

## Unequal Citizenship: Human Rights Violations against Turkish Gypsies<sup>1</sup>

Gypsies in Turkey<sup>2</sup> are articulate in their claims to be citizens of the Republic and loyal to the state, which many consider to have offered their ancestors a ‘place of greater safety’ during the population exchanges of the 1920s and 1930s. For Gypsies, identification with the Turkish state is paramount to their own conception of identity. Yet many of those interviewed during the course of research carried out by the European Roma Rights Centre (ERRC), in collaboration with the Helsinki Citizens’ Assembly (hCa), and the Association for Research, Development and Solidarity with Roma (EDROM), claimed that they are often confronted with treatment as second-class citizens, denied entitlements to many of the guarantees of the Constitution for citizens of the Republic and forced to live in circumstances and conditions that degraded and devalued them.

Despite the fact that social deprivation does not affect solely Gypsy communities in Turkey, the prevalence of anti-Gypsy prejudices, manifest in the daily experiences of individuals belonging to these communities in their interaction with non-Gypsies, reveals a high degree of unequal treatment on an ethnic basis. In numerous cases from all over the country, Gypsies in Turkey experience discrimination on the basis of their identity, over and above the experiences of other poor groups in Turkish society. This reality was expressed by a man in the town of Erzincan, in the eastern Anatolian region:

“They [non-Gypsies] look down on us, freeze us out and they are afraid of us. We have submitted many job applications, but they won’t give these jobs to us. Even schools

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<sup>1</sup> This chapter was compiled by Adrian Marsh on the basis of factual information collected in the course of field research in the period July 2006-January 2008. Anita Danka provided references to relevant international law provisions.

<sup>2</sup> This report uses the term “Gypsies” to encapsulate the widest possible community. Modern Turkish Gypsy populations include Roma, Domari and Lomari (all drawn from the word “man”: Rom, Dom, Lom). They have each maintained a distinct culture, including to a greater or lesser extent their historical languages of Romanes, Domari and Lomavren. Throughout the text, these ethnonyms are used to refer to the respective groups.

sometimes discriminate against our children by not enrolling them when they find out which *mahalle* they live in. The teachers are only nice to our children because they are afraid of violence from the parents... We can't even go to a public coffeehouse and sit down like any other citizen. When we do, the owners tell us to leave because we scare the other customers... Sometimes there are small arguments taking place in the neighbourhood, but when this happens the entire police force arrives and imposes a curfew lasting for several days. They come here two or three times a year depending on how bored they are... they know we are strong together, so they evict us and scatter us around to weaken us; so that we don't know what each of us is doing any more.”<sup>3</sup>

This chapter of the report is based upon research in the field undertaken by the European Roma Rights Centre (ERRC), the Helsinki Citizens' Assembly (hCa), and the Edirne Association for Research, Development and Solidarity with Roma / Edirne Roma Association (EDROM) in the period July 2006 - January 2008. The research team worked in the field with local Romani and Domari organisations and other civil society non-governmental organisations.

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### Summary of the findings

#### **Destruction of Gypsy communities, degrading living conditions, discrimination in access to housing**

Many Gypsy communities throughout Turkey face serious infringements of the right to adequate housing ranging from forced evictions and demolition of entire communities to exposure to extremely substandard living conditions and lack of security of tenure. In the context of urban redevelopment projects, local authorities have removed entire communities without recourse to any publicly accountable process and in the majority of cases these projects have had a disparate impact on Gypsy communities. Communities subjected to forced evictions usually do not have legal title to land but have lived in a certain area for generations; in some instances housing built with legal permission by the authorities has also been destroyed. One and the same community may experience serial forced evictions in the course of months or years, without having recourse to independent review for such actions or to alternative accommodation or compensation. Forced evictions are sometimes executed by police and individuals are subjected to excessive force. Harassment of mobile groups, including the wholesale burning and demolition of tents and temporary shelters is common practice by police officers and municipal security officers (*zabıta*) in parts of Turkey. Those Gypsies who have been effectively dispossessed as a result of demolitions join the large numbers of internally displaced persons that

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<sup>3</sup> ERRC/hCa/EDROM interviews, October 2006, Erzincan. The ERRC/hCa/EDROM respect the concerns about personal security expressed by almost everyone interviewed in the course of research and withhold the names of interviewees or provide false initials, if not otherwise indicated in the text.

are living in Turkey with little access to basic rights such as education and health care as a result of a lack of fixed residency.

### **Violence against Turkish Gypsies**

Gypsy communities are raided by security forces in cases of petty crimes committed in the vicinity. Arrests take place in 'swoops' upon the community or local tea-houses where Gypsy men gather, or on mobile communities where women are also targeted and numerous individuals are removed and detained without access to legal representation or communication with family members. Detentions can last for several days without any indication being given to the detainees about the nature of the investigation or accusation against them. Instances of torture and ill-treatment of Gypsy persons have been reported during these periods of detention, but none of those who divulged this information were willing to pursue redress for fear of further persecution. Police officials also assault Gypsy children working in the streets of towns and cities, beat them, confiscate whatever monies they have in their possession, and often deport them to the outskirts of the town.

Gypsy women are subjected to violence from state actors in similar circumstances when caught begging or fortune-telling in the streets. The widespread perception of Gypsy women as 'loose' and immoral makes them targets as suspected prostitutes, even at very young ages.

Non-state actors are also involved in perpetrating acts of violence against Gypsies in Turkey. The situation of Dom Gypsies in south eastern Turkey, for example, is one of frequent abuse at the hands of other communities. Women are especially vulnerable, as marriages into these communities place them in danger if their identity is discovered. The research documented instances of marital rape, torture and even murder by husbands and family members, under the guise of so-called 'honour killings'. Confrontations between groups of young Gypsies and other groups have taken place in İstanbul in areas where these groups are both in competition for scarce resources (trying to access the same narrow economic niches), and where competing notions of identity conflict, or adherence to religious observance is deemed 'lacking' in the Gypsy community by others. Public celebration of weddings can lead to confrontations in neighbourhoods where there are mixed populations, and these can turn violent when conceptions of nationalism come into play.

Violence against Turkish Gypsies is part of a culture of 'normalised' violence that both exists in wider society and has been internalised within the communities themselves, in turn feeding stereotypes regarding Gypsy neighbourhoods as dangerous, violent places filled with blood-feuds and heavily armed populations. Such stereotypes thus legitimise any violence carried out by state actors against Turkish Gypsies in the eyes of the wider society.

**Marginalisation of Turkish Gypsies in education**

Schooling in Turkey is a fundamental right for all citizens in the Republic and the state both encourages and, on occasions, coerces parents into sending their children to school as a legal requirement, particularly in areas where traditional notions exist about the dishonour of sending girls to school. Support for education is widely regarded as a necessary and positive attribute of modern citizenship, with concomitant notions of 'backwardness' amongst those communities that deny girls and young women the opportunity for education. Education is also strictly non-segregated on gender lines or on ethnic lines, as stipulated by the Turkish Constitution, where the formal language of instruction is Turkish (except in those institutions identified within the framework of the Treaty of Lausanne, that teach the curriculum through French, Italian, Greek or English or private educational establishments, licensed by the state). Religious education in the mainstream education system is tightly controlled and monitored (though this issue is one that is being highly contested at present), and the system of religious schools (imam-hatip liseleri) that exists in Turkey is considered as a wholly diverse conduit in education, and their graduates need to achieve higher points in the entrance exams to mainstream colleges and universities.

