

THE INTERSECTION OF ETHNICITY AND GENDER IN THE ROMANIAN LABOR MARKET: THE CASE OF ROMA WOMEN

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Abstract: Discrimination of Roma women in employment relations became a certainty in post-communist Romania. Although gender is the most frequent criterion of discrimination in labor market, from the statistics of the National Council for Fight against Discrimination, one can notice that the most frequent petitions were formulated mainly by men and had as object the discrimination based on ethnicity (Roma mainly), social category, age or religion. This fact shows that Roma women confronted with such situations either did not know who to address a complaint to or did not have the courage to do it. This article explores the history of the ethnic discrimination in Romania and illustrates how ethnicity and gender intersect in the Romanian labor market resulting in a low rate of Roma women employment. As for methodology, the author used the analysis of employment advertisements, official statistics and documents of public institutions, the comparison between different Romanian Government programs aimed at fighting marginalization and social exclusion of Roma, study of anti-discrimination laws etc. In the section of conclusions, the author makes some recommendations about the need of rethinking and remodeling public policies on preventing discrimination acts against Roma women.

Keywords: Roma women, race, ethnicity, gender, discrimination, employment.

1. INTRODUCTION

Romania is a country with no tradition in terms of public speeches, legislation and studies concerning discrimination. Although foreign specialists admit almost unanimously that there are strong evidences that race and gender do intersect in the labor market under certain conditions¹, in Romania such studies are

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¹ J. Acker, *From glass ceiling to inequality regimes*, in "Sociologie du Travail", Vol. 51, no. 2/2009, pp. 199–217; J.G. Altonji, R.M. Blank, *Race and Gender in the Labor Market*, in O. Ashenfelter, D. Card (eds.), *Handbook of Labor Economics*, no. 3/1999, pp. 3143–3251; H. Y. Choo, M.M. Ferree, *Practicing intersectionality in sociological research: A critical analysis of inclusions, interactions, and institutions in the study of inequalities*, in "Sociological Theory", vol. 28, no. 2/2010, pp. 129–149; R.J. Emigh, I. Szelényi (eds), *Poverty, Ethnicity, and Gender in Eastern Europe during the Market*

missing almost completely. The purpose of this paper is not to bring its contribution to the development of intersectionality theories, but to capture the various ways in which it manifests on the Romanian labor market. Another objective is to pull a signal of alarm about the situation of Roma women whose gravity is generally ignored. The motivation for this work was precisely the lack, almost absolute, of the studies regarding intersectionality from the Romanian literature, as well as the lack of integration of Roma women on the labor market.

In terms of the frequency of discrimination acts, certain categories of persons are discriminated against constantly and repeatedly – Roma, women, gays, the poor, members of religious sects, while other groups are discriminated against just occasionally, under certain circumstances – pregnant women, the elderly, the disabled². Few Romanian researchers show that at the intersection of these cases are the forms of multiple discrimination³, including the case of Roma women which have to cope with the negative consequences of a double fact: being Roma and being women.

In the field of gender discrimination there are numerous Romanian studies and statistical data about women's status in the society and gender differences⁴. There are also comparative studies related to gender equality policies in different European countries⁵.

Transition, Westport London, Praeger Publishers, 2001; G. H. Bradley Healy, C. Forson, *Intersectional Sensibilities in Analysing Inequality Regimes in Public Sector Organisations*, in "Gender, Work and Organisation", vol. 18, no. 5/2011, pp. 467–487; E. Holvino, *Intersections: The Simultaneity of Race, Gender and Class in Organisation Studies*, in *Gender, Work and Organisation*, vol. 17, nr. 3/2010, pp. 248–277; B.D. Metcalfe, C.J. Rees, *Gender, globalisation and organisation: exploring power, relations and intersections*, in "Equality, Diversity and Inclusion: An International Journal", vol. 29, nr. 1/ 2010, pp. 5–22; B. Mintz, D. H. Krymkowski, *The Intersection of Race/Ethnicity and Gender in Occupational Segregation. Changes over Time in the Contemporary United States*, in "International Journal of Sociology", vol. 40, no. 4/2011, pp. 31–58; L. Weber, *Understanding Race, Class, Gender, and Sexuality: A Conceptual Framework*, New York, McGraw-Hill, 2001; N. Yuval-Davis, *Intersectionality and feminist politics*, in "European Journal of Women's Studies", vol. 13, no. 3/2006, pp. 193–209.

² C. Ștefan, *Coeficientul de adversitate al lucrurilor: reprezentările de gen*, in O. Băluță (ed.), *Gen și putere*, Iași, Polirom Publishing, 2006, p. 23.

³ *Ibidem*; A. Iancu, *Analiza conceptuală a excluziunii sociale*, in O. Băluță, A. Dragolea, A. Iancu, *Gen și interese politice. Teorii și practici*, Iași, Polirom Publishing, 2007, p. 175.

⁴ M. Albu, C. Mocanu, *Egalitatea de șanse în România. De la teorie la practică*, in O. Băluță (ed.), *cit. work*, 2006, pp. 117–137; A. Huminic, *Instituționalizarea politicii de egalitate de șanse*, in L. Grünberg (ed.), *Gen și integrare europeană*, Bucharest, Societatea de Analize Feministe AnA, 2002, pp. 11–28; Ministry of European Integration, *Ghidul egalității de șanse*, 2005; Open Society Foundation – Romania, *Gender Barometer*, 2000; V. Pasti, M. Miroiu, C. Codîță, *România - starea de fapt. Volumul I. Societatea*, Bucharest, Nemira Publishing, 1996, pp. 165–206; L.M. Muscalu, *Discriminarea în raporturile de muncă*, Bucharest, Hamangiu Publishing, 2015; L. Popescu, *Politica sexelor*, Bucharest, Maiko Publishing, 2004; R. Teșiu, F. Bocioc, *Equal opportunities for women and men in Romania*, in "Equal opportunities for women and men: Monitoring law and practice in new member states and accession countries of the EU", New York, Open Society Institute, 2005; UNDP Romania, NCS, *Women and Men in Romania*, 2005, available at <http://www.undp.ro>

⁵ R. J. Emigh, I. Szelényi (eds), *Poverty, Ethnicity, and Gender in Eastern Europe during the Market Transition*, Westport London, Praeger Publishers, 2001; C. Fagan, P. Urwin, K. Melling,

After the adoption of Romanian anti-discrimination legislation (2000–2002) there was a veritable explosion of gender studies in various domains: sociology, anthropology, ethnography, economics, management and organizational studies, political and juridical studies. A variety of knowledge sources is available in the field of gender equality public policies which pointed out the evolution of Romanian equality policies in the first years after the fall of communism, in the period before the accession to EU and after Romania's EU membership⁶.

