

# NATIONAL MINORITIES IN ROMANIA: GOVERNMENTAL APPROACH

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## Abstract

*It is widely acknowledged that the conditionality of European Union membership had a decisive contribution at the standard setting on and institutional development of minority protection at national level in candidate countries. At the beginning of the 1990s, scholars identified several dangerous contextual problems that could have halted Romania's progress in becoming a consolidated democracy, one of them being the ethnic unrests. However, Romania succeeded in becoming member in main international and European organisations dealing, among others, with the protection of minorities. The paper critically assesses the viability of the state apparatus created in Romania in order to safeguard and improve the rights of minorities inhabiting its territory in the context of the European Union integration. The question of whether the institutional framework for minority protection in Romania succeeded in achieving its stated goal: satisfy the Copenhagen criterion of "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and, protection of minorities" is to be discussed within the paper. Furthermore, the paper assesses the extent to which the accession process has generated a substantial change in the institutional framework in Romania. The paper concludes that in order to produce qualitative results, attention must be paid not only on the formal compliance with legal standards but also on the apparatus created to promote and apply those standards.*

**Keywords:** *minority, minority protection, European Union, state apparatus, transition, consolidated democracy*

## Introduction

European and Euro-Atlantic integration has become universally the main aim of Central and Eastern European countries after the overthrow of communism. Adhesion to main international and European structures was seen as an important vehicle in the former communist countries' quest to achieve consolidated democracies. The Romanian government embraced "Return to Europe" as its most important foreign policy goal, as well. Not surprisingly thus, the Eastern Enlargement of the European Union and the membership conditionality of the Copenhagen criteria made the object of a series of studies (O'Brennan and Cox 2006; Amato and Batt 1998; Toggenburg 2006; Vachudova 2005).

By 2007 Romania officially became a member of the European Union having allegedly fulfilled the political and economic conditionality of the Copenhagen criteria. The aim of the paper is to critically assess the role of the state apparatus, one of the five major arenas of a modern consolidated democracy (Linz and Stepan 2001, 3-16), meant to protect and safeguard the rights of minorities in fulfilling the Copenhagen criterion of "respect for and protection of minorities". So far scholars paid little attention to the formal mechanisms created in Romania to ensure protection for minorities in the context of the European Union integration. The paper argues that in order to produce qualitative results attention must be paid not only on the formal compliance with legal standards but also on the efficiency of the apparatus, in our case the governmental institutions created to promote and apply those standards. To achieve that goal the paper is structured in four main parts.

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The first section briefly introduces the relevance of the minority protection issue and of the state apparatus created to promote and safeguard the rights of minorities in the achievement of consolidated democracies. The section continues with presenting the existing literature regarding the institutional framework for minority protection in Romania which is not only scarce but often treated superficially.

The second part addresses minority protection at international and European level. The section is indispensable since in absence of own standard setting norms regarding minority protection the EU often advised ratification of available international and European instruments. Moreover, national policies cannot be de-contextualized since they are shaped by international and European ones.

The third part critically analyses the institutional framework of minority protection existing in Romania in the framework of the European Union integration. The emphasis is place on the governmental pillar of the state apparatus. Furthermore, the paper presents comparatively the measures undertaken by the three governing coalitions in order to show the effect of the different approaches on the institutional building for minority protection.

The conclusion of the paper naturally unfolds that an efficient state apparatus is indispensable in order to produce qualitative results.

## Literature Review

In 2007, Romania became member of the European Union defying the sombre prognoses regarding the chances of democracy in Romania after the overthrow of communism (Huntington 1991, 278; Weiner 1994, 121; Carothers 1999, 78; Linz and Stepan 2001).

In the 1990s, Romania's prospects to become a consolidated democracy appeared gloomy and utterly unpromising. Huntington, designated Romania (alongside with Sudan<sup>1</sup>) as "deficient in the conditions that might support the maintenance of democracy" (Huntington 1991, 278). The necessary, although not exhaustive, prerequisites for a consolidated democracy included prior democratic experience, economic development, favourable international political environment, timing, mode of transition and number and severity of problems faced (idem, 270-279). One of Romania's most dangerous contextual problems was according to the prominent scholar the ethnic/communal conflict alongside with a nationalist economy (idem, 254) However, Huntington concluded that whether democracy in fact succeeded depended on the extent to which "political leaders wish to maintain it and are willing to pay the costs of doing so" (idem, 279).

By the mid 1990s Robert Weiner reiterating Huntington's prerequisites sombrely concluded that the situation in Romania did not improve and that transition to democracy "has gotten stuck" (Weiner 1994, 121).

Linz and Stepan through a different method of analysis reached a similar pessimistic conclusion regarding the chances of democracy in Romania. The two scholars identified five interacting arenas that had to be strong for a democracy to be consolidated, including civil and

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<sup>1</sup> Besides the six necessary conditions Huntington names two other prerequisites of a lesser importance that might also influence the outcome of a democracy – type of authoritarian regime and type of institutions created. Other scholars such as Linz and Stepan consider the type of totalitarian regime of main importance in shaping the consolidation of democracy in Romania. For the two scholars Romania's "sultanistic" communist legacy bore the blame for the many distinctions that set Romania aside from the other former Warsaw pact countries in Eastern Europe with better chances to democracy. Romania had, owing to Ceausescu's regime, the last transition, a violent regime termination, no national round table, the „most egregious human rights violation“ committed by the totalitarian regime and a former high communist official twice re-elected as president (Linz and Stepan 1996, 344-366).

political society, rule of law, existence of a usable bureaucracy and an institutionalized economic society (Linz and Stepan 1996, 5-15). By 1995, Romania was the farthest from a consolidated democracy in sharp contrast to other post-Communist East Central European countries. It had a weak civil society, no robust governing alternative, “intermittent rule of law especially in areas concerning the human rights of minorities such as gypsies and Hungarians”, no reform of the state administration and an economic society still to be crafted (Linz and Stepan 1996, 364).

Romania, with a population of 21,6 million out of which ten percent represents minorities, is according to its constitution “a sovereign, independent, unitary, and indivisible national state”.<sup>2</sup> Paradoxically, the ethnic conflict, one of Romania's most severe contextual problems according to Huntington (Huntington 1991, 254) is one of the most widely cited obstacles to democratic consolidation in multi-ethnic states (Linz and Stepan 2001, 102-7). Furthermore, Linz and Stepan argued that a “nation-state with other nation(s) present and awakened”<sup>3</sup> would be under constant pressure to move towards a multinational state, there being an inconstancy between concepts such as “nation-state” and “consolidated democracy” (Linz and Stepan 2001, 16-38). The ethnic violences occurring at the beginning of the 1990s in Targu Mures between Romanian and Hungarians seemed only to confirm the sombre prognosis regarding the future of Romania and prompted worries that in search of legitimacy, the Romanian political leadership will further resort to populism and extreme nationalism (Weiner 1994, 122) with the potential of turning Romania into a new Yugoslavia.