This brief outline being given, the obstacles for Gypsy children and young people in accessing quality education are many and diverse. There are associated costs with education in Turkey that mean that children from poor Gypsy families (the vast majority) are unable to participate fully; specifically the costs of books, pens and pencils, clothing (most schools require a uniform), shoes, money for school projects undertaken during the term, and the registration costs (usually hidden in terms of donations to the school funds) are all beyond the financial capacities of these families. The necessity for many children to work and contribute to the family income is also a major inhibitor to their successful participation. The transition from basic schooling to high school is one that is all-too-frequently not made by Gypsy children, due to predominantly economic reasons. Thus, the likelihood of young people going on to achieve higher qualifications, or even to attend university, is very low indeed.

Economy is not the only reason that Turkish Gypsy children under-achieve at school at all levels. Prejudice is widespread and antipathy in the classroom is often led by negative attitudes from teachers that are emulated by other students. Gypsy children are frequently made to sit at the back of the class, in a group that receives little or no attention and is reduced to simple copying, drawing or behaviour that stems from boredom and disaffection. Aspirations remain low in an environment where expectations are correspondingly poor. Low expectations for Gypsy children have been made obvious on a number of occasions when prejudices about the in-educability of Gypsy children were expressed by teachers to researchers, or the widely held belief that Gypsy children and their families are not interested in education per se.

In some schools where the population is almost overwhelmingly from the local Gypsy community, the tendency for other children to be withdrawn is high, effectively creating segregated schooling. These schools then receive poorer resources, teachers are less motivated, and the cycle of under-achievement deepens. Allocation of support for poorer families is usually at the bequest of the teachers in classes, and frequently Gypsy children are denied this support despite obvious need. Prejudicial attitudes of school administration isolate Gypsy parents from the school environment and their children's education; in some instances, even the physical presence of Gypsy parents in the school premises is prohibited and they must await their children at the school gate. Absences from school are treated as entirely normal (in distinct contrast to the efforts made to enrol girls and young women elsewhere), often resulting in children 'disappearing' from the school rolls entirely. Gypsy children are actively excluded from school activities surrounding national events or graduation in some schools, except in the role of performers of music, the one area that schools allocate to Gypsy children as potentially contributing to school life.

Violence in schools by students bullying or harassing Gypsy children is commonplace, with little or no intervention on the part of the school management. In global terms, Turkish Gypsy children as a group are the least educated, lowest achieving, poorest attending and most illiterate in the education system.

### **Exclusion of Turkish Gypsies from employment**

The economic situation for many Turkish Gypsies from all groups is almost unremittingly dire. Even in the group that represent the 'elite' in Gypsy communities, the musicians, the situation is rapidly declining for a variety of reasons outside of the prejudice and discrimination that affects the majority of them. In most cases, access to secure, permanent employment that enjoys social insurance cover and contractual security is entirely absent. Employment is almost always temporary, part-time and frequently off-the-cards (paid without any records, taxes, and insurance or social security contributions); it is also hazardous and carried out without any regard for health and safety considerations in many instances. What employment there is for Turkish Gypsies is concentrated in the unskilled, manual labour sector, with little opportunity in semi-skilled or skilled artisan occupations. The belief that Gypsies are shiftless, idle and incompetent workers is axiomatic. The limitations upon Turkish Gypsies extend to employers denying the possibility of promotion or advancement to workers, arbitrary dismissal and withholding of insurance payments, leaving unemployed workers with no access to social security.

The vast majority have no employment to speak of and exist on what little they can garner from occasional labouring, peddling or begging, often under the guise of selling small goods on the street. Recruitment to government services and the state bureaucracy is effectively closed by prejudice and poor education, as is working in business proper, the education sector, the health

sector, or advancement through the military services. Whilst there are examples of individuals who work as police officers, engineers or university lecturers, these are exceptional and these individuals do so by 'passing' as non-Gypsies in most cases.

### **Discrimination against Turkish Gypsies in access to health care and social assistance**

The difficulties in accessing these services are both a consequence of the lack of personal documentation and prejudice. The 'green card' system that allows poorer people to secure treatment for illness or as a result of accidents is only partially accessible for many Turkish Gypsies, and especially problematic for the mobile groups. There are frequent instances of reluctance, and sometimes refusal, to treat Gypsy patients who present themselves at hospitals and general clinics, or dismissive behaviour on the part of doctors. Such reports seriously question the quality of medical care services available to Gypsies. On the other hand, even when an ailment is diagnosed, the cost of medicines is prohibitive for many individuals and treatment is therefore substandard or altogether inaccessible.

Dental care is especially poor and the traditional recourse (in eastern regions) to unregistered Dom Gypsy practitioners is being curtailed by the enforcement of hygiene regulations that are positive in intention but negative in impact.

Respiratory illnesses are endemic amongst Turkish Gypsy populations, most often linked to poor housing and smoking, particularly amongst Gypsy women where the incidence is some three or four times the national average, according to observations from general clinic practitioners. Occupational injuries are also widespread amongst Gypsy men, largely as a result of working in poor conditions without adequate protection or long-term exposure to hazardous conditions or inclement weather.

Access to social assistance is equally restricted. Although many families do receive some level of support from the state and local authority, this is neither comprehensive enough, nor is it based upon any thoroughgoing assessment criteria of real needs.

### **Difficulties in accessing personal documents**

There are high numbers of Turkish Gypsies for whom the lack of personal documents is a major barrier to accessing a range of basic rights. Though the research did not find many examples of extreme cases where citizenship itself was at issue, Gypsies in Turkey encounter many difficulties in accessing personal documents including, but not necessarily limited to, birth certificates, personal identification cards, papers related to residency (especially problematic amongst the many mobile groups the research teams encountered or those dispossessed by the demolition of their homes), documents related to accessing health services (the so-called 'Green Card' or identification of the right to health care by poorer people), social security papers and passports.

The lack of one or more of these papers can lead to problems registering children at local schools, for example, and effectively deny access to crucial services or further documentation necessary to realise certain rights such as voting or property rights. In one instance, the local authority in Adana reportedly attempted to address this issue with an “amnesty” for all Roma lacking personal documentation, to ensure they had sufficient identification in the future.<sup>4</sup>

### **Exclusion of Turkish Gypsies from participation in public affairs**

The representation of Turkish Gypsies at all but the most basic levels of the political structure is a fact in the political life of Gypsy communities. Whilst there are examples of local authority representatives (muhtar), elected by local communities, these officials are limited in powers and authority to basic tasks such as registration in particular neighbourhoods and bringing the attention of the local authority (belediye) to particular practical issues such as street cleaning or road repairs. There are reportedly examples of Turkish Gypsies who have achieved office at higher levels, but these are never individuals who have been willing to publicly acknowledge their origins.

The few Turkish Gypsies who are appointed to positions within the Turkish education system achieve their success again by ‘passing’ as non-Gypsies. Once again those teachers, school principles and administrators who are working in the education system do not declare their ethnic origin for fear of prejudice and discrimination against them or, if they do, they experience daily the expressions of such from their colleagues.

There are very few Turkish Gypsies at work in the state bureaucratic system at all but the lowest levels. Engagement with local authorities for most Gypsies is one that is limited to particular aspects, namely their participation during elections when particular parties make efforts to secure their support. These efforts have reportedly been in the nature of monetary offers to individuals in the community who are perceived to be able to mobilise others from the community, or promises of economic and social regeneration that rarely materialise in the aftermath of any successful candidature. Aside from this, the bureaucracy at any level in Turkey has almost no contact with Gypsies as administrators or bureaucrats themselves.