Although the researchers and academics produced many studies concerning unemployment, poverty and social exclusion, most of these analyses lack a gender perspective⁷. There are some gender studies concentrated on women's relationship to the labor market and social security system (especially concerning social assistance benefits) but attention was not afforded to Roma women⁸.

D. Meulders, A. Kanjuo-Mrčela, *Gender inequalities in the risk of poverty and social exclusion for disadvantaged groups in thirty European countries*, Manchester, The University of Manchester, 2006; E. Fodor, C. Glass, J. Kawachi, L. Popescu, *Family policies and gender in Hungary, Poland and Romania*, in *Communist and Postcommunist Studies*, vol. 35, nr. 4/2002, pp. 475–490; S. Gal, G. Klingman, *Politicile de gen în perioada postsocialistă. Un eseu istoric comparativ*, Iași, Polirom Publishing, 2003; J. Plantenga, C. Remery, P. Helming, D. Meulders, A. Kanjuo-Mrčela, *Reconciliation of work and private life: a comparative review of thirty European countries*, Luxemburg, Office for Official Publications of the European Communities, 2005; M. Voicu, *Work and family life in Europe: Value patterns and policy making*, in W. Arts, L. Halman (eds.), *European values at the turn of the millennium*, Leiden, Brill Book, 2004, pp. 231–253; R. Weber, N. Watson (eds.), *Women 2000: An investigation into the status of women's rights in Central and Southeastern Europe and the New Independent States*, Vienna, International Helsinki Foundation for Human Rights, 2000.

⁶ M. Dediuc, *Rolul instituțiilor internaționale în reformarea politicilor publice pentru romii din România*, in F. Bondar (coord.), *Politici publice și administrație publică*, Iași, Polirom Publishing, 2007, pp.174–186; A.-M. Dima, *Femeile de minoritate romă între lipsa de modele și integrarea europeană a României*, in L.Grünberg (ed.), *Gen și integrare europeană*, Bucharest, Societatea de Analize Feministe AnA, 2002; A.-M. Dima, *Sub minorities or Roma women – between ideologies and practices within the process of Romania's accession to the European Union*, in “AnALize: Journal of Feminist Studies”, no. 12/2002, pp. 25–34; S. Gal, G. Klingman, *cit. work*; G. Ghebre, M. Tătăram, I. Crețoiu, *Implementing the EU equality acquis*, Bucharest, Nemira Publishing, 2005; L. Grünberg, *Politica socială și egalitatea sexelor*, in E. Zamfir, C. Zamfir (eds.), *Politici sociale. România în context european*, Bucharest, Alternative Publishing, 1995, pp. 184–190; E. Magyari-Vincze, *Romanian gender regimes and women's citizenship*, in J. Lukic, J. Regulska, D. Zavrsek, *Women and citizenship in Central and Eastern Europe*, Aldershot, Ashgate, 2006, pp. 35–51; M. Miroiu, *Drumul către autonomie. Teorii politice feministe*, Iași, Polirom Publishing, 2004; A. Moraru, R. Popa, M. Tobă, O. Voicu, *Elaborarea și realizarea politicilor de combatere a discriminării și promovare a egalității de șanse între membrii grupurilor minoritare și cei ai majorității și între femei și bărbați. Intoleranță, discriminare și autoritarism în opinia publică*, Bucharest, IPP, 2003, pp. 79–93; M. Munteanu, *Dinamica formulării politicilor publice de gen în contextul integrării europene*, in F. Bondar, (coord.), *Politici publice și administrație publică*, Iași, Polirom Publishing, 2007, pp. 201–236.

⁷ M. Preda, *Grupuri social ignorate/excluse de politicile sociale în România*, in C. Zamfir (ed.), *Politici sociale în România, 1990–1998*, Bucharest, Expert Publishing, 1999, pp. 301–342; E. Zamfir, C. Zamfir, A. Dan, S. Cace, *Politici de suport pentru femei*, in C. Zamfir (ed.), *Politici sociale în România, 1990–1998*, Bucharest, Expert Publishing, 1999, pp. 269–300.

⁸ V. Marinescu, V. Pricopie, *Accesul femeilor pe piața muncii*, Bucharest, Editor.ro, Centrul Parteneriat pentru Egalitate, 2004; S. Peț, V. Vasile, R. Negruț, P. Mazilescu, *Procese, fenomene caracteristice și tendințe ale circulației forței de muncă în România*, in “Studii și Cercetări

Only few researcher studied intersectionality, with special regard to the intersection of gender and ethnicity, and gender and disability but with few considerations about employment, gender division of labor, wages establishment or work migration⁹.

There is remarkably little empirical work on Roma/non-Roma differences on the labour market outcomes¹⁰. There is even less empirical work looking at Roma women employment¹¹ but the author hopes that future research will remedy this gap.

In 2011 took place the general census of population and housing, however, official data have not been disclosed until now although they must have been published by the National Institute of Statistics in July 2013. Also in the period following the year 2000 were developed several strategies and government programs aimed at fighting marginalization and social exclusion of Roma – The Government’s Strategy for Improving the Situation of the Roma (2001–2010), The National Anti-Poverty and Social Inclusion Promotion Planning (2002–2012), The Joint Memorandum on Social Inclusion (2005–2010), The Decade of Roma Inclusion (2005–2015), but unfortunately lacks data on the implementation and results of those programs.

Being unable to access database to study developments and dynamics and preview future trends poses major obstacles in conducting research and preparing studies on the intersection of gender, race and ethnicity in the Romanian society.

