

# PROGRAMME STRATEGY 2013-2017

EUROPEAN ROMA RIGHTS CENTRE

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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## The ERRC Strategy development process

By end of 2012, the three-year Programme Strategy of ERRC had run its course. The ERRC had articulated its strategic focus on a number of previously-identified Roma rights issues: the inadequate State response to violence; overt segregation in education; forced evictions from housing and the prevalence of substandard housing; violations of the right to free movement in the European Union; violations of women's and children's rights and the failure of States to collect and disseminate data disaggregated by ethnicity to inform rights protection and inclusion policy. In order to focus its efforts, ERRC identified 10 priority countries for its interventions: the Czech Republic, France, Italy, Macedonia, Portugal, Romania, Russia, Serbia, Slovakia and Ukraine. These countries were chosen based on an examination of a number of factors including geographic diversity; size of Romani population; prevalence and severity of rights abuses; opportunity for impact; presence/absence of local partners; prior ERRC track record; consistency with previous or ongoing ERRC work; existence of staff with requisite language skills; and donor interest. The country-focused analysis led the ERRC to decide to withdraw from active work in Hungary and Bulgaria because of a relatively strong presence of local NGOs engaging in legal advocacy. The ERRC decided to pick up one new country, Portugal, because of the severity of the problems facing Roma there and the total absence of legal advocacy efforts.

In the spring of 2012, following a proposal from the Executive Director, the Board of the ERRC agreed to a five-year strategy with a built in mid-term review in which the Board will be engaged. A bottom-up strategy development process with active all-staff participation and an outside consultation process was agreed upon as well. The external consultation process began with a series of meetings held by the Executive Director with activists and experts from international and national organisations based in Budapest. Furthermore, an online survey-based questionnaire was developed and agreed upon by the Board. More than 50 partner organisations, activists and experts provided a response to the ERRC's request for feedback in regard to its future work. As part of the internal review process, the staff provided its feedback via an online survey questionnaire as well. Six working groups have been set in motion in accordance to thematic areas of the ERRC strategic programme. Each working group produced an output document which was presented, discussed and revised during a two-day all-staff retreat. The senior staff at management level reviewed and delivered a draft document reflecting the views of the organisation. The Board further discussed, reviewed and adopted the current Strategy of ERRC.

## The factual context of the situation of Roma in Europe and its relevance for the ERRC work

In his report published in 2012, Thomas Hammarberg, The Council of Europe's Commissionaire for Human Rights, underlined that "discrimination and other human rights abuses against Roma and Travellers have become severe and that no European government can claim a fully successful record in protecting the human rights of the members of these minorities."<sup>1</sup>

### *The rise of anti-Gypsyism, violent attacks against Roma and a climate of impunity*

In February 2012, the Council of Europe's Committee of Ministers adopted an official declaration to express deep concern at the rise of anti-Gypsyism and violent attacks against Roma.<sup>2</sup> Reports of violence targeting Roma across Europe have become more frequent in the last years and are often set in the context of racist speech against Roma, including by politicians and public officials at the highest levels, galvanising segments of the public against Roma in Hungary, Czech Republic and Bulgaria. Racist or stigmatising anti-Roma rhetoric has been on the rise in both public and political discourse, including accusations that Roma as an ethnic group are engaged in criminal behaviour. There are well-documented examples of this from France, Italy,

<sup>1</sup> See Council of Europe, Human rights of Roma and Travellers in Europe, [http://www.coe.int/t/commissioner/source/prems/prems79611\\_GBR\\_CouvHumanRightsOfRoma\\_WEB.pdf](http://www.coe.int/t/commissioner/source/prems/prems79611_GBR_CouvHumanRightsOfRoma_WEB.pdf)

<sup>2</sup> See Council of Europe, Committee of Ministers, <https://wcd.coe.int/ViewDoc.jsp?id=1902151&Site=CM>

Hungary, Slovakia, Bulgaria and Czech Republic. In some cases, these words were understood as encouraging violent action, such as mob riots or violence against Roma.

Violence against Roma remains a serious problem not only because it harms the Roma directly affected by the attack, but also because Roma as an ethnic group are impacted by the lack of an effective response by State authorities. Instances of attacks against Roma as well as excessive use of fire arms by police continue to be reported in Italy, France, Serbia, Bulgaria, Slovakia or Romania. According to a 2011 report published by the ERRC examining the state response to 44 selected violent attacks against Roma in the Czech Republic, Hungary and Slovakia, many Romani victims of violent crimes do not secure justice. A limited number of perpetrators of violent attacks against Roma are successfully identified, investigated and prosecuted. Even fewer are eventually imprisoned for the crimes they have committed against Roma. The racial motivation of the crimes committed against Roma in the majority of cases is ruled out or not confirmed in the absence of identified suspects. The failure of law enforcement authorities to identify the perpetrators of crimes against Roma in a considerable number of investigations creates a climate of impunity and may encourage further acts of violence against Roma. Where courts only issue suspended prison sentences to those found guilty of serious crimes against Roma, it reinforces the message that it is okay to attack Roma.

#### *Patterns of segregation of Romani children in education*

The segregation of Romani children into separate and/or substandard education continues to be the most widespread violation with respect to the right to education. Several patterns of segregation of Romani children are still encountered in Europe: segregation between schools (where most Romani children attend Roma-majority schools), segregation within schools (when in mainstream education Romani children are separated from the others in classes and other facilities) and segregation into special schools, including schools for mentally-disabled children. First, segregated housing, as well as the fact that non-Roma parents pull their children out of schools frequented by Roma (the so-called “white flight” phenomenon), results in de facto segregation of entire schools. In such cases, a “ghetto school” is often materially substandard and/or not adequately staffed, with both Romani and non-Romani pupils deprived of the possibility of equal quality schooling in a multicultural environment. Reports indicate that this trend is especially visible in Bulgaria, Cyprus, Hungary, Moldova, Montenegro, Romania, Serbia, Slovakia and Turkey.

Second, even when Roma and non-Romani children share the same school, Romani pupils are often separated from the majority in classrooms by being placed in specific areas of the class or in entirely separate classes. Remedial classes, separate classes and segregation in the classroom have been reported in Croatia, Czech Republic, Greece, Hungary, Montenegro, Portugal, Russia, Serbia, Slovakia, Macedonia and Turkey, among others.

Third, in many countries, Romani children are disproportionately streamed into special education, in particular schools or classes for children with disabilities. Overrepresentation of Romani children in special schools is often reported in Bulgaria, Czech Republic, Hungary, Russia, Serbia, Slovakia and Macedonia.

#### *Substandard housing conditions, segregated settlements, forced evictions*

Residential segregation accompanied by hazardous living conditions for Roma are yet more evident in many European countries including Bulgaria, Czech Republic, France, Greece, Hungary, Italy, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Turkey, Ukraine and Russia. An increased number of forced evictions of Roma have been reported during 2011 and 2012. In Romania, 56 Roma families were evicted from the city centre of Cluj, where some had been living for approximately 25 years, without notifications and without adequate alternative solutions. Families were relocated close to the city’s waste dump. Similarly, Roma families from Baia Mare were forcibly evicted to a run-down chemical plant. More than 60 Roma were forcedly evicted during extreme weather conditions in Albania and Lithuania and approximately 1000 Roma from the informal settlement of Belvil were evicted in Serbia without adequate alternative accommodation. Despite the fact that the so-called Nomad Emergency was declared illegal by

the Council of State in Italy, new segregated camps for Roma have been built and more than 300 Roma were evicted in Milan while alternative accommodation was not fully provided. Between January and June 2012, the ERRC registered at least 20 forced evictions affecting around 2,600 Romani individuals in France. From June to September 2012, the ERRC recorded more than 30 forced evictions of Roma throughout France affecting more than 4,000 Roma. Alternative accommodation was very rarely offered. Urban renewal and projects using emergency expropriation mechanisms continue to affect entire Romani neighbourhoods in Turkey. In 2012, a court decision found an urban renewal project in Istanbul's famous Sulukule Romani neighbourhood to be against the public interest. Although the decision has been appealed, none of the affected Roma have been given redress, similar projects continue in other locations and a new law relying on emergency appropriation mechanisms was adopted in 2012, which is likely to negatively impact many more Romani communities.

