

## **7. DISCRIMINATION IN ACCESS TO SOCIAL AND ECONOMIC RIGHTS**

A major segment of Romani communities of Ukraine lives in conditions of extreme poverty with little or no access to basic social services. A poverty assessment carried out by the World Bank in 2005 found that the general rate of poverty in Ukraine has been decreasing since 2001 due to economic growth in the country,<sup>90</sup> yet Roma appear not to have benefited from such prosperity. Although ethnic-specific data is deficient or lacking entirely, there are widespread indications that very large segments of Ukrainian Roma live in poverty, if not extreme poverty. A 2003 survey by the Ukrainian Institute for Social Studies found that almost 60% of their Roma respondents “could hardly make ends meet, lacking money even for basic items.”<sup>91</sup> The majority of Roma in Ukraine live at or below the poverty line, with small percentages living at “medium” levels, i.e. having enough money to pay for all immediate needs.<sup>92</sup> Unlike others in Ukraine who also suffer from poverty, Roma are forced to bear the additional burdens of extreme prejudice and racial discrimination which deny them fundamental human rights as well as access to already scarce social and economic resources and opportunities.<sup>93</sup>

Ukrainian Roma face regular systemic discrimination in virtually all sectors, including but not necessarily limited to access to education, housing, health care, employment and social services. Discrimination against Roma takes two broad forms. Direct discrimination against Roma most often arises through less favourable treatment on grounds expressly related to their ethnicity and the general contempt

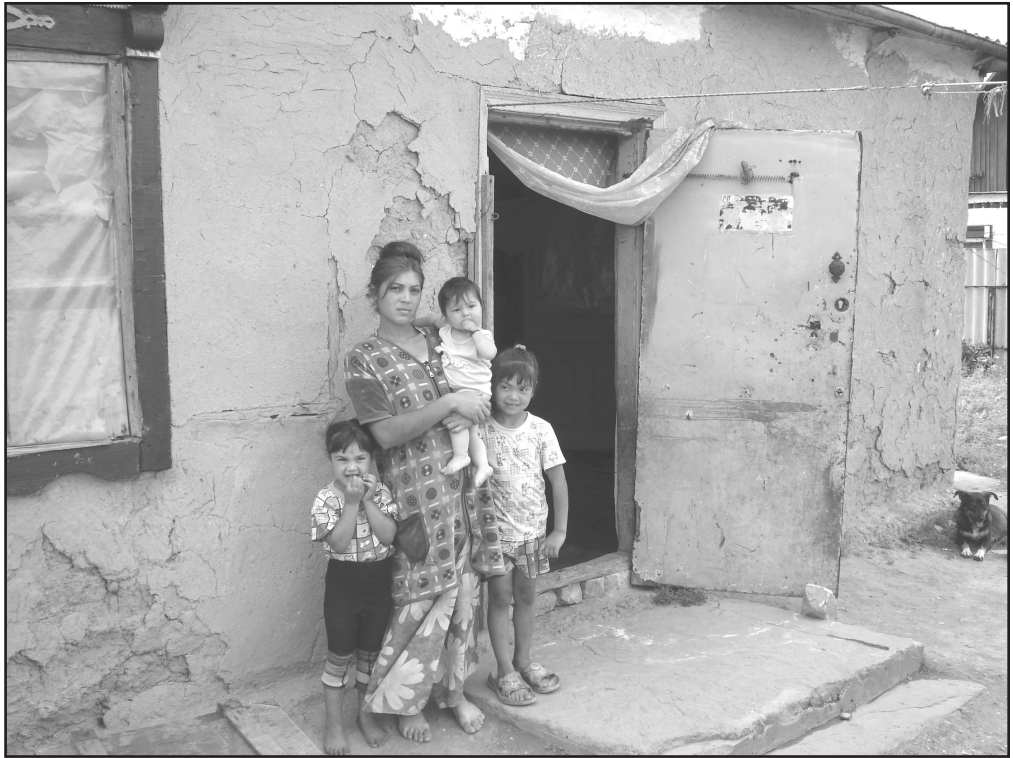
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<sup>90</sup> The World Bank, *Ukraine: Poverty Assessment – Poverty and Inequality in a Growing Economy*, (Washington: 2005), p. viii.

<sup>91</sup> Ukrainian Institute for Social Studies, International Renaissance Foundation, “Analysis of Real Problems and needs of Roma People in Ukraine,” (Kyiv: October 2003). p.11.

<sup>92</sup> *Ibid.*, p. 12. According to experts interviewed by the researchers in the study, the number of Roma with “medium” levels of income were higher in urban areas, such as Uzhgorod (20-30%) or Odesa (25%), than in the rural areas, while in other regions, such as Chernigiv and Nihin, that amount was only between 5-10%.

<sup>93</sup> Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) obliges State parties to, “undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law” in the enjoyment of a number of social and economic rights.



Ms Ivana Smezhana of Novii Moskvii, August 2006. At the time of the ERRC visit, she had been living here since the last winter, when her parents died and she took over the property. She inherited the property from her parents, but had no documents to prove it, so she was vulnerable to eviction. She earned money to support the children by begging in town. The house was made of wood and mud, with wallpaper and linoleum tiling covering it. There was no running water, no electricity, no gas.

PHOTO: MICHAEL LEACH/ERRC



Ms Koka Lyubov of Novii Moskvii, August 2006. She lived in a one-room house with her two children. They did not own the property but rather were squatting in a house that they found empty 12 years ago. There was no gas, no electricity, no water and damp was seeping into the walls from the dirt floor (covered by various sheets of linoleum and carpets). Her son was an invalid epileptic, and his invalid pension of \$100 a month supported all three people. He had been invalid since birth, and although he needed regular medicine, there was simply nothing available for them to use. He was 13-years-old and fully incapacitated, sitting most of the day in a wheelchair and needing help with everything, such as using the toilet or bathing. Her daughter was the only Romani girl in her class. She attended the 12th school in Novii Moskvii. They had electricity from one naked bulb. The neighbours controlled when the light was to be switched on. She solicited the mayor and the city for a new apartment given the invalid condition of her son. The city promised and put her on a waiting list. She told the ERRC that as of August 2006, she had been waiting for 10 years. She inquired about her status in the line, but each time she was given some excuse to turn her away until finally the city said that they had no record of her ever having made the request, and no copies of the documents she submitted to them when she did make the request. To her knowledge, she was not re-entered on the list of persons waiting for accommodation.

PHOTO: MICHAEL LEACH/ERRC

in which many non-Roma hold them. Most often this involves direct, explicit, race-based refusals to provide access to or facilitate access to services, documentation or other goods necessary for the realisation of fundamental social and economic rights. Indirect discrimination arises with the denial of their access to social and economic rights for reasons specifically related to their pariah status in Ukraine.

## **7.1 Housing**

Roma in Ukraine face serious obstacles in the exercise of the right to adequate housing.<sup>94</sup> Many live in substandard conditions in settlements or ghettos that are often segregated from mainstream society with little access to public transportation or public utilities such as electricity or waste removal. Public services or improvements such as road repairs or garbage disposal are thoroughly absent.

Very large numbers of Roma in Ukraine live in worse conditions than members of other groups or of the mainstream society. In 2006, the ERRRC undertook comprehensive monitoring of the situation of human rights of Roma national minority in the Zaporizhie, Kirovograd, Ternopil and Kherson regions of Ukraine, as well as in the Autonomous Republic of Crimea.<sup>95</sup> According to the survey, Romani households frequently have no running or potable water in the house, with family members drawing water from a neighbouring street. Houses are often heated by coal or wood fires, and lack central (gas) heating, or where central heating is not working properly. Many families live in houses with some windows missing. Over 50 percent of Roma interviewed in Kherson region and the Autonomous Republic of Crimea in August 2006 do not have a permanent place of residence and are not registered anywhere.

In Faraonovka, Odessa region, Romani living conditions are very poor, some of these families do not have the legal right to the land on which they live. There is no drainage or sewerage system, heating, and in some houses no electricity. Inhabitants have to fetch

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<sup>94</sup> Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESR) requires that States parties “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions.”

<sup>95</sup> The survey at issue took place in the period July-September 2006, and was carried out by the Ukraine-based organisation Legiteam as implementing partner.

water from the nearest pump. The community is situated far from any hospital or school. There is a high number of diseases, as well as high child mortality. Most if not all of the children do not visit kindergarten or schools. In one case, Ms L.S., a Romani woman from the settlement died of complications during childbirth because there was no telephone in the settlement with which to call an ambulance. There is a special kindergarten in Faraonovka for Romani children, but local authorities have provided little or no money for its support. The kindergarten building is in very bad condition; the roof leaks and there are problems with the heating system.