Economice”, no. 6–7/2003, pp. 34–39; M. Preda, L.M. Pop, F. Bocioc, *The gender dimensions of social security reform in Romania*, in E. Fultz (ed.), *The gender dimensions of social security reform. Volume 2: Case studies of Romania and Slovenia*, Budapest, ILO, 2006, pp. 11–92; M. Voicu, *Work and family life in Europe: Value patterns and policy making*, in W. Arts, L. Halman (eds.), *European values at the turn of the millennium*, Leiden, Brill Book, 2004, pp. 231–253; M. Voicu, M. Șerban, *Statutul femeilor din mediul rural. Afirmarea economică a femeilor din mediul rural în România*, Bucharest, PNUD, 2002.

⁹ A. Gheauș, *Femeile și dizabilitatea în România*, Bucharest, Societatea de Analize Feministe AnA, 2006; N.L. Magyari, E. Magyari-Vincze, L. Popescu, T. Rotariu, *The social construction of Romanian poverty: The impact of ethnic and gender distinction*, in R. J. Emigh, I. Szelényi (eds), *Poverty, Ethnicity, and Gender in Eastern Europe during the Market Transition*, Westport London, Praeger Publishers, 2001, pp. 123–156; E. Magyari-Vincze, *Excluderea socială la intersecția dintre gen, etnicitate și clasă. O privire din perspectiva femeilor rome*, Cluj, EFES, 2006; M. Miroiu, *Drumul către autonomie. Teorii politice feministe*, Iași, Polirom, 2004; V. Pasti, *Ultima inegalitate. Relațiile de gen în România*, Iași, Polirom Publishing, 2003; A. Oprea, *Re-envisioning social justice from de ground-up. Including the experiences of Romani women*, in *Essex Human Rights Review*, vol. 1, no. 1/2004, pp. 29–39; L. Surdu, M. Surdu, *Broadening the agenda: The Status of Romani Women in Romania*, New York, Open Society Institute, 2006.

¹⁰ *Ibidem*; C. Zamfir (ed.), *Politici sociale în România, 1990–1998*, Bucharest, Expert Publishing, 1999; M. Preda, A. Dan, *Surse ale excluziunii sociale în România*, in “Revista de Asistență Socială”, no. 2–3/2004, pp. 3–56.

¹¹ A.-M. Dima, *Femeile de minoritate romă între lipsa de modele și integrarea europeană a României*, in L. Grünberg (ed.), *cit. work*, 2002; A. Dragolea, *Preferințe și mecanisme pe piața muncii – o abordare de gen sau cum “aleg” femeile performanțe profesionale mai scăzute și bani mai puțini*, in O. Băluță, A. Dragolea, A. Iancu, *Gen și interese politice. Teorii și practici*, Iași, Polirom Publishing, 2007, pp. 83–124.

2. ETHNIC DISCRIMINATION IN ROMANIA: HISTORY OF A PHENOMENON

In contemporary society, ethnic discrimination is very widespread¹², ethnicity representing one of the most common grounds of discrimination, after the gender criterion. Ethnic discrimination is based on the ethnic origin of the person, though to the identification of an ethnic group serve other criteria, such as religion, language, culture, nationality, genetic characteristics, which, in turn, can be seen as criteria in the use of a differential treatment. All these distinctive features of an ethnic group used to determine it from the objective point of view, determining which can lead to differences in treatment suffered by members of the group, differences that are prohibited by law. From the subjective point of view, the belonging of a person to an ethnic group cannot be determined except by a sense of awareness of share belonging to that group; an objective determination, against the will of the person, is not possible. Ethnic discrimination can often coincide with racial discrimination or discrimination based on the criterion of color because the color is one of the physical features that make a racial/ethnic group different from another¹³. Moreover, the European Commission of Human Rights has defined racial discrimination as “discrimination based on color, national or ethnic origin, which are elements of the same problems”¹⁴.

A worrying fact, proven by statistical data, is that the Roma are the most despised ethnic group in Europe¹⁵. According to surveys, the categories of people who are perceived by the population of Romania as the most often the victims of discrimination are, in first place, Roma (22% of the population has shown that Roma people are being subjected to acts of discrimination “very often or often”), followed by people experiencing poverty – “the poor” (22%), disabled persons (21%) and elderly people (18%)¹⁶.

The history of Roma in Romania is full of examples of ethnic segregation and discrimination, the latter having a systematic character and being described as a “historical phenomenon”¹⁷. Undoubtedly, the attitudes, traditions, prejudices and inhibitions play a decisive role in determining the behavior of the person that discriminate, as well as in the construction of responses of the discriminated.

¹² V. Nicolae, *Words that Kill*, in *Index on Censorship*, no. 35/2006, p. 138.

¹³ D. C. Dănișor, *Fundamentul statului și criteriile de nediscriminare (comentarii ale dispozițiilor art. 4 din Constituția României)*, in “*Revista de Drept Public*”, no. 1/2008, p. 58.

¹⁴ B. Maurer, *Le principe de respect de la dignité humaine et la Convention européenne de droits de l’homme*, Paris, La Documentation française, 1999, p. 341.

¹⁵ V. Nicolae, *cit. work*, p. 138.

¹⁶ Metro Media Transilvania, *Barometrul de opinie privind discriminarea în România*, 2004, available online at <http://www.cncd.org.ro/publicatii/Sondaje-4/>

¹⁷ R. Crețan, *Marginalitate socială și spațială: conceptualizare și tipologie în cazul rromilor din Banat și sudul Crișanei. Studiu de geografie istorică și socială*, Timișoara, West University Publishing House, 2007, p. 50.

Discrimination and violence against Roma in Romania has its motivation in a dual source: on the one hand, a centuries-old history, along which the Gypsy servants were considered simple property from the 11th century until the middle of the 19th century¹⁸, status who legitimized the committing of any violence by the master against the servant; on the other hand, a modern culture, created especially by the media, which emphasized the image of Roma as the source of all evil, exposing them to some violent manifestations with racist overtones. The Romanian society's prejudices have been added to the phenomenon of intensification of Romanian ethno-nationalism after the Revolution of December 1989 and numerous economic factors: "These prejudices persist because it needs a scapegoat, in challenging economic conditions of the country. The reasons are complex. Roma are easily blamed, from isolated cases like «Roma ate swans in Vienna». Once the Roma are awarded this qualifier, the mentality is hardly to be changed"¹⁹.