#### *Unequal access to public services due to lack of personal identification documents*

In many cases, the social exclusion of Roma is impacted by the lack of birth certificates, identity cards, passports or other documents. This leads to a denial of access to basic rights such as education, health care, social assistance, housing, voting, etc. Recent reports indicate that this problem affects thousands of people living in countries from the Western Balkans and the former Soviet Union, including others such as Albania, Bosnia and Herzegovina, Serbia, Ukraine and Russia.

#### *Hindered freedom of movement and migration of Roma in Europe*

The freedom of movement of goods, services, capital and people are founding purposes of the European Union. However, Roma have repeatedly been treated differently from non-Roma in the exercise of this freedom. In France the repatriation of Romanian and Bulgarian Roma is still an ongoing issue of discriminatory practice, which is in violation of the fundamental rights of these European Union citizens. As a means to justify expulsion under EU and French law, the French authorities use so-called "humanitarian aid returns". The returns often take place in the context of forced eviction of informal settlements which would otherwise render the affected people homeless and as such cannot be considered voluntary; they therefore breach rights to free movement. This was made clear by a 2011 decision of the European Committee of Social Rights in a collective complaint against France regarding the expulsions of Roma in 2010. Despite this, the French Minister of Interior announced on 11 September 2012 that by the end of the month, 7,000 Romanians and Bulgarians will have gone back under the humanitarian aid scheme.

In the broader context of migration, Roma continue to be discriminated against in immigration and asylum matters. Roma often face discriminatory treatment when trying to cross national borders, as is currently a major issue in Serbia and Macedonia. Several hundred Romani individuals were illegally prevented from travelling outside the country because of a perception that they could be seeking political asylum in EU Member States. Numerous western EU countries and Canada have reacted negatively to increases in asylum applications from Roma, leading to the development of so-called safe country lists which lead to blanket rejections of individual applications for asylum and the reinstatement of visa requirements (or the threat thereof) in some cases.

#### *Gap in health status and unequal access to health care services*

Throughout Europe, the average life expectancy of the Romani population is up to 10 times shorter than that of non-Roma. The infant mortality rate is much higher among Roma communities. Recent reports noted that Roma child mortality rates are two to six times higher than those for the general population, depending on the country. Roma face barriers in accessing health care due to lack of funds to pay for insurance or treatment, lack of identification documents and lack of means of transportation from remote areas to health care facilities. Discrimination remains one of the major barriers to health care and social assistance for Roma in many European states. In some countries, Roma have been excluded from public health care schemes

due to discriminatory eligibility criteria. In a case brought by the ERRC, the European Committee of Social Rights found Bulgaria in violation of the European Social Charter twice by failing to ensure that Roma have adequate access to the health care system and to social assistance, thus prompting the Government to amend the law on social assistance.

### *Ethnic and gender discrimination of Romani women and children in Europe*

Romani women and children are negatively affected by multiple forms of discrimination. Their vulnerability to discrimination on a range of grounds, including ethnicity, sex, age and potentially other categories, leaves many in deep social exclusion and poverty, victims of serious human rights abuse. Romani women and children are at particular risk of poverty and face discrimination by both Romani and non-Romani society in access to education, housing, health care services, employment, social assistance and social security and more.

Low socio-economic status, low educational achievement and high levels of unemployment, compounded with high levels of discrimination and racism, place Romani women and children at an inordinately high risk of becoming victims of various harmful practices and human rights violations including child and forced marriage, involuntary sterilisation and human trafficking. According to ERRC research, Romani children are also over-represented among children placed in out-of-family care, including in institutional and foster care, in many European countries. Romani children are in some cases removed from their families on the sole ground that homes are not suitable and stable or that economic and social conditions are unsatisfactory. Policies and programmes aimed at improving the situation of Romani women and children have not made significant progress in eliminating the inequalities they face.

### **Latest policy developments addressing the situation of Roma in Europe**

Despite growing policy and programming undertakings aimed at combating the social exclusion of Roma in numerous European countries, Roma in Europe continue to face very high levels of discrimination and social exclusion, and systemic improvement is hard to demonstrate. As a result, in May 2011 the European Council endorsed the European Commission's EU Framework for National Roma Integration Strategies, which requested Member States to adopt or to develop further a comprehensive national approach to Roma integration in four areas: access to education, employment, healthcare and housing. The EU Framework stipulates that Roma integration goals are equally relevant to enlargement countries, which were requested to adopt or amend existing strategies in line with the EU Framework.

The endorsement of the EU Framework at the highest political level of the EU was a significant step forward in tackling the situation of Roma in Europe. It needs to be noted, however, that the Framework falls far short of fully tackling the challenges of Roma exclusion, which are intimately linked to widespread hostility and discrimination against the Roma people. It does not bind Member States to act towards meeting the included goals, and fails to specify measures to combat discrimination, intimidation, anti-Gypsyism, hate speech or violence against Roma, in line with the recommendations of the European Parliament.

By March 2012, all Member States had presented a National Roma Integration Strategy or a corresponding set of policy measures within their broader social inclusion policies to the European Commission. By the end of May 2012, the European Commission submitted its Communication to the European Parliament and the Council in regard to its first assessment of the Member States' strategies on Roma.

### *Discrimination in education, employment, health and housing needs to be further addressed by the EU Member States*

The European Commission emphasised that Member States should, as a matter of priority in the area of education, "eliminate school segregation and misuse of special needs education" or "raise parents' awareness of the importance of education". In the area of employment, Member States

should “eliminate the barriers, including discrimination, to (re)enter the labour market, especially for women”. In the area of health, Member States should employ a systematic approach that ensures coordination between the healthcare sector and other sectors – particularly education, housing, employment and anti-discrimination. Only a few Member States planned specific measures promoting non-discriminatory access to housing. The Commission underlined that Member States should, as a matter of priority in the area of housing, “promote desegregation”, “facilitate local integrated housing approaches with special attention to public utility and social service infrastructures”.

*Lack of a clear human rights approach in the national policies*

According to ERRC assessment, the phenomenon of anti-Gypsyism as well as violence against Roma is only indicated on a descriptive basis in a very small number of the national strategies. The anti-discrimination measures indicated in relation to education, employment, health, and housing are weak - lacking substance and coherence. The strategies envisage improvements in these areas without a clear plan to effectively combat racial or ethnic discrimination. Few of the strategies have an entire section or chapter dedicated to anti-discrimination issues. Even if countries include some plan of financial support for the strategy, they lack specific budget lines to deal with anti-discrimination measures. Some strategies include references to the equality body or other relevant human rights bodies, but in most cases their role is not substantiated in the implementation process of the strategy. Several strategies fail to take into consideration the rights of Romani women at all.

*The European Commission acknowledged that national policies submitted by the EU Member States need substantial improvements*

In its communication from May 2012, the European Commission underlined a list of emerging points to be addressed by Member States in regard to national strategies on Roma. Despite the fact that the EU Framework asked Member States to allocate funding to Roma inclusion measures, most Member States have failed to allocate sufficient budgetary resources for Roma inclusion. Only a few Member States explicitly envisaged the mobilisation of regional/local authorities in implementing and monitoring of the strategies. There was little indication of the involvement or consultation of these local public actors in the drafting of the strategies. Most Member States failed to explain how they see co-operation with regional and local authorities on the one hand, and civil society as well as Roma communities on the other, in the implementation and monitoring of their policies. While several Member States recognised the need for a strong monitoring system and for developing such a system, substantial efforts are needed to meet the expectations set out in the EU Framework and to ensure appropriate reporting on Roma socio-economic inclusion. Member States should, as a matter of priority, ensure that all Roma are registered with the appropriate authorities; step up the fight against racism and discrimination including multiple discrimination; and build public understanding of the common benefits of Roma inclusion.

**Political leverage, challenges and opportunities for the ERRC work**

The EU Framework, the request to implement national integration strategies and the EU accession process all provide political leverage for ERRC to advocate the rights agenda. The EU Charter of Fundamental Rights and eventual EU accession to the European Convention of Human Rights may also offer new opportunities to engage EU mechanisms in rights protection. Member States and countries seeking to join the EU need to ensure that anti-discrimination legislation following the transposition of the Race Directive is effectively enforced in their territories. According to Council Framework Decision 2008/913, Member States shall take necessary measures to ensure that certain forms and expressions of racism and xenophobia are prohibited by criminal law. The ERRC will advocate for a particular emphasis on Roma issues to be placed on the assessment process of the Commission on the application of the EU Race Directive and the EU Framework Decision on Racism and Xenophobia.