Starting from the premisses that a consolidated democracy may be achieved if the will of the political elites is directed solely to that end (Huntington 1991, 279) and if the different arenas reach the necessary development (Linz 1996, 5-15) the paper critically assesses how the institutions created to initiate and safeguard minority protection measures contributed (or not) to the achievement of ethnic stability in Romania so as to fulfil the Copenhagen conditionality. Furthermore, at the end of the 1990s institution building into “competent, effective entities” was still according to Carothers one of the “critical difficulties of democratization” in Romania (Carothers 1999, 81).

The institutional framework for minority protection in Romania did not benefit from the broad attention granted to legislative measures for the protection of the minority groups. Most of the literature available contains either only descriptions of the institutions' attributions or cover a period stretching to the beginning of the 2000s. Thus, only seldom and rather superficially is the institutional mechanism as being directly linked to the EU conditionality presented.<sup>4</sup> Among the contributions on the topic one has to mention two books that appeared at the initiative of the Centre for Resources for Ethno-Cultural Development that include parts tackling the institutional

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<sup>2</sup> Linz and Stepan provide no definition between „other nation(s) present and awakened“ and „other nation(s) present and militant“. In the latter case democratic consolidation is highly implausible. See Linz and Stepan 2001, 16-38. Since no violent conflicts occurred since the beginning of the 1990s and militantism is often associated with violent manifestations, the author of this paper considers that the first case best applies to Romania.

<sup>3</sup> The League of Nation's minority protection framework for Europe was composed of special minority treaties (with Poland, Yugoslavia, Romania, Greece and Czechoslovakia), minority provisions in the peace treaties with several defeated countries (Austria, Bulgaria, Hungary and Turkey), general declarations on entry to the League of Nations (Albania, Latvia, Lithuania, Estonia, Finland and Iraq), and special treaties regarding some territories (Danzig, Memel and Upper Silesia).

<sup>4</sup> Other legally binding UN instruments worth mentioning as promoters of minority rights are: the Convention on the Prevention and Punishment of the Crime of Genocide Art 2 (1948); the Convention on the Elimination of All Forms of Racial Discrimination Arts 2 and 4 (1965); the International Covenant on Economic, Social and Cultural Rights Art 13 (1966); the Convention on the Rights of the Child Art 30 (1989). The UN document addressing solely the rights of minorities is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which is not legally binding.

development for minority protection. Dan Oprescu in his contribution to the book "Inter-ethnic Relations in post-communist Romania" presented a severe criticism on the structures created and denounced the hypocritical approach of political leaders in what concerns minority protection at the beginning of the 1990s (Oprescu 2000). The second book "Policies for the Integration of National minorities in Romania: Legal and Institutional Aspects from a Comparative Perspective" provide an accurate historic description of the institutional framework for minority protection with an analysis of the budgetary allocations (Janosi 2008, Mohacsek 2008). Istvan Horvath dealt with the institutional framework for minority protection in Romania in his contribution to the evaluation of the effectiveness of the OSCE High Commissioner on National Minorities (Horvath 2002, 65-70). A bilingual Romanian-English guide to the institutional framework for minority protection focussing on the description of institutions' attributions is also available (Jura 2004).

## Minority Protection in the European Union

A lot of ink has been spilt on the complex issue of minority protection at international and European level. At present there exists a complex legal framework addressing non-discrimination and special minority rights provisions in documents pertaining to the United Nations (UN), the Council of Europe (CoE), the Organisation for Security and Co-operation in Europe (OSCE) and recently to the European Union, as well. It is not the intention of this paper to consider in depth the international and European standard-setting documents regarding the protection of minorities, as there already exists a reach literature in that respect. However, since national policies cannot be de-contextualized and are shaped by international and European developments, a short overview on the issue is essential to the understanding of minority protection in Romania.

Until the creation of the League of Nations, minority protection was confined mostly to bilateral treaties and focused mainly on the freedom of religion (Capotorti 1979, 1-4; Green 1970, 187-9). The first international system for the protection of minorities only appeared after the First World War. The League of Nations had an intricate system for minority protection on a case to case basis,<sup>5</sup> being able neither to provide a norm in the field nor to ensure observance of treaty provisions (Preece 1998, 67-95; Shaw 1991, 8-9). Romania was brought twice before the Council of the League for its mistreatment of minorities. However, the conclusion was that although present, injustices in Romania did not present the severity necessary to make them of political interest.<sup>6</sup>

The approach of the United Nations regarding minority protection is based on two principles: non-discrimination of and special rights for minorities. The non-discrimination principle is found in a wide range of key UN documents such as the Universal Declaration of Human Rights and the UN Convention on the Elimination of all Forms of Racial Discrimination. The main innovation brought about by the UN was that for the first time an international body passed legally binding provisions regarding the special rights of minorities. One of the most important UN documents addressing minority protection through special rights<sup>7</sup> is article 27 of the

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<sup>5</sup> The League of Nation's minority protection framework for Europe was composed of special minority treaties (with Poland, Yugoslavia, Romania, Greece and Czechoslovakia), minority provisions in the peace treaties with several defeated countries (Austria, Bulgaria, Hungary and Turkey), general declarations on entry to the League of Nations (Albania, Latvia, Lithuania, Estonia, Finland and Iraq), and special treaties regarding some territories (Danzig, Memel and Upper Silesia)

<sup>6</sup> On the two cases brought before the Council of the League regarding Romania's mistreatment of minorities see: Watson 1994, 173-180.

<sup>7</sup> Other legally binding UN instruments worth mentioning as promoters of minority rights are: the Convention on the Prevention and Punishment of the Crime of Genocide Art 2 (1948); the Convention on the Elimination of All Forms

International Covenant on Civil and Political Rights.<sup>8</sup> However, the most elaborated instrument for the protection of minorities is considered the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.<sup>9</sup> The document although short in form and having only a politically binding character is the only UN document dealing solely with the rights of minorities (Henrard 2000, 156-193; Åkermark 1996, 119-155).

The Council of Europe disposes of several important instruments for the purpose of minority protection, among which the European Charter for Regional and Minority Languages and the Framework Convention for the Protection of Minorities as well as several recommendations of the Parliamentary Assembly.<sup>10</sup> By 1997 the Parliamentary Assembly concluded that Romania has honoured her most important obligations and commitments regarding minority protection and that monitoring of the country may be brought to an end.<sup>11</sup>

The Organisation for Security and Co-operation in Europe is one of (if not) the most active organizations focusing on the protection of minorities. Many OSCE documents<sup>12</sup> have broken new ground and clearly influenced the drafting of UN and Council of Europe's texts (Thornberry and Estébanez 2004, 17). Equally important is that beside its minority-related documents most of the OSCE permanent institutions and structures, as well as permanent missions deal with the problem of minority protection. However, OSCE texts have only a politically binding status.

