

Memorandum¹ on the implementation of the Judgments of Moldovan and Others v. Romania (no.1 and no.2) by The European Roma Rights Centre² and Romani CRISS³

Developments in the implementation of judgments in the Moldovan no. 1 and 2 group since the last review of the Committee of Ministers (June 4-6, 2012)

- I. Introduction
- II. The “Strategy of the Government of Romania for the Inclusion of Romanian Citizens Belonging to the Roma Minority for the Period 2012-2020”
- III. Legal proceedings at national level on non-implementation
- IV. Evaluations of general and individual measures subsequent to the last review of the Committee of Ministers
 - IV.1. Evaluation of the Hădăreni Programme
 - IV.2. Evaluation carried out by the National Council for Combating Discrimination
- V. Conclusions

¹ Submitted on 21 February 2014 under Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and the terms of the friendly settlements

² The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. Since its establishment in 1996, the ERRC has endeavored to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations. The ERRC has been the recipient of numerous awards for its efforts to advance human rights respect of Roma: in 2013, PL Foundation Freedom Prize; in 2012, Stockholm Human Rights Award; in 2010, the Silver Rose Award of SOLIDAR; in 2009, the Justice Prize of the Peter and Patricia Gruber Foundation; in 2007, the Max van der Stoep award given by the High Commissioner on National Minorities and the Dutch Foreign Ministry; and in 2001, the Geuzenpenning award (the Geuzen medal of honour) by Her Royal Highness Princess Margriet of Netherlands.

³ Romani CRISS is a non-governmental organization established on April 4th, 1993, which defends and promotes the rights of Roma in Romania by providing legal assistance in cases of abuse and works to combat and prevent racial discrimination against Roma in all areas of public life, including the fields of education, employment, housing and health. At the EU/US London Summit in 1998, Romani CRISS was awarded the award of Democracy and Civil Society on behalf of European Union and the United States of America. In 2008, Romani CRISS was approved as NGO in Consultative Status with Economic and Social Council (ECOSOC). It is the first Roma organization in Romania and the fifth in our country to be approved in the consultative status with ECOSOC.

I. Introduction

The present document represents a general commentary on the implementation of the judgment in the case of *Moldovan and Others v. Romania* no.1⁴ and 2⁵ (final judgments of July 2005 and November 2005) and observations on the Information note provided by the Romanian government in relation to the implementation of the Moldovan judgment (no.1 and 2). The European Roma Rights Centre (ERRC) and Romani CRISS respectfully request that the commentary and observations be taken into consideration by the Committee at its 1193 meeting which will take place on March 4-6, 2014.

The *Moldovan and Others v. Romania* no.1 and 2 cases became final on 05/07/2005 and 30/11/2005 respectively. The case concerned racially motivated violence against the Roma living in Hădăreni, Mureș County during a pogrom in 1993 and in particular improper living conditions following the burning of their houses. In 2005, the European Court for Human Rights (ECHR) delivered its judgment in the case and found a violation of art.3, art.14 in conjunction with art. 6 and art 8 of the European Convention on Human Rights, in that the violence on the community was driven by racial hatred. Since 2006, the Romanian government developed a series of programmes aimed at complying with the individual and general measures as indicated by the Court. Therefore, the Romanian government undertook to eliminate various forms of discrimination and to prevent possible similar conflicts, in particular by: stimulating Roma participation in the economic, social, educational, cultural and political life of the local community by promoting mutual assistance and community development projects; and implementing programs to rehabilitate housing and environment in the communities affected.

Following the Memorandum submitted by the ERRC to the Committee of Ministers on the implementation of the general and individual measures in the case of *Moldovan and Others v. Romania* in 2011 for consideration at the September 2011 review, the Committee of Ministers decided to consider the implementation of the case under the enhanced supervision mode. The Committee of Ministers further requested the Romanian Government to revise the action plan in relation to the implementation of general and individual measures.

At the examination by the Committee of Ministers in September 2011 it was noted that the revised action plan provided clarifications on some of the outstanding issues identified at the 2011 review (see §§95 - 116 of the information document CM/Inf/DH(2011)37)⁶.