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<sup>4</sup> Contribution by a local government official in Adana during discussions at the ERRRC/hCa/EDROM Human Rights Training Workshop, Adana, 19 May 2007.

## **Destruction and marginalisation: Violations of the right to adequate housing**

### **Domestic and international law provisions on the right to adequate housing**

The right to housing is a fundamental human right and it incorporates rights such as freedom from discrimination in access to housing and related services, the right to peaceful enjoyment of possessions, the right to an adequate standard of living, the right to respect for private and family life, and the right to protection from forced evictions and the provision of alternative accommodation.

The Constitution of Turkey, at Article 5, lists as a fundamental aim and duty of the state to “strive for the removal of political, social and economic obstacles which restrict the fundamental rights and freedoms of the individual in a manner incompatible with the principles of justice and of the social state governed by the rule of law; and to provide the conditions required for the development of the individual's material and spiritual existence.” Article 56 of the Constitution ensures everyone's right to live in a healthy environment and makes it the state's responsibility to improve the natural environment. Article 57 declares that the state will “take measures to meet the need for housing within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects.”

#### *Adequate standard of living*

The most comprehensive standards of the right to adequate housing are elaborated in Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and General Comments 4 and 7 by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) which interpret the normative contents of this Article. Article 11(1) of ICESCR provides that: “The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living [...] including adequate food, clothing and housing, and to the continuous improvement of living conditions.” General Comment No. 4 on the right to adequate housing under Article 11(1) of the ICESCR states: “The right to adequate housing applies to everyone” and the “[...] enjoyment of this right must, in accordance with Article 2(2) of the Covenant, not be subject to any form of discrimination.” The Committee further states that the right to housing “should be seen as the right to live somewhere in security, peace and dignity.” It is not just the right to housing, but to adequate housing. The elements of adequacy were defined by the Committee as including:

“a) Legal security of tenure. Tenure takes a variety of forms, including [...] emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring



- legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;
- b) Availability of services, materials, facilities and infrastructure [...] All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;
  - c) Affordability [...];
  - d) Habitability [...];
  - e) Accessibility [...];
  - f) Location. Adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;
  - g) Cultural adequacy. The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, *inter alia*, modern technological facilities, as appropriate are also ensured.”<sup>5</sup>

General Comment No. 15 of CESCR defines access to potable water as a human right, thus obliging signatories to not directly or indirectly block access to potable water. It is clearly stated that: “Water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.” With respect to the non-discrimination principle, the Committee states “Whereas the right to water applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups [...]” The Committee finally notes “Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right

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<sup>5</sup> Committee on Economic, Social and Cultural Rights, General Comment 4, The right to adequate housing, (Sixth session, 1991), U.N. Doc. E/1992/23, annex III at 114 (1991). Available at: <http://www1.umn.edu/humanrts/gencomm/epcomm4.htm>.

to take part in cultural life). Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses.”<sup>6</sup>

### *Forced evictions*

Forced evictions are considered to be *prima facie* incompatible with human rights standards.<sup>7</sup> The CESCR, in its General Comment 7, defines forced evictions as “the permanent or temporary removal against their will of individuals, families and/or communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”<sup>8</sup>

General Comment 7 recognises the interrelationship and interdependency of all human rights, and that forced evictions therefore frequently violate other human rights. It states, at paragraph 4, “[...] while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.”

Paragraph 10 of the Comment notes that, “Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. [...] The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.”

Furthermore paragraph 13 provides that: “States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders [...].”

Paragraph 14 adds: “In cases where an eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality [...].”

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<sup>6</sup> Committee on Economic, Social and Cultural Rights, General Comment 15, The Right to Water (Articles 11 and 12 of the Covenant), (Twenty-ninth session, 2002), U.N. Doc. E/C.12/2002/11.

<sup>7</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 4 “The right to adequate housing (Art.11.1): 13/12/91, par.18.

<sup>8</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 7 “The right to adequate housing (Art.11.1): forced evictions. 20/05/97. par. 3. Available at: [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument).

Finally, paragraph 16 states, “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

Protection against arbitrary interference with privacy is guaranteed by a number of international instruments. Article 17 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” Article 8 of the European Convention on Human Rights (ECHR) guarantees respect for private and family life, stating, “There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.” Forced evictions and extreme housing conditions may rise to the level of cruel and degrading treatment or punishment, as banned under Article 3 of the ECHR.<sup>9</sup>

### **Destruction of Gypsy communities**

The demolition of Gypsy communities has been a constant factor in the rapid urbanisation of Turkish cities, since at least the 1950’s. Commercial redevelopment and urban renewal were primarily the reasons for the displacement of communities. Such measures affected all poorer communities in Turkey, and were not consistently targeted at one group. Gypsy communities, however, have been more vulnerable than others as they frequently inhabited older areas in the heart of towns and cities that could be profitably sold to agencies and corporate interests. In addition to disruption of personal life and security, the demolition of Gypsy communities and their forced removal has damaged Gypsy culture immeasurably through detaching those elements of communities that retained the traditions and customs of the past from younger generations. The resultant break-down in many cases has led to poverty and marginalisation.

The enactment in 2005 of the Urban Renewal Law No 5366 gave impetus to a number of urban transformation projects, many of which resulted in massive destruction and dislocation of Gypsy communities throughout Turkey. The legislation itself is deeply flawed and its

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<sup>9</sup> Selçuk and Asker v. Turkey, judgment by the European Court of Human Rights dated 24 April 1998. Application numbers 00023 184/94 and 00023 185/94; Bilgin v. Turkey, judgment by the European Court of Human Rights dated 24 April 1998. Application numbers 00023 184/94 and 00023 185/94.

application is widely perceived to have a disparate impact on Gypsy communities as Gypsy neighbourhoods are overly represented in the areas 'zoned' for redevelopment.<sup>10</sup>

The evictions documented in this report violated international law. As a party to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, Turkey is obliged to protect everyone from arbitrary or unlawful interference with their home and family, as well as take steps to realise the right to adequate housing. Forced evictions violate both these basic obligations and result in multiple other human rights violations.

Forced evictions of Gypsy communities from areas slated for urban renewal have often been carried out without due notice for the residents and without adequate consultation with the community prior to any action taking place; in some instances law enforcement officers and local authority security officers (*zabita*) have used excessive force to coerce people to leave their accommodations; and no alternative accommodation or due care and regard for the residents has been provided once their property was demolished. Access to legal representation for persons affected by such actions is severely limited, and has only been available through the intervention by various activists and advocates. In very many cases the relocation of Gypsy neighbourhoods is an ad hoc affair or one where no concern is shown regarding the amenities and conditions for the displaced population. "They've sent us to a spot even God doesn't give a damn about, we've been sent to exile", stated one of the interviewees in Erzincan, in the eastern Anatolian region.<sup>11</sup>

The instances of such demolition are increasingly widespread, with enormous impact on the fabric of long-established communities, such as that of Çiğin Bağları in Ankara, now almost totally demolished and the community forcibly relocated to outlying neighbourhoods or migrating to İstanbul and other urban centres.