The involvement of the European Union for the rights of the minorities is in comparison with the other organisations relatively recent. The EU began to actively include minority protection issues on its agenda out of a "security-based" approach (Kymlicka 2001, 372) being directly interested to ensure that no ethnic tension would erupt in its proximity. It is true however, that the European Parliament (EP) expressed its desire to create a European Community charter of rights for minorities as early as the beginning of the 1980s.<sup>13</sup> The so-called "endogenous process" in the terms of Toggenburg represented numerous EP resolutions - mainly in the area of language policy – that produced almost no effect in the legal and political systems of the member states and only limited effect at the level of the EU (Toggenburg 2008, 85-7, Henrard 2000, 195).

The first "exogenous" measures for minority protection (such as the Copenhagen criteria of 1993, the European Commission's Annual Regular Reports, the Accession Partnerships and the

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of Racial Discrimination Arts 2 and 4 (1965); the International Covenant on Economic, Social and Cultural Rights Art 13 (1966); the Convention on the Rights of the Child Art 30 (1989). The UN document addressing solely the rights of minorities is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which is not legally binding.

<sup>8</sup> Art. 27 of the International Covenant on Civil and Political Rights, adopted by General Assembly Resolution 2200A (XXI), 1966, entered into force in 1976, Part III. Art 27 of the ICCPR was described by scholars as a "Grundnorm regarding minority rights" (Henrard 2000, 156); and not accidentally it is often referred to in European documents as a source of inspiration (Åkermark 1996, 131; Gilbert 1997, 117).

<sup>9</sup> Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by UN General Assembly Resolution 47/135 of 1992.

<sup>10</sup> See inter alia: Parliamentary Assembly Recommendation 1134 regarding the rights of minorities (1990); Recommendation 1177 regarding the rights of minorities (1992); Recommendation 1201 (1993) regarding and Recommendation 1255 (1995) regarding the protection of the rights of national minorities.

<sup>11</sup> CoE PA Recommendation 1326 (1997) on the Honouring of Obligations and Commitments by Romania. On an excellent analysis on the implementation of the CoE standards regarding minority protection see: Meijknecht, Anna. 2004. *Minority Protection: Standards and Reality: Implementation of Council of Europe Standards in Slovakia, Romania and Bulgaria*. Cambridge University Press.

<sup>12</sup> See inter alia the Vienna Concluding Document (1989); the Document of the Copenhagen Conference of the Human Dimension of the CSCE (1990); the Charter of Paris for a New Europe (1990).

<sup>13</sup> In 1979 Gaetano Arfé MEP tabled a motion for resolution on a Charter of Ethnic Minorities. The Arfé Report and accompanying motion for resolution came before the plenary session of the Parliament in October 1981 and was adopted.

initiation of Stability Pacts) only applied to candidate states, which lead to the creation of the so-called “double standard” (Amato and Batt 1998; Sasse 2004, 59-81). While minority protection was taken by granted and considered automatic in Western Europe, Eastern Europe was to be supervised on the manner in which it treated its minorities (Amato and Batt 1998; Sasse 2004, 59-81). Those obligations had no binding force for EU member states, nor did the EU possess standard-setting competences in the field of minorities or efficient monitoring instruments (Hoffmeister 2004, 100-1).

The Copenhagen criteria represented a series of clear benchmarks that candidate states had the obligation to accept if their commitment to democracy was to be taken seriously. The regular reports through which observance was monitored expressed repeatedly the Commission's concern with the candidate countries' treatment of minorities, although in several cases the political criteria was considered fulfilled. The lack of clear benchmarks at the EU level in the field of minority protection caused a case to case approach where neither the terminology used nor the recommendations made showed consistency. Furthermore in absence of an own legal document, the EU advised observance of the existing international and European documents (Guglielmo 2004, 42-48; Sasse 2004, 67-71; Hoffmeister 2004, 93-96).

The EU has constitutional provisions regarding non-discrimination. However, the term “minority” does not once appear in the EU and EC treaties. The Amsterdam Treaty,<sup>14</sup> which is illustrative for the ambiguity existing regarding the minority protection issue included in Article 6 (1) all the values expressed by the Copenhagen criteria but excluded “respect for and protection of minorities”. And yet, Article 12 prohibits discrimination on grounds of nationality while Article 13 EC enables the Commission to take “appropriate measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation” (Toggenburg 2006, 5-7; de Witte 2004, 109-124). The EU Charter on Fundamental Rights that includes an ambiguous mentioning of minority protection in its preamble (Sasse 2004, 80) and a non-discrimination provision (Art. 21), would be the first EU legally binding text to mention the word “minority” should the Reform Treaty be ratified.

The European Council passed in 2000 two legislative guidelines following directly from Article 13 of the Amsterdam Treaty that had to be transposed into national legislation by 2003.<sup>15</sup> The main innovations brought about by the two directives is that the Racial Equality Directive 2000/43/EC requires the establishment of bodies for the promotion of equal treatment at the national level and distinguishes between direct and indirect discrimination; while the Employment Equality Directive 2000/78/EC establishes a general framework for equal treatment in employment and condemns discrimination.

## Governmental Protection of Minorities 1990-1997

“Return to Europe” was set as a main foreign policy goal by all Romanian governments after the 1989 Revolution.<sup>16</sup> However the slow pace of domestic reform proved that Romania,

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<sup>14</sup> The Treaty of Amsterdam amending the Treaty of the European Union, the Treaties establishing the European Communities and certain related acts, commonly known as the Amsterdam Treaty, was signed on October 2 1997 and entered into force on May 1, 1999.

<sup>15</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180/22) and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ 2000 L 303/16.

<sup>16</sup> There is no consensus on when Romania clearly set a Western-oriented foreign policy, going beyond rhetoric. Dunay claimed that right after 1992 through the main directions of the term in office of the then foreign minister Melescanu See: Dunay, Pál, 1997. 'Hungarian Romanian Relations: A Changed Paradigm?'. In *The Effects of*

beyond a pro-Western rhetoric, was not committed to achieving European and Euro-Atlantic integration. It is however equally true that neither Western democratic countries nor international and European organisations showed a clear involvement to sustain democracy and democratic institution-building in Romania at the beginning of the 1990s.<sup>17</sup> Despite the EU's rhetorical support for the process of transition, in reality, until the first half of the 1990s little was made in practice (O'Brennan and Cox 2006; 13-17).

If there is no agreement regarding the disambiguation of the Romanian foreign policy, things seem clearer when it comes to the domestic approach regarding minority protection. The formal application for EU membership coincided with a real change in the way the minority issue was addressed until then (Gallager 2001, 389).

