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**WRITTEN COMMENTS
OF THE EUROPEAN ROMA RIGHTS CENTRE**

CONCERNING UKRAINE

**FOR CONSIDERATION BY THE
UNITED NATIONS HUMAN RIGHTS COMMITTEE**

**ON THE OCCASION OF REVIEW OF THE GOVERNMENT OF UKRAINE'S 6TH PERIODIC
REPORT TO THE COMMITTEE**

Executive Summary

The European Roma Rights Centre (ERRC) respectfully submits written comments concerning Ukraine for consideration by the Human Rights Committee (“the Committee”) at its 88th session. The ERRC is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Since its establishment in 1996, the ERRC has established a reputation as the leading international non-governmental organisation engaged in human rights defence of Roma in Europe.

The ERRC has undertaken extensive research, policy, law and training work in Ukraine due to the very serious issues Roma face in Ukraine. The ERRC published a comprehensive Country Report on the situation of Ukraine in 1997.¹ It followed up this report with a 2001 publication updating developments since the 1997 report.² Since 2003, with the support of the European Commission and the Swedish International Development Cooperation Agency (SIDA), the ERRC has been involved in a very large three-year human rights research, training and advocacy project in Ukraine, involving a number of local Romani organisations. ERRC publications about Ukraine as well as additional information about the organisation are available on the Internet at <http://www.errc.org>.

Roma in Ukraine are extremely vulnerable to infringements of fundamental human rights guaranteed by the International Covenant on Civil and Political Rights (ICCPR). Matters documented in detail by the European Roma Rights Centre (ERRC) and partner organisations in recent years include: (i) violence, including racially motivated violence and extreme forms of violence by state and non-state actors; (ii) racial targeting, racial profiling and racial discrimination in criminal justice matters, including the systematic data-basing of Roma by the police in Ukraine; (iii) racial discrimination in social and economic areas, including housing, health care, education, employment and social services; (iv) widespread lack of personal and other documents, effectively denying Roma the right to a legal personality, thwarting access to basic services, and hindering even basic civil and political participation. These matters implicate a number of provisions of the Covenant, including but not necessarily limited to Articles 2, 6, 7, 9, 10, 12, 14, 16, 17, 24, 25, 26 and 27. As recently as the late 1990s, the ERRC has also had concerns under Article 8, as a result of police practices of forcing Roma to perform unremunerated labour.

Insofar as the Ukrainian government’s report to the Committee provides no information on any of these matters, it is misleading at best. At points, the Government

¹ European Roma Rights Centre, *The Misery of Law: The Rights of Roma in the Transcarpathian Region of Ukraine*, Country Reports Series, No. 4, April 1997.

² European Roma Rights Centre, *Focus: Roma Rights in Ukraine: Published Materials 1997-2001*, June 2001.

has made statements to the Committee which are patently untrue, as when, for example, at paragraph 356, the Government states that, “No reports or complaints regarding discrimination or persecution of members of ethnic minorities have been received by either the Ukrainian procurator general’s office or the State Committee for Ethnic Minorities and Migration.”

The present submission aims to provide a summary of ERRC documentation in a number of areas of relevance to Covenant law. This submission is organised as follows: following this brief summary, material is brought under the following headings:

- 1. Introduction**
- 2. Human Rights and Roma in Ukraine**
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1. Introduction

The 1989 Soviet Union census documented 47,915 Roma living in Ukraine, constituting roughly 0.09% of the population.³ In 2001, the State Statistics Committee carried out Ukraine's first census since the Communist period, and found that in 12 years the population had stayed stable at 47,587.⁴ The Ukrainian government's report to the Committee states, "According to the 2001 national census figures, at that time there were 47,600 Roma (Gypsies) living in Ukraine, constituting 0.1 per cent of the country's population."⁵ Population density varies throughout the country, but the largest concentrations of Roma, according to the 2001 census, live in the oblasts of Zakarpatia (14,004), Donetsk (4,106), Dnepropetrovsk (4,067), Odessa (4,035), Kharkov (2,325), Luhansk (2,284), and the Crimean Autonomous Province (1,896). In certain areas, such as Zakarpatia in the west, Roma officially represent as much as 3% of the population.

A number of studies, however, suggest that the actual number may in fact be much higher. A 1990 study of Roma in Zakarpatia, for example, recorded 20,000 people in the oblast, while the latest census in 2001 recorded only 14,000. Other estimates are much higher. According to O.O. Danilkin-Stcherbitskiy of the National Academy of Sciences of Ukraine, the figure is closer to 200,000,⁶ while some Romani organizations partnered with ERRC suggest it is even higher, approaching 300,000.⁷

Recent opinion polls in Ukraine show that "social intolerance is greater toward Roma than toward any other ethnic group."⁸ Anti-Romani sentiment is actively promoted in Ukraine by a number of agencies, including government and via the state public education system. From a very early age, children in Ukraine are taught that it is appropriate to adopt suspicious and unfavourable attitudes towards Roma. Children are encouraged to distinguish between people based on differences in cultural practices and physical features, and learn that it is appropriate to associate those traits with fear, danger and distrust. Above and beyond widespread folk stereotypes of Roma, frequently taught to children by their parents, such as them being drug traffickers, thieves and criminals in general, work-shy, dirty, unhealthy, and immoral, such views are at times officially

³ State Statistics Committee of Ukraine, *All-Ukrainian Population Census 2001*: http://www.ukrcensus.gov.ua/g/d5_other.gif

⁴ State Statistics Committee of Ukraine, *All-Ukrainian Population Census 2001*: http://www.ukrcensus.gov.ua/eng/results/nationality_population/nationality_1/s5/

⁵ Government of Ukraine, "Sixth periodic report of Ukraine on the implementation of the International Covenant on Civil and Political Rights" (hereafter "State Party Report", CCPR/C/UKR/6, 11 April 2006, para. 350.

⁶ Quoted in Ukrainian Institute for Social Studies, "Analysis of Real Problems," p. 7.

⁷ According to Zemfira Kondur, Director of Chirikli, a Romani NGO based in Odessa.

⁸ United States Department of State, Bureau of Democracy, Human Rights and Labour, *Country Report on Human Rights Practices 2005: Ukraine*, <http://www.state.gov/g/drl/rls/hrrpt/2005/61682.htm>

promoted. For example, the Ukrainian government recently told the UN CERD Committee that:

In many cases, we face outrageous facts of non-observation by the Roma of the basic rules of conduct, violations of community life's laws... People do not know their rights, and, what is more surprising, even do not try to know them... It is not a singular case when parents in Romani families do not consider it necessary for their children to go through the medical check-ups, the observance of a calendar of vaccinations, etc. Also, these parents do not aspire to provide their children with education, even with an elementary one.⁹

The Government has also disseminated anti-Romani opinions in the school system, for the benefit of young children. For example, on page 81 of *Osnovy Zdorovya* ("Basic Health"), a 4th grade textbook recommended by the Ministry of Science and published in 2004, children around the age of 10 are taught what to do when "strangers" appear outside the door of their home. The picture accompanying the text reveals a white Ukrainian boy peering through the eyepiece in the door at a darker-skinned young girl who has her hands up pleading for something. Meanwhile, a large, menacing woman dressed in stereotypical 'Gypsy' clothing (headscarf, hoop earrings and flower-print dress) lurks in the shadows around the corner outside of the vision of the Ukrainian child. The text gives the following advice to children:

Do not open the door to unfamiliar people. Look at the child. What should the boy do? Why do you think so? If you see a woman or a child you do not know, don't panic, call your neighbours, grandparents or your parents at work. Ask them for advice before opening the door. Call the police and speak loudly so that the people outside the door can hear you. If you have no phone, call for help from your neighbours out your window.¹⁰

Print and electronic media contribute to and reinforce anti-Romani racist stereotypes by associating Romani people with crime, drugs and general, unspecified "dangers". Media in Ukraine publish material inciting racial discrimination, causing direct harms to minorities including Roma, and fostering pernicious stereotypes among the population at large. Journalists regularly warn the public of Roma and of the various

⁹ Eighteenth Periodic Report of States Parties Due in 2004: Ukraine, CERD/C/UKR/18, para. 87.

¹⁰ Pavlechko, L. P. ed., *Osnovy Zdorovya* ("Basic Health"), (Donetsk: Novaya Pechati, 2004) p. 81. This text was brought to the attention of ERRC by Aleksandr Mischiariakov, President of Amaro Deves. The UN CERD recently expressed concern about publications of this sort containing "historically inaccurate information about minorities." In August 2006 in its 69th Session, the CERD recommended to the Ukrainian government that "further promote the publication of textbooks for schoolchildren in minority languages, including the languages of Roma and Crimean Tatars, and to ensure that all ethnically discriminatory content is eliminated from existing textbooks." See UN CERD, *Draft Concluding Observations of the Committee on the Elimination of Racial Discrimination -- UKRAINE*, CERD/C/UKR/CO/18, August 2006, para 16.

dangers that they are associated with, often advising their readers to avoid, be wary of, or avoid outright any contact with Roma. Some recent examples follow.

On 13 April 2006, the newspaper “Dosie 02”, printed an article by Ekaterina Shebalina that called on readers to view all Roma with suspicion as potential criminals and to inform police whenever they see one on the street. The article was entitled, “After Presenting Themselves as Employees of a Pension Fund, the Criminals Took Away Three Thousand Hryvnas from the Elderly”. “Dosie 02” is published by the directorate of Ukrainian Ministry of Internal Affairs in Poltava region. This article quotes police officer Vyacheslav Perepelitza, of the Criminal Investigation Division of the Reshitilovsky district police department, as saying that it is possible that the criminals may have been Romani. He is further quoted as stating:

The police officer in charge of the investigation also admitted that such cases are not a rare occurrence. Gypsies often visit houses under different pretences: to buy nuts, to drink water, swaddle the baby, fortune-telling, selling, money changing, etc. Most often, they obtain the money by fortune-telling [...] and there was one occasion last year, where the circumstances warranted an opening of criminal investigation. In that particular case, Gypsies robbed the family out of 6 thousands hryvnas and 700 dollars. They entered the house allegedly to swaddle their baby. While one old Gypsy woman fussed about the child, another one entered the house and took away all the money...

Gypsies look out for their victims by speaking to the neighbors of a prospective victim. As soon as they find pensioners living alone, they immediately do their “black” deal. Therefore, we are warning the population of a region: when Gypsies appear in a village, you should necessarily call the district department of police. In response to your appeal the investigative group or local policemen will get there immediately. They will take specified persons to custody, bring them to the district department, take their photos and finger-prints, will write their passport data and will place this information into records.

On March 24, 2006 *Selskiy Chas*, a Kiev-based newspaper established by the Ministry of Agriculture, ran an article entitled, “Beware of Drug Trafficking” (“*Ostorozhno narkomania*”) that explicitly drew links between the Romani ethnicity and drug dealing. The article, entitled “The Gypsy Factor,” was based on a statistical analysis provided to the journalist by the Counter-Narcotics Unit of the Ministry of Internal Affairs. The article states:

A colourful chapter in illegal drug trafficking is gypsy drug-crimes. The proof of this lies in the control, supervision and operative measures taken by the law enforcement authorities for the identification and neutralization of drug dealers of Roma nationality. According to the Counter-Narcotics Unit, gypsies usually involve drug users in their criminal activities and pay them with drugs. Usually, these people who work with Roma have no social networks and are dependant on these drug dealers. This is why they are often also exploited as domestic labourers

in addition to dealing drugs. When these people are arrested, they usually take responsibility and admit their guilt and do not betray their bosses. It is common that Romani women are the ones who sell the drugs. When they are arrested they are often given a suspended sentence because Article 79 of the Criminal Code states that pregnant women or women who have children under 7 years of age cannot be punished with more than a suspended sentence... It almost looks as if this article [of the Criminal Code] was created especially for Romani women because that gives them the freedom to deal drugs without fear of being sentenced. You hardly find any Romani women without children or who are not pregnant... Usually the judges do not sentence these women with prison terms.

On April 27, 2005, “Your Chance”, a newspaper from the northern city of Sumy, Sumy oblast, published an article by Maxim Novikov entitled “Magyars in Sumy” that focused on a group of Roma who had arrived and settled in tents just outside the Sumy town limits. In his analysis, Novikov writes that “everybody knows what the Roma do,” apparently suggesting that Roma are involved solely in criminal activity and never or rarely undertake gainful activity. According to Novikov, such camps appear next to Sumy every year and that the main occupation of their inhabitants is fortune-telling, begging and fraud or trickery and that these Roma–nomads increase the level of crime within the city. He warns his readers to be cautious, sarcastically stating that “wherever these [people] move, we want to warn you: rest assured, they are looking for ‘work’.”

On October 6, 2004 “Levoberezhnaya” a local newspaper in the town of Zolotonosha, Cherkassy oblast, published an article entitled, “Militia warns: attention – burglary”. The article advised people not to engage in conversations with any Roma whom they did not know personally. Earlier that year, on June 16, 2004, the same newspaper published an article titled, “Roma Invasions with Mournful Stories”, that advised the majority population not to let Roma into their homes, give them water, or show them the way if ask for directions. This was followed a week later on June 22 with an article warned readers about Roma who “produce false vodka. The newspaper is not known to have published such advice about any other ethnic groups.¹¹

The ERRC is unaware of any instances in which any persons have been held formally or even informally accountable for published statements of this kind. The ERRC is similarly unaware of any occasion upon which a government official condemned such statements as degrading of persons or of the commonweal.

¹¹ Information provided by Ame Roma, a Zolotonosha-based Roma NGO.

2. Human Rights and Roma in Ukraine

Ukraine is party to most if not all major international human rights treaties.¹² Article 9(1) of the Constitution of Ukraine declares that all international treaties are in force and binding. Similarly, the 1991 Act on the Prosecutor declares that the task of the Prosecutor's offices in Ukraine is to protect citizens' rights and freedoms as guaranteed by Ukrainian laws and international treaties.¹³ The 2004 International Treaties Act declares that rules established by international treaties will prevail in the event of any conflict with domestic law.¹⁴ However it is reportedly extremely rare that the obligations included in such treaties are ever invoked or otherwise involved in legal procedures.¹⁵

Ukraine's human rights record has been a source of great domestic and international concern. In 2000, Nina Karpachova, the newly instated Ukrainian Parliament Commissioner for Human Rights (Ombudsman) in her first bi-annual report stated:

Despite democratic legislation in the sphere of human rights available in Ukraine, under the conditions of social and economic crisis, decline of a general level of culture and moral in Ukraine, effective mechanisms to protect human rights are non-existent, which leads to massive and regular violations of human rights and freedoms, and sometimes makes their realization impossible. The situation is worsened due to poverty, which is a violation of human rights as well.¹⁶

¹² Ukraine has signed but not yet ratified the Revised European Social Charter.

¹³ Article 4, Act on the Prosecutor, November 5, 1991 #1789-XII.

¹⁴ This is specifically laid out in Article 19(2), Ukrainian International Treaties Act of June 29, 2004, #1906-IV.