Failure of States to implement judgments of the European Court of Human Rights or the European Committee of Social Rights has impeded systemic change in law, police or practice on Roma issues. Despite significant and settled jurisprudence identifying the state responsibility to address violence against Roma, to end school segregation, and to observe fundamental due process norms concerning evictions, these problems remain endemic, necessitating continued intervention. ERRC must continue to improve on the impact of its litigation by engaging in concerted follow-up advocacy, building coalitions and networking with international and national organizations and identifying new advocacy opportunities.

Available funds for supporting legal advocacy are diminishing, as government and private donors continue to withdraw from funding in Europe, particularly from EU Member States. EU funding through structural funds is not available for litigation and advocacy at all. Therefore, the ERRC must develop an appropriate fundraising strategy that would envisage ways to identify new opportunities, seek donor cultivation and support sources for the type of activities employed by the organisation.

### **The view of the external stakeholders on the work of the ERRC**

As part of the strategic planning process, the ERRC consulted with several stakeholders and experts from Budapest based organisations (Open Society Foundations (Roma Initiatives, Human Rights and Governance Program, Roma Health Program), Roma Education Fund, Roma Decade Secretariat), intergovernmental organisations (ODIHR/CPRSI, Council of Europe/CHAROM, Fundamental Rights Agency) and international organisations (Amnesty International Brussels office, European Roma Information Office, European Network Against Racism, European Roma Grassroots Organizations, Policy Centre for Roma and Minorities, OSI Brussels office) as well as Romani and non-Romani organisations, activists, ERRC monitors and experts from Bulgaria, Czech Republic, France, Hungary, Italy, Macedonia, Romania, Slovakia, Serbia, Spain, Turkey and Ukraine. Ten experts provided their feedback during meetings with the Executive Director and over 50 respondents provided their feedback through an online survey about the ERRC's work and future strategy.

#### *ERRC mission to combat racism against Roma and its impact in Europe*

An overwhelming majority (96%) of the respondents stated that the current mission of ERRC to combat anti-Romani racism and human rights abuse of Roma is valid for the coming five years and yet more relevant in the existing environment affecting Roma in terms of ongoing stigmatisation, rise of anti-Roma sentiments and human rights violations against Roma across Europe.

Similarly, 91% of the respondents acknowledged that the work of the ERRC was consistent with its mission and the programme strategy. While recognising that measuring the effectiveness of a human rights organisation is difficult, 94% of the respondents considered that ERRC continues to have an impact on Roma rights in Europe, in particular through successfully litigating cases before international tribunals, as well as advocacy and monitoring reports on Roma rights. While some considered that ERRC needs to focus on EU law and policy monitoring and litigation, 43% of the respondents indicated that ERRC could increase its impact by creating synergies in its work with local NGOs and communities as well as building grassroots support for Roma rights (9%). On the other hand, 79% considered that the mix of ERRC institutional activities is appropriate and should be further considered in the future program strategy.

#### *ERRC's thematic and geographical priority adjustments*

92% of the respondents considered that the ERRC thematic priorities set in the last three years, mainly violence against Roma, segregation in education, housing rights violations, freedom of movement violations, women and children rights and the lack of disaggregated data collection, are relevant in going forward and applicable for the human rights situation of Roma communities in Europe. When asked if the ERRC should adjust its thematic priorities, the majority (56%) stated that these are still relevant. Those considering that changes are needed suggested a shift on

challenging discrimination in employment (30%) as well as in access to healthcare services (20%) In terms of focus countries, the majority (62%) of the respondents considered that the ERRC geographical coverage in the last years was generally appropriate in terms of the human rights challenges faced by Roma. Yet 58% provided input that ERRC needs to adjust its country focus to include other countries, particularly Bulgaria (28%), Turkey (24%), Hungary (20%) and Croatia (16%). Several respondents indicated that the EU accession countries and the neighbourhood policy countries should be considered and prioritised by the ERRC, while work in countries like Russia or Portugal should be re-assessed.

#### *ERRC's strengthening work and co-operation with relevant stakeholders*

A number of respondents underlined that ERRC is one of the most important actors at regional level to advocate on Roma issues and in particular to litigate for Roma rights internationally. Therefore, civil society members and organisations have high expectations of the ERRC. A majority of respondents (59%) considered that ERRC needs to strengthen its work, in particular with regard to strategic litigation (30%), advocacy (26%) and media outreach (15%). It has been indicated that ERRC should play a more active role in monitoring the implementation of the EU law, in particular the Race Directive and the impact on Roma cases, as well as the EU Roma policies, particularly the non-discrimination strand while tackling social exclusion. Several respondents indicated that the ERRC should further develop its strategic litigation following the EU anti-discrimination framework and national legislation, with the aim of making use of the European Court of Justice.

A large majority (82%) indicated that ERRC has maintained or developed effective relationships with relevant stakeholders or partners and believe that ERRC has been co-operating or linking its work with the broader Roma rights movement. On the other hand, the importance of delivering a clear message to organisations, seeking out and developing partnerships and networking in order to ensure that ERRC work and message reaches Romani communities has been emphasised.

#### **The ERRC institutional approach to achieving its core mission**

The ERRC is an international public interest law organisation engaged in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development, and training of Romani activists.

During the strategic review process, both the organisation members as well as an overwhelming majority of consulted stakeholders indicated that the current institutional approach of the organisation is appropriate going forward as part of the ERRC strategic programme.

#### *Strategic litigation*

Since its establishment, the ERRC has set in motion more than 500 court cases in 15 countries to bring to justice state and non-state actors who have discriminated against Romani individuals or have committed violence against them. Through strategic litigation, the ERRC aims to use the justice system to achieve legal and social change as well as public awareness about Roma rights. By using litigation as a tool, the ERRC seeks to change law, policy and practice which violate the human rights of Roma, and seeks as well to empower Roma through law and strengthen the network of legal advocates working on behalf of Roma. In this regard, the ERRC is active in both domestic and international litigation. The organisation supports local lawyers in domestic legal proceedings both professionally and financially. When domestic remedies are exhausted, the ERRC prepares legal submissions to international tribunals, including the European Court of Human Rights, the European Committee of Social Rights and UN treaty bodies.

In spite of significant jurisprudence developed at the European level identifying the state responsibility to address a wide range of human rights violations against Roma and, in particular,

related to racial discrimination, problems remain endemic, thus necessitating continued intervention. On the other hand, the capacity of local organisations in the region to address Roma rights issues, particularly from a litigation and legal advocacy perspective, is still insufficient. Throughout Europe, the ERRC remains one among very few actors litigating on behalf of Roma at the European level. The ERRC will focus on further developing litigation to protect Roma rights and is using new legal tools to make use of the existing national anti-discrimination frameworks, seeking referrals to the European Court of Justice on the basis of the EU Race Equality Directive and requesting infringement procedures by the European Commission on non-compliance with the EU law in regard to discrimination issues towards Roma.

The ERRC's strategic litigation programme is also now significantly enhanced by the development of community legal empowerment projects. These projects help to identify issues for strategic litigation, particularly when legal and policy frameworks are increasingly comprehensive on paper and implementation is the biggest challenge. The projects also help by fostering trust from and lasting engagement with communities and individual litigants.

### *Research and Advocacy*

Litigation is just one tool among many that the ERRC uses. This is why the organisation works to ensure that human rights issues facing Romani communities are firmly on the political agenda in Europe. The ERRC's extensive research and advocacy programme has provided reliable data about the human rights situation of Roma. This work aims to document individual cases of human rights abuse and discrimination as well as structural forms of discrimination and exclusion that directly or indirectly affect Roma in large numbers. ERRC research work aims to provide evidence-based assessment of the impact of law and policy on Romani communities across Europe as a basis for promoting reform and effective implementation of law, policy and practice. The results of ERRC research activity provide the basis for the ERRC advocacy, communications and legal work, and provide direction in planning and content for human rights education work. The ERRC uses international and national level advocacy to promote the reforms needed to bring real improvements in the situation of Roma.

The ERRC remains committed to improving the impact of its work by engaging in concerted follow-up advocacy, building coalitions with international organisations, in particular with local organisations around advocacy, and towards the legal empowerment of Romani communities at the local level. The ERRC will be seeking to foster stronger community engagement and legal empowerment of Roma in actions that are connected to and support the ERRC's strategic plans and actions to increase the impact of its work.

### *Human Rights Education*

The ERRC aims to empower Romani activists to promote human rights respect and equality of Roma, using the international human rights framework, to address human rights problems that affect their communities and to provide hands-on learning opportunities and professional training. Through its human rights education work, the ERRC targets primarily Romani lawyers and activists, as well as other actors of importance to improved respect of Roma rights, including judges and lawyers, to achieve these aims.

