was married (unofficial marriage – consensual union);
- 29.5% of the Roma female population aged 15-19 was married (3.6% official marriage and 25.9% unofficial marriage – consensual union).

It is to be mentioned that the data of the 2002 census of the population of Romania is not really representative for the entire Roma population in Romania with only 535,250 persons declaring their ethnic identity as Roma at that time. The data of the research refers strictly to this population segment who declared their ethnicity as Roma. However, the data extracted from the 2002 census does not show huge variations as compared to the data collected via household surveys at national level (RIQL 2002) or in selected communities (UNICEF, CEDU 2000+, 2004).

This third study is also worth considering from two other perspectives, that of introducing a longitudinal (historical) analysis of the evolution of the early marriage phenomenon in Roma communities from early 20<sup>th</sup> century up to date and that of going into an in-depth analysis of the causes generating early marriage by combining quantitative and qualitative methods. The data shows that the age at first marriage for Roma women has decreased over time from the age of 19 for the cohorts of Roma women born before World War II to the age of 18 for the cohorts of Roma women born between 1969 and 1978. The same trend is noticed in the case of the age at first marriage for Roma men, as well as in the case of the age of the first birth (while the Roma women born before World War II the age when first gave birth was slightly above the age of 21, for the Roma women born between 1969-1978 the age when first gave birth decreased to slightly above 18.6. The age decreasing trends (at first marriage, at first birth) continue after 1991. This evolution is not characteristic only for the Roma population of Romania, but for the entire population of Romania (and the explanation given by the researchers reside in the aggressive pro-natal policies during the Communist regime).

One additional consideration emerging in this third analysis of the early marriage in Roma communities, based on the qualitative analysis, is that there are significant differences among the Roma traditional communities (Calderaş, Horahai and Spoitor Roma communities) and the non-traditional Roma communities. The self-declared age at first marriage is 10-12 in the case of Horahai Roma (Babadag), 14-16 in the case of Calderaş Roma (Fetesti) and over 18 in the case of non-traditional ("modern") Roma (Harsova)<sup>71</sup>.

<sup>70</sup> *Naşterea și căsătoria la populația de romi*, Mălina Voicu, Raluca Popescu, UNICEF, CEDU 2000+, 2006.

<sup>71</sup> *Naşterea și căsătoria la populația de romi*, Mălina Voicu, Raluca Popescu, UNICEF, CEDU 2000+, published in CALITATEA VIETII, XVII, nr. 3-4, 2006, p. 268.

In 2008 within the implementation by the General Secretariat of the Romanian Government of the EU PHARE Programme “Strengthening Capacity and Partnership Building to Improve Roma Condition and Perception”, more data are brought on the early and forced marriages. An extensive report is prepared within the above-mentioned Programme: *Come closer - Inclusion and exclusion of Roma in Present-Day Romanian Society*. One section of this report is entitled “The Marriage – What is Traditional and What is Not” and another section deals with the age at first birth.

Also in 2008, Romani CRISS in partnership with UNICEF, implemented the project “*Early marriages in Roma communities*”, with the aim to deepen the intra-community dialogue among Roma communities on the phenomena of early marriages. Within this project the report “*The case of early marriages in Roma communities from Romania – Are child rights negotiable?*” was launched. This report, as publicly assumed, did “not make an “x-ray” of the phenomenon or establishes its amplitude. It aimed at publishing a study making the inventory of different situations in the phenomenon of early marriages and defining them according to international norms, an analysis of isolated initiatives up to date. It considered that an inventory of international and national legislation regulating certain rights would contribute to the creation of a framework for well-informed discussion between actors in the Roma civil society, in order to produce a well-informed public stand, whichever it may be”<sup>72</sup>. The authors brought conceptual elaborations on arranged/ forced/ and early marriages.

In 2009-2010, UNICEF Office in Romania supported technically and financially two reference studies on Roma children participation to education: one in partnership with Community Development Agency Impreuna, “*One school for all? Access to quality education for Roma children*”<sup>73</sup>, and another in partnership with Romani CRISS - “*Roma School Participation, Non-Attendance and Discrimination in Romania*”<sup>74</sup>. When the school dropout is analysed in relation to early marriages the first research report finds that 4% of the school dropout among Roma children is attributable to early marriage phenomena, while the second finds a 6.6% of the school dropout among Roma children to be attributable to early marriages.

In 2010 another project *Preventing Early/Forced Marriages* is implemented in Bulgaria, Romania and Greece by Amalipe Center for Interethnic Dialogue and Tolerance (Bulgaria), Liga Pro Europa (Romania) and the Association for Social Support of Europe – ARSIS (Greece), with support from DG Justice of the European Commission (within the frames of the Daphne Programme 2009). The report published within this project did not bring new data on the dimensions of the early marriage phenomena but includes the most comprehensive analysis of the institutional mandates and actions related to early marriages in Romania.

### 3.2 Italy

The Roma, Sinti and Camminanti<sup>75</sup> (hereafter RSC) living in Italy are characterized by their heterogeneity in terms of groups, dialects and specific linguistic varieties, and cultures. When considering RSC communities, we are referring to a) Italian citizens; b) citizens from other EU countries; c) Non-EU citizens; d) foreigners who were granted asylum or subsidiary protection; e) (*de facto*) stateless people, born in Italy from stateless parents.

<sup>72</sup> *The case of early marriages in Roma communities from Romania – Are child rights negotiable?*, Nicoleta Bitu, Crina Morteau, UNICEF, Romani CRISS, 2009

<sup>73</sup> *One school for all? Access to quality education for Roma children*, Gelu Dumnică, Ana Ivasiuc, Alpha MDN, 2010, ISBN 978-973-139-179-3

<sup>74</sup> *Roma School Participation, Non-Attendance and Discrimination in Romania*, Vanemonde, Laura Surdu, Enikő Vincze, Marius Wamsiedel, Vanemonde, 2011, ISBN 978-973-1733-29-6

<sup>75</sup> The Italian spelling was used for Camminanti (with double “m”), whilst in Sicilian it is written Caminanti (with one “m”).

It is estimated that nation-wide there are 100,000 to 200,000 Roma, Sinti and Camminanti present in Italy<sup>76</sup>: half of whom (about 70,000) are Italian citizens; and the other 50%, although made up of foreigners, is mostly in Italy, on a permanent basis.

The visibility of **Roma** settlements in the suburbs of large urban areas of North-Central and North of Italy leads to neglect sometimes the important presence of these communities in other areas of the country. In Scampia (Naples), there are over 1,500 Roma people from the former Yugoslavia whose presence dates back to the late eighties<sup>77</sup> (the second generation of Roma people from the former Yugoslavia, though being born in Scampia, is made up of Italians). In Puglia, on the border between Molise and Abruzzo, the Roma community is largely located there on a permanent basis.

The North of Italy is characterized by a predominance of **Sinti** (estimated to be around 32,000). They had been traditionally involved in nomadic labour activities that required them to travel around the country (fairs or circus). Anyway, it is considered that just 3% of them are actually nomadic, because the majority of them have a permanent place where they come back when they do not work.

In Noto, Sicily, the **Camminanti** community has been living there since the late fifties (some of them are still "semi-nomadic"). The majority of Sicilian Camminanti of Noto travel through all Italy for around a semester, offering small manual services and coming back in the Province of Noto for the remaining part of the year.

Regarding the recently **migrant Roma**, mainly, the precarious conditions of settlements and evictions carried out by local authorities create a forced nomadic habit linked to their vulnerable condition of marginality.

No specific data were provided as concerns the specific situation of child/early or forced marriages within Roma communities living in Italy.

From a statistical standpoint, provided that there is not yet a specific project focused on the issue under reference, it should be mentioned the launch of the second edition, by mid-2015, of the violence against women' survey from the National Office on Statistics (ISTAT), for the biennium 2013-2014. Italian women are interviewed by CATI technique (Computer assisted telephone interview), while migrant women will be interviewed by both CATI and CAPI (Computer assisted personal interview) technique. The survey covers different forms of sexual (rape, attempted rape, physical sexual harassment, to be forced to have sex because of fear of perpetrator's reaction, to be forced to do humiliating and degrading sexual activity) and physical violence (7 forms of violence from threat to the attempt to be suffocated or strangulated), psychological and economic violence.

In this survey's edition, specific attention is paid to stalking. Other data on sexual violence, human trafficking or householder/domestic violence are provided by registers statistics. These statistics concern the reports of violence to the police, crimes and proceedings from the Public Prosecutor Offices, persons charged with violence by the Public Prosecutors, persons convicted of violence and convictions on violence crimes (data from the Central Register Office of convicted people). Those data have proved to be useful from a judicial standpoint, with regard to the perpetrator's characteristics, while are very poor with regard to victims' characteristics - save Police statistics that have data on victims since 2004. Data can be provided by sex, age and place of birth of the perpetrators and only for police statistics, by sex, age and citizenship of the victims.

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<sup>76</sup> This coincides with the estimated figure used by the Council of Europe (140,000).

<sup>77</sup> See the CAHROM (2014)10 Thematic report conclusions on solving the legal status of Roma from ex-Yugoslavia and their lack of personal identity documents covering Italy, Bosnia and Herzegovina, Croatia, Montenegro, Serbia and the former Yugoslav Republic of Macedonia" at <http://www.coe.int/en/web/portal/cahrom>.

### 3.3 Republic of Moldova

There are no exact figures or estimates regarding the number of Roma living in the Republic of Moldova. There are different opinions regarding the total number of Roma and the variance of the estimated data is quite large, ranging from 20,000 to 100,000<sup>78</sup> or even 250,000 according to some Roma leaders.

The estimated number of Roma in the Republic of Moldova (without Transnistrian region) is between 12,000 and 27,000. The population census conducted by the National Bureau of Statistics in October 2004 registered 12,271 persons who declared themselves as belonging to the Roma (“Gypsy”) ethnicity (the census was not including the Transnistrian region and the city of Bender). This very low official figure of self-declared Roma may be explained by the reluctance of Roma to identify themselves as such by fear of discrimination or due to exclusion<sup>79</sup>.

A poll carried out in 2001 by the Association of Roma Women “Juvlia Romany” gave the figure of 20,040, and data collected by the Bureau of Interethnic Relations in 2002 suggested also a figure close to 20,000. The current estimate used by the Council of Europe is 60,000.

Roma are spread all over the country. Some communities are heavily populated by Roma-Otaci city (27.5% of the total Roma population), Soroca city (12.4%), Vulcanesti village, Nisporeni district (8.6%), Riscani city (4.6%), and Chisinau city (4.1%). At present, there are 50 Roma NGOs registered in the Republic of Moldova<sup>80</sup>.

As regards the **situation of early marriages within Roma communities in the Republic of Moldova**, according to the 2007 UNDP Report<sup>81</sup>, youngsters under 16 years old represent 28% of the Roma population. The number of children (0-18 years) is about one third of the total Roma population. One of the particular features of the Roma population is early marriage and represents a worrying phenomenon. Generally-speaking, Moldovan Roma marry at an earlier age. The minimum age of married persons registered among surveyed Roma is 15 years in comparison with 17 years in case of surveyed non-Roma. No significant gender differences in marriage ages are observed in the case of Roma, with both women and men having a minimum marriage age of 15 years. This contrasts with non-Roma population where the minimum marriage year for men is 20, whilst it is 17 for women. Another indicator of early marriages is the ratio of those who were married (including currently married, as well as separated and widows) in the age group 15-25 years. In the case of Roma, this ratio is significantly higher (40% for women and 30% for men) compared to non-Roma population (30% for women and 19% for men).

Republic of Moldova	Men		Women	
	Roma	Non-Roma	Roma	Non-Roma
Average age of married persons	41.9	46.3	40	42.8
Minimum age at marriage	15	20	15	17
Share of married persons among 15-25 years old	30%	19%	40%	30%

<sup>78</sup> According to data presented at International Roma Union from Foundation “ELIZABETA” (Roma NGO registered in Chisinau), on November 4, 2011 in the Republic of Moldova lived 102,356 Roma ethnic origin persons.

<sup>79</sup> A 2007 UNDP study *Roma in the Republic of Moldova, 2007* found that Roma faced a risk of poverty two times higher than the non-Roma: 59% of Roma live in absolute poverty and 50% in extreme poverty compared to the national averages of 24% and 19% respectively<sup>79</sup>. They have little access to health care; they often cannot register for the state health insurance policy because they lack the necessary documents. A 2010 UNICEF survey shows that 35% of the Roma are children. Roma children often do not attend school because they are needed to work to support the family; 43% of Roma children do not attend school, compared to 6% of non Roma (page 127 of UNICEF Survey).

<sup>80</sup> [https://www.academia.edu/7634195/Lista\\_50\\_ONG-uri\\_Rome\\_din\\_Republica\\_Moldova](https://www.academia.edu/7634195/Lista_50_ONG-uri_Rome_din_Republica_Moldova)

<sup>81</sup> *Roma in the Republic of Moldova*. Report. Chişinău: UNDP Moldova, 2007 accessible at: <http://www.undp.md/publications/roma%20report/Roma%20in%20the%20Republic%20of%20Moldova.pdf>.

Roma women are one of the most vulnerable groups in the Republic of Moldova. Usually they have a lower level of education, much higher unemployment rates, lower level of income and bad plight of health than the other population. Roma women face triple discrimination - as Romni, as women and as members of a disadvantaged social group. They are subject to higher risk of social exclusion and poverty than men in their community and most women representatives of other ethnicities. In traditional Roma families often girls are required to take more responsibility at household and fewer school activities than boys. As a result, Romani young women are particularly vulnerable to dropping out of school, having a low level of education, a very serious social exclusion and often negative impact on health. When young Roma girls are married, education and the entire process of their developing are finished. They are obliged to abandon childhood and become fully dependent on their husbands. Early marriage is accompanied with early pregnancy and the responsibility to be a parent. These women lose the chance to secure autonomy in making decisions on education, opportunities to access a well-paid job or their household needs. These factors, in turn, make them more vulnerable, forcing them to accept an abusive relationship, and to expose them to poverty and social isolation.<sup>82</sup>

### 3.4 The Netherlands

There are no exact figures regarding the number of people of Roma origin in the Netherlands as registration based on ethnicity is prohibited. Estimates vary from approximately 10,000 (if we exclude Dutch Travellers) to approximately 45,000 (Dutch Travellers included), which means that no more than 0.25% of the Dutch population is of Roma and Traveller origin. Roma (general term) in the Netherlands can be divided into five different groups according to their historical presence:

- a) Roma, Sinti and Dutch Travellers traditionally residing in the Netherlands: this group concerns Sinti and a few Roma families present on the Dutch territory since the 15<sup>th</sup> century<sup>83</sup> who, until the 1960s lived a nomadic lifestyle. This group of Dutch Sinti and Roma contains approximately 2,500 people. Dutch Travellers (*woonwagenbewoners*) are estimated to be 35,000 and have Dutch ethnicity. They do not have a language of their own and their history dates back to 'only' around 1850. A small number of Travellers, Sinti and Roma live in caravans or mobile homes (predominantly fixed *in situ*), situated in special centres or campsites.
- b) About 1,500 Roma who came to the Netherlands as migrant workers and labourers around the late 1960s and 1970s and as refugees from Turkey in the 1980s.
- c) Roma who were granted a residence permit in 1978: this third group, often referred to as the General Pardon group, concerns Roma who were legalised in the 1970s. Although most of them did not have any identity papers, it is assumed that the majority originates from the former Yugoslavia. In 1978, this group consisted of 520 individuals dispersed around eleven municipalities. In the meantime, this group increased to approximately 2,800-3,000 individuals.
- d) Roma who came to the Netherlands in the 90s: this fourth group, about 1,000 people scattered throughout the Netherlands, is more a collection of individuals and families from the former Yugoslavia, the Czech Republic and the Slovak Republic.
- e) Roma newcomers, arriving since the expansion of the European Union (as from 2000): this last group concerns essentially Bulgarian and Romanian Roma.

