

WRITTEN COMMENTS

of the European Roma Rights Centre, Concerning Romania

For Consideration by the Committee on Economic, Social and Cultural Rights
at the 53rd Session (10-28 November 2014).



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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The European Roma Rights Centre (ERRC)¹ respectfully submits written comments concerning Romania for consideration by the Committee on Economic, Social and Cultural Rights (CESCR) at its 53rd Session from 10 to 28 November 2014.

Regular monitoring of the human rights situation of Roma in Romania has been undertaken by the ERRC and the results of this work are reflected in this submission.

The present document does not aim to address all issues relevant to the implementation of the Covenant or its provisions in Romania, nor is the document a comprehensive summary of all human rights issues facing Roma in Romania. With this submission, the ERRC aims to present the results of research in several areas of relevance to the Covenant in order to complement the information provided in the State Report.

INTRODUCTION

According to current unofficial estimates the total number of Roma in Romania may be up to two million people.² A verified and accurate count remains elusive.³ In 2013, the National Statistics Institute published the results of the 2011 Census of the Population and Households, finding that the total population had dropped from 21.68 million inhabitants in 2002⁴ to 20.12 million. Of the 18.18 million respondents who gave information about their ethnicity, the number of persons self-identifying as Roma had increased to 621,006 (3.3% of total respondents, an increase from 535,140 (2.46%) in the 2002 census).⁵

The ERRC's research in Romania shows that Roma face discrimination, social marginalisation and extreme poverty and challenges in many areas of life, including employment, housing, health and education.

ARTICLE 2, PARAGRAPH 2 – NON-DISCRIMINATION

In December 2011 Romania adopted the Strategy for the Inclusion of the Romanian Citizens belonging to Roma Minority for the period 2012 – 2020 (the Strategy).⁶ The Strategy focuses primarily on four areas; housing, health, education and employment.

The European Commission's report on the implementation of the EU Framework for National Roma Integration Strategies found that: "Implementation and mainstreaming of many legally adopted policies and programs in the field of social inclusion have been delayed, due to a lack of implementation capacity and funding and the absence of strong commitment by public authorities." It also stated that a "constructive dialogue with civil society, as well as close cooperation with local and regional authorities should be ensured."⁷

- 1 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. Additional information about the organisation is available at: www.errc.org
- 2 Estimates vary, but range from 1.7 million to over 2 million, or between 8% and 10% of the population of Romania. See for example Migration Policy Institute, *The Roma of Eastern Europe: Still Searching for Inclusion*, (May 2005), available at: <http://www.migrationpolicy.org/article/roma-eastern-europe-still-searching-inclusion/>; see also National Agency for Roma, *Decade of Roma Inclusion 2005 – 2015: 2011 Progress Report*, available at: http://www.romadecade.org/cms/upload/file/9300_file9_romania_decade-progress-report-2011-1p.pdf.
- 3 ERRC, *Life Sentence. Romani children in institutional care*, (Budapest: June 2011), 7, available at: <http://www.errc.org/cms/upload/file/life-sentence-20-june-2011.pdf>
- 4 National Statistics Institute, *Romania pe Regiuni de Dezvoltare si Judete*, available at: <http://www.insse.ro/cms/files/rpl2002rezgen1/14.pdf>
- 5 National Statistics Institute, Central Commission for the Census of the Population and Households, *Rezultate definitive ale Recensământului Populației și al Locuințelor – 2011 (caracteristici demografice ale populației)*, (2013), available at: http://www.recensamantromania.ro/wp-content/uploads/2013/07/REZULTATE-DEFINITIVE-RPL_2011.pdf
- 6 *The Strategy for the Inclusion of the Romanian Citizens belonging to Roma Minority for the period 2012 – 2020* is available at: http://ec.europa.eu/justice/discrimination/files/roma_romania_strategy_en.pdf
- 7 European Commission, *Report on the Implementation of the European Framework for National Roma Integration Strategies*, (2014) 46, available at: http://ec.europa.eu/justice/discrimination/files/roma_implementation_strategies2014_en.pdf

The Commission's report highlights many further steps which need to be taken in order to ensure the effective implementation of the Strategy in Romania. These include ensuring effective practical enforcement of anti-discrimination law; effective measures to combat anti-Roma rhetoric and hate speech; efficiency and sustainability of any measures introduced, and proper monitoring of the impact of those measures; and sufficient allocation of European Structural and Investment Funds.⁸

The Strategy has also been criticised by NGOs, which were not consulted prior to its adoption. The Strategy lacks clear indicators on measuring its impact and contains only very general budgetary indicators.⁹ These factors reduce the possibility of effective implementation and of improving Roma inclusion policies.

In November 2013 a report by a coalition of NGOs highlighted the dissatisfaction among Romani and non-Romani civil society with regard to Romania's approach to the Strategy. This report draws attention to the fact that the Strategy was developed with no effective evaluation of previous exercises, no relevant baseline and no targets to be achieved. Government agencies do not systematically collect data on the situation of Roma and where data are collected, ethnicity tends to be ignored. Budget allocations are inconsistent and the total figure set aside for the Strategy is far less than what is needed for its effective implementation.¹⁰

ARTICLE 11 – RIGHT TO AN ADEQUATE STANDARD OF LIVING

SOCIAL HOUSING

Access to social housing remains problematic in Romania. This is particularly relevant for Roma. While authorities have, in meetings with the ERRC, highlighted programmes aimed at delivering social housing for Roma, the reality is that such programmes represent a tiny drop in the ocean. The Ministry of Regional Development and Public Administration informed the ERRC in 2013 about the completion of one such scheme, which provided 301 houses ("Social housing for Roma communities"). This scheme does not represent a significant solution to the social housing deficit for Roma. Furthermore, this particular scheme was originally scheduled for completion in 2010 according to Romania's own state report to the Committee. The European Commission, in its assessment of the Strategy, states that "housing conditions and access of Roma to social housing should be reinforced."¹¹

ERRC field research on access to social housing has revealed a number of issues which need to be addressed. Social housing is allocated on a points system based on criteria which are set at the local level. The awarding of points for certain criteria leads to indirect discrimination against marginalised groups. For example, some authorities award higher points for completion of secondary and tertiary education.

Furthermore, while social housing is financed from the national budget, there is no oversight mechanism to ensure that the allocation of social housing is transparent and non-discriminatory. The ERRC is currently carrying out research on access to social housing, which has uncovered some of the problems mentioned above. A report on the findings will be available by the end of 2014.

FORCED EVICTIONS

The ERRC has worked with Romani communities which have been subjected to forced eviction, or threatened with eviction. In the cases outlined below, authorities have failed to fulfil their obligations under Article 11 of the Convention, as elaborated in General Comment No. 7 on the right to adequate housing. In particular, authorities failed to explore feasible alternatives before evicting individuals; failed to ensure that evictions were

⁸ *Ibid.*

⁹ European Roma Policy Coalition, *Analysis of the National Roma Integration Strategies*, (March 2012), 17 – 18, available at: http://www.ergonet.org/media/userfiles/media/Final%20ERPC%20Analysis%2021%2003%2012_FINAL.pdf.

¹⁰ Resource Center for Roma Communities Foundation (lead organisation), Soros Foundation Romania, Civil Society Development Foundation, Roma Center for Health Policies – SASTIPEN, Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Romania*, (November 2013), 7 - 9, available at: http://www.romadecade.org/cms/upload/file/9270_file24_ro_civil-society-monitoring-report_en.pdf.

¹¹ European Commission, *Report on the Implementation of the European Framework for National Roma Integration Strategies*, 46.

carried out in compliance with international and national obligations, including Romania's obligations under the CESCR; and failed to ensure that adequate alternative housing is available. The evictions detailed below were carried out in particularly bad weather conditions, thereby failing to respect procedural protections. National and local authorities have repeatedly failed to ensure that any proper safeguards are in place with regard to evictions. Furthermore, the current national legal framework does not cover evictions from informal housing.

There is no legal requirement to conduct any consultation with regard to proposed evictions or to alternative accommodation being considered by the authorities. Neither those evicted in Cluj-Napoca or in Eforie Sud, detailed below, were consulted with regard to the modular housing and containers to which they were moved, respectively. Evictions are deemed to be individual measures, while consultations are mandated only in case of regulatory measures.

The Civil Procedure Code which entered into force in 2013 contains a number of problematic elements. The Code interprets eviction narrowly as the removal of current or former tenants or occupants of a property owned by the person seeking eviction. It does not appear to cover the clearing of informal housing by public authorities, a type of eviction which has affected Roma. The legal framework does not protect Roma and other vulnerable groups as it does not provide adequate time for challenging an eviction notice and obtaining a remedy. There are no legal remedies with automatic suspensive effect in cases of potential or threatened evictions. Organisations including the ERRC have proposed various measures which would address these issues, but to date such proposals have received no support from the authorities.¹² In fact, staff in the Ministry of Regional Development and Public Administration told the ERRC that forced evictions are not an issue in Romania, despite evidence to the contrary. Furthermore, the Romanian State report to this Committee fails to address forced evictions.

EVICTIONS IN EFORIE SUD, CONSTANȚA COUNTY,

Romani families have twice been subjected to forced evictions in Eforie Sud, Constanța County, Romania. In September 2013, 101 people, including 55 children, were made homeless in severe weather conditions after their houses were demolished. The reason given for the demolition was the lack of building permits. No remedy was made available to suspend the eviction, pending judicial review. 22 houses were demolished under the direction of the deputy mayor of Eforie, and approximately 80 law enforcement officers were present. Media also reported that the deputy mayor made threats during the eviction, saying, "if you don't come out, we're going to kill you here." The communities asked the first instance court for a suspension of the demolition, but by the time it was granted, the houses had already been demolished. Some of the Roma had been living in this area for more than 40 years.¹³

No alternative housing was provided and the people were forced to spend four days outdoors in makeshift shelters, in particularly bad weather. On 1 October 2013, some of them were offered shelter in an abandoned school building. The building had no windows or electricity and posed a severe threat to their safety and health. On 16 July 2014, ten of these Romani families in Eforie Sud were again evicted under the direction of the deputy mayor without due regard for Romanian and international law. Approximately 50 people, including children, were evicted from the derelict and abandoned high school building to which they had been moved by the authorities after the previous eviction in September 2013. Seven families were moved to containers which completely fail to satisfy national and international standards on housing. Three of the affected families have been provided with no accommodation of any kind.

The containers fail to meet basic housing standards such as adequate sanitation, water and electricity supplies. With less than 20 square metres in each container, they are too small to accommodate all members of the families adequately – on average there are 5 people living in each container. They are located on the edge of the municipality beside a large excavation site which poses serious risks for the children's safety.

EVICTION FROM COASTEI STREET, CLUJ-NAPOCA TO PATA RÂT

In December 2013 the Cluj-Napoca County Court (Tribunal) found that the Mayor's decision to forcibly evict over 270 Roma in December 2010 was illegal. The people were evicted from the city and moved to a site adjacent to a waste dump. The court ordered the city authorities to pay damages to the Romani applicants for

¹² The ERRC has had several meetings with public authorities to discuss the issue, but authorities have been unwilling to accept that this is an issue or work on any solutions.

¹³ ERRC, 'Romania Eviction Leaves 100 People Homeless in Dangerous Conditions – Authorities Must Act Urgently', press release, 2 October 2013, available at: <http://www.errc.org/article/romania-eviction-leaves-100-people-homeless-in-dangerous-conditions-%E2%80%93-authorities-must-act-urgently/4204>.

their eviction and relocation to Pata-Rât, and for the inadequate conditions of that housing. The Court also required the city to provide the applicants with adequate housing in line with the minimum standards set out in Romanian law. However, this decision is not final and is currently being appealed by the municipality. In the meantime, the evicted families continue to live in Pata-Rât, on the site of the city's rubbish dump. The families live in overcrowded modular housing, with 16 square metres per family. Each bathroom is shared among 4 families. The accommodation is isolated and far from the city, and in a polluted and hazardous area.

ARTICLE 12 – RIGHT TO HEALTH

ERRC research has highlighted inequities in the healthcare system that have a serious negative impact on the health status of Roma. A survey carried out by Gallup Romania for the ERRC in 2013¹⁴ showed the extent of health inequalities. The survey revealed a 16-year difference in the age at death, a gap which underlines the dramatic disparity in relation to health status and health outcomes. The average time between first diagnosis of a condition and death is 3.9 years among Roma, while it is 6.8 years in the general population. Roma also face more obstacles in accessing healthcare, are less able to afford medication, and are less likely to have knowledge of or access to screening and vaccination programmes.

11% of Roma respondents reported that in the previous year they had needed healthcare but did not get it, in comparison with 5% of the general population. The number of Romani women who report never having had a gynaecological examination was twice as high as in the general population: 32% of Romani women compared to 16% of women from the general population. 62% of Romani women responding to the survey had never heard of mammography, while only 20% of women in the general population reported the same. On the other hand, 39% of women from the general population reported high awareness of mammography compared to only 6% of Romani women.

In relation to vaccinations and other preventive measures for children, clear inequalities in access to care were revealed. The survey revealed that almost four times as many Romani children had never been vaccinated when compared with the general population (6.4% compared with 1.7%). The difference in the number of children who have not been vaccinated is very visible when looking at data disaggregated by gender – the number of Romani girls who have never been vaccinated was 11 times higher than the number of girls in general population households (6.6% of Romani girls have never been vaccinated compared with 0.6% in the general population).

The Roma Health Mediators programme is the main outreach programme which aims to improve access to healthcare for Roma in Romania. Originally established by the Romani NGO Romani CRISS, it is now a state-run programme. Roma Health mediators work directly in Romani communities to facilitate better access to information and appropriate treatment. However, since a process of decentralisation began in 2009 the number of health mediators has fallen. There were 688 in 2008 but only 420 health mediators were budgeted for in 2012. Furthermore, the transfer of responsibility for providing the Roma Health Mediator service to local authorities has had an overall negative impact on the programme. The position of health mediators within the healthcare system has been weakened, and their jobs have become less secure, as some local authorities have not funded the Roma Health Mediators within their localities, even though funding is available to cover this position.¹⁵

Monitoring by Romanian NGO Romani Criss has shown that segregation of Romani patients in hospitals in Romania continues.¹⁶ In Craiova segregated wards for women and for children were observed, and many of them were sub-standard. Doctors were observed providing negligent treatment to Romani patients; in one case a Romani child with tuberculosis was placed in a ward with Romani children who did not have tuberculosis. In Zalău, Romania Romani children were segregated in dirty and unfurnished rooms.¹⁷

14 ERRC, *Hidden Health Crisis: Health Inequalities and Disaggregated Data*, (Budapest: November 2013), available at: <http://www.errc.org/article/hidden-health-crisis-health-inequalities-and-disaggregated-data/4214>.

15 Decade of Roma Inclusion Secretariat Foundation, *Civil Society Monitoring on the Implementation of the National Roma Integration Strategy and Decade Action Plan in 2012 in Romania*, 15 – 16.

16 Open Society Public Health Program, *Roma Health Rights in Macedonia, Romania, and Serbia*, (Budapest: June 2013) 13, available at: <http://www.opensocietyfoundations.org/sites/default/files/roma-health-rights-macedonia-romania-serbia-20130628.pdf>.

17 *Ibid.*

RECOMMENDATIONS

NON-DISCRIMINATION

Ensure that representatives of Romani civil society are fully and genuinely involved in any revision of the Strategy for the Inclusion of the Romanian Citizens belonging to Roma Minority for the period 2012 – 2020.

Ensure that Romani civil society is actively included in the implementation as well as monitoring process of the Strategy.

Provide concrete budget details for the implementation of the Strategy, ensuring that the budget provided is sufficient for effective implementation of all elements.

Regularly collect and publish data disaggregated by ethnicity and sex, particularly in areas relevant to the Strategy such as housing, health, education and employment.

Publish a detailed plan of activities that have been implemented since January 2012 in the main areas of the Strategy: access to employment, access to education, access to housing and access to health

HOUSING

Ensure criteria for allocation of social housing do not discriminate, either directly or indirectly, against socially marginalised groups including Romani applicants.

Ensure transparency and consistency in allocation of social housing, making data on the allocation of social housing, disaggregated by ethnicity, publicly available.

Prohibit all forced evictions and adopt a legal framework that establishes appropriate requirements and procedures to be followed prior, during and after eviction in line with the Covenant and other international human rights standards.

Prohibit all forced evictions, as defined in the Covenant and General Comment no. 7, including those from informal housing.

Adopt a legal framework that establishes appropriate requirements and procedures to be followed prior, during and after eviction, with a focus on the consultation of those affected and prior judicial review, in line with the Covenant and other international human rights standards

Establish an effective oversight procedure in the event that an eviction order is granted, ensuring that all requirements and procedures are fully adhered to and that affected individuals are aware of their rights.

Collect and disseminate data at national and local levels on the number of evictions, the number of affected individuals and the conditions under which the eviction took place, including data disaggregated by ethnicity and sex.

HEALTH

Increase the number of Roma Health Mediators and ensure that all local authorities support the Roma Health Mediators programme, including by using the budget allocated for this specific purpose.

Collect and publish disaggregated data in relation to health and access to healthcare, including data disaggregated by ethnicity and sex.

Monitor all healthcare facilities to end discrimination and segregation of Roma in hospitals and other facilities, and investigate any incidents of such segregation fully.