The ERRC's human rights education portfolio includes: internships for Romani activists, international and national human rights workshops for Romani activists, training programmes for Romani and non-Romani legal professionals and other stakeholder groups, legal traineeships for Romani lawyers, and research fellowships focused on gender equality and other topics for Romani activists.

ERRC human rights education work is a central piece of the wider legal empowerment work of the organisation. This focus will improve the impact of ERRC human rights education work on empowering Roma and other actors to protect and promote respect of the rights of Roma, and will contribute to increased levels of direct action by Roma on behalf their communities.

### *Media and communication*

Media and communications work is an important tool in the ERRC portfolio. Traditional and new media play an important role in forming public opinion. The media are not always human rights-sensitive, and in many countries throughout Europe, the media are failing to live up to their responsibility to counter stereotypes against Roma. The ERRC works closely with various media and other communications outlets through outreach, education and information sharing to ensure coverage and awareness of our issues and work, to improve coverage of Roma rights-related matters in Europe and to improve respect of Roma rights. Through media and communication work, the organisation aims to provide frequent updates on events affecting Roma and easy access to materials on the far-reaching and recurring human rights concerns of Roma. The ERRC maintains an extensive archive of Roma rights-related information on its website and publishes human rights reports, press releases, newsletters, the journal *Roma Rights*, and educational materials. It maintains an extensive network of contacts with journalists and other public opinion drivers. It uses audio-visual materials and social media to more directly reach out to and influence wider society on Roma rights matters.

The ERRC will continue to proactively develop this work to strengthen communication and information sharing about its work with the Roma rights community, the civil society and the media stakeholders, and to improve respect of Roma rights.

### **The ERRC's thematic focus and geographical mandate**

The ERRC will continue to focus its efforts on a number of thematic areas. This view has been endorsed by an overwhelming majority of the consulted stakeholders, who believe that the previous ERRC thematic priorities are relevant going forward and applicable for the human rights situation of Romani communities in Europe. The ERRC will maintain its strategic focus on violence against Roma and the State response, the segregation of Romani children in education, access to adequate housing and forced evictions, free movement and migration, lack of identity documents and the impact of accessing social rights, violations of women's rights and children's rights and the failure of States to collect and disseminate disaggregated data.

The organisation will follow the same framework set by the previous Strategy laying down an articulation of a long-term aspiration, mid term objectives and short term activities in each of the priority thematic areas. The aspiration is intended as a statement of the desired end result of ERRC work. We do not expect to achieve this aspiration within the next five years; most of these aspirations will take decades to achieve. Objectives represent more limited goals toward which the ERRC is working. Achievement of these objectives will help society move closer to the aspiration. The types of activities listed are those that the ERRC will pursue in the strategy period.

As an international public interest law organisation, the ERRC continues to define its geographic mandate broadly, encompassing Central and South-Eastern European countries, Western countries and Eastern European countries with significant Roma populations.

In terms of its geographical scope, in 2010 the ERRC conducted an extensive internal reflection on where and how it was working with the aim of improving the efficiency and impact of its work. As a result of this reflection, the ERRC identified 10 priority countries for its intervention: the Czech Republic, France, Italy, Macedonia, Portugal, Romania, Russia, Serbia, Slovakia and Ukraine. At that time, the ERRC decided to withdraw from active work in Hungary and Bulgaria due to a relatively strong presence of local NGOs engaging in legal advocacy, and focus on maintaining existing commitments in those countries. Outside of these focus countries, the ERRC decided to limit its interventions on issues in other countries to communication-type responses to important developments.

The ERRC is looking to set a flexible framework that can reflect a strategic approach to the human rights challenges faced by the Roma as well as the dynamics of development processes in European countries.

While focusing on thematic areas, the ERRC sets country level priorities for its work based on a set of prevailing factors, including: the prevalence and the severity of rights abuses, opportunity of impact, consistency with ERRC work and existence of staff and partners. In 2013, the ERRC will maintain its focus on Czech Republic, France, Italy, Macedonia, Romania, Serbia, Slovakia, Turkey and Ukraine and will maintain existing work in Croatia, Bulgaria, Hungary and Russia. The ERRC will review these priorities throughout the strategy period. The ERRC will articulate a yearly work plan and a monitoring matrix of indicators to help measure its progress in meeting these objectives and aspirations.

## The ERRC thematic priorities

### State response to violence and hate speech

*Factual Predicate: failure of public authorities to adequately address violence against Roma*

European Roma have been the target of an apparent increase in violence since 2008, some of it fatal. The true extent of violence targeting Roma is not fully clear because States do not maintain crime data disaggregated by ethnicity, hate crime provisions are not applied and monitored adequately, and many attacks are unreported. This very fact was acknowledged in November 2012 by the OSCE ODIHR in its report “Hate crimes in the OSCE region: incidents and responses”, which outlines that official monitoring of crimes and incidents motivated by bias against Roma and Sinti is limited among OSCE participating States.<sup>3</sup>

Between January 2008 and October 2012, the ERRC registered at least 61 violent attacks against Roma in Hungary, at least 47 attacks in the Czech Republic, at least 16 attacks in Slovakia and at least 14 attacks in Bulgaria, resulting in a combined total of 22 known fatalities. In 2012, the ERRC expressed grave concerns with regard to attacks against Roma or use of firearms by law enforcement officials against Roma in Bulgaria, Czech Republic, France, Hungary, Italy, Romania, Serbia, Slovakia and Ukraine. The attacks involved Molotov cocktails, hand grenades and guns, police violence, arson attacks, mob violence and demonstrations. ERRC research carried out in a number of selected countries in 2011 unveiled the fact that in many cases no perpetrator has been punished; police had suspended investigations without identifying any suspects in nearly one third of the cases.

Aggressive anti-Romani statements by politicians and public authorities in some countries contribute to a climate where attacks targeting Roma by extremists, neo-Nazis and also ordinary citizens are justified and even encouraged. Racist or stigmatising anti-Roma rhetoric has been on the rise both in public and political discourse, including accusations that Roma as an ethnic group are engaged in criminal behaviour. There are well-documented examples from France, Italy, Hungary, Slovakia, Bulgaria and the Czech Republic. In some cases, these words were understood as encouraging violent action against the Roma, such as mob riots or violence.

The climate of impunity created by the lack of proper investigation, prosecution, penalty and monitoring of acts of violence against the Roma has been noted repeatedly by European and international monitoring bodies. In June 2011, deeply concerned by the challenges faced by Roma as well as by the increasing acts of violence and impunity for such, the European Commission against Racism and Intolerance adopted its General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma. Similarly, in February 2012, the Council of Europe’s Committee of Ministers adopted an official declaration expressing deep concern about the rise of anti-Gypsyism and violent attacks against Roma.

#### *Prior ERRC Policy Articulation and Activities*

Violence targeting Roma has always been a priority issue for the ERRC. The ERRC has focused on the failure of public authorities to address crimes against Roma regardless of motivation. The ERRC has also called for public condemnation from the highest levels of government of acts of hate speech against Roma by public figures. A major focus in recent years has been on gathering and publicising attacks against Roma reported in the media and on documenting and reporting on the State response to reported cases of violence through data inquiries to relevant authorities.

<sup>3</sup> See OSE/ODIHR, Hate crimes in the OSCE region: incidents and responses, [http://tandis.odihr.pl/hcr2011/pdf/Section\\_7.2\\_CRIMES\\_AND\\_INCIDENTS.pdf](http://tandis.odihr.pl/hcr2011/pdf/Section_7.2_CRIMES_AND_INCIDENTS.pdf)

The ERRC has done extensive media research, reporting and litigation work on violence targeting Roma.

The ERRC has initiated and won an extensive list of precedent-setting cases before national and international tribunals. These cases have resulted in considerable damage awards for the victims of the crimes in these cases. Numerous cases have resulted in ground-breaking judgments, establishing the obligation under international law of States to conduct effective investigations, including investigation of bias motivation, whether the perpetrators are State or private actors. Despite this legal track record, the continuation of violence targeting Roma establishes a clear need to maintain efforts in this area and work on implementation of past judgments.

#### *ERRC aspiration*

Violence against Roma and anti-Roma rhetoric, including threats and intimidation, are incompatible with human rights standards and constitute a major obstacle to successful social inclusion of Roma and full respect of their human rights.