¹⁵ According to a 2004-2005 study that interviewed 653 judges (a sample of 10% of all judges in Ukraine), researchers found that although 70% of the judges believed that international human rights standards were a part of Ukrainian legislation, and 60% felt that they were part of court practices, very few were familiar with the texts themselves and even fewer actually applied them in practice. For example, only 55.6% of the judges were aware of the existence of the International Covenant on Civil and Political Rights, 16.6% were familiar with its main provisions, but only 2.2% claimed to apply it in practice in the courtroom. The figures were even smaller with the International Covenant on Economic, Social and Cultural Rights (41.2% aware of its existence, but only 5.5% familiar with it, and only 1.1% actually making use of it). While 46% of the judges were aware of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), but only 7.8% said that they were at all familiar with its provisions. This survey was conducted during a series of workshops conducted by the International Legal Council *Legiteam* and the Kharkiv Center for Women's Studies in 2004-2005. See International Legal Council Legiteam, "Alternative Report on Implementation of International Covenant on Civil and Political Rights in Ukraine," 2006, pp. 8-9. See <http://www.ohchr.org/english/bodies/hrc/docs/ngos/alternativereport.pdf>

¹⁶ Nina Karpachova, *State Observance and Protection of Human Rights in Ukraine – First Annual Report of the State Commissioner for Human Rights*, (Kyiv, 2000), http://www.ombudsman.kiev.ua/de1_zm.htm

Although there are some indications that the overall human rights situation in Ukraine may have improved or be on the verge of improving since the political changes of 2004-2005, the same cannot be said for the human rights situation of Roma in Ukraine. The US State Department has noted, among other things, an increase in the accountability of police officers and gradual efforts to improve prison conditions, as well as improved media freedoms, increased protection of the right to free assembly, less state control over religious institutions and a decrease in government harassment of human rights groups.¹⁷ True as these may be, there is little evidence that any of these improvements have had much impact yet on reducing discrimination and social stigmatisation of vulnerable ethnic or national groups such as Roma. Current legal protections against racial discrimination are ineffective and few and it has proved difficult to mobilise political engagement and resources needed to bring about progressive changes to Ukrainian legislation and policy.

In recent years, however, some Government officials have taken a greater interest in the issue. In September 2003, the Cabinet approved a three-year national project entitled the “Program for the Social and Cultural Renewal of the Roma Population of Ukraine”, which was focused largely on preserving the ethnic identity of Roma and facilitating their integration into Ukrainian society. Furthermore, the Parliament’s Committee on Human Rights, National Minorities and Interethnic Relations, chaired by Mr. Hennadiy Udovenko, a former foreign minister, held its first official hearing on the situation of the Roma in Ukraine on April 12, 2005. At the local level, however, the situation has shown little, if any, recent improvement. In the words of one Romani activist interviewed by the ERRC, “We live in the 21st Century: Women are abused in the street... infant mortality is high... illiteracy is high... Roma are abused, tortured and humiliated by state and non-state actors and forced to take the blame for crimes they don’t commit... the situation is bad in Ukraine.”¹⁸

3. Failure to Give Effect to the International Law Ban on Racial Discrimination

Current Ukrainian laws are not sufficient to adequately protect against or punish acts of racial discrimination. This vacuum of law has been repeatedly noted by international observers. These have voiced concerns with over the lack of any comprehensive anti-discrimination legislation, procedural problems, and a lack of access by victims to redress and remedies. The ERRC first noted these concerns in its 1997 Country Report on Ukraine.¹⁹ In 1999, the US State Department observed that the judiciary and the Government were unable to properly enforce the equality provisions in

¹⁷ United States Department of State, Bureau of Democracy, Human Rights and Labour, *Country Report on Human Rights Practices 2005 - Ukraine*, <http://www.state.gov/g/drl/rls/hrrpt/2005/61682.htm>

¹⁸ Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.

¹⁹ ERRC, *The Misery of Law: The Rights of Roma in the Transcarpatian Region of Ukraine*, Country Reports Series, No. 4, April 1997, pp. 73-78.

the Constitution.²⁰ In 2001, the United Nations Committee on the Elimination of Racial Discrimination (CERD) examined Ukraine's legislative framework and made the following recommendation to the government after finding the existing legal protections and remedies against racial discrimination to be inadequate:

The Committee is concerned that national legislation does not contain sufficient provisions prohibiting discrimination on the grounds of race or ethnic or national origin in conformity with the requirements of the Convention. The Committee recommends that the State party take all appropriate legislative measures to ensure that the provisions of the Convention are fully reflected in domestic law. The Committee emphasizes the importance of adequately prohibiting and penalizing acts of racial segregation and discrimination whether they are committed by individuals or associations.²¹

In subsequent review of Ukraine's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in August 2006, commenting on a now-defunct bill at that time before Ukrainian Parliament, the CERD told the Ukrainian government:

The Committee notes with concern that the draft Anti-Discrimination Bill covers direct but not indirect discrimination. It recalls that the definition of discrimination in article 1 of the Convention covers any unjustified distinction which has either the purpose or the effect of impairing particular rights and freedoms. (Art. 1 (1))... The Committee recommends that the State party proceed with the adoption of a comprehensive Anti-Discrimination Bill which also covers indirect discrimination, in accordance with article 1 of the Convention.²²

Although the Constitution and the Criminal Code include certain provisions that condemn the infringement of principles of equality, there is no effective, comprehensive anti-discrimination legislation to make the ban on discrimination effective, and there are particular lacunae as concerns the ban on racial discrimination.²³ The absence of provisions in civil or administrative law, or in related regulations, to expressly prohibit non-criminal acts of racial or ethnic discrimination effectively enables and promotes harms of this kind. In practice there are few or no procedural mechanisms in place for a victim of racial discrimination to lodge an effective complaint, nor are there many legal

²⁰ United States Department of State, Bureau of Democracy, Human Rights and Labour, *Country Report on Human Rights Practices 1999: Ukraine*, <http://www.state.gov/g/drl/rls/hrrpt/1999/367.htm>.

²¹ Office of the High Commissioner for Human Rights, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Ukraine*, 16/08/2001, A/56/18, § 369.

²² "Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine", CERD/C/UKR/CO/18 August 2006, para. 7.

²³ The Ukrainian legislature has adopted a framework law banning discrimination on grounds of sex ("Equal Opportunity Law"), adopted by the Supreme Council on 8 September 2005.

opportunities for them to seek redress for grievances related to racial discrimination, including the extreme harm of racial discrimination.

Legal protections against racial/ethnic discrimination in Ukrainian law for the most part are confined to the Constitution and the Criminal Code. Certain provisions are included in other areas of law, such as the Labour Code. These are entirely inadequate as a transposition of the international law *acquis* in this area, and in a number if not all areas, individuals do not enjoy domestic law protections consistent with the commitments undertaken by the Ukrainian state.

Article 24 of the Ukrainian Constitution states that citizens have equal constitutional rights and freedoms and are equal before the law. Claims of superiority or the imposition of restrictions based on race, ethnicity, skin colour, political, religious and other beliefs, gender, social status, wealth, place of residence, language, or other characteristics are unlawful. There is little substantial jurisprudence on discrimination to guide lawmakers and/or legal practitioners. The closest that the courts have come to a definition of ‘discrimination’ came with a Constitutional Court ruling on July 7, 2004 where ‘discrimination’ was interpreted as the establishment of certain unjustified, ungrounded and unfair differences in legal status contrary to the provisions of the Constitution.²⁴ The protections and rights in the Constitution are primarily declaratory, and would need a) to be supplemented by statutory legislation to clearly define discrimination in accordance with international and European standards;²⁵ b) to set out what unlawful activities fall within its scope; c) to specify what redress and remedy are

²⁴ #14-ПІ/2004. See Legiteam, p. 24.

²⁵ The European Union has adopted a number of legal measures which have significantly expanded the scope of anti-discrimination law in Europe, notably the following Directives: Directive 2000/43/EC “Implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” (hereafter “Race Equality Directive”); Directive 2000/78/EC “Establishing a general framework for equal treatment in employment and occupation; and Directive 2002/73/EC “On the implementation of the principle of equal treatment for men and women as regards access to employment vocational training and promotion, and working conditions”, as well as a range of other gender discrimination-related law. The Race Equality Directive bans and defines precisely no fewer than five distinct types of act: (i) direct discrimination; (ii) indirect discrimination; (iii) harassment (on racial grounds); (iv) victimization (following a complaint of racial discrimination); and (v) instructions to discriminate.

Ukraine is not a European Union Member State and is therefore not bound by European Union law. However the Union has made full transposition of the EU *acquis communautaire* a requirement of candidate countries for European Union membership. Ukraine is not yet an EU candidate countries, but its leadership has on a number of occasions evinced a desire that it become one, and that it harmonise its laws and policies with those of Europe. To note only one example, On February 23, 2005, in a speech before the European Parliament, President Yushchenko declared that, “My country today has embarked upon a path of new reforms... For us in Ukraine, our objective... is that [Ukraine] be shaped by the new standards and new values adopted in accordance with European standards and values. European integration is the only true path open to Ukraine... We have chosen our strategic and political path in that direction.” (President Viktor Yushchenko, February 23, 2005, Strasbourg, France: <http://www.europarl.europa.eu/omk/sipade3?L=EN&PUBREF=//EP//TEXT+CRE+20050223+ITEM008+DOC+XML+V0//EN&LEVEL=3&NAV=X>).

available for victims of it; d) to identify responsible instances to which one might present a complaint of discrimination; and e) to detail procedural matters.

At present, the primary locus of the ban on racial/ethnic discrimination as it exists in the Ukrainian law, above and beyond the declaratory provisions of the Constitution, is the Ukrainian Criminal Code. Article 161 of the Criminal Code sets out that it is an offence to violate the principle of equality on the basis of race, nationality or religious beliefs.²⁶ Article 67 identifies racial, national or religious enmity and hostility as specific aggravating circumstances. These provisions, however, are not effective as protective measures because (i) they set a number of thresholds too high to ensure that victims of discrimination can secure due remedy; (ii) in practice few, if any, victims of discrimination have ever managed to rely on these criminal law provisions to secure justice when they have been harmed by discrimination; (iii) as well as for other reasons.

Concerning incitement to racial discrimination, the UN CERD, commenting in August 2006 on Ukraine's compliance with the ICERD, noted:

While noting that incitement to racial discrimination is punishable under Articles 66, 67 and 161 of the Criminal Code, as well as under Articles 46 and 47 of the Law on Information and Article 3 of the Print Media (Press) Act, the Committee is concerned about the absence of any prosecutions under Article 161 of the Criminal Code which only applies to cases where intent can be proven and only if the victim of such discrimination is a citizen. (Arts. 4 (a) and 6)... The Committee urges the State party to consider a relaxation of the strict requirement of willful conduct set out in Article 161 of the Criminal Code in order to facilitate successful prosecutions under that Article. The Committee also requests the State party to consider extending the application of Article 161 of the Criminal Code to cases where the victim of discrimination is not a citizen. It urges the State party to ensure the effective implementation of all legal provisions aimed at eliminating racial discrimination, and to provide in its next report updated information concerning the application by the Ukrainian courts of criminal law provisions punishing acts of racial discrimination, in particular Articles 66 and 161 of the Criminal Code. Such information should include the number and nature of cases brought, convictions obtained and sentences imposed, and any compensation or other remedies provided to victims of such acts.²⁷

Other deficiencies in the current Ukrainian criminal law ban on discrimination, some of which indeed extend to any criminal law ban on discrimination, due to the nature of criminal law, have recently been described as follows:

²⁶ The Criminal Code of Ukraine, Article 161. This Article punishes: wilful actions inciting national, racial or religious enmity and hatred; humiliation of national honour and dignity, or the insult of citizens' feelings in respect of their religious convictions; and any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based, inter alia, on "race", colour of skin, political, religious and other convictions, ethnic and social origin, linguistic or other characteristics.

²⁷ "Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine", CERD/C/UKR/CO/18 August 2006, para. 9.

The Criminal Code establishes responsibility for violating the principle of equality on the basis of race, nationality or religious beliefs (Art. 161). However, this article is barely effective for three reasons:

- **Intent has to be proved.** The liability written into Art. 161 of the Criminal Code can be applied only if there is intent in actions that violate the principle of equality. Yet the particular nature of such offences makes it nearly impossible to prove intent.
- **Responsibility can be determined only for unlawful actions against Ukrainian nationals.** Similar actions against individuals who are not Ukrainian nationals or who cannot confirm their citizenship are not seen as an offence.
- **Only a narrow base of offences related to discrimination is covered by this Article.** Many offences against members of minorities that should be treated as crimes according to international conventions are not included in Ukraine's Criminal Code".²⁸

Certain other provisions of law against discrimination exist in related areas, such as the declaratory provisions in the Labour Code.²⁹ Procedural elements for rendering actionable this guarantee, however, are missing. Also, the Labour Code does not address any matters outside the field of work and several related issues, and thus would not secure most of the areas in required for securing the ban on racial/ethnic discrimination in full. Finally, the Labour Code protections are evidently ineffective, due to the fact of massive systemic exclusion of Roma from work.

Victims of discrimination may address complaints to the Ukrainian Commissioner for Human Rights, who in turn can then present them to the Constitutional Court or other authorities. The effectiveness of this as a remedy is seriously in doubt, however. With virtually no means of making binding recommendations, no enforcement powers of its own, and operating with a very limited budget, this office has little capacity to do more than act as a reporting body.

The absence of comprehensive anti-discrimination legislation to supplement the existing inadequate criminal law ban with civil and administrative bans, procedures and remedies is the key feature of the current inadequate transposition of the principles of

²⁸ Bill "On protection against racial, national and ethnic discrimination", Kyiv: International Center for Policy Studies, submitted to Ukrainian Parliament in 2005, p.33. The bill was not adopted prior to general elections in 2006 and would need to be resubmitted in order to be considered by the new Parliament, but was in any case too fundamentally flawed to be recommended as a basis for any future anti-discrimination law.

²⁹ The Labour Code of Ukraine, Article 2-1 states that "Ukraine shall secure the equality of the labour rights of all citizens, regardless of their descent, social and material status, race, ethnicity, sex, tongue, political views, faith, character or nature of occupation, place of residence or other circumstances."

international bans on racial discrimination into domestic law in Ukraine. There are no comprehensive civil and administrative anti-discrimination provisions covering racial discrimination in areas such as education, housing, access to public and social services and contractual relations between individuals and/or other entities, nor are there any effective mechanisms of enforcement and redress. Currently, there is a marked absence of any legislative means by which public or private offending parties might be held accountable for acts of racial discrimination that fall outside the ambit of the Criminal Code, including a broad range of areas banned under international treaties. Furthermore, Ukrainian legislation does not clearly account for the fact that entities other than individuals, such as businesses, institutions, and, most importantly, the public sector, are also capable of committing acts of racial discrimination. It is unclear what penalties might be applied to such offenders. Administrative and criminal responsibility under Ukrainian laws in general look for fault in private individuals and therefore cannot effectively be applied to legal entities as a whole.

Beyond these gaps and weaknesses in law, victims of racial discrimination in Ukraine must overcome numerous other obstacles to protect their violated rights in court. Government-sponsored legal aid is generally not available to victims of discrimination. There is no body within the Ukrainian government whose mandate it is to provide assistance and support to victims from minority groups while their cases are under review by the courts. There is no guaranteed access to low-cost or free legal aid for impoverished representatives of minorities or other destitute individuals or groups,³⁰ thus making legal remedies financially inaccessible for many Roma. Court costs, lawyer fees and taxes make the pursuit of justice a highly luxurious endeavour for most. Furthermore, the complicated, unduly long and in many cases hostile nature of legal proceedings can also conspire to thwart justice in such cases. All of these provide strong disincentives for Roma to pursue legal redress for racial discrimination harms.

The Ukrainian government should be urged, as a matter of the highest priority, to ensure that Parliament swiftly adopts a comprehensive anti-discrimination law in conformity with international law and related standards.

4. Human Rights Concerns with Respect to the Treatment of Roma in the Criminal Justice System

Abuses of power by law enforcement officials have been extensively documented and have comprised one of the leading human rights concerns in Ukraine since its independence in 1991.³¹ Urging the Ukrainian government to take a more “structural approach” to this problem, Human Rights Watch reported in 2005 that “torture and ill-treatment continues to be a significant problem in police detention and... has resulted in

³⁰ Indeed, the only individuals who can count on free legal aid are those who are involved in criminal proceedings and who do not speak the language of the courts.

³¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Ukrainian Government on the visit to Ukraine, CPT/Inf (2004) 34, p. 13.

permanent physical damage to many victims, and in the most severe cases, resulted in death. In the vast majority of cases, the perpetrators of torture are not investigated nor prosecuted for their crimes.”³² Roma and other ethnic minorities are particularly vulnerable because policing strategies and practices are often based on stereotypes that associate them with criminality.³³

Bias on the part of police and prosecutorial authorities denies Roma access to equality and justice before the law in several ways. At one extreme, Romani communities are significantly more policed than others. Disproportionately greater adverse contact with the police on a regular basis greatly increases Romani vulnerability to extra-judicial punishment (often physical) with no little or proof of wrongdoing. Roma are often sentenced for crimes solely on the basis of confessions extracted by force, via cruel and degrading treatment by public officials. At the other extreme, there is abundant persuasive evidence that in cases where Roma are the victims of violence or other crimes, they are not provided equal consideration when it comes to police decisions to investigate. Ways are often found to prevent police resources from being allocated to such cases, either by closing cases prematurely or by ignoring complaints outright.

One indicator of the extent of this problem can be seen in the unwillingness of police officials to act on complaints concerning race-based and/or other abuses, including violent abuses. Another is the high rate of withdrawals of such complaints. In the course of a three-year project currently ongoing by the ERRC and partners in Ukraine, with European Commission and Swedish government support, most persons reporting abuses have not been willing to bring complaints to the police. Of the approximately 50 persons who have undertaken police complaints with the assistance of the ERRC and partners, over half have subsequently withdrawn them.

³² Human Rights Watch, 2005 *World Report*, p. 442. <http://hrw.org/english/docs/2005/01/13/ukrain9884.htm>.

³³ The UN CERD recently expressed its concern about allegations of police abuse of Roma, including arbitrary arrests and searches and pre-trial abuse based on racially motivated presumptions of guilt, and of persons belonging to other minorities, asylum seekers and non-citizens of different ethnic origin.” It recommended that the Ukrainian government “The Committee urges the State party to further intensify its human rights training for the police and to facilitate the reporting of cases of police abuse of Roma and other persons of different ethnic origin, effectively investigate complaints and bring those found guilty of such acts to justice, provide adequate protection and compensation to victims, and include in its next report detailed information on the number and nature of cases brought, convictions obtained and sentences imposed, and the protection and remedies provided to victims of such acts. In this regard, it refers the State party to General Recommendations No. 27 on discrimination against Roma (CERD General Recommendation No.27: *Discrimination against Roma* (2000), at paras. 12-14) and No. 30 on discrimination against non-citizens (CERD General Recommendation No.30:*Discrimination against Non-Citizens* (2004), at paras. 18-24). See UN CERD, *Draft Concluding Observations of the Committee on the Elimination of Racial Discrimination -- UKRAINE*, CERD/C/UKR/CO/18, August 2006, para 12.

4.1 Compilation of Race-Based Identity Databases

Police investigatory practices blatantly target Roma, and subject entire communities to rigorous intrusive supervision, apparently entirely or primarily on the basis of racial profiling. The ERRC knows of no other country in the region where police have made as concerted an effort as those in Ukraine to compile detailed identity databases including fingerprinting and photographic records of as many people as possible from one particular ethnic group. Such forced documentation of members of an ethnic community where there is no reasonable suspicion of criminal activity attributable to the individual concerned on the basis of compelling evidence is a flagrant and wanton violation of international norms.³⁴

Mandatory fingerprinting of Roma is a police practice that is common throughout Ukraine. The ERRC is not aware of any other ethnic or social group targeted in such a comprehensive manner. According to Romani Yag, on January 20, 2005, at approximately 6:00 AM, police officers, accompanied by members of the “Berkut” special police force wearing masks and carrying rubber and wooden truncheons, broke into the homes of nearly every Romani family in the Radvanka and Telman Street Romani neighbourhoods in Uzhgorod, Zakarpatia oblast, to round up the men and take their fingerprints. Police officers reportedly forcefully broke into the homes and upon entering ordered all teenage boys and adult men, including the elderly and ill to dress themselves and get on a waiting bus. When challenged by one of the Romani men who asked for an explanation, one of the police officers replied, “If you fail to get dressed before I count to three, you will get what you deserve for not complying.” The officer then beat the man when he did not move quickly enough. When another man demanded to know the reason for the raid, one of the officers said that, “This raid is for ‘processing’ Gypsies”. Approximately forty Romani men were taken to the Uzhgorod City Police Station and were beaten by officers with truncheons as they entered the building. Once inside, the Romani men were finger- and hand-printed with some officers reportedly even examining their mouths and teeth. On January 20, Romani Yag visited the chief of the Uzhgorod City Police Station and wrote a letter expressing its concern to the head of Zakarpatia regional police. On February 17, 2005, Romani Yag received a letter from the head of the regional police, notifying Romani Yag that an internal investigation found all actions of the police in the raid on January 20 to have been lawful.³⁵

This event is not isolated or unique to Uzhgorod. Police in other Ukrainian localities and regions use similar practices. Between March and April 2005, Romani people, regardless of age and gender, were detained on a mass scale throughout

³⁴ Including but not necessarily limited to ICERD Article 5 (a,b); International Covenant on Civil and Political Rights (ICCPR), Article 9(1); European Convention on Human Rights and Fundamental Freedoms (ECHR), Article 5(1)(c).

³⁵ Case information provided by Romani Yag. For more details on this case, please see <http://www.errc.org/cikk.php?cikk=2203&archiv=1>.

Chernihiv oblast and forcibly taken to police stations and fingerprinted. In April 2006, in one town in Sumy oblast, the police conducted warrant-less mass searches of almost every home of the local Romani community. Many Roma were arrested without reason or explanation. The police took fingerprints, photo and video records of all of those arrested. All of the homes targeted and all of the people arrested were Roma.³⁶ In 2004, in response to a crime involving an elderly Roma person, marketplaces in Novomoskovsk were scoured by police and all elderly Roma people, present were detained and sent to the nearby stations.³⁷ There, they were fingerprinted and photographed and held for many hours until a witness to the crime arrived and said that none of them was the one responsible. The police never gave any explanation as to what the crime in question was, why fingerprints and photo records had to be compiled for each before they were cleared of suspicion by the eye-witness, nor why every single Roma man and woman of a particular age, regardless of profession be they merchants, buyers and even the homeless had become targets of suspicion for the police operation.

International observers have noted this practice repeatedly. ERRRC first described it in its 1997 *Country Report on Ukraine*, interviewing police officers in Uzhgorod who confirmed the practice, defending it as a “prophylactic” measure to combat crime. Roma were targeted as potential criminals, one police officer argued, therefore the measures were a response to a social problem, not a racial one.³⁸ It appears that such thinking continues to guide police tactics almost a decade later. Other international bodies have reported on the issue. In 1999 and 2002, for instance, the European Commission Against Racism and Intolerance expressed concern with Ukrainian police’s race-based policing tactics.³⁹ Mass round-ups for documentation purposes together with the mass searches of Romani communities described below not only violate international norms against explicit racist policing, but even the most basic rights to respect for one’s private life.⁴⁰

4.2 Mass Searches

The widely held stereotype in Ukraine that Roma are associated with drug trafficking has often been the cause for arbitrary mass searches of Romani neighbourhoods by police authorities. Romani communities are regularly subjected to mass searches, carried out absent proper warrants and in otherwise procedurally suspect circumstances, when police, acting on scant information, have no suspects or leads that

³⁶ Information provided ERRRC partner Union of Roma Culture, based in Sumy.

³⁷ ERRRC interview with Ms. Lyubova Fedorovna Babenko on July 28, 2006, Novomoskovsk, Dnipropetrovsk oblast.

³⁸ European Roma Right Centre, *The Misery of Law: The Rights of Roma in the Transcarpathian Region of Ukraine*, Country Report Series No. 4, April 1997, pp. 26-28.

³⁹ ECRI, *Report on Ukraine*, CRI (99) 10, 13 March, 1999, p. 15; Second Report on Ukraine, CRI (2002) 23, 23 July, 2002, § 58.

⁴⁰ ICCPR, Article 17(1,2); ECHR, Article 8.

would otherwise make such mass seizures unnecessary. The Ukrainian Constitution does not effectively protect citizens from such searches. Article 30 declares that unwarranted intrusions into homes or the confiscation of property without the substantiated court orders are unlawful, but that this protection may be overridden by authorities in “urgent cases related to the preservation of human life and property or to the direct pursuit of persons suspected of committing a crime.” Police are thus relatively free to conduct racially motivated or race-influenced mass searches under a veneer of legality, and on many documented occasions police authorities have in fact violently raided Romani homes and communities on these pretexts. For example, on March 8, 2004, Ukrainian officials undertook a violent raid in a Romani community in Chernihiv oblast, ostensibly to uncover narcotic substances. There was no indication that the police were looking for specific individuals in connection with the suspected drugs, but they rather targeted the entire community as suspect.⁴¹ Often, police conduct searches with no explanation, such as on October 19, 2005, when a group of policemen forced their way into the home of Vasilij Lakatosh. Without identifying themselves and with no warrants or explanation, the police gathered the family together, sent them outside onto the street while they searched the house, verbally abusing and threatening them at the same time. Finding nothing, they left shortly thereafter.⁴²

Police have also evidently used such searches as a mode of intimidating human rights defenders. For example, on June 19, 2006, the ERRC sent a letter to the Ukrainian Prime Minister, urging action after police arbitrarily searched in detail around 9AM on June 13 the house of Mr. Volodimir Bambula of the Zolotonosha-based NGO Ame Roma, one of the partner organisations in the ongoing project involving the ERRC and Ukrainian partners noted above. Eight officers reportedly took part in the search, while a further unknown number remained outside in the street. Police evidently objected to Mr. Bambula’s human rights activities. The pretext for the search was a killing in the town, for which there is reportedly no evidence indicating Mr. Bambula’s involvement.

4.3 Physical Abuse / Torture

In 2000, Ukraine’s first parliament-appointed Commissioner for Human Rights published her first report and was blunt in her assessment of the Ukraine’s human rights record regarding torture and prisoner abuse. Stating that the majority of appeals to her office by citizens concerned offences committed by state authorities, she added that,

⁴¹ Case information provided by Mr. Aleksandr Movchan, legal counsel for Romani Yag.

⁴² Case information provided by the family’s lawyer, Mr. Aleksandr Movchan. On behalf of his client, Mr. Movchan submitted a complaint to the regional office of the Ministry of Interior Affairs. In their written response to the complaint, the police refused to initiate any investigation against the perpetrators and provided supporting statistics about crimes committed by Roma, stating that almost every second Roma is a potential criminal. With the assistance of the ERRC, Mr. Movchan has submitted an official complaint to the Ministry of Internal Affairs, pending which he will supervise the criminal investigation.

The analysis of the appeals to the Commissioner for Human Rights proves that the largest number of violation of rights through torture occurs during the detention of people and investigation. Citizens, NGOs and the mass media communicate such facts to the Commissioner almost every day... Although there are constitutional rules on the inviolability of the person and respective provisions are contained in the Criminal Code and the Code of Criminal Procedure, the mechanism of their exercise is ineffective... A joint study by the Commissioner and public prosecution bodies on compliance with citizens' constitutional rights and freedoms by employees of the Ministry of Internal Affairs showed that in the overwhelming majority of oblasts physical violence and degrading treatment of citizens are practiced by the militia on point duty, by precinct inspectors, highway patrol militia and employees of criminal investigation departments.⁴³

In 2005, five years into her mandate, the Commissioner reported that torture and ill-treatment in police detention continued to be widespread. Her office received 1,518 complaints about torture and ill-treatment at the hands of the police in 2003 alone while the Ministry of Internal Affairs reportedly received 32,296 complaints about police mistreatment in 2002 and 2003.⁴⁴

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Ukraine in 1998, 2000 and 2002 and found that little had changed over the years. In its 2002 report it observed that,

In light of the information at its disposal, the CPT can only reach the same conclusion as it had in 1998 and 2000, namely that persons deprived of their liberty by the Militia run a significant risk of being physically ill-treated at the time of their apprehension and/or while in the custody of the Militia (particularly when being questioned), and that on occasion resort may be had to severe ill-treatment/torture.⁴⁵

Since the elections and change in Presidential administration in 2004-05, the government appears to be willing to acknowledge that this problem exists and to pay more attention to it than its predecessor. It is too early to know how much of a positive impact high-level intentions will have for Roma people in the future. What is clear, though, is that Roma continue to be subjected to these abuses. Generalised intense anti-Romani sentiment prevailing also in the police services, as well as the absence of effective institutional protections, has exacerbated this problem by giving police a carte blanche to undertake violent physical abuse. A non-exhaustive list of recently-documented cases of extreme abuse of Roma by police officials follows:

⁴³ Nina Karpachova, *State Observance and Protection of Human Rights in Ukraine – First Annual Report of the State Commissioner for Human Rights*, (Kyiv, 2000), http://www.ombudsman.kiev.ua/de1_zm.htm

⁴⁴ Amnesty International, *Ukraine: Time for Action: Torture and Ill-Treatment in Police Detention*, EUR 50/004/2005, <http://web.amnesty.org/library/index/engEUR500042005>

⁴⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), p. 18, § 20. The CPT has yet to release its report on its 2005 visit.

On April 30, 2006, the body of a teenage girl was found in a house near a construction site in Dniprodzherzhinsk, Ukraine. She had been raped and had suffered massive, fatal head injuries sometime in the evening the night before. 18-year old S.M.,⁴⁶ a young Romani man, was arrested later the same afternoon by local police. Within days, the police declared that S. M. had openly confessed to both the rape and the murder and had signed a document to that effect. S.M. was then charged with the crimes and sent to a preliminary detention center.

“Vatra” a Romani organization based in Novomoskovsk learned of the case and hired a lawyer, Mr. Vassily Pozdniakov to look into it approximately a month after the murder. After meeting with S. M., Mr. Pozdniakov informed “Vatra” that he was certain that S.M. was innocent and that his basic human rights had been seriously violated during his time in police custody. S.M. told Mr. Pozdniakov that he had known the victim personally and had introduced her to the person who later that evening raped and murdered her, and older man with a previous criminal record. Shortly after meeting the girl, the other man told S.M. to leave so that he could speak to the girl alone. A few minutes after leaving, S.M. heard the girl scream and rushed back to see the man raping her. He tried to intervene, but was then beaten by the older man with a brick, who then threatened to “kill his entire family” if he ever told anybody anything about the episode. The man then reportedly grabbed the girl and threw her out of the building, where she fell five floors to her death.

S.M., who is illiterate, reportedly told Mr. Pozdniakov that the police arrested him the very next day and beat him severely, suffocated him with plastic bags, stabbed his hands repeatedly with a pen, and forced him to confess to the crimes. He believes that the other man paid the police approximately USD 5,000 to leave him alone, and that police then arrested S.M. as a viable suspect. After being charged, S.M. stated that he was beaten further by his cell-mates in the preliminary detention center. When Mr. Pozdniakov first met S.M., he learned that since the time of his arrest, he had suffered a broken jaw, a broken hip, damaged eardrums, cracked ribs and approximately 35 wounds on his hands as a result of having been stabbed by a pen. Mr. Pozdniakov immediately arranged to have S.M. transferred to an isolation cell for his own protection, where he has been held ever since.

The district prosecutor, in an interview with the ERRC, stated that he believed S.M. committed both the rape and the murder, that he was lying about the alleged police abuse and the forced confession, and that his injuries were all self-inflicted.⁴⁷ He said that according to S.M.’s cellmates, S.M. had injured himself in hopes of being transferred to a

⁴⁶ In some instances in this submission, the name of victims, witnesses or others has been withheld, either at the request of the person concerned, or because the ERRC has taken an independent decision not to reveal the identity of the person concerned. The ERRC is prepared to release names if the interests of justice so require.

⁴⁷ ERRC interview with district prosecutor for Dniprodzherzhinsk, Dnipropetrovsk Oblast, on July 25, 2006.

hospital from which he might be able to later escape. The prosecutor said that the signed confession is genuine and that it is unbelievable that anybody “under any circumstances” would ever admit to a major crime they had never committed. According to the police, the older man with S.M. the night of the crime was not being sought because he had “disappeared” and that it would be “impossible” to find him.

The ERRC has since learned that the prosecutor’s office has dropped the rape charge after Mr. Pozdniakov successfully challenged the validity of evidence held against S.M. The murder charge is still in effect, however. The ERRC has also learned that the parents of S.M. have recently been given permission to visit their son in prison for the first time since his arrest in April 2006.

Summaries of other recent cases follow:

- In January 2006, P.S., a teenage Romani youth, was detained by two policemen while walking on the street in his town in Odessa oblast. The police identified themselves, took him into custody and escorted him to the local police station. Once there, the police performed an identity check on him, searched him and then asked him to identify others. Shortly after this, police officers drove him 20 km outside of the city and abandoned him on the side of the road, forcing him to walk back to town on his own in minus 20 degree weather. P.S. has decided to not pursue legal action against the authorities.⁴⁸
- In April 2005, Mr. I.P. was taken into custody suspected of having stolen a horse in his village in Poltava oblast. The woman who brought the theft to the attention of the police specifically said that Mr. I.P. could not have been the thief as he had arranged her purchase of the horse in the first place and was well known to her. Nevertheless, the regional court immediately ordered that he be taken into guarded custody. Although the horse was located two days after the arrest in another village, Mr. I.P. was held in custody for 14 days, during which time he was beaten repeatedly and taunted with derogatory remarks and threats such as, “You Gypsies -- I will exterminate all of you!” Mr. I.P. was allowed no contact with his relatives and was not told of the reasons for his detention. Mr. I.P. was eventually released after a sustained effort on the part of his family, neighbours and a Romani human rights NGO. Mr. I.P. chose not to file a complaint for moral and material damages in order to avoid retaliatory attack.⁴⁹
- During one night in April 2003, several uniformed police officers forcibly entered the house of Mr. V.N., a 32-year old Romani man, in

⁴⁸ Case information provided by Aleksandr Movchan, legal counsel for Romani Yag and the ERRC.

⁴⁹ Case information provided by I.P.’s lawyer, Mr. Vadym Akimenko, provided by the ERRC.

Chernigiv oblast. Providing no warrant nor explanation, the police dragged Mr. V.N. out of his home and threw him into a waiting police car. His wife and relatives later learned that he had been sent a police station in another town where he was detained for the next two nights. While in custody he was severely beaten by police officers (whom he later was able to identify by name) who unsuccessfully tried to force him to sign a confession to a crime of which he had no prior knowledge. In addition to the beating, these police officers repeatedly used plastic bags to suffocate Mr. V.N., causing him to faint several times during the ordeal. Mr. V.N. was eventually released, but had to be immediately hospitalized because of the injuries he had sustained while in custody. He remained in the care of the local city hospital for three weeks 3 having suffered closed cranial trauma and a cerebral concussion. Mr. V. N. filed several complaints with the regional prosecutor, who eventually launched a criminal investigation into the matter. On May 5, however, once the case was sent to court, the prosecutor's office of Sumy oblast requested that the case be closed and the case was dismissed.⁵⁰

- In December 2004, Y.Z., a 12-year-old Romani boy, was assaulted and beaten by a police officer in his town in Poltava oblast after the boy after having allegedly pulled a non-Romani girl's hair earlier in the day. At approximately one o'clock in the morning, Police Major Y.P of the municipal police station burst into the house where he was staying, struck him twice in the face before kicking him in the head and body after he had been knocked down. A relative who stepped in to protect the boy was punched twice. The police officer then used a knife to slash the tires of two bicycles found in the yard of the house. Y.Z. sustained a concussion, haematoma of the skull, numerous abrasions and bruises from the attack and was treated at the city Hospital's children's traumatic in-patient department for sixteen days following the attack. A forensic medical examination taken on January 13, 2005 revealed that the boy had received physical injuries that were certain to cause long-term health disorders. Criminal proceedings only commenced in February 2005 after an application was filed with the Prosecutor-General of Ukraine. Attempts to launch criminal proceedings at the local level were made impossible by regional prosecutors' extreme delays and reluctance to investigate. Once the claim was filed with the Prosecutor-General however, criminal proceedings began immediately and the policeman in question was transferred to another district. The case went to trial on October 6, 2005 and the outcome is still pending.⁵¹

⁵⁰ Case information from Mr. V.N.'s lawyer, provided by the ERRC, Ms. Maria Ivanova.

⁵¹ Case information from Mr. Vitalij Pedorych, lawyer for the claimant provided by the ERRC.

Some cases have resulted in the death of victims. According to the testimony of Mr. Jurij Fedorchenko, at approximately 7:30 AM on October 28, 2002, while leaving his house while the rest of the family was sleeping, he was confronted by three men, including Police Major Ivanov of the Kryukov area Police Department. The three men shoved Federchenko inside, sprinkled a flammable liquid throughout the house, and set it on fire. They then fled, barring the door from outside. Shortly afterwards, there was a large explosion, blowing both the door and Fedorchenko outside. The attack was in alleged retaliation for failing to pay a bribe to the police. Five members of the Fedorchenko family were admitted to hospital in Malaya Kahnivka, suffering from extensive burns and smoke inhalation. Zukhra Fedorchenko suffered burns to 65 percent of her body and died two days later. 6-year-old Snezhana Fedorchenko died 40 minutes after arrival and 3-year-old Misha Fedorchenko died the next day. Two other family members - 25-year-old Vladimir Fedorchenko, Zukhra's husband, and their 6-year-old son Jura - were found dead in the house. Zukhra's brother, 15-year-old Takhar, suffered burns to 70 percent of his body, and 50-year-old Jurij Fedorchenko suffered burns to 18 percent of his body, but both survived. In the weeks following the incident, both prosecutorial officials and the media reportedly denied any police involvement in the arson. Local counsel filed several complaints with the prosecution authorities asking them to investigate Major Ivanov's involvement in the arson attack. Despite frequent appeals from the lawyer and Fedorchenko's identification of Ivanov in a line-up, the Ukrainian prosecuting authorities have failed to take any concrete steps to further investigate or charge Major Ivanov. On June 30, 2003, the ERRC filed an application with the European Court of Human Rights in Strasbourg against the Republic of Ukraine and to date is still pending.

4.4 Presumption of Guilt

Often the pre-trial abuse of Romani suspects during detention is based on race-based presumptions of their guilt. Between 2003 and 2006, ERRC and its partners have documented a number of cases of physical abuse of detained Romani suspects where law enforcement officers, without evidence, prematurely decided upon the guilt of the suspect and then searched for evidence to support that conclusion. In the absence of direct or conclusive evidence, police officers have often exerted physical and psychological pressure to force suspects to sign confessions to incriminate themselves. The frequent use of offensive, racist language when dealing with Roma suspects is a further indication that race bias is an active part of the police's investigative procedures. In some localities, standard methods for investigating certain categories of crime, such as petty theft, involve detaining a random assortment of Romani males and holding them, often physically abusing them in the process, until one confesses. Examples of racially discriminatory and/or otherwise abusive detention practices by Ukrainian authorities where Roma are concerned follow:

In August 2005, at about 6 PM, two Romani men, P.A. and his cousin M.N. were detained by police in their hometown in Poltava oblast. P.A. later revealed that he was arrested after his non-Romani girlfriend complained to her friend, a police officer, that he had sold one of her gold rings to settle a debt without her consent. She was encouraged to file a report, which she did, whereupon the same police officer, together with another police officer searched for and eventually arrested P.A. and M.N. According to the parents of P.A. as well as according to the testimony of a few neighbours who observed the arrest, the two Romani men were forcibly pulled out of their car, handcuffed, pushed forcibly into the police car, and taken to the district police station. No explanation or reason for the arrest was given. At the police station, the two men were placed in separate rooms. M.N. was released later that evening while P.A. was taken for interrogation. This consisted of severe beatings with truncheons, suffocation using a gas mask, and demands that he confess to having stolen money and a mobile phone. Passing in and out of consciousness and unable to stand the pain, P.A. eventually agreed to sign the confession. Later that evening, he was taken to another police station in another town, where the police chief and the judge in charge of his case immediately called for an ambulance upon seeing the extent of his injuries. The woman who filed the complaint said that she never accused him of stealing money or a mobile phone, only of selling her ring. Those original charges were dropped the day following P.A.'s arrest, once his parents paid off his debt to the woman in question. Several days following the arrest, one of the two police officers reportedly approached P.A.'s father and threatened to close a local business employing Roma if any local newspaper wrote about the incident. Regional prosecutors proved to be extremely reluctant to investigate and pursue a criminal investigation against the police officers in question. The investigation was opened and closed prematurely twice until December 2005 when the Prosecutor-General of Ukraine ordered that the case be re-opened and investigated for the third time.⁵²

Mr. S.N., a Romani man from the Zakarpattia oblast, solicited the assistance of a Romani NGO after being wrongfully accused of a theft in May 2005. Two non-Romani men approached him and proposed trading his motorcycle for a cheaper motorcycle and some scrap metal. Mr. S.N. agreed, and asked for the whereabouts of this scrap metal. He was informed that the scrap metal was an old industrial engine located in the courtyard of an old farm, and that it had been pre-arranged with the owners of the farm to remove it. The two men subsequently delivered the engine to S.N.'s home. Shortly thereafter, several policemen arrived and conducted a search of S.N.'s property, suspecting him of possessing what he then learned was a stolen engine. Upon finding the engine, the police filed a report, confiscated the engine and immediately commenced criminal proceedings against S.N., despite his pleas of his innocence. The records of his police interrogation erroneously declare that S.N. had an attorney present. The records were apparently signed by somebody else.⁵³

⁵² Case information from Mr. Vadim Akimenko, Mr. P. A.'s lawyer, provided by the ERRC.

⁵³ Case information from Mr. S.N.'s lawyer, provided by the ERRC and Romani Yag, Mr. Aleksandr Movchan.

On February 23, 2005, Mr. V.M. and his relative Mr. G.P. were stopped by two police officers in plain clothes while riding in a farm cart, ordered to get into a waiting car and were then driven to the local police station. Once there, they were locked in a cell and not allowed to speak to each other. At one point, two persons entered the cell, one of them with bruises on his face, who pointed at V.M., and stated that he was the one who beat him and stole money from him. V.M. denied the allegation, saying that it was the first time he had ever seen this man, but the police ignored his pleas and once releasing his relative, the policemen began to beat him. V.M., being handcuffed at the time, had little chance to protect himself. He was later hung from a metal pipe and the beaten all over his legs and feet. During this time, the policemen repeatedly cursed V.M., saying things such as, “You are a Gypsy” and “You are lying to us. We will kill you and nobody will help you.” They then demanded that he confess to robbing the complainant. Unable to endure the pain of his injuries, V.M. agreed to do so and he signed some papers that were put before him, despite being illiterate and having no knowledge of what was written on them. He was subsequently released. V.M.’s attorney has since filed a criminal complaint with the regional prosecutor’s office and the case is still pending.⁵⁴

In addition to the absence of effective protection from abuses by authorities generally in Ukraine, Roma are particularly vulnerable to such abuses due to their extreme exclusion, as well as because of the stigma associated with the Romani identity, as well as the absence of Roma from positions of influence. Roma are particularly vulnerable to often violent policing practices because of prevalent stereotypes of criminality and drug trafficking that are widely-held by law enforcement officials. Such stereotyping results in ubiquitous racial profiling practices by the police where ethnicity is used as substantive criteria to place particular groups under immediate and universal suspicion.

4.5 Failure to Investigate Complaints

When Roma are victims of crimes, they are commonly denied protection by police and judicial authorities. When confronted with Roma complainants who are seeking protection or redress, the police often choose to either not believe them or simply not expend resources in investigating them.

On November 5, 2004, at 8:30 in the morning in the market of the village of Zolotonikovo, Mr. R.L. struck a Romani woman, Ms. R.S., with an automobile. R.S. suffered an internal compound fracture to her right foot as a result. Witnesses to the accident called for an ambulance and she was taken to hospital where she was given a full examination and treated. The following day the doctors informed the police about the accident. An official police report calling for the arrest of the perpetrator was not filed until a full ten days after the incident. The delay in the case was directly linked to the fact

⁵⁴ Case information from Mr. V.M.’s lawyer, provided by the ERRC and Romani Yag, Mr. Aleksandr Movchan.

that R.S.'s Romani ethnicity apparently encouraged officials to downplay the seriousness of the incident. One investigator working on the case reportedly remarked to the victim, "that [the broken leg] will heal fast, Gypsies are used to it". It was only after R.S.'s attorney sent a letter to the regional prosecutor demanding that action be taken, that documents were delivered to the court's medical experts to determine the extent and nature of the victim's injuries. The location of the incident was later investigated without contacting the victim. The case has been delayed as the accused has since been called up for military service.⁵⁵

In another case, at around 16:00 in January 2004, 15-year-old V.R. lost control while driving his mother's Volkswagen Passat in the town of Zolotonosha and hit two female Romani pedestrians, Ms. K.R. and Ms. V.T. Ms. K.R. died at the scene of the accident and Ms. V.T. was rushed to the hospital with multiple bone fractures. A month later, on February 16, a criminal case was started against V.R., with V.T. and the family of K.R. suing for both material and punitive damages. After a preliminary investigation by the regional prosecutor, the chief of police closed the case in July 2004, citing a lack of evidence. The case was reopened shortly thereafter, when a formal complaint was sent to the regional prosecutor, arguing that the case had been unlawfully and prematurely closed due to the Romani ethnicity of the victims and noting the fact that the officials in charge of the case were apparently friends with the parents of the driver. A further letter of complaint was sent to the Minister of Internal Affairs, after which regional prosecutors met with the lawyers for V.T. and the family of K.R., assuring them that the case would be handled properly. An appeal and two official complaints have been filed with the Ministry of Internal Affairs.⁵⁶

4.6 Police Inaction in the Face of Mob Violence

Instances of community violence against Roma have taken place in a number of communities in Ukraine in recent years.⁵⁷ Such attacks can take the form of random violence against individual homes or pogrom-like assaults against entire communities. The purposes behind such violence are manifold, be they to terrorize, to force a move out of a neighbourhood, or vigilante acts of vengeance for crimes associated with Roma. When such mass crimes occur, police rarely interfere to prevent perpetrators from carrying out these violent attacks. This lack of protection creates an environment in which people are free to violate rights secured by the ICCPR and do so with impunity.

⁵⁵ Case summary based on information from ERRC partner Ame Roma as well as information provided by Ms. R.S.'s attorney, Mr. Vladimir Bakaj.

⁵⁶ Case information from Mr. Vladimir Bakaj, legal counsel for ERRC partner Ame Roma, a Zolotonosha-based Roma NGO who is representing Ms. V.T. The ERRC has provided material and expert support in the case.

⁵⁷ Cases included in this submission include only those occurring since 2000. A number of cases of massive community violence, taking place in the 1990s remain to date entirely without judicial remedy. Further information on these cases is available by contacting the offices of the ERRC.

Through its partners as well as independently, the ERRC has documented a number of cases where police officers not only were present at the time of violent mob attacks, but that their blatant disinterest in interfering incited assailants to cause even greater damage.

According to ERRC research, from January 10, 2004 until January 2, 2005, Ms Olena Stefanko's family was the subject of systemic attacks of violence by non-Romani inhabitants of the village of Komjaty in Zakarpattia oblast. On August 10, 2004 around 8:00 PM several people attacked the Stefanko family home and broke the eardrum of Ms Stefanko's son. Calls made to the police by the family were ignored. The second attack occurred in the evening of November 21, 2004. The attackers severely damaged the house, including the fence and the electrical system leaving the family with no electricity until it was fixed at their own cost. On January 2, 2005, at about 12:00 PM. Ms Stefanko was in her house with three of her children when six persons broke down her gate while verbally assaulting and threatening to kill Ms Stefanko and her children. The attackers also threatened to rape the females of the family. A shot was fired but none of the members of the family were injured. On January 3, 2005 Ms Stefanko submitted a written application to Vynogradiv police reporting the incident. Two days later on January 5, however, the family was informed that Police Junior V. Kovbasko refused to begin a criminal investigation. With the assistance of the ERRC a lawyer has been appointed to represent Ms Stefanko in action against police treatment of the family as well as the police's failure to initiate criminal proceedings. Results of an internal investigation launched by the Minister of Internal Affairs are pending as of July 4, 2005.⁵⁸

In September 2002, at around one o'clock in the morning, a fight broke out between a number of ethnic Ukrainian and Romani youths in the village of Petrovka in the Odessa oblast, near a local café. During the fight, two Romani men severely beat a 17-year-old Ukrainian boy, who later died from his injuries. The two men were held criminally liable for the death and are now serving time in prison. The funeral of the victim incited a group of local residents to take measures to expel the Romani residents of the village. Intimidated by the threats and violence from their neighbours, and with their utilities cut off by the local representative of state utilities, the 19 Romani families residing in the village fled their homes and the village. The local police authorities, fully aware of the situation, did nothing to prevent the violence, and in some cases assisted in the expulsion of the families from the village. After the Romani families had fled, their homes were robbed and set on fire. Several days later, when a few of those who fled returned to the village, they were advised by the local authorities to move away to a different region. The families who fled their homes currently have no permanent residences and no documents, which means that nobody in the community can access state healthcare, no children can attend primary school, and none of the elderly can receive their pensions. With the assistance of Ame Roma, a Roma NGO and an ERRC partner, applications were collected from 19 victims of the attack and sent to the regional prosecutor's office requesting that a criminal investigation be initiated. To date, the case is pending in the court of first instance. Mr. Yaschuk, attorney for the 19 complainants, sent letters of complaint to the Prosecutor-General of Ukraine, the President of Ukraine

⁵⁸ Case information from Mr. Aleksandr Movchan, Ms. Stefanko's lawyer, provided by the ERRC and Romani Yag. For more details on the case, see http://www.errc.org/Archivum_index.php

and the Minister of Internal Affairs, which ultimately resulted in a written promise by the Odessa regional prosecutor's office to supervise the investigation. To date, there has been no justice in the case.⁵⁹

4.7 Extortion

Anti-Romani sentiment in Ukraine, stereotypes about Romani criminality and the absence of viable legal remedies or other forms of protection, leave Roma defenceless in the face of law enforcement officials who try to extort money or services from them. Extortion often comes in the form of threats of bringing criminal charges, incarceration and/or physical violence if victims do not pay cash to secure release. Some recent examples of various extortion practices follow:

On May 19, 2006, around 12 noon, a Roma man, Mr. Yurii Roznachuk was arrested by three police officers (two in uniform, one plainclothes) in the centre of the town of Rakhiv, Zakarpattia oblast, and driven to a police station in an unmarked car. Mr. Roznachuk was given no explanation on what charges he was being arrested, and was forced to abandon his open car in the middle of the city. En route to the station, he repeatedly demanded an explanation from the arresting officers until one of them replied, "You dirty Gypsy, are you going teach us how to drive?" Once at the police station, Mr. Roznachuk asked the police to let him go saying that he had not committed any crimes. In response, four police officers began to beat him violently on his head, feet, chest, stomach and feet for about 20 minutes. He was searched and the policemen confiscated the equivalent of 3,000 USD in cash that they found on his person. Observing one of the policemen placing the money in his own pocket, Mr. Roznachuk demanded that his money be returned, at which point the policemen began to beat him again. The money reportedly belonged to Mr. Roznachuk's mother who had just sold her apartment, and at the time of the arrest he had been on his way to buy materials with which to laminate the floor. When his mother and brother went to the police station to find him, they saw Mr. Roznachuk's condition and immediately submitted a complaint to the Rakhiv district prosecutor, Mr. Konar. Shortly thereafter, Mr. Roznachuk was ordered to come to the prosecutor's office for a medical expert examination to determine the gravity of the injuries he received while in custody. The expert concluded was that Roznachuk received 'light' injuries to his face, chest and right shoulder and the investigation into the complaint was dropped. On May 22, Mr. Roznachuk's lawyer submitted a further complaint, this time to the Zakarpattia oblast prosecutor. On May 30, Mr. Roznachuk was informed that he had been found guilty of an infringement of Article 185 of the Ukrainian Code of Administrative Offences. The police arrest report claimed that the arrest had taken place earlier than had been the case and did not have Mr. Roznachuk's signature. On June 2, the oblast prosecutor ordered the Rakhiv district prosecutor to investigate the complaint and report to the oblast prosecutor. Mr. Roznachuk approached Romani Yag

⁵⁹ Case information provided by ERRC partner Ame Roma, and Mr. Yuriy Yaschuk, attorney for the 19 claimants.

for legal assistance. Currently, both the alleged offence and the complaint of police abuse are under investigation.⁶⁰

In October 2004, a group of seven Roma people sought legal assistance from a local legal aid centre in the Zhytomyr oblast after various police officers from the "Illegal Drug Trafficking" unit of the municipal police department systematically and repeatedly harassed them from July to October 2004. The most serious instance came when drugs were planted in the car of Y.Z., which then led to the arrest of his nephew and K.A., one of the seven complainants. Threatened with physical violence and criminal charges for drug possession, the two men submitted to the demands of the arresting police officers and paid them the equivalent of 1,500 USD. In return, they were released from custody.⁶¹

According to testimony provided by Mr. Petro Sandulenko, Mr. Josip Sandulenko and Mr. Vladimir Markovskij to the Korosten-based Romani organization Romano Kham, on July 9, 2004, four military officers on July 9 stopped Mr. Sandulenko and Mr. Markovskij, who were on their way to weigh their seven horses at the outskirts of the village of Ivanika, Zhytomyr oblast, prior to selling them. The officers impounded the vehicle holding the horses on suspicion that the horses were stolen and drove them to the District Police Station despite protests by Mr. Sandulenko and Mr. Markovskij that they legally owned the horses. Mr. Sandulenko, Mr. Markovskij and Mr. Markovskij's 27-year-old son Ruslan brought ownership papers for the horses to the District Police Department later that day. The police refused to listen and instead detained the men for twenty-four hours without charge or even an explanation. The following day, while still in custody, police officers informed Mr. Markovskij and Mr. Sandulenko that a woman had filed a complaint that two of her horses had been stolen. After being released from custody, Mr. Markovskij reportedly returned to the District Police Station with the person from whom he had bought the horses to corroborate his and Mr. Sandulenko's claims. On July 11, officers reportedly demanded that Mr. Sandulenko to pay 7,000 Ukrainian hryvnya (approximately 1,400 USD) for the return of the horses. The men managed to gather 4,000 Ukrainian hryvnya (approximately 800 USD), which they paid as a "voluntary contribution" to the police department. When Mr Markovskij then went to pick up the horses officers demanded he make an additional "voluntarily contribution" of 350 hryvnya (approximately 70 USD) to a senior officer at the station. Only on July 12 were the horses finally returned to Mr Sandulenko and Mr Markovskij after three days of no food or water. The ERRC and Romani Yag, together with lawyer Aleksandr Movchan, are pursuing legal action against the officers involved in the case.⁶²

⁶⁰ Case information provided by Mr. Aleksandr Movchan, legal counsel for Romani Yag. The ERRC has provided funding to cover the legal costs of the case.

⁶¹ Case information provided by Mr. Aleksandr Movchan, legal counsel for Romani Yag and attorney for one of the seven victims, the only one to step forward to make a formal complaint. The ERRC has provided funding to cover the legal costs of the case.

⁶² Case information provided by Mr. Sandulenko's attorney, Mr. Aleksandr Movchan and Romano Kham. For more information see: <http://www.errc.org/cikk.php?cikk=2202&archiv=1>.

Finally, the police have been known to delegate policing responsibilities to the communities themselves by threatening to prosecute innocent persons in the community unless it collectively finds and turns in a suspect.⁶³

The extreme degree of racist stigmatization of Roma in Ukraine, together with a police force that takes for granted its own immunity for racist and other abusive practices, make Romani people particularly vulnerable to abuse at the hands of law enforcement officials. This comes in the form of forced bribes, property ransoms, or simple outright robbery. In many cases, the amounts demanded by police from Roma individuals are exorbitant, forcing them to pool cash from friends and families to pay.

In August 2006, the United Nations Committee on the Elimination of Racial Discrimination (CERD) told the Ukrainian government: “The Committee is concerned about allegations of police abuse of Roma, including arbitrary arrests and searches and pre-trial abuse based on racially motivated presumptions of guilt, and of persons belonging to other minorities, asylum seekers and non-citizens of different ethnic origin.” The CERD urged the government of Ukraine: “to further intensify its human rights training for the police and to facilitate the reporting of cases of police abuse of Roma and other persons of different ethnic origin, effectively investigate complaints and bring those found guilty of such acts to justice, provide adequate protection and compensation to victims, and include in its next report detailed information on the number and nature of cases brought, convictions obtained and sentences imposed, and the protection and remedies provided to victims of such acts.”⁶⁴

5. Violence by Non-State Actors

The combination of an (i) inadequate legislative framework, (ii) impunity for perpetrators, (iii) a completely inactive administrative and governing sector completely tolerant of expressions of racial hatred, (iv) a public promoting racist discourse and (v) police officials demonstratively involved in human rights abuse of Roma, creates an open space for citizens to abuse others with almost complete impunity. Some examples of extreme acts of racially motivated violence undertaken in Ukraine against Roma in recent years follow here:

On April 29, 2006, around 7 PM, Mr. Albert Kondi, a Romani man, was attacked while walking to his home in Uzhgorod, Zakarpattia oblast. Not far from his house, a group of around six people approached him and demanded that he give them money and

⁶³ According to Zemfira Kondor of the Chiricli Roma Women’s Fund in an interview on June 6, 2006.

⁶⁴ “Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine”, CERD/C/UKR/CO/18 August 2006, para. 12.

any other valuables he had. Mr. Kondi refused and was then attacked by the group, who beat him with metal rods and poles. He attempted to escape, but his attackers caught and beat him further in front of his house, shouting, “you dirty gypsy, if you don’t pay us money we’ll destroy all of you.” Ms. Szilvia Fontos, hearing Mr. Kondi’s cries, arrived at the scene to help and was herself attacked by one of the group who smashed a glass bottle over her head and knocked her unconscious. Soon, more people began to rush to intervene, at which point the attackers stopped and fled in a black car. Many children from the community witnessed the attack, including Mr. Kondi’s children. Mr. Kondi’s lawyer has filed a complaint with the police and investigation was ongoing as of the date of this submission.⁶⁵

According to the Uzhgorod-based Romani organization Romani Yag, just before 9:00 PM on October 8, 2004, a taxi driver with the company Citi Taxi physically assaulted Ms. Tereza Latsko, 78-year-old Romani woman from Uzhgorod. On the evening in question, Ms. Latsko ordered a taxi to drive her to her brother’s house in the neighboring village of Storozhnitsa. On the way to Storozhnitsa, the driver asked Ms Latsko if she had money to pay for the trip. Ms. Latsko reportedly responded that she would get money from her brother to pay upon arrival at his house. The driver began to swear at Ms Latsko and she told him to stop. The driver then punched Ms. Latsko in the face, knocking out one of her teeth. He stopped the car, pulled Ms. Latsko out of the vehicle, kicked her hard and then drove off, leaving her lying next to the road. Ms. Latsko reportedly walked home and went to the hospital in an ambulance the following day. Following the incident, a complaint was filed by a lawyer on behalf of Ms. Latsko with the prosecutor’s office in Uzhgorod. The prosecutor’s office redirected the complaint to the local police office for investigation of the alleged abuse. The police office sent a letter to Romani Yag in mid-January 2005 rejecting prosecution on any criminal or civil grounds. On February 24, 2005, Ms. Latsko’s lawyer filed a criminal complaint on her behalf to the Uzhgorod city court.⁶⁶ The case is currently pending.

According ERRC partner Romani Yag, at around 7:00 AM on August 16, 2004, two ethnic Ukrainian men, Mr V. and Mr I. beat and set on fire Mr Yaroslav Shugar, a 20-year-old Ukrainian Romani man, in Uzhgorod, Zakarpatia oblast. He had spent the morning washing the neighbours’ three cars for payment, but once he finished he was accused by them of having stolen hemp plants from their yard. The two neighbours then began to punch and kick and beat Mr. Shugar with a canister, tying his hands behind his back, and pouring paint thinner over his head. The solvent began to burn Mr. Shugar’s eyes so the men cut the rope with which they had tied his hands together and Mr. Shugar proceeded to wash the solvent from his eyes. At this time, Mr. V. put a lighter to the liquid on him and set him on fire. Mr. Shugar managed to extinguish the flame with his shirt and ran away,. At the regional hospital, he was treated for first, second and third

⁶⁵ Case information provided by Mr. Kondi’s attorney, Aleksandr Movchan, Romani Yag, Uzhgorod.

⁶⁶ Case information provided by Romani Yag and Ms. Latsko’s attorney Mr. Vasiliy Dydichin. For a reason unknown to ERRC, Ms. Latsko subsequently dropped the case. For further details, please see <http://www.errc.org/cikk.php?cikk=2200&archiv=1>.

degree burns to his face and neck. Mr. Shugar did not initially file a complaint with the police for fear of a revenge attack, however, on August 31, 2004, Mr. Vasyl Didychyn, an attorney with Romani Yag, sent a request to the Ministry of Internal Affairs, demanding that an investigation be opened and action be taken against the perpetrators. On September 1, 2004, Mr. Shugar was called in to testify before the Uzhgorod Police Department and underwent a forensic medical examination. However, more than one and a half years later, investigation by the Uzhgorod city police department is apparently still open.⁶⁷

On August 10, 2004, riot police in Krasnoyilsk, Chernivtsi Region, had to be deployed to protect a Roma camp from mass vigilante violence at the hands of local residents who were seeking revenge on the alleged killers of an eight-year-old girl.⁶⁸

Police throughout Ukraine have failed to protect Roma from extreme forms of violence, including pogroms. When such acts have taken place, police and prosecutorial and judicial authorities have failed to provide due remedy to victims. These failures are long-standing. In 2002, after noting the inadequacy of police response to crimes against Romani people, the Council of Europe's European Commission Against Racism and Intolerance (ECRI) urged the Ukrainian government to take measures to ensure that the police react promptly and effectively to all crimes, including those committed against Roma/Gypsies and... to ensure that the racist element of such offences is duly taken into account.⁶⁹ There is little indication that these and related recommendations have been effectively acted upon. The ERRC knows of no instance where any perpetrators of terrorising violence against a Roma person have ever been adequately prosecuted.

Indeed, the Government appears intent on denying that any such issues exist, and has presented the Committee with untrue information in this regard: "No reports or complaints regarding discrimination or persecution of members of ethnic minorities have been received by either the Ukrainian procurator general's office or the State Committee for Ethnic Minorities and Migration." Indeed, in the last decade, the ERRC has repeatedly sent letters to the Ukrainian general prosecutor's office, although the extreme inadequacy of responses proceeding from this instance, as well as the fact that appealing to this authority has never, in our experience, led to any satisfactory resolution of any human rights issue, have at times caused the ERRC to consider abandoning the practice.

⁶⁷ Case information provided by ERRC partner Romani Yag and Mr. Vasyl Didychyn. ERRC has provided funding help cover the legal costs of this case.

⁶⁸ United States Department of State, Bureau of Democracy, Human Rights and Labour, *Country Report on Human Rights Practices 2005: Ukraine*, <http://www.state.gov/g/drl/rls/hrrpt/2005/61682.htm>.

⁶⁹ ECRI, *Second Report*, § 58.

6. Discrimination in Access to Social and Economic Services

A major segment of Romani communities of Ukraine lives in conditions of extreme poverty with little or no access to basic social services. A poverty assessment carried out by the World Bank in 2005 found that the general rate of poverty in Ukraine has been decreasing since 2001 due to economic growth in the country,⁷⁰ yet Roma appear to have not benefited from this. Although ethnic-specific data is deficient or lacking entirely, there are widespread indications that very large segments of Ukrainian Roma live in poverty, if not extreme poverty. A 2003 survey by the Ukrainian Institute for Social Studies found that almost 60% of their Roma respondents “could hardly make ends meet, lacking money even for basic items.”⁷¹ The majority of Roma in Ukraine live at or below the poverty line, with small percentages living at “medium” levels, i.e. having enough money to pay for all immediate needs.⁷² Unlike others in Ukraine who also suffer from poverty, Roma are forced to bear the additional burdens of racial discrimination which deny them fundamental human rights as well as access to scarce social and economic resources and opportunities.

Ukrainian Roma face systemic discrimination in virtually all sectors, including but not necessarily limited to access to personal and other documents, education, housing, health care, employment and social services. Discrimination against Roma takes two broad forms. Direct discrimination against Roma most often arises through less favourable treatment on grounds expressly related to their ethnicity and the general contempt in which many non-Roma hold them. Most often this involves direct, explicit, race-based refusals to provide access to or facilitate access to documentation or basic social and economic rights. Indirect discrimination arises with the denial of their access to social and economic rights for reasons specifically related to their pariah status in Ukraine. As detailed above, the legal basis to challenge these harms is not yet fully in place in Ukraine.

6.1 Housing

Roma in Ukraine face serious obstacles in gaining access to adequate housing. Many live in substandard conditions in settlements or ghettos that are often segregated from mainstream society with little access to public transportation or public utilities like power or sanitation. Public services or improvements such as road repairs or garbage

⁷⁰ The World Bank, *Ukraine: Poverty Assessment – Poverty and Inequality in a Growing Economy*, (Washington: 2005), p. viii.

⁷¹ Ukrainian Institute for Social Studies, p.11.

⁷² *Ibid.*, p. 12. According to experts interviewed by the researchers in the study, the number of Roma with “medium” levels of income were higher in urban areas, such as Uzhgorod (20-30%) or Odessa (25%), than in the rural areas, while in other oblasts, such as Chernigiv and Nihin, that amount was only between 5-10%.

disposal are thoroughly absent. On Zavatskaya St. in Novomoskovsk, Dnipropetrovsk oblast, the Chukalenko family ekes out a life that is typical of the town's impoverished Roma.⁷³ At the time of an ERRC visit in July 2006, fifteen members of the extended family all sleep within the two rooms of a house that has no gas, electricity or running water, for which they pay the Ukrainian Hryvna equivalent of 10 Euros per month. Cooking occurs outside on a makeshift stove in the ruins of a dilapidated building, fuelled with scavenged scrap wood or walnut shells. Water is drawn from a ground well nearby and is barely potable, if at all. "Somehow we manage, day-by-day," said Ms. Chukalenko, "but the winters are really terrible." A few hundred meters away, on nearby Cheluskina St., Lydia Kalashenko lives alone with her sick son and three grandchildren in a house that is literally falling apart.⁷⁴ The lack of running water, electricity or gas is of much less concern than the roof that is caving in and the damp mould growing up the walls from the earthen floor. When asked why she continues to live there, Ms. Kalashenko said, that she had been living there with her deceased husband for years and it was her home, "besides, where should we go? The only money the five of us have is what I get from begging. We have no choice."

The extreme poverty under which many Roma live is exacerbated by widespread discriminatory treatment that prevents access to adequate housing and the improvement of living conditions. Many Roma have testified to ERRC partners that local authorities continuously refuse to provide eligible Romani families with adequate housing or to provide the proper documentation or permission for them to legalize their current homes or build improvements. Local authorities are either personally moved to refuse to register and legalize property possessed by Roma or are pressured by non-Roma residents to do so. Maintaining a hope that Roma residents may someday leave, authorities deny Roma any form of goods and services that would encourage them to make their unofficial homes permanent. Such treatment leaves many vulnerable to abusive forced evictions and, at times, the destruction of entire settlements, leading to an even harsher and perilous existence. Summaries of some cases follow:

In May 2006, in the village of Grebenki, Kiev oblast, the local village authorities cut the electrical supply to the Romani community on the outskirts of the village in retaliation for a crime committed by a Romani man. A fight had earlier broken out between a Roma and a non-Romani man from the village, which left the latter dead. The family of the murdered man gathered supporters from within the village and approached the village authorities declaring their intention to forcibly expel all Roma from the village and to burn their houses down. The village mayor assuaged their concerns by calling on the police to intervene to protect the village from violent criminals. The police arrived, located the suspect, made the arrest and transported him to the local precinct. The village mayor then ordered that the Romani community be severed from the electric grid. An ERRC partner organisation confronted the mayor to ask why this had been done. The mayor explained that the Romani community was suddenly discovered to have been squatting on public land with no official registration of their property, and thus illegally

⁷³ ERRC interview with the Chukalenko family, 24 July, 2006, Novomoskovsk, Dnipropetrovsk oblast.

⁷⁴ ERRC interview with Lydia Kalashenko on July 24, 2006, Novomoskovsk, Dnipropetrovsk oblast.

connected to the regional electric supply. According to the mayor, Roma had been living in that settlement for over 50 years and until then had always enjoyed access to electric power. He also acknowledged that electricity was the only public utility that reached the community. A village town-hall meeting was held shortly thereafter in response to the complaints of a number of non-Romani residents that cutting off the electrical power was not enough and that a better response would be to evict the Roma permanently by force. In the end, the village council reportedly decided against this course of action, because it would be illegal. The electricity had yet to be re-connected to the settlement as of June 2006.⁷⁵

In September 2005, Ms. A. Kutsenko, a Romani woman from Kremenchug, began legal proceedings against her employers for refusing to provide her and her family with decent accommodation. It is common practice in Ukraine for publicly-owned companies to provide accommodation to their employees. Ms. Kutsenko first registered for a new flat in 1985, the first year that she began to work at the southern railway station in Kremenchug, where she continues to work today. In that first year, she was provided with a small, one-room wooden barrack in poor condition with no electricity or running water that she was told would temporarily suffice until a proper flat became available. After six years, Ms. Kutsenko was ostensibly placed at the top of the company's accommodation list but as of yet, she has been given no new home and continues to live in the sub-standard wooden barrack. In the meantime, other employees of the company have been given new flats. Ms. Kutsenko made numerous complaints to her managers in the past, but to no avail. After 1995, jurisdiction over her housing situation came under the Local Housing Agency of Kremenchug and during a preliminary investigation, an officer from the housing authority, Mr. Viktor Shkurat, told Ms. Kutsenko that, "all Gypsies should live in Gypsy caravans and tents. You (Ms. Kutsenko) are the only one who capriciously demands a separate apartment with all conveniences." According to municipal by-laws, single mothers such as Ms. Kutsenko should be given first priority in the local authority's distribution and repair of housing. Ms. Kutsenko is currently trying to raise the funds necessary to cover the cost of a 'forensic building inquiry', and for legal assistance to defend her rights. The ERRC is engaging a local lawyer to file a civil complaint on behalf of Ms Kutsenko.⁷⁶

At the beginning of September 2005, Ms. Lili Adam was prevented from finishing construction on a Roma Cultural Centre in her community in Uzhgorod after having invested her savings in it. According to Ukrainian laws, once the exterior of a building is built, the structure as a whole must be approved by specialized government authorities before work can continue on the inside. For unknown reasons, the woman's repeated requests for approval were ignored and no inspectors ever visited the building site. Ms. Adam then went in person to the office of the authorities to complain but the director

⁷⁵ Case information provided by Zemfira Kondur of the Chiricli Roma Women's Fund in an interview with ERRC on June 6, 2006.

⁷⁶ Case information provided in a report sent to ERRC on May 25, 2005 from Ms. Kutsenko's lawyer and corroborated by information provided the ERRC by Kremenchug-based Romani organisation Amaro Deves.

refused to meet her. With ERRC assistance, Ms. Adam has hired legal representation to file a formal complaint against the local authorities in question.⁷⁷

On February 2005, a thirty-year old Romani woman, Ms. Silvia Ignativa Surmai and her four children were issued an eviction notice from their home. The primary occupant of the flat had been Ms. Yoala Bazho, the mother of Ms. Surmai, until her death on December 17, 2004, but because the flat had never been privatized, the flat at the time of her death technically belonged to the municipality of Uzhgorod. While she was alive, Ms. Bazho never officially transferred her tenancy to her daughter Ms. Surmai. Two months following Ms. Bazho's death, Ms. Surmai, received notice from the municipality informing her that she had to "voluntarily vacate" the flat before March 22, 2005, because by law she no longer had the right to occupy it.⁷⁸ It was apparently of no compelling concern to the municipality that all bills and rent had always been paid faithfully and on time or that Ms. Surmai and her children had no place else to go. Ms. Surmai then received a further letter informing her that as of August 8, 2004, she and her family had been placed in the "high priority" category of the municipal housing list. However, with no new flats being constructed in Uzhgorod and considering the discrimination that Romani women regularly face from municipal officials in the city, Ms. Surmai was certain that the prospects of her ever being given a flat any time soon are extremely slim. It is not uncommon for persons in the "high priority" category of the housing list to wait for 10-15 years before accommodation is made available for them. Ms. Surmai, wishing to stay as a proper tenant and having no other place to go, has not "voluntarily vacated" the flat and, with the assistance of the ERRC, has begun legal proceedings to try to conclude a further tenancy agreement for the flat with the municipality.⁷⁹

In 2005 in a village in the Mykolaiv oblast, Ms. M.L., a single mother of five, was refused financial assistance from local authorities to repair the roof of her house. The house is a very old one-room dwelling with practically no utilities and a roof that leaks. This woman is unemployed and receives no social assistance. When she approached the local administration offices for help to make her flat more inhabitable, officials reportedly told her that, "You are Roma. You have lots of money from international donors and NGOs, so go ask them for help, not us." Unable to afford legal representation, she has been unable to file a formal complaint or push a claim for funding and continues to live in her home as it is.⁸⁰

⁷⁷ Case information provided by Mr. Aleksandr Movchen, legal counsel for Romani Yag. ERRC has provided legal support in the case.

⁷⁸ According to Article 99 of the Housing Code of Ukraine and Article 823 of the Civil Code of Ukraine.

⁷⁹ Case information provided by Ms. Surmai's lawyer, Mr Didychyn Vasilji. ERRC has provided legal support in the case.

⁸⁰ Case information provided by Zemfira Kondur of the Chiricli Roma Women's Fund.

In October 2003, Ms. Latsko, a 49-year-old Romani woman, and her family were unlawfully prevented from registering their home as their permanent place of residence in the town of Uzhgorod because of their ethnicity. The home in question was originally constructed without permission from the municipality. Ever since its construction, Ms. Latsko and her family have occupied the building. In 2003, she began to request various officials to register her and her family as permanent residents at that address, but permission was never granted. On October 4, the building agency of the municipality of Uzhgorod imposed a fine upon Ms. Latsko for the administrative violation of unlawfully constructing a home, which she paid. In the municipality of Uzhgorod, it is reportedly standard procedure that once such a fine is paid the building agency declares the building to be lawful and permits the owner to apply for permanent resident status at it. Despite having paid the fine, the local authorities have since ignored or perpetually delayed Ms. Latsko's application, at one time telling her that, "You Gypsies, your place is in tabor (camp) not in the city. Go and live there. You are not people. Go away." With ERRC assistance, Ms. Latsko hired a lawyer in May 2005 to assist with processing the formal registration of the property and, if need be, file a formal complaint of a violation of her rights, and launch a suit for damages.⁸¹

The ERRC knows of no occasions on which direct discrimination in the field of housing have been the subject of any form of redress or punishment by any Ukrainian authority. The Ukrainian government has no programs that address the uniquely problematic housing concerns of Roma that arise directly from their stigmatization by non-Romani Ukrainians. Some Romani NGOs have recently begun trying to organize committees to cooperate with local authorities to study and document living conditions of Romani communities throughout Ukraine. There are no known examples of slum settlement upgrade in Ukraine.

6.2 Health Care

The healthcare concerns of Roma in Ukraine are invariably linked to the extreme poverty in which the majority of Roma live. A recent study on current problems facing Roma in Ukraine interviewed public health officials across the country and learned that the general health level of Romani residents in high-density "compact living" communities was poor, mostly a result of widespread poverty, inadequate nutrition, poor hygiene and substandard housing. Only 50% of the Romani respondents of the same nation-wide study said that they had sufficient daily meals, 31% reported that they did not have enough food several times a month and 15% said they had no food at least one day per week. In some locations, the figures vary. Paradoxically, in some urban areas, where the average income levels of Roma are higher than in rural areas, more people experience regular hunger and starvation. In Uzhgorod, for example, according to one estimate, around 70% of the Roma population face regular malnutrition.⁸² Many Roma

⁸¹ Case information provided by Ms Latsko's lawyer, Mr. Vasilji Didichin.

⁸² Quoted in Ukrainian Institute for Social Studies, p. 13.

also run serious risks of intestinal infections from unclean water. According to the study by the Ukrainian Institute for Social Studies, only 32% of its respondents said that they had water connections to their homes, and nearly 20% used surface water for cooking and drinking.⁸³ The majority of homes visited by the ERRC in a recent research trip to Dnipropetrovsk oblast had no direct access to clean running water, many either drawing water from wells or taking it from neighbours.⁸⁴ Of particular concern to public health officials is the spread of tuberculosis among Roma communities which some of those interviewed in the above study believed to be 2-3 times higher than what is officially registered. This inaccuracy of data they believed was the result of underreporting caused by the chronic lack of access of many Roma people to proper medical health facilities.⁸⁵

Acts of racial discrimination on the part of medical service providers exacerbate this existing state of *de facto* exclusion from care that arises from factors such as the often great distances between Romani settlements and health care institutions, the widespread lack of documentation that is needed to secure health care, as well as other related issues.⁸⁶ The poverty of Romani health care seekers can also be a catalyst for acts of direct discrimination. Low salaries and relatively poor working conditions for public officials, including doctors, teachers, and civil servants, has created widespread shadow economies in many public sectors. Roma are denied access for services when they lack funds for informal payments frequently required by doctors for health service. In the health care sector doctors routinely seek compensation for their low wages and often resort to substandard treatment, or simply refuse to treat those who are unable to pay.⁸⁷ In addition to this, doctors regularly refuse to treat Romani patients because of racial prejudice. Doctors reportedly rarely make house calls when they receive requests for them from Romani communities. Some recent cases involving racially discriminatory treatment, as well as potentially other forms of human rights abuse by health providers, follow here:

- In February 2005, a pregnant Romani woman was reportedly nearly killed by the negligent medical intervention of a gynaecologist in Chop,

⁸³ Ukrainian Institute for Social Studies, p. 13.

⁸⁴ Research conducted between 23-29 July, 2006. The UNDP's Human Development Index statistics for Ukraine, when compared to this, suggest a profound difference between the health and living conditions of Roma compared to the Ukrainian average. In 2002, on average, 18% of the overall population of Ukraine was hungry at least once a month, while 3% experienced hunger on a permanent basis. 99% of the population reported having access to improved sanitation, and 98% to an improved source of water. See United Nations Development Programme (UNDP), *Human Development Report 2005*, (New York: UNDP, 2005), p. 241.

⁸⁵ Ukrainian Institute for Social Studies, pp. 20-21.

⁸⁶ Article 49 of the Ukrainian Constitution states that "Everyone has the right to health protection, medical care and medical insurance."

⁸⁷ Lekhan, Valeria et al. *Health Care Systems in Transition: Ukraine 2004*, (Copenhagen: World Health Regional Office for Europe, 2004) p. 101.

Zakarpattia oblast. On February 1, the woman went to hospital for a check-up, after feeling ill. After examining her, the gynaecologist told her that she was in fact pregnant and advised her to have an abortion and have no more children in the future, saying that “you Gypsies should not multiply like cockroaches.” As the woman was only in the second term of the pregnancy, the doctor decided there was no need to perform the abortion in a proper environment. Instead, the doctor immediately began the surgery in the same out-patient ward that the examination took place in. The doctor concerned apparently undertook none of the required preliminary medical tests before commencing and continued the operation even when the woman began to complain of a sharp pain and pleaded with her to stop. It was only when she began to bleed profusely that the gynaecologist realized that a mistake had been made and she was immediately sent to the local hospital where three doctors struggled for three hours in surgery to save her life. Once her condition stabilized, the gynaecologist offered her family money (less than 10 USD) so that they would not lodge a complaint.⁸⁸

- On October 20, 2005, Ms. Lidiya Semasheva, a disabled Romani woman living in the northern city of Kharkiv was denied services and benefits appropriate to her condition by municipal and health officials on discriminatory grounds. Ms. Semasheva lives alone and survives on her disabilities pension. Several years previously, the city administration provided her with a flat on the fifth floor of a building with no working elevator. Although the city clearly did not pay much attention to her condition when they assigned the flat to her, Ms. Semasheva nevertheless feels fortunate and refuses to risk losing it by requesting one that is wheelchair-accessible. The city has been equally inconsiderate in its stubborn refusal to grant her a discount on her utilities bills, which is common for people with disabilities and the elderly. The final straw for Ms. Semasheva came when she applied to the medical council to ask for social assistance, in particular for a car that is outfitted for a disabled person to drive. According to her testimony, the interviewing committee barely even looked at her, treated her in a highly contemptuous manner and, after giving her a cursory and clearly incomplete examination, told her “No, no, you don’t need this, you can go away.” The committee never provided reasons for the refusal.⁸⁹

- According an ERRC partner, in 2004, Ms. R.S., a Romani woman in Uzhgorod was reportedly refused treatment by a doctor after her newborn

⁸⁸ Case information provided by ERRC partner Romani Yag and the woman’s lawyer, Mr. Aleksandr Movchan. ERRC has provided legal support the case. To date, both a criminal and civil complaint have been filed against the hospital and the doctor in question.

⁸⁹ Information provided by Zemfira Kondur of the Chiricli Roma Women’s Fund in an interview on June 6, 2006.

child became ill with a fever. Ms. R.S., living in a largely Roma neighbourhood with no telephone connection, made contact with the doctor through a friend, asking him to visit her home and examine the baby as the baby was too sick to travel. The doctor in question is reported to have told her friend, “I won’t go there. Tell [Ms. R.S.] that she can come when her child is dead.” Two weeks later, the baby died and the mother, distraught and enraged, went to the doctor in person to tell him that her baby had died. The doctor responded by giving her the equivalent of 15 USD to help pay for the child’s funeral.⁹⁰

- On May 2, 2004, at about 8 p.m., a group of young Roma and ethnic Ukrainians started a fight in the town of Irpenj.⁹¹ Three Romani men, Mr Andrey Balanov, Mr Leonid Grigorash and Mr Boris Tatarov sustained serious knife wounds as a result. One of Mr. Tatarov’s lungs was punctured, Mr. Grigorash’s stomach was slashed open, and Mr. Balanov received four wounds to his left arm that have left it unusable ever since. When the three men were taken to hospital that same night, the examining doctor registered their injuries as being “trivial”, and they were forcibly released from the hospital three days later in “satisfactory condition”.
- In September 2003, Ms. Miroslava Savitskaya, a Romani woman from Kremenchung, gave birth to a baby girl.⁹² Attending nurses took the child away from her shortly after the birth. After several requests to see the baby, Ms. Saviskaya was informed that it had suffered third-degree burns due to careless handling by the medical staff at the hospital and that her daughter would likely live the rest of her life as an invalid. The doctors at the hospital threatened Ms. Savitskaya, saying that if she filed an official complaint, no Romani mothers would again be accepted into the maternity ward of the hospital. Nevertheless, Ms. Savitskaya contacted an attorney and filed an official complaint with the regional prosecutor’s office.

As a result of discriminatory refusals to treat Roma, as well as other abuses implicating the Covenant, such as those outlined above, the health status of a large segment of the Romani community is worse than comparable segments of the non-Romani community. Health conditions including heart trouble, stress and infectious diseases, particularly tuberculosis are widespread throughout many Romani communities and no effective government policies exist to address them.⁹³

⁹⁰ Information provided by Zemfira Kondur of the Chiricli Roma Women’s Fund in an interview on June 6, 2006.

⁹¹ According to Ludmila Brovari of Terni Zor, an Irpenj-based Roma NGO.

⁹² Case information provided by ERRC partner Amaro Deves.

⁹³ Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.

6.3 Education

The state of the education of Ukraine's Romani youth is nothing short of a crisis that will continue to impact future generations of Roma unless action is taken swiftly and comprehensively to change it. A 2005 study by the editor of *Romani Yag* (a Romani newspaper published by the organization of the same name) conducted interviews with members of Romani communities throughout Zakarpatia and found that of those they interviewed, 69% of Roma could hardly read, 68% had difficulties with writing, 59% did not know how to count properly, and 25% could do none of the three. They identified three reasons why Romani parents opt to send their children to segregated Roma schools: a) because they were where the parents studied, b) because parents are worried of their children being discriminated against in integrated schools, and c) because segregated schools are not as stringent about documentation requirements as other schools are.⁹⁴ These findings are comparable to a country-wide survey conducted by the Ukrainian Institute for Social Studies that found that 68% of its respondents either could not read and write, or could do so with difficulties and 59% could either not count at all, or only with difficulty. 25% of the respondents could not write at all, 34% never attended school, 49% had some primary education, 10% claimed some incomplete secondary education, 6% had a high school or professional trade certificate, and only 2% ever attended an institute of higher education at one time in their lives.⁹⁵ These statistics reveal a troubling reality that the vast majority of Romani children in Ukraine are either not attending school at all or are being denied access to mainstream schooling. The outcome of both is the same. An entire generation of Roma children are growing up and preparing for adulthood in way that will leave them with extremely limited opportunities to have futures that will be free from poverty, social marginalization and great suffering.

The direct refusal to enrol Romani children in mainstream and/or elite primary schools is regular occurrence in Ukraine. Adequate documentation of the extent of the problem is, however, lacking to date, in large part because the Ukrainian government has never made any comprehensive effort to determine the scope and nature of this issue. At a partners meeting in June 2006 involving the ERRC and nine local Romani NGOs from various parts of Ukraine, only one of the organisations present did not have any direct awareness of instances of racially discriminatory refusals to enrol Romani children in schools, and several of those present had personally experienced direct discrimination in this area in the week preceding the meeting, when they themselves had been refused while trying to enrol children or grandchildren in schools. In one example, in early September 2006, an ERRC staff member attempted to enrol one Romani child in five different primary schools in the town of Donetsk. One after another, authorities at each of the five schools refused, either outright, or on the basis of claims that classes were full. In

⁹⁴ Adam, A. E., Navrotska E. M., "Monitoring zabezpechenya prav romskoi molodi v galuzi osviti," (paper presented at a conference in Uzhgorod in 2005 entitled *Osvita I Romi: Stan, Problemi, Perspektivi* (Uzhgorod: 2005), p. 3. This practice was observed in the following localities: Beregiv, Poroshkovie, Perechenyi, Bereznom, Mukacheve, Rakhov.

⁹⁵ Ukrainian Institute for Social Studies, p. 47.

the case of the latter, non-Romani families were observed successfully enrolling their children of the same age in the same schools afterwards.

As a result of schooling authorities' refusals to enrol Romani children in mainstream schools, undertaken at their own initiative or as a result of pressure by non-Romani parents, Romani children in Ukraine are frequently educated in partially or entirely segregated school environments. The authors of the 2005 *Romani Yag* study identified twelve fully segregated Roma-only schools in the Zakarpatia oblast alone.⁹⁶ Most of the segregated schools examined were located in old buildings with none of the facilities that regular schools have, few libraries, no sport facilities, no cafeteria or dining hall, minimal furniture in states of disrepair, few and outdated books, no other learning materials, and used outside toilets with no running water.⁹⁷ In an interview, the Principal of Uzhgorod General School No. 14 is quoted as saying, "No normal children would ever study in these barracks."⁹⁸

In addition to the concerning placement of Roma children in segregated learning environments, another even more widespread phenomenon is the general absence of Romani students altogether from mainstream schools. This is partially a result of residential segregation, but also caused by non-attendance and a lack of concern and capacity by school administrators and others to resolve the problem. According to data gathered by the Ukrainian Institute for Social Research (UISR), some 50% of Roma children throughout the country do not regularly attend school,⁹⁹ with attendance rates being the lowest in the Odessa, Donetsk, Dnepropetrovsk, Cherkassy, Kremenchug, Zakarpatia and Kharkiv oblasts. According to a survey of leaders of low-income Romani communities throughout Ukraine, "almost all" Roma children from such communities between the ages of 7 and 15 do not attend school.¹⁰⁰ According to ERRC partner Romani Yag, 83.7% of Roma children living in Zakarpatia oblast fail to finish high school, 14.5% have a basic high-school diploma, 1.4% are graduates from technical-vocation schools, 0.3% have completed a specialised secondary¹⁰¹ education program, and only 0.2% have any higher education. In comparison with the national average, these

⁹⁶ Adam and Navrotskaya, p. 2. The study identified the following General Schools as having entirely Roma student bodies in the Zakarpatia oblast: Uzhgorod No. 13 (257 students), Uzhgorod No. 14 (127 students), Mukacheva No. 14 (464 students), Beregov No. 7 (305 students), Pidvinogradov (127 students), Sobatin (54 students), Poroskiv (280 students), Bikiv (51 students), Svalyavska No. 5 (89 students), Serednyanska (162 students), Pavshinska (35 students), Viskivska (64 students) and Roztotska (80 students).

⁹⁷ *Ibid.* p. 5.

⁹⁸ *Ibid.* p. 5.

⁹⁹ Sehedra, Serhiy and Oleksandr Tatarevskiy, "The Bill 'On protection against racial national and ethnic discrimination'", Kyiv: International Center for Policy Studies, 2005, p. 31.

¹⁰⁰ Ukrainian Institute for Social Studies, p. 48.

¹⁰¹ http://www.ukrcensus.gov.ua/eng/results/education_population/s3/?box=3.1W&out_type=&id=&rz=1_1&rz_b=2_1&k_t=00&id=&botton=cens_db

figures are stark. The 2001 All-Ukrainian census recorded that only 0.6% of the entire population of Ukraine was functionally illiterate, 6.8% had failed to finish primary school, 33.3% completed high school, while 12.4% completed some form of higher education.¹⁰²

During a research mission to Izmail in the Odessa oblast in 2005, ERRC collaborator Zhuzhana Duduchava observed that practically no Romani children in the region were enrolled in preschool. The majority of the older children attended Izmail Special General School No. 5, while a small minority were integrated in standard state schools. Of the 165 students at the Izmail Special General School No. 5, 23 were Roma, all of whom studied in one classroom. Ms. Duduchava further observed that in the village of Nyerubayskoye, also in Odessa oblast, the local high school segregated its 19 Romani students away from other students by placing all of them, irrespective of age, in a single classroom with one teacher in a building separate from the newer main school building. These children come from the poorest families in the town whose parents were often unable to send them to school for lack of money for clothing, school supplies or even to cover the costs of travel. In many areas of Ukraine, poverty often forces Romani families to withdraw their children from school so that they can work to supplement the family income.¹⁰³ In one survey of Roma in Ukraine, 66% of respondents with children who did not attend school said that the reason was because they were unable to afford to support their child in school, either for the costs involved (such as clothing and books) or because of the lost income and labour that a child in school represents for the household.¹⁰⁴ Romani activist Zemfira Kondur has observed that some impoverished Romani families are often eager for their children to attend the special schools for the disabled because by doing so their children are guaranteed one hot meal a day and sometimes even free clothing. However, she also observed that the curricula at these schools are entirely unsuited to the mental aptitude of many Romani children attending who have no learning impairment. These children are completely unchallenged in their education and from an early age learn not to expect much from it. Graduating from a special school for the mentally disabled effectively guarantees a life of exclusion and marginalisation, following the completion of non-schooling.¹⁰⁵

In the town of Novomoskovsk, Dnipropetrovsk oblast, out of an estimated Romani population of nearly 2,000, only 110-130 Roma children regularly attended any of the three schools in the area of the town with the highest concentration of Romani inhabitants in the 2005-2006 school year. Virtually every single low-income Romani family visited by the ERRC in the oblast had at least child who was not attending school,

¹⁰² Romani Yag, No. 9, p. 51.

¹⁰³ Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.

¹⁰⁴ Ukrainian Institute for Social Studies, pp. 48-49.

¹⁰⁵ Information provided by Zemfira Kondur of the Chirikli Roma Women's Fund in an interview on June 6, 2006.

and in most cases it was more than one if not all. When asked why, the most common responses were lack of funds for decent clothes or books, or that the children were needed by the family to help with either work at home or to supplement the family income.¹⁰⁶

One key event that consistently hinders the educational development of Romani children occurs early in their lives when they are regularly refused or simply unable to access preschool education. This lack of access is sometimes the result of factors internal to Romani communities, such as a lack of transportation to take children to school, no money for supplies, a lack of awareness on the part of parents of the critical importance of preschool. It is also often the result of discriminatory factors such as parents of non-Romani children pressuring preschools not to admit Roma children or teachers not wishing to teach them.¹⁰⁷ Romani children who do not attend preschool find themselves wholly unprepared when they apply to attend primary school. Lacking the basic skills they should have learned in preschool, and often not functionally conversant in either Russian or Ukrainian, they are unable to pass the entrance tests, nor do they understand what is expected of them, and they are often segregated immediately and excluded from mainstream education. The state provides no facilities or trained teachers who are able at this critical juncture to provide specialized education to ensure that Romani children begin their educational careers at the same level as their Ukrainian counterparts. Rather, in some areas of Ukraine they are shunted off to separate schools, often those for the learning disabled, where they have little hope of being able to return to the mainstream and have even fewer chances of ever being accepted for post-secondary schooling anywhere. In other cases, when they are permitted to enter mainstream schools, they are often predestined to fail, starting without the educational and linguistic skills that their non-Roma peers had the opportunity to develop in preschool.¹⁰⁸

The failure of the state to provide educational services to Romani children, or to undertake effective measures to ensure that Romani children realise the right to education on an equal footing with other children in Ukraine, has prompted some segments of civil society in some areas to respond. Over the foregoing ten years, with the support of the Soros Foundation, some Romani NGOs have been organizing “Sunday Schools” to supplement -- and in some cases act as a replacement for -- inaccessible or substandard state education.¹⁰⁹ Despite their utility, however, the lack of full support and proper

¹⁰⁶ ERRC interviews with the Tishenko family in Pishenko and the Chukalenko, Kalashenko, Lyubov, Smezhana, Isayeva, Valentina, Marozav, Yerionemko, and Kuchurenko families in Novomoskovsk, Dnipropetrovsk oblast, conducted on July 24-27, 2006.