After the 1989 Revolution, the National Salvation Front<sup>18</sup> promised both to appoint a minister and recognise group rights for minorities. However, the newly established government rejected those measures as going beyond the Constitution (Horvath 2002, 67-8). In the context of the Romanian adhesion to the Council of Europe a first institution to safeguard the rights of the minorities was created, namely the Council for National Minorities (hereinafter referred to as either the council or as CNM).<sup>19</sup> The Council was an advisory body of the government and was formed by representatives of national minorities and civil servants from different ministries. It was severely criticised by scholars as a façade construct meant in reality to ensure politic support to the governing party. (Oprescu 2000, 73-74; Horvath 2002, 65-7).

## Governmental Protection of Minorities 1997-2004

Since the efforts of the Council for National Minorities proved scarce and brought no substantive improvement in the field, the government had to continue its endeavour to create efficient minority-oriented institutions. A series of external and internal factors favoured the setting up of new structures focussing on the rights of minorities after the arrival in power of a new government. On the one hand there was the pressure of the Copenhagen political conditionality and on the other hand the governing coalition of 1996 included the Democratic Union of Hungarians from Romania (DUHR).

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*Enlargement on Bilateral Relations in Central and Eastern Europe*, ed. Monika Wohlfeld, Alecon, France: Institute for Security Studies of WEU, June 1997, available in English at: [http://aei.pitt.edu/483/01/chai26e.html#N\\_18](http://aei.pitt.edu/483/01/chai26e.html#N_18) (14.10.2008). Horvath argued that a clear disambiguation occurred in 1993 with the signing of European and Euro Atlantic Agreements (Horvath 2002, 24); some other scholars place it only after the first half of the 1990s. Cappelle-Pogăcean attributes the merit of the Western orientation of Romania's foreign policy to Iliescu's visit to Washington in 1995 (Cappelle-Pogăcean 1996/7:854); while Carothers enumerates the signs of Romania being on the right path to democracy (Carothers 1999, 78-79).

<sup>17</sup> If democratic countries and international and European organizations did not become actively engaged in sustaining democracy the civil society and free institutions proved more active (Gallagher 2001, 386-38). However, institution-building was neglected by these, as well, in favour of more media-catching programs. See: Petrescu, Dan. 2000. 'Civil Society in Romania: from Donor Supply to Citizen Demand'. In *Funding Virtue: Civil Society Aid and Democracy Promotion*, eds. Ottaway, Marina and Carothers, Thomas. 217-243. Carnegie Endowment.

<sup>18</sup> Frontul Salvării Naționale/ National Salvation Front: Declarație cu privire la drepturile minorităților naționale din România/ Declaration on the rights of the national minorities in Romania of January 6<sup>th</sup> 1990, in: Enache Smaranda (ed.), *România și Minoritățile* (colecție de documente 1918-1997)/ Romania and its Minorities (collection of documents 1918-1997), Liga Pro Europa, Targu Mures, 1997.

<sup>19</sup> Government Resolution No. 137 of April 6<sup>th</sup> 1993 on the establishing and functioning of the Council for National Minorities, as published in the Official Gazette of Romania No. 74 on April 12<sup>th</sup> 1993 further amended by Government Resolution 220 of May 18<sup>th</sup> 1993 as published in the Official Gazette of Romania No. 142 on June 30<sup>th</sup> 1993.

Thus, it was not mere coincidence that improvements in the institutional construct of minority protection began to appear shortly and the visibility of minority-oriented measures increased with considerable pace after the setting up of the Department for the Protection of National Minorities (hereinafter referred to as department).<sup>20</sup> The approval of the Commission on the latest developments proved that Romania was on the right path to fulfil the political criteria (protection and safeguarding of the minority rights included), although further measures were still necessary:

“Current improvements following the arrival in power of a new government make it possible to conclude that Romania is on the way to satisfying the political criteria set by the European Council at Copenhagen.”<sup>21</sup>

The Department represented the first clear delimitation of the governmental from the non-governmental structures. It was set up and functioned within the government apparatus under the subordination of the Prime Minister and was managed by a delegated minister. The ministerial rank of the head of the Department signalled a prioritization of the minority protection issue on the governmental agenda. Furthermore there was a symbolic value attached to the appointment of a member of the Government to manage the department, namely the materialization of the promise made by the National Salvation Front to appoint a Minister for minorities. Furthermore, it was negotiated that head of the department would be a member of the DUHR. The creation of the department managed by a delegated minister was a satisfactory solution for all the parties forming the governing coalition, even if the reasons differed greatly. On the one hand the Romanian Democratic Convention and the Democrat Party through that tactic movement possessed the best proof possible to display to the West regarding the positive changes occurring within the country and at the same time they made sure not to grant the DUHR an important Ministry in terms of budget and personnel. On the other hand, since the head of the department had ministerial status and participated in the government sessions, the DUHR put its hopes in the Department in order to impose its agenda and obtain important changes in the status of the Hungarian minority (Oprescu 2000, 73-82).

The department took over the main attributions of the Council for National Minorities, which was down-graded to the status of advisory body under the name Council of National Minorities formed from representatives of the minority organizations represented in the parliament. The main tasks of the Department were to elaborate draft laws and other legal documents from its field of activity; to monitor the implementation of national and international normative acts regarding the minority protection issue; to receive and analyse complaints and petitions; to collaborate with the National Minority Council for legislative initiatives and budgetary distribution, to organize and promote minority oriented programmes.

Although the department has taken over and expanded, the powers of the former CNM, which not only lost its monopoly on the minority issue but had to collaborate with the Department from a lower position, in practice, according to Dan Oprescu (at that time employee within the Department) the members of the CNM have looked upon the newly created Department as their

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<sup>20</sup> Government Resolution No. 17 on the Setting up, Organizing and Functioning of the Department for the Protection of National Minorities of January 31<sup>st</sup> 1997, published in the Official Gazette of Romania Part I, No. 17, of February 5<sup>th</sup> 1997 further amended by Government Resolution 506 on modification of Government Resolution 17/1997 of September 12<sup>th</sup> 1997, published in the Official Gazette of Romania No. 245, on September 19<sup>th</sup> 1997, available in English at the home page of the Minority Electronic Resources: [http://www.minelres.lv/National Legislation/Romania/Romania\\_MinorDept\\_excerpts\\_Romanian.htm](http://www.minelres.lv/National%20Legislation/Romania/Romania_MinorDept_excerpts_Romanian.htm) (15.10.2008).

<sup>21</sup> European Commission, *Commission Opinion on Romania's application for membership of the European Union*, COM/97/2003 final, Brussels: 15.07.1997, available in English at the home page of the European Commission: [http://ec.europa.eu/enlargement/archives/pdf/dwn/opinions/romania/ro-op\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/dwn/opinions/romania/ro-op_en.pdf)(17.10.2008).

own secretariat that was only meant to grant them annually increased financial allocations (Oprescu 2000, 75).

The Government Resolution 17/1997 has also provided for the creation of territorial offices within the Department for the Protection of National Minorities. The first three regional offices were created in Cluj Napoca (1997), Constanta and Suceava (1998). After 1999 two further offices were set up, one in Turnu Severin and one in Arad, but the latter only functioned for a short period of time.<sup>22</sup> Since the activity of the territorial agents depended on the “benevolence” of local prefectures (which were responsible for housing the territory offices and covering expenditure on maintenance and activity-related material from their own budget) no unitary report on the activity of the territory agents is available.

Moreover, a National Office for the Social Inclusion of the Roma<sup>23</sup> was set up with the main tasks to initiate, support and coordinate actions to improve the respect for the rights of the Roma.

The activity of the Department was in its first years rather modest and none of the main goals established through the Governing Programme 1998-2000 (such as adoption of a Minority Status Law and ratification of the European Charter for Regional or Minority Languages) was completely achieved. The modest results were however not surprising as the institution had a range of problems such as: inadequate minority-protection legislative framework; insufficient personnel, limited on paper to 46 - including the territorial agents but which in reality was in 1997 of nine employees to reach 27 by 2000;<sup>24</sup> inadequate qualification of the personnel; poor logistic facilities; poorly operational regional offices that depended upon the benevolence of prefectures; f) pressure from DUHR to focus on certain issues (setting up a University in the Hungarian language).<sup>25</sup> Moreover some of the attributions of the Department could not be fulfilled on account of the authorities reluctance in addressing minority problems. Thus, although the head of the Department repeatedly denounced cases of discrimination against the Roma and Hungarian minorities to the General Prosecutor's Office, requests to start proceedings were each time turned down (Andreescu 1999). In the 1998 Regular Report states:

“The Government Department for Minorities should be strengthened in term of staffing and financial resources”.<sup>26</sup>

The activity of the department may be divided in two main categories, a legislative level and a programmes, measures and policies level. At the legislative level, a number of emergency ordinances dealing mainly with the restitution of real estate to members of national minorities and to the religious denominations of the national minorities were passed with the sustained support of the Department.<sup>27</sup>

<sup>22</sup> Personal communication with Rodica Precupetu, head of Unit for Programmes and Relations with Civil Society and International Bodies within the Department for Inter-ethnic Relations on January 7<sup>th</sup> 2009.

<sup>23</sup> The National Office for the Social Inclusion of the Roma would be renamed within the same year as National Office for Roma through Government Resolution 506/1997 Art. 8. In 2004 the National Office for Roma was transformed through Governmental Decision No. 1703/2004 into a governmental institution under the name of National Agency for Roma.

<sup>24</sup> See the interview with Tokay Gyorgy, at the Festive Reunion of the National Minorities Council Celebrating Ten Years since its Foundation, held on December 12<sup>th</sup> 2003, available in Romanian at: [http://ro-gateway.ro/node/193598/comnews/item?item\\_id=229456](http://ro-gateway.ro/node/193598/comnews/item?item_id=229456) (19.09.2008).

<sup>25</sup> See also Oprescu 2000, 73-82.

<sup>26</sup> Regular Report from the Commission on Romania's Progress towards Accession, 1998, p. 12.

<sup>27</sup> Law No. 22/1997 to modify and complete the Law on Public Local Administration No. 69/1991; the Emergency Ordinance 36/1997 on the modification and completion of the Law on Education No. 84/1995; Emergency Ordinances No. 13/1998 and No. 83/1999 concerning the restitution of real estate belonging to the community of

Furthermore, worth mentioning is the setting up of an Inter-ministerial Committee for National Minorities at the initiative of the Department for the Protection of National Minorities meant to support the activity of the Department.<sup>28</sup> The establishment of the Committee and its collaboration with the Department in order to improve the conditions of the Roma minority were saluted in one of the European Commission Reports, which signalled however the need to proper on ground implementation:

“An Inter-ministerial Committee for National Minorities has been established and has contributed to strengthening the mechanism for Roma participation in the decision making process on Roma issues. (...) While progress can be registered in establishing the institutional framework to improve the conditions of the Roma, progress on the ground is very slow.”<sup>29</sup>

At the policy, programmes and measures level, the main achievement was the participation of the Department in various programmes developed in the framework of the Stability Pact for South Eastern Europe – a joint initiative of the European Union, Council of Europe, and the OSCE to which Romania was member. The Pact bounds its members to intensify efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region. Within the Stability Pact for South Eastern Europe the role of Romania increased “both as a donor country and as an expertise provider”.<sup>30</sup> At national level the Department financed the 1998 National Campaign against Racism and Intolerance.

After the national elections of 2000 several departments within the prime minister’s office were reduced. The department was integrated into the Ministry for Public Information, and was renamed as “Department for Interethnic Relations” (hereinafter referred to as DIR). Furthermore, the department was managed by a state secretary instead of a minister.<sup>31</sup> The measure, which was among the first ones to be adopted by the new Government was thought to signal a change in the priorities addressing minorities. On the one hand the Department was no longer an independent body (although it is naïve to assume that an entity where the management positions are occupied according to political criteria retains de facto independence) and on the other hand it seemed to have been “down-graded” (Horvath 2002, 69; Constantin 2008, 141) as it was led by a state secretary and three deputy secretaries instead of a minister. Moreover, the measures seemed to contradict the Governing Program 2001-2004, where not only continuation but also development of existing institutional and legislative initiatives was granted.<sup>32</sup>

The subsequent events, would prove that except for being renamed and being managed by a state secretary instead of a full minister, the department diminished neither its activity nor did it suffer budgetary reductions as one might have expected. Quite on the contrary, it obtained a series of remarkable results and continued the initiatives started in-between 1997-2000, while the budget increased above the inflation rate (Mohacsek 2008, 157-166). Thus, the loss of independence and the “down-grading” was only artificial and not sustained by poor achievements. Moreover, since the setting up of the Department in 1997, except for the period in-between 2000-2004 when DUHR supported the coalition without being a “formal partner”, the Hungarian party was present

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citizens members of national minorities and the Emergency Ordinance No. 112/1998 on the restitution of real estate belonging to the religious denominations of the national minorities.

<sup>28</sup> Government Resolution No. 459 on the setting up, organization and functioning of the Inter-ministerial Committee of August 7<sup>th</sup> 1998, published in the Official Gazette of Romania No. 295 on August 11<sup>th</sup> 1998.

<sup>29</sup> 1999 Regular Report from the Commission on Romania's Progress Towards Accession, p. 19.

<sup>30</sup> Council of Europe: Second Report Submitted by Romania Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, Strasbourg, June 6<sup>th</sup> 2005, ACFC/SR/II(2005)004, p. 9.

<sup>31</sup> Government Resolution No. 13 on the Organisation and Functioning of the Ministry for Public Information of January 4<sup>th</sup> 2001, published in the Official Gazette of Romania No. 16 on January 10<sup>th</sup> 2001.

<sup>32</sup> Governing Program, Chapter 10 as published in the Official Gazette of Romania Part I, No. 700 of December 28, 2000, p. 45.

in all governing coalitions and was able therefore to ensure the needed continuation in the activity of the department.

A new reorganization of the Government brought in 2003 a series of new modifications to the status of DIR, which through a normative act, became a structure without legal personality under the subordination of the Prime Minister and coordinated with the Ministry for the Coordination of the General Secretariat of the Government.<sup>33</sup> The position of secretary of state as head of the department left vacant since 2001 was finally occupied in November 18<sup>th</sup> 2003. The three undersecretaries of states provided to supervise and coordinate the activity of DRI belonged each to one of the three most numerous minorities in Romania (Hungarian, Roma and German).

In order to overcome the deficiencies in fulfilling its attributions, the tasks of the Department suffered modifications as compared to those provided in the Government Resolution 17/1997. One of the most important changes was the fact that the Department had no longer competence to receive and examine claims and petitions so as to avoid interference with the Ombudsman. According to the new modifications, the Department for Interethnic Relations elaborates and submits to the Government for endorsement not only draft laws and normative acts but also strategies and policies for the maintenance, expression and development of ethnic identity of persons belonging to national minorities. Moreover the role of the Council of National Minority (which through Government Decision 589/2001 became an advisory body of the Government in the coordination of the Ministry for Public Information) was limited as the Department no longer needed recommendations in order to endorse draft laws and normative acts, their relation being specifically settled as one of collaboration.

At the legislative level the department continued to sustain the adoption of the draft laws elaborated in-between 1997-2000. It actively supported with data and arguments at the two Parliamentary chambers the adoption of the Government Ordinance 137/2000 on the Prevention and Punishment of all Forms of Discrimination.<sup>34</sup> Furthermore the Law 48/2002 on the approval of Government Ordinance 137/2000 was also adopted. They embedded in the Romanian legislation two important components of the *acquis communautaire* regarding social policies, namely the Council Directive 2000/43/EC of June 29<sup>th</sup> 2000 implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin and the Council Directive 2000/78/EC Establishing a General Framework for Equal Treatment and Occupation. Romania became thus the first country among the accession group to enact general legislation fostering the non-discrimination principle. Furthermore, at the specific contribution of the Department, the Government Ordinance 137/200 provided for the establishment of an independent enforcement body, the National Council to Combat Discrimination (addressing all forms of discrimination),<sup>35</sup> responsible with the implementation of the ordinance provisions and which became operational in August 2002.<sup>36</sup> The adoption of the Government Ordinance 137/2000 was saluted in the

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<sup>33</sup> Government Ordinance No. 64 of June 28<sup>th</sup> 2003, published in the Official Gazette of Romania No. 646 on June 26<sup>th</sup> 2003; Government Resolution No. 749 on the Organisation, Functioning of the Department for Interethnic Relations of July 3<sup>rd</sup> 2003, published in the Official Gazette of Romania No. 488 on July 7<sup>th</sup> 2003; further amended by Government Resolution No. 1095 on the Organization and Functioning of the Department for Interethnic Relations of September 18<sup>th</sup> 2003, published in the Official Gazette of Romania No. 672 on September 23<sup>rd</sup> 2003.

<sup>34</sup> Government Ordinance No. 137 on the Prevention and Punishment of all Forms of Discrimination of August 31<sup>st</sup> 2000, republished in the Official Gazette of Romania No. 99 on February 8<sup>th</sup> 2007. As of January 1<sup>st</sup> 2007 the Ordinance remained a provisional document, being subjected to further modifications before a future final adoption.

<sup>35</sup> Government Ordinance 137/2000, Section IV, Art. 16. According to the latest modification of the Government Ordinance, the National Council to Combat Discrimination is an autonomous body with legal personality under parliamentary control.

<sup>36</sup> Personal communication with Denisa Tudor, Director of the President's Office of the National Council to Combat Discrimination on December 17<sup>th</sup> 2008.

Commission 2001 Regular Report as “major development”<sup>37</sup> in the field of minority protection. However amendments to the Law were still necessary in order to “fully conform with the acquis”.<sup>38</sup>

The adoption of Law 215/2001 regarding local public administration<sup>39</sup> represented the second important element. For the implementation of the new law, DIR forwarded to the Ministry of Public Administration the list of counties where national minorities represented more than 20 percent of the total population as well as the list with the territorial-administrative units where national minorities represent more than 20 percent of the total population. By 2003 the Commission presented as a positive development the fact that “in the vast majority of cases” bilingual signs have been applied,<sup>40</sup> while by 2004 bilingual signs were applied even in the localities that did not meet the legal 20% threshold.<sup>41</sup>

The Government adopted Resolution No. 430 of April 25<sup>th</sup> 2001, the Romanian Government Strategy for the improvement of the Roma situation. The measure was enacted after the widespread criticism on low governmental involvement and “no substantial progress”<sup>42</sup> in the protection of the Roma minority.<sup>43</sup> The improvement in the living standard of the Roma became thus a short and middle term priority of DIR in order to meet one of the political criteria on which Romania's adhesion to the EU depended. However the Commission was reserved in applauding the initiative on account of its “uneven results”, “lack of clear policies and limited funding”.<sup>44</sup>

At the policy, programmes and measures level, the department organised inter-cultural projects that ranged from trainings to educational programmes (such as seminars, camps, school books in the minority language) and artistic events. The financing of secondary school textbooks in minority language by the Department was mentioned as a positive development in the 2003 Regular Report.<sup>45</sup> Within the European Year of Languages 2001 (hereinafter referred to as EYL) - a joint initiative of the Council of Europe, European Union and UNESCO to promote multilingualism, Romania although allocating a modest budget<sup>46</sup> of less than €0,01 per capita managed to undertake several activities some of which were quoted as examples of “good practice” (Bunjes 2002, 12-44). Among the activities organised within the EYL with the support of the Department for Interethnic Relations, worth mentioning are the seminars for teachers and local authorities, the publishing of books, the support granted to theatrical performances, and the organisation of thematic camps and several other programmes for youths.<sup>47</sup>

The activity of the department for the prevention of and fight against discrimination was not embedded only at the legislative level. At the beginning of 2002 the department joined the negotiations on the participation of Romania in the European Union's Community Action

<sup>37</sup> Regular Report from the Commission on Romania's Progress towards Accession, 2001, p. 22.

<sup>38</sup> Regular Report from the Commission on Romania's progress towards Accession 2002, p. 28.

<sup>39</sup> Law No. 215 of April 23<sup>rd</sup> 2001 „Law of local public administration“, published in the Official Gazette of Romania No. 204, on April 23<sup>rd</sup> 2001.

<sup>40</sup> Regular Report from the Commission on Romania's progress towards Accession 2003, pp. 29-30.

<sup>41</sup> Regular Report from the Commission on Romania's progress towards Accession 2004, p. 30.

<sup>42</sup> 2000 Regular Report from the Commission on Romania's Progress towards Accession p. 24.

<sup>43</sup> See the Commission Opinion on Romania's Application for Membership of the EU, 1998, pp. 11-12; the 1999 Regular Report from the Commission on Romania's Progress Towards Accession, p. 19; the 2000 Regular Report from the Commission on Romania's Progress Towards Accession, p. 24; European Parliament Report A5-0247/2000, of September 21<sup>st</sup> 2000, p. 6.

<sup>44</sup> Regular Report from the Commission on Romania's progress towards Accession 2003, p. 30.

<sup>45</sup> *Ibidem*

<sup>46</sup> Romania was placed however on the same budgetary allocations with countries like Germany, Italy and the Czech Republic, to mention only a few, in terms of budgetary allocation for the EYL.

<sup>47</sup> Council of Europe: Second Report Submitted by Romania Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, Strasbourg, June 6<sup>th</sup> 2005, ACFC/SR/II(2005)004, p. 9.

Programme to Combat Discrimination (2001-2006). The negotiations proved successful and the department was officially invited in January 2002 to participate in the Community Action Programme. As early as May 2003 the department organised its first activity (the international conference „Good Practice in the Field of Anti-discrimination Policies“, Bucharest, 22-24 May 2003). Furthermore, the active involvement of both Romania and Bulgaria in the raising of awareness on anti-discrimination measures was recognised in a case-study report on the Community Action Programme.<sup>48</sup> Since 2003 the National Council to Combat Discrimination officially holds the management of activities carried out within the framework of the EU Community Action Programme (2001-2006),<sup>49</sup> however, that did not mark an end to the activity of DIR within the programme. Since 2005 the Department leads the national awareness-raising campaign on anti-discrimination issues supported by the European Commission with a series of projects.<sup>50</sup>

Since the 2001-2004 Governing Program contained mainly ambiguous formulations without specifically naming the measures to be undertaken in the field of minority protection (see for instance “the Government *shall analyse* the possibility to extend the existing educational and mass-media framework in the languages of the minorities”),<sup>51</sup> there are no objectives announced therein not to be considered as fulfilled at the end of the mandate.

### Governmental Protection of Minorities 2004-2007

The participation of the DUHR in the governing coalition in 2004 was directly reflected in the establishing of the main legislative goals regarding the minority issue (see for instance the law regarding the status of national minorities).<sup>52</sup> As we have already observed, every governmental modification lead to modifications in the managerial structure of DIR, the 2004 governmental restructuring made no exception. The former under-secretary of state Mr. Markó Attila Gábor, member of DUHR, was promoted in January 2005 as head of the Department having in subordination two under-secretaries of state (instead of three).

New measures were adopted in order to bring more coherence to the institutional building for national minorities. The Department for Interethnic Relations took over the responsibility for the Office for Roma Issues from the General Secretariat of the Government. Furthermore, in order to accelerate the implementation of measures regarding the Roma minority the Government established a National Agency for Roma that took over the attributions of the Office for Roma Issues within the Department for Interethnic Relations.<sup>53</sup> The newly established Agency is a public institution with legal personality under the subordination of the Government and managed by a state secretary, formerly under-secretary of state within the Department for Interethnic Relations.

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<sup>48</sup> European Commission: DG Employment, Social Affairs and Equal Opportunities: Case Study on National Awareness-Raising Activities (2001-2006), Ernst and Young, Paris, 2006, p. 51, available in French at: [http://ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/eval/casestud06\\_fr.pdf](http://ec.europa.eu/employment_social/fundamental_rights/pdf/eval/casestud06_fr.pdf) (18.11.2008).

<sup>49</sup> Government Resolution 754 of July 3<sup>rd</sup> 2003 on the organization and functioning of the Department for Governmental Strategies, published in the Official Gazette of Romania No. 488 on July 7<sup>th</sup> 2003.

<sup>50</sup> Personal communication with Rodica Precupetu, head of Unit for Programmes and Relations with Civil Society and International Bodies within the Department for Inter-ethnic Relations on January 7<sup>th</sup> 2009.

<sup>51</sup> Governing Program 2001-2004: Chapter 10 as published in the Official Gazette of Romania Part I, No. 700 of December 28, 2000, p. 45.

<sup>52</sup> Governing Program 2005-2008: Chapter 25 Interethnic Relations as it appears on the page of the Romanian Government, available in Romanian at: <http://x.gov.ro/obiective/afis-index-diversedoc-o-pg.php?idrubrica=1> (15.11.2008).

<sup>53</sup> The National Agency for Roma was established through Emergency Ordinance No. 78 of October 7<sup>th</sup> 2004, published in the Official Gazette of Romania No. 969 on October 21<sup>st</sup> 2004.

The implementation of the Governmental Strategy on Roma adopted in 2001 did not improve and although the adoption of the strategy was a positive step, its implementation was prone to severe criticism in the 2004 Commission Regular Report.<sup>54</sup> Furthermore, by 2005 the Commission stated that little progress was registered in the capacity of the Agency to implement the 2001 Roma Strategy.<sup>55</sup> The administrative capacity of the Agency improved with the setting up of eight territory offices, improvement saluted by the Commission in its 2006 Regular Report on Romania, although concern still persisted on Romania's social inclusion of the Roma.<sup>56</sup>

A new Government Resolution<sup>57</sup> brought modifications to the attributions of the department. Worth mentioning is the deletion of the provision stipulating that the Department shall "supervise the application of legal provisions on minority rights protection by local public authorities". The modification substantially limited the attribution of the department which could no longer act upon infringements of minority protection.

At the territorial level, the agents still depended on prefectures for office housing and costs related to the activity. Among the changes occurring at the territorial level, the office situated in Arad was re-located in Timisoara, where it started to function since 2006 and a new office was established in Miercurea Ciuc.<sup>58</sup> Among the most important achievements of the territory agents is the inventory on the level of implementation of the legislation regarding the linguistic rights of the minorities, report made even if the attribution specifically stipulating the supervision of minority-rights protection legislation by local authorities made no longer the object of the Department's activities.<sup>59</sup>

In conformity with the Governing Program 2005-2008 and the 2003 Constitution (art. 73, paragraph 3, letter r), the Department resumed efforts after the failure in 1998 to obtain the adoption of the controversial Law regarding the status of national minorities in Romania and re-drafted it. By 2007 only partial agreement on the draft law was reached by Chamber of Deputies.

Together with the Foreign Affairs Ministry, the Department elaborated and promoted the draft law for the ratification of the European Charter for Regional or Minority Languages, legal instrument of the Council of Europe that Romania signed in 1995. The Law for the ratification of the of the European Charter for Regional or Minority Languages, adopted at Strasbourg on November 5<sup>th</sup> 1992 was promulgated shortly after Romania became full EU member, namely on November 6<sup>th</sup> 2007.

At the institutional level, shortly after Romania became member of the European Union an initiative started in 2000 was finally finalised. The setting up of the Institute for the Study of the National Minorities Problems, through Government Decision 893/2007.

At the programmes, projects and measures level, the budget increased continuously above the rate of the inflation. If in the first years of activity the Department only disposed of some 12,400 Euro (out of which 9,000 Euro for own projects and 3,400 for the minority organisations in CNM), the budgetary allocations reached by 2001 some 3,7 million Euro (out of which 190,000

<sup>54</sup> Regular Report from the Commission on Romania's progress towards Accession 2004, p. 30.

<sup>55</sup> Regular Report from the Commission on Romania's progress towards Accession 2005, p. 19.

<sup>56</sup> Regular Report from the Commission on Romania's progress towards Accession 2006, p. 40.

<sup>57</sup> Government Resolution No. 111 on the Organisation and Functioning of the Department for Interethnic Relations of February 25<sup>th</sup> 2005, Art. 1, published in the Official Gazette of Romanian No. 183 on March 3<sup>rd</sup>, 2005.

<sup>58</sup> Personal communication with Rodica Precupetu, head of Unit for Programmes and Relations with Civil Society and International Bodies within the Department for Inter-ethnic Relations on January 7<sup>th</sup> 2009.

<sup>59</sup> See: Istvan Horvath, Ramona Rat, Katalin Vitos, 'Aplicarea legislatiei cu privire la drepturile minoritatilor nationale in Romania: Drepturi lingvistice in administratia publica locala/ Application of the Legislation regarding the National Minority Rights in Romania: Linguistic Rights in the Local Public Administration', 2006, available in Romanian at the home page of the Department for Interethnic Relations: <http://www.dri.gov.ro/index.html?page=integrare> (19.11.2008).

for own projects and 3,6 million Euro for the minority organisations in CNM) and by 2007 the total amount granted to the Department was of 15 million Euro (out of which 1,2 million for own projects and 13,8 million for the minority organisations in CNM). The generous budgetary allocations provided the department the means to initiate and support an impressive number of national projects: 60 interethnic projects in 2004, 75 interethnic projects in 2005, 106 projects in 2006 and 120 projects in 2007. (Janosi 2008, 131; Mohacsek 2008, 157-166)

The National Authority for the Restitution of Property was set up in 2005 under the Chancellery of the Government in order to assist the territorial commissions responsible for the return of unjustly confiscated real estate of minorities and religious entities and to monitor the process of restitution. The Commission in the 2005 Regular Report saluted the initiative, although the Authority was not operational and lacked appropriate staff and budgetary resources.<sup>60</sup>

## Conclusion

The Romanian approach regarding the institutional framework for minority protection was rather ambiguous with many changes in the status and often overlapping attributions of the main institutions. However by 2007 the institutional framework included a clearly delimited governmental structure – the Department for Interethnic Relations - dealing with the general problems of minorities, the National Agency for Roma focusing specifically on the Roma minority, the most disadvantaged minority in Romania and the National Authority for the Restitution of Property.

The Department for Interethnic Relations successfully accomplished until now the tasks it was created for, not only to initiate and promote legislation in the field of minority protection but to act as a forum for dialogue and to initiate and participate in national and international programmes. It created the premises and achieved, according to Attila Marko, “a real change of mentality” (Marko 2004, 36). The path to stability was not always smooth, the several changes in the status and managerial structure so as to fit political criteria, however had only limited influence on the activity of the Department.

It is however true that only accompanied by political will does the state apparatus manage to achieve optimal results. That was possible either with the participation of the DUHR in the governing coalitions or with special partnerships concluded with the DUHR. Although the legislative goals of the different governmental coalition were diverse it may be noticed that a continuity of main legislative initiatives existed. Romania was the first country among the accession group to enact general legislation fostering the non-discrimination principle and embed the main EU non-discrimination guidelines (Council Directive 2000/43/EC implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin and the Council Directive 2000/78/EC Establishing a General Framework for Equal Treatment and Occupation.) The budget of the department increased yearly above the inflation rate making possible the implementation of an important number of projects. The department represented successfully the Romanian Government in main EU initiatives such as the Community Action Programme to Combat Discrimination (2001-2006), European Year of Languages 2001, Stability Pact for South Eastern Europe. And not last it was actively involved in the negotiation of the 1996 Friendship Treaty with Hungary.

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<sup>60</sup> Regular Report from the Commission on Romania's progress towards Accession 2005, p. 18.

Worth mentioning is that after Romania became officially member of the European Union, a new body began to function under the coordination of the Department, the Institute for the Study of the National Minorities' Problems<sup>61</sup>.

An important number of the problems the Department was faced with in the first years of activity have been successfully solved. Although in what concerns the number of the personnel no improvement was registered, quite on the contrary; in 1997 the maximum number could reach 46 employees (in reality it only reached 27 in 2000) as a result of the 2000 restructuring; by 2007 the maximum number of the personnel could not exceed 31.<sup>62</sup> However, at present the staff benefits from vocational trainings both in the country and abroad; while the logistic facilities, although still not reaching the desired level has improved considerably throughout the years.<sup>63</sup>

The National Agency for Roma and the National Authority for the Restitution of Property are in comparison new developments. The Agency represented a shift in the way the Government addressed the minority problem in Romania and the acknowledgement that the needs of the Roma are diverse as compared to Romania's other national minorities. However, until now no real progress was visible on the ground. Both the National Agency for Roma and the National Authority for the Restitution of Property are faced with under-staffing and poor financial resources and it is doubtful that once the political conditionality of the Copenhagen criteria is no longer mandatory the needed improvement will be achieved.

The attention of the Commission on the apparatus created to promote and apply minority protection standards was rather reduced in comparison to the attention granted to the Ombudsman and to the National Council to Combat Discrimination. The paper has proved that in order to produce qualitative results a solid state apparatus is indispensable.

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<sup>61</sup> The Institute was set up through the Government Ordinance 121/2000 and began to function according to Government Ordinance 893/2007.

<sup>62</sup> Decision of the Prime Minister No. 156 of May 25<sup>th</sup> 2007, published in the Official Gazette of Romania No. 362 on May 27<sup>th</sup> 2007.

<sup>63</sup> Personal communication with a DIR territorial-agent in Cluj Napoca.

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