In earlier years, the Gypsy community of Kuştepe in İstanbul, originally located in the Zincirlikuyu area of İstanbul, were forcibly evicted in the course of development of an area of housing for journalists around 1955, as older residents remember. The Kuştepe quarter was built upon what were, at the time, green areas by the Gypsies who moved there, using whatever materials they could obtain. The area was also the destination of numbers of Alevi Gypsies who

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<sup>10</sup> The detrimental consequences of urban transformation projects on Romani communities were also highlighted by the European Commission in its 2007 report on Turkey's progress toward EU accession. The European Commission stated: "Further to an April 2006 decision by the Council of Ministers, an urban renewal programme targeting "wrecked urban areas" is being implemented. In this context Roma neighbourhoods have been demolished in several provinces, in particular in İstanbul. İstanbul municipalities have taken no steps to provide shelter, basic sanitary facilities or other social and economic services for Roma people after the demolitions. Inhabitants of the Sulukule district in İstanbul and civil society organisations have applied to the Administrative Court of İstanbul to suspend the expropriations and evacuation of the district." See European Commission, Turkey 2007 Progress Report, pp. 22-23. Available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2007/nov/turkey\\_progress\\_reports\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/turkey_progress_reports_en.pdf).

<sup>11</sup> ERRC/hCa/EDROM interviews, Erzincan, 14 October 2006.

had been forced to migrate from Ankara's Çiçin Bağları neighbourhood in the first demolition there during the 1970's.

Dolapdere in İstanbul was an area of largely Greek and Armenian settlement, as evinced by the remaining churches in the district. With the emigration of the original population after the xenophobic riots of the mid-1950's,<sup>12</sup> the area was re-inhabited by Gypsies from Zincirlikuyu and elsewhere in the city (expanding rapidly on the European shore) who had been displaced, and from the rural-urban migration then taking place in Turkey, especially in the developing west of the country.

The basket-makers of the Eminönü district of İstanbul were removed during the development of the area in the 1990's and 'decanted' to the distant suburb of Gaziosmanpaşa, where municipal services are unreliable (there has been no proper water supply in some streets for over two years now). The community had been in Eminönü for some centuries and had at one time (1643) paid for the restoration and rebuilding of the Sepetçiler Kasrı on the Golden Horn shore, in recognition of the Sultan İbrahim's patronage of their guild.

Currently, there are a number of urban renewal projects that threaten demolition or have actually succeeded in the destruction of Gypsy communities: Sulukule, Kağıthane, Küçükbakkalköy, Dolapdere (Hacıhüsrev), Kuştepe and Gaziosmanpaşa (where it was originally suggested in newspaper reports that some of the dislocated Sulukule community were going to be re-housed) in İstanbul, Çiçin Bağları in Ankara, Yeniköy in Diyarbakır, Turgutreis in Mersin, Kınalıçam in Yusufeli, 28 Haziran mahallesi in İzmit, Çarşı and Taksim mahallesi in Erzurum, and Gündoğan in Balıkesir (this list is not exhaustive). Other areas of İstanbul, such as Kasımpaşa where a new sports complex has been developed or Galata where property redevelopment has dislocated the Gypsy communities, have also been affected in the last four years.

The researchers were able to establish where further demolitions were likely to take place in the future, such as Turgutreis mahallesi in Mersin, scheduled for summer 2008 to enable the construction of a new private hospital. Discussions between the affected communities and local authority officials charged with the responsibility of carrying out these actions were not productive as of the time of the ERRC/hCa/EDROM visit, in that the responses to the concerns

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<sup>12</sup> The riots in İstanbul in September 1955 saw the widespread destruction of Greek, Armenian and Jewish properties in the wake of a false report that the house of Mustafa Kemal Atatürk in Thessaloniki, Greece, had been bombed. Thousands of Greek-owned businesses, schools, churches and private homes were attacked and destroyed; men were forcibly circumcised and women raped and beaten. See Mehmet Ali Birand, "The shame of Sept. 6-7 is always with us", Turkish Daily News, 7 September 2005; Speros Vryonis, Jr. (2005), *The Mechanism of Catastrophe: The Turkish Pogrom of September 6-7, 1955, and the Destruction of the Greek Community of İstanbul*, New York: Greekworks.

raised on behalf of the residents threatened with eviction, or who have already experienced this, were not met with concrete steps to address these concerns or effects.<sup>13</sup>

### *Sulukule*

More recently, between 2006 and 2008, the Sulukule district located in the historical peninsula of İstanbul at the foot of the Byzantine Wall in the Municipality of Fatih, has focused public attention in Turkey and internationally<sup>14</sup> following the municipality's decision to proceed with an urban renewal project, involving the demolition of the old neighbourhood. The urban renovation project, in effect since November 2007, foresees the eviction of about 5,000 persons - - an estimated 3,500 of whom are Romani -- from the old neighbourhood and their transfer to housing complexes at the Taşoluk district located some 40 kilometres away from the city centre. The demolitions in Sulukule threaten to expose many of its residents to precarious housing conditions and to negatively impact their access to jobs and social services. More than a half of those to be evicted do not own property and are not entitled to any compensation. The prices of rents outside Sulukule, including the housing in Taşoluk, are not affordable to many of the current Sulukule tenants.

Sulukule first suffered in the mid-1960's when destruction of large areas of the original Gypsy quarter caused many residents to leave or relocate to nearby locations. The community again experienced disruption after 1995 when the municipal authority and police sought to close down the music and entertainment venues, effectively throwing the community into poverty and immiseration.

On 13 July 2006, the Housing Development Administration of Turkey (Türkiye Toplu Konut İdaresi (TOKİ) and Fatih Municipality signed an agreement for constructing new buildings in the area, involving the demolition of most of the existing neighbourhood. According to local activists from the Sulukule Roma Association, the renovation plan was made without any consultation with local residents and the interests of the local community were not represented in the planning process.<sup>15</sup> The view of Fatih Municipality was that the project offers an opportunity for the residents to move to modern and safe apartments.<sup>16</sup>

In December 2006, the government endorsed the rapid expropriation of the land in Sulukule. Owners were reportedly offered a compensation of YTL 7,000-25,000 (approximately 3,500-

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<sup>13</sup> ERRC/hCa/EDROM interview with Adnan Keser, Mersin, July 2007.

<sup>14</sup> See for example, BBC News, "İstanbul's Roma Face Upheaval". Available at: <http://news.bbc.co.uk/2/hi/europe/7036045.stm>.

<sup>15</sup> Sulukule Roma Association. Press release "Demolition of Historic Romani Neighborhoods in İstanbul". Available at: [www.idw.idebate.org/roma/countryarticles.php](http://www.idw.idebate.org/roma/countryarticles.php).

<sup>16</sup> ERRC interviews with Fatih Municipality officials, İstanbul, September 2006.

12,500 EUR) to be paid over the course of five years. As a result, many of the owners sold their houses to third parties.