On Zavatskaya St. in Novomoskovsk, Dnipropetrovsk region, at the time of an ERRC visit in July 2006, the Chukalenko family was eking out a living typical of the town's impoverished Roma.<sup>96</sup> Fifteen members of the extended family all slept in the two rooms of a house that had no gas, electricity or running water, for which they paid the hryvna equivalent of 10 Euros per month. Cooking took place out-of-doors on a makeshift stove in the ruins of a dilapidated building, fuelled with scavenged scrap wood or walnut shells. Water was drawn from a ground well nearby and was barely potable, if at all. A few hundred meters away, on nearby Cheluskina St., Lydia Kalashenko lived alone with her ill son and three grandchildren in a house that was literally falling apart. There was a lack of running water, electricity or gas. The roof was caving in and damp mould was growing up the walls from the earthen floor. When asked why she continued to live there, Ms Kalashenko said that she had been living there with her deceased husband for years and it was her home, "besides, where should we go? The only money the five of us have is what I get from begging. We have no choice."<sup>97</sup>

The extreme poverty under which many Roma live is exacerbated by widespread discriminatory treatment preventing access to adequate housing and the improvement of living conditions. Many Roma have testified to ERRC partners that local authorities continuously refuse to provide eligible Romani families with decent housing or to provide the proper documentation or permission for them to legalize their current homes or build improvements. Local authorities are frequently either personally moved to refuse to register and legalize property possessed by Roma or are pressured by non-Romani residents to do so. Maintaining a hope that Romani residents may someday

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<sup>96</sup> ERRC interview with the Chukalenko family, July 24, 2006, Novomoskovsk, Dnipropetrovsk region.

<sup>97</sup> ERRC interview with Lydia Kalashenko on July 24, 2006, Novomoskovsk, Dnipropetrovsk region.

leave, authorities deny Roma any form of goods and services that would encourage them to make their unofficial homes permanent. Such treatment leaves many vulnerable to abusive forced evictions and, at times, the destruction of entire settlements, leading to an even harsher and perilous existence. Summaries of some cases follow:

In May 2006, in the village of Krasnoilsk, Cherkassi region, the local village authorities severed the electrical supply to the Romani community on the outskirts of the village in retaliation for a crime committed by a Romani man. A fight had earlier broken out between a Romani and non-Romani man from the village, which left the latter dead. The family of the murdered man gathered supporters from within the village and approached the village authorities declaring their intention to forcibly expel all Roma from the village and to burn their houses down. The village mayor assuaged their concerns by calling on the police to intervene to protect the village from violent criminals. The police arrived, located the suspect, made the arrest and transported him to the local precinct. The village mayor then ordered that the Romani community be disconnected from the electric grid. An ERRC partner organisation confronted the mayor to ask why this had been done. The mayor explained that the Romani community was suddenly discovered to have been squatting on public land with no official registration of their property, and thus illegally connected to the regional electric supply. According to the mayor, Roma had been living in that settlement for over 50 years and until then had always enjoyed access to electric power. He also acknowledged that electricity was the only public utility that reached the community. A village town-hall meeting was held shortly thereafter in response to the complaints of a number of non-Romani residents that cutting off the electrical power was not enough and that a better response would be to evict the Roma permanently by force. In the end, the village council reportedly decided against this course of action, because it would be illegal. The electricity had yet to be re-connected to the settlement as of November 2006.<sup>98</sup>

In another case, in September 2005, Ms L. Kutsenko, a Romani woman from Kremenchug began legal proceedings against her employers for refusing to provide her and her family with decent accommodation. It is common practice in Ukraine for publicly-owned companies to provide accommodation to their employees. Ms Kutsenko first registered for a new flat in 1985, the first year that she began to work

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<sup>98</sup> Case information provided by Zemfira Kondur of the Chiricli Roma Women's Fund in an interview with ERRC on June 6, 2006.

at the southern railway station in Kremenchug, where she continues to work today. In that first year, she was provided with a small, one-room wooden barrack in poor condition with no electricity or running water that she was told would temporarily suffice until a proper flat became available. After six years, Ms Kutsenko was ostensibly placed at the top of the company's accommodation list but she continued to live in the sub-standard wooden barrack.

In the meantime, other employees of the company have been given new flats. Ms Kutsenko made numerous complaints to her managers in the past, but to no avail. After 1995, jurisdiction over her housing situation came under the Local Housing Agency of Kremenchug and during a preliminary investigation, an officer from the housing authority told Ms Kutsenko that, "All Gypsies should live in Gypsy caravans and tents. You (Ms Kutsenko) are the only one who capriciously demands a separate apartment with all conveniences." According to municipal by-laws, single mothers such as Ms Kutsenko should be given first priority in the local authority's distribution and repair of housing. With the assistance of the ERRC and local counsel, Ms Kutsenko filed in March 2006 a civil complaint challenging her treatment.<sup>99</sup> As of November 2006, proceedings in that matter are still ongoing.

In another case, in February 2005, a thirty-year old Romani woman, Ms Silvia Ignativa Surmai and her four children were issued an eviction notice from their home. The primary occupant of the flat had been Ms Yoala Bazho, the mother of Ms Surmai, until her death on December 17, 2004, but because the flat had never been privatized, the flat at the time of her death technically belonged to the municipality of Uzhgorod. While she was alive, Ms Bazho never officially transferred her tenancy to her daughter Ms Surmai. Two months following Ms Bazho's death, Ms Surmai, received notice from the municipality informing her that she had to "voluntarily vacate" the flat before March 22, 2005, because by law she no longer had the right to occupy it.<sup>100</sup> It was irrelevant to the municipality that all bills and rent had always been paid faithfully and on time or, that Ms Surmai and her children had no place else to go. Ms Surmai then received a further letter informing her that as of August 8,

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<sup>99</sup> Case information provided in a report sent to ERRC on May 25, 2005 from Ms Kutsenko's lawyer and corroborated by information provided the ERRC by Kremenchug-based Romani organisation Amaro Deves.

<sup>100</sup> According to Article 99 of the Housing Code of Ukraine and Article 823 of the Civil Code of Ukraine.

2004, she and her family had been placed in the “high priority” category of the municipal housing list. However, with no new flats being constructed in Uzhgorod and considering the discrimination that Romani women regularly face from municipal officials in the city, Ms Surmai was certain that the prospects of her ever being given a flat any time soon are extremely slim. It is reportedly not uncommon for persons in the “high priority” category of the housing list to wait for 10-15 years before accommodation is made available for them. Ms Surmai, wishing to stay as a proper tenant and having no other place to go, did not “voluntarily vacate” the flat. With the assistance of the ERRC, began legal proceedings on behalf of Ms Surmai, but in October 2005 Ms Surmai withdrew her petition for unspecified reasons.<sup>101</sup>

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

In October 2003, Ms Latsko, a 49-year old Romani woman, and her family were unlawfully prevented from registering their home as their permanent place of residence in the town of Uzhgorod because of their ethnicity. The home in question was originally constructed without permission from the municipality. Ever since its construction, Ms Latsko and her family have occupied the building. In 2003 she began to request various officials to register her and her family as permanent residents at that address, but permission was never granted. On October 4, the building agency of the municipality of Uzhgorod imposed a fine upon Ms Latsko for the administrative violation of unlawfully constructing a home, which she paid. In the municipality of Uzhgorod it is reportedly standard procedure that once such a fine is paid, the building agency declares the building to be lawful and permits the owner to apply for permanent resident status at it. Despite having paid the fine, the local authorities have since ignored or perpetually delayed Ms Latsko’s application, at one time telling her that, “You Gypsies, your place is

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<sup>101</sup> Case information provided by Ms Surmai’s lawyer, Mr Didychyn Vasilji. ERRC has provided legal support in the case.



in tabor (camp) not in the city. Go and live there. You are not human beings. Go away.” With ERRC assistance, Ms Latsko hired a lawyer in May 2005 to assist with processing the formal registration of the property and, if need be, file a formal complaint of a violation of her rights, and launch a suit for damages.<sup>102</sup>

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

## **7.2 Health Care**

Many of the healthcare concerns of Roma in Ukraine are directly linked to the extreme poverty in which the majority live. A recent study on current problems facing Roma in Ukraine interviewed public health officials across the country and learned that the general health level of Roma residents in high-density “compact living” communities was poor, mostly a result of widespread poverty, inadequate nutrition, poor hygiene and substandard housing. Only 50% of the Romani respondents of the same nationwide study said that they had sufficient daily meals, 31% reported that they did not have enough food several times a month and 15% said they had no food at least one day a week. In some locations, the figures vary. Paradoxically, in some urban areas, where the average income levels of Roma are higher than in rural areas, more people experience regular hunger and starvation. In Uzhgorod, for example, according to one estimate, around 70% of the Romani population face regular malnutrition.<sup>103</sup> Many Roma also run serious risks of intestinal infections from unclean water. According to the study by the Ukrainian Institute for Social Studies, only 32% of its respondents said that they had water connections to their homes, and nearly 20% used surface water for cooking and drinking.<sup>104</sup>

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<sup>102</sup> Case information provided by Ms Latsko’s lawyer, Mr Vasilji Didychyn.