Within the Netherlands, approximately 55 municipalities house Roma residents from various backgrounds. In the 1980s, eleven municipalities welcomed Roma from group C above. Most municipalities represented in the Dutch Platform for Roma municipalities acting under the Association of Dutch Municipalities (VNG) accommodate Roma from the General Pardon group.

<sup>82</sup> *Studiu cu privire la situația femeilor și fetelor rome din Republica Moldova*. Raport. Chișinău: UN Women, UNDP, OHCHR Moldova, 2014, accessible at:

[https://www.academia.edu/6491424/STUDIUL\\_cu\\_privire\\_la\\_Situatia\\_Femeilor\\_si\\_Fetelor\\_Rome\\_din\\_Republica\\_Moldova\\_2014](https://www.academia.edu/6491424/STUDIUL_cu_privire_la_Situatia_Femeilor_si_Fetelor_Rome_din_Republica_Moldova_2014).

<sup>83</sup> See e.g. Marko D. Knudsen, *The history of the Roma*, RomNews Society, Hamburg, Germany and Jean-Pierre Liégeois, *Roma in Europe*, Council of Europe Publishing, 2009.

### 3.5 Poland

According to the last national population census from 2011, 16,723 Polish citizens self-declared their belonging to the Roma ethnic minority, which represent 0.04% of the total Polish population (38,511,824). However, estimated figures presented by the Polish expert range the Roma population between 20,000 and 25,000, the latter being closer to the Council of Europe estimated figure (0.06% of the total population).

Five groups of Roma live in Poland: Polish Roma, Carpathian Roma (also called Bergitka Roma or Mountain Roma), Kalderari, Lovari, as well as small group of Sinti. These groups differ in cultural, social and economic terms. 92% of Roma in Poland live in urban areas. Over recent years, there has been also a tiny Roma immigration from other EU member States, including Romania, Bulgaria and Hungary.

The majority of Roma groups living in Poland are in fact traditional and patriarchal. Women are therefore kept in the traditional role of wife, mother and care taker of the house. This leads to a general support/approval among most of Roma communities in Poland for early marriages and early motherhood. As in many other countries, Roma's access to secondary and higher education and to the labour market is very low in Poland<sup>84</sup> and discrimination against Roma exists as elsewhere in Europe. As a direct result of early marriage, Roma girls tend to drop out schools after primary level, have lower qualifications, which lead to a worsening situation of Roma women on the labour market, poverty and dependence on male family members. Multiple discrimination (both as a Romni and as a woman) is largely under-reported. There are only a few Roma women associations in Poland. Out of approximately 120 existing Roma NGOs, only five have a woman as president. Despite the above status within their community, Roma women when they are given a chance are quite active in policy measures.

As regards their marital status, only 35.74% of Roma in Poland are officially married (to be compared with 55.8% for the whole population). Traditional marriages still exist among Roma who often do not officially register marriages. The scale of the phenomenon of early and/or forced marriage within Roma communities in Poland is unknown due to both the lack of data and the lack of reporting. Among the scarce sources of information, the EU Fundamental Rights Agency's survey *Discrimination against and living conditions of Roma women in 11 EU Member States* (from 2014) shows that 2% of Roma girls aged 10 to 15 are "traditionally married" or "cohabiting" with a partner, whilst about 24% of 16 and 17 year old Roma are legally or traditionally married or "cohabiting". The age of Roma entering into marriages is slowly rising: marriages of up to 12 year old girls are quite rare; the problem of 15 or 16 year old girls remains. The phenomenon of early marriage is widely (but not univocally) criticized by Roma themselves.

There are no data on ethnicity (as perpetrators or as victims) so the scale of the phenomenon of early marriages within the Roma community is impossible to estimate. The phenomenon was rarely reported officially (and always by public institutions when they accidentally learnt about the existence of such unions) although from informal commentaries and talks, it occurs within the Polish Roma communities, most of them being very traditional. The common conviction is that the age of Roma in Poland entering into marriages is slowly rising. Marriages of 12 years old girls are quite rare now and the phenomenon is widely (but not univocally) criticized by Roma themselves. The problem still exists though, currently pertaining to c.a. 15 year old girls. According to the Fundamental Rights Agency's survey *Discrimination against and living conditions of Roma women in 11 EU Member States* (2014) in all surveyed states around 2% of Roma girls aged 10 to 15 are reported as "traditionally married" or "cohabiting" with a partner and about 24% of 16 and 17 year old Roma are legally or traditionally married or "cohabiting". It is difficult to judge whether these figures describe the situation in Poland. The visibly lower number of married, divorced and widowed Roma (if compared to other groups) depicted in the National Census results seems to suggest that traditional Roma marriage is still a vivid institution as Roma in Poland belong to very traditional groups.

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<sup>84</sup> Only 7% of Roma acceded secondary and 2% of them higher education (compared to 31.5% and 17% respectively for the whole society). The level of economic inactivity of Roma reaches 63% compared to 44.5% for the whole population. Only 13.31% of Roma declared that they are working.

Occasionally cases of early Roma marriages come into light coincidentally, for example because of health problems or problematic pregnancies. This was the case of a 12 year old Roma girl of Kowary “traditionally” married to her 24 year old cousin (2006). A similar case from Opole involved a 21 year old man and a 16 year old girl. This time the girl was caught on petty theft and the subsequent inquiries led to disclosing the existence of traditional marriage. Such cases are widely considered to be serious violations of basic human rights. Both involved men were prosecuted. In 2007 the District Court of Kedzierzyn-Kozle trialed a 23 year old Roma man for marrying a 14 year old girl. The man was found guilty and a suspended sentence was pronounced. The prosecuted and sentenced men were defended publicly by some Roma leaders accusing justice system of violating Roma traditions and so-called “Roma rights”.

Problem of abusing of Roma women rights is especially visible in the context of sexual exploitation, a phenomenon that touches only migrant Roma women in Poland. According to information provided by the Polish branch of *La strada* organisation, the vast majority of Bulgarian women prostitutes working along the roads are of Roma ethnic origin.<sup>85</sup> A police research states that the sphere of sexual exploitation in Poland is monopolized by Bulgarian citizens of Roma ethnic origin from Varna, Dobrich, Stara and Nova Zagora, and victims – recruited from those villages - are often Roma women and girls without any education, deriving from very low economic status families, often “sold” by their families. A typical problem for conducting investigation has to do with the fact that it is a specific hermetic group, using a Bulgarian local Romani dialect, sometimes combined with emotional dependency between the victim and the perpetrator. Generalization should however be avoided, the above cases are probably not typical members of Roma migrant communities, which are anyway very few in Poland. Roma migrants residing in Wrocław, as an example, are Romanian citizens and are not involved in prostitution.

According to that report the market of forced begging is monopolized by Romanian citizens of Roma ethnic origin, mainly from Sibiu and Braşov which are places where victims are recruited from<sup>86</sup>. Foreign victims of human trafficking in Poland are mostly citizens of Romania, Bulgaria and Hungary; one can imagine that part of them is of Roma ethnic origin. The number of legal proceedings concerning begging in statistics is low and stable. It touches mainly citizens originated from Romania, the Republic of Moldova and Ukraine and perpetrators are organised gangs of Roma origin. Victims are mostly women and children, sometimes people with disabilities. There are cases of injuries of victims in order to gain additional profits from begging.

### 3.6 United Kingdom

There are two distinct population groups in the United Kingdom:

- a) A number of groups who have been living and travelling in the United Kingdom and Ireland for centuries (British Gypsies of the Romanichal and Kale Romani groups have lived in the United Kingdom since the 15th century). They are commonly referred to as Gypsies, Travellers (of Irish heritage) or Gypsies/Travellers, all of whom speak English as their mother tongue. Some Gypsies and Travellers travel, or travel some of the time, but many are sedentary. From the latest twice-yearly count of Traveller caravans on both authorised and unauthorised sites across England<sup>87</sup>, there were 20,123 Gypsy and Traveller caravans in England in January 2015;

<sup>85</sup> Information from shadow report of *La strada* NGO prepared as an additional material for CEDAW UN in 2014.

<sup>86</sup> Tomasz Piechocki, Handel ludzmi w Polsce [in] Zapobieganie handlowi ludzmi w Polsce. Materiały do raportu za lata 2009-2011, Ministry of Internal Affairs, p. 76

<sup>87</sup> This is a count of caravans and not of people, covering only England and excluding Scotland, Wales and Northern Ireland. See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/434107/Statistical\\_Release\\_Traveller\\_Caravan\\_Count\\_-\\_Jan\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434107/Statistical_Release_Traveller_Caravan_Count_-_Jan_2015.pdf).

b) The Roma, the term generally used to refer to people of Roma origin who have migrated from other countries of Europe in recent years, and who are not travellers. The first Roma from the new EU countries, particularly from the Czech Republic, Poland, Romania and the Slovak Republic, came to the United Kingdom in the 1990s seeking asylum to escape persecution. Since the enlargement of the European Union in 2004 and 2007, many more have moved legally to the United Kingdom to find work, equal opportunities and a good education for their children, and to escape racism and discrimination. They have established significant communities in the north of England, East Midlands, Kent and north and east London. It is not known how many Roma live in the United Kingdom<sup>88</sup>. The best estimate is around 300,000.<sup>89</sup>

The 2011 census introduced for the first time a tick box for “Travellers of Irish heritage” and “Gypsy/Roma heritage” in the ethnic origin question. Census data on ethnicity published in late 2012 by the Office for National Statistics<sup>90</sup> show that 58,000 people identified themselves as “Gypsies and Travellers” in England and Wales (Scotland and Northern Ireland are not covered). The census also provides detailed information on their geographical distribution in England and Wales. Available data show that Gypsies and Travellers are among the most disadvantaged minority ethnic groups, particularly in education and health, and also face discrimination, hostility and prejudice.

As concerns the situation of forced marriage (child or early marriage being considered in the United Kingdom as forced marriage), there are no specific data as concerns Roma, Gypsies and Travellers. The **Forced Marriage Unit (FMU)** collects data and statistics from calls to its National Helpline

For 2014<sup>91</sup>, the collected statistics were the following:

- The FMU gave advice or support related to a possible forced marriage in 1267 cases<sup>92</sup>;
- Where the age was known, 11.% of cases involved victims<sup>93</sup> below 16 years; 11% involved victims aged 16-17; 16% involved victims aged 18-21; 13% involved victims aged 22-25; 7% involved victims aged 26-30; 7% involved victims aged 31 or over;
- 79% of cases involved female victims and 21% involved male victims;
- The FMU has handled cases involving a total of over 88 different countries<sup>94</sup> specifically. In 2014 this included Pakistan (38.3%), India (7.8%), Bangladesh (7.1%), Afghanistan (3%), Somalia (1.6%), Turkey (1.1%), Iraq (0.7%), Sri Lanka (1.1%) and Iran (1.0%). The origin was unknown in 3.5% of cases;
- 23% of the cases handled by the FMU were domestic and had no overseas element;
- Within the United Kingdom the regional distribution was: London 23%, West Midlands 11.9%, South East 10.8%, Yorkshire and Humberside 8.9%, North West 8.1%, East 4.7%, East Midlands 4.4%, Scotland 2.3%, South West 1.7%, Wales 1.4%, Northern East 1.3% and Northern Ireland 0.7%. The region was unknown in 20% of cases;
- 135 cases involved victims with disabilities;
- 8 involved victims who identified themselves as lesbian, gay, bisexual or transgender (LGBT).

<sup>88</sup> There are no reliable figures on the number of Roma in the UK, since ethnic origin is not recorded on entry to the UK. Some non-official sources estimate that the number of Roma could be as high as several hundreds thousand.

<sup>89</sup> Information collected from the Equality (a non-governmental organisation) website: <http://equality.uk.com/Roma.html>.

<sup>90</sup> <http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/index.html>;  
<http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-ethnicity.html>;  
<http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-international-migrants.html>

<sup>91</sup> See also FMU statistics between January and December 2012 at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/141823/Stats\\_2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/141823/Stats_2012.pdf).

<sup>92</sup> This statistic includes contact made to the FMU via the helpline or by email in relation to a new case.

<sup>93</sup> Victim includes people thought to be at potential risk of future forced marriage, those currently going through a forced marriage and those who have already been forced to marry.

<sup>94</sup> This includes countries to which a victim is at risk of being taken or has already been taken to in connection with a forced marriage.

#### IV. REVIEW OF RELEVANT LEGISLATION AND POLICY FRAMEWORKS ADDRESSING (OR NOT) CHILD/EARLY AND/OR FORCED MARRIAGES

##### 4.1. Romania

Article 4 of the **Romanian Constitution** consecrates the principle of non-discrimination: “*Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin.*” Article 11 establishes that “*treaties ratified by Parliament, according to the law, are part of national law*”.

Although there is no formal prohibition of early (child) or forced marriages in the Romanian Constitution, it brings guarantees for the protection of children. Article 49 “Protection of children and young people” stipulates in paragraph 1 that “*children and young people shall enjoy special protection and assistance in the pursuit of their rights*”, while in paragraph 3 it prohibits child exploitation (“*the exploitation of minors, their employment in activities that might be harmful to their health, or morals, or might endanger their life and normal development are prohibited*”) and in paragraph 4 it prohibits child labour for children below the age of 15 (“*minors under the age of fifteen may not be employed for any paid labour*”).

Prior to the thematic visit of the group of partner countries’ experts, a number of policies have been reviewed by the Romanian expert of the thematic group, Mr Eugen Crai<sup>95</sup>, in order to assess if they define, prioritize and/or recommend specific actions in relation to the prevention or reducing early marriages, forced marriages or child betrothals. As such, the following national strategies have been analysed:

- the **National Gender Equality Strategy 2014-2017**;
- the **Government Strategy for the Inclusion of the Romanian Citizens Belonging to Roma Minority 2015-2020** (as adopted in 2015);
- the **National Strategy for the Protection and Promotion of Child Rights 2014-2020**;
- the **draft National Strategy on Reducing Early School Leaving**.

He came to the conclusion that these important national strategies fail to address early marriage. This is particularly the case for the National Gender Equality Strategy 2014-2017 and the Government Strategy for the Inclusion of the Romanian Citizens Belonging to Roma Minority 2015-2020 adopted in 2015 which do not address it at all.

The **National Strategy for the Protection and Promotion of Child Rights 2014-2020** does refer to child/early marriages, but only in its analysis of the situation. It first announces that there is recorded a continuous increasing trend for the age at first marriage, in 2011 this age being 26 for women and 29 for men. The same is announced for the median age at first birth, which in 2011 was 26. Then, in the next paragraph is revealed that “*a series of phenomena identified by the specialists reveals for Romania an insufficient family planning, education for sexual and reproductive health, especially in the case of the socially vulnerable categories. Thus, while the average age at first birth increased in the total population, the phenomenon of birth among adolescent girls and young women continues to be worrisome with more than one child out of ten being born by mother under the age of 20. At the same time, in Romania, the abortion rate was extremely high, until 2003 the frequency of abortions being higher than the frequency of births. Although the rate of abortions continues to be high, with 52.7 abortions reported to 100 live births, the level has decreased by 7 times in the last two decades*”<sup>96</sup>.

<sup>95</sup> See Mr Crai’s full report in the Addendum to this thematic report.

<sup>96</sup> National Strategy for the Protection and Promotion of Child Rights 2014-2020, pg. 22

Surprisingly, the National Strategy for the Protection and Promotion of Child Rights 2014-2020 speaks of early marriages only in the section dedicated to Roma children, where it mentions that approximately 28% of children/youth aged 15-19 are married, a situation with a negative impact on school participation, on access to labour market for the young families and on access to opportunities for the next child generations<sup>97</sup>. Besides mentioning the problem and citing its dimensions, the Child Rights Strategy does not include any specific measure or strategic action targeting early marriages. Nonetheless, the Child Rights Strategy has specific strategic actions targeting the prevention and combating violence against children. And it is at this point that early marriages pop up in the policy framework again.