The European Roma Rights Centre strongly believes that all Roma shall fully enjoy the right to life, to personal security and to access to justice free from discrimination.

#### *ERRC objectives and activities:*

The ERRC is of the view that there is interdependence between inclusion and anti-discrimination. Racist violence requires strong legal responses ranging from national legislation to protect Roma from harassment, intimidation and attacks, to prosecution and conviction by national courts of persons committing racially motivated crimes so that perpetrators do not go unpunished and the escalation of ethnic tensions is avoided. Therefore, the ERRC objectives are the following:

#### **Objective 1: State authorities promptly and effectively investigate and prosecute violence against Roma, including with respect to possible bias motivation**

1. Monitor and report on crimes of violence and hate speech against Roma, with particular focus on acts committed by public officials, and the State response to such acts;
2. Document failures in the State response to cases of violence against Roma with an emphasis on cases targeting Romani women and children, and undertake legal and other forms of advocacy to ensure equal access to available protections and justice;
3. Advocate and litigate for investigation and prosecution of bias motivation in appropriate cases.

#### **Objective 2: Public authorities develop effective policies to eliminate anti-Roma violence and hate speech with particular regard to public officials**

4. Litigate selected violence cases and develop national/international advocacy aiming to improve policy and practice of handling bias crimes against Roma;
5. Where appropriate, develop training for legal professionals and Romani activists/lawyers on relevant international case law on Roma rights to improve policy and practice to strengthen handling of bias crimes against Roma.

## Access to education

*Factual predicate: continued segregation in education and gaps in securing rights-based approach in spite of policy development calls*

All international human rights bodies have emphasised the importance of providing full and equal access as well as quality education for Romani children. In 2011, the Council of Europe's European Commission against Racism and Intolerance (ECRI)<sup>4</sup> recommended that the governments of Council of Europe Member States employ, under a national plan, policies aiming at combating anti-Gypsyism in the field of education, and take measures for preventing and combating stereotypes, prejudice and discrimination experienced by Romani children in schools. ECRI called on governments to take legal and political measures to put an end to the segregation at school which Romani children are subjected to, to integrate them into schools attended by pupils from the majority population, as well as to combat the harassment inflicted on Romani pupils at school, and to eliminate every financial and administrative obstacle to Romani children's access to education. In the same year, the European Commission<sup>5</sup> called on EU Member States to prepare or revise National Roma Integration Strategies in order to address more effectively the challenges of Roma inclusion. In regard to education, the Member States were encouraged to ensure that all Romani children have access to quality education and are not subjected to discrimination or segregation.

Despite such calls, the European Commission<sup>6</sup> indicated in 2012 that gaps are still persistent with regard to how EU Member States have addressed measures in the field of education. Bulgaria did not appropriately address segregation in primary and secondary education, or monitoring and data collection. Czech Republic did not adopt an integrated approach with more concrete targets and corresponding measures on tackling segregation of Roma in the educational system. Greece, Portugal, Poland, Slovakia and Hungary did not apply an integrated approach, a strong focus on desegregation or a tailored response to specific needs of Romani children. Italy and Romania did not provide precise quantitative targets and identification of the necessary resources, while Denmark, Germany, Estonia, France, Luxemburg and the Netherlands did not include tools to measure the impact of the equal treatment approach on the situation of Romani children. Furthermore, Member States do not collect and disseminate disaggregated data by ethnicity on basic education indicators, thus making it more difficult to assess human rights violations, as well as to develop or implement policies.

### *Prior ERRC Policy articulation and activities*

The ERRC led research and reporting as well as litigation challenging the segregation of Romani children in education. Even if certain forms of segregation have been successfully challenged as illegal discrimination before the European Court of Human Rights, reforms of law, policy and practice are still missing. Segregation of Romani children into separate and/or substandard education remains a clear problem with respect to the right to education. In his report published in 2012<sup>7</sup>, Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, highlights the fact that Romani children are still disproportionately streamed into special schools, in particular schools for children with disabilities. Overrepresentation of Romani children in schools is often reported in Bulgaria, Czech Republic, Hungary, Russia, Serbia, Slovakia and Macedonia. Even when Roma and non-Romani children share the same school, Romani pupils are often separated from the majority in classrooms by being placed in specific areas of the class

<sup>4</sup> See ECRI, general Policy Recommendation no.13 on combating anti-Gypsyism against Roma, June 2011.

<sup>5</sup> See European Commission, Communication "An EU Framework for National Roma Integration Strategies up to 2020", April 2011.

<sup>6</sup> See European Commission staff working document accompanying the document National Roma integration Strategies: a first step in the implementation of the EU Framework.

<sup>7</sup> See Council of Europe, Commissionaire for Human Rights, "Human rights of Roma and Travellers in Europe" Report, [http://www.coe.int/t/commissioner/source/prems/prems79611\\_GBR\\_CouvHumanRightsOfRoma\\_WEB.pdf](http://www.coe.int/t/commissioner/source/prems/prems79611_GBR_CouvHumanRightsOfRoma_WEB.pdf).

or in entirely separate classes. Remedial classes, separate classes and segregation in the classroom have been reported in Croatia, Czech Republic, Greece, Hungary, Montenegro, Portugal, Russia, Serbia, Slovakia, Macedonia and Turkey. Segregated housing, as well as the fact that non-Roma parents pull their children out of schools frequented by Roma (the so-called “white flight” phenomenon), results in de facto segregation of entire schools, often providing an inferior quality of education. These situations are visible in Bulgaria, Cyprus, Hungary, Moldova, Montenegro, Serbia, Slovakia and Turkey.

### *ERRC aspiration*

Every child has the right to education on the basis of equality of opportunity. Romani children are particularly at risk of being marginalised or discriminated against in the realisation of this right. It is not enough to provide access and equal opportunities to education. Education has to be of the highest possible quality to help every child, including Roma, to reach its potential. The European Roma Rights Centre strongly believes that all Romani children should be provided with unhindered access to inclusive and quality education in a non-segregated schooling environment.

### *ERRC objectives and activities:*

The ERRC is of the view that only a framework for implementing a rights-based approach can lead to the inclusion of Romani children within the mainstream education system on an equal basis with all other children, without discrimination and achieving comparable outcomes. Therefore, the ERRC objectives are the following:

#### **Objective 1: Challenge racial segregation and discrimination of Romani children in education through effective enforcement of anti-discrimination law and policy at European and national levels**

1. Document practices of school segregation of Romani children on the basis of their racial and ethnic origin;
2. Monitor the situation of Romani migrant children in Western European countries in regard to their equal access to education;
3. Continue to develop strategic litigation before national and international courts to challenge the continuing practice of segregation of Romani children into special education as well as the segregation of Romani children into separated facilities or classes solely on the basis of their racial and ethnic origin, making use of national anti-discrimination frameworks and potentially seek referrals to the European Court of Justice on the basis of the EU Racial Equality Directive or request infringement procedures by the European Commission;
4. Continue to press for enforcement of the existing ECHR judgments on segregation (DH in Czech Republic and Orsus in Croatia) through advocacy before the Committee of Ministers and national Governments.

#### **Objective 2: Contribute to improved educational outcomes, quality of education and inclusive settings for Romani children by challenging law, policy and practice that hinders such factors**

5. Develop research on the social and economic barriers (poverty, discrimination, fear of violence, harassment, lack of understanding of Roma culture) that impede Romani children’s access to an inclusive and quality education;
6. Develop human rights education programmes to empower Romani activists to promote human rights respect and equality of Roma in education and targeted training of other groups to raise awareness about ECHR jurisprudence, human rights and non-discrimination;

7. Develop programmes at the local level to raise awareness about non-discrimination and the importance of education.

**Objective 3: Challenge gender based differences and social pressure from state and non-state actors on Romani girls that affect their opportunities for education**

8. Conduct targeted research on discrimination against Romani girls with regard to access to education;
9. Pursue equality of educational opportunities for Romani girls through various forms of advocacy, with a focus on promoting measures that do not aim to enforce punitive actions against Romani girls or their families;
10. Develop locally based programmes promoting importance of equal education opportunities for Romani girls.

**Objective 4: Advocate for disaggregated data collection to provide accurate information on the disparities, inequalities and exclusion of Romani children from education**

11. Document the absence of ethnically and gender-disaggregated data on education to provide accurate information on inequalities and exclusion of Romani children;
12. Legally challenge the absence of ethnically and gender disaggregated data in countries where the legal framework allows for it but the State refuses to compile this data(see also disaggregated data collection).