3. LEGALLY DEFINING AND INCRIMINATING DISCRIMINATION WITHIN EMPLOYMENT AND LABOR RELATIONSHIPS

Among the diversity of problems that Romania is confronting with at the beginning of the 21st century, discrimination represents a reality that reached and reach edge situation, sometimes becoming manifest through violent actions against individuals, against groups or the entire society. Research on the incidence of the discrimination phenomenon within the work relations started to develop in Romania only during the last years, although this phenomenon has deep roots in the distorted mentalities and conceptions still active in a Romanian society in a never-ending transition after the crucial moment of the Revolution in December 1989. The 31 years that followed the Revolution brought substantial changes to our perception regarding the phenomenon of discrimination, and the causes, the effects and the negative implications tremendously dangerous that were produced by it. Twenty-three and even thirteen years ago there was a lack of knowledge about this issue, even more because there was no legislation regarding the phenomena. The legislation void favored the appearance of multiple abusive attitudes and discrimination on the part of the employers, also reflected in the want ads and announcements concerning the employment demand. Even though the principle of equal rights was recognized by the Constitution of 1991 in the 16th article, the lack of a legal way of fighting and sanctioning discrimination within the work relations, increased the proportion of the phenomenon.

¹⁸ C. Avram, Gh. Bică, I. Bitoleanu, I. Vlad, R. Radu, E. Paraschiv, *Introducere în istoria dreptului*, Bucharest, Romania of Tomorrow Foundation Publishing House, 2007, pp. 110–111 ; V. Achim, *Țigani în istoria României*, Bucharest, Encyclopedic Publishing House, 1998, pp. 170–192; D. Crowe, *The Gypsy Historical Experience in Romania*, in D. Crowe, J. Kolsti (eds.), *The Gypsies of Eastern Europe*. New York: Arnok, M.E. Sharp Inc., 1991, pp. 61–63.

¹⁹ R. Crețan, *cit. work*, p. 51.

In august 2000, the Emergency Government Ordinance no. 137/2000 was adopted on the prevention and the punishment of all forms of discrimination, which stipulated the right to personal dignity, incriminated the notion of harassment defining it as being “any kind of behavior on the basis of race, nationality, ethnicity, language, religion, social category, thought, gender, sexual orientation, affiliation to a disadvantaged social category, age, disability, refugee or asylum solicitant status or any other criterion that leads to an intimidating, hostile, degrading or offensive environment” and also the one of victimization, seen as any adverse treatment that constitutes a reaction to an intimation or complaint submitted to a court concerning the violation of the equal treatment principle.

Ordinance no. 137/2000 expressively incriminated:

- a) the discrimination of a person within a labour or social protection relation, which occurred in the following domains: conclusion, suspension, modification or cessation of the labour relation; settlement and alteration of job prerogatives or work place; adjustment of social rights, other than wage rights; professional training, re-qualification and promotion; application of disciplinary measures; right of joining a trade union and access to the facilities awarded by this organization; any other conditions of work, in accordance with the legislation in force;
- b) the refusal of a natural or juridical person to employ a person on the ground of his affiliation to a race, nationality, ethnicity, religion, social category or disadvantaged category, respectively because of thought, age, sex or sexual orientation;
- c) the conditioning of holding a post, through the agency of a job recruitment offer or competition launched by the employer or his representative, on the basis of the affiliation to a race, nationality, ethnicity, religion, social category or disadvantaged category, age, sex or sexual orientation, respectively the convictions of the candidates, with the exception of “positive discrimination” cases;
- d) the discrimination of the employees by the employers, in the matter of labor conscription adjustment on the ground of the affiliation to a race, nationality, linguistic community, ethnical origin, religion, social category or disadvantaged category or because of age, sex, sexual orientation, or employees’ convictions.

In March 2002, Law no. 202/2002 was adopted on the equality of chances for men and women, which incriminated direct and indirect discrimination, acts of harassment and sexual harassment, discrimination on the basis of gender and multiple discrimination.

After the adoption of these two normative acts, the Law on revising Romania’s Constitution modified article 16 stipulating that the Romanian state guarantees the equality of chances for men and women regarding access to military, civil and public services and dignities.

The principle of equal treatment of men and women at the work place is a consequence of the principle of equal treatment of all employees and employers

stipulated by article 5(2) of the Labor Code which forbids any direct or indirect discrimination on the basis of gender and other criteria. The fundamental criterion for employment and promotion at work remains the professional capacity; the employer cannot introduce his own unjustified (arbitrary) criteria, essentially different from the common ones. The employer could conclude an employment contract taking into consideration some other criteria, among which the sex of the future employee but only in those circumstances in which he faithfully considers that these particularities could be necessary for the normal performance of the activities required by the employment contract²⁰.

In accordance with Law no. 202/2002 concerning the equality of chances for men and women, direct (sexual) discrimination refers to a situation in which a person is less favourably treated, on grounds of sex, than another person is, was or would be treated in a similar situation; on the other hand, indirect (sexual) discrimination is defined as a situation in which a disposition, a criterion or a practice, apparently neutral, would disadvantage especially the persons belonging to a certain gender in comparison with persons of the opposite sex, excepting the case when this disposition, criterion or practice is objectively justified by a legitimate purpose and the means of accomplishing this purpose are proper and necessary.

The notion of “discrimination” had a significant evolution from expressively prohibited discrimination to arbitrary or permitted discrimination²¹. A concrete example of forbidden discrimination and permitted discrimination can be found in Law no. 202/2002 on the equality of chances for men and women which prohibits discrimination by using practices disadvantageous for persons belonging to a certain gender on the occasion of announcing, organizing competitions or examinations and selecting applicants for vacant posts in the public or private sector (prohibited discrimination), excepting those occupational activities for which, by reason of their nature or the particular context in which work is carried out, gender particularities constitute a determining factor (permitted discrimination).