¹⁰⁷ As observed by Zemfira Kondur of the Chiricli Roma Women’s Fund while conducting research in the city of Cherkassy.

¹⁰⁸ Information provided by Zemfira Kondur of the Chiricli Roma Women’s Fund in an interview on June 6, 2006.

¹⁰⁹ According to the “Temporary Regulations of Sunday Schools of National Minorities in Ukraine,” a Sunday School “is one of the forms to ensure the materialization of rights of peoples and ethnic groups for suity of native languages, literature, history, ethnic and cultural values and traditions, to meet needs of residents of a given region,” quoted in Ukrainian Institute for Social Sciences, p. 45.

pedagogical guidance for these compensatory programs prevents them from being able to fully prepare children with the skills they will need to enter and succeed in mainstream schools. These Sunday schools, while important, nevertheless cannot and should not be expected to act as a replacement for equal education in the public school system.

6.4 Employment

Unemployment in Ukraine has been a serious problem during the past decade and a half of drastic economic transformation, and Roma have been among those groups most seriously affected by it. Ukrainian Roma frequently cannot find work due to both the difficult economic situation, and outright racial discrimination. According to ERRC documentation in Ukraine, the majority of employed Roma work in unskilled, often seasonal forms of work such as agricultural and construction labourers or scrap material collectors, and in a few low-skilled service sectors such as hairdressing or market trading. The vast majority do not have regular jobs. The rate of unemployment among Ukrainian Roma is extraordinarily high. The Roma Congress of Ukraine estimates that about 90% have no regular employment.

Part of the problem of high unemployment is linked to the low educational level of many Roma, which, in an economy placing increasing emphasis on education, prevents Roma from accessing better-paid work opportunities. A high rate of illiteracy within the Roma community prevents many from knowing where or how to access information regarding employment opportunities. In Dnipropetrovsk oblast, one of the only ways that Roma with low levels of education can earn a decent living (i.e. enough to meet all serious needs) is to trade in non-perishable goods in city street markets. It would be an error, however, to assume that all Roma who trade in the markets are poorly educated. Ms. Sofia Kuchurenko, a merchant selling purses in the Sovetskaya marketplace in Novomoskovsk told ERRC that she had been selling items on the market for more than 15 years ever since she lost her job as a skilled industrial seamstress in a textile factory at the end of the years of the Soviet Union. She and all of her children, who also work in the market, have high school education or better, but nevertheless sell their wares on the street simply because “there are no other opportunities for Roma” in the city.¹¹⁰

Low levels of education effectively mask the core issue of racial discrimination in the labour market.¹¹¹ The ultimate barrier to gainful employment for Roma in Ukraine is skin colour, ethnic origin and/or other markers of ethnicity giving rise to stigma and pariah status. Stereotypes of violence and criminality, as well as views of Roma as work-shy and/or incompetent, make directors of companies wary of hiring Roma.¹¹² This was

¹¹⁰ ERRC interview with Sofia Kuchurenko, 28 July, 2006, Novomoskovsk, Dnipropetrovsk oblast.

¹¹¹ European Commission Against Racism and Intolerance, Second Report on Ukraine, CRI (2002) 23, § 59.

¹¹² Information provided by Zemfira Kondur of the Chirikli Roma Women’s Fund in an interview with ERRC on June 6, 2006.

the case with Ms. Lydia Cibulienka in Novomoskovsk in 2002 when she was not hired for a job in a private shop because of her ethnicity. Ms. Cibulienka has fair skin and blue eyes and was initially encouraged by the storeowners to apply when she inquired about an advertised position. Once she produced her personal documents, however, at least one of which identified her as Romani, the tone of Ms. Cibulienka's potential employers changed. They began to search for excuses to say not to her until finally they asked her to come back in a week's time, at which point she was told that the position had already been filled.¹¹³ A number of Romani NGOs are attempting to counter the fears and suspicions that potential employers draw from prevalent stereotypes by acting as character references for job-seekers, but even then many consider themselves lucky if they find any regular work at all.

Lack of a valid residence permit has also deprived many Roma of the possibility of employment in their hometown or anywhere else for that matter. Until recently, work was tied to legal residence permits. Until the relevant criminal code provision was abolished in 1997, prospective employers were required to check residence permits before hiring an individual. The labour code was amended the same year to the effect that employers are now prohibited from requesting residence permits as a condition of employment, but previous effects of this strict legal regime do not appear yet to have been overcome.

Roma are for the most part also excluded from access to credit and/or bank loans, with the exception of informal support provided by loan-sharks. For those who do manage to gather enough capital to start small businesses, such as kiosks in marketplaces, their ability to earn a living from them and be successfully self-employed is tempered by discrimination experienced on a daily basis from the general public. It is not uncommon for directors of marketplaces to expel all Roma merchants, as happened in 2005 in Dniprodzerzhynsk, Dnipropetrovsk oblast, in response to a media story of a Romani man in the city having raped a non-Romani woman.¹¹⁴

The prospects of Romani women to secure gainful employment are even worse. Irrespective of the barrier of racial discrimination, they are also discriminated against by employers based on their gender. Human Rights Watch in 2005 reported that gender discrimination in the Ukrainian workforce, in both the public and private sectors, is widespread, with most women forced into lower paying jobs if any at all. Fully 80% of Ukraine's unemployed population is female.¹¹⁵

As a result of the extreme duress created by generalised poverty, low levels of education and the additional burdens caused by racial animus, many Roma make their living by collecting scrap metal or wood for lack of any other opportunities. These individuals compose one of the most unprotected workforces in Ukraine. Every day,

¹¹³ ERRC interview with Ms. Lydia Cibulienka, 28 July, 2006, Novomoskovsk, Dnipropetrovsk oblast.

¹¹⁴ ERRC interview with Ms. Lydia Cibulienka, 28 July, 2006, Novomoskovsk, Dnipropetrovsk oblast.

¹¹⁵ Human Rights Watch, p. 444. <http://hrw.org/english/docs/2005/01/13/ukrain9884.htm>

thousands of people scour municipal garbage dumps throughout Ukraine in search of scrap metal, glass bottles or any other forms of refuse that large-scale recyclers are willing to pay for. The ranks the scrap metal and glass collectors include laid-off industrial workers, pensioners, people with disabilities and, in disproportionate amounts, unemployed and uneducated Romani men, women and children.

Gathering scrap materials and wood, when engaged in on public land, is illegal, and at times such practices can expose Roma to serious human rights abuses. The ERRC has documented abuses as extreme as shooting deaths of Roma gathering wood by forest wardens. Other Roma try to support their families by engaging in industrial or agricultural day work or by begging on the streets of cities and in railway stations. Day work can be fraught with hazards in Ukraine, as the employee frequently has little guarantee of payment. Roma are particularly exposed to abuses in day labour relations, since such a high proportion of the Romani community is dependent on day labour for income, as well as because in general Roma are widely perceived as being less sheltered by legal protections. Begging exposes many Roma to arbitrary treatment by police and other law enforcement authorities, including physical abuse, which can escalate to the level of torture with alarming frequency.

The ERRC has additionally received reports from partner organisations in Moldova that a number of Roma from Moldova travel to Ukraine, particularly eastern Ukraine, to engage in agricultural day labour, as a result of the fact that although such work is extremely poorly paid, it is among the only legal work opportunities available. Such persons are in a state of raw exposure to abuses by employers, due in particular to the fact that not only are they regarded as "Gypsies" -- and therefore frequently not considered due treatment as privileged as non-Roma -- but also that they are foreigners in Ukraine. Such persons also report having to pay significant parts of saved income to Ukrainian border authorities while travelling back to Moldova, and can be exposed to harassment and abuse by other Ukrainian authorities.

On no occasion of which the ERRC is aware has the government ever acknowledged that Roma face forces leading to racial discrimination in employment. Both the Constitution and the Labour Code contain provisions guaranteeing the equal rights of citizens to labour.¹¹⁶ These protections have been to date ineffective in challenging the near-total exclusion of Roma from the mainstream labour market and/or employment in the regular economy.

¹¹⁶ The Labor Code of Ukraine, Article 2-1 states that "Ukraine shall secure the equality of the labour rights of all citizens, regardless of their descent, social and material status, race, ethnicity, sex, tongue, political views, faith, character or nature of occupation, place of residence or other circumstances." Article 43 of the Constitution guarantees the equal right to labour.

7. Lack of Personal and Other Documents

The lack of personal identification documents, as well as other documents necessary for accessing basic services, is a systemic problem among Roma in Ukraine. Many currently live without any personal documents, including an unidentified number who immigrated during the former Soviet period and who are, effectively, stateless, and may lack recognition before the law, in the sense of Article 16 of the Covenant. Personal documents are required for utilising public services such as health care, unemployment insurance, education and pensions. The ERRC has gathered substantial evidence that indicates that many Roma are regularly denied a range of basic civil rights, including freedom of movement, the right to respect for private and family life, the right to vote, and the right to redress as a direct result of their not possessing personal documents.¹¹⁷

Roma also often experience great difficulty in acquiring proper registration documentation for their homes or places of work. This fact can enforce the *de facto* segregation of many Romani communities away from desirable locations and decent living conditions. Lacking one or more personal documents and/or official local residence permits, many Roma are often unable to secure legal aid, be recognized by the courts nor are they able to submit official complaints to the police. This, in effect, denies them their fundamental right to be recognized as individuals before the law.¹¹⁸ In the health sector, lack of documentation can provide the justification for refusals to provide public health services to Roma. Romani children without documents are particularly vulnerable to illness and disease since they require them to receive vaccinations and other preventative health measures.¹¹⁹ A lack of one or more documents or local residence permission may serve as a pretext for racially discriminatory refusals to enrol children in school.

Acquiring documentation is a process fraught with arbitrary barriers. In one case, in the village of Ribionki, near Bila Tserkva, Kiev oblast, a local Romani organization in February 2006 compiled a list of all Roma in the community who were in need of personal identity documents. They went to the local administration responsible for issuing documents such as these and, presenting the list, asked for assistance to process them. The employees at the office demanded the processing fee of approximately 20 USD for each person on the list and refused to issue the standard discounted fee of approximately 5 USD for the elderly. Four months later, there was still no progress made.

¹¹⁷ Other entities have expressed concern with this issue. The UN CERD recently expressed its concern about the lack of personal and other relevant identification documents effectively deprives many Roma of their right to equal access to the courts, legal aid, employment, housing, health care, social security and education.” CERD then recommended that the Ukrainian government “take immediate steps, e.g. by removing administrative obstacles, to issue all Roma with personal and other relevant identification documents in order to enhance their access to the courts, employment, housing, health care, social security and education.” See UN CERD, *Draft Concluding observations of the Committee on the Elimination of Racial Discrimination - UKRAINE*, CERD/C/UKR/CO/18, August 2006, para 11.

¹¹⁸ Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.

¹¹⁹ Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.

Local administrators refused to talk or deal further with the Romani community, and with no funding available to cover the required fees, they were not obliged to do so.¹²⁰

Cases such as the village of Ribionki demonstrate that despite the hardship that a lack of documentation imposes on Roma, many obstacles exist that prevent them from acquiring them. The generally low level of education of many Roma make it difficult for them to fully understand how to navigate a complex bureaucratic requirements needed to register property or secure individual identity documents. Furthermore, the administrative processing fees are simply unaffordable for people living in conditions of extreme poverty. Race, though, constitutes the most insurmountable obstacle. Direct discriminatory refusals to provide assistance in securing documentation, or sometimes even an outright refusal to do so on the part of officials and administrators are frequent and make the process virtually impossible. There are no government programs in place to assist an impoverished, uneducated and highly stigmatized population with obtaining the documentation they need.

If aware of the problem, government officials frequently deny any responsibility on the part of the Government for it. The Ukrainian State Party Report to the UN CERD Committee in August 2006, for instance, thrusts responsibility for a lack of personal and other documents entirely and rigidly onto Roma themselves. From the fact of widespread exclusion of Roma from personal documents a sweeping denial of the possibility of racial discrimination against Roma in Ukraine:

Roma often lack identity documents, but this fact speaks about their non-observance of elementary rules for societal behaviour and their civil duties, not about their discrimination... Such conduct leads to the situation, when both adults and children from Romani families initially have lower social status in comparison to representatives of other ethnic groups. They have more difficulties in finding employment, which is often underpaid, because the worker does not have general secondary and professional education. Therefore, accusations that Roma are deprived of their civil rights, practically, do not have any grounds.¹²¹

Here as elsewhere, the Ukrainian government demonstrates conclusively that it has not yet acquired the ability to understand the forces facing the majority of Roma in Ukrainian society and how they are uniquely impeded from accessing basic social services that are otherwise available to all others. Responding to the foregoing bold assertions by the Ukrainian government, the CERD Committee told the government in August 2006:

¹²⁰ Information provided by Zemfira Kondur of the Chiricli Roma Women's Fund in an interview on June 6, 2006.

¹²¹ *Eighteenth Periodic Report of States Parties Due in 2004: Ukraine*, CERD/C/UKR/18, § 87.

The Committee is concerned about reports that the lack of personal and other relevant identification documents effectively deprives many Roma of their right to equal access to the courts, legal aid, employment, housing, health care, social security and education. (Arts. 5 (a) and 5 (e)) ... The Committee urges the State party to take immediate steps, e.g. by removing administrative obstacles, to issue all Roma with personal and other relevant identification documents in order to enhance their access to the courts, employment, housing, health care, social security and education.¹²²

8. Recommendations

In light of the above, the ERRC recommends that the Government of Ukraine undertake the following measures:

1. As a matter of the highest priority, ensure that Parliament swiftly adopts a comprehensive anti-discrimination law, providing detailed protections and procedures against, in particular, discrimination on grounds of race or ethnicity.
2. Without any further delay, investigate and provide due remedy to Romani victims in the matter of the pogroms occurring in Ukraine since 1991, as well as the very serious instances of other forms of physical abuse and cruel and degrading treatment to which Roma have been subjected in the period following Ukrainian independence;
3. Investigate promptly and impartially incidents of violence against Roma and prosecute the perpetrators of such crimes to the fullest extent of the law; make public guidelines to law-enforcement and judicial authorities on identifying, investigating, and punishing racially-motivated crime.
4. Adopt effective measures to prevent, identify and, where occurring, punish manifestations of racial bias in the judicial system.
5. Ensure effective remedy for cases of discrimination against Roma in the fields of education, employment, housing, health care, social services and access to public accommodation.
6. Abolish the practice of race-based segregation of Romani children in special schools and classes, including special remedial classes for mentally disabled and other separate, substandard educational arrangements, as well as other forms of racial segregation in the school system. Implement a comprehensive school desegregation plan, such that all Romani children may fully realise their right to education; integrate all Romani students into mainstream classes, and, when

¹²² “Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine”, CERD/C/UKR/CO/18 August 2006, para. 11.

- necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling. Design pre-school programmes for Romani children to learn the primary language of schooling and attain a level of preparation ensuring an equal start in the first class of primary school. Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma.
7. Provide security of tenure for residents of Romani communities and settlements, and protect the inhabitants from forced and arbitrary evictions, as well as segregationist local practices.
 8. Ensure that all persons in Ukraine are in possession of all personal and other documents necessary for the realisation of fundamental civil, political, social and economic rights. Develop programmes to ensure the provision of legal residence to all persons factually resident in a given area, and to ensure that local authorities do not arbitrarily refuse to register Roma as locally resident.
 9. Remedy the current dearth of statistical data on the situation of Roma in sectoral fields key for social inclusion, including statistical data comparing the situations of Roma with non-Roma in areas such as education, employment, housing, health care, access to social services and access to justice.
 10. Provide free legal aid to members of weak groups, including Roma and the indigent.
 11. At all levels, speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.