## **Access to Housing**

*Factual Predicate: forced evictions, lack of legal tenure, inadequate housing and failure to address non-discriminatory access to housing*

International and European bodies have frequently held that Roma see their right to housing violated either through discrimination, the non-provision of structurally adequate housing, forced evictions or the lack of legal tenure. This non-exhaustive list of housing rights problems experienced by Roma is at times the result of direct negative government interventions and discrimination, and other times due to a lack of government attention and low levels of political will to address long-standing problems or the hostility of non-Romani populations. The housing situation of Roma, including racial segregation, severely limits and also affects and is affected by other rights violations faced by Roma, such as inadequate or segregated education, unemployment, discrimination in access to health care and poor health in general, and violence coupled with increased vulnerability faced by Romani women.

Over the last period, forced evictions have become increasingly prevalent, particularly in Serbia, France and Italy and to a lesser extent in Slovakia, Czech Republic and Romania. The patterns of evictions vary from country to country, but none respect international legal standards. This new wave of evictions – particularly in Italy and Serbia – has also introduced, or increased, concerns around the adequacy and legality of accommodation which is in some cases provided or offered. These alternatives include short-term, gender-segregated hostels and segregated living in metal containers. Increasing evictions also puts into sharp relief the difficulties Roma face in accessing social housing, either because of discrimination and/or due to a general lack of social housing or housing support.

Certain countries, particularly members of the Decade for Roma Inclusion, have committed themselves under the Decade principles to adopt policies to address the housing issue. However, national pledges in favour of marginalised Romani communities have rarely led to any real improvement on the ground, or have led to the perpetuation of segregated Romani communities, due partly to financial and budgetary constraints but also because of a lack of political will. In this

regard, housing commitments under the Decade are no exception. In April 2011, the European Commission adopted an EU Framework for National Roma Integration Strategies, calling on Member States to prepare or revise National Roma Integration Strategies in order to address more effectively the challenges of Roma inclusion, including in the area of housing. Following the assessment of these policies, in May 2012 the European Commission concluded that only a few Member States had planned specific measures promoting non-discriminatory access to housing and few had proposed concrete measures as part of an integrated approach to tackle the housing situation in close connection with measures in the fields of education, employment and healthcare.

*Previous ERRC activities and policy articulation:* (to keep capitalization consistent with previous headings)

The ERRC has led research, reporting and litigation challenging various housing rights violations before international bodies and the European Court of Human Rights. These cases have outlined State obligations to refrain from, combat and remedy discrimination in the area of housing and evictions and to remedy the destruction of homes by State or private actors. Despite this, there appears to have been no systemic improvement in the quality of housing for Roma and no major changes in domestic law and practice in favour of Roma or other vulnerable and marginalised groups. There does, however, seem to be a tendency for State authorities to become a little more sophisticated in eviction procedures and go some way towards consulting and providing some sort of alternative accommodation. Although nominally progressive, this in some respects makes it more difficult to challenge evictions, as these efforts are sometimes viewed by IGOs as better than nothing, so best not to be complained about.

In recent years the ERRC has increasingly litigated to try to prevent and to challenge evictions. In several countries, it is difficult to litigate on the basis of international norms that are not explicitly written into the laws which (local) decision-makers use. This shows the importance of pushing for legislative change. The ERRC has also conducted comprehensive research on the housing situation of Roma in 24 European Union Member States in cooperation with FRA and under a recent UNDEF-supported project, the ERRC assessed the housing situation for Roma in the Western Balkans, Romania and Slovakia. Additionally, the ERRC has started to monitor the implementation amongst the Romani population of legislation on legalisation of housing in selected countries in the Western Balkans, as well as providing legal support to Roma living in integrated settings in Central and Eastern European countries. While strongly supporting the promotion of integration and opposing government policies and programmes that perpetuate segregated housing or illegal housing, the ERRC does and will continue to engage in actions and programmes to improve existing segregated Romani settlements, where there is appropriate community consultation and support.

*ERRC aspiration:*

Racial segregation, lack of tenure, substandard conditions of accommodation and social exclusion and discrimination constitute barriers that severely limit not only the enjoyment of the right to adequate housing or the protection from unlawful forced evictions, but also the equal access to education, employment and health care for Roma.

The European Roma Rights Centre strongly believes that all Roma shall live in the community or neighbourhood of their choice, in adequate housing conditions, with non-discriminatory access to services and with legal security of tenure.

*ERRC objectives and activities:*

**Objective 1: Prevent violations of the right to adequate housing and the right to protection from unlawful forced evictions**

1. Monitor cases of housing rights violations, with particular emphasis on evictions;

2. Develop new litigation in cases concerning: a) forced evictions, with a focus on large-scale evictions and/or multiple evictions; b) discriminatory legislation that in practice excludes Roma from accessing social housing; c) inadequate housing, with a focus on that provided in the context of evictions;
3. Promote the explicit inclusion of international standards on evictions in national legislation and policy;
4. Raise awareness and increase expertise amongst judges and administrative decision-makers on international standards through training programmes;
5. Strengthen the capacity of Roma to promote the human rights of their own communities and make a major contribution to mounting of community-based responses against forced eviction, relocation and possible homelessness;
6. Raise awareness and increase expertise amongst Romani communities about standards and procedures challenging (forced) evictions;
7. Document the increased impact of housing rights violations on Romani women and children, with a specific focus on large scale or serial evictions, and engage in legal and other forms of advocacy to secure justice for violations;

**Objective 2: Promote an inclusive approach to housing that includes non-discriminatory access to services**

8. Promote the right to water and sanitation;
9. Selective policy development and implementation to improve housing conditions of Roma;
10. Monitor housing legalisation processes.

## Free movement and migration

*Factual Predicate: Roma facing continuous targeted expulsions in violation with the right to freedom of movement and residence and discrimination in other migration contexts*

The right of movement and residence applies to all EU citizens without discrimination, as stated under the Free Movement Directive. Roma are exercising their right to freedom of movement and residence in the context of a significant combination of factors, such as social exclusion and racism, alongside aspirations for improved living standards. With the expansion of the EU and a general rise in anti-immigrant sentiment in many European countries, Romani migrants have become the target of hatred, discrimination and government policies designed to discourage the exercising of their rights. In a number of European states, there is a tendency to treat the presence of Roma from other countries primarily as a security issue rather than as a complex issue of social policy. Recently drafted National Roma Integration Strategies appear to have done little to change this, although there is hope that they may have a positive effect. France and Italy, along with other States to a lesser extent, have laws and policies designed to discourage migration and encourage the returning of Roma to their countries of origin, with provisions of airplane tickets and cash. The ERRC has monitored and recorded several evictions linked with the distribution of expulsion orders to Roma from other EU countries residing in France. In 2011, the ERRC monitored 62 operations, with 1,484 expulsion orders distributed to Roma. As a means to justify expulsion under EU and French law, the French authorities use so-called “humanitarian aid returns” (*aides au retour humanitaire*, or “ARH”). ARH is usually offered under threat of eviction with no other housing solution, and/or after several evictions within the same week or month. On 11 September 2012, the Minister of Interior announced that by the end of the month, 7,000 Romanians and Bulgarians would have gone back under the ARH scheme.<sup>8</sup>

<sup>8</sup> « Roms : “la France prend sa part “ (Valls) », *Le Figaro*, 11 September 2012, available at: <http://www.lefigaro.fr/flash-actu/2012/09/11/97001-20120911FILWWW00345-roms-la-france-prend-sa-part-valls.php>.

In the context of EU enlargement and relaxed visa regimes for Macedonia and Serbia, there now exist problems for Roma seeking to exit those countries.. Political discourse over “fake Roma asylum-seekers” has led to Macedonian and Serbian border officials refusing to allow Roma to leave the countries. Another recent development in this field is the increased number of Roma asylum-seekers in Canada (primarily from Czech Republic and Hungary), which has led to changes in visa regimes and politicisation of Roma in Canada.

*Prior ERRC activities and policy articulation:*

Historically, the ERRC’s focus was on asylum (mainly in the context of mass expulsions) and special immigration controls targeting Roma (checks and visa regimes). In the more recent past, activities have included documenting migration and freedom of movement in several EU Member States. The ERRC engages in on-going monitoring of migrant returns and advocacy on the issue of forced return of migrants (particularly in France and Italy). Presently, the ERRC’s main focus on EU free movement issues is in France, with requests to the European Commission for infringement proceedings against mass expulsions of Roma and legal challenges of expulsions in French domestic courts.