### ***Litigation against the Sulukule urban regeneration project***

*In December 2007, the ERRC, hCa, and EDROM acting on behalf of four residents of the Sulukule neighbourhood in Istanbul and the Sulukule Roma Association, challenged the urban renovation project for the neighbourhood developed by the Fatih Municipality in the jurisdiction of which Sulukule is located, before the Istanbul Administrative Court.*

*In their complaint the applicants ask the court to suspend the implementation of the urban renovation project and to annul the Fatih Municipal Council's decision 2007/156 for the implementation of the project on the grounds that it is in contravention to the national Constitution, a number of domestic legislative acts, as well as international human rights law. In particular, the applicants claim that the implementation of the project is in violation of the Constitutional protection of the right to property and heritage as well as the protection of historical, cultural and natural assets. Furthermore, the complaint asserts that the project violates rights protected under the European Convention for the Protection of Human Rights and Fundamental Freedoms - the right to private and family life (Article 8); the prohibition of discrimination (Article 14) in connection with Article 8; as well as the right to peaceful enjoyment of one's possessions (Article 1, Protocol 1). Moreover, it is in breach of UNESCO instruments regulating world heritage.*

*On 28 January 2008, the Court requested the position of the Municipality in response to the Applicants' allegations and stated that it would deliver its decision on the requested interim measures having received the Municipality's standpoint. In the meantime, Fatih Municipality proceeded with demolishing houses in Sulukule. In February 2008, more than 50 houses were demolished.*

*On 25th February 2008, the applicants filed a motion for an immediate order to cease the implementation of the project by Fatih Municipality pending decision of the court. The applicants called for an immediate action by the court based on the threat of grave and irreparable harm.*

*On 3 March 2008, a second motion was filed by the applicants referring to the claims of 31 December 2007 and 25 February 2008.*

*On 13 March 2008 another seven houses belonging to Romani families were demolished in Sulukule regardless of the fact that the notice for demolition stated that the houses should be evacuated by the end of March 2008. Two of the houses were destroyed while they were still inhabited by tenants. As a result, approximately fifteen people, among them seven children, were rendered homeless. No alternative accommodation has been provided to the tenants.*



The demolition of a historical wooden house in Sulukule, October 2006



The demolitions in Sulukule / İstanbul, October 2006



The situation of the tenants in Sulukule, who comprise more than a half of the neighbourhood's residents, however, is highly precarious. Tenants are not entitled to any compensation; most of them have a monthly income of less than 220 EUR and cannot afford renting accommodation outside of Sulukule where prices are several times higher than in the old neighbourhood.<sup>17</sup> In December 2007, Fatih Municipality allocated apartments for 204 tenants in Taşoluk, an area located about forty kilometres away from Sulukule.<sup>18</sup> As of March 2008, however no contracts were signed for these apartments due to the fact that banks required YTL 800-1300 (approximately 400-650 EUR) as stamp tax from the tenants and the amounts were unaffordable for the tenants. The majority of the tenants living in demolished houses had to relocate to districts other than Sulukule, where the rents are 4-5 times higher than their former quarters. Those who could not afford increases in their rental payments took refuge in the houses of their relatives or rooms that their neighbours provided.

In the meantime, Fatih Municipality proceeded with demolishing houses in Sulukule. As of the end of March 2008, over 50 houses were demolished. In certain instances demolitions proceeded reportedly in violation of the law. According to information from the Sulukule Platform, on 11 February 2008, Fatih Municipality demolished nine houses, two of which were officially registered cultural heritage sites. According to Turkish legislation, such buildings cannot undergo even minor renovations without permission from the Cultural and Natural Assets Protection Council.<sup>19</sup> By the time the houses were destroyed, such permission had reportedly not been obtained by the municipality. There are reportedly total of forty-five houses protected on the grounds of cultural heritage in Sulukule. On 13 March 2008, another seven houses belonging to the Romani families were demolished in Sulukule. Two of the seven houses were destroyed while they were still inhabited by tenants. No alternative accommodation has been provided to the tenants. Furthermore, although the notification for demolition stated that the houses have to be evacuated by the end of March 2008, the municipal authorities did not observe the deadline they had set themselves. As a result, approximately fifteen people, among them seven children, were rendered homeless. In addition, during the demolition two

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<sup>17</sup> According to a research conducted by the Sulukule Platform, 13% of the tenants used to pay less than 100 YTL (approximately 50 EUR), 60% paid less than 200 YTL (approximately 100 EUR), and 80% paid less than 300 YTL (approximately 150 EUR 150). In the districts neighbouring Sulukule, the prices of rents start from 600 YTL (approximately 300 EUR).

<sup>18</sup> Renters can acquire ownership of the apartments by paying monthly instalments of 275-475 YTL (approx. Euro 138- 238) depending on size of the apartments, over a fifteen year period.

<sup>19</sup> The Law on Protection of Cultural and Natural Assets (No. 2863), issued in 1983, defines all cultural and natural assets – known or to be discovered – as state property. The Ministry of Culture's Higher Council for Protection of Cultural and Natural Assets determines the general principles governing protection areas, and forms local Protection Councils that are required to implement those principles in terms of formation and management of candidate reserves. According to its founding legislation, any governmental organization (including municipal authorities) and the courts must abide by the decisions of local Protection Councils. Infringements are subject to heavy fines or 2-5 years' imprisonment.

neighbouring buildings were seriously damaged and private property of the people who could not gather their belongings in time were destroyed.

Elsewhere, the destruction of Gypsy communities has followed similar patterns with urban redevelopment used to dislocate and displace communities in city locations, often quite central, and deposit them on the outskirts of towns in settlements that lack basic amenities and facilities.

### *Municipal authorities reverse demolition plans after negotiations with Roma*

*The ERRC/hCa/EDROM documented one instance in which the negative impact on Roma as a result of the Urban Transformation Law enforcement has been avoided as a result of cooperation between the municipality and the local Romani communities. In early 2007, Konak municipality of İzmir developed an urban transformation plan targeting the Ege neighbourhood. The neighbourhood is home to approximately 6,000 people, most of whom are Roma. According to the urban transformation plan the majority of Ege neighbourhood would be transformed into a “green zone” for which the land was to be expropriated and the Romani community was to be evacuated.*

*The Romani community, in cooperation with Chamber of Architects and the Chamber of City Planners, started negotiations with the municipal authorities. As a result, on 15 June 2007 the Konak municipality amended the plan according to the demands and concerns of the Romani residents and the project to transform the Ege neighbourhood into a green zone was cancelled.*

*Furthermore, on 26 October 2007, another meeting was held with the participation of ERRC/hCa/EDROM legal consultant Hilal Küey, representatives of the Chamber of City Planners, representatives of the Federation of Aegean Roma Associations and representatives of the İzmir Metropolitan Municipality. At this meeting, six alternative plans prepared by Faculty of Architecture of Ege University to rehabilitate Ege neighbourhood were presented and discussed. All of these projects envisaged transformation of the Ege neighbourhood while protecting the existing social and cultural fabric. Romani representatives supported the alternative plans in general, however raised their concerns on certain issues. The participants decided to present the plans in a larger meeting enabling the participation of the local inhabitants and carry out the discussion further. The ERRC/hCa/EDROM continue monitor the developments through attorney Hilal Küey.*

### *Kağıthane*

On a number of occasions, destruction of Romani communities involved heavy police forces and violent action against the communities. In the Kağıthane district of İstanbul, according to testimonies of local residents, in August 2006, the neighbourhood was awoken in the early morning hours by the arrival of large numbers of police and municipal security officers

(zabıta).<sup>20</sup> Residents asserted that they had not had any notification prior to the demolition, and that the arrival of the special forces (Çevik Kuvvet) in the morning had been the first indication of the impending action. The police officers and zabıta used tear-gas against the inhabitants and there were a number of confrontations that resulted in the burning of eight houses by the residents themselves. The residents also asserted that no demolition order was presented to them; the only documentation presented by the zabıta was an internal memo informing these officers about the impending action. The authorities also failed to provide any information about the body that issued the eviction order, its legal grounds, and the appropriate body for appealing such decisions.

Of the thirty-three original houses, some sixteen were demolished at this time, including three that had legal registration [the neighbourhood had twenty houses that had been given a temporary deed (tapu tahsis belgesi), and thirteen were described as illegal (gecekondu)]. No alternative accommodation was offered and an attempt by one of the residents and leader of the community, Cemil Atmaca, to bring a legal case against the demolitions was unsuccessful.

As of September 2006, when the ERRC/hCa/EDROM visited the Kağıthane district, demolitions had been going on for at least one year, according to Roma from the neighbourhood. At some point in 2005, prior to the first demolitions, İstanbul Metropolitan Municipality announced the upcoming implementation of the regeneration programme to the residents and reportedly offered compensation for the demolition of 30,000 YTL (approximately 15,000 EUR) to persons who had legal housing, and 2,000 YTL (approximately 1,000 EUR) to tenants. With the promise of these monies, some of the property owners had begun to demolish their houses themselves and researchers spoke to one older man who had demolished his own house the week previous to the visit but had received no compensation for doing so and had reportedly been told by the mayor of Kağıthane that all compensation for the demolition had already been paid in full.

According to the residents of Kağıthane's Yahya Kemal mahallesi, the place had been home to many of them for some fifty or sixty years (historically, the presence of Gypsies in this part of the city is well-documented during the Ottoman period, as entertainers during the festivals and holidays when people would resort to the 'Sweet Waters' of the area). The regeneration programme for the prevention of slum dwellings foresees a sports complex to be built on this land. Part of the project is reportedly under the auspices of the İstanbul Water Authority (İSKİ), which had demolished six houses in preparation for constructing a new water pipe below the previous dwellings. The İSKİ had reportedly offered compensation equal to that offered by the municipality as well as alternative accommodation in the Gaziosmanpaşa district, some forty kilometres outside of the central city.

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<sup>20</sup> ERRC/hCa/EDROM interviews, İstanbul, 20 September 2006.

As a consequence of the events, researchers were told that several children had been traumatised and were afraid to leave the house or stay away from home. Following the evictions and demolition, the inhabitants had been forced to either move in with relatives or build shelters on the sites of their former homes, where they remained as of February 2008.

### *Küçükbakkalköy*

In July 2006, bulldozers, accompanied by several hundred police officers, arrived at around 5:30 AM at Tevfik Fikret Street in İstanbul's Küçükbakkalköy neighbourhood and started demolishing the housing of Roma living in the neighbourhood.<sup>21</sup>

The demolitions affected around seventy-eighty houses. According to residents of the neighbourhood, they had not been notified for the demolition operation. Police had reportedly told the residents that they had come to carry out cleaning and asked them to wait in the street. While the Romani residents were waiting in the street, bulldozers started demolishing their houses with all the property and effects (and the domestic pets in some cases) inside the houses. Some of the inhabitants climbed up onto their roofs in order to stop the destruction of houses, acting as 'human shields'. After some hours of stalemate in this confrontation, (sometime around 10:00 AM according to the residents researchers spoke to), the police launched tear gas and forcibly began removing people from the houses.

At least one instance of what appears to be the use of demolition to 'punish' an individual or family appears to have taken place in the Küçükbakkalköy neighbourhood when a family dwelling was demolished even though the family possessed proper documentation certifying that the house was legally built. No explanation for this action was offered at the time but an apology for making a "mistake".

According to the testimonies of interviewed Roma, in November 2005, municipal officials notified the inhabitants of Tevfik Fikret Street that they had to leave the area due to the forthcoming reconstruction project. At that time, most of the Romani families who had legal documents for their houses sold the houses to a company which had obtained permission to construct apartment buildings in the area. A number of Roma did not agree to sell their houses because the houses were very small and the money received for them would not have been sufficient to buy another house or even rent a house for more than a very short period of time. The families who did not sell their houses remained in the area.

After the first demolitions in July 2006, around 30 Romani individuals remained in the area living in extremely substandard conditions in makeshift structures, amidst piles of rubble and trash. On 23 November, the ERRC/hCa/EDROM research team witnessed the last demolitions

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<sup>21</sup> ERRC/hCa/EDROM interviews with residents of Küçükbakkalköy neighbourhood, İstanbul, September 2006.

in Küçükbakkalköy, targeting the makeshift structures. Police in riot gear was present at the spot. The last remaining Romani house demolished on that occasion belonged to Yüksel Dum's father. Mr Dum's own house was demolished in July and until that point the entire expanded family, consisting of seventeen people, lived in the father's house. According to Mr Dum's testimony, his father had the deed (tapu) of his house and showed the document to the authorities before the demolition.

The only house spared by the bulldozers in the settlement belonged to a non-Romani family, who reportedly were promised that they would receive a flat in the new apartment complex to be built on that land.<sup>22</sup>

### *Litigating against destruction of property*

*On 26 September 2006, two houses and ten-fifteen makeshift sheds were demolished in the Romani neighbourhood of Küçükbakkalköy within the Kadıköy district of İstanbul. One of the houses demolished belonged to the father of Yüksel Dum, a local community leader. Mr Dum's own home was destroyed four months previously, forcing his seventeen-member family to live in the house of his father, who legally owned his property. No written announcement was provided before the demolitions, which targeted mainly sheds, which the people erected on the site of their houses which had been demolished in the summer of 2007. With support from the ERRC/hCa/EDROM, a local attorney filed an administrative complaint and a civil claim for damages in November 2007 against the Kadıköy municipality and the Office of the Governor of İstanbul on behalf of Yüksel Dum for the demolition of his and his father's houses as well as on behalf of Sevgi Yöksekova and Yılmaz Gölge for the demolition of their houses. The latter two applicants obtained legal aid for the action on the grounds of low income. The third applicant, Yüksel Dum, was denied legal aid, although he met the formal requirements and launched an appeal. At the time this report was published, the appeal procedure for legal aid was pending before the court.*

<sup>22</sup> ERRC/hCa/EDROM interview with Yüksel Dum, İstanbul, November 2006.

## FIELD RESEARCH



Küçükbakkalköy / İstanbul, September 2006



The Roma woman seen in the photo was living in a tent in the Küçükbakkalköy area because her house was demolished, and she died a few months after the photo was taken, September 2006



ERRC/EDROM/hCa team's visit to Küçükbakkalköy, September 2006



The demolitions in Küçükbakkalköy / İstanbul, September 2006

*Diyarbakır*

The destruction of urban Gypsy communities involved military action in the region surrounding Diyarbakır during the conflicts of the 1980's and 1990's. Military operations in the south eastern part of Turkey resulted in the destruction of large numbers of villages, many of which were wholly or in substantial part made up of Dom Gypsy communities. This aspect of dislocation has been the focus of international concern for the Kurdish communities but little attention until now has been paid to the issue in relation to the Gypsy communities of the region. The Yeniköy mahalle is one example of this. Made up of previously rural Gypsy populations displaced by the conflict in the southeast, the neighbourhood has suffered from demolition over the previous fifteen years, with some residents rebuilding and some forced to migrate. As of the end of 2007, according to local people, the neighbourhood has been threatened with demolition again subject to the local authority plans for developing the area close to the airport.

Some parts of the Yeniköy mahalle were already demolished in an action in 2002, and six or seven families who were affected have been living in temporary shelters on the site of the demolition since then. The number of families affected was around thirty, but the majority of them moved to other quarters of the city, often into housing abandoned by previous populations. Those left at the site were families that had received little or no compensation as they had no documentation for the properties destroyed, and were forced to settle in shanties with no running water, no legal access to services such as electricity or sanitation and no access to health care, social assistance and education for the children.<sup>23</sup>

Destruction of Romani housing continued in Diyarbakır in 2006 when between five to ten houses were demolished in the hills close to the city to clear the area for construction of a highway. Many of the residents had settled in this area in the aftermath of their villages being destroyed by the army in actions against separatist guerrillas during the conflicts in the region, and had previously lost all their possessions. Most of them did not have title deeds to their properties, and at the time of the interview the majority had moved to live with relatives or rented accommodation in the poorer quarters of the city (Hançepek, Bağlar and Yeniköy).<sup>24</sup> In compensation, people were reportedly paid 750-1000 YTL (approximately 380-510 EUR) for each dwelling demolished. With these amounts they could secure but a few months of rental accommodation. The municipal authority (the greater city council) had not offered the residents any alternative housing arrangements; moreover the announcement about the demolition was made some ten days in advance, giving very little time for residents to make any alternative arrangements.

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<sup>23</sup> ERRC/hCa/EDROM interview with Mehmet Demir, Diyarbakır, October 2006.

<sup>24</sup> ERRC/hCa/EDROM interview with Mehmet Demir, Diyarbakır, October 2006.

**Substandard housing conditions**

In the overwhelming number of demolitions of Gypsy communities, alternative accommodation or compensation was not provided by the responsible authorities; where alternative accommodation has been provided, the housing was located in areas far away from the central parts of the city, a fact which posed serious problems for the affected people regarding access to employment opportunities and which created excessive burdens for the budgets of poor people. Compensation for housing demolition has usually been very low compared to market prices and prices of rent, and offered only to those residents of communities who accept and relocate immediately.

As a consequence of destruction of their housing, many individuals have been forced into extremely substandard conditions. The proliferation of shanties at the site of demolished Gypsy communities is one of the most salient indicators of a change in policy by the municipal authorities in recent years. In Küçükbakkalköy, Kağıthane, Avcılar, Tahtakale, Silivri and Sulukule in or near İstanbul, shanty-housing has been resorted to by Gypsy communities forced out of their homes, frequently at short notice or no notice whatsoever. The shelters in the town of Saray, in Tekirdağ Province in Thrace, where people live in plastic-covered shacks with one or two 'rooms', no running water, no electricity (outside of what is often secured illegally from the mains supply) and entirely inadequate protection against any degree of bad weather, are not limited to those groups who have recently settled or 'stopped', having previously been travelling. The Gypsy community of Saray was forced from the centre of the city in 1998, and made to settle about 1 kilometre from the commercial district, with no municipal services provided. In the past 1-2 years, the community had expanded with the arrival of previously nomadic groups, now living in shanty dwellings on the outskirts of the neighbourhood.

Extremely substandard conditions, often following demolitions, have reportedly caused several deaths.

In the Kağıthane district of İstanbul, the families whose housing were destroyed in August 2006, continued living on the site in barracks assembled from the remains of their previous housing due to the lack of other accommodation options. In at least one instance, exposure to substandard conditions reportedly caused the death of a young baby. In November 2006, Zeynep Açıbüken, the 5-month-old child of Sultan Eser, an 18-year-old Romani woman from İstanbul, died following the destruction of the family's home in the Yahya Kemal neighbourhood. According to the testimony of Ms Eser, her family was forced to live in a tent after local authorities demolished their home in İstanbul. Ms Eser stated that the baby had developed difficulties breathing and coughed all the time. She took the baby to the local medical clinic where the doctors gave her some medication. However, Ms Eser awoke one morning to find that her baby was not breathing, and she was unable to find anyone to take her to a



hospital. When she returned to her tent, Ms Eser stated that she watched her baby die. In the month following her babies death, according to Ms Eser, municipal authorities had been going to her tent everyday trying to take the family's tent away.<sup>25</sup>

### *Silivri*

On 2 January 2008, a fire broke out in the Yeni Mahalle in Silivri, near İstanbul, causing the death of 10-month-old Yaşam Güreşir and her uncle Yılmaz Güreşir. According to local residents, the fire was caused by an overturned stove, that quickly set alight the plastic and wooden shelter and three nearby shelters that were at that point unoccupied.<sup>26</sup>

Roma living in the Silivri district are a relatively old community, settling in the area some forty-six years ago. Roma reside in two neighbourhoods, Yeni mahalle and Fatih mahalle. Some fifteen years previously, the community at Yeni mahalle had received permission from the local municipality to construct up to twenty dwellings. In the following years, this number had grown through marriages and a number of nomadic or peripatetic groups which joined the community, so that by 2007 there were some twenty houses and twenty-five or so tents in total in the neighbourhood.

On 15 August 2007, the municipality moved in with bulldozers and machinery to demolish the Yeni mahalle, both small houses and tents. Some Roma were aware of the demolitions, while others claimed that they were not informed and had only had a very brief time to remove their belongings before the houses were demolished. No immediate alternative accommodation was made available to the occupants of the informal housing and shelters when the demolition was carried out. Two weeks after the demolition, following pressure by the community on the municipal authorities, tents for the families were provided by the Turkish Red Crescent. A few families took them but most rejected them as unsafe and dangerous.

In early November 2007, the municipality responded to repeated concerns by the muhtar (government representative elected by the local community) that the construction of a new sports stadium and pitches near the neighbourhood threatened to cause floods. The community was evacuated to the local sports hall. Fifty-five families were moved to the hall, where conditions were very cramped, noisy and sanitary arrangements proved inadequate. Several days later, the majority of the group living in the sports hall decided to temporarily return to their tents, salvage their belongings and rebuild the shelters. By the beginning of December, some

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<sup>25</sup> On 29 November 2007, the ERRC and the Accessible Life Foundation sent a letter of concern to Mr Selami Öztürk, Chairman of the İstanbul's Kadıköy Municipality, urging the municipal authorities to cease without delay its actions leading to severe human rights violations and to design and implement an acceptable solution of the housing situation of the affected Roma, in consultation with the communities concerned.

<sup>26</sup> ERRC/hCa/EDROM interviews with Mahmut Alkan (muhtar) and other residents of Yenimahalle, Silivri, 12 January 2008.

forty or so families had returned to the site, by that time covered in mud and detritus from the floodwaters. The families rebuilt their shelters and reclaimed what belongings they could, reconnecting electricity supplies through cables that lay on water-logged ground and over ramshackle shelters. The decision to return to these tents was not forced upon the Roma, but made by themselves in light of the difficult circumstances in the over-crowded sports hall.

At the time of the researchers visit to Yenimahalle, the living conditions were dire. The environment was wet and muddy; there were heaps of earth and rubble from the demolition and the previous passage of the bulldozers creating obstacles to easy movement across the site. The shelters were scattered in amongst the remains of previous tents filled with mud and slime.

The temporary housing offered by the municipality to the owners of legal housing is located some fifteen kilometres away from Yeni mahalle, next to a municipal recycling unit where large rubbish trucks arrive constantly. The Silivri mayor has reportedly promised service transport for the new residents to bring them into town and ensure the children can access schools, but one interviewee suggested that the real reason for this distance was the construction of new, expensive apartment blocks on the old site of the Gypsy neighbourhood: "They don't want us too close for fear of crime [...]." The facility's unsuitability as a site for even temporary housing has been raised on a number of occasions by the muhtar. He also expressed doubts as to whether the temporary housing project would be complete in the summer of 2008 as suggested by the mayor.

The increasing spatial separation of Gypsy communities from the rest of urban society in Turkey is a marked feature of urban redevelopment in the country. Even where the dislocated community organise themselves (as in Çanakkale when Romani residents evicted from the town centre and relocated to the very distant outskirts organised themselves to buy a statue of Mustafa Kemal Atatürk, a flag and flag-pole and built their dwellings around a 'square' where they erected these. They also elected a muhtar who promptly presented himself to the mayor's office to ask for amenities for the neighbourhood. Officials at the mayor's office were surprised as they told him they didn't have a Mustafa Kemal Atatürk neighbourhood in Çanakkale, but after some discussion they did agree to supply some services to the community in September 2006.

### **Discrimination in access to housing**

Gypsy people in different parts of the country testified about discriminatory denial of housing. In the Agora neighbourhood of İzmir, a 70-year-old woman described how she cannot get a house to rent in her own neighbourhood or in other neighbourhoods as the owners know she is Roma.<sup>27</sup> In Kızıltepe near the city of Mardin, a 44-year-old man was living in a tent with fifteen children. He wanted to rent an apartment for his family, however despite the money he

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<sup>27</sup> ERRC/hCa/EDROM interviews, İzmir, August 2006.

suggested that he could pay, landlords and house owners refused to rent a house for his family, reportedly since they were Dom.<sup>28</sup>

In some instances, local non-Romani residents have attempted to expel Roma from neighbourhoods. In Kadıköy, İstanbul, reportedly the local muhtar in the neighbourhood was behind the collection of signatures on a petition to remove the Gypsies from the neighbourhood.<sup>29</sup> In a similar incident, in the Hançepik neighbourhood of Diyarbakır, local Kurdish residents reportedly collected around 2,000 signatures on a petition they presented to the local muhtar asking for forced removal of the Gypsies from the area. In the latter case, however, the muhtar reportedly refused to support the petitioners.

### **Recommendations by international organisations and bodies the concerning Roma/Gypsies and the right to adequate housing**

In recent years a number of international institutions and bodies have called on national governments to comply with their obligations to protect, respect and fulfil the right to housing with respect to Romani/Gypsy communities within their jurisdiction and undertake targeted positive measures to improve the housing situation of Roma/Gypsies. In 2000, the United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD) adopted General Recommendation 27 on “Discrimination against Roma”, part 4 of which deals specifically with measures to improve living conditions of Roma/Gypsy communities.<sup>30</sup> In 2003, the Organization for Security and Co-operation in Europe (OSCE) adopted its Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area, which includes specific recommendations to Participating States in the area of housing and living conditions of Roma.<sup>31</sup> In 2005, the Committee of Ministers of the Council of Europe adopted Recommendation Rec (2005)4 on improving the housing conditions of Roma and Travellers in Europe.<sup>32</sup> Also in 2005, the European Parliament resolution on the situation of Roma in the European Union called upon EU Member States to undertake measures “to bring about deghettoisation, to combat discriminatory practices in providing housing and to assist individual Roma in finding alternative, sanitary housing.”<sup>33</sup> Turkey as a party to UN treaties and a Member State of the Council of Europe, as well as a candidate for EU accession, should take into account these

<sup>28</sup> ERRC/hCa/EDROM interviews, Mersin, October 2006.

<sup>29</sup> ERRC/hCa/EDROM interview, İstanbul, August 2006.

<sup>30</sup> The full text of the recommendation is available at:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/11f3d6d130ab8e09c125694a0054932b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/11f3d6d130ab8e09c125694a0054932b?Opendocument).

<sup>31</sup> The full text of the document is available at: [http://www.osce.org/documents/odhr/2003/11/1562\\_en.pdf](http://www.osce.org/documents/odhr/2003/11/1562_en.pdf).

<sup>32</sup> The text of the recommendation available at:

<https://wcd.coe.int/ViewDoc.jsp?id=825545&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>.

<sup>33</sup> European Parliament Resolution on the situation of Roma in the European Union, adopted 28 April 2005, paragraph 19. The full text of the resolution is available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0151+0+DOC+XML+V0//EN>.

recommendations in developing its own policies for tackling the housing rights problems facing Gypsy communities.

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## **Torture, inhuman and degrading treatment**

### **Domestic and international law provisions**

The individual's right to life and physical integrity is protected by Article 17 of Turkey's Constitution. Paragraph 3 of the same article guarantees everyone's right not to be subjected to torture or ill-treatment and penalties or treatment incompatible with human dignity.

Article 19 of the Constitution ensures everyone's right to liberty and security of person. It also defines that conditions in which individuals against whom there are strong indications of having committed an offence can be arrested: it must be based on the decision of a judge (except when a person is caught in the act of committing an offence, or in cases where delay is likely to thwart the course of justice); solely for the purposes of preventing escape, or preventing the destruction or alteration of evidence as well as in similar other circumstances which necessitate detention and are prescribed by law; individuals arrested or detained shall be promptly notified of the grounds for their arrest or detention and the charges against them; the person arrested or detained shall be brought before a judge within at latest forty-eight hours and in the case of offences committed collectively within at most four days; no one can be deprived of his or her liberty beyond this time without the decision of a judge; the arrest or detention of a person shall be notified to next of kin immediately; persons under detention have the right to request trial within a reasonable time or to be released during investigation or prosecution; persons deprived of their liberty under any circumstances are entitled to apply to the appropriate judicial authority for speedy conclusion of proceedings regarding their situation and for their release if the restriction placed upon them is not lawful; damage suffered by persons subjected to treatment contrary to the above provisions is to be compensated by the State. Article 38 lays down the principle that criminal responsibility must be personal and no one can be held guilty until proven guilty in a court of law.

The prohibition of torture or cruel, inhuman or degrading treatment or punishment is a non-derogable norm of international human rights law. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines torture as, "[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or

with the consent or acquiescence of a public official or other person acting in an official capacity”.<sup>34</sup> This prohibition is also contained in Articles 4 and 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 3 of ECHR imposes upon states the obligation to carry out an effective official investigation into an allegation of serious ill-treatment, which is capable of leading to the identification and punishment of those responsible.<sup>35</sup> This obligation is “supplemented by Article 13, which requires an effective remedy, entailing effective access for the complainant to the investigatory process and the payment of compensation where appropriate”.<sup>36</sup>

In the case *Nachova v. Bulgaria*, the European Court observed that “racial violence is a particular affront to human dignity and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction. It is for this reason that the authorities must use all available means to combat racism and racist violence, thereby reinforcing democracy’s vision of a society in which diversity is not perceived as a threat but as a source of its enrichment”.<sup>37</sup> The Court held for the first time that the prohibition of discrimination under Article 14 of the Convention had a procedural component, which required the state to investigate whether discrimination may have played a role in the violation of the Convention right (in this case, killing). The failure to do so, despite indications of racial motivation, amounts to discrimination.

The enjoyment of the right to liberty and security of person; the right to equality before the courts and tribunals; and the right to equality before the law and to the equal protection of the law without discrimination based on racial or ethnic origin are also guaranteed by the ICCPR (Articles 9(1), 14(1), and 26 respectively). Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) calls on governments “to prohibit and eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law” in the enjoyment, amongst others, of: “(a) The right to equal treatment before the tribunals and all other organs administering justice; (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution [...]”.

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<sup>34</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1.

<sup>35</sup> *Assenov and Others v Bulgaria*, judgment of the European Court. Application No. 24760/94.

<sup>36</sup> Philip Leach, *Taking a Case to the European Court of Human Rights*, Second Edition, 2005. Oxford University Press, p. 202. See also ECHR *Tekin* judgment, *Kaya v Turkey*, *Ergi v Turkey*, *Assenov and Others v Bulgaria*, para.102.

<sup>37</sup> *Nachova and Others v. Bulgaria* [GC], judgment of the European Court dated 6 July 2005. Application Nos. 43577/98 and 43579/98, para. 145.