



DANISH INSTITUTE FOR  
HUMAN RIGHTS

**COWI**

# The social situation concerning homophobia and discrimination on grounds of sexual orientation in Romania

March 2009

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## A. A Summary of the Overall Situation of LGBT Persons

- [1]. After decriminalizing homosexuality in 2002 and formally guaranteeing equality with anti-discrimination provisions in 2000, Romania still does not recognise same-sex partnerships. In legal terms, marriage is explicitly defined as between a man and a woman and no other partnerships are officially recognized. An official order prohibiting persons with ‘sexual preference disorders’ from working in the educational system has been repealed for technical reasons while a working group clarifies its meaning.
- [2]. Surveys indicate that LGBT persons are a stigmatised minority group similar to other marginalized groups. Homosexuality remains an emotional, social and political issue in Romania, and descriptions of homosexuality as a ‘vice’ or ‘sin against nature’ occur in print and online. Physical aggression against LGBT persons has occurred during LGBT demonstrations
- [3]. Public religious figures openly voice negative attitudes toward LGBT persons and appear to play a role in shaping public opinion and political and cultural campaigning against LGBT rights.

## B. The Collection of Data

- [4]. The material for this report has been collected from four sources:
  - A legal country report carried out for this study written by LGBT NGO *Accept* Vice President Romanita Elena Iordache and Iustina Ionescu.<sup>1</sup>
  - A sociological country report carried out for this study reviewing available data on the situation concerning homophobia and discrimination on grounds of sexual orientation written by Florin Buhuceanu, president of *Accept*.<sup>2</sup>
  - Data collected through interviews held in Romania with *Accept*, the National Agency for Equal Opportunities at the Ministry of Labor, Social Solidarity and Family and The National Council for Combating Discrimination (NCCD).

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<sup>1</sup> R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

<sup>2</sup> F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

- Data collected through an online questionnaire sent out to the stakeholders mentioned above.

## C. Key Findings

### C.1. Attitudes Toward LGBT persons

- [5]. European surveys show that Romania has the most negative attitudes toward homosexuality in the EU.
- [6]. The 2008 *Eurobarometer* asked, 'How would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' (1 meaning 'very uncomfortable' and 10 meaning 'very comfortable'). The figure in Romania was 4.8, the lowest in the EU. The highest was Sweden, with 9.5, and the EU average was 7.9.<sup>3</sup>
- [7]. In the 2006 Eurobarometer, attitudes toward same-sex marriage were examined in every Member State. Forty-two per cent of EU citizens agreed that such marriages should be allowed throughout Europe; the figure was 11 per cent in Romania, the lowest in the EU. With regard to adoption, the level of acceptance decreases in the EU and in Romania. Thirty-one per cent of Europeans felt that homosexual couples should be allowed to adopt children throughout Europe; in Romania the figure was 8 per cent (Netherlands scored highest with 69 per cent and Poland and Malta the lowest with 7 per cent).<sup>4</sup>
- [8]. Further surveys show that LGBT persons form a stigmatised minority group similar to other vulnerable groups such as Roma or persons living with HIV.<sup>5</sup> Anti-gay prejudice and stereotypes are widespread in Romania, and it appears that expressions of homophobia remain legitimate and respectable—beyond what would be acceptable for any other minority group.<sup>6</sup> However, the number of Romanians saying that they would not want a homosexual neighbour has decreased from 86 per cent in 2001 to 61 per cent in 2007.<sup>7</sup>

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<sup>3</sup> European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

<sup>4</sup> Eurobarometer 66 (2006), available at: [http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf), pp. 43-46.

<sup>5</sup> Open Society Foundation Romania, Public Opinion Barometer, quoted in ILGA-Europe, Equality for Lesbians and Gay Men, a Relevant Issue in the EU Accession Process, Brussels, November 2001; Open Society Foundation Romania, Public Opinion Barometer, Bucharest, October 2007.

<sup>6</sup> F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

<sup>7</sup> Open Society Foundation Romania, Public Opinion Barometer, quoted in ILGA-Europe, Equality for Lesbians and Gay Men, a Relevant Issue in the EU Accession Process, Brussels, November 2001; Open Society Foundation Romania, Public Opinion Barometer, Bucharest, October 2007.

- [9]. Homosexuality remains a social and political issue. Arguments describing homosexuality as a ‘vice’ or a ‘sin against nature’ are common.<sup>8</sup>

## C.2. Criminal Law - Hate Crime

- [10]. The Criminal Code was amended in 2006 to include incitement to discrimination. The same amendment introduced discriminatory intent as an aggravating circumstance in the commission of a criminal offence.<sup>9</sup> However, it is difficult to assess whether these provisions are actually applied. Hate crime against LGBT persons is not registered, and no scientific research is available.<sup>10</sup>
- [11]. Homophobic hate crimes take place, but are underreported. Various fact-finding missions initiated by the NGO *Accept* indicate that LGBT persons are often intimidated and harassed by police forces in meeting places for gay men. Under threat of being outed, victims pay bribes and rarely initiate legal action.<sup>11</sup>
- [12]. Political speeches are protected from hate speech legislation and cannot be sanctioned. Furthermore, members of parliament have immunity from such prosecution.<sup>12</sup>

## C.3. Freedom of Assembly

- [13]. The Constitution provides for the freedom of assembly, but all public gatherings must be reported to the mayor’s office days in advance. A commission formed by the local administration and police officials gives its opinion on the request, and the mayor takes the final decision.<sup>13</sup>
- [14]. Annual LGBT Diversity Marches have taken place since 2005. Though the authorities initially refused to allow the first march, the event was eventually allowed, generating a vigorous counter-reaction from religious groups, conservative and nationalistic parties and neo-Nazi groups. Marches in 2006 and 2007 were allowed without problems, but the 2008 march was subject to administrative impediments, such as having to provide a traffic regulation plan.<sup>14</sup>

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8 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

9 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

10 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

11 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

12 Field trip meeting with NCCD (Romania, 8 April).

13 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

14 Field trip meeting with Accept (Romania 7 April 2008).

- [15]. Equality marches have increased LGBT visibility and demonstrated the existence of gay identity, sparking a counter-movement among anti-gay groups. Violent anti-gay demonstrations send the message that homosexuals are not welcome in Romania. A pragmatic alliance of Orthodox and neo-Fascist groups lobbying for ‘the death of sodomites’ was instrumental in sparking attacks on participants in Pride marches, with religious icons and crosses transformed into weapons, as well as eggs, excrement, rocks and smoke bombs thrown at participants.<sup>15</sup>
- [16]. The freedom of assembly of LGBT persons must be constantly protected with a significant police force presence. In 2007, each participant of the Pride march was protected by approximately 3 policemen, and more than 100 counter-demonstrators were arrested.<sup>16</sup> The authorities effectively protected the participants during pro-gay marches, but failed to take adequate measures against counter-demonstrations when they became riots.<sup>17</sup>

#### C.4. Family and Other Social Issues

- [17]. Romanian legislation does not recognize registered partnership or same-sex marriage and the Senate decided in February 2008 to change the Family Code ‘between spouses’ into ‘between a man and a woman’, thereby banning the possibility of same-sex marriage.<sup>18</sup>
- [18]. Concerning social services, a case of municipal civil servants making negative remarks about LGBT persons received considerable media attention. The NCCD and the court established discriminatory behaviour and the court awarded damages roughly equivalent to 800 euro.<sup>19</sup>

#### C.5. The Labour Market

- [19]. LGBT persons rarely come out at the workplace, so their problems are invisible. LGBT persons appear not to recognize discrimination, as many consider it normal to be subject to harassment and other discriminatory behaviour. Harassment (including sexism) is often not recognized as such, and if it is recognised, it is not reported.<sup>20</sup>

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15 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

16 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

17 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

18 Field trip meeting with Accept (Romania 7 April 2008).

19 Field trip meeting with NCCD (Romania, 8 April).

20 Field trip meeting with Accept (Romania 7 April 2008).

- [20]. Some cases concerning labour market discrimination are handled by the NCCD.<sup>21</sup> A church employee, for example, was fired because of his homosexuality. This case was won by the complainant.<sup>22</sup>

## C.6. Education

- [21]. LGBT persons face a number of problems in the area of education. Concerning LGBT teachers, a joint order signed between the *Ministry of Education* and the *Ministry of Health* in 2006 stated that all ‘sexual preference disorders’ constitute incapacity to work as a teacher or administrative staff in the education system. The two ministries involved in the matter agreed to create a working group to clarify the meaning of the regulation, but this working group had not started operating by February 2008.<sup>23</sup> Meanwhile, the regulation has been repealed for technical reasons.<sup>24</sup>
- [22]. Bullying appears to be a problem in Romanian schools; degrading names for Roma, the disabled and LGBT persons are regularly used for bullying. Furthermore the curriculum does not include any education on sexual orientation. Religious education is mandatory, even though this goes against the Constitution.<sup>25</sup>

## C.7. Health Service

- [23]. Romanian LGBT persons experience unequal treatment and harassment within the health system. According to a 2006 regional health study,<sup>26</sup> 10.5 per cent of respondents said that they had experienced problems because someone in their doctor’s practice knew or presumed to know about their sexual orientation or gender identity. Of the respondents, 40.1 per cent said they could not discuss their health needs in an open and honest way with medical staff. More than half (58.3 per cent) experienced discrimination such as name calling, and 28.6 per cent had been threatened with physical violence. The threat of physical violence is the second most common type of LGBT discrimination in the health system.<sup>27</sup>

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21 Field trip meeting with NCCD (Romania, 8 April).

22 Field trip meeting with *Accept* (Romania 7 April 2008).

23 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

24 ACCEPT, IGLHRC, ILGA Europe, joint submission to the United Nations Human Rights Council, under the Universal Periodic Review, available at [www.iglhrc.org](http://www.iglhrc.org) (08.02.2008).

25 Field trip meeting with NCCD (Romania, 8 April).

26 Ilga Europe, *Accessing Health: the context and the challenges for LGBT persons in Eastern Europe*, Brussels, April 2006.

27 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

- [24]. In general the system lacks confidentiality and persons do not trust health personnel. Many do not disclose their sexual identity to their doctors.<sup>28</sup>
- [25]. Regarding blood donation by gay men, there have been two cases before the NCCD. Taking the legitimate interest in public health and into consideration, the NCCD considered the general exclusion measures initiated by the Ministry of Health to be inadequate and unnecessary.<sup>29</sup> In reaction to this, the Ministry of Health has deleted 'homosexuals' as a general risk group. The Ministry also agreed to change or remove the questions on same-sex relations from the prospective-donor questionnaire.<sup>30</sup> In practice, blood donation centres still use the old questionnaires.<sup>31</sup>

## C.8. Religion

- [26]. Religion is prevalent in the public sphere in Romania. Icons of the Orthodox Church hang in all schools, and religious education in schools is given by Church-approved teachers.<sup>32</sup>
- [27]. Religion plays a role in shaping public opinion and the political culture regarding human rights and LGBT rights especially. A significant number of priests, pastors, national politicians and activists actively use the public domain to stigmatise LGBT persons. Religious actors use anti-gay rhetoric to recruit volunteers, mobilize voters and put pressure on legislators. A proposal to change the Constitution to deny the possibility of same-sex marriage is one result of such religious lobbying.<sup>33</sup>
- [28]. The Orthodox Church has campaigned against the decriminalisation of homosexuality and LGBT marches, exercising an influence over members of parliament and the administration. Describing LGBT persons as 'the ultimate enemy' or 'Satan's army', the public position of the Church has been overwhelmingly homophobic. As a reaction to the LGBT marches, 'normality marches' were organised by the Orthodox Church, the Conservative Party and several extremist groups in 2005 to 2007.<sup>34</sup>

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28 Field trip meeting with *Accept* (Romania 7 April 2008).

29 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

30 ACCEPT, IGLHRC, ILGA Europe, joint submission to the United Nations Human Rights Council, under the Universal Periodic Review, available at [www.iglhrc.org](http://www.iglhrc.org) (08.02.2008).

31 Field trip meeting with *Accept* (Romania 7 April 2008).

32 Field trip meeting with *Accept* (Romania 7 April 2008).

33 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

34 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.



## C.9. Sports

- [29]. LGBT is taboo in sports.<sup>35</sup> There is little information concerning sexual orientation and gender identity issues in this area and no research has been identified.<sup>36</sup>

## C.10. Media

- [30]. Topics such as Gay Pride and same-sex marriage have frequently reached news headlines. The representation of LGBT persons in the media is often caricatured. LGBT persons are portrayed as indecent, provocative, promiscuous or reversing prescribed gender roles, and gay men are frequently associated with transvestites. Such stereotyping is due not only to a lack of information from journalists, but also the absence of a coming-out culture in the Romanian LGBT community.<sup>37</sup>
- [31]. Cases brought before the NCCD or the courts tend to draw attention from the media. Some media report in a neutral way, but many TV shows display negative attitudes and engage in derogatory jokes about LGBT persons.<sup>38</sup>
- [32]. Hate speech on the Internet is also a problem. Some newspapers have introduced a code of conduct rejecting hate speech, but in many cases it is not possible to identify the owner or host of a Website.<sup>39</sup>
- [33]. In general, the Romanian media is anti-homosexual, though this is articulated more subtly than in previous years. In comparison to media coverage between 1990 and 2004, there has been a noticeable change in language and approach: Terms like ‘perverts’ or ‘merry boys’ no longer prevail in the Romanian press. The number of articles written in neutral language has increased.<sup>40</sup>

## C.11. Asylum and Subsidiary Protection

- [34]. Persecution on grounds of sexual orientation may be considered to constitute persecution on the ground of ‘membership of a particular social group’ for the purpose of seeking asylum.<sup>41</sup> There is no information available as to how this rule is applied in practice.

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35 Field trip meeting with NCCD (Romania, 8 April).

36 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

37 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report. .

38 Field trip meeting with NCCD (Romania, 8 April).

39 Field trip meeting with NCCD (Romania, 8 April).

40 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

41 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

- [35]. Once granted asylum, a person has the right to be reunified with his family, but this term only includes spouses and children.<sup>42</sup>

## C.12. Family Reunification

- [36]. Partners of EU citizens have free access to Romanian territory if their partnership is valid in their Member State of origin. This means that married, de facto cohabitating or registered same-sex partners can move freely to Romania, provided their partnership is recognised by the national legislation of their own Member State.<sup>43</sup>
- [37]. Romanian citizens who are not married can only be joined by their partners if they have at least one child together. The law does not distinguish between same-sex and opposite-sex partners.<sup>44</sup> This practice constitutes indirect discrimination of LGBT couples.
- [38]. Same-sex partnerships made abroad are not recognised in Romania if one of the partners is Romanian. If both partners are foreign, the couple can be registered as such.<sup>45</sup>

## C.13. Transgender Issues

- [39]. Romanian legislation does not mention the term ‘transgender’ or equivalent terms. Transgender persons are theoretically protected by provisions in anti-discrimination legislation, but there are no clear guidelines for changing registration status or undergoing sex reassignment surgery. Changing civil status requires a court decision based, in practice, on a certificate issued by the *Institutul Național de Medicină Legală* [National Institute for Legal Medicine] following an intrusive and arbitrary procedure that was developed *ad hoc* to fill a legal vacuum.<sup>46</sup>
- [40]. Transgender persons face structural barriers in accessing appropriate health services due to limited access to insurance policies, the costs of therapies and the widespread prejudice and discrimination in the medical system. Overall, the medical community has limited experience and knowledge in this area.<sup>47</sup> Transgender persons are often treated as psychiatric patients, and there are few

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42 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

43 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

44 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

45 Field trip meeting with NCCD (Romania, 8 April)

46 R. Elena Iordache and I. Ionescu (2008) *Legal study on homophobia and discrimination on grounds of sexual orientation in Romania*. FRALEX.

47 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report..

endocrinologists who are willing to provide hormonal treatment to transgender persons.<sup>48</sup>

#### C.14. Multiple Discrimination

- [41]. Romanian legislation explicitly covers multiple discrimination, and discrimination on multiple grounds is regarded as an aggravating circumstance. However, there are no studies regarding what types of multiple discrimination affect LGBT persons in Romania, nor how frequently such discrimination occurs or what impact it has.<sup>49</sup>
- [42]. However, it should be noted that young LGBT Romas are in a particularly vulnerable situation.<sup>50</sup> Traditional beliefs and norms reject homosexuality, and assuming a gay identity in such a context can be considered an act of 'ethnic dissidence'. The immediate risk of coming out is thus isolation and marginalisation from their own community.<sup>51</sup>
- [43]. No data has been found regarding the status and needs of LGBT disabled persons or elderly LGBT persons. There are no specific groups for disabled or elderly LGBT.<sup>52</sup>

#### C.15. Other Areas of Concern

- [44]. The freedom from torture and cruel, inhuman or degrading treatment or punishment, the right to security of the person and the right to treatment with humanity while in detention are jeopardised in the case of LGBT inmates.<sup>53</sup>
- [45]. The abusive treatment of LGBT inmates in the Romanian penitentiary system, as well as the lack of procedures for preventing and combating these abuses, were noted by *Accept* in its latest human rights report.<sup>54</sup>

### D. Good Practice

- [46]. Good practices are described in Annex 1.

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48 Field trip meeting with Accept (Romania 7 April 2008).

49 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

50 Field trip meeting dd. 07.04.2008 Accept.

51 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

52 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

53 F. Buhuceanu (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Romania*. Sociological Country Report.

54 ACCEPT, IGLHRC, ILGA Europe, joint submission to the United Nations Human Rights Council, under the Universal Periodic Review, available at [www.iglhrc.org](http://www.iglhrc.org) (08.02.2008).