*Aspiration:*

The right of movement and residence constitutes a key element in promoting social cohesion as one of the fundamental European values. Member states stand under a duty not only to respect and protect rights, but also to fulfil rights, without discrimination on the basis of racial or ethnic origin. The European Roma Rights Centre strongly believes that all Roma should be able to move within and between States on an equal basis with non-Roma, and, where applicable, to exercise EU citizenship rights on an equal basis with non-Roma.

*ERRC objectives and activities:*

**Objective 1: Combat discrimination in the implementation of laws giving rise to the right of cross-border movement, including free movement within the European Union**

1. Monitor and document violations of free movement and residence including border restrictions in selected EU and non-EU countries, as well as compliance of national laws with the Freedom of Movement Directive;
2. Litigate violations of free movement and residence in selected EU and non-EU countries as well as compliance of national laws with the Freedom of Movement Directive;
3. Document differences in treatment and access to public services (e.g. health care and education) of Romani migrants with a special emphasis on women and children, and develop legal and other forms of advocacy to secure justice over differences in treatment.

**Objective 2: Ensure that any returns of Roma to their countries of origin take place following due process and with adequate assistance on return**

4. Build specific advocacy plans working in close partnership with national NGOs and government authorities and expand co-operation with key inter-governmental actors;
5. Monitor the paid/forced or voluntary returns processes and mass returns, and develop, if appropriate, litigation strategies.

## Identity documents

*Factual Predicate/Assumptions: Lack of identity documents leading to denial of basic rights such as education, health care, housing and social assistance*

As indicated by the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, in his report published in 2012, many factors contribute to hindering Roma access to documents and effective citizenship, including forced displacement or migration, extreme poverty and marginalisation and, above all, a lack of genuine interest on the part of authorities in tackling and resolving the issues. Moreover, situations arising from state succession, such as restrictive citizenship laws, are additional obstacles that disproportionately affect Roma. This problem affects many Roma, particularly in the countries of the Western Balkans and the former Soviet Union as well as to some extent in Central and Eastern Europe.

While the possession of identity documents is a prerequisite to movement, it is also essential to obtaining other rights that are central to needs identified in the wider ERRC strategy, in particular housing, education and healthcare. Essential identity documents in most of Europe are birth certificates, passports and residence cards. The lack of one or more of these documents not only restricts access to services, but also reduces the small protection afforded to Roma in the course of evictions in Italy, Romania and Serbia at the very least.

*Prior ERRC activities and policy articulation:*

In the previous period of the ERRC's work, the subject matter of identity documentation did not exist independently. It was articulated in the context of the Movement and Migration thematic area. The lack of identity documents is an issue that is present on the periphery of much of the ERRC's work, but is not an issue that the ERRC has confronted directly to a great extent in recent years except in the context of paralegal activities in Ukraine, where the focus of paralegals' work is – in the early phases – to obtain birth certificates and passport for members of the community. It is likely that this will also be the case in Serbia, Romania and Italy as community legal empowerment actions are built. Similarly, in 2011-2012, the ERRC also undertook a study on documents in Russia, which incorporated a comprehensive law and policy review and field research. This will be used as the basis of a report and litigation and advocacy activities in 2013.

*Aspiration:*

The Universal Declaration of Human Rights guarantees that, "Everyone shall have the right to recognition everywhere as a person before the law." Without proper identification documents, individuals are essentially not people before the law. The social exclusion of Roma can worsen as a result of their having no formal administrative existence.

The European Roma Rights Centre strongly believes that all Roma shall fully and equally exercise citizenship rights and access personal identity documents.

*ERRC objectives and activities:*

### **Objective 1: Ensure that Roma are able to access identity documents**

1. Provide law and policy review on access to identity documents in select countries;
2. Document the impact of lack of personal documentation, in particular with regard to Romani women and children;
3. Undertake legal and other forms of advocacy in partnership with Romani women and youth to remove systemic barriers to accessing documents and to facilitate access to other rights by assisting individuals in obtaining documents;
4. Provide training and support of judges, lawyers and community activists for accessing personal documents.

## **Objective 2: Combat discrimination in the implementation of laws governing identity documents**

5. Analyse existing legislation and its application with regard to discriminatory provisions and/or practices;
6. Develop advocacy and litigation to combat discriminatory or otherwise problematic legal frameworks related to identity documents.

### **Women's and Children's Rights**

*Factual Predicate: Romani women and children are particularly vulnerable to multiple forms of discrimination and egregious human rights violations*

The causes and effects of multiple discriminations against Romani women and children are both under-documented and complex. The lack of available disaggregated data in many European countries makes this difficult to illustrate in concrete terms. However, women and children are recognised as vulnerable groups within Romani communities.

In addition to being frequently marginalised within Romani society, in majority society Romani women continue to suffer the combined effects of discrimination based on both gender and ethnicity. Romani women are at particular risk of poverty and face discrimination in access to education, housing, health care services, employment, social assistance and social security. Statistical data is almost non-existent, but some data suggests that Romani women have lower levels of school completion and higher levels of unemployment than Romani men.

Pervasive discrimination against Roma and exclusion in all areas of life make Romani children especially vulnerable to rights abuse. Romani children experience violence at the hands of State actors, their families and other members of society, often with little recourse to appropriate protections. Romani children face various forms of discrimination in access to education, which result in an inferior quality of education and significantly reduced educational outcomes. Violations of housing rights have particularly negative effects on Romani children, which at times very seriously compromise their education. In the context of movement and migration, Romani children are forced into situations of inadequate housing, interrupted schooling, lack of access to health care, negative encounters with State actors, and more. ERRC research on Romani children in institutional care found Romani children to be significantly over-represented in State care compared to their portion of the population. A major contributing factor identified is the removal of children from their families due to their socio-economic situation in violation of some countries laws. Anecdotal evidence also indicates that Romani children are particularly impacted by an intersection between child protection and other rights areas: State actions in the areas of education, housing, migration and movement increasingly include threats and actions aimed at the removal of Romani children from their families.

The result is that Romani women and children are particularly vulnerable to egregious human rights violations, including child and forced marriages, various forms of gender-based violence including involuntary sterilisations, trafficking in human beings, and more. Due to anti-Romani attitudes that pervade law enforcement and other public authorities and the providers of various support services, the access of Romani women and children to adequate protections and justice is not guaranteed.

*Prior ERRC activities and policy articulation*

In the past, the ERRC's international work on women's and children's rights has targeted relevant UN treaty bodies and special procedures, the Council of Europe, the OSCE and international professional bodies such as the International Federation of Obstetricians and Gynaecologists (FIGO). The most significant efforts have been devoted to engaging with the CEDAW committee through parallel reporting and the individual complaints mechanism concerning Bulgaria, Croatia, Czech Republic, Germany, Hungary, Italy, Macedonia, Serbia, Spain and Ukraine. An important component of this work in a number of countries has been to build the capacity of Romani women activists to do research and advocacy in this area through targeted training, research and joint participation in international meetings. These efforts have focused on a number of thematic areas including education, employment, health, housing, violence against women, trafficking in human beings and child protection. Where possible, the ERRC has collaborated in this work with national NGOs or coalitions engaged in this process.

Past work by the ERRC has mainly focused on three thematic areas, including involuntary sterilisation, trafficking in human beings and child protection. In the area of involuntary sterilisation, the ERRC has worked through research, advocacy and litigation to expose the extent of this problem and achieve justice for the survivors in the Czech Republic, Hungary and Slovakia. In recent years, the ERRC has conducted major research on trafficking in Romani communities in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia, with a focus on Roma as victims of this crime. It aimed to provide credible, evidence-based information on how Romani communities are affected by trafficking in human beings. This research confirmed that trafficking of Roma, especially women and children, is indeed a concern, but that beyond inflammatory remarks by high ranking officials and the media, there is a near total absence of data and effective policy to prevent trafficking in Romani communities.

The ERRC has also conducted significant research and reporting demonstrating the over-representation of Romani children in State care in Bulgaria, the Czech Republic, Hungary, Italy, Romania and Slovakia. The ERRC has engaged EU and national authorities on necessary law and policy reforms to reduce this number. The ERRC has also collected some evidence of the vulnerability of Romani children to State actions at the intersection of child protection and education, housing and free movement.

*ERRC aspiration*

Romani women and children face specific forms of prejudice, are most vulnerable to multiple forms of discrimination and present higher risks of social exclusion and poverty. The European Roma Rights Centre strongly believes that Romani women and children shall enjoy a life free from the effects of multiple discrimination.