The only conceptual elaboration of early marriages in the Romanian policy framework has been identified in **Government Decision 49/2011** for the adoption of the Framework Methodology on the prevention and multi-disciplinary team and network intervention in cases of child abuse and domestic violence, as well as of the Methodology for the multidisciplinary and inter-institutional intervention regarding the exploited children and children in situations of risk of being exploited through work, child victims of trafficking in persons, as well as Romanian migrant children victims of other forms of violence on the territory of other states<sup>98</sup>.

In its Annex 1 – **Framework Methodology on the prevention and multi-disciplinary team and network intervention in cases of child abuse and domestic violence**, Section II.2 “Conceptual Framework”, Sub-section II.2.1. “Operational definitions”, Title A – “Abuse”, letter c – “Sexual Abuse”, there is included among the examples of sexual abuse the case of early marriages: (point 5) says “*early marriages or child betrothal that involves sexual relations (especially in the Roma communities)*”. This is the only conceptual clarification, albeit incomplete, identified in the policy framework in Romania, and unfortunately it ethnicizes futilely the problematic of early marriage by adding the uninspired phrase “*especially in the Roma communities*”.

On a similar pattern, the **draft National Strategy on Reducing Early School Leaving** refers to early marriages only in its analysis of the situation among the factors contributing to early school leaving. It includes<sup>99</sup> in among these factors “*the health, early marriage and/or pregnancy, other personal reasons*”. Later on in the section dedicated to “marginalized minorities and other groups”, the draft National Strategy on Reducing Early School Leaving mentions that “*according to the recent studies, the key reasons for school dropout identified by both the educational stakeholders, and by the families, are directly related to financial hardships. Roma population is the most vulnerable to such hardship, and the situation is even more dramatic in the case of Roma girls, due to the precarious living conditions and traditions*”<sup>100</sup>. Yet, no more is elaborated in the draft Strategy on what is meant by “traditions”. Nor is included in the draft Strategy any specific measure or strategic action targeting early marriages.

The *sedes materiae* for child rights protection and promotion in Romanian legislation is **Law 272/2004 on the protection and promotion of child rights**<sup>101</sup>. Although this law is quite advanced for the protection of the rights of the child, it is completely silent when it comes to early marriages or child betrothals.

In 2007, the **Law 288/2007 for the modification and completion of Family Code Law 4/1953**<sup>102</sup> was adopted. It was for the first time in Romania when the legal minimum age for marriage became common for both men and women and set to the age of 18. However, the amended Article 4 of the Family Code stipulated that for solid reasons, the minor (whether boy or girl) who is already 16 years old can marry, on

<sup>97</sup> National Strategy for the Protection and Promotion of Child Rights 2014-2020, pg. 25

<sup>98</sup> Hotărârea Guvernului Nr. 49/2011 pentru aprobarea Metodologiei-cadru privind prevenirea și intervenția în echipă multidisciplinară și în rețea în situațiile de violență asupra copilului și de violență în familie și a Metodologiei de intervenție multidisciplinară și interinstituțională privind copiii exploatați și aflați în situații de risc de exploatare prin muncă, copiii victime ale traficului de persoane, precum și copiii români migranți victime ale altor forme de violență pe teritoriul altor state.

<sup>99</sup> See table 1.10 on page 26 of the draft National Strategy on Reducing Early School Leaving.

<sup>100</sup> Draft National Strategy on Reducing Early School Leaving, pg. 27 (Romanian language version)

<sup>101</sup> [Lege nr. 272/2004 privind protecția și promovarea drepturilor copilului.](#)

<sup>102</sup> [Legea 288/2007 pentru modificarea și completarea Legii 4/1953 – Codul Familiei.](#)

the basis of a medical notice, with the approval of his/her parents, or if case be, with the approval of his/her legal guardian and with the authorization of the competent County General Directorate for Social Assistance and Child Protection.

A new **Civil Code** entered into effect on 1 October 2011. According to Article 272 “Matrimonial Age”, the age for marriage for both men and women is legally established at the age of 18. However, the second paragraph stipulates that for solid reasons, the minor who is already 16 years old can marry, on the basis of a medical notice, with the approval of his/her parents, or of his/her legal guardian, if applicable, and with the authorization of the competent Guardianship Court. In case one of the parents does not approve the marriage, the competent Guardianship Court will also rule on such a divergence, taking into account the best interest of the child.

The new **Penal Code of Romania, Law 286/2009**, entered into effect on 1 February 2014, is the equivalent of a “revolution” in the penal regulations in Romania, bringing an enormous amount of innovation (not only as concerns what is criminalized or decriminalized, but also in the manner in which the criminalization is regulated) and aligns Romanian penal legislation to the EU standards.

However, this also raises a number of challenges, particularly for the more marginalized communities, including Roma communities, where awareness and information on the new legislation is supposedly scarce. Socially excluded Roma communities might not be necessary aware of the new penal legislation which may lead to a reduced compliance with it.

According to the new Penal Code of Romania the age of sexual consent is 15 (the old Penal Code also regulated the age of sexual consent at 15). However, penal legislation is excluded when the age difference is less than 3 years, irrespective of the age of the participants to the sexual activity (this is how Article 18, paragraph 3 of the Lanzarote Convention – non-criminalization of the freely consented sexual activities among minors - was translated into internal penal legislation). However, when sexual activities are “committed by a person of age with a **minor 13 to 18**, when the former abused their authority or influence over the victim”<sup>103</sup> then such activities are criminalized.

An overview of a number of selected crimes, as regulated in the new Romanian Penal Code, is included in Appendix to this report (with potential application in cases of child/early marriages), including ill treatments applied to minors, domestic violence, trafficking in minors, pandering, use of an exploited person’s services, rape, sexual assault, sexual intercourse with a minor, sexual corruption of minors, recruitment of minors for sexual purposes, and sexual harassment.

## 4.2 Italy

As for the prevention of child, early and/or forced marriages (**CEFM**), it is worth mentioning that Italy is a party to several relevant international legally binding standards<sup>104</sup>, the last of which is the Istanbul Convention which expressly requires the introduction of the formal crime of early/forced marriage. All these core treaties demand for the creation of national monitoring mechanisms and procedures to prove an adequate implementation of their contents. To this end, several *ad hoc* committees have been established, including the **National Ombudsman on Children’s rights**, composed of representatives from the competent Ministries and Departments of the Presidency of the Council of Ministers, as well as local governmental representatives, also supported by the advisory contribution from the civil society.

<sup>103</sup> Romanian new Penal Code, Art. 220, para. 3

<sup>104</sup> UN Convention on the Rights of the Child and related Optional Protocols (Act No. 176/1991 and Act No. 46/2002); UN Convention for the elimination of discrimination against women (Act No.132/1985); UN Convention against transnational organized crime and its Optional Protocols (Act. No.46/2006); Council of Europe’s Convention on Action against trafficking in human beings (Act. No.108/2010); Council of Europe’s Convention on the protection of children against sexual exploitation and sexual abuse (Act. No. 172/2012); Council of Europe’s Convention on preventing and combating violence against women and domestic violence (Act No. 77/2013).

From a legislative standpoint, in the course of the current Legislature, mention should be made of **Bill No.724, entitled “Provisions for the promotion of the female subjectivity and the fight against femicide”** and **Senate Act No.764, entitled “Introduction of the crime of femicide”, under the newly adopted Act No. 119/2013**. This Act must be read in conjunction with the **Act No.77/2013** and has three main objectives: to prevent gender-based violence; to punish whoever commits this crime; and to protect the victims. The first will be accomplished also through the introduction of criminal offences as far as forced marriage, FGM, abortion and forced sterilization. Furthermore mandatory arrest is established for stalking and family abuse crimes, with the abusive spouse subject to immediate removal from the household. Penalties increase in cases of violence against a pregnant woman, or in the presence of youth and children. Moreover women will be supported by free legal aid when they are victims of crime and must be kept informed about the hearing of their abuser.

By Legislative **Decree No.24/2014**, Italy has fully translated into domestic legislation, **Directive 2011/36/UE (on the prevention and the fight against trafficking in human beings and protection of the victims, replacing Framework Decision 2002/629 JHA)**. By this Directive, the EU has set minimum common criteria for the definition of criminal offenses in relation to trafficking. As mentioned in the explanatory report supplementing the above Legislative Decree, Directive No. 36 pursues the objective to ensure the strengthening of the repressive criminal protection system in order to ensure effective protection of victims, intended as "an essential step/element of the fight against trafficking in persons which necessarily requires an integrated approach".

At the policy level, Italy has recently adopted relevant National Action Plans in the following areas: the National Action Plan (NAP) on Violence Against Women and Stalking (2010-2013 - being under current revision); the National Action Plan on Children and the Youngsters (2011-2013); the National Strategy on the Integration/Inclusion of Roma, Sinti and Caminanti Communities (2012-2020), in accordance with EC Communication No. 173/2011; the First Plan of Action for the prevention and the fight against discrimination on the ground of sexual orientation and gender identity (2013-2015); and the second National Action Plan on Women, Peace and Security, 2014-2016.

By Ministerial Decree dated 10 November 2010, the then Minister on Equal Opportunities approved, upon positive opinion by the Unified Conference, the three-year term “*National Action Plan against gender-based violence and stalking*”. This document is the result of an inclusive process involving all relevant private and public stakeholders and envisages specific actions in the socio-cultural, health, economic, legislative, and judicial fields. More specifically, the aim of this Plan is seven-fold: (a) Raising awareness in a broad, adequate and effective manner; (b) Ensuring and implementing a network of relevant anti-violence Centres and shelters; (c) Securing an adequate support for the victims nationwide; (d) Adequately training and equipping with the appropriate tools, all those social and health-care providers mandated to supporting victims and/or working in this area, with the ultimate goal of mainstreaming gender-based culture; (e) Envisaging a structured collection of data to better steer relevant policies; (f) Enhancing forms of assistance and support for women, victims of violence, and their children; (g) Broadly enhancing the level of protection by an effective collaboration with Police Forces. Within the Plan the issue of the child, early and force marriages is referred to as one of the relevant forms of violation of women’s human rights, together with MGF and trafficking. In the biennium, 2010-2011, 18.6 million Euros were allocated for the implementation of this Plan, and further 1.5 million Euros, for the year 2012<sup>105</sup>.

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<sup>105</sup> The NAP has provided for the establishment of a high-level inter-ministerial Task Force on gender-based violence (from June 2013 onwards), aimed at coordinating governmental action for the prevention and repression of such a plague. The development of coordinated actions at all levels to implement the NAP contents has aimed at improving the role of private stakeholders in order to ensure the prevention and repression of violence against women: a National Audit was organized on 22 May 2013, during which the then Minister for Equal Opportunities met with relevant civil society representatives of a national and local relevance (CSOs), and the fourth annual week against violence was launched by the Ministry of Education and the Ministry for Equal Opportunities, on the basis of the cooperation initiated in July 2009. Through this week, financed by the Department for Equal Opportunities, the aim is to fight against all forms of discrimination by organizing awareness-raising campaigns, information and training courses on prevention of violence and fight against all forms of intolerance, especially those grounded on racial, religious

### 4.3 Republic of Moldova

In accordance with Article 30 of the Law Nr. 338 on Child Rights (adopted by the Parliament of the Republic of Moldova in 15.12.1994): “The state takes all necessary measures to prevent the abduction, sale and trafficking of children for any purpose and in any form”<sup>106</sup>.

### 4.4 The Netherlands

The Dutch Government follows the following international regulations:

1. The EU guideline (2011/36/EU) regarding prevention and combating human trafficking;
2. The Treaty of the Council of Europe on combating human trafficking (2005);
3. The Palermo Protocol;
4. The recommended principles and guidelines of the UN on human rights and human trafficking<sup>107</sup>.

The Compulsory Education Act<sup>108</sup> is applicable to all children with or without Dutch nationality, refugees or illegally entered individuals who are of school age. Education is compulsory for children between 5 and 18 years old<sup>109</sup>. The paper on Policy Measures in The Netherlands for the social inclusion of Roma submitted by the Ministry of the Interior and Kingdom Relations to the European Commission on 16 December 2011, in response to the European Commission Communication about a EU framework for national Roma integration strategies, recalls the main principles of the Dutch Compulsory Education Act.

Municipalities are responsible for enforcing the law and employ school attendance officers to ensure compliance with this requirement. Parents bear primary responsibility for complying with the Compulsory Education Act, i.e. for enrolling their children into school and for ensuring their daily presence at school. When children, Roma or otherwise, are persistently absent, the school attendance officer takes action – if necessary legal – to ensure they go to school. As a last resort, the attendance officer can report the case to the Public Prosecutor; judicial proceedings can lead to a fine or a custodial sentence on the parents<sup>110</sup>.

The Netherlands has adopted a legal framework on forced marriage and leaving behind<sup>111</sup>. It has also developed a criminal policy on human trafficking and adopted a Circular as indication to the Dutch Immigration Office about people asking for a temporary stay in the Netherlands on humanitarian grounds. Indication about human trafficking of the College of Prosecutors-General to the heads of regional prosecution offices also exists. On 23 March 2012, the Dutch Government indicated that the Netherlands is going to reinforce its fight against forced marriages, namely by preventing marriage among minors (less than 18 years old) on the Dutch territory<sup>112</sup>. The exception for a minor to get married through a judge decision was abolished following the entering into force of the new law.

### 4.5 Poland

The prohibition of discrimination in political, social or economic life on any ground is based on the **Constitution of the Republic of Poland**, especially its Articles 32 and 33.

and gender-based intolerance, besides dealing with all forms and root-causes of violence, or on sexual orientation and gender identity.

<sup>106</sup> <http://lex.justice.md/viewdoc.php?id=311654&lang=1>

<sup>107</sup> Source: the Dutch Ministry of Security and Justice.

<sup>108</sup> More information on the Dutch Compulsory Education Act is available on: <http://www.european-agency.org/country-information/netherlands/national-overview/legal-system>

<sup>109</sup> In the Netherlands, many students follow full-time education at least until they are 18. Between 16 and 18 they are allowed to work but are required to follow part-time education related to their job.

<sup>110</sup> Fines to Roma parents remain usually unpaid and both Dutch interlocutors and experts from partner countries agree that they are not a suitable answer as they increase family debt and poverty. This is why, in Veldhoven, the fine was replaced by a work penalty (parents who do not send children to school must work on a Saturday).

<sup>111</sup> See the Addendum of this report (in Dutch).

<sup>112</sup> Source: Article published by AFP on 23 March 2012 (in French).

**Article 32**

1. *All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.*
2. *No one shall be discriminated against in political, social or economic life for any reason whatsoever.*

**Article 33**

1. *Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland.*
2. *Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations.*

Additionally, Article 35 guarantees rights of national and ethnic minorities.

**Article 35**

1. *The Republic of Poland shall ensure Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture.*

The whole system of the Polish law offers a wide range of instruments to ensure in practice full respect for the principle of equal treatment. In case of violation of this principle, the Polish law guarantees adequate compensation both for moral and pecuniary damage. The Polish equal treatment legislation is composed of various legal acts which have been drafted in line with the EU anti-discrimination directives. As a matter of principle, Roma, both men and women, can benefit from the Polish legal instruments on equal footing with other Polish citizens.

Firstly, on 1 January 2011 the **Act of 3 December 2010 on the implementation of certain provisions of the European Union on equal treatment** (hereinafter **Equal Treatment Act**) entered into force. This was an important step towards consolidation of legal protection of the equal treatment principle under the Polish law.

The act specifies areas and methods of counteracting violation of equal treatment principle on the grounds of sex, race, ethnic origin, nationality, religion, denomination, world-view, disability, age or sexual orientation. It fully implements the provisions of the EU antidiscrimination directives, defines legal measures to protect the principle of equal treatment and bodies responsible for implementing the principle of equal treatment.

The Act contains definitions of direct and indirect discrimination, harassment, sexual harassment, unequal treatment, and principle of equal treatment.

The Act prohibits the encouragement or ordering of unequal treatment (Art. 9). In the event of a violation of the principle of equal treatment, damages may be claimed. The burden of proof in the proceedings is shifted – a plaintiff claiming that the principle of equal treatment has been violated must lend credence to the violation. In the event of lending credence to the violation of the principle of equal treatment, the party accused of violating the principle is obliged to prove that they did not violate the principle (Art. 13).

In addition, the **Polish Labour Code** (in its Chapter II.a, Articles 18<sup>3a</sup>-18<sup>3e</sup>) contains a set of guarantees with a view of ensuring equal treatment in work settings and provides an efficient mechanism of remedying any violations. The principle of equal treatment is understood as the freedom from discrimination, both direct and indirect.

Also, relevant provisions of the **Civil Code** guarantee a broad protection of personal goods (Art. 23) which are defined and interpreted by courts in an open and non-exhaustive manner, applying also to cases of discrimination. Under its provisions of Art. 24 in conjunction with Art. 415 and 448 – the Civil Code affords possibility for redress for persons whose personal goods have been infringed or merely threatened.

Adequate protection can also be granted in the course of criminal proceedings. The court can apply penal measures in parallel or instead of a penalty, *inter alia* obliging the perpetrator to redress damage or harm (Art. 39.5 of the **Criminal Code**) or ordering him/her to pay a sum of money for the benefit of the victim (Article 39.6 of the **Criminal Code**). These possibilities are open to victims of all crimes, including victims of discrimination.

Relevant provisions protecting against various forms of discrimination are also included in other sectorial laws, starting with the **Act on National and Ethnic Minorities and Regional Language**. The principle of spousal equality is included in the **Family and Guardianship Code** (Articles 23 and 24).

The whole system of the Polish equal treatment law guarantees full respect for the principle of equal treatment. As it may be assumed, it does not contain provisions specifically addressing discrimination of Roma or Roma women. People belonging to the Roma minority, both men and women, can benefit from the Polish legal instruments on equal footing with others and with no restrictions. The phenomenon of *multiple discrimination* is not however defined in the Polish law.

According to the Equal Treatment Act, the **Civil Rights Defender** (as an independent equal treatment body) and the Government Plenipotentiary for Equal Treatment (as the coordinator of government's activities) are tasked with the implementation of the principle of equal treatment. This does not exclude responsibility of other government bodies and public institutions for implementing the equal treatment principle within their competencies. As regards the obligation of the authorities to promote equality and to prevent discrimination in carrying out their functions, this clearly stems from Articles 30 and 32 the Constitution.

As regards Polish legislation addressing early and/or forced marriages, **Article 10 of the Family and Guardianship Code** sets the minimum age for those entering into marriage at 18. A court may permit a woman who has reached the age of 16 to marry if the marriage would be in *the best interest of the newly established family*.

The **National Programme for Equal Treatment for 2013-2016** constitutes a horizontal, governmental strategy for equal treatment. The **Government Plenipotentiary for Equal Treatment** coordinates the implementation of the Programme by all ministers and relevant central offices. Within its goals and priorities regarding equal treatment in all spheres of social life the Programme indicates measures for counteracting discrimination based on sex, race, ethnic origin, nationality, religion, denomination, world-view, disability, age and sexual orientation. The Programme anticipates activities in all areas including (but not limiting them to) the further general implementation of antidiscrimination policies, increasing activation and participation of women, elderly, persons with disabilities, Roma and foreigners in the labour market, combating gender based violence, preventing and combating hate crimes as well as ensuring equal treatment in education (including measures aimed at elimination of stereotypes and intolerance), healthcare system and access to goods and services (including media). Many of the actions envisaged in the Programme are of transversal nature and concern all groups being potentially at risk of discrimination as well as the majority of the society. The phenomenon of multiple discrimination or specific situation of Roma women is explicitly taken into consideration only in the context of culturally appropriate health care. There are however many actions foreseen for the Roma minority and even more activities aimed at women empowerment and equality.

The **Programme for Integration of the Roma community in Poland 2014-2020**, managed by the Minister of Administration and Digitalization, sets goals and measures in four priority areas: education, employment, housing and health – not limiting its actions to these areas. The strategy does not have any direct references to dealing with specific problems of Roma women or to women empowerment. There is only a short statement that the special attention should be given to the participation of Roma women in the planned actions. The reason behind this approach was to limit obstacles inside the Roma communities to Roma women participation in proposed activities. However, the issue of the Roma women participation is

explicitly and strongly emphasized during workshops for the network of regional plenipotentiaries for national and ethnic minorities who initiate and monitor the implementation of Programme at the regional and local levels. The reporting mechanism on the implementation of the strategy requires information pertaining to the Roma women involvement. The programme is a continuation of the previous government programmes implemented since 2001.

Policy measures and affirmative actions taken by the Polish government towards the Roma national minority benefit Roma women and girls. In the field of education, 71% of assistants for Roma education are Roma women; 66% of beneficiaries of the scholarship system for tertiary education students are Roma girls; and the majority of beneficiaries of scholarships for secondary school students are Roma girls. In the sphere of public life, 31% the Roma Team of the Joint Commission of the Government and National and Ethnic Minorities are women. In addition, 53% of the participants of projects implemented within the so-called Roma Component of the Human Capital Operational Programme are Roma women/girls. Through their active participation in the above activities, Roma women have been systematically empowered not only by public authorities, but also, indirectly, inside their local communities.

The Polish authorities have developed a number of activities for empowering Roma women and eliminating “multiple discrimination” (though this term is not defined in Polish legislation), including the following:

- Consultative meetings on multiple discrimination on the grounds of gender and ethnic origin, nationality, religion, denomination and world-view initiated in 2014 by the Government Plenipotentiary for Equal Treatment;
- A first large scale meeting devoted to the situation of the Roma women in Poland organised by the Government Plenipotentiary for Equal Treatment in 2011 ( a second such event took place on 12 June 2015);
- Efforts to ensure the parity between male and female representatives of Roma communities;
- A three-week long visit of five Roma women to the United States of America (April-May 2015);
- Publications<sup>113</sup>;
- Support for a Project showing successful Roma, many of them being Roma women, to promote a better image of Roma and their self-esteem.

#### 4.6 United Kingdom

The **2007 Forced Marriage (Civil Protection) Act** brought into being the use of **Forced Marriage Protection Orders (FMPO)**. FMPOs are civil court orders with legally binding requirements to protect a person at risk. They have been used to both restrict the actions of those presenting a risk of forced marriage to another, to prevent marriages from occurring and can also be used to ensure someone is safely returned to the United Kingdom from overseas. They can be used pre-and post-marriage. Police, social services and any 3<sup>rd</sup> party given permission by court can obtain and use this tool to assist those at risk.

FMPOs conditions include:

- Protect victims from being taken overseas/or being them back;
- Stop them for being forced into marriage whether religious or otherwise;
- Stop them being hurt/harmed or threatened;
- Stop them being harassed.

FMPOs are critical in cases where victim is in a country that FMU cannot assist in; freedom of movement is restricted or where the FMU has no contact address. Failure to comply resulted in a “contempt of court” and was punishable by up to 2 years in prison.

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<sup>113</sup> *Studia Romologica, From the life of Romni. Tradition and contemporary civilization.*

Following a detailed consultation and having listened carefully to all views, on 8 June 2012, the Prime Minister announced that the Government will make forcing someone to marry a criminal offence. This is a twin track approach. In doing so, the British government is sending out a clear message that this brutal practice is totally unacceptable and will not be tolerated in the United Kingdom.

The **2014 Anti-Social Behaviour, Crime and Policing Bill** received Royal Assent and became Law on 16 June 2014. This new law:

- criminalises the act of forcing someone to marry against their will;
- criminalises the act of luring of a person to a territory of a state for the purpose of forcing them to enter into marriage without consent;
- criminalises the act of using deception with the intention of causing a person to leave the UK with the intention of forcing that person to marry;
- if a person lacks the capacity to consent, the offence is also capable of being committed by any conduct carried out for the purpose of causing the victim to marry, whether or not it amounts to violence, threats or any other form of coercion;
- criminalises the breach of a Forced Marriage Protection Order (FMPO).

The Foreign and Commonwealth Office and Home Office have set up a **specific website on forced marriage**<sup>114</sup>. This website provides:

- a definition of “forced marriage”;
- [Information for people directly affected by forced marriage](#);
- Brief information about the Forced Marriage Unit (FMU) - a joint Foreign and Commonwealth Office and Home Office unit set up in January 2005 to lead on the Government’s forced marriage policy, outreach and casework, and FMU contacts;
- Legislation on forced marriage, in particular [The Anti-social Behaviour, Crime and Policing Act 2014](#) which makes forced marriage a criminal offence to force someone to marry;
- Statistics on Forced Marriage collected by the FMU
  - o [Statistics on forced marriage for 2015](#) ; [Statistics on forced marriage for 2014](#)
  - o [Statistics on forced marriage for 2013](#) ; [Statistics on forced marriage for 2012](#)
- Guidance for professionals
  - o [Multi-Agency Statutory Guidance for dealing with forced marriage](#) 2014
  - o [Multi-Agency practice guidelines: Handling cases of forced marriage](#) 2014
  - o [2010 Review of implementation of statutory guidance](#) across public agencies in England and Wales
  - o [Guidance for Members of Parliament and constituency offices](#)
  - o [Guidance for Registrars](#)
- eLearning training for professionals
- Information about an Outreach programme run by the FMU across the UK to raise awareness of forced marriage and about the 2015/16 FMU Domestic Programme Fund;
- Publications and other resources
  - o [What is a forced marriage?](#) (leaflet)
  - o [Forced Marriage Protection Orders](#) / [Forced Marriage Protection Orders](#) (leaflets)
  - o [Marriage: it’s your choice:](#) (cards)
  - o Forced Marriage poster [English](#) available in 9 other languages (but not in Romani)
  - o [Forced Marriage: A Survivors Handbook](#) (handbook)
  - o Campaign videos (see the website).

<sup>114</sup> <https://www.gov.uk/guidance/forced-marriage>.

## V. REVIEW OF POSITIONS OF RELEVANT ROMANIAN INTERLOCUTORS AND MEASURES UNDERTAKEN IN RELATION TO CHILD/EARLY AND FORCED MARRIAGES

### 5.1 The position and the response of the National Authority for Child Rights Protection and Adoptions (restructured in 2009 as a Directorate within the Ministry of Labour)

In its reply to the questionnaire of the 2010 Romanian survey team for the project *Preventing Early/Forced Marriage*<sup>115</sup>, the National Authority for Child Rights Protection and Adoptions formulates very clearly the essence of the harmful practice of forced marriages: “*forced and early marriages imply the violation of children’s rights as they are stated in Romanian Law 272/2004 regarding the protection and the promotion of children’s rights*”. According to the opinion of the Authority, practicing early and forced marriages means to violate the right of the child to enjoy life conditions that are guaranteeing his or her physical, mental, spiritual, moral and social development, and, prevents the children from expressing their own opinions on facts influencing their life. The Authority considers that in several cases the practice of forced marriages imply also additional abuses, physical, emotional, sexual, and consequently, violates the right of the child to be protected against all forms of violence, abuse, ill-treatments. However, the Authority’s involvement has been limited to:

- the introduction of an optional study subject focusing on the pre-marital education for teenagers and youngsters studying colleges, vocational schools and other types of schools;
- the legislative introduction of a compulsory premarital advice programme for adolescents approaching the minimum legal age of marriage and willing to marry;
- the development of a network of advisory centres for children and parents in municipalities and big cities;
- the extension of the Parents’ School Programme for all parents’ advice centres, mothers’ centres and day care centres;
- the implementation of an educational campaign targeting the parents and advocating for the respect of children’s rights under the title “*You can be a good parent, too!*”, involving parents, health care agencies and medical practitioners, teachers, representatives of the police, churches and the judiciary.

The Authority has not implemented programmes or projects specifically directed to tackle the issue of early marriages in the Roma community, although this type of children’s rights violations occurs in compact communities and in well-known areas.<sup>116</sup>

**County Directorates for Social Assistance and Child Protection (CDSACP)** have no expressly defined public policies regarding early/forced marriages.<sup>117</sup>

### 5.2 The position and the response of the National Agency for Roma (NAR)

Mr Daniel Vasile, NAR president, was very clear during the thematic visit that child marriage is a matter of concern and should be properly addressed, and not only in Roma communities. He even introduced the concept of “*pre-early marriages*” to describe unions between very young children (8-13 years old)<sup>118</sup>.

<sup>115</sup> This project was implemented in Bulgaria, Romania and Greece with support from DG Justice of the European Commission (within the frames of the Daphne Programme 2009 - Reference number JLS/2008/DAP3/AG/1298-30-CE-03124780080). For the 2011 report *Preventing Early/Forced Marriages* implemented in Bulgaria by Amalipe Centre for Interethnic Dialogue and Tolerance, see <http://www.amalipe.com/files/publications/ranni%20brakove%20last.pdf>.

<sup>116</sup> See pages 37-38 of the 2011 report *Preventing Early/Forced Marriages* implemented in Romania by Liga Pro Europa (

<sup>117</sup> Ibid, page 45.

<sup>118</sup> As a recent example of this situation, see the following article (in Romanian) dated 1 February 2016 about the “marriage” of two Romani girls aged 6-7 in Galați: <http://www.nasul.tv/scandal-in-comunitatea-roma-daniel-cioaba-a-prezentat-o-fotografie-cu-doua-copile-sotii-din-galati-aceste-fetite-sunt-maritate-iar-casatoria-consumata-este-o-crima-si-un-act-de-cruzime/>.

The Agency has implemented several projects and programmes targeting to prevent and combat the practice of forced marriages. In 2006 the Agency released the report *SOS – Traditional (Pre-modern) Roma communities confronted with the risks of European integration and (post) modernity – Inclusion policies implemented in the traditional (Semi) Nomadic Roma Communities*. The report constitutes an inventory of traditional practices of the Roma community from Sintești. This includes express recommendations for the prevention of forced marriages. One chapter is devoted to the elaboration of complex programmes at the national level to prevent early marriages, refusal of vaccinations, school drop-out and exploitation of child labour. (pg. 39) Building upon the experience gained in the Râmnicelu case, monitored for several years, the Agency succeeded to elaborate action plans, including measures designed for combating forced marriages, such as evaluation of the local community; facilitation of the local development; elaboration of public policies directed towards the traditional communities focusing on the protection of children’s rights and interests; education of the members of the community regarding their rights and obligations; information campaigns; supporting the partnership between school and public administration and community; adopting projects and programmes facilitating the access to schools and education for the parents; setting up a centre to advise young mothers, to help carrier orientation of the young members of the Ramincelu community. Despite its positive achievements, the National Agency for the Roma works on solving a wide range of problems and does not have enough resources to concentrate on the issue of forced marriages.<sup>119</sup>

### 5.3 The position and the response of the Ministry of Education

The Ministry of Education, in partnership with UNICEF in Romania, organised in 2010 a National Conference on the issue of school drop-out, with the participation of the Ministry of Labour, Family and Social Protection, the National Agency for the Roma, the National Authority for the Protection of the Family and the Children’s Rights, the county school inspectorates, local administrations, county councils, the Institute for the Educational Science, the World Bank Mission in Romania. The National Conference was aimed to raise the awareness towards the increasing number of cases of school leaving, but early marriage as a reason for the Roma girls’ dropping out was not *per se* on the agenda<sup>120</sup>. However, two reference studies on Roma children’s participation to education (supported financially and technically by UNICEF) were presented: one conducted by Romani CRISS and the other conducted by Community Development Agency “Împreună” (*Together*). Data on school drop-out generated by early marriages was presented in the conference.

Between 23-25 September 2012, UNICEF and implementing partners<sup>121</sup> of the School Attendance Initiative “*Let’s Go to School!*” organised the third National Conference in Sinaia<sup>122</sup>. The event was meant to present those involved and decision makers the objectives, components, actions and mechanisms of the campaign rolled out to prevent absenteeism and drop-out.

The **County School Inspectorates** do not have any statistics which could reflect the percentage of school drop-outs as a result of early/forced marriages of children from traditional Roma communities.<sup>123</sup>

**Roma school mediators** employed in Romania contribute to the awareness-raising on the risks of child/early marriage, in particular in respect to education and school drop-outs.

<sup>119</sup> Ibid, pages 39-40.

<sup>120</sup> Ibid, pages 41-42.

<sup>121</sup> UNICEF’s implementing partners for this project are the Romanian Ministry of Education, Research, Youth and Sport (MERYS), the Institute of Education Sciences (IES), the Resource and Information Centre for Social Professionals (CRIPS), Holt Romania and “Împreună” Community Development Agency.

<sup>122</sup> For more information on the School Attendance Initiative, see <http://www.unicef.org/romania/20682.html>.

<sup>123</sup> Same reference as footnote 77, page 50.

#### 5.4. The position and the response of the Ministry of Public Health

The Ministry of Public Health and the subordinated county authorities approach the issue of early marriages from the perspective of reproductive health. Early pregnancies are in the centre of attention, but statistics do not reflect the ethnic background or the causes of early pregnancies.<sup>124</sup>

The large number of Roma health mediators working in Romania contributes to the awareness-raising on the risks of child/early marriage, in particular in respect to health.

#### 5.5 The position and the response of the Ministry of Internal Affairs and the Ministry of Justice

The Ministry of Internal Affairs coordinates the activity of the police and has branches in all 41 counties. Police intervention in cases of early marriage is frequently a result of media information. In many cases, police intervention in wedding ceremonies (in cases of early marriages) is being shot by television teams. Usually, in such cases the perpetrators are arrested on charges of rape or sexual intercourse with a minor, but frequently these actions of the police result in light sentences. Generally, imprisonment does not take place and alternative punishment is preferred. The Ministry of Internal Affairs has no statistics on the number of arrests related to early marriages.<sup>125</sup>

#### 5.6 County Offices for Roma

Only in 4 Counties Offices for Roma (out of 41 in total at national level) the issue of early/forced marriages in traditional Roma communities was discussed in the mixed working group's meetings (these mixed working group consist of representatives of County Roma Offices, county level institutions, experts in Roma issues from the local mayors' offices, health and school mediators, Roma informal leaders and NGOs dealing with Roma issues). In the other respondent counties this issue was not discussed.

The project *Preventing Early/Forced Marriages* implemented in Bulgaria, Romania and Greece by Amalipe Center for Interethnic Dialogue and Tolerance (Bulgaria), Liga Pro Europa (Romania) and the Association for Social Support of Europe – ARSIS (Greece) led to the adoption of a “*Declaration towards a comprehensive policy for social inclusion of Roma women*” (a Declaration adopted unanimously by the participants in the International conference “Policies for the empowerment of Roma women in the context of European programme for Social Inclusion”, held in Sofia on 29 November 2010 as the closing event of the project “Preventing Early/Forced Marriages”). The Declaration was built around four key pillars: 1. Strong and comprehensive national policy for Roma integration that takes into consideration the challenges for Roma women emancipation; 2. Strong and comprehensive European policy on Roma integration that takes into consideration the challenges for Roma women emancipation; 3. Linking the overall European gender policy to take account of the challenges Roma women meet; and 4. Promoting the widespread application of an innovative approach for supporting the modernization of the Roma community and overcoming the patriarchal practices hampering the realization of the Roma woman.

The research on the phenomena of early marriages in Romania is the one conducted in 2012 by Rita Sorina Sein for ERRC – “*Racial Discrimination, Deprivation, Segregation and Marginalisation as a Reinforcement of the Practice of Child Marriage*”. Her report is based on a socio-economic comparison between Roma communities in two locations: Roma who migrated from Romania to Italy and have regular access to social services, and Roma who stayed in Romania and continue to live in a highly marginalised situation. This comparison is very interesting as it depicts the same Romanian Roma community (Geambasi community from Banat region) with the same cultural values and traditions but with visible different practices related to early marriages due to the only variable in the equation: socio-

<sup>124</sup> Same reference as footnote no.77, page 43.

<sup>125</sup> Ibid, page 43.

economic status of the members of the community (the Roma migrants to Italy has been integrated in the wider communities from the locations in Italy, had sustainable access to employment, education, health services and social protection, while the Roma who remained in the location from Romania continued to live in destitute conditions, isolation from the wider society and lacking any development perspectives).

The data included in the report shows that of all Roma interviewed in Banloc village in Romania 96.5% were married before reaching the age of 18 (of all the 88 Roma women and men interviewed only 3 reached the age of 18 without being married – two men and a woman), while the Roma from Banloc village who migrated to Italy gave up the early marriage practice. All the cases of early marriage among the interviewees located in Italy were between people that married in Banloc before migrating and none of the girls and boys below the age of 18 were married or were planning to marry. In the case of the Romanian Roma who settled in Italy, the actual situation indicates a lack of support for the practice of child marriage. In Italy, the Romanian Roma “when asked at what age they would choose to marry, all males said after 18. In the case of girls, most of them said that they wanted to marry after they were 20 years old so that they could finish their studies and find employment before they got married.”<sup>126</sup> When analyzing the reasons for “consenting” to an early marriage the girls interviewed in Romania often invoked “an understanding of the high level of poverty in which her family lived and the financial benefit that her family might gain if she got married.”<sup>127</sup> “The Roma Judge also showed awareness of the socio-economic reasons that lead to child marriage in the Romani community”<sup>128</sup> in Romania.

This research also goes into comparing the knowledge among the two Roma groups of the legal age of marriage (almost 80% of the Roma still living in Romania were unaware of the legal age of marriage in Romania, while 100% of the Roma who settled in Italy were aware of the legal age of marriage in Italy) or if the children are consulted about their marriage the girls and boys are consulted (in Romania 67% of women were not asked whether they agree or not to their marriage, while there was no child marriage case in Italy). Also the report comes to present one cultural practice associated with marriage, i.e. the virginity testing: “In the Romani community in Banloc (*Romania*) children are pushed to have sexual relations after the marriage ceremony and the girls then undergo a virginity test, an intrusive and in most, if not all, cases, degrading practice. In Banloc, Roma use only one modality of virginity testing: the bed sheet. The virginity of the bride is ‘proven’ by the bed sheet, which must be stained with blood after breaking the hymen. In the Banloc community there are women who perform the virginity test. For Romani girls this is the most important test of their life; it can have a great impact on their lives and puts tremendous psychological pressure on them. Virginity testing focuses the attention of the whole community on whether the girl appears to be a virgin or not. If girls do not “pass” the test by staining the sheet with blood on their wedding night, they are humiliated, mistreated and, in most cases, excluded from the community, along with their entire family. The education of children in the family is considered a woman’s responsibility. As a result, if a girl is not considered a virgin when she gets married, the mother of that girl will lose the respect of the entire community for the rest of her life. The community will believe that the mother did not know how to pass on the oral education about Romani culture and traditions, and she is not considered a Romani woman with traditional morality and respect. All married Romani girls and women interviewed in both locations say they underwent virginity testing, and they all state that they agreed to it as they consider it an important part of Romani values and tradition.”<sup>129</sup>

Other projects implemented for the prevention of early marriages have been implemented by the Roma Christian Centre , Sibiu (“Early Marriages in Kalderash Roma Communities – In Between Tradition and Law”, 2005), by Romani CRISS, Roma Parents Association - Iasi, Amare Rromentza Roma Centre, Asociatia Sanse Egale, etc (mostly community campaigns).

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<sup>126</sup> “*Racial Discrimination, Deprivation, Segregation and Marginalisation as a Reinforcement of the Practice of Child Marriage*”, Rita Sorina Sein, 2012, ERRC, pg. 19

<sup>127</sup> Idem, pg. 19

<sup>128</sup> Idem, pg. 19

<sup>129</sup> Idem, pg. 20

## VI. PENAL AND JUDICIAL RESPONSE TO CHILD/EARLY AND FORCED MARRIAGES

### 6.1 General remarks

Whether we refer to a child/early marriage or a forced marriage, both violate a number of universal human rights, and are unequivocally condemned by the international human rights regime.

Forced marriage is an appalling and indefensible practice and the very nature of forced marriage means that it is likely that many cases go unreported. It is a serious abuse of human rights and is never acceptable.

Country-level legal systems are often ill-equipped to combat – and at times even incentivize – child/early and forced marriages. Where child/early and forced marriages are criminalized, these practices often continue unchecked by state and local authorities. During the discussions, it was reported that, in a number of cases, local authorities and sometimes representatives of the church are invited to attend “traditional” marriages involving under legal age children and therefore give their *de facto* consent to such practices.

- *The group of experts argues that irrespective of the ethnic background of the communities where the early marriage phenomena are manifest, a change in such practices are needed for the complete realization of the human rights of each girl and boy, of each woman and man.*
- *The group of experts recalls that the Istanbul Convention expressly requires the introduction of the formal crime of early/forced marriage.*

### 6.2 National responses and measures

#### 6.2.1 Romania

An overview of a number of selected crimes, as regulated in the new Romanian Penal Code, with potential application in cases of early marriages is available in Appendix 4, part A, of this report.

#### 6.2.2 Italy

As for the relevant case-law, mention has to be made of the very recent Court of Cassation’s ruling (Judgment No. 16321, dated April 14, 2014) concerning the transfer to Italy of a Roma minor and the subsequent custody to the future father-in-law upon payment of a sum of money, to her parents. In this case, the Supreme Court has confirmed the following offences: trafficking, reduction into slavery, and sexual violence against a minor. Decisions of a similar nature had been already adopted in the past by the Supreme Court (See also Judgments Nos. 23989 and 23988, both dated June 15, 2011).

#### 6.2.3 Republic of Moldova

The expert indicated that the Republic of Moldova, as a democratic state, respects one of the core democratic values of the rule of law - *the principle of subsidiarity*. The proposal to include the phenomenon of "early and/or forced marriage" under penal law should be formally addressed by representatives of the Roma community and/or Roma Civil Society.

#### 6.2.4 The Netherlands

Article 273f of the Dutch Penal Code concerns human trafficking. A Dutch court sentenced a grandfather to 8 months of prison because he abused his granddaughter several years (between her 7th and 10th year of age) by forcing her to lift shops. That this grandfather was a Roma played no role in the court hearing and almost not in the news.

The Parliament adopted a Memorandum with regard to the implementation of international regulations to combat smuggling and trafficking of human beings. A letter was addressed to the Second Chamber approach on forced marriage and leaving behind; both the letter and the reply appear in the Addendum to this report.

### **6.2.5 Poland**

According to the information of General Prosecutor's Office there are three related articles of Polish penal code related to forced and child/early marriages<sup>130</sup>.

According to Article 200 § 1 of the **Criminal Code**, subjecting a minor under the age of 15 to sexual activity is punished with imprisonment for a term of between 2 and 12 years. In accordance with Article 211, abducting or detaining a minor against the will of his or her care taker or supervisor is punished with imprisonment for up to 3 years. According to police data the number of instituted legal proceedings under this article in 2014 was 204 and asserted crimes was 59. In Poland, early marriage under 15 is often referred to as paedophilia since 15 is the minimum age of consent. Above 17 years old, the person is reliable to justice.

The number of case law seems to be rather limited. Early marriages among Roma come into the light coincidentally. The Polish expert mentioned three cases:

- In 2007, the District Court of Kedzierzyn Kozle condemned a 23 year old Roma man for marrying a 14 year old girl. He was sentenced for 8 months imprisonment suspended for 3 years and assigned a court probation officer;
- In 2006, a 12 year old Roma girl of Kowary who was "traditionally" married to her 24 year old cousin was brought to a maternity ward;
- In 2006, in Opole a 21 year old man was married to a 16 year old girl (caught on shop lifting).

### **6.2.6 United Kingdom**

The **2014 Anti-Social Behaviour, Crime and Policing Bill** that entered into force on 16 June 2014:

- ensures that victims are protected against forced marriage which is a fundamental breach of basic human rights;
- sends a clear message that forcing a person to marry against his/her will is unacceptable;
- provides further clarity for frontline professionals and also communities that forced marriage is totally unacceptable and will not be tolerated in the United Kingdom;
- aims to reduce the number of victims that are being forced into marriage;
- aims to deter perpetrators from actively seeking to force someone into marriage in the future.

**Penalties for a forced marriage offence** are as follows:

- If convicted in a criminal court, maximum penalty on indictment will imprisonment for a term not exceeding seven years;
- If convicted in a civil court, maximum penalty on summary conviction will be imprisonment for a term not exceeding six months imprisonment and/or a fine.

**Penalties in case of a breach of a forced marriage protection order (FMPO):**

- If the breach is in a criminal court, maximum penalty on indictment will imprisonment for a term not exceeding five years;
- If the breach is in a civil court, maximum penalty on summary conviction will be imprisonment for a term not exceeding six months.

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<sup>130</sup> See those articles in Appendix 4, part B.

## **VII. CONCRETE MEASURES AND TOOLS TO PREVENT CHILD/EARLY AND FORCED MARRIAGES, ASSIST AND PROTECT THE VICTIMS**

### **7.1 Romania**

See chapter VI above.

### **7.2 Italy**

Several measures have been implemented in recent times to be eventually associated with the fight against child, early and/or forced marriage - as promoted by some relevant competent Ministries whose experiences insist on the opportunity to improve the exchange of information and the adoption of common procedures and the training of specialized personnel who enter into contact with women and girls as victims.

As an example, the Italian Ministry of Justice launched in the biennium 2011-2013, the following activities: 1. the possibility of signing MoUs at the local level, with CSOs, to improve the exchange of information between magistrates, law enforcement officials, health-care providers and other relevant stakeholders when dealing with cases of gender-based violence; 2. the possibility of defining modalities to collect relevant quantitative and qualitative data on all forms of discrimination against women and girls, to better steer local and national actions; 3. confidence-building measures in the judicial sector to adequately protect victims of violence especially when rendering testimony against offenders; 4. training and awareness-raising initiatives at the local level, considering that the fight against impunity goes through action-oriented measures, including police training, free legal aid, and effective protection for the victims and the witnesses.

Under the 2011 MoU between the Department for Equal Opportunities and the Ministry of Interior, the issues of domestic violence, stalking and discriminatory acts have been included through the formula “Stalking and crimes against the so-called vulnerable groups (women, children, the elderly)”; in 2012, by providing for monitoring and tackling discriminatory acts against minority groups; in 2013, by focussing on the issue of violence against women and children from the juridical, psychological and operational standpoints.

Another relevant project was recently concluded by the Ministry of Health and Candelaria Donne Immigrate Onlus and refers to the “Health and security of the newborn: a guide for immigrant families” by which it was arranged the publication and broadest dissemination of a pamphlet on child-maternity health care, entitled “girls and boys: children of the world”. It was made in 10 different languages, to reflect the languages spoken by the largest immigrant communities living in Italy.

Finally, at the international cooperation level, mention should be made of the sectoral Guidelines by the Directorate General for Development Cooperation at the Ministry of Foreign Affairs, with the contribution of relevant public and private stakeholders, on gender equality and women’s empowerment and children’s rights, respectively. Among the main initiatives of the Italian Development Cooperation the following could be interrelated with the issue under examination: “acquire data relating to cases of maltreatment, and the sexual abuse and exploitation of children, to gain a better understanding of the various elements and dimensions of the phenomenon and the complex risk factors, and for the purpose of monitoring in the field; implement prevention policies, including through networks of institutions with responsibility for child protection, with two priority goals: One is to support the most vulnerable households and/or those experiencing difficulties, including by improving the services and instruments available to prevent and overcome intra-family disputes and other situations of vulnerability. And the other is to link up services provided by schools and other institutions in contact with the population in order to strengthen monitoring activity. The aim here is to promptly identify cases of risk and/or of actual violation. The focus should be

on situations of disadvantage, marginalisation and deviance. The national and international media should also be involved so that they can collaborate in promoting and disseminating an ethos that rejects all forms of violence against children”.

### 7.3 Republic of Moldova

In 2003 the Moldovan Helsinki Committee has issued recommendation by central, regional and local authorities to development special issues to include all school-age Roma in schools, especially Roma girls that manifest the highest level of drop.<sup>131</sup>

On 20 December 2013 was launched the first Network of Young Roma Women activists with the support of the UN family in Moldova and NGO “Tarna Rom”. Network is an informal group of young Roma communities, aims to become a platform for identifying important issues for Roma women and girls from the Republic of Moldova. “*It is important that Young Roma Women have a platform that could jointly address issues of community and society in general*”, said Rada Padureanu, president of the Network of Young Roma Women activists.<sup>132</sup>

### 7.4 Netherlands

The Dutch CAHROM expert referred to a number of existing reports, including the report of the Police Academy on multi problem families with a Roma background<sup>133</sup> and the final report of the exploration group on strengthening approach forced marriage and leaving behind.

### 7.5 Poland

In Poland since 2001 works the group of c.a. 100 Roma school assistants of Roma origin. Roma school assistants do not play the role of mediator in such cases but one of their objectives at work is encouraging the Roma parents to continue their children education on upper level. Since the discussion on this subject seems to become more and more important in the agenda of various international organisations, the Polish side decided to put that problem into the agenda of newly composed Roma Team, acting within the framework of Joint Commission of Government and National and Ethnic Minorities. At the same time the network of 16 plenipotentiaries of Voivod on National and Ethnic minorities was asked in 2015 to raise the problem of early/forced marriages during the meetings with Roma school assistants in order to get a picture of this phenomenon in local Roma communities and get some information. Since the Polish Roma do not have any relations with migrant it is hard to involve the migrant Roma into activities led by Roma school assistants at present.

### 7.6 United Kingdom

The **Forced Marriage Unit (FMU)**, established in 2005<sup>134</sup>, is now the Government’s main delivery arm for developing effective Government policy; awareness-raising; and domestic and consular casework. The FMU provides direct assistance to victims, as well as undertakes a full programme of outreach activity to practitioners and communities to ensure that people working with victims are fully informed of how to approach such cases. Overseas the FMU provides consular assistance to victims prior to or after marriage to secure their return to the United Kingdom. The Forced Marriage Unit (FMU) provides support at every stage by:

<sup>131</sup> *Situația comunităților rurale ale romilor in Republica Moldova: Regiunea Centru-Vest*. Raport. Chișinău: Comitetul Helsinki pentru Drepturile Omului din Republica Moldova, 2003.

<sup>132</sup> [https://www.academia.edu/6932138/Raport\\_Situația\\_Romilor\\_din\\_Republica\\_Moldova\\_in\\_zona\\_rurala\\_Centru-Vest\\_2003](https://www.academia.edu/6932138/Raport_Situația_Romilor_din_Republica_Moldova_in_zona_rurala_Centru-Vest_2003)

<sup>133</sup> [http://www2.un.md/news\\_room/pr/2013/Roma\\_20Dec2013/index\\_rom.shtml](http://www2.un.md/news_room/pr/2013/Roma_20Dec2013/index_rom.shtml)

<sup>134</sup> English summary available in the Addendum.

<sup>134</sup> <https://www.gov.uk/forced-marriage>.

- **helping to protect children** – the FMU helps those working in education and safeguarding children know how to spot the earliest signs a child may be at risk and know what action to take – this has included revised statutory guidance for professionals and multi-agency guidelines for handling forced marriage. The FMU is also working with NGOs like Freedom Charity to raise awareness in schools through the use of the Freedom mobile phone app, the accredited lesson plans of forced marriage and a free copy of the "*But it's not fair*" Aneeta Prem book to all libraries, police forces and schools that request them for every pupil (a fictional story written for children aged between 11-16 on how to help a friend at risk);
- **assisting young people at risk of being taken abroad and forced into marriage** – in 2012, the FMU ran a major summer awareness campaign highlighting the right to choose and the help that is available. In 2014 the FMU had an awareness campaign before school holidays all through social media – reflecting the need to use avenues and formats which children and teens would use themselves. The FMU also worked with National Society for the Prevention of Children Cruelty (NSPCC) to create a short animation aimed at 13-17 year olds explaining the change in Law and the difference between arranged and forced marriage. In addition to this, the FMU also undertakes approximately 120 outreach events annually including schools and colleges;
- **raising awareness across all communities** – the FMU has rolled out a nation-wide engagement programme focused on prevention and education, delivered through regional road shows and debates – this has been in conjunction with Karma Nirvana a leading NGO whose national helpline specifically supports those at risk of Honour-Based-Violence (HBV) and/or forced marriage;
- **ensuring that victims receive the right support in a joined up way** – the FMU has developed and expanded its current training for frontline professionals ensuring all the relevant agencies are included - the CPS, the police, the judiciary, health agencies, social services, and Independent Domestic and Sexual Violence Advisors – ensuring that every local authority nominates a Single Point of Contact;
- **assisting those who have already become victims overseas** – the FMU continues to fund a comprehensive package of support for those who are repatriated, inclusive of funding NGO Southall Black Sisters to provide one to one care and support for victims repatriated – this includes, housing, counselling, legal protection, engaging again with education and employment and helping them to access benefits they are entitled to.

In addition, the FMU collects **statistics**<sup>135</sup> from calls to its **National Helpline**<sup>136</sup>. Through its national helpline and email address the FMU reassures, assists, provides options and remains victim focused. It works with police, social workers, teachers, welfare officers, health professionals and many others in United Kingdom to protect people at risk. It provides support, guidance, information and contacts and arranges safe accommodation in the United Kingdom.

When the victim has been taken overseas, the FMU provides the following support:

- Signposting to BHC/Embassies;
- Arrange safe accommodation overseas;
- Assistance with their return to the UK, providing local knowledge linked to exit visas;
- Close work with police and staff at airports addressing preventative measures and safety/support whilst victims are in the airport and then managing risks for victims upon their return;
- Awareness of local laws in order to provide advice on any travel limitations;
- Organise repatriation - and rescues in extreme cases;

<sup>135</sup> See those statistics under sub-chapter 3.6.

<sup>136</sup> +44 (0)207008 0151 from 9am-5pm Mon-Fri and GRC out of hours.

- Accompanying victims to the airport – especially in the case of minors;
- Organise emergency flights/ travel documents with safe pick-up and transport from airport.

The FMU also provides after-care for repatriated victims. An aftercare project is being delivered by the NGO **Southall Black Sisters** which provides emotional and practical support for victims that have been repatriated to the United Kingdom. Without support, victims can experience pressure to return home. This project aims to bridge the gap that victims experience in support and practical advice and enable them to develop a plan for the future.



The FMU has partly funded a useful free app developed by Freedom Charity for both potential victims and those concerned for others. Some of the features of this free app are:

- GPS Tracking;
- Advice for professionals – spotting the signs;
- Advice and checklist for friends and friends of victims;
- Links to nearest police station and hospitals;
- Information also on sexual abuse and FGM;
- Direct dial to Police, NSPCC, Freedom charity and the FMU helpline at the Foreign Office;
- Does not look like Forced Marriage App;
- Free to download on iPhones and Blackberries.

The FMU has published *inter alia* the following:

- Booklet “What is a forced marriage”;
- Survivors’ Handbook;
- Statutory Guidance;
- Guidance for Registrars;
- Guidance for MPs and Councillors.

The **Multi-Agency Practice Guidelines**<sup>137</sup> provides a list of **warning signs** (that are not exclusive to forced marriage though):

- Anyone, male or female, adult or minor, when facing a threat of forced marriage may become anxious, depressed and emotionally withdrawn with low self-esteem;
- there may also be more overt (but less common) signs in cases involving females; for example cut or shaved hair (as form of punishment), being taken to the doctors to be examined to ensure she is a virgin or presenting to hospital/doctors with symptoms associated with poisoning.

<sup>137</sup> A full list of warning indicators can be found on page 13 of the [Multi-Agency Practice Guidelines](#).

## VIII. CONCLUSIONS, LESSONS LEARNT, GOOD PRACTICES IDENTIFIED AND FOLLOW-UP

### 8.1 Conclusions as regards the organisation of the thematic visit

The group of experts expressed great satisfaction about the organisation and the proposed agenda of the thematic visit by the Ministry of Labour, Family, Social Protection and Elderly and the hosting of the round table by the Ministry of Foreign Affairs. Experts found it particularly useful to have bilateral meetings with key line ministries and central government institutions during the first day and before having the roundtable. The group of experts considers however that it might have been also useful to meet during the visit representatives from the Ministry of Justice, as well as the Ministry of Interior and its anti-trafficking Unit. The participation of local authorities' representatives during the round table was also limited. Experts regretted that the visit could not be a day longer to address deeper certain aspects.

The group of experts would like to thank all Romanian interlocutors for their availability and rich interventions, and wish to underline the presence of numerous high officials (*inter alia* State Secretaries from various ministries, the Prime Minister's advisor on Roma issues, Members of the Romanian Parliament, president of the National Agency for Roma) which showed real interest for the topic. The experts also appreciated the efforts of the organisations to bring at the round table family members of traditional Roma communities which allowed lively testimonials during the discussion and also welcomed the presence of the president of traditional Roma communities, Roma academics and anthropologists.<sup>138</sup> The group of experts understand that due to the sensitivity of the topic, and the full agenda proposed by Romanian hosting authorities, a field visit to a Roma district or village was not proposed.

### 8.2 General conclusions on how to address the topics of child/early and forced marriages

During the thematic visit, the experts of the CAHROM thematic group came up with the following conclusions on how to address the topic of child/early and forced marriages:

- *The appropriate term is “child marriage” instead of “early marriage”; the first expression reflects accurately the gravity of the facts, i.e. a child is the victim of this practice.*
- *The group of experts has therefore decided to use “child/early marriage” in this report and to rename the full thematic report as follows: “Thematic report on promoting gender equality within Roma communities with a focus on child/early and forced marriages”.*
- *The group of experts considers that the key parameter to define forced marriage/union is the lack of free consent of the person. Not every child marriage is a forced marriage, unless a third party (usually an adult) is involved. When two young people get “married” or decide to be in an official or unofficial union, it does not have to be considered as a forced marriage or union.*
- *It also considers that it is more appropriate to speak about “unions” instead of “marriages”, in particular when there is no official record of the marriage. Some of these unions can be consensual; others can be forced under the pressure of adults or family members.*
- *The group of experts agrees that irrespective of the ethnic background of the communities where the early marriage phenomenon is manifest, a change in such practice is needed for the complete realisation of the human rights of each girl and boy, of each woman and man. It also recalls that the Istanbul Convention expressly requires the introduction of the formal crime of early/forced marriage.*

<sup>138</sup> For the full list of Romanian interlocutors and their names, please see the agenda of the thematic visit in Appendix 2.

### 8.3 General conclusions and lessons learnt concerning the approach towards child/early and forced marriages

The group of experts identified the following persisting challenges related to child/early and forced marriages in Roma communities:

1. **There is a lack of conceptual clarity** on child/early and forced marriages in the legal and policy frameworks.
2. **Relevant international instruments need to be ratified**, e.g. the Netherlands, the Republic of Moldova, Romania and the United Kingdom need to ratify the Istanbul Convention on preventing and combating violence against women and domestic violence.
3. **International instruments ratified need to be transposed into internal legislation and policies** (e.g. Article 37 of the Council of Europe Convention on preventing and combating violence against women and domestic violence on forced marriages needs to be transposed into Romanian penal legislation).
4. **The problematic of child/early marriages is absent from the most relevant national strategies** (rights of the child rights, Roma inclusion, gender equality, education and health policies, etc.). As an example, the Government Strategy for the Inclusion of the Romanian Citizens Belonging to Roma Minority 2015-2020 and the National Gender Equality Strategy 2014-2017 of Romania fail to address child/early marriage. The National Strategy for the Protection and Promotion of Child Rights 2014-2020 and the draft National Strategy on Reducing Early School Leaving do refer to child/early marriages, but only in its analysis of the situation.
5. **The futile ethnicization of the problematic of child/early marriages and stigmatization of the Roma communities as a whole** should be avoided. E.g. Annex 1 of the Government Decision 49/2011 for the adoption of the Framework Methodology on the prevention and multi-disciplinary team and network intervention in cases of child abuse and domestic violence states “*Early marriages or child betrothal that involves sexual relations (especially in the Roma communities)*”.
6. **Reliable official data (both quantitative and qualitative) on child/early and forced marriages are limited**. “*The absence of reliable data on early and forced marriages is an irrefutable prove of the lack of commitment of the state institutions to identify, monitor, prevent and combat the harmful practice of early marriages and needs to be addressed in any further public national strategy*”<sup>139</sup>.
7. **Limited culture of multi-sector administrative co-operation and interventions**, in general, and in Roma community development interventions, in particular, and **limited synergy between government and civil society interventions**. “*The main task in Romania should be to create a synergy of NGOs and state institution public policies and to implement at all levels public policies specifically directed to prevent, detect and combat the harmful practice of early marriages. Prevention and education campaigns should take place with the equal involvement of all stakeholders and the ownership of the process should remain with the targeted traditional Roma communities. The above mentioned in no way releases the commitment of the state institutions, which should create the mechanisms for institutionalising and financial provision for these activities.*”<sup>140</sup>

<sup>139</sup> *Preventing Early Marriages*, Amalipe Center for Interethnic Dialogue and Tolerance (Bulgaria), Liga Pro Europa (Romania), Association for Social Support of Europe – ARSIS (Greece), 2011, (Reference number JLS/2008/DAP3/AG/1298-30-CE-03124780080), pg.30

<sup>140</sup> *Preventing Early Marriages*, Amalipe Center for Interethnic Dialogue and Tolerance (Bulgaria), Liga Pro Europa (Romania), Association for Social Support of Europe – ARSIS (Greece), 2011, (Reference number JLS/2008/DAP3/AG/1298-30-CE-03124780080), pg.163

Human rights institutions, such as Gender Equality and Children’s Rights Ombudspersons, at national and international levels, should pay more attention through their monitoring mechanisms to the situation of Roma women and girls, ensuring that **children’s rights are respected and law is enforced when it comes to compulsory education, combating early marriages, fighting drug trafficking/addiction, etc.**, using *inter alia* the relevant Council of Europe Conventions (e.g. Istanbul and Lanzarote Conventions), the Council of Europe Strategy for the Rights of the Child and its transversal Programme “Building a Europe for and with Children”.

In addition, **more attention should be paid to policies and actions addressing Roma youth** taking into consideration certain characteristics of the Roma community which for many reasons require a more specific and targeted approach since the situation of Roma youth largely differs from non-Roma youth, including as regards their marital status and early marriages. This was reflected not only in the conclusions of the CAHROM thematic visit on the empowerment of Roma youth and the youth dimension of national Roma integration strategies carried out in Slovenia on 4-6 June 2015<sup>141</sup> but also in the OSCE-ODIHR Report from the 8-9 December 2014 Conference in Belgrade on Activism, Participation and Security among Roma and Sinti Youth (see extracts of pages 39-42 of the OSCE-ODIHR report below<sup>142</sup>):

**Marital status and early marriages:** One of the characteristics that may set Roma youth apart from non-Roma youth is their marital status and, more specifically, the percentage of early marriages among Roma. The current marital status<sup>143</sup> of participants was analysed using one indicator from Module 1 of the survey on the marital status of all household members. Figure 18 provides the distribution of marital status across the entire sample of Roma and non-Roma participants. Most of the Roma youth in this sample were currently either married (traditionally or officially) or cohabitating with a partner (58 per cent in total), whereas most of their non-Roma counterparts had never been married (59 per cent).” In order to measure the number of early marriages among Roma and non-Roma youth, we took responses to the question “Which year did s/he get married/ begin cohabiting?” from Module 1 of the UNDP/WB/ EC survey and compared these to the year of birth of respondents. Based on the results, out of 6,166 marriages, 2,166 were early marriages. The total number of early marriages among Roma youth was 1,971, compared with 194 among non-Roma youth. The earliest age of marriage or cohabitation with a partner registered among Roma youth was 6 years old, compared to 8 years old among non-Roma youth. Most of the respondents who were married before the age of 18 were female, including 1,412 Roma and 160 non-Roma girls. The number of early marriages varied across the countries surveyed, ranging from 54 in the Czech Republic and 270 in Albania, revealing that early marriages are more common in some countries in Central and South-Eastern Europe than in others. These results show that early marriages are far more likely to occur among Roma populations than among non-Roma populations, particularly among Roma girls, and that early marriages continue to be an issue in the countries of Central and South-Eastern Europe. Table 4 shows the number of early marriages among Roma and non-Roma youth disaggregated by the age at which the respondent was married or began cohabiting with a partner.

**Arranged marriages:** In the previous section, we showed that about one third of young Roma respondents to the survey were married before the age of 18, and that more than 70 per cent of them were girls. Early marriages (official and unofficial) often happen as a result of pressure from family members, especially if an opportunity rises for the child to marry someone living abroad. As such, the marriage becomes an arrangement between two families rather than a choice between two people. Although not all arranged marriages are early marriages, the UNDP/WB/EC survey studied attitudes specifically towards arranged marriages for children. Thus, we decided to examine perceptions among Roma and non-Roma youth of arranged marriages for boys, on the one hand, and for girls, on the other. Figure 19 provides the gender distribution of Roma and non-Roma youth who expressed the opinion that arranged marriages for boys and for girls are unacceptable. The results show that the majority of Roma and non-Roma youth do not agree with the practice of arranged marriages for children. Nevertheless, the difference between Roma and non-Roma respondents who think arranged marriages are not acceptable is more than 20 per cent, with more Roma youth finding the practice acceptable. It is recommended that future research examine the issue of arranged marriages among Roma from a gender perspective, as well as in relation to economic prosperity and education.

<sup>141</sup> See CAHROM (2015)9.

<sup>142</sup> The full report, including tables and figures, is accessible at: <http://www.osce.org/odihr/187861?download=true>.

<sup>143</sup> This “Marital status” indicator consisted of seven categories: (1) never married; (2) married – traditionally; (3) married – officially; (4) cohabitation; (5) separated; (6) divorced; and (7) widowed. The indicator does not provide sufficient information on the meaning of “married - traditionally” and how it differs from “married - officially” or “cohabitation”. (

#### 8.4 Conclusions & characteristics of an effective model for the prevention of child/early marriage:

- 1) There is a need to clarify conceptually the child/early marriages in the legal and policy frameworks;
- 2) Once the conceptual framework is clarified there is a need to train the professionals working in the different services and agencies with a mandate to prevent and combat child/early and forced marriages (local governments, child protection authorities, education and health authorities, police and public prosecutor's offices, etc.) as well as Roma NGOs and professionals;
- 3) Data collection and segregated data collection (within the legal framework and with all legal safeguards) is essential to exploring more in-depth such phenomena and to devising effective and efficient policy interventions. As well, data and segregated data should be connected to the existing data-bases (including the available Roma data-bases, such as the map of Roma communities);
- 4) There is a huge needs to increase awareness of the Roma communities on the intrinsic risks and dangers associated with child/early marriage, as well as on the dangers related to trafficking in Roma girls and boys or to exploitation of Roma girls and boys associated with child/early marriage and not only;
- 5) Interventions targeting the prevention and combating of child/early marriage should not be isolated interventions but rather a component of a wider integrated approach to Roma community development. Only integrated interventions (with multi-sectoral teams at both national, regional and community level) can eliminate the root causes of child/early marriages, in general, and in Roma traditional communities, in particular, and ensure a sustainable development of the communities where such phenomena are manifest;
- 6) Education – namely ensuring in practice compulsory education for all Roma children - is a valid entry point to change community mentalities, but then again education alone (such as campaigns, curriculum development for tackling child/early marriages, desegregation in education, etc.) will not be sustainable and educational interventions need to be complemented by other types of interventions (integrated approaches);
- 7) Interventions and messages targeting the prevention and combating of child/early marriage should be designed taking into account Roma cultural specificity and diversity;
- 8) Interventions for the prevention of child/early marriages should be designed as part of wider community development plan and not as singled out intervention;
- 9) Support for community mobilization is crucial for the success of the interventions for the prevention of child/early marriage;
- 10) For the efficiency of the prevention of child/early marriages interventions there is needed a convergence / synergy of the mandates of all relevant authorities (child protection, social assistance, education, public health, various levels of government, etc.);
- 11) Personal examples of successful Roma people should be emphasized;
- 12) A position of the community condemning child/early marriage practices needs to be institutionalized at community level (support from formal and informal community leaders is crucial)<sup>144</sup>;
- 13) Child and women perspectives on child/early marriages should be heard and the community participation mechanisms should make room for the child and women voices.
  - **Indicators of forced marriage** include (indicators listed below by the British expert are not necessarily relevant in the context of forced marriage within Roma communities):
    - Early school drop-out and school absenteeism;
    - The victim or other siblings within the family is/are reported missing;
    - Reports of domestic abuse;

<sup>144</sup> As positive examples, see statements from the Romania's self-proclaimed Roma King and the president of traditional Roma communities condemning early marriages.

- Suicide attempt/overdose;
- Leaving work accompanied/concern from employment;
- Not returning from planned leave/school (missing from education);
- History of forced marriage in the family.

▪ **Factors, warning signs and indicators conducting to child/early and forced marriages**

The Romanian experts recalled that main factors contributing to early marriages are a complex combination of poverty, marginalization, poorly understood community traditions and lack of opportunities and perspectives in Roma communities. Patriarchal community structures, community so-called cultural and traditional attitudes, and religious interpretations also lie at the heart of forced and child/early marriages.

The level of education of parents and children, economic hardship, cultural/and/or religious attitudes related to honour and sexuality can be both causes and risk factors for child/early and forced marriages.

The British expert listed some of the factors that are behind forced marriage in the United Kingdom context (which are not necessarily all applicable to Roma communities):

- Controlling unwanted behaviour particularly that of women;
- Preventing ‘unsuitable’ relationships;
- Claiming residence and citizenship to strengthen family links (e.g. getting a British Passport for extended family);
- Wearing “wrong” clothing/too much make-up;
- Socialising with members of opposite sex;
- Being seen to be overly affectionate in public;
- Dating someone of different race, culture/caste or religion;
- Protecting perceived cultural or religious ideals;
- Providing carer for child with disabilities;
- Being or perceived as being LGBT;
- Drinking, smoking or using drugs.

➤ *The experts underlined that no religion endorses forced marriage; similarly, forced marriage is a form of abuse... Abuse is not part of any culture, whether the victim’s family are Christian, Muslim, Sikh, Hindu or Jewish. No religious texts promote this harmful practice.*

### 8.5 Negative consequences of child/early and forced marriages

This report does not seek to highlight in details the implications, consequences and dangers related to early marriages for the girls and boys involved in such practices but highlight those that have been mentioned by the experts of this thematic group during the thematic visit.

The consequences of child/early and forced marriages are severe. The Romanian experts indicated that for women, they generally result in a lack of autonomy, a lack of education, a limited decision-making power, as well as high risks of health problems, including sexual and reproductive health, insecurity, domestic violence, abuse, trafficking, or even death in the worst scenario.

Without getting into more details, it is worth recalling that young Roma are at risk of human trafficking as a result *inter alia* of child, arranged and forced marriages. In the OSCE-ODIHR report on Activism, Participation and Security among Roma and Sinti Youth (see footnote 141), it is stated that “*Trafficking is not limited to sexual exploitation, and Roma and Sinti children and young women are also often forced into labour, marriage, begging and pick-pocketing.*” (page 14); and “*Roma and Sinti are also at risk of trafficking in human beings, child exploitation and forced labour, early and arranged marriages, and the numerous effects of these security risks on health, education and human development.*” (page 18).

There are also negative consequences for society at large, from over-population to perpetuation of gender oppression<sup>145</sup>.

The British expert identified among the negative consequences of child/early and forced marriages:

- education and employment ceasing;
- theft (e.g. of passport, money and belongings);
- unlawful imprisonment and restriction of freedom of movement and association;
- abduction and kidnapping;
- rape;
- enforced pregnancy;
- abortion
- murder and mutilation.

The Dutch, Italian and Polish experts added to this list:

- human trafficking;
- prostitution;
- early school drop-outs (in particular of Roma girls) and school absenteeism.

One of the main consequences of early marriage in Roma families is early school drop-out (both for girls and boys) leading to exclusion from professional career, poverty, illiteracy, family breakdown<sup>146</sup>.

#### **When dealing with victims of child/early and forced marriages:**

one should:

- ▶ Take the victims seriously;
- ▶ See them immediately and alone;
- ▶ Respect their wishes and reassure them;
- ▶ Establish means of safe contact (secret phone/sim/codeword).

one should not:

- ▶ Send them away/minimise their concerns;
- ▶ Approach members of the family or Community;
- ▶ Share information without consent;
- ▶ Attempt to mediate.

#### **8.6 Key conclusions of the bilateral meetings of experts of the CAHROM thematic group with Romanian line ministries and central government agencies**

Meetings have been organised with the following line ministries and central government agencies:

- Ministry of Labour (MoL);
- Department for the Equality of Chances between Men and Women (DECMW);
- National Authority for Child Rights Protection and Adoptions (NACRPA);
- Ministry of Health (MoH);
- Ministry of Education (MoE);
- National Agency for Roma (NAR).

The thematic group of experts drew the following key conclusions from these bilateral meetings:

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<sup>145</sup> *Child, Early and Forced Marriage: A Multi-Country Study - A Submission to the UN Office of the High Commissioner on Human Rights (OCHCR)*, 15 December 2013, page 39.

<sup>146</sup> See a number of testimonials in the presentation of the Moldovan expert in the Addendum to this report.

- Child/early marriage in Roma communities issue is on the central government agenda but it is not among the top priorities (NAR) and devising a policy response to tackle child/early and forced marriages is still in its initial phases of the process (MoL).
- Ministries and central government agencies are approaching the child/early marriage phenomenon rather remotely and indirectly and, in any case, more on an ad-hoc basis.
- The same is valid for the existing national policies – they do not include *expresis verbis* strategic directions or measures for combating child/early marriages, but rather indirectly have included such measures (e.g. health education campaigns, counselling campaigns for adolescent girls, values of family life campaigns, etc.).
- Ministries and central government agencies have implemented specific interventions in Roma communities related to child/early marriages (again on an ad-hoc basis, following the notification of such phenomena by Roma or non-Roma NGOs or by other stakeholders).
- There has been expressed the political will to set up a functional, inter-ministerial mechanisms with a mandate for combating the child/early and forced marriage phenomenon in Roma communities, similar to the one existing now on anti-trafficking in human persons (MoL). It is considered that if by 2016 such a mechanisms will be set up this in itself will represent a huge progress.
- All ministries and central government agencies have decentralized or de-concentrated structures in the territory (local structures, school mediators, health mediators, local government experts, local support groups, etc.) but their capacity is limited and coordination among these structures remains a challenge.
- While there is a short history of interventions in Roma communities of the government authorities, there seems to be a complete absence of interventions in the non-Roma communities where child/early marriage phenomenon is manifest. This in itself induces an undue ethnicization of the government actions related to combating child/early marriages.
- Conceptual framework for the actions combating child/early marriages continues to be rather unclear: some ministries or agencies speak of early marriages and pre-early marriages (NAR), the distinction appearing to be informally related to the age of puberty/nubility of the girls.
- Pre-early marriages or child betrothals have been unequivocally condemned as illegal and unacceptable practices (as well as by the president and representatives of traditional Roma communities during the round table and by the self-proclaimed “king” of Romanian Roma).
- The National Agency for Roma reported a decrease in the dimensions of child/early marriages in Roma communities based on the reports of Roma NGOs and on the evolving standpoints of Roma community leaders.
- Ministries and central government agencies are reluctant to collect ethnic segregated data invoking the EU and national legislation on sensitive data. They seem unaware of the possibility to collect such data in a legal and non-discriminatory manner provided that the necessary safeguards related to sensitive data, regulated in both the EU and national legislation, are in-built in the data collection processes.

## 8.7 Country specific conclusions/lessons learnt

### 8.7.1 Romania, hosting country

The group of experts noted with satisfaction the openness from both public authorities and institutions and the Roma community leaders and activists to address the very sensitive issue of early/child and forced marriage and the commitment to condemn child/early marriage of children less than 15 years old. **Some divergence still exists as regards the “grey zone” between 15 and 18 years old.**

The group of experts was positively impressed by the opportunities given to ethnic Roma to participate in public institutions and the number of Roma involved at national, regional and local levels in those institutions, as well as by the high number of Roma school and health mediators.

The group of experts considers that child/early marriage and measures to address this phenomenon should be introduced in the Roma Inclusion Strategy and the National Gender Equality Strategy 2014-2017, if not in the short term, at least when these documents will be re-examined for another periodic timeframe. The system of Helpline should be reinforced and improved so as not to leave Roma women victims of domestic violence or pressure to get married alone once they have signalled their case.

### 8.7.2 *Partner countries*

As underlined by the Moldovan expert, any Roma-related topic, beyond the case of child/early and forced marriage, should bring the expertise from five main stakeholders: central government institutions (ministries); local public authorities; Roma community representatives; Roma civil society leaders; and international organisations. Conclusions might not be as convincing if one of these opinions is missing. The Moldovan expert also advised to research and debate early marriages within Roma communities in conjunction with early school dropouts. On the contrary, extrapolating the topic of child/early marriage together with the phenomena of "sexual abuse", "domestic violence", "trafficking in human beings", and "protection of children's rights" create confusion for the contextual analysis of the causes and consequences of this phenomenon within Roma communities. He indicated also that representatives of the Roma community and/or Roma civil society in the Republic of Moldova should lobby for the introduction of the phenomenon of "early and/or forced marriage" under penal law.

The thematic group of experts considers that Poland should include a definition of "multiple discrimination" in its legislation on equal treatment and address it specifically within its national programmes, such as the National Programme for Equal Treatment for 2013-2016 and the Programme for integration of the Roma community in Poland 2014-2020. As regards the latter programme, the group of experts also considers that direct references to specific problems faced by Roma women, including in relation to their empowerment<sup>147</sup> and participation, should be included, as well as information pertaining to the participation and involvement of Roma women in the implementation of this programme collected.

Concerning the Polish Family and Guardianship Code, the group of experts is of the view that Article 10 would need to be amended so as to replace the conditionality of a possible derogatory court decision to allow a woman who has reached the age of 16 to marry "*if the marriage would be in the best interest of the newly established family*" by "*if the marriage would be in the best interest of the child*". It might be worth including direct references to dealing with specific problems of Roma women or to women empowerment in the Programme for Integration of the Roma community in Poland 2014-2020.

Whilst being impressed by the work of the Forced Marriage Unit in the United Kingdom, the group of experts considers that the FMU should elaborate more statistics as regards the phenomenon of forced marriage within Roma and possibly Traveller communities. In that respect, it might be worth recruiting Roma (Gypsy and Traveller) mediators or social workers and conducting some research involving representatives of the community.

## 8.8 **Good practices identified per country**

### **In Romania:**

In the absence of a sustainable approach to the prevention of early marriages (most of the initiatives were sporadic and rather donor-driven) and in the absence of any monitoring and evaluation data on the impact of the various initiatives or of the implementation of the very few policies touching the problematic of early marriages it would be hazardous to speak of "best practices" in this field. Yet, the existing body of evidence allows us to include these key initiatives among "promising practices".

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<sup>147</sup> Poland is not an exception in this regard. See the CAHROM thematic report (2014)11 on Roma women's empowerment and the inclusion of a gender dimension into national Roma integration strategies/policies which covers Lithuania (as a requesting country) and Finland, Italy, the Republic of Moldova and Spain (as partner countries).

The extensive use of Roma school and health mediators remains a positive asset. The Polish expert has expressed interest for the training of 1000 of Roma health mediators and the system of community nurses developed in Romania. In Poland it is difficult to recruit Roma health mediators for cultural reasons.

**In Italy:**

- Ratification of major international instruments, including the Istanbul Convention.
- Dialogue with Roma and Sinti civil society (in particular from UNAR).

**In the Republic of Moldova:**

- The gender component of the National Action Plan for Roma.
- Court cases and national case law concerning child marriage.

**In the Netherlands:**

- The attention given to the protection on young Roma, and girls in particular.
- The fact that, in accordance with the Dutch legislation, child abuse can be prosecuted.

**In Poland:**

- The National Programme for Equal Treatment for 2013-2016.
- The human rights approach of police training.
- The well-developed system of (100) school assistants.

**In the United Kingdom:**

- The setting-up and the work of a Forced Marriage Unit.

**8.9 Follow-up**

*During the thematic visit*, the President of the National Agency for Roma (NAR), Mr Daniel Vasile, indicated that he would explore the possibility to revive the Dosta! campaign in Romania, the NAR having attributed the coordination role of the Dosta! campaign in Romania in 2009. The introduction of a gender perspective to the Dosta! campaign could help raising awareness to some of the issues discussed during the thematic visit, keeping in mind that one of the campaign goals is to combat stereotypes.

*At the end of the thematic visit*, the Dutch and Italian experts of the thematic group expressed the wish to visit the Forced Marriage Unit in London so as to get more familiar with the British approach to forced marriages and the work of the MFU. The dates of such a visit remain to be defined.

*At the end of the thematic visit*, the Moldovan expert promised to send extra copies of the publication *500-year historical presence of Roma in the Republic of Moldova* – which was distributed to various Romanian interlocutors of the thematic visit - to the I-CARE Unit of the Support Team of the Special Representative of the Secretary General of the Council of Europe for Roma issues.

*6-7 May 2015*: the Italian and Romanian female experts of the thematic group and some of the Romanian Roma women that have participated in the round table organised during the thematic visit have been invited to the preparatory meeting of the 5<sup>th</sup> international Roma Women's Review Conference that was held in Skopje, "the former Yugoslav Republic of Macedonia" on *6-7 October 2015*. The topic of child/early and forced marriages within Roma communities was proposed as a topic for the agenda of the 5<sup>th</sup> International Roma Women's Review Conference.

*27-29 May 2015*: preliminary conclusions of the present thematic report were presented at the 9<sup>th</sup> meeting of the Council of Europe Ad Hoc Committee of Experts on Roma Issues (CAHROM) by the CAHROM member on behalf of Romania, Mr Codrin Scutaru, State Secretary in the Family Policies and Social Assistance Directorate of the Ministry of Labour, Family, Social Protection and Elderly.

*In June 2015:* gender equality and empowerment of Roma women was introduced as a line of action in the *Council of Europe's Updating agenda for on Roma Inclusion (2015-2019)* presented by the Secretary General and approved by the Committee of Ministers of the Council of Europe. The *Council of Europe's Thematic Action Plan on the Inclusion of Roma and Travellers (2016-2019)* under preparation includes proposals to empower Roma and Traveller women and promote gender equality, in particular as regards access of Roma women to justice, Roma women's entrepreneurship and future Roma women's conferences.

*11-12 June 2015:* the Dutch expert of the thematic group was invited to a brainstorming workshop in Rome with police officers and trainers on how to best train police officers or police academy students on non-discrimination (with a focus on Roma) that will be co-organised by the Council of Europe and the Italian Ministry of Interior/OSCAD. The National Office against Racial Discrimination and Racism (UNAR) - for which the Italian expert of the thematic group is working – was also invited.

*12 June 2015:* the 2<sup>nd</sup> large scale meeting devoted to the situation of the Roma women in Poland was organised by the Government Plenipotentiary for Equal Treatment scheduled in Warsaw. The Polish expert of the thematic group already extended an invitation to the I-CARE Unit of the Support Team of the Special Representative of the Secretary General of the Council of Europe (SRSG) for Roma issues to present the conclusions of the preliminary conclusions of the present thematic report and the non-discrimination training activities for legal professionals and police officers. It resulted with a proposal to organise a non-discrimination training for the police and the Government Plenipotentiary for Equal Treatment in 2016. The I-CARE Unit will further establish contact with the Polish expert on how to associate the Polish Project showing successful Roma, many of them being Roma women, to the Dosta! campaign which has promoted exhibitions of portrayals and testimonials of successful integrated Roma in France and in Montenegro with the similar objective, i.e. promoting a better image of Roma and increasing their self-esteem. Such a co-operation could hopefully lead to the official launch of the Dosta! campaign in Poland under the coordination of the Government Plenipotentiary for Equal Treatment.

*In October 2015:* the new *Council of Europe Strategy for the Rights of the Child 2016-2021* which is based on four main principles of the United Convention on the Rights of the Child (UNCRC) – i.e. the best interests of the child, non-discrimination, participation and the right to life, survival and development – has included among its priorities some actions to evaluate the effective implementation of Roma children's rights, to address the issue of early/child marriage, to strengthen access of Roma children and in particular girls to inclusive education, to make use of Roma mediators and school assistants, as well as to fight stereotypes against Roma children. The inclusion of these proposals was supported by the CAHROM Rapporteur for Roma children at the Committee of Children's Rights (DECS-ENF).

*6-7 October 2015:* following the decision taken in consultation with Roma women activists and representatives of Roma women's associations and networks, the topic of child/early and/or forced marriage was addressed in one of the sessions of the 5<sup>th</sup> International Roma Women's Review Conference that was held in Skopje, "the former Yugoslav Republic of Macedonia".

*27-30 October 2015:* the present thematic report will be presented and discussed in Bucharest, Romania, following the invitation from the Romanian Ministry of Labour, Family, Social Protection and Elderly to host the 10<sup>th</sup> plenary session of CAHROM. It will be also an occasion to discuss any developments following the endorsement by the CAHROM in October 2014 of the CAHROM thematic report (2014)11 on Roma women's empowerment and the inclusion of a gender dimension into national Roma integration strategies/policies which covered Lithuania (as a requesting country) and Finland, Italy, the Republic of Moldova and Spain (as partner countries), as well as any follow-up to the International Seminar on promoting the gender dimension into national Roma integration strategies/policies organised in Kyiv, Ukraine, in November 2014.

*After the adoption of the thematic report by the CAHROM:* the report will be circulated for information and possible use to the Secretariat Group of Experts on Action against Trafficking in Human Beings (GRETA), to the Secretariat of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and to the Secretariat of the Steering Committee on Human Rights (CDDH), the latter having introduced combating early marriages as one of its thematic priorities (this topic will be on the agenda of the CDDH in May 2016 and the CAHROM thematic report will be circulated to the CDDH Secretariat).

*In November 2015:* a non-discrimination training for the police in the Republic of Moldova will be organised by the Council of Europe Support Team of the SRSG for Roma Issues. The issue of child marriage in relation to human trafficking might be addressed during the training. Following a request addressed by the Bureau for Inter-Ethnic Relations of the Republic of Moldova to the Council of Europe, expertise could be provided in the coming months to assess the implementation of the National Roma Action Plan of the Republic of Moldova. If so, particular attention will be devoted to the gender aspects.

At the individual level, the way how persons originating of mixed marriages (including a Romani spouse and another from the majority) are perceived, varies considerably from one local context to another but in many cases the perception is negative, especially in Western countries, and would deserve a specific study. Another topic that could deserve specific attention and which was referred to through individual testimonials is the difficulty for an educated Roma woman in her 30s to find a husband within the Roma community.

A topic that could deserve specific attention and which was mentioned during the thematic visit to Romania by individual testimonials is the difficulty for an educated Roma woman in her 30s to find a husband within the Roma community.

As a follow-up of this thematic report, the Support team of the Special Representative of the Secretary General for Roma Issues envisages to conduct a more comprehensive study on child and forced marriages within Roma communities in all Council of Europe member States based on the example of the study initiated by the Directorate General of Human Rights in 2005 entitled “*Forced marriages in Council of Europe member states – a comparative study of legislation and political initiatives*”<sup>148</sup>.

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<sup>148</sup> This study was prepared by Ms Edwige Rude-Antoine, Doctor of Law, Research Officer CERSES/CNRS.

**APPENDIX 1: Official invitation letter received from the Romanian authorities**



Letter CAHROM.pdf

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**APPENDIX 2: Agenda of the CAHROM thematic visit to Bucharest,**



Agenda of CAHROM  
thematic visit to Romæ

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**APPENDIX 3: List of experts of the thematic group**



List of experts of the  
CAHROM thematic gr

**APPENDIX 4:****Overview of a number of selected crimes, as regulated in the new Romanian Penal Code, with potential application in cases of early marriages****Article 197 Ill treatments applied to minors**

*Serious jeopardy, through measures or treatments of any kind, of the physical, intellectual or moral development of a minor, by parents or by any person under whose care the minor is, shall be punishable by no less than 3 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.*

**Article 199 Domestic violence**

*(1) If the acts set by Art. 188, Art. 189 and Art. 193-195 are committed against a family member, the special maximum term of the penalty set by law shall be increased by one-fourth.*

*(2) In case of offenses set by Art. 193 and Art. 196 committed against a family member, a criminal action may be initiated also ex officio. Reconciliation shall eliminate criminal liability.*

**Article 211 Trafficking in minors**

*(1) Recruitment, transportation, transfer, harbouring or receipt of a minor for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*

*(2) If such act was committed under the terms of Art. 210 par.(1) or by a public servant while in the exercise of their professional duties and prerogatives, it shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.*

**Article 213 Pandering**

*(1) The causing or facilitation of the practice of prostitution or the obtaining of financial benefits from the practice of prostitution by one or more individuals shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.*

*(2) In the event that a person was determined to engage in or continue the practice of prostitution through coercion, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*

*(3) If such acts are committed against a **minor**, the special limits of the penalty shall be increased by one-half.*

*(4) Practicing prostitution means having sexual intercourse with various individuals for the purpose obtaining financial benefits for oneself or for others.*

**Article 216 Use of an exploited person's services**

*The action of using the services listed under Art. 182, provided by a person about whom the beneficiary knows that they are a victim of trafficking in human beings or of trafficking of **minors**, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine, unless such action is a more serious offense.*

**Article 218 Rape**

*(1) Sexual intercourse, oral or anal intercourse with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.*

*(2) The same penalty shall apply to any act of vaginal or anal penetration committed under par. (1).*

*(3) It shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights, when:*

*a) the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;*

*b) the victim is a direct-line relative, a brother or sister;*

*c) the victim has not turned 16 years;*

- d) the act was committed for the production of pornographic materials;
  - e) the act resulted in bodily harm;
  - f) the act was committed by two or more individuals, acting together.
- (4) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 18 years of imprisonment and a ban on the exercise of certain rights.
- (5) Criminal action for the act set by par. (1) and par. (2) shall be initiated based on a prior complaint filed by the victim.
- (6) The attempt to commit the offenses set out in par. (1) - (3) shall be punishable.

#### **Article 219 Sexual assault**

- (1) An act that is sexual in nature, other than those set out under Art. 218, with a person, committed by constraint, by rendering the person in question unable to defend themselves or to express their will or by taking advantage of such state, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (2) The penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:
- a) **the victim is entrusted to the perpetrator for care, protection, education, guard or treatment;**
  - b) the victim is a direct-line relative, a brother or sister;
  - c) **the victim has not turned 16 years of age;**
  - d) the act was committed for the production of pornographic material;
  - e) the act resulted in bodily harm;
  - f) the act was committed by two or more individuals, acting together.
- (3) If such act resulted in the victim's death, it shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.
- (4) If the sexual assault acts were preceded or followed by the commission of the sexual intercourse set out in Art. 218 par. (1) and par. (2), such act shall constitute rape.
- (5) Criminal action for the act set by par. (1) shall be initiated based on a prior complaint filed by the victim.
- (6) The attempt to commit the offenses set out in par. (1) and par. (2) shall be punishable.

#### **Article 220 Sexual intercourse with a minor**

- (1) Sexual intercourse, oral or anal sex, as well as any act of vaginal or anal penetration committed with a **minor aged 13 to 15** shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The act set by par. (1), **committed on a minor who has not turned 13 years of age**, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (3) The act set by par. (1), committed by a person of age with a **minor 13 to 18**, when the former abused their authority or influence over the victim, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.
- (4) The act set by par. (1) - (3) shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights, when:
- a) the minor is a direct-line relative, a brother or sister;
  - b) **the minor is entrusted to the perpetrator for care, protection, education, guard or treatment;**
  - c) the act was committed for the production of pornographic materials.
- (5) The acts set out in par. (1) and par. (2) shall not be punishable if the age difference does not exceed 3 years.

#### **Article 221 Sexual corruption of minors**

- (1) The commission of an act that is sexual in nature, other than the one set out in Art. 220, against a **minor who has not turned 13 of age**, as well as determining a minor to endure or carry out such an act shall be punishable by no less than 1 and no more than 5 years of imprisonment.
- (2) The penalty shall be no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights, when:

- a) the minor is a direct-line relative, a brother or sister;
- b) **the minor is entrusted to the perpetrator for care, protection, education, guard or treatment;**
- c) the act was committed for the production of pornographic materials.
- (3) **The sexual act of any nature, committed by a person of age in the presence of a minor who has not turned 13 shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.**
- (4) **Determination of a minor who has not yet turned 13 years of age, by a person of age, to assist to the commission of acts that are exhibitionist in nature or to shows or performances in which sexual acts of any kind are committed, and making materials that are pornographic in nature available to the minor shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.**
- (5) **The acts set out in par. (1) shall not be punishable if the age difference does not exceed 3 years.**

#### **Article 222 Recruitment of minors for sexual purposes**

*The act of an individual of age to propose that a minor who has not yet turned 13 years of age to meet for the purposes of the commission of one of the acts set out in Art. 220 or Art. 221, including when such proposal has been made using remote communication means, shall be punishable by no less than 1 month and no more than 1 year of imprisonment or by a fine.*

#### **Article 223 Sexual harassment**

- (1) *Repeatedly soliciting sexual favours as part of an employment relationship or a similar relationship, if by so doing the victim was intimidated or placed in a humiliating situation, shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.*
- (2) *Criminal action shall be initiated based on a prior complaint filed by the victim.*

### **Forced and child/early marriages in Polish criminal law**

According to the information of General Prosecutor's Office there are three related articles of Polish penal code in that context:

**- Article 189a.**

§ 1. *Whoever commits the crime of human trafficking, shall be subject to the penalty of the deprivation of liberty for a minimum term of 3 years.*

§ 2. *Whoever commits an act of preparation for the crime specified in § 1, shall be subject to the penalty of the deprivation of liberty for a term between 3 months and 5 years.*

According to police data the number of instituted legal proceedings under this article in 2014 was 28 and asserted crimes was 64;

**- Article 200.**

§ 1. *Whoever submits a minor under the age of 15 to sexual intercourse or commits any other sexual act thereon or causes a minor under the age of 15 to submit themselves to or to perform such acts shall be subject to the penalty of deprivation of liberty for a term of between 2 and 12 years.*

§ 2. *The same penalty shall be imposed on a person who, in order to satisfy their sexual needs, shows a sexual act to a minor under 15 years of age.*

According to police data the number of instituted legal proceedings under this article in 2014 was 2 156 and asserted crimes was 1 104;

**- Article 211 and 211a.**

211. *Whoever, contrary to the will of the person appointed to take care of or supervise, abducts or detains a minor person under 15 years of age or a person who is helpless by reason of his mental or physical condition shall be subject to the penalty of deprivation of liberty for up to 3 years.*

211a. *Whoever in violation of the provisions of this law arranges for profit the adoption of children shall be subject to the penalty of the deprivation of liberty for a term of between 3 months to 5 years.*