<sup>103</sup> Quoted in Ukrainian Institute for Social Studies, p. 13.

<sup>104</sup> Ukrainian Institute for Social Studies, p. 13.

The majority of homes visited by the ERRC during a July 2006 research mission to Dnipropetrovsk region had no direct access to clean running water, many either drawing water from wells or taking it from neighbours.<sup>105</sup> Of particular concern to public health officials is the spread of tuberculosis among Roma communities which some of those interviewed in the above study believed to be 2-3 times higher than what is officially registered. This inaccuracy of data they believed was the result of underreporting caused by the chronic lack of access of many Roma people to proper medical health facilities.<sup>106</sup> In this respect the respondents in particular specified that, “the pension is not big enough to buy food, clothes and other basics,” “Roma are so poor that they do not have enough money even to buy medication,” “We cannot afford to pay for education of their children and grandchildren,” and “Our living conditions are bad.”<sup>107</sup>

All Romani respondents during a July 2006 ERRC field mission in the Dnipropetrovsk region stated that they had experiences with health care institutions. Thirty percent of persons interviewed said they did not receive qualified medical assistance, including free choice of a doctor and health care institution. This, in particular, according to the respondents, manifested itself in the form of “improper and disrespectful attitudes on the part of doctors”, “medical staff extorting bribes”, “refusals to provide medication for free” and “low proficiency of the doctors”.

Low salaries and relatively poor working conditions for public officials, including doctors, teachers, and civil servants, has created widespread shadow economies in many public sectors. Roma are denied access for services when they lack funds for “tips”. In the health care sector, doctors routinely seek compensation for their low wages and often resort to substandard treatment, or simply refuse to treat those who are unable to pay.<sup>108</sup>

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<sup>105</sup> Research conducted in the period July 23-29, 2006. The UNDP’s Human Development Index statistics for Ukraine, when compared to this, suggest a profound difference between the health and living conditions of Roma compared to the Ukrainian average. In 2002, on average, 18% of the overall population of Ukraine was hungry at least once a month, while 3% experienced hunger on a permanent basis. 99% of the population reported having access to improved sanitation, and 98% to an improved source of water. See United Nations Development Programme (UNDP), *Human Development Report 2005*, (New York: UNDP, 2005), p. 241.

<sup>106</sup> Ukrainian Institute for Social Studies, pp. 20-21.

<sup>107</sup> ERRC interviews with various respondents in the Dnipropetrovsk region, July 2006.

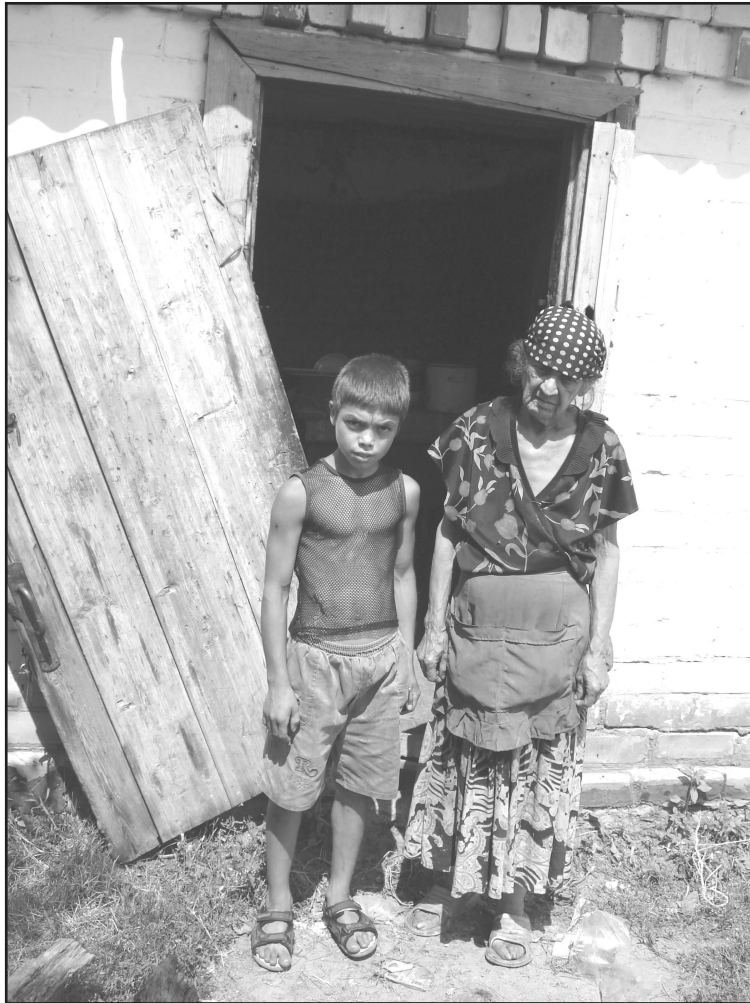
<sup>108</sup> Lekhan, Valeria et al. *Health Care Systems in Transition: Ukraine 2004*, (Copenhagen: World Health Regional Office for Europe, 2004) p. 101.

Acts of racial discrimination on the part of medical service providers exacerbate the existing state of *de facto* exclusion from care that also arises from factors such as the often great distances between Romani settlements and health care institutions. In one case, in February 2005, Ms T.M., a pregnant Romani woman was nearly killed by the negligent medical intervention of a gynaecologist in Chop, Zakarpattia region. On February 1, the woman went to hospital for a check-up, after feeling ill. After examining her, the gynaecologist told her that she was in fact pregnant and advised her to have an abortion and have no more children in the future, saying that “you Gypsies should not multiply like cockroaches.” As the woman was only in the second term of the pregnancy, the doctor decided there was no need to perform the abortion in a proper surgical environment. Instead, the doctor immediately began the surgery in the same out-patient ward that the examination took place in. The doctor concerned apparently undertook none of the required preliminary medical tests before commencing and continued the operation even when the woman began to complain of a sharp pain and pleaded with her to stop. It was only when she began to bleed profusely that the gynaecologist realized that a mistake had been made and she was immediately sent to the local hospital where three doctors struggled for three hours in surgery to save her life. Once her condition stabilized, the gynaecologist offered her family money (the Hryvna equivalent of less than 10 Euro) so that they would not lodge a complaint. Criminal and civil complaints were filed against the hospital and the doctor in question, but Ms T.M. subsequently requested that proceedings be discontinued.<sup>109</sup>

In another case, ERRC research revealed that on October 20, 2005, Ms Lidiya Semasheva, a disabled Romani woman living in the northern city of Kharkiv was denied services and benefits appropriate to her condition by municipal and health officials on discriminatory grounds. Ms Semasheva lives alone and survives on her disabilities pension. Several years previously, the city administration provided her with a flat on the fifth floor of a building with no working elevator. Although the city clearly did not take her condition into account when they assigned the flat to her, Ms Semasheva nevertheless felt fortunate and declined to risk losing it by requesting one that is wheelchair-accessible. The city has been equally inconsiderate in its repeated refusal to grant her a discount on her utilities bills, which is common for people with disabilities and the elderly. The final straw for Ms Semasheva came when she applied to the medical council to ask for social assistance, in particular a car that is outfitted for a disabled

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<sup>109</sup> Case information provided by ERRC partner Romani Yag and the woman’s lawyer, Mr Aleksandr Movchan. ERRC has provided legal support the case.