The ERRC will focus its work in this area on documenting and combating the causes and effects of multiple discrimination of Romani women and children in relation to its thematic priorities. Therefore, the ERRC is placing a distinct focus on the rights of Romani women and children in every area of its strategy, and will seek to clarify the inter-linkages between rights areas. It has elaborated specific types of activities to pursue in each area. In addition, the ERRC will work directly on two distinct concerns of Romani women and children: involuntary sterilisation and placement in State care. Other rights areas and harmful practices – such as child and forced marriages, trafficking in human beings, domestic violence, etc. – will not be addressed directly in ERRC programming but will be approached as they impact or result from discrimination against Romani women and children in areas directly included in this strategy. In this way, the ERRC aims to target its resources towards addressing problems affecting Romani women and children in each specific area of its strategy and at the same time contribute through increased information and awareness-raising to a reduction in the vulnerability of Romani women and children to other egregious human rights violations.

*ERRC objectives and activities:*

**Objective 1: Romani women are capacitated to influence law and policy affecting their lives**

1. Integrate the Gender Equality Research Fellowship within the wider context of ERRC activities, supporting capacity-building and research by local Romani activists on under-reported issues;
2. Include Romani women in the internship programme, paralegal projects and activists training programs and ensure that they work on issues relevant for Romani women;
3. Analyse existing Roma inclusion and gender inclusion policies from the perspective of Romani women and develop respective recommendations with the participation of Romani women;
4. Support the development of local advocacy groups with Romani women and conduct tailor-made training, research and advocacy, involving them in all processes with the aim of strengthening Romani women's leadership and effective responses to human rights violations;
5. Develop litigation in selected countries on the causes and effects of multiple discrimination of Romani women and children in line with the thematic priorities of the ERRC;
6. Include women's and children's rights components in all ERRC training activity.

**Objective 2: Heightened domestic and international awareness of how Romani women and children are affected by multiple forms of discrimination**

7. Conduct training, research, advocacy and litigation in selected countries on the causes and effects of multiple discrimination of Romani women and children in line with the thematic priorities of the ERRC;
8. Promote enforcement of relevant international law (i.e., Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child, Covenant on Civil and Political Rights, Covenant on Economic, Social and Cultural Rights) through parallel reporting to treaty bodies and associated training, research, advocacy, communications and legal actions.

**Objective 3: Elimination of involuntary sterilisation through the reform and application of legal standards, and redress for survivors of this practice**

9. Advocate legal reform to avoid involuntary sterilisations;
10. Ensure compensation for survivors of this practice, in partnership with support groups.

**Objective 4: Reduction in the overrepresentation of Romani children in State care**

11. Conduct targeted research on the intersection of child protection concerns and other rights areas and advocate, through legal and other means, against the disproportionate removal of Romani children from their families.

## Disaggregated data collection

*Factual Predicate: lack of data about Romani communities remains the biggest obstacle to conducting a thorough assessment of the human rights situation and developing effective social inclusion policy*

The principle of equal treatment between persons irrespective of racial or ethnic origin stands at the heart of the European Union and has been translated into the Racial Equality Directive, prohibiting both direct and indirect discrimination on the basis of ethnicity. By providing a legal framework for protection against indirect discrimination, EU law has opened the way for challenging a range of policies, practices and laws which may have a disproportionate impact, for example on Roma. A tool for demonstrating indirect discrimination against an ethnic group is statistical data regarding the impact of policies disaggregated by ethnicity. On the other hand, the collection and use of disaggregated data should be part of the duty of governments to ensure effective equality irrespective of ethnicity, and particularly to identify and redress existing inequalities.

It is widely acknowledged that Roma throughout Europe are dramatically under-counted in official data collection efforts, such as national censuses and other administrative data collection mechanisms. There is an overwhelming lack of data concerning not only the number of Roma residing in a given country, but also on health indicators, employment rates, school completion rates, segregation level, housing availability, criminal victimisation rates or incarceration rates. The absence of disaggregated data can allow for policymakers to disregard, or be unaware of, negative, race-specific outcomes. Lack of data can also undermine efforts to achieve policy goals and inhibit governments from making sound policy decisions.<sup>9</sup>

Despite the elaboration of procedural safeguards to ensure that personal data are not put to improper use, some governments maintain that the collection of such data is impermissible, despite the fact EU law allows for data collection with the appropriate safeguards in place.

### *Prior ERRC Activities and Policy Articulation*

The ERRC has used disaggregated data with great success in the past, with the goal of fighting discrimination against Roma. The importance of such data was highlighted in *D.H. v Czech Republic*, when it was shown that a Roma child in Ostrava was 27 times more likely to be placed in a special school than a non-Roma child. While the relevant statutory provisions were couched in relatively neutral terms, it was shown that they had a disproportionate impact on children from Roma communities. Without such data it is difficult to show that discrimination is taking place, particularly in situations where the legislation in question does not appear to be discriminatory.

The ERRC has consistently addressed the issue of disaggregated data collection in most of its advocacy interventions and is currently developing a programme looking at disparities on the health status of Roma with an aim to establish a duty on government to gather and use disaggregated data to adequately adjust health policy to tackle health inequalities.

The ERRC should further develop its work with a view to creating a more effective communications strategy on the importance of disaggregated data collection, and to make clear that this topic interrelates strongly with all other activities and programme areas. This policy area requires a long-term resource commitment to developing strategy on disaggregated data collection, which will include a commitment to litigation, outreach, and advocacy and communications work.

<sup>9</sup> See Roma Initiatives, Open Society Foundations, No Data–No Progress, Data Collection in Countries Participating in the Decade of Roma Inclusion 2005–2015, [http://www.romadecade.org/no\\_data\\_no\\_progress\\_2010](http://www.romadecade.org/no_data_no_progress_2010)

*ERRC aspiration*

The ERRC has been a consistent advocate of collecting ethnic data for the specific purpose of fighting racism and discrimination and for drafting viable equality programmes. The deficiency of reliable Roma-related data is a major obstacle to a rights-based policy on Roma inclusion. The European Roma Rights Centre believes that governments should collect and use disaggregated data on ethnicity with the sole purpose of ensuring effective equality irrespective of ethnicity and particularly to redress inequalities through Roma inclusion policies.

*ERRC objectives and activities***Objective 1: Raise awareness of the policy and programming limitations created by the failure of governments to collect and disseminate data disaggregated by ethnicity**

1. Research national legislation in selected countries to assess the strength of arguments used to avoid collecting disaggregated data;
2. Compile a database of relevant data sources, including data which has been disaggregated;
3. Develop a communications approach to emphasise the importance of disaggregated data;
4. Address State data collection or the absence of such data collection in all aspects of ERRC work (violence, housing, education, free movement, women's rights).

**Objective 2: Establish a governmental obligation to collect and disseminate disaggregated data by ethnicity as a necessary predicate to fulfilling other rights obligations and developing effective policy, and counter current excuses about prohibition by national legislation**

5. Research national legislation in selected countries to assess the legal frameworks in place that allow/prohibit collection of disaggregated data;
6. Document absence of ethnically and gender-disaggregated data that prevents the provision of accurate information on inequalities and exclusion of Roma;
7. Approach relevant state authorities to emphasise the importance of disaggregated data collection in addressing discrimination of Roma;
8. Advocate for collection of disaggregated data by specialised government bodies (e.g. statistical institutions) that facilitates an understanding of the extent of marginalisation of Roma;
9. Advocate for compilation of ethnically and gender disaggregated data in countries where the legal framework allows for it;
10. Regularly request disaggregated data (ethnicity, gender, age, rural/urban, etc.) from the State or relevant authorities and report on results;
11. Identify and document instances of discrimination in target countries in specific thematic areas where disaggregated data is not being collected;
12. Legally challenge the absence of ethnically and gender disaggregated data in countries where the legal framework allows for it but the State refuses to compile it.

**Objective 3: Census-taking scheduled for 2021 and beyond will include questions on ethnicity, and in particular on Roma identity, so that the national authorities will have accurate disaggregated data**

13. Research the national legislation in selected countries to assess the legal frameworks for inclusion of ethnic data into census taking;
14. Assess best practices from census taking exercises that led to an increase of Roma declaring belonging to Roma ethnic group (e.g., possibility of double declaration such as Hungarian of Roma ethnic origin or to state two nationalities; or outreach activities);
15. Develop advocacy and outreach activities on best practices.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY