

# **Early and Forced Marriages in Roma Communities**

**Country Report: Romania**

**2015**

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## 1. Introduction

## 2. List of abbreviations

CEDU 2000+	Centrul Educatia 2000+
ERRC	European Roma Rights Centre
OCHCR	UN Office of the High Commissioner on Human Rights
RIQL	Romanian Research Institute for the Quality of Life
UNICEF	United Nations Children's Fund
U.S.	United States of America

### 3. Summary

Any serious debate around early marriage phenomena must start from the premises of the following conclusions:

- “Early and forced marriage is defined by the lack of consent – either as decided by an adult woman or by virtue of her being under the age of 18 – in the decision to enter a marriage with a particular spouse.
- Early and forced marriage violates a number of universal human rights, and is unequivocally condemned by the international human rights regime.
- Country-level legal systems are often ill-equipped – and at times even incentivize – early and forced marriage. Where early and forced marriages are criminalized, these practices often continue unchecked by authorities.
- Patriarchal political structures, cultural attitudes, and religious interpretations lie at the heart of forced and early marriage.
- Causes and risk factors for early and forced marriage include: level of education, economic hardship, cultural/religious attitudes on honour and sexuality [...].
- The consequences of early and forced marriage are severe. For women, they result in a lack of autonomy, education, and decision-making power, as well as high risks of health problems, insecurity, abuse, and death. There are also negative consequences for society at large, from overpopulation to perpetuation of gender oppression”<sup>1</sup>.

This report prepared between March 27 and April 16, 2015 also 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.

Using a desk review methodology, the current report makes an inventory of the key initiatives to explore the dimensions and features of the early marriage in Roma communities from Romania, of the key projects for the prevention and combating early marriages in Romania and puts forth the main features of the current debate around this issue in the country. Although the topic in itself stirs huge waves of passion, a rational and balanced approach for the identification of realistic solutions for the prevention of early/forced marriages at community, regional and national levels, is the only approach that can aspire to be effective and efficient. This report did not seek to highlight the implications, consequences and dangers related to early marriages for the girls and boys involved in such practices. There are numerous resources on this specific topic that can be consulted.

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<sup>1</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, pg 39*

## Highlights of the report

- Early marriage is manifest in a number of Roma and non-Roma communities;
- Adolescent girls aged 15-19 account for approximately 10% of the births annually in Romania;
- In the investigated communities, an estimated 25-30% of Roma women aged 15-19 are married;
- Early marriages are not common practices in all Roma communities;
- School dropout generated by early marriages ranges from 4% (Duminica, Ivasiuc, 2010) to 6.6% (Surdu, Magyari-Vincze, Wamsiedel, 2011) in the investigated communities;
- The main factors contributing to early marriages are a complex combination of poverty, marginalization, poorly understood community traditions and lack of other opportunities and perspectives in Roma communities;
- There is lack of conceptual clarity on early / forced / child marriages in the legal and policy frameworks;
- Some international instruments are still to be transposed into national internal legislation;
- Early marriages are almost absent from the policy framework in Romania.

## Roma in Romania – Demographic Data (according to the population census of 2012)<sup>2</sup>

Total population of Romania (census data)	20,121,641
Roma population of Romania (census data)	621,573
Roma population of Romania as a percentage of the total population (census data)	3.3%
Estimated number of Roma in Romania <sup>3</sup>	between 1,800,000 – 2,500,000
Estimated percentage of Roma in the total Population of Romania	between 8% and 12%

Roma sub-groups<sup>4</sup>: Vătrași (13,8%), Căldărari (5,9%), Rudari (4,5%), Spoitori (3,7%), Mătăsari (3,2%), Ursari (2,7%), Cărămidari (1,5%), Gabori (1,4%), Florari (1,2%). Other known Roma sub-groups: Horahai (Muslim Roma), Ciurari, Cortorari, Geambași, Lingurari, Rostaș<sup>5</sup>.

### Sub-group affiliation:

According to a research<sup>6</sup> conducted in Romania in 2008, 56% of the Roma respondents did not identify with a sub-group while 44% of the Roma respondents also identify with a sub-group.

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<sup>2</sup> Source: <http://www.insse.ro/cms/files/publicatii/pliante%20statistice/04-recensamantul%20populatiei.pdf>

<sup>3</sup> Support for Roma in Central and Eastern Europe, EU, 2003, ([http://ec.europa.eu/enlargement/pdf/brochure\\_roma\\_oct2003\\_en.pdf](http://ec.europa.eu/enlargement/pdf/brochure_roma_oct2003_en.pdf))

<sup>4</sup> Source: <http://www.natgeo.ro/locuri-si-oameni/comunitati/9165-neamuri-tiganesti>

<sup>5</sup> *Come closer - Inclusion and exclusion of Roma in Present-Day Romanian Society*, Gabor Fleck, Cosima Rughinis, National Agency for Roma, 2008, pag. 50

<sup>6</sup> Idem, pag. 51

#### 4. Review of Romanian legal and policy frameworks relevant for early and forced marriages

The Human Rights Report – Romania 2013 of the U.S. Department of State says under “Forced and Early Marriage”: “the legal age of marriage is 18 for both boys and girls, however, the law permits girls as young as 15<sup>7</sup> to marry in certain circumstances. 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. There were no public policies to prevent child marriages or government institutions that dealt with the problem”<sup>8</sup>.

##### **Romanian Constitution**

Article 48 “Family”, of the Romanian Constitution, 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>9</sup>.

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”.

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”.

##### **New Civil Code**

A new Civil Code entered into effect on October 1, 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

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<sup>7</sup> Actually since October 1, 2011 the minimum legal age for marriage under article 272 (Matrimonial age) of the New Civil Code is 16 (Art. 272, para. 2, Romanian New Civil Code);

<sup>8</sup> *Romania 2013 Human Rights Report*, United States Department of State, pg. 20

(<http://www.state.gov/documents/organization/220533.pdf>);

<sup>9</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) ;

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.

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. Moreover, 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 2007 the Law 288/2007 for the modification and completion of Law 4/1953 – Family Code (*Legea 288/2007 pentru modificarea si completarea Legii 4/1953 – Codul Familiei*) it was for the first time in Romania when the legal minimum age for marriage was 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 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.

### **New Penal Code**

The new Penal Code of Romania, Law 286/2009, entered into effect on February 1, 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 raises as well a number of challenges, particularly for the more marginalized communities, including Roma communities, where awareness and information on the new legislation is supposedly scarce. As such risks that such communities are not aware of the new penal legislation 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>10</sup> then such activities are criminalized.

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<sup>10</sup> Romanian new Penal Code, Art. 220, para. 3

An overview of a number of selected crimes, as regulated in the new Romanian Penal Code, is included in this report (with potential application in cases of early marriages):

**ART. 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.*

**ART. 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.*

**ART. 211**

***Trafficking in minors***

*(1) Recruitment, transportation, transfer, harboring 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.*

**ART. 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 **aminor**, 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.*

**ART. 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.*

**ART. 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.*

## **ART. 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.*

## **ART. 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.

#### **ART. 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.**

#### **ART. 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.

#### **ART. 223**

##### **Sexual harassment**

(1) Repeatedly soliciting sexual favors 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.

## Child Rights Legislation

The *sedes materiae* for child rights protection and promotion in Romanian legislation is Law 272/2004 on the protection and promotion of child rights (*Lege nr. 272/2004 privind protecția și promovarea drepturilor copilului*). However, although this law is quite advanced for the protection of child rights, it is completely silent when it comes to early marriages or child betrothals.

### Selected Romanian policies and early or forced marriages

A number of policies have been reviewed 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 policies have been analyzed:

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

Only two of the four strategies analyzed spoke of early marriages within the situation analysis: the National Strategy for the Protection and Promotion of Child Rights and the draft National Strategy on Reducing Early School Leaving. The other two strategies (Roma inclusion strategy and National Gender Equality Strategy) do not mention early marriages.

The draft National Strategy on Reducing Early School Leaving included in Table 1.10 (pg. 26 of the draft Strategy) among the “factors contributing to early school leaving” – “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>11</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 National Strategy for the Protection and Promotion of Child Rights 2014-2020 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

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<sup>11</sup> Draft National Strategy on Reducing Early School Leaving, pg. 27 (Romanian language version)

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>12</sup>.

However, 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>13</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 [*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.*]

In this case, in 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)”. Now, this is the only conceptual clarification, albeit incomplete, identified in the policy framework in Romania, and unfortunately it ethnicize futilely the problematic of early marriage by adding the uninspired phrase “especially in the Roma communities”.

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<sup>12</sup> National Strategy for the Protection and Promotion of Child Rights 2014-2020, pg. 22

<sup>13</sup> National Strategy for the Protection and Promotion of Child Rights 2014-2020, pg. 25

## 5. Current situation

- a. Available data on early and forced marriages in Roma communities and key initiatives related to the prevention of early marriages in Romania

It should be clarified from the very beginning of this section that numbers are completely irrelevant when dealing with human rights violations. Each woman and each man, each girl and each boy should benefit of all the human rights! 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 is 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 ad-hoc body of evidence. Although 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, the current focus was placed rather unequally on the Roma communities as a whole generating a real labeling risk<sup>14</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. Data at national level for the general population<sup>15</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>16</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>17</sup>.

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<sup>14</sup> *Making Early Marriage In Roma Communities A Global Concern*, European Roma And Travellers Forum & Romani Women Informal Platform “Phenjalipe”, CoE, 2014

<sup>15</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>16</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>17</sup> *Idem*, pag. 34

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 study<sup>18</sup> published by RIQL in 2002 (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 and
- 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>19</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.

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>20</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

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<sup>18</sup> *Indicatori privind comunitățile de romi din România*, Editura Expert, București, 2002

<sup>19</sup> *Sarcina și căsătoria timpurie în cazul tinerelor rome*, Mihai Surdu, UNICEF, CEDU 2000+, 2004

<sup>20</sup> *Nașterea și căsătoria la populația de romi*, Mălina Voicu, Raluca Popescu, UNICEF, CEDU 2000+, 2006

ethnic identity as Roma. 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 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 pronatalist 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 (Calderash, 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 Calderash Roma (Fetesti) and over 18 in the case of non-traditional ("modern") Roma (Harsova)<sup>21</sup>.

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 Calderash Romani communities, whereas they are seldom practiced by Cashtale 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>22</sup>

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<sup>21</sup> *Nașterea și căsătoria la populația de romi*, Mălina Voicu, Raluca Popescu, UNICEF, CEDU 2000+, published in CALITATEA VIEȚII, XVII, nr. 3-4, 2006, p. 268

<sup>22</sup> *Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*, Alexandra Oprea, 2005, ERRC.

In this ERRC article of 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>23</sup>

In 2008 within the implementation of the EU PHARE Programme "Strengthening Capacity and Partnership Building to Improve Roma Condition and Perception" (implemented by the General Secretariat of the Romanian Government), more data is 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 (the data provided in this section has already been quoted in this report). The anthropological research on early marriages 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. This conclusion is also concurred by Alexandra Oprea's findings: "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>24</sup>

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<sup>23</sup> Idem

<sup>24</sup> Idem

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. [...] publishing a study making the inventory of different situations in the phenomenon of early marriages and defining them according to international norms, an analysis of isolated initiatives up to date, as well as an inventory of international and national legislation regulating certain rights, will contribute to the creation of a framework for well informed discussion between actors in the Roma civil society, in order to produce a well informed public stand, whichever it may be”<sup>25</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>26</sup>, and another in partnership with Romani CRISS - “*Roma School Participation, Non-Attendance and Discrimination in Romania*”<sup>27</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. A brief synthesis is included here:

**National Authority for Child Rights Protection and Adoptions** (which in 2009 was restructured as a Directorate within the Ministry of Labour) - the report explains that “responding to the questionnaire of the survey team, the Authority has formulated very clearly the essence of the harmful practice of forced marriages. It is that <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

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<sup>25</sup>*The case of early marriages in Roma communities from Romania – Are child rights negotiable?*, Nicoleta Bitu, Crina Morteau, UNICEF, Romani CRISS, 2009

<sup>26</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>27</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

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>”.(pg 38)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.” (pg. 38) and to 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.” (pg. 38). The report also highlights that “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”.(pg. 37)

**National Agency for Roma** “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 Sintesti. 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 dropping out and exploitation of child labour”. (pg. 39) “Building upon the experience gained in the Ramnicelu 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, organizing 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 career orientation of the young members of the Ramnicelu community.” (pg. 40) “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”.(pg 40)

**Ministry of Education** - “The Ministry of Education, in partnership with UNICEF in Romania, organized a National Conference on the issue of the school dropping 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 is not yet on the agenda<sup>28</sup> of such events.” (pg. 42)

**Ministry of Public Health** - “The Ministry 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 does not reflect the ethnic background or the causes of early pregnancies.” (pg. 43)

**Ministry of Internal Affairs** - “The Ministry coordinates the activity of the police and has branches in all the 41 counties. Police intervention in early marriage cases is frequently as 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 has no statistics on the number of arrests related to early marriages.” (pg. 43)

**County Directorates for Social Assistance and Child Protection – CDSACP (County Council)** - “In general, [CDSACP] have no expressly defined public policies regarding early/forced marriages”. (pg. 45)

**County School Inspectorates** – “The County School Inspectorates do not have any statistics which could reflect the percent of school dropouts as a result of early/forced marriages of children from traditional Roma communities”. (pg. 50)

**County Offices for Roma** – “Only in 4 counties [out of the total 41 at national level] the issue of early/forced marriages in traditional Roma communities was discussed in the mixed working group’s [consisting of the 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] meetings. In the other respondent counties this issue was not discussed”.

This particular project also ended with the “*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

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<sup>28</sup> Actually, at the National Conference evoked in the Preventing Early Marriages report, although early marriages were not on the agenda per se, two reference studies on Roma children participation to education (supported financially and technically by UNICEF) were presented: one conducted by Romani CRISS and the other conducted by Community Development Agency “Impreuna”. Data on school dropout generated by early marriages was presented in the conference.

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.

One of the most recent pieces of 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-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>29</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>30</sup> “The Roma Judge also showed awareness of the socio-economic reasons that lead to child marriage in the Romani community”<sup>31</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

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<sup>29</sup> *“Racial Discrimination, Deprivation, Segregation and Marginalisation as a Reinforcement of the Practice of Child Marriage”*, Rita Sorina Sein, 2012, ERRC, pg. 19

<sup>30</sup> Idem, pg. 19

<sup>31</sup> Idem, pg. 19

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>32</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 Romentza Roma Centre, Asociatia Sanse Egale, etc (mostly community campaigns).

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".

#### b. Current debate around the issue of early and forced marriages in Roma communities

Easily understood, the topic of early marriages in Roma communities stirred from the very beginning a tsunami of passion. Whether it was an intra-community approach (as in the case of the early approaches to the topic in Romania) or trumpeted with not always the kind and wise support of the mass-media the topic split the audience immediately at least in two groups: those placing an emphasis on child rights and those placing an emphasis on cultural minority rights. And obviously there is no easy way out of this dilemma. Nicoleta Bitu and Crina Morteau put forward the divided opinions among Roma leaders,

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<sup>32</sup> Idem, pg. 20

researchers, experts, as follows: “the **first group** consists of those considering that the emancipation of the Roma community and its alignment to European standards can only be supported by constant efforts to reach a higher level of education which, in its turn, represents the entry gate towards the social status desired in society's organizational diagram. Therefore, renouncing to arranged marriages between minors and allowing them access to school represents one of the solutions for increasing the chances of emancipation of the Roma community in general. In the **second group** we can find the supporters of the idea that renouncing to certain traditional practices, among which early marriage, too, represents the sure path towards the disappearance of the Roma culture. In traditional leaders' view, increasing children's sense of responsibility by conferring them the status resulting from marriage, within the community, is the only way to preserve the healthy moral, unaltered traditions and live spirit of the community, as well as the sure way to resist to the "ills of the modern society" (drugs, prostitution, human trafficking, etc). In its support also come the survival strategies of Roma communities throughout their history of marginalization”<sup>33</sup>.

Roma reactions to the early marriage phenomena cannot however, be placed solely under the above-mentioned dichotomy. Roma intra-community resistance to such practices has generally been ignored by both mass-media and many of the researches conducted in Romania with the consequence of exacerbating the risks of labeling and stigmatization as a whole the Roma culture and Roma communities despite the diversity of recorded practices of early marriages in various Roma communities. This aspect has been highlighted exemplarily in Alexandra Oprea's article published by ERRC: “The child marriage debate was formulated by ignoring signs of Romani resistance to the practice, thereby portraying feminism as the brainchild of the West/whites. No Romani feminists were interviewed by the media to express their position on the issue. Child marriage was portrayed as a black-and-white example of a (backward) practice consented to by Roma. Such a perversion of reality could only have been accomplished by erasing any sign of internal resistance on the part of Roma [...]. Furthermore, in lieu of the racist depictions of Romani culture as deficient, Romani women who would have normally objected to the practice were placed between a rock and a hard place. They were prompted to condone juvenile marriages, reinforcing the discursive chasm between feminist ideals and Romani identity.”<sup>34</sup> Alexandra Oprea continues her critique of putting the blame solely on the Roma culture for the practice of child marriage arguing that “one of the first assertions that merits scrutiny is the culpability of "Romani culture" in the practice of child marriages. The underlying assumption is that Romani culture exists in isolation from the larger society in which it is situated. However, cultures do not exist in a vacuum: they undergo constant change and are in perpetual dialogue with the state. Without an analysis of both the historic and present economic, social and political factors that impact Romani women's lives, an analysis of child marriages is incomplete.”<sup>35</sup>

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<sup>33</sup> *The case of early marriages in Roma communities from Romania – Are child rights negotiable?*, Nicoleta Bitu, Crina Morteau, UNICEF, Romani CRIS, 2009, pg. 11 (English language version)

<sup>34</sup> *Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*, Alexandra Oprea, 2005, ERRC.

<sup>35</sup> Idem

There exists a diversity of reactions<sup>36</sup> of the Roma NGOs to the early marriage phenomenon, although in the recent years the positions converge towards criticizing such practices. There appears to be a universal condemnation of the early marriage phenomenon when it involves girls and boys below the age of 14 or early marriage practices that can be associated with child trafficking or child exploitation<sup>37</sup> (including sexual exploitation).

In the past decade there has been recorded a clear shift in how the issues related to early / forced marriages in Roma communities are approached at community level (which is much more than can be said in comparison with other types of communities where such phenomena are manifest). While the issue was simply dismissed as non-relevant a decade ago, more recently “the traditional Roma community leaders and members are aware of the fact that the practice of early marriage has to change. They are willing to open a dialogue on the issue, but they do not accept external interventions. The media play a crucial role in presenting cases of forced marriages. The media perspective helps on one hand to detect such cases, but on the other hand, it strengthens the anti-Roma racism, which leads to further <closing> of the community”<sup>38</sup>.

Early marriage is a historical phenomenon and there is a perceived tradition in certain Roma communities as a factor contributing to the perpetuation of this phenomenon but Roma NGOs are making efforts to change the current status quo (including the traditional Romani leaders) and in some cases early marriage situations that could be associated with child trafficking or child exploitation have been reported to authorities. “The practice of early marriages is a custom in closed and traditional Roma groups (mainly Kaldarashi, Gabor and Turkish Muslim Roma). Children promised and married to each other at an early age have a chance to divorce, if they cannot live together, but there will be a pressure to marry again as soon as possible. Individuals who get married outside the group are considered traitors and are excluded. The members of these groups have a very strong sense of identity. The roles and power relations are very well established, these groups are strongly patriarchal ones. In order to preserve their identity, thus their traditions, the children are taught the rules and roles of the community from a very early age. The person who makes the decisions in the family is the father with the approval of the elders. The young bride or the mother has no decision making power within the family, her only role is running the household, raising the children and obeying her husband. Early marriage unions are a practice for keeping the group united and compact. Promising the children to each other at an early age (between 2 and 8) and marrying them between the age of 12 and 15 is important not only for the cohesion of the group, but also for the prosperity of the family and the community”<sup>39</sup>.

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<sup>36</sup> Minute of the preparatory meeting with Roma NGOs, April 1, 2015

<sup>37</sup> Minute of the preparatory meeting with Roma NGOs, April 1, 2015

<sup>38</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

<sup>39</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.58

When it comes to sanctions applied to the parents who engage their children in early marriages it appears that “It is only the Kaldarashi community in Muntenia who consider that the best way to abolish early marriages is legal punishment applied to the parents”<sup>40</sup>.

There are cases when the authorities prefer to stay complacent and inactive rather than intervene, in spite of a call for action addressed by the Roma NGOs (as reported by the representatives of the National Union of Roma Communities<sup>41</sup>). Such passivity of the local authorities in face of child trafficking phenomena is also documented in the report of the Open Society Foundation “Countering new forms of Roma children trafficking” and in other studies. Sometimes the justification of the Romanian authorities for this passivity is “(inter)cultural understanding” as results from the following pertinent analysis: “A dramatic infringement of individual and community rights that happens nowadays in the Roma communities is the phenomena of early/forced marriages; it has been estimated that 6.6% of school abandonment is due to early marriage (Surdu et al. 2011). The girls are the ones who are most affected by this phenomena, as 10.99% of school abandonment among girls is caused by early marriage (Bițu & Morteau 2010). The gendered division of labor inside some Roma communities likewise has an important impact on school abandonment among girls: “the percentage of girls not attending school because they have to look after their younger brothers and sisters is 17.58%, while among boys the percentage is 8.09%, revealing how domestic duties are very clearly and unevenly divided between school-aged girls and boys” (Bițu & Morteau 2010). The data show that gender roles in Roma communities have an important impact on preventing access to education for Roma girls. Early marriages mainly affect the school attendance among girls, since the social norms of some traditional Roma communities forbid young girls to enter a public environment where boys can also be found. Invoking “tradition” in the case of early marriages, either done by Roma or by state institutions, is nothing but a violation of individual rights in favor of collective ones. Do individual rights (cultivating a lifestyle allowing the best physical, mental, spiritual, moral and social conditions, the freedom of expression and of choosing one’s partner, or each individual’s educational and professional development) have precedence over preserving the traditional aspects of a group? The Romanian legislation contains no specific provision regarding the condition of Roma girls and women, least of all regarding early marriages (Bițu & Morteau 2010). Under the comfortable umbrella of “cultural tolerance” the Romanian state institutions tolerated inequalities and discrimination against Roma women, an attitude of the state that has even criticized by Roma women. The existing legislation and policies concerning the Roma people have turned a blind eye to the gender dimension. Also, the existing legislation has not been applied in many cases due to what has been called “intercultural understanding.” The most important source of the problem is that the Romanian government’s policies treat the gender and ethnic dimensions separately and do not deal directly with the social exclusion faced by Roma women (Bițu & Morteau 2010). Therefore, one may say that in Romania there is a noticeable indifference of the state towards issues such as early marriages, dropping out of school at early ages, or the absence of Roma women in the public sphere. In this context, the indifference of the

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<sup>40</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.59

<sup>41</sup> Minute of the preparatory meeting with Roma NGOs, April 1, 2015

state towards these problems was explained as a form of “cultural understanding” of the Roma lifestyle. It has been considered that Roma families rely on different values that have to be protected in the name of cultural diversity.<sup>42</sup>”

Also on the “schizoid” approach of the state institutions on preventing child marriage and protecting Roma culture “the state has a stake in attributing premature marriages to an essentialist notion of culture and divorcing such practices from the larger social landscape in which they occur. Such an approach strategically serves to absolve the state from the guilt entailed in neglecting to take preventative measures.”<sup>43</sup>

Instead of a conclusion and in order to chase away the shyness of the state authorities when performing their role in preventing child/forced marriages in Roma communities here are some necessary considerations: “in instances where the majority perceives oppressive practices as attributable to a primitive culture, the role played by racism is ignored and minority culture is demonised and rendered synonymous with sexism/patriarchy. In cases where the ill seems attributable only to racism, internal patriarchy is ignored because it is equated with culture, a facet that the guilt-ridden majority does not want to critique for fear of appearing racist. [...]In order to facilitate the remedying of such ills, it is important to deconstruct current portrayals of oppressive practices by differentiating between culture and patriarchy and showing ways in which the state influences such practices. Alternately, in cases involving mainstream race discrimination issues, such as access to education, it is important to take a multi-dimensional approach that looks beyond racism. In an effort to remedy marginalization, we must proceed from an intersectional framework where race, class and gender are acknowledged as factors that temper access and infiltrate both mainstream institutions and minority practices.”<sup>44</sup>

### c. Persisting challenges related to early and forced marriages in Roma communities

1. Lack of conceptual clarity on early / forced / child marriages in the legal and policy frameworks.
2. Some international instruments ratified by Romania still 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).
3. Limited reliable official data (quantitative and qualitative) on early / forced / child marriage. “The absence of reliable data on early and forced marriages is, on the other hand, an irrefutable prove of the lack of commitment of the state institutions to identify, monitor, prevent and combat the

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<sup>42</sup>Education of Roma Women between Feminism and Multiculturalism Case study: Roma Women in Romania, Irina Ilisei, Journal of Social Science Education Volume 12, Number 1 © JSSE 2013 ISSN 1 61 8-5293 72

<sup>43</sup>*Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*, Alexandra Oprea, 2005, ERRC.

<sup>44</sup> Idem

harmful practice of early marriages and needs to be addressed in any further public national strategy”<sup>45</sup>.

4. Early marriages problematic is almost absent from the most relevant active policies (child rights, Roma inclusion, gender equality, education, etc.).
5. Limited culture of multi-sector administrative cooperation 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>46</sup>.
6. There persists a real risk of futile ethnicization of the problematic of early marriages and additional stigmatization of the Roma communities as a whole.

## 6. Conclusions&characteristics of an effective model for the prevention of early marriage

- 1) There is a need to clarify conceptually the 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 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 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 early marriage and not only;

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<sup>45</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>46</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

- 5) Interventions targeting the prevention and combating of 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 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 is a valid entry point to change community mentalities, but then again education alone (such as campaigns, curriculum development for tackling 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 early marriage should be designed taking into account Roma cultural specificity.

### **Characteristics of an effective model for the prevention of early marriage in Roma communities**

1. Interventions for the prevention of early marriages should be designed as part of wider community development plan and not as singled out intervention;
2. Support for community mobilization is crucial for the success of the interventions for the prevention of early marriage;
3. For the efficiency of the prevention of 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., etc.);
4. Personal examples of successful Roma people should be emphasized;
5. Interventions and messages targeting the prevention and combating of early marriage should be designed taking into account Roma cultural specificity and diversity;
6. A position of the community condemning early marriage practices needs to be institutionalized at community level (support from formal and informal community leaders is crucial)
7. Child and women perspectives on early marriages should be heard and the community participation mechanisms should make room for the child and women voices.