Ms Nikolaenko Valentina of Dnipropetrovsk has had 10 children, now ranging from age 23 to 36. Five of the ten children are blind. The blind children live in Dnipropetrovsk, working at a factory or workshop for blind people. The other five children work elsewhere. Nine people live together in her house: herself, a daughter, two sons and five grandchildren. Her house has one naked bulb for lighting. Cooking is done outside over an open pit. Ms Valentina earns her money by begging in town. The boy with her in the photo goes to a special school in Dnipropetrovsk. He is in the 3rd grade of primary school but still cannot read nor write.

PHOTO: MICHAEL LEACH/ERRC



Galina Tishenko, on the right, Pishanko, Dnipropetrovsk Region.

PHOTO: MICHAEL LEACH/ERRC

person to drive. According to her testimony, the interviewing committee barely even looked at her, treated her in a highly contemptuous manner and, after giving her a cursory and clearly incomplete examination, told her “No, no, you don’t need this, you can go away.” The committee reportedly never provided reasons for the refusal.

In another case, ERRC research revealed that in 2004 a Roma woman in Uzhgorod was refused treatment by a doctor after her newborn child became ill with a fever. The mother, living in a largely Romani neighbourhood with no telephone connection, made contact with the doctor through a friend, asking him to visit her home and examine the baby as the baby was too sick to travel. The doctor in question is reported to have told her friend, “I won’t go there. Tell [the mother] she can come when her child is dead.” Two weeks later, the baby died and the mother, distraught and enraged, went to the doctor in person to tell him that her baby had died. The doctor responded by giving her the hryvna equivalent of approximately 12 Euro to help pay for the child’s funeral.

According to ERRC documentation, on May 2, 2004, at about 8 p.m., a group of young Roma and ethnic Ukrainians started a fight in the town of Irpenj. Three Romani men, Mr Andrey Balanov, Mr Leonid Grigorash and Mr Boris Tatarov sustained serious knife wounds as a result. One of Mr Tatarov’s lungs was punctured, Mr Grigorash’s stomach was slashed open, and Mr Balanov received four wounds to his left arm that have left it unusable ever since. When the three men were taken to hospital that same night, the examining doctor registered their injuries as being “trivial”, and they were forcibly released from the hospital three days later in “satisfactory condition”.

In September 2003, Miroslava Savitskaya, a Romani woman from Kremenchug gave birth to a baby girl. Attending nurses took the child away from her shortly after the birth. After several requests to see the baby, Ms Saviskaya was informed that it had suffered third-degree burns due to careless handling by the medical staff at the hospital and that her daughter would likely live the rest of her life as an invalid. The doctors at the hospital threatened Ms Savitskaya, saying that if she filed an official complaint that no Romani mothers would again be accepted into the maternity ward of the hospital. Nevertheless, Ms Savitskaya contacted an attorney and filed an official complaint with the regional prosecutor’s office. Civil proceedings were also initiated. On November 21, 2006, a Kremenchug court ordered that Ms Savitskaya be paid compensation for the harms she suffered.<sup>110</sup>

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<sup>110</sup> Case information provided by ERRC partner Amaro Deves.

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

### **7.3 Education**

The state of the education of Ukraine's Romani youth is nothing short of a crisis that will continue to impact future generations of Roma unless action is taken swiftly and comprehensively to change it. A country-wide survey conducted by the Ukrainian Institute for Social Studies that found that 68% of its respondents either could not read and write, or could do so with difficulties and 59% could either not count at all, or only with difficulty. 25% of the respondents could not write at all, 34% never attended school, 49% had some primary education, 10% claimed some incomplete secondary education, 6% had a high school or professional trade certificate, and only 2% ever attended an institute of higher education at one time in their lives.<sup>111</sup> A 2005 study by *Romani Yag* (a Romani newspaper published by an organisation of the same name, and the primary partner in the three-year European Commission-supported project) conducted interviews with members of Romani communities throughout Zakarpattia and found that of those they interviewed, 69% of Roma could hardly read and another 68% had difficulties with writing and 59% did not know how to count properly and 25% could do neither of the three. They identified three reasons why Romani parents opt to send their children to segregated Roma schools: a) because they were where the parents studied, b) because parents were worried about their children being discriminated against in integrated schools, and c) because segregated schools are not as stringent about documentation requirements as other schools are.<sup>112</sup> These research results reveal a troubling reality that the vast majority of Romani children in Ukraine are either not attending school at all or are being

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<sup>111</sup> Ukrainian Institute for Social Studies, p. 47.

<sup>112</sup> Adam, A.E., Navrotskaya, E.M., "Monitoring zabezpechenya prav romskoi molodi v galuzi osviti," (paper presented at a conference in Uzhgorod in 2005 entitled *Osvita I Romi: Stan, Problemi, Perspektivi* (Uzhgorod: 2005), p. 3. This practice was observed in the following localities: Beregiv, Poroshkovie, Perechenyi, Bereznom, Mukacheve, Rakhov.

denied access to mainstream schooling. The outcome of both is the same. An entire generation of Romani children are growing up and preparing for adulthood in way that will leave them with extremely limited opportunities to have futures that will be free from poverty, social marginalization and great suffering.

The direct refusal to enrol Romani children in mainstream and/or elite primary schools is a known and regular occurrence in Ukraine. Adequate documentation on the extent of the problem is, however, lacking to date, in large part because the Ukrainian government has never made any comprehensive effort to determine the scope and nature of this issue. At a partners meeting in June 2006 involving the ERRC and nine local Romani NGOs from various parts of Ukraine, only one of the organisations present did not have any direct awareness of instances of racially discriminatory refusals to enrol Romani children in schools, and several of those present had personally experienced direct discrimination in this area in the week preceding the meeting when they themselves had been refused while trying to enrol children or grandchildren in schools. On August 23, 2006, an ERRC staff member attempted to enrol one Romani child in five different primary schools in Donetsk. One after the other, each of the five refused, either outright, or on the basis of claims that classes were full. In the case of the latter, non-Romani families were observed successfully enrolling their children of the same age in the same schools afterwards.

As a result of schooling authorities' refusals to enrol Romani children in mainstream schools, undertaken at their own initiative or as a result of pressure by non-Romani parents, Romani children in Ukraine are frequently educated in partially or entirely segregated school environments. The authors of the 2005 *Romani Yag* study identified twelve fully segregated Roma-only schools in the Zakarpatia region alone.<sup>113</sup> Most of the segregated schools examined were located in old buildings with none of the facilities that regular schools have, few libraries, no sport facilities, no cafeteria or dining hall, minimal furniture in states of disrepair, few and outdated books, no other learning materials, and used outside toilets with no running water.<sup>114</sup>

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<sup>113</sup> Adam and Navrotskaya, p. 2. The study identified the following General Schools as having entirely Roma student bodies in the Zakarpatia region: Uzhgorod No. 13 (257 students), Uzhgorod No. 14 (127 students), Mukacheva No. 14 (464 students), Beregov No. 7 (305 students), Pidvinogradov (127 students), Sobatin (54 students), Poroskiv (280 students), Bikiv (51 students), Svalyavska No. 5 (89 students), Serednyanska (162 students), Pavshinska (35 students), Viskivska (64 students) and Roztotska (80 students).

<sup>114</sup> *Ibid.* p. 5.



In addition to the placement of Romani children in inappropriately unchallenging and segregated learning environments, another even more widespread phenomenon is the general absence of Romani students altogether from mainstream schools. This is partially a result of the segregation of Romani children away from them, but also caused by simple non-attendance and a lack of concern and capacity by school administrators to resolve the problem. According to data gathered by the Ukrainian Institute for Social Research (UISR), some 50% of Romani children throughout the country do not regularly attend school,<sup>115</sup> with attendance rates being the lowest in the Odessa, Donetsk, Dnepropetrovsk, Cherkassy, Kremenchug, Zakarpattia and Kharkiv regions. According to a survey of leaders of low-income Romani communities throughout Ukraine, “almost all” Romani children from such communities between the ages of 7 and 15 do not attend school.<sup>116</sup> According to ERRC partner Romani Yag, 83.7% of Romani children living in Zakarpattia region fail to finish high school, 14.5% have a basic high-school diploma, 1.4% are graduates from technical-vocation schools, 0.3% have completed a specialized secondary<sup>117</sup> education program, and only 0.2% have any higher education. In comparison with the national average, these figures are stark. The 2001 All-Ukrainian census recorded that only 0.6% of the entire population of Ukraine was functionally illiterate, 6.8% had failed to finish primary school, 33.3% completed high school, while 12.4% completed some form of higher education.<sup>118</sup>

During a research mission to Izmail in the Odessa region in 2005, ERRC collaborator Zhuzhana Duduchava observed that practically no Romani children in the region were enrolled in preschool. The majority of the older children attended Izmail Special General School No. 5, while a small minority were integrated in standard state schools. Of the 165 students at the Izmail Special General School No. 5, 23 were Romani, all of whom study in one classroom. Ms Duduchava further observed that in the village of Nyerubayskoye, also in Odessa region, the local high school segregated its 19 Romani students away from other students by placing all of them,

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<sup>115</sup> Seheda, Serhiy and Oleksandr Tatarevskiy, “The Bill ‘On protection against racial national and ethnic discrimination’”, Kyiv: International Center for Policy Studies, 2005, p. 31.

<sup>116</sup> Ukrainian Institute for Social Studies, p. 48.

<sup>117</sup> [http://www.ukrcensus.gov.ua/eng/results/education\\_population/s3/?box=3.1W&out\\_type=&id=&rz=1\\_1&rz\\_b=2\\_1&k\\_t=00&id=&botton=cens\\_db](http://www.ukrcensus.gov.ua/eng/results/education_population/s3/?box=3.1W&out_type=&id=&rz=1_1&rz_b=2_1&k_t=00&id=&botton=cens_db).

<sup>118</sup> Romani Yag, No. 9, p. 51.

irrespective of age, in a single classroom with one teacher in a building separate from the newer main school building. These children come from the poorest families in the town whose parents were often unable to send them to school for lack of money for clothing, school supplies or even to cover the costs of travel. In many areas of Ukraine, poverty often forces Romani families to withdraw their children from school so that they can work to supplement the family income.<sup>119</sup> In one survey of Roma in Ukraine, 66% of respondents with children who did not attend school said that the reason was because they were unable to afford to support their child in school, either for the costs involved (such as clothing and books) or because of the lost income and labour that a child in school represents for the household.<sup>120</sup> Romani activists have observed that some impoverished Romani families are often eager for their children to attend the special schools for the disabled because by doing so their children are guaranteed one hot meal a day and sometimes even free clothing. However, the curricula at these schools are entirely unsuited to the mental aptitude of many Romani children attending who have no learning impairment. These children are completely unchallenged in their education and from an early age learn not to expect much from it. Graduating from a special school for the mentally disabled effectively guarantees a life of exclusion and marginalisation, following the completion of non-schooling.

In the town of Novomoskovsk, Dnipropetrovsk region, out of an estimated Romani population of nearly 2,000, only 110-130 Romani children regularly attended any of the three schools in the area of the town with the highest concentration of Romani inhabitants in the 2005-2006 school year. Virtually every single low-income Romani family visited by ERRC in the region had at least child who was not attending school, and in most cases it was more than one if not all. When asked why, the most common responses were lack of funds for decent clothes or books, or that the children were needed by the family to help with either work at home or to supplement the family income.<sup>121</sup> Teachers interviewed at some of the local schools were adamant that the school did not discriminate against their Romani students in any way, but that Romani children did not come to school because they were simply not motivated to do so. Valentina Ugnevenko, Assistant Director

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

<sup>120</sup> Ukrainian Institute for Social Studies, pp. 48-49.

<sup>121</sup> ERRC interviews with the Tishenko family in Pishenko and the Chukalenko, Kalashenko, Lyubov, Smezhana, Isayeva, Valentina, Marozav, Yerionemko, and Kuchurenko families in Novomoskovsk, Dnipropetrovsk region, conducted on July 24-27, 2006.

and English teacher of School #12 in Novomoskovsk said that the absence of Romani students from the school was because “they [Roma] are a freedom-loving people, it is in their blood. They love freedom. Even in this school the children do not want to come. It is not the school’s fault that they do not want to go to school.”<sup>122</sup> Furthermore, she told the ERRC that much of the problem resided in the family, that some Romani families’ traditions were “good”, while others were “very wild for us”. She also stated that views on the importance of education varied from one family to the next.

Public officials often refer to constitutional protections of equality and social rights to absolve authorities of any responsibility for the lack of attendance by Romani students. The Mayor of Novomoskovsk, for instance, provided a rather typical analysis of the problem:

The problem for the Roma in Novomoskovsk is that although they have rights and opportunities for education and housing they simply do not take or exercise them. There are many Ukrainian families living in terrible situations as well, and with the current political problems in Kiev, the government is not in much of a state to take care of people’s social needs, so people need to take care of themselves and Roma are not doing that very well. Things have been hard for the past years since *perestroika*.<sup>123</sup>

According to Ms Valentina Ugnevenko from School #12, poverty should not be an impediment to education since schools can provide clothing, food and books to students that cannot afford them. In her opinion, the problem is that Romani students simply do not show up to school to claim the support. It is debatable, however, whether or not schools actually do or can universally provide such services for poor children in local communities. Svetlana Viktorovna, a physical education instructor at School #4 in the same district as School #12 was skeptical of any schools’ capacities to provide such support. “This school [School #4] does not provide such support simply because it cannot. Where would the money come from? It is certain that there is no money coming from the municipality or the government for such support programs”<sup>124</sup> Indeed, the only school in the district that is known to provide financial and material support to poor children was

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<sup>122</sup> ERRC interview with Valentina Ugnevenko, Novomoskovsk, Dnipropetrovsk region, July 26, 2006.

<sup>123</sup> ERRC interview with Viktor Litvishchenko, Novomoskovsk, Dnipropetrovsk region, July 28, 2006.

<sup>124</sup> ERRC interview with Svetlana Fedorchenko, Novomoskovsk, Dnipropetrovsk region, July 27, 2006.

School #13, which could do so only thanks to the private donations of its ‘sponsor,’ Mr Yurii Makovetskii, himself of Romani descent. According to one of its administrators, in the past year, School #13 supported one Romani boy and a few Ukrainian children with their studies by providing clothing, books and gifts during the holidays.<sup>125</sup> Viktor Marozav, the Romani boy in question, confirmed that there were a few children like him receiving assistance but that he was the only Romani child that he knew of to receive such assistance.<sup>126</sup> Although he himself was lucky to go to school, his sisters could not because without any special support of their own, they simply could not afford clothes or books and were needed to help with housework and to earn money for the family.

According to Romani activists, one key event that consistently hinders the educational development of Romani children occurs early in their lives when they are regularly refused or simply unable to access preschool education. This lack of access is sometimes the result of factors internal to Romani communities, such as a lack of transportation to take children to school, no money for supplies, a lack of awareness on the part of parents of the critical importance of preschool. It is also often the result of discriminatory factors such as parents of non-Romani children pressuring preschools not to admit Romani children or teachers not wishing to teach them. Romani children who do not attend preschool find themselves wholly unprepared when they apply to attend primary school. Lacking the basic skills they should have learned in preschool, and often not functionally conversant in either Russian or Ukrainian, they are unable to pass the entrance tests, nor do they understand what is expected of them, and they are often segregated immediately from the regular stream of children. The state provides no facilities or trained teachers who are able at this critical juncture to provide specialized education to get new Romani students up to the same starting level as their Ukrainian counterparts. Rather, in some areas of Ukraine they are shunted off to separate schools, often those for the learning disabled, where they have little hope of being able to return to the mainstream and have even fewer chances of ever being accepted for post-secondary schooling anywhere. In other case, when they are permitted to enter mainstream schools, they are often predestined to fail, starting without the educational and linguistic skills that their non-Romani peers had the opportunity to develop in preschool.<sup>127</sup>

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<sup>125</sup> ERRC interview with Elena Petrovskaya, Novomoskovsk, Dnipropetrovsk region, July 26, 2006.

<sup>126</sup> ERRC interview with Viktor Marosov, Novomoskovsk, Dnipropetrovsk region, July 26, 2006.

<sup>127</sup> Information provided by Zemfira Kondur of the Chiricli Roma Women’s Fund in an interview on June 6, 2006.

Some public officials who are aware of and concerned about low attendance rates among Romani children share the opinion that early education is of critical importance for them. Despite this concern, however, one consistently encounters a tendency for those same officials to nevertheless place blame upon Roma themselves for their situation, and in so doing declining any sense of responsibility for their situation. Mr Aleksei Abraimov, Director of the Department of Nationalities and Migration for the Dnipropetrovsk region, for example, expressed his concern over the non-education of many Roma in an interview with ERRC by stating:

All the problems of the Romani community come back to their lack of education and schooling. No education brings no future opportunities to earn more money... Most Roma, live at the bottom of Ukrainian society. There are 4 reasons why Roma children do not go to school: 1) no documents, 2) poverty, 3) transience, and 4) no desire to go to school. The fourth is the biggest and most fundamental of all. Most Roma people know that school is a very good thing, but they also think that it is not *necessary* for life, not like money is, so they feel that it is optional and do not go when the children can instead help with the family income. Maybe this would be less of a problem if one generation of parents sent all of their kids to school. Then there would be less overall traditional ignorance about the importance of schooling. I do not know of any current social programs from the government that is addressing this problem.<sup>128</sup>

The complete failure of the state to provide educational services to Romani children, or to undertake effective measures to ensure that Romani children realise the right to education on an equal footing with other children in Ukraine, has prompted some segments of civil society in some areas to respond. Over the foregoing ten years, with the support of the Soros Foundation, some Romani NGOs have been organizing “Sunday Schools” to supplement – and in some cases act as a replacement for – inaccessible or substandard state education.<sup>129</sup> Romani children, and sometimes adults as well, visit these schools once or twice a week to either work on basic skills such as reading and

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<sup>128</sup> ERRC interview with Mr Nikolai Abraimov, Dnipropetrovsk, July 27, 2006.

<sup>129</sup> According to the “Temporary Regulations of Sunday Schools of National Minorities in Ukraine,” a Sunday School “is one of the forms to ensure the materialization of rights of peoples and ethnic groups for suity of native languages, literature, history, ethnic and cultural values and traditions, to meet needs of residents of a given region,” quoted in Ukrainian Institute for Social Sciences, p. 45.

writing, or to develop skills such as dancing and singing. One Ukraine-wide opinion poll found unanimous support for Sunday schools among leaders of Romani communities for, not only for instilling basic educational skills, but also for providing a space for children and adults to study Romani language, history, culture and traditions, as well as “to cultivate Roma national dignity and ethnic identity.”<sup>130</sup> Despite their utility, however, the lack of full support and proper pedagogical guidance for these compensatory programs prevents them from being able to fully prepare children with the skills they will need to enter and succeed in mainstream schools. These Sunday schools, while important, nevertheless cannot and should not be expected to act as a replacement for the in-depth learning of the public school system.

In the autumn months of 2006, the ERRC and local partners filed legal action against segregated schooling arrangements in a number of localities throughout Ukraine. In Zakarpattia, legal challenges were brought against segregation prevailing in three schools in Uzhgorod. In the Odessa Region, legal action was launched against a school in the village of Nerubaisk which maintains entirely separate, sub-standard facilities for Roma. In a separate case, the ERRC and local partners took legal action against a school in Odessa which refused to enroll a Romani child on race grounds. In Donetsk, following testing by the ERRC and local partners, legal action was filed against two schools applying racially discriminatory enrollment procedures. All of those legal actions were pending as this report went to press.

## **7.4 Employment and Income**

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

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<sup>130</sup> *Ibid*, p. 46.



Young Romani boys collecting scrap metal and glass at the Novomoskovsk municipal dump.

PHOTO: MICHAEL LEACH/ERRC

Part of the problem of high unemployment is linked to the low educational level of many Roma. A high rate of illiteracy within the Romani community prevents many from knowing where or how to access information regarding employment opportunities. In Dnipropetrovsk region one of the only ways that Roma with low levels of education can earn a decent living (i.e. enough to meet all serious needs) is to trade in non-perishable goods in city street markets. It would be an error, however, to assume that all Roma who trade in the markets are poorly educated. Ms Sofia Kuchurenko, a merchant selling purses in the Sovetskaya marketplace in Novomoskovsk told ERRC that she had been selling items on the market for more than 15 years ever since she lost her job as a skilled industrial seamstress in a textile factory in the final years of the Soviet Union. She and all of her children, who also work in the market, have high school education or better, but nevertheless sell their wares on the street simply because “there are no other opportunities for Roma” in the city.<sup>131</sup> Another Romani merchant in the same marketplace, Ms Svetlana Valoshina, agreed that there were no other opportunities for people such as herself, and laughed when asked her opinion about a common perception held by Ukrainian and Russian inhabitants of the city that Romani traders were wealthy. “If you consider having just enough to feed your children being wealthy, then yes, but in fact we make just enough to survive.”<sup>132</sup>

Low levels of education effectively mask the core issue of racial discrimination in the labour market.<sup>133</sup> The ultimate barrier to gainful employment for Roma in Ukraine is their skin colour, ethnic origin and/or other markers of ethnicity giving rise to stigma and pariah status. Stereotypes of violence and criminality, as well as views of Roma as work-shy and/or incompetent, make directors of companies wary of hiring Roma. This was the case with Ms Lydia Cibulienka in Novomoskovsk in 2002 when she was not hired for a job in a private shop because of her ethnicity. Ms Cibulienka has fair skin and blue eyes and was initially encouraged by the storeowners to apply when she enquired about an advertised position. Once she produced her personal documents, however, at least one of which identified her as Roma by nationality, the tone of Ms Cibulienka’s potential employers changed. They began to search for excuses to say not to her until finally they asked her to come back in a week’s time, at which point she was told that the position had already been filled.<sup>134</sup>

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<sup>131</sup> ERRC interview with Sofia Kuchurenko, 28 July 2006, Novomoskovsk, Dnipropetrovsk region.

<sup>132</sup> ERRC interview with Svetlana Valoshina, 28 July 2006, Novomoskovsk, Dnipropetrovsk region.

<sup>133</sup> European Commission Against Racism and Intolerance, Second Report on Ukraine, CRI (2002) 23, § 59.

<sup>134</sup> ERRC interview with Ms Lydia Cibulienka, 28 July 2006, Novomoskovsk, Dnipropetrovsk region.





Children in front of wagon with scrap metal, Pishanko, Dnipropetrovsk Region, August 2006.

PHOTO: MICHAEL LEACH/ERRC

A number of Romani NGOs are attempting to counter the fears and suspicions that potential employers draw from prevalent stereotypes by acting as character references for job-seekers, but even then many consider themselves lucky if they find any regular work at all.

Field research by the ERRC and partners indicates that racial discrimination is among the most serious factors burdening Roma on the labour market. Where qualifications are equal, many potential employers reject Romani applicants if there is a choice of hiring a non-Romani person, and thus far authorities in Ukraine have not taken effective measures to combat racial discrimination in the field of employment. The lack of a valid residence permit has also deprived many Roma of the possibility of employment in their hometown or anywhere else for that matter. Until recently, work was tied to legal residence permits. Until the relevant criminal code provision was abolished in 1997, prospective employers were required to check residence permits before hiring an individual. The labour code was amended the same year to the effect that employers are now prohibited from requesting residence permits as a condition of employment, but previous effects of this strict legal regime do not appear yet to have been overcome.

Roma are for the most part excluded from access to credit and/or bank loans, with the exception of informal support provided by loan-sharks. For those who do manage to gather enough capital to start small businesses, such as kiosks in marketplaces, their ability to earn a living from them and be successfully self-employed is tempered by discrimination experienced on a daily basis from the general public. It is not uncommon for directors of marketplaces to expel all Romani merchants, as happened in 2005 in Dniprodzerzhynsk, Dnipropetrovsk region, in response to a media story of a Romani man in the city having raped a non-Romani woman.<sup>135</sup>

The prospects of Romani women to secure gainful employment are even worse. Irrespective of the barrier of racial discrimination, they are also discriminated against by employers based on their gender. Human Rights Watch in 2005 reported that gender discrimination in the Ukrainian workforce, in both the public and private sectors, is widespread, with most women forced into lower paying jobs if any at all. Fully 80% of Ukraine's unemployed population is female.<sup>136</sup>

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<sup>135</sup> Ibid.

<sup>136</sup> Human Rights Watch, p. 444. <http://hrw.org/english/docs/2005/01/13/ukrain9884.htm>.

On no occasion of which the ERRC is aware has the government ever acknowledged that Roma face forces leading to racial discrimination in employment. Both the Constitution and the Labour Code contain provisions guaranteeing the equal rights of citizens to labour.<sup>137</sup> These protections have been to date ineffective in challenging the near-total exclusion of Roma from the mainstream labour market and/or employment in the regular economy.

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

As a result of the extreme duress created by generalised poverty, low levels of education and the additional burdens caused by racial animus, many Roma make their living by collecting scrap metal or wood for lack of any other opportunities. These individuals compose one of the most excluded workforces in Ukraine. Every day, thousands of people scour municipal garbage dumps throughout Ukraine in search of scrap metal, glass bottles or any other forms of refuse that large-scale recyclers are willing to pay for. The ranks the scrap metal and glass collectors are filled by the unemployed and the unemployable, and include laid off industrial workers, pensioners, people with disabilities and, in disproportionate amounts, unemployed and uneducated Roma, men, women and children. Artur and Irena Dubavai, a young married Romani couple have been going to the Novomoskovsk municipal garbage dump every day for the past three years in search of scrap metal and glass to earn enough money to support their small family. On an average day, they gather 40 kilograms of

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<sup>137</sup> The Labor Code of Ukraine, Article 2-1 states that “Ukraine shall secure the equality of the labour rights of all citizens, regardless of their descent, social and material status, race, ethnicity, sex, tongue, political views, faith, character or nature of occupation, place of residence or other circumstances.” Article 43 of the Constitution guarantees the equal right to labour.

scrap material, for which they can earn 20-30 hryvnas (approximately 5-6 euros).<sup>138</sup> Cyril is a 13 year-old boy who also works on the same site, and he told ERRC that he had been collecting scrap material for the past 5 years.<sup>139</sup> Natasha is a 15 year-old girl who has also been coming everyday to the dump for the past 5 years.<sup>140</sup> According to Evgeniia, an elderly non-Romani pensioner also gathering scrap materials at the dump, none of the children who work at there can properly read and write and very few have ever been to school, but often work at the dump because it is a viable way for children significantly contribute to their families' incomes.<sup>141</sup> "Everything you hear about Gypsies isn't true," she added. "I see these people come here everyday and they work as hard as everybody else. They are here because like me they have no other choices."

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

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<sup>138</sup> ERRC interview with Artur and Irena Dubavoi, 27 July 2006, Kuliebovka Sector Municipal Dump, Novomoskovsk, Dnipropetrovsk region.

<sup>139</sup> ERRC interview with Cyril (declined to give family name), 27 July 2006, Kuliebovka Sector Municipal Dump, Novomoskovsk, Dnipropetrovsk region.

<sup>140</sup> ERRC interview with Natasha (declined to give family name) 27 July 2006, Kuliebovka Sector Municipal Dump, Novomoskovsk, Dnipropetrovsk region.

<sup>141</sup> ERRC interview with Evgeniia (declined to give family name) 27 July 2006, Kuliebovka Sector Municipal Dump, Novomoskovsk, Dnipropetrovsk region.

## **8. LACK OF PERSONAL AND/OR OTHER DOCUMENTS**

The lack of personal identification documents, as well as other documents necessary for accessing basic services, is a systemic problem among Roma in Ukraine. Many currently live without any personal documents, including an unidentified number who immigrated during the former Soviet period and who are, effectively, stateless, and may lack recognition before the law. Roma report various forms of abuse in this area, ranging from arbitrary confiscation of their residence permits by local officials to refusal of authorities to issue residence permits to them under various pretexts. Residence permits are issued free of charge, in many areas it appears impossible to obtain a residence permit without paying exorbitant bribes to the officials concerned. Roma are also often a subject to widespread abuse by the police who carry out punitive raids against them under the pretext that they do not have residence permits and therefore reside illegally in the area. Personal documents are required for utilising public services such as health care, unemployment insurance, education and pensions. The ERRC has gathered substantial evidence that indicates that many Roma are regularly denied a range of basic civil rights, including freedom of movement, the right to respect for private and family life, the right to vote, and the right to redress as a direct result of their not possessing personal documents.

Roma also often experience great difficulty in acquiring proper registration documentation for their homes or places of work. This fact can enforce the *de facto* segregation of many Romani communities away from desirable locations and decent living conditions. Lacking one or more personal documents and/or official local residence permits, many Roma are often unable to secure legal aid, be recognized by the courts nor are they able to submit official complaints to the police. This, in effect, denies them their fundamental right to be recognized as individuals before the law.<sup>142</sup> In the health sector, lack of documentation can provide the justification for refusals to provide public health services to Roma. Romani children without documents are particularly vulnerable to illness and disease since they require them to receive vaccinations and other preventative health measures.<sup>143</sup> A lack of one or more documents or local residence permission may serve as a pretext for racially discriminatory refusals to enrol children in school.

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<sup>142</sup> Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.

<sup>143</sup> Information provided by ERRC partner Zhuzhana Duduchava in an interview on May 23, 2006.



Scrap metal and glass collectors at the Novomoskovsk municipal dump, August 2006.

PHOTO: MICHAEL LEACH/ERRC



Roma in the village of Jesenj, Uzhgorod Province of Western Ukraine.

PHOTO: ROMANI YAG/ERRC

Acquiring documentation is a process fraught with arbitrary barriers. In one case, in the village of Ribionki, near Bila Tserkva, Kiev region, a local Romani organization in February 2006 compiled a list of all Roma in the community who were in need of personal identity documents. They went to the local administration responsible for issuing documents such as these and, presenting the list, asked for assistance to process them. The employees at the office demanded the processing fee of approximately 20 USD for each person on the list and refused to issue the standard discounted fee of approximately 5 USD for the elderly. Four months later, there was still no progress made. Local administrators refused to talk or deal further with the Romani community, and with no funding available to cover the required fees, they were not obliged to do so.<sup>144</sup>

Cases such as the village of Ribionki demonstrate that despite the hardship that a lack of documentation imposes on Roma, many obstacles exist that prevent them from acquiring them. The generally low level of education of many Roma make it difficult for them to fully understand how to navigate a complex bureaucratic requirements needed to register property or secure individual identity documents. Furthermore, the administrative processing fees are simply unaffordable for people living in conditions of extreme poverty. Race, though, constitutes the most insurmountable obstacle. Direct discriminatory refusals to provide assistance in securing documentation, or sometimes even an outright refusal to do so on the part of officials and administrators are frequent and make the process virtually impossible. Largely without a valid registration of residence, significant numbers of Roma are deprived of a range of rights, including access to social benefits, health and childcare, pensions, and voting. There are no government programs in place to assist an impoverished, uneducated and highly stigmatized population with obtaining the documentation they need.

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

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<sup>144</sup> Information provided by Zemfira Kondur of the Chiricli Roma Women's Fund in an interview on June 6, 2006.



Roma often lack identity documents, but this fact speaks about their non-observance of elementary rules for societal behaviour and their civil duties, not about their discrimination... Such conduct leads to the situation, when both adults and children from Romani families initially have lower social status in comparison to representatives of other ethnic groups. They have more difficulties in finding employment, which is often underpaid, because the worker does not have general secondary and professional education. Therefore, accusations that Roma are deprived of their civil rights, practically, do not have any grounds.<sup>145</sup>

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

The Committee is concerned about reports that the lack of personal and other relevant identification documents effectively deprives many Roma of their right to equal access to the courts, legal aid, employment, housing, health care, social security and education. (Arts. 5 (a) and 5 (e)) ... The Committee urges the State party to take immediate steps, e.g. by removing administrative obstacles, to issue all Roma with personal and other relevant identification documents in order to enhance their access to the courts, employment, housing, health care, social security and education.<sup>146</sup>

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<sup>145</sup> *Eighteenth Periodic Report of States Parties Due in 2004: Ukraine*, CERD/C/UKR/18, § 87.

<sup>146</sup> "Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine", CERD/C/UKR/CO/18 August 2006, para. 11.



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## 9. CONCLUSION

In the decade since the ERRC published its first Country Report on the situation of Roma in Ukraine, little has changed. *The Misery of Law* documented a vacuum of protections from extreme abuses of fundamental rights where Roma are concerned. Primary concerns in the ERRC's 1997 report included violence by police and other persons, bias in the criminal justice system, and legal protections inadequate to protect against the various forms of human rights abuse to which Roma were falling systematically victim. *The Misery of Law* documented acts as extreme as violent pogroms to which Roma had fallen victim, which had not been challenged effectively by any public body.

Today, deficiencies in law and policy remain extreme, while those policies and laws available to address the worrying human rights situation of Roma are generally not used for these ends. The ERRC knows of no instance in which a judicial body in Ukraine ruled that any Romani person had suffered any form of discrimination in any case. This fact alone indicates the official landscape surrounding Roma in Ukraine today. Then as now, a Romani person falling victim to instances of human rights abuse – be they violence by police, segregation in school, forced eviction from housing, exclusion from personal documents or other harms – will have little or no recourse to any effective remedy from the public authority. There will be an intervening presumption that the persons at issue should suffer these harms stoically, because they are “Gypsies” and Gypsies should not expect better. It is noteworthy that officials and Ukraine have been unable to end even extreme community violence in the period since the ERRC first published documentary material on this issue in its 1997 report.