Along the same line of accepting certain differences of treatment and positive actions, Law no. 202/2002 does not consider as being discrimination the following situations:

- a) special measures stipulated by the law in order to protect maternity, pregnancy and nursing;
- b) positive actions intended to protect certain categories of men and women;
- c) a difference of treatment based on a gender characteristic when, due to the nature of specific occupational activities or the context in which they are carried out, the sex of the person constitutes an authentic and determining professional requirement as long as the objective is legitimate and the demand is commensurate.

²⁰ R.C. Radu, *Dreptul muncii*, Craiova, Universitaria Publishing, 2003, p. 27.

²¹ R.C. Radu, *Discriminări interzise și discriminări permise în materia angajării și a raporturilor juridice de muncă*, in “Revista Română de Drept Privat”, no. 5/2008, pp. 190–213.

It should be mentioned that the law does not define the positive measures, nor does it indicate what they entail, fact which can raise problems in the practice of labor relations.

The legislation does not help us but when it's about the expression of intersectionality in the labor market than by specifying that multiple discrimination means any act of discrimination based on two or more grounds of discrimination. Although on the agenda of the Romanian courts were not recorded legal actions based on multiple discrimination, in order to ease the burden of proof in all cases of discrimination, the law provides that burden of proof is incumbent on the person against whom the intimation/petition or, as the case may be, the complaint was made. This person must demonstrate that the principle of equal treatment was not violated.

4. AN OVERVIEW OF FACTS ABOUT ETHNICITY AND GENDER IN THE ROMANIAN LABOR MARKET

As there are considerable differences between theory and practice, the criteria of discrimination recorded in the practice of labor relations are much more different from the ones stipulated by the law: for example, looks, weight, height etc. These criteria are often combined with the gender criterion leading, in most cases, to multiple (intersectional) discrimination.

The most frequent cases of discrimination recorded in Romania are: gender discrimination (job offers only for men, job recruitment announcements exclusively for women); age discrimination (age limits for men's employment; age limits for women's employment; neutral age limits – in order to constitute a case of discrimination, these age limits should be imposed by the employer, not by the law); discrimination on the basis of the previous experience for the application post (requirement of previous experience for men, requirement of previous experience for women); discrimination motivated by the image of a person (agreeable physical aspect or height/weight limits as a requirement in the case of men employment, women employment or as a demand not related to sex; solicitation of a photography before the employment as a condition for men/women or as a demand not related to gender) etc.²².

From the analysis of employment advertisements there results that sexual discriminations reaches a percentage of approximately 26% although it is very difficult to know the real proportion of gender discrimination only from studying the wording of employment advertisements. In many cases, some Romanian nouns denoting functions or professions are of the masculine gender, not even allowing the adaptation to the feminine gender, and not falling within the category of sexual

²² Centrul de Dezvoltare Socială Sighișoara, *Manifestări discriminatorii în procesul de angajare*, in "Raporturi de muncă", no. 9/2003, p. 25.

discrimination either. The existence of the sexual discrimination cases becomes obvious when those professions make reference to a certain gender in a grammatically incorrect and far-fetched formulation, or when the gender of the person who is about to be hired is explicitly indicated. At first sight, men are more often discriminated than women at the moment of employment application. Moreover, they are not encouraged to occupy posts traditionally considered as “made for women” such as: secretary, nurse, manicurist²³. But it is a strong evidence that the women occupying these kinds of posts are often subject to sexual discrimination/harassment.

In the matter of age discrimination it seems that its proportions are much more reduced, representing almost half of the gender discriminations, fact that shows that employers discriminate mainly on the ground of sex and afterwards on the ground of age. Women seem also much more affected by age discrimination than men.

Discrimination motivated by the image of a person are more difficult to be recorded in practice, with the exception of evident discrimination cases – the introduction of a pleasant physical aspect requirement in the employment advertisements or the express solicitation of a photograph.

Cases of discrimination on grounds of only one criterion are extremely rare. As a rule, most cases of discrimination are based on a variety of criteria. Research emphasized the existence of multiple discriminatory behaviors, respectively discrimination founded on more than one criterion – gender discrimination combined with ethnic discrimination, age discrimination or discrimination based on personal image – but the statistics refers to a single criterion of discrimination. It should be noted though that no researcher in Romania has focused his attention on the study of multiple discrimination or on forms of manifestation of the intersection between race, ethnicity and gender within employment and labor relationships.

The studies and the statistics carried out in Romania during the previous years focused more on the most frequent cases of single criterion based discrimination, and less on the consequences of this alarming phenomenon at organizational level; ethnic discrimination constituted only a particular case of the research concerning discrimination in general. The researchers limited their interest to the psychological reactions of the discriminated victim, not focusing on the responses or echoes registered within the organization or the measures that could be taken at judicial and organizational level.

B.J. Whelan and C.T. Whelan stressed the fact that the marginalization of individuals on labor market constitutes a “causative factor prone to social exclusion” because it causes exclusion chain reactions²⁴. E. Zamfir, M. Preda and A. Dan points out that in the case of Roma population in Romania there is not a

²³ *Ibidem*, p. 27.

²⁴ B.J Whelan, C.T. Whelan, *In What Sense is Poverty Multidimensional*, in G. J. Room (ed.), *Beyond the Threshold: The Measurement and Analysis of Social Exclusion*, Bristol, Policy Publishing, 1996.

single factor, but several factors of social exclusion: external factors, represented by the local and national community, and domestic factors, with a mostly individual and cultural foundation, that generate auto-exclusion²⁵.

Although in the employment practices the most frequent criterion of discrimination is the one regarding the gender, from the statistics of the National Council for Fight against Discrimination one can infer that the most frequent petitions sent to be solved to NCFD, were formulated mainly by men and had as object the discrimination on grounds of ethnicity (Roma mainly), the social category, age or religion.

In practice, the criteria on which operated the discrimination are difficult to determine and prove, knowing, for example, that women are, as a rule, subject to multiple discrimination. Therefore, the actual size and magnitude of the phenomenon of discrimination in general, and of ethnic discrimination, in particular, are very difficult to surprise just by simply browsing to articles in the press and the working ads, which are most easily to be verified and, at the same time, the most common and most obvious acts of discrimination. Neither the study of the NCFD decisions, nor the analysis of courts' verdicts pronounced in cases of discrimination can make a true vision of reality, since in the NCFD statistics the decisions appear classified according to a single criterion, or acts/facts of discrimination, based on a single criterion, are, in principle, rare²⁶.

Regarding the discrimination made on the gender criterion, the low number of petitions shows the fact that person who confronted with such situations either did not know who to address a complaint to or did not have the courage to do it²⁷. Sexual harassment is a case of discrimination affecting women, in general, and those belonging to ethnic minorities, in particular. The situation is the more serious as 13% of Romania's adult population reports experiencing sexual harassment at the work place (but only cases of most serious forms of sexual harassment). There are a lot of cases in which different forms of sexual harassment (glances, obscene gestures, offensive language or physical contact) are ignored because they are considered "slight" and "harmless" by the subjects when they do not imply a request of sexual favors or coercion for sexual favors. More than a quarter of Romanian women and over 40% of men do not even accept to talk about this subject²⁸. In over 80% of sexual harassment cases happened in Romania, the harasser does not bear any consequence because of the victims' distrust and lack of interest towards the institutional ways of solving the conflict.

²⁵ E. Zamfir et al, *cit. work*, 2004, p. 45.

²⁶ R.C. Radu, C. Avram, *Politica socială românească între tranziție, reformă și criză*, Craiova, Aius Publishing, 2011, pp. 69, 88.

²⁷ CNCD, *Statistics Process (court files – 2007, 2006); Analysis of petitions – 2005, 2003, 2002, 2007*, available at <http://www.cncd.org.ro/biblioteca/Statistici-2/>

²⁸ Partnership for Equality Centre, Romania, *The National Research concerning Domestic Violence and Violence at Workplace*, 2003; for details, see also https://www.un.org/womenwatch/daw/vaw/ngocontribute/Center%20for%20Partnership%20and%20Equality%20_CPE_.pdf.

5. THE CASE OF ROMA WOMEN

In the communist regime, when all citizens of legal age and capacity for work were compulsory employed after graduation, Roma women were distributed to the most degrading and humiliating works: garbage lady, street sweeper, cleaning lady in public toilets, parks and public gardens etc. In the post-communist era, the market economy has introduced a free choice between working and not working, but also the insecurity of obtaining and keeping a job. Competition on the labor market almost totally excluded Roma women, a “gray” category in which race, ethnicity and gender intersect. The situation of Roma women can be and must be seen as a form of “absolute discrimination”. The term “absolute discrimination” appears in Romanian literature as being a form of discrimination which “designates a low degree of accessibility, which tends toward zero, of women and of men to a certain social system or more”²⁹, but without any reference to the Roma women. Instead, Roma woman, from rural localities, single mother, with no education, is seen as the “absolute loser of the transition”³⁰. This is an extreme case, however, of the intersection of the most frequent grounds of discrimination: gender, ethnicity, family situation, social status, education.

The only statistical data the author could consult about the degree of integration of Roma women on the labor market were registered in 2006. According to this statistics, 67.9% of Roma women in Romania were housewives (a four times higher than the national average) and only 11% were employed at that moment; 41% of the Roma population was working in agriculture, one-third of that proportion being women. With regard to education, 23% of Roma women over the age of 16 years did not enjoy formal education and only 3.7% had a high school education³¹. Also, another study says that about 150 young Roma were registered annually as students on specially allocated places for Roma in universities³².

Given that the chances of a Roma man, even educated, to receive a management position are weak³³, those of the Roma women are minimal. On the other hand, the lack of real incentives and positive examples led to the devaluation of education among Roma women. Often, education is simply not perceived as a way to succeed in life and be socially integrated. In these circumstances, the only legal ways to ensure revenue remains the sale of products, agriculture, livestock farming and traditional crafts. It is possible that only a small fraction of Roma women realize their interests, in particular due to the level of education and culture of the Roma people who prefer to keep their women at home.

²⁹ A. Bulai, I. Stănciugelu, *Gen și reprezentare socială*, Bucharest, Politeia – SNSPA, 2004, p. 29.

³⁰ M. Miroiu, *Drumul către autonomie. Teorii politice feministe*, Iași, Polirom Publishing, 2004, p. 44.

³¹ L. Surdu, M. Surdu, *cit. work*, 2006.

³² G. Andreescu, *Națiuni și minorități*, Iași, Polirom Publishing, 2004, p. 77.

³³ V. Crețan, *cit. work*, p. 51.

Lack of a coherent public system of social services in family and community is the most important cause of the persistence of institutionalizing children and elders in special homes³⁴ and, often, the explanation for the large number of women who quit the labor market. The same explanation can be valid for Roma women in Romania whose traditional “job” is caring for children and elders in the family.

Even if Roma women would attempt an integration on the labor market from such a situation of social exclusion, their options regarding the choice of a job would be extremely limited, almost non-existent. Dragolea is among the few academic authors who draw the attention that “the option of a young Roma graduate, possibly arising from the foster care houses, to be dedicated or not to the labour market depending on the personal preference of the route in life is at least utopian”³⁵. It is worth noting that the chances of any Roma woman to get a job even if it was not raised in a foster care house and not deprived of education, are minimal except in cases in which either she “buys” a job with money or relations, whether the employer is very open-minded, whether it is a job where ethnicity or knowledge of Romani language constitute a determining occupational requirement.

Closed nature of the Romanian labor market for Roma women is determined by public discourse “Gypsy do not make it to go to work, he just asks” or “we have nowhere to work, they are not willing to work”³⁶. Even if, hypothetically, Roma women would overcome the employment discrimination, the lack of time, energy, experience, confidence would be added to the gender-race intersection, preventing them from advancing or being promoted to a position of leadership.

Intersectionality is even more prevalent in the case of the unemployment phenomenon. All the statistics of recent years on the level of employment of the labor force and the unemployment rate are reported only to gender: male and female, not ethnicity. Roma women deprived of a job are regarded as being in a position of a housewife than an unemployed itself; the common expectancy (both that of society and that of the women in question) is that they take care of the household and their family.

6. THE NEED OF RETHINKING AND REMODELING PUBLIC POLICIES

In the field of public policies addressed to Roma, M. Dediu identified three main periods³⁷:

³⁴ E. Zamfir et al, *cit. work*, 2004, p. 14.

³⁵ A. Dragolea, *cit. work*, 2007, p. 107.

³⁶ M. S. Stănculescu, *Culisele zonelor sărace: forme de excluziune socială*, in M. S. Stănculescu, I. Berevoescu (coord.), *Sărac lipit, caut altă viață!*, Bucharest, Nemira Publishing, 2004, p. 198.

³⁷ M. Dediu, *Rolul instituțiilor internaționale în reformarea politicilor publice pentru romii din România*, in F. Bondar (coord.), *Politici publice și administrație publică*, Iași, Polirom Publishing, 2007, pp. 174–186.

- the “settlement” period (1990–1997) when it took place the first steps of organising Roma interests at national political level and Roma issue began to take shape on the international agenda³⁸ and on national agenda as part of minorities policy;
- period of the “non-aggression pact” (1997–2001) when the legal and institutional frame was designed;
- period of the “weak implementation” (after 2001) characterized by major discrepancies between legal regulations and administrative measures, and also by low financial and human resources.

After 1990, Romania had a number of incidents in which the hate against Roma, stepped up by the media, has generated violence hard to imagine, for example, the “pogrom” from the Hădăreni village (1993) during which three Roma persons have been killed and 18 homes were destroyed on the ground. In the last decade, the Roma have been the subject of several national public policies developed by the national and international specialized agencies, initiated by the European Commission, which converge towards the objectives of the future European policies developed and implemented according to national specifics. In 2001, as a result of the requirements imposed by the EU Accession Partnership, Romanian Government adopted a strategy for the improvement of the situation of Roma people, who proposed a series of measures for the Roma minority inclusion and the improvement of the socio-economic situation of Roma communities. The result of the collaboration between governmental and non-governmental organisations of the Roma people, with a significant support from the EU institutions, the strategy aimed to implement programmes and projects in the social, educational and health field for Roma.

In 2005, Romanian authorities launched the program entitled “The Decade of Roma Inclusion” (2005–2015). This is part of a political commitment, taken at the international level by the Governments of nine countries in the region, including Romania, as a result of an initiative promoted by the International President of the World Bank and the Open Society Institute in New York, James Wolferson and George Soros. The participating states have undertaken to promote active public policies of social inclusion of the Roma, on four priority areas: education, health, employment and housing. Focused primarily on the goal of combating poverty, discrimination and inequality between sexes, the Decade aims to reduce significantly, over the ten-year period, socio-economic gaps that occur between Roma and the rest of the citizens.

These political initiatives and government programs have remained at the level of public discourse, as there are no data reflecting an improvement of the situation of the Roma. The practical results remain doubtful as long as internal problems (poor economic situation, the high percentage of illiteracy, the lack of a consistent categories of intellectuals, division and conflict situations inside Roma

³⁸ R. Gugliemo, T.W. Waters, *Migrating Towards Minority Status: Shifting European Policy Towards Roma*, in “Journal of Common Market Studies”, no. 43/2005, pp. 763–786.

communities, caused by lack of consciousness of belonging to the same ethnic group) and external causes (discriminatory attitude of the rest of society) continues to persist, and conflicts may break out at any time (for example, Sâncrăieni and Sânmartin cases from June 2009). According to statistics, in the Romanian society there is great support of discriminatory attitudes towards the Roma, which comes from the media. Thus, 81% of Romanians share prejudice that Roma are offenders, 61% agree with the statement that “the Roma are a disgrace for Romania”, while a fifth of Romania’s population is of the opinion that “there should be places or stores in which Roma may not be welcomed”³⁹.

On the effectiveness of anti-discriminatory policies of the past few decades, Pasti noted that “the issue of gender policies is removed from any list of priorities”⁴⁰, while Cerkez was talking about the lack of coherence of public policies that have treated differently social categories confronted with similar phenomena⁴¹. Some of the side effects of this “lack of focusing” of public policies are the “feminization of poverty”⁴², “racialization of poverty”⁴³, “ethnicized poverty”⁴⁴ and the “feminization of long-term unemployment”⁴⁵.

Another obstacle to the elaboration and implementation of public policies in the field of non-discrimination lies in the absence of adequate advertising and promotion that has resulted in the emergence of a precipice between theory (studies of specialists from academic field) and practice (institutions with competences in the development, implementation and monitoring of public policies and legislative regulations).

Another shortcoming of the Romanian Government policies on social welfare is a priority orientation towards providing support for persons in need, instead of encouraging the social recovery and their integration on the labour market⁴⁶.

Another aspect that should be underlined is that public policies in Romania lack gender-ethnicity-race coordination. Even if central and local administration institutions collect and report data segregated by sex, however there are no appropriate indicators to capture sensitive developments to race and ethnicity. This

³⁹ Urban and Regional Sociology Centre, *Percepții și atitudini față de fenomenul de discriminare*, 2005, pp. 10–11, available at <http://www.cncd.org.ro/publicatii/Sondaje-4/>.

⁴⁰ V. Pasti, *cit. work*, 2003, p. 71.

⁴¹ Ș. Cerkez, *Discriminarea de gen în tranziție. Diferențe de tratament între grupurile sociale*, in O. Băluță (ed.), *Gen și putere*, Iași, Polirom Publishing, 2006, pp. 71–92.

⁴² N.L. Magyari, E. Magyari-Vincze, L. Popescu, T. Rotariu, *cit. work*, 2001, pp. 123–156; M. Preda, *Grupuri social ignorate/excluse de politicile sociale în România*, in C. Zamfir (ed.), *Politici sociale în România, 1990–1998*, Bucharest, Expert Publishing, 1999, pp. 301–342; R. Teșiu, *Discriminarea femeilor în România*, in C. Necula (coord.), *Combaterea discriminării. Eficiența inițiativelor guvernamentale și neguvernamentale*, 2004, p. 108, available at <http://www.mma.ro>; C. Zamfir, *cit. work*, 1999, pp. 149–179.

⁴³ N.L. Magyari et al, *cit. work*, 2001, pp. 123–156.

⁴⁴ M. Preda, *cit. work*, 1999, pp. 301–342.

⁴⁵ R. Teșiu, *cit. work*, 2004, p. 108.

⁴⁶ M. Miroiu, *Societatea retro*, Bucharest, Trei Publishing, 1999, p. 97.

raises methodological difficulties in assessing the impact of various laws and policies to prevent discrimination.

Partnerships between NGOs on gender issues and Government institutions are almost non-existent at the local level and extremely rare at the central level. Also a hard difficulty lies in the lack of experts specialized in issues of gender and ethnicity in all the social partners organisations (trade unions and employers' organisations), as well as in the lack of political initiative on the part of the specialized institutions established to combat and prevent discrimination (the National Agency for Equality of Chances for Men and Women, NCFD, etc.).

One of the main problems of women's organisations in the transition is the lack of resources necessary for the formation of interest groups to influence public policy⁴⁷. The under-representation of women in general, Roma women in particular, in the framework of social dialogue, make their interests and their views not be taken into account in the formulation of the draft laws and public policies.

In the Romanian public life there are many ethnic Roma in the cultural and artistic field – musicians, dancers, actors, and a few on the political scene, all of them being men who have managed to change the perception of the majority on Roma people, even if these public figures are considered exceptions. Roma women lack the representation through some public figures to promote their rights and interests. Racist discourses of the past few years have brought the issue of Roma women in actuality but only from the perspective of the pros and cons of sterilization.

The author considers that the exclusion of Roma women on the agenda of public policies is not unintentional, as it is claimed by some specialists⁴⁸, but, on the contrary, it is a form of social control through which it seeks to preserve the “patriarchal” social order in Romania. Improving the situation of the Roma and overcoming the exclusion status of Roma women cannot be achieved without the public authorities to realise that the overall development of society is not compatible with the state of underdevelopment and social exclusion of Roma.

Employment of Roma women can be achieved by implementing the following measures: encouraging professional education, stimulating employment in jobs that do not require a professional qualification, enabling professional training at work, increasing the number of jobs in the support activities for Roma people (teachers, social workers, midwives, nurses), subsidizing certain economic activities undertaken by Roma, granting of land and housing for the purpose of conducting agricultural activities, establishing social care services for Roma, particularly in the rural areas⁴⁹.

⁴⁷ Ş. Cerkez, *cit. work*, 2003, p. 84.

⁴⁸ C. Ştefan, *cit. work*, 2006, pp. 23–24.

⁴⁹ R. Creţan, *cit. work*, 2007, p. 83.

7. CONCLUSIONS

Discrimination against Roma women is a case of multiple ignorance: on the part of the victims of discrimination which do not consider themselves discriminated because of the gender representation they have about themselves and about others and of the cultural and behavioral pattern accepted with resignation; from organizations of civil society which, even if representing the interests of Roma ethnicity, do not focus their attention and efforts in order to improve the situation of women from their own ethnic group; on the part of the Government that, in the formulation of anti-discriminatory public policies, did not aim at resolving this problem; from the researchers and academics who do not pay attention to this subject; from the whole society that ignores entirely the dimensions of this phenomenon.

Although the anti-discrimination legislation plays an important role for the protection of Roma women rights, it is not enough because the discrimination in the labor field has different forms and types of manifestations.

Equally important as the action of sanctioning discrimination and harassment acts is their prevention. In this field, an institution cannot act by itself and the cooperation with other institutions and bodies is extremely important. An important contribution can be brought by universities, social partners or even by international institutions. Also, in post-revolutionary Romania there is a strong need of founding the governmental structures that are preoccupied exclusively with promoting new public policies for certain disfavored categories as Roma women.

The prevention of discrimination and harassment acts can be achieved by several concrete cooperation methods. The first method is the elaboration and promotion of the public policies. For example, in order to elaborate a position document in the field of Roma women employment, all the institutions operating in this field need to cooperate and enjoy the support of the civil society. Promotion and implementation are two of the most important stages for the successful implementation of a policy document. If there is no cooperation between the institutions of the public administration, or, even worse, if there is no involvement of the civil society (a society still in a transitional period after almost 31 years from the Romanian revolution), those documents have all the chances to remain only at the stage of "concept paper". In order to overcome discrimination against Roma women on the labor market public policies have to provide facilities to employers, employment incentive measures, flexible work programs, and the development of community-based services for the care of children.

Returning to the problem of preventing discrimination acts against Roma women, a second cooperation method is the cooperation in the process of implementation of the projects and programs. In this field, the cooperation between the structures of public administration and the involvement of the civil society are decisive. Projects, as well as policies, shall be addressed directly to the companies which have to be involved in it. Or, without involving it, the result cannot be

positive. It is very important to emphasize the role that the international bodies can play in the protection of the equal treatment principle. Maybe it is here, to this point, that one could notice how important they are with regard to the prevention of the discrimination acts. In certain stages of the project, these organizations can intervene both with their experience, expertise and their contribution in terms of human, material or financial resources. The reality has proven it, without reducing the merits of the national, regional or local projects, that a project with international implication has a larger impact on people, and that the chances of successful implementation increase proportionally.

The elimination of Roma women discrimination on labor market or even only its attenuation is one of the necessary conditions for constructing an equitable democratic society, this one implying the intervention of state authorities, changes in employers' vision, but also in every citizen's mentality. Looking several years back, it can be noticed that the subjects that, at that moment in time, were considered impossible to discuss (such as discrimination, moral and sexual harassment) are now subject to debate. So the situation changed as well as society and people's mentalities. Certainly, other fields will change and, before all, people's mentalities and social life. An important contribution can be brought by universities and research institutions. Members of civil society have to be much aware of the capacity of the universities to construct and mold mentalities. They can form and promote a series of specialists in the field of human rights, in general, and in the field of preventing and fighting against gender and ethnic discrimination, in particular. Also, taking into account the huge human resources of the universities, study making and research are a considerable contribution to the process of democratization.