On 24/01/2014, the Romanian government submitted an information note which explains the progress concerning the implementation of the general and individual measures in the cases of *Moldovan* no. 1 and no.2 addressing three issues:

1. The status of the construction of houses for those applicants whose houses have not been rebuilt. However, no mention is made of addressing the poor quality of the houses already built.
2. The difficulties in carrying out the economic component of the general measures.
3. The discussion concerning the construction of a medical centre in Chețani, as part of the general measures.

⁴ 41138/9 *Moldovan and others* (No. 1), judgment of 05/07/2005 - Friendly settlement

⁵ 41138/98 *Moldovan and others* (No. 2), judgment of 12/07/2005, final on 30/11/2005

⁶ Status of execution of the general measures and assessment of the action plan provided by the Romanian authorities on 15 June 2011, Memorandum CM/Inf/DH(2011)37, 16 August 2011 prepared by the Department for the execution of judgments, , available at:

[https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH\(2011\)37&Language=lanEnglish&Site=&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2011)37&Language=lanEnglish&Site=&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679)

II. The Strategy of the Government of Romania for the Inclusion of Romanian Citizens Belonging to the Roma Minority for the Period 2012-2020

In respect of general measures, the latest revised action plan⁷ submitted by the Romanian government in May 2012 mostly refers to the adoption by the Romanian Government of the Strategy of the Government of Romania for the Inclusion of Romanian Citizens Belonging to the Roma Minority for the Period 2012-2020 (*hereinafter* The Roma Inclusion Strategy or the strategy) as further detailed in the information note on general measures submitted by the Romanian government in February 2012⁸.

The Romanian government indicated in the revised action plan of May 2012 that an initial evaluation of the measures taken within the framework of the Strategy for Roma Inclusion 2012-2020 would be carried out at the end of 2013. The latest information provided by the Government in the information note of January 2014 does not provide any details on whether this evaluation has taken place, nor any other mention of the Strategy for Roma Inclusion 2012-2020.

The ERRC and Romani CRISS would like to make the following observations as per the adoption of the Roma Inclusion Strategy by the Romanian government.

The Roma Inclusion Strategy⁹ takes a socio-economic based approach much different from the approach laid out in the previous Governmental strategy for the improvement of the situation of Roma.¹⁰ The previous strategy stressed the importance of and the commitment to tackling human rights issues and minority protection issues; providing redress against existing and historical discrimination faced by Roma and improving the living conditions of the Roma.¹¹ When defining the problems none of the issues identified in the strategy are coherently placed in the context of existing inequalities, barriers to accessing public services or structural problems related to discrimination, with the exception of education.¹²

The issue of preventing and fighting discrimination is scarcely indicated as a problem, with only a sole reference to a Romanian perception poll from 2007 reflecting the level of prejudice towards Roma and a reference to a report published by the EU Fundamental Rights Agency in 2009. It thus fails to refer to the current situation or available data from Romania in regard to forms of discrimination against Roma and the impact this has on accessing public services.¹³

Non-discrimination as provided by the Romanian equality law¹⁴ is one of the nine principles governing the implementation of the Strategy. Despite this positive aspect, it needs to be underlined that fighting discrimination, for example, is not mentioned among the priorities, policies

⁷ Revised Action Plan of 30/05/2012, available at: [DH-DD\(2012\)537F](#)

⁸ Information note submitted by the Romanian Government of 20/02/2012, available at: [DH-DD\(2012\)202F](#)

⁹ Strategy approved on December 14th 2011 by Governmental Decision no. 1221/2011, published on the Official Journal no.6 from January 4th 2012.

¹⁰ Strategy of the Romanian Government for the improvement of the situation of Roma, approved by Governmental Decision no. 430/2001, published on the Official Journal no.252 from May 16th 2001.

¹¹ Strategy for the improvement of the situation of Roma, Section I, General considerations; reference is made to Government's consideration to improve the condition of national minorities according to international human rights instruments, a clear reference to preventing discrimination against Roma by adopting a strategy for considerably improving its condition, takes note of the fact that, in the course of history, Roma were an object of slavery and discrimination, phenomena that have left deep marks on the collective memory and which have led to the social limitation of Roma etc.

¹² ERRC Romania: Country Profile, report available at <http://www.errc.org/cms/upload/file/romania-country-profile-2011-2012.pdf>

¹³ Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter II Relevant General information and Chapter IV Defining the problem, point 1-7.