Many in Ukraine attribute the problems of Roma to poverty, and then dismiss these problems with the observation that Ukraine faces serious problems with generalized poverty. Poverty of Roma is undoubtedly a very powerful factor driving the exclusion of Roma in Ukraine. Poverty among Roma in Ukraine is indeed extreme, and at first face worse than that of the generally impoverished Ukrainian population, at least in part because it has been inherited. Poverty among Roma is exacerbated by extreme levels of unemployment among Roma. Poverty is one serious factor in a complex of issues facing Roma in Ukraine, all of which are driven by high levels of anti-Romani racial antipathy, unchallenged – and indeed at times promoted – by Ukrainian authorities.

Extreme levels of anti-Romani sentiment, patterns and practices of human rights abuse against Roma, and the general tolerance for these acts, arise from the fact that the pariah treatment of Roma in Ukraine has never been seriously challenged by government action, despite over a decade of efforts by civil society to move the government to do so. Roma rights issues remain in Ukraine at the extreme perimeter of marginal considerations, despite the severity of the acts involved.

The prevailing scandal of government inaction in the face of severe human rights concerns prevailing among Roma in Ukraine must end. The government of Ukraine must take urgent measures to address the very serious human rights issues facing Roma in Ukraine. Important first measures should include the adoption, without delay, of a comprehensive anti-discrimination law, and its speedy implementation. Other measures to be undertaken in the near term include the design and implementation of a comprehensive school desegregation plan, including all attendant support mechanisms for all relevant stakeholders in the school system, such that all Romani children in Ukraine may fully realise their right to education. These and the other measures detailed below require high levels of political will on the part of Ukrainian public officials.

## **10. RECOMMENDATIONS**

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

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

of preparation ensuring an equal start in the first class of primary school. Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma.

7. Provide security of tenure for residents of Romani communities and settlements, and protect the inhabitants from forced and arbitrary evictions, as well as segregationist local practices.
8. Ensure that all persons in Ukraine are in possession of all personal and other documents necessary for the realisation of fundamental civil, political, social and economic rights. Develop programmes to ensure the provision of legal residence to all persons factually resident in a given area, and to ensure that local authorities do not arbitrarily refuse to register Roma as locally resident.
9. Develop and adopt a comprehensive governmental programme addressing the human rights situation of Roma in Ukraine.
10. Remedy the current dearth of statistical data on the situation of Roma in sectoral fields key for social inclusion, including statistical data comparing the situations of Roma with non-Roma in areas such as education, employment, housing, health care, access to social services and access to justice.
11. Develop and implement comprehensive training programs to ensure that all public officials understand and comply with international and domestic law bans on discrimination, and that they are sufficiently trained to act on obligations to protect all people from discrimination.
12. Provide free legal aid to members of weak groups, including Roma and the indigent.
13. At all levels, speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.

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## 12. SUMMARY IN ROMANI

### Rezime: O 2006 Raporto katar „European Roma Rights Centre“ pa Manušikane čaćimatangi Situacija le Rromengi ande Ukraina

O ERRC ankerdja jek ekstenzivno investigacija, politikaki, zakonoski thaj trenin-goski bući ande Ukraina, ke ande Ukraina si le Rrom konfrontirime serioznone problemonca. Ando berš 1997<sup>147</sup> publicirisardja o ERRC jek buhlo Themesko Raporto pa e situacija ande Ukraina. Pala kodja ankaladja o ERRC ando berš 2001 jek publikacija, savi sas jek aktualizacija katar 1997 raporto.<sup>148</sup> De katar o berš 2003 si o ERRC uključime ande `k trine beršengo projekto, ažutimasa katar la Evropaki Komisija thaj ažutimasa katar *Swedish International Development Cooperation Agency* (SIDA). O projekto si pe sama katar investigacija pa `l manušikane čaćimata, po treningo thaj pe advokacija ande Ukraina. Ando projekto uključime si vi uni lokalni Rromenge organizacije. Kadale raportoski dokumentacija thaj publikacija si jek komponenta katar kodo projekto.

E situacija le Rromengi ande Ukraina, pe sama katar e fundamentalni manušikane čaćimata, si desa kritično thaj bilaši. Ande palune berš buhlisajle ande Ukraina diferentni brutalni phagerimata kata `l manušikane čaćimata. Adicionalno, arakhadon permanentni problemur, sar buhljardi rasaki diskriminacija ande `k numero kata `l diferentni thana thaj e ekskluzija le Rromengi katar personalni thaj aver dokumentur. Pe sa kadala pušimata o governo ži adjes či del anglal či soska akcijasa.

Faktur, dokumentirime ando detailo katar o European Roma Rights Centre (ERRC) thaj leske partneroske organizacije, ande palune berš uključin: (i) brutalno zor, uključime brutalno zor, savi si motivirime katar e rasa thaj ekstremni brutalitetoske akcije, katar e rig le themeske rangi thaj vi kata privatni manuša; (ii) ande krisake kriminalni trjabe arakhadon rasaki motivacija, rasake aspektur thaj rasaki diskriminacija, uključime vi o „data-basing“ pa `l Rrom paj rig katar la Ukrain-

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<sup>147</sup> European Roma Rights Centre, *The Misery of Law: The Rights of Roma in the Transcarpathian Region of Ukraine*, Country Reports Series, Nr. 4, April 1997.

<sup>148</sup> European Roma Rights Centre, *Focus: Roma Rights in Ukraine: Published Materials 1997-2001*, June 2001.

aki policija; (iii) rasaki diskriminacija pe socialni thaj pe ekonomijake sektorur, uključime bešimaske trjabe, uključime vi sastimaski griža, edukacija, la bućako servizo thaj socialni servizur; (iv) pe bute thanende le Rromen naj personalni vaj aver dokumentur; kodolasa ašavel pe efektivno le Rromengo pravo pe legalno personaliteto thaj anda jek phandavel pe o drom le Rromengo karing le bazični servizur thaj ašavel pe vi lengi civilno thaj politikaki participacija ando them; (v) aver buća.

La Ukrainake zakonur pe kaća vrjama naj dosta suficijentni thaj či arenen te unza-  
ren jek adekvatno protekcija kontra diskriminacija vaj te kaznin rasaka diskriminaci-  
jake deliktur. O manko kata legalno zor dokumentirin maškar-themutne obzerverur  
beršenca. Pe kaća vrjama, ande Ukraina naj jek efektivno, komprehensivno anti-dis-  
kriminacijako zakono, savo kerelas la diskriminacijaki zabrana efektivno. Paša kodja,  
vi pe regionur, kaj kak legalno mexanizmo thaj legalni provizije egzistirin, či kothe či  
adaptirin len le governoske raj, čiti la judikako sistemo, te bi anenas le Rromenge ande  
Ukraina jek malado parruglipe. O manko katar kak komprehensivno anti-diskriminaci-  
jako zakono ande Ukraina anel la diskriminacijake viktimur ande Ukraina ande situ-  
acija, kaj našti thon legalni pasura, te arakhen thaj te sigurin pesko čačipe.





The European Roma Rights Centre (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. The approach of the ERRC involves, in particular, strategic litigation, international advocacy, research and policy development, and training of Romani activists. The ERRC is a cooperating member of the International Helsinki Federation for Human Rights and has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

**Roma in Ukraine are extremely vulnerable to infringements of fundamental human rights. A number of very serious instances of violent human rights abuse have taken place in Ukraine in recent years. In addition, systematic issues, such as widespread racial discrimination in a number of sectoral fields and the exclusion of Roma from personal and other documents, remain entirely unaddressed by government action to date. Matters documented in detail by the European Roma Rights Centre (ERRC) and partner organisations in this report include:**

- **violence, including racially motivated violence and other extreme forms of violence by state and non-state actors;**
- **racial targeting, racial profiling and racial discrimination in criminal justice matters, including the systematic data-basing of Roma by the police in Ukraine;**
- **racial discrimination in social and economic areas, including housing, health care, education, employment and social services;**
- **widespread lack of personal and other documents, effectively denying Roma the right to a legal personality, thwarting access to basic services, and hindering even basic civil and political participation.**

The absence of any comprehensive anti-discrimination law in Ukraine makes it virtually impossible for victims of discrimination in Ukraine to use legal means to secure justice.



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