¹⁴ The Strategy, in Chapter VI Principles mentions "the principle of non-discrimination and respect for human dignity in exercising the rights provided by Article 1 Para. 2 of the governmental Ordinance 137/2000 on prevention and punishment of all forms of discrimination, republished, as subsequently amended and completed".

or the framework set for the implementation of the strategy.¹⁵ At the same time, the principle of non-discrimination is not coherently and substantially translated into effective actions alongside the measures envisaged in regard to education, employment, health and housing.¹⁶ A similar case is the “principle of equal opportunities and gender awareness” which stands as a governing principle of the Strategy but is not substantiated as a clear cross-cutting issue in all of the areas tackled by the Strategy and the subsequent envisaged by the strategy.¹⁷

The Romanian equality body (National Council for Combating Discrimination) is indicated among other public authorities responsible for implementing the Strategy-related measures.¹⁸ Despite the positive fact that the 2012 Strategy on Roma Inclusion envisages a set of measures aimed at tackling discrimination and the segregation of Roma children in education,¹⁹ one of the most striking aspects is the fact that the equality body is entirely ignored as regards its potential role, i.e. involvement or at least cooperation with the Ministry of Education, with school inspectorates and with other educational establishments for the implementation of measures aimed at preventing and combating discrimination against the Roma.

Unfortunately, a similar situation exists as regards measures formulated in the areas of employment, housing and health, where the role and implication of the equality body is completely absent. Moreover, in the areas of health and housing,²⁰ the Roma Inclusion Strategy lacks specific measures aimed at addressing non-discrimination, while in the area of employment it expands only on “the promotion of programs designed to raise employers’ awareness of discrimination at work, equal opportunities, psychological harassment and social dialogue”.²¹ Annex 1 of the Strategy refers to the Ministry of Labour and other decentralised authorities as the main implementers of such programmes and does not mention any role for or cooperation with the equality body.²²

The Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 on Romania²³ states that one of the major obstacles indicated by the president of the equality body as regards the implementation of programmes or projects on non-discrimination was the lack of proper funding. Over the recent period, the NCCD has mainly focused on providing training programmes in partnership with human rights NGOs focusing on Roma issues aimed at law enforcement officials, police officers, judges and prosecutors²⁴.

There is no clarity in the measures of the Strategy on Roma inclusion on how the equality body might link its own activities to those of other institutions, on how it should engage in collaborations with other institutions, for example with child protection authorities, or on the reporting framework

¹⁵ Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter III Priorities, Policies, Existing Legal Framework; There is no reference to importance of effective implementation of anti-discrimination law, cross cutting cooperation with the equality body etc.

¹⁶ ERRC Romania: Country Profile, report available at <http://www.errc.org/cms/upload/file/romania-country-profile-2011-2012.pdf>

¹⁷ Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter VI Principles; point 5 The principle of equal opportunities and gender awareness.

¹⁸ Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020; Chapter XII Further Stages and Responsible Institutions; Central level, a2) (...) National Council for combating Discrimination.

¹⁹ Strategy for the Inclusion of citizens belonging to the Roma minority for 2012-2020; Annex 1 Plan of Measures, A. Education, point no. 4 and point no. 11.

²⁰ In the area of Housing, the Strategy refers to legislative amendments in order to regulate the means to guarantee the quality of housing and to increase social housing by identifying solutions for disadvantaged, vulnerable groups or groups exposed to discrimination.

²¹ Strategy for the Inclusion of citizens belonging to the Roma minority for 2012-2020; Chapter VII Directions for Action, B. Employment.

²² Strategy for the Inclusion of citizens belonging to the Roma minority for 2012-2020; Annex 1 Plan of Measures, B. Employment, point no. 7.

²³ Idem

²⁴ Idem, Interview with Mr. Asztalos Csaba Ferenc, President of the NCCD.

of implemented measures. This shortcoming of the Strategy seems to reinforce current trends as there is no available information either from the NCCD and the National Agency for Roma or other responsible institutions on the status of their programmes implemented in 2012 in the area of non-discrimination in child protection and justice and public order.²⁵

While the responsibilities of the National Agency for Roma are wide, criticism toward the institution was very much related to its capacity to fulfil such tasks. A report of the Presidential Commission for Social Risks Analysis took note for example of the fact that the problems faced by the Roma minority have been insufficiently tackled and in particular inefficiently addressed due to ambiguities and overlapping of responsibilities between the NAR and other public authorities.²⁶ The report further mentions that despite the fact that the NAR absorbed EU funding, in the absence of formal and real partnerships with specialised state institutions the projects would lack effectiveness, sustainability and improvement of policies.²⁷ Concerns have also been expressed with regard to the limited capacity of the NAR to implement programmes,²⁸ as it is unable to apply for budget allocations and is not equipped with necessary powers to put pressure on ministries to meet their commitments on Roma policies.²⁹

III. Legal proceedings at national level on non-implementation

In relation to the failure of the Government to implement the Moldovan judgments and the subsequent general measures (Hădăreni programme), the ERRC and Romani CRISS supported several applicants in Moldovan no. 1 and Moldovan no. 2, as well as other members of the Romani community of Hădăreni to initiate domestic legal proceedings against the Romanian Government. The Court of Appeal in Cluj³⁰ rejected the case and the decision was subsequently appealed by the applicants. The Romanian High Court of Cassation and Justice decided in the case on December 04, 2013³¹. The High Court admitted the applicants appeal³² and sent the case file to the Court of Appeal in Cluj Napoca to re-judge the complaint³³

In a separate case, in July 2012, Rostas Eleonora, Rostas Octavian, Lacatus Petru and Lacatus Lovizia lodged a civil complaint with the Court of Appeal Targu Mures (case file no. 400/43/2012)³⁴. In its substance the complaint relates to the fact that the Romanian government did not fulfil its obligations as assumed through the judgment of 2005, and relates in particular to the fact that their houses have not been rebuilt. The national proceedings are ongoing and the next hearing will take place on April 04, 2014. Ms. Rostas Eleonora and Mr. Lacatus Petru have addressed a complaint to the NCCD as detailed at point 3 of this submission.

²⁵ The Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 on Romania, http://www.romadecade.org/cms/upload/file/9270_file24_ro_civil-society-monitoring-report_en.pdf

²⁶ Presidential Administration, Presidential Commission for Social and Demographic Risk Analysis and social Inequalities in Romania, September 2009, page 210, report available in Romanian at http://www.presidency.ro/static/CPARSDR_raport_extins.pdf

²⁷ Ibid, page 210.

²⁸ Ibid, page 210.

²⁹ Roma Civic Alliance of Romania, Decade Watch Romania, Mid term evaluation of the Decade for Roma Inclusion http://www.acrr.ro/download/DecadeWatchRomaniaReport_2010_EN.pdf

³⁰ Case file no. 1171/33/2011, information available at:

http://portal.just.ro/33/SitePages/Dosar.aspx?id_dosar=3300000000051844&id_inst=33

³¹ The decision has not yet been communicated to the applicants and its reasoning is not currently available

³² High Court of Cassation and Justice, case file 1171/33/2011, information available at:

<http://www.scj.ro/dosare.asp?view=detalii&id=100000000269011&pg=1&cauta=1171/33/2011>

³³ The case has not been registered yet with the Cluj Court of Appeal

³⁴ Court of Appeal Targu Mures, case file 400/43/2012, information available at:

http://portal.just.ro/43/SitePages/Dosar.aspx?id_dosar=4300000000018268&id_inst=43#Sedinte

IV. Evaluations of general and individual measures subsequent to the last review of the Committee of Ministers

According to interviews carried out by Romani CRISS in February 2014 with some applicants in Hădăreni, during 2012 and 2013 representatives from the National Agency for Roma as well as other public authorities while visiting the community held that there are no available funds for reconstruction/rehabilitation except for 3 houses and that the Government did not allocated subsequent resources for other facilities (e.g. medical centre, industrial hall). According to same applicants, during their visit the authorities indicated that the respective housing was not reconstructed due to over delays in budgetary allocations that made impossible the expenditures in the given period.

Besides Romani CRISS' evaluation on the ground, there were two other evaluations carried out in 2012³⁵ and 2013³⁶ respectively. The 2012 evaluation was carried out by the "Impreuna Agency" NGO and it represents an assessment of the Hădăreni Programme. The 2013 evaluation was carried out by the National Council for Combating Discrimination as a result of a complaint having been lodged by several applicants for the non-implementation of the individual and general measures as assumed by the judgments of 2005.

IV.1. Evaluation of the Hădăreni Programme

In November 2012 a report was published evaluating the Hădăreni Programme that is inextricably linked with the Moldovan and others decisions. The report was elaborated by the *Impreuna* Agency for Community Development and the Institute for Strategic Studies and was supported by the NAR. The evaluation methodology entailed three components: desk research of the Programme's documents, semi-structured interviews with relevant stakeholders (representatives of institutions and organisations involved in the implementation of the Programme), as well as field research in Hădăreni³⁷.

According to the findings of the report:

- The design of the Programme did not follow a data-driven logic.
- Prior to designing the measures of the Programme, no research was undertaken in the community in order to identify the dynamics of interethnic relations and the possible changes which may have occurred in the village since the conflict.
- Neglecting persistent tensions not only between the three ethnic groups of the village, but also within the Roma community itself, induced a flawed design which did not take into account the local social relations and persistent conflicts
- The Programme was not accompanied by a clear calendar detailing the timeframe and the order in which the measures had to be implemented, and the lack of strategic planning of the Programme measures induced chaotic and fragmented implementation of the six components
- Although the planning process started out with a participatory assessment of the needs, the implementation of the Programme measures did not follow the same bottom-up logic, and some of the measures are susceptible to having a low degree of relevance given the larger objective of the Programme.
- Some of the measures were too abstract and superficial to be able to lead to a real impact. For instance, the measures aimed at promoting intercultural dialogue and understanding seem to be focused on "educating" the Roma without promoting a real intercultural communication

³⁵ Independent evaluation carried out by the NGO "Agentia Impreuna" of the Hădăreni Programme

³⁶ As a result of a complaint brought by some of the applicants in front of the National Council for Combating Discrimination.

³⁷ See Evaluation report of the "Hădăreni Program", „Impreuna" Agency for Community Development and the Institute for Strategic Studies, available at:
http://www.anr.gov.ro/docs/rapoarte/Raport%20de%20evaluare%20a%20programului%20Hadareni_ro_en.pdf

- Some of the measures aimed at promoting the economic development of Hădăreni proved to have a low relevance due to the fact that they were not based on an *ex-ante* evaluation of the needs and opportunities at local level. For instance, the measure aimed at providing professional qualifications did not take into account the education level of the Roma community.
- The relevance of the measures dealing with healthcare issues was difficult to evaluate given the lack of a clear *ex-ante* analysis which would point to the needs of the community in this regard. Also, some of the measures are formulated in vague terms: for instance, one of the measures proposes to form a support group in the field of healthcare, but it is unclear what the role of this group would be in the Programme.
- The component on housing and infrastructure comprised measures that did not include clear criteria for the selection of the beneficiaries, leaving aside an important aspect which could contribute to enhancing the tensions within and between the communities.
- The Programme suffered from insufficient correlation between the different fields of intervention and an overall lack of strategic planning. The measures were not prioritised and the Programme did not specify a clear timeframe for intervention. Thus, the Programme lacked a clear logic of intervention or a vision on the short, medium and long term. These shortcomings have led to a number of correlated problems in the implementation of the measures, as well as in regard to the sustainability of actions.
- The conclusions of the evaluation underline a very low degree of effectiveness of the Programme: out of the total number of 38 measures, only four have been implemented *de facto* according to the initial plan, whereas 16 measures have only been implemented partially and 17 measures have not been implemented at all.
- The four measures which have been implemented are: public information sessions and prevention of anti-social behaviour, street lighting, local equipment (public telephones) and the organisation of local public transport between Hădăreni and the nearest town. However, out of these four measures, the first one is susceptible to having a low impact at the community level: the information and training sessions were organised hastily, without any follow-up or attempt at measuring the impact on the medium and long term.
- A common characteristic of the implementation process across the sectorial measures is the lack of follow-up, with almost half of the measures being implemented only partially. In some cases, the evaluation revealed the fact that some of the measures were implemented only formally, without a real concern for the medium and long term outcome. Trainings and information sessions were provided quickly, without a clear strategy of intervention which would capitalise on previous activities, outputs and outcomes. Given the attitude of teachers towards the Roma, for instance, the impact of trainings aimed at combating the discrimination of the Roma in the local school is not visible.
- The structures created within the Programme (working groups at local and county level) were insufficiently developed to become components of a functional mechanism. The community development method was applied only at the beginning of the Programme, thereby inducing a lack of coherence in the working methods of the different actors and contributing to the overall lack of a strategic approach.
- The community development component was implemented formally, but without a real impact.
- The local working group is insufficiently developed and has no real say in the local decision-making process, and the lack of communication and coordination between institutions at county level accounts for the lack of a functional county-level working group.
- The community development process has not led to a real empowerment of the Roma community from Hădăreni or to the increase in public participation of its members. The human resource which could have sustained an increased participation of the Roma in the decision-making process and in the community life has not been activated within the Programme.
- The effectiveness of the actions implemented within the third component of the Programme – education, culture, inter-confessional dialogue – was highly questionable. Most of the measures within this component have never been implemented (there is no school mediator, no "School for mothers", no pre-school training or supplementary training for Roma children). The Romani language teacher is no longer active in the village school, and there is no visible effect of teacher

training at the community level regarding the improvement of their capacity. The infrastructure of the school as well as the cultural centre of the village has been renovated, but the quality of the work is questionable both by teachers and by the community.

- The fourth component of the Programme – stimulating the economic life of the village – has not been implemented with visible outcomes for the community. At the moment of the evaluation, the property titles of old cooperative fields had not yet been issued by the municipality, the labour force from the community had not undergone professional training, and the economic development process had stopped after the feasibility study regarding the setup of an industrial facility at the local level.

- In the field of healthcare, a health mediator was hired after completion of the professional training and the community has access to a medical facility installed in the cultural centre of the village. However, extensive information regarding the setup of a support group in the field of healthcare, the setup of a medical point within the school, or training of medical staff in the field of preventing discrimination was unavailable.

- Within this component on improvement of the infrastructure at local level, three measures were effectively and totally implemented (the setup of public lighting, public telephones and transportation between Hădăreni and the nearest town), and two measures partially implemented, proving this component to be one of the most effective of the Programme. However, this component also entailed significant weaknesses, especially regarding the reconstruction of houses destroyed during the violent confrontations of 1993: only seven out of the 18 houses were rebuilt, and the quality of the work is highly questionable.

- Administrative obstacles put a halt to the implementation of a number of key measures. Alternative solutions could have been identified, but once an obstacle made it difficult for a certain measure to be implemented, a clear lack of ownership over the Programme paralysed further action. What contributed to the inability of stakeholders to identify alternative solutions and implement measures effectively was the lack of an early warning system and a risk management strategy, paired with the lack of clear task assignment between stakeholders.

- The weak effectiveness of the Programme actions has also impacted negatively the efficient spending of funds within the Programme. Not only were funds inefficiently and irresponsibly spent on weak quality works of infrastructure and construction, but several respondents pointed to the possible embezzlement of a share of the funds.

- Alongside aspects related to the lack of ownership of the Programme and lack of strategic planning among stakeholders, the evaluation has shed light on major deficiencies regarding the communication among institutions involved in the implementation of the Programme and on the incapacity and / or unwillingness of stakeholders to identify alternative solutions whenever obstacles made the implementation of certain measures difficult. Also, the communication of institutions toward the community itself has not followed any logic or strategy and has ignored persistent tensions and conflicting interests of the Hădăreni communities. In itself, the faulty communication jeopardizes the objectives of the Programme, since the benefits which the Programme can bring to the Roma can be perceived in a negative light by the non-Roma communities, thus leading to the deepening and aggravation of the interethnic tensions in Hădăreni³⁸.

IV.2. Evaluation carried out by the National Council for Combating Discrimination

In 2013, 11 applicants³⁹ in Moldovan no.1 and no.2 cases lodged a complaint with the National Council for Combating Discrimination (NCCD) which is the Romanian Equality Body, seeking a decision to find discrimination arising from the non-implementation of the ECHR judgments in both cases by the Romanian government. On October 10, 2013, the NCCD overruled the case on

³⁸ See Evaluation report of the “Hadareni Program”, „Impreuna” Agency for Community Development and the Institute for Strategic Studies, available at:

http://www.anr.gov.ro/docs/rapoarte/Raport%20de%20evaluare%20a%20programului%20Hadareni_ro_en.pdf

³⁹ Eleonora Rostaş, Lăcătuş Sami Bazil, Moldovan Adrian, Lăcătuş Petru, Lăcătuş Maria Gheorghina, Lăcătuş Grăia, Lăcătuş Petru Boca, Moldovan Melenuţa, Moldovan Lucreţia, Lăcătuş Ghioloanca, Lăcătuş-Matei Maria

the basis that it lacked competence *ratione materiae* as the case involves an issue related to the State's obligation in relation to executing of an ECHR judgment.

However, as part of the administrative complaint procedure, the NCCD carried out an investigation in Hădăreni that may be relevant for the Committee of Ministers' assessment in regard to the situation under examination. The investigation report provides a description of the status of the applicants' housing and includes photos of every house that the NCCD representatives visited on the ground. According to the case report (nr. 101/05.06.2013, page 46-47 in the case folder), the following aspects have been encountered:

- Lăcătuș Adrian – the house has not been rebuilt since the judgment of the ECHR (pictures annexed in the folder case)
- Lăcătuș Matei Maria – the house has not been repaired since the judgment (pictures annexed in the folder case)
- Moldovan Melenuța – the house has not benefited from any reparation with funds from the state (the initial damage was a wall that was demolished) (pictures annexed in the folder case)
- Lăcătuș Petru – out of his two houses (one partially damaged and the other one totally damaged), any of them were repaired with state funds. Mr. Lacatus repaired his house with personal funds (pictures annexed in the folder case)
- Lăcătuș Maria Gheorghina – the partially damaged house has not been repaired with state funds. Ms. Lacatus Maria, repaired her house with personal funds (pictures annexed in the folder case)
- Lăcătuș Petru Boca – the partially damaged house has not been repaired at all (pictures annexed in the folder case)
- Lăcătuș Sami Bazil – Mr. Lacatus Sami Bazil had three houses that were destroyed during the 1993 pogrom. One of them was totally destroyed (currently not repaired). The second one was repaired with personal funds, and the third one was partially repaired with state funds, although it has not been completely repaired and work is of a low quality (pictures annexed in the folder case)
- Moldovan Lucreția – the house was partially repaired with state funds, not completed and low quality work (pictures annexed in the folder case)
- Moldovan Costică Adrian – the house was partially repaired with state funds, low quality work (pictures annexed in the folder case)
- Rostaș Eleonora – the house (inside) was repaired with state funds. Ms. Eleonora Rostaș used her personal funds to complete the work (pictures annexed in the folder case)
- Rostaș Otilia – the house was partially repaired with state funds. Ms. Otilia Rostaș used her personal funds to complete the work (pictures are annexed in the folder case)
- Moldovan Iuluț (deceased) – house partially repaired with state funds, low quality work (pictures annexed in the folder case)

In conclusion, the findings of the equality body report reflect the inadequate state of reparations and the poor housing conditions of the applicants. The NCCD decision (in Romanian language) is attached. The detailed investigation report including the photos may be requested directly from the NCCD.

V. Conclusions

In relation to the Information note provided by the Romanian Government on January 24, 2014 the ERRC and Romani CRISS would like to draw the attention to the Committee of Ministers that it is a reproduction of the Revised Action Plan submitted by the Romanian government to the Committee of Ministers on May 30, 2012.

The ERRC and Romani Criss call upon the Committee of Ministers to take all the necessary measures to ensure that the Government complies with the obligations they willingly took upon themselves in the context of the Moldovan group. The failure to do so up to now should be attributed to the systemic malfunctioning of the whole bureaucratic apparatus involved in the Hădăreni programme, and clearly points to the need for far-reaching measures in order to ensure that any new initiatives will not suffer the fate of the previous ones.

Annexes:

1. The decision of the National Council for Combating Discrimination no. 597/09.10.2013 (case file 258/2013) (in Romanian language)
2. Evaluation report of Hadareni Programme, November 2012 (in Romanian language - includes Executive Summary in English language)