

# WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE

ERRC submission to the European Commission on the enlargement component of the EU Roma Framework (May 2017)



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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**The European Roma Rights Centre (ERRC)** is a Roma-led international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education.

In May 2017, the ERRC responded to the European Commission's request for input regarding the enlargement component of the EU Framework for National Roma Integration Strategies up to 2020 for the Commission's mid-term review. In item 6 of the Framework document, the Commission committed to help, at regional and national level, the efforts of the candidate countries to improve the social and economic inclusion of Roma through:

- improving the delivery of support under the Instrument on Pre-Accession Assistance
- strengthening the involvement of civil society by encouraging institutionalised dialogues with Roma representatives
- close monitoring of the progress made by each country regarding the economic and social situation of Roma and annual presentation of its conclusions in the enlargement Progress Reports.

The ERRC comments cover only those areas which have been monitored by the ERRC and its partners. The submission makes no claims to be comprehensive: comments and observations are confined to ERRC's strategic priorities and reflect the organisation's activities, advocacy and research in those particular countries.

## **ENLARGEMENT: 'STRENGTHENED APPROACH' AND 'FUNDAMENTALS FIRST'**

We welcomed the Commission's announcement in 2016 that it would introduce a "strengthened approach" to its assessments in future annual reports, to allow for greater transparency in the accession process and facilitate greater scrutiny of reforms by all stakeholders.

This announcement stood as a tacit admission that until now the accession reports failed to provide satisfactory assessments of the state of play and progress from year to year, or allow for meaningful comparability between the countries.

As far as Roma inclusion is concerned, the reports to date have been perfunctory at best; the format has not allowed for in-depth analysis, nor any meaningful tracking or assessment of progress from one year to the next.

The same communication stressed that enlargement policy remains focused on the "fundamentals first" principle, which includes the rule of law and fundamental rights, with specific mention of the "need to better protect minorities, in particular Roma."

A continued commitment to the principle of "fundamentals first" remains essential for the enlargement countries. The Commission will continue to focus efforts on the rule of law, including security, fundamental rights, democratic institutions and public administration reform, as well as on economic development and competitiveness.

It still remains unclear how the Commission's "new approach" will actually take reporting on Roma inclusion beyond generic observations that "Roma in the Western Balkans and in Turkey continue to be the victims of racism, discrimination and social exclusion and most Roma live in deep poverty, lacking sufficient access to healthcare, education and training, housing and employment."

In the enlargement component of the EU Framework for National Roma Integration Strategies up to 2020, the Commission called, among other things, for systematic evaluation and reinforced monitoring of progress. The Commission expressed its commitment to help countries to improve the social and economic inclusion of Roma.

## ROMA INCLUSION IN A TIME OF POLITICAL CRISIS

This mid-point of the EU Framework is an opportune moment for the Commission to bring enlargement countries' reporting on Roma inclusion in line with that of Member States. In its original communication on the EU Framework, the Commission was emphatic about the need to put in place "a robust monitoring mechanism with clear benchmarks which will ensure that tangible results are measured, that money directed to Roma integration has reached its final beneficiaries, that there is progress towards the achievement of the EU Roma integration goals and that national Roma integration strategies have been implemented."

The ERRC fully agrees with the Commission's observation that Roma in enlargement countries face similar or even more serious problems than in many EU Member States.

For many years, the Commission's assessment was that the prospect of EU membership, as continuously reaffirmed by all Member States, drove "transformation and anchored stability and security in the countries of Southeast Europe." Consequently, the reasoning is that "a credible enlargement process, based on strict and fair conditionality, remains an irreplaceable tool to strengthen these countries and to help support their modernisation through political and economic reforms, in line with the accession criteria."

However, the mounting political crises in the Western Balkans have prompted many observers to hold the European Union partly to blame for its failure to exert any meaningful influence in the region.

Enlargement fatigue is now evident at national level – where member states have lost much of the appetite to welcome any new members into an already very strained European Union; and at the centre of the Union, where the signals from Brussels have left no doubt that the enlargement process has been effectively frozen.

This fatigue can be attributed on the one hand to the sluggish progress with reforms in the candidate countries, endemic corruption and democratic backsliding; and on the other, to current preoccupations with more urgent crises which have diverted attention from the Western Balkans.

Potential membership remains the only compelling foreign policy instrument the EU has in the Western Balkans. Observers assert that political inertia and the "shelving" of enlargement continues to damage the EU's credibility and fosters growing public distrust and disillusionment with the "idea of Europe". This will contribute to a deepening of political tensions as the drive towards authoritarianism goes unchecked in the candidate countries, and the stability of the entire region becomes increasingly precarious. It goes without saying that political turmoil and polarisation, combined with weak governance and endemic corruption does not augur well for progress on Roma inclusion.

## ALIGN AND INTEGRATE 'THE ENLARGEMENT COMPONENT' OF THE EU FRAMEWORK

There is a need for much more effort by the Commission to fully integrate "the enlargement component" of the Framework into the annual rounds of communications, stocktaking, assessments of progress made, as well as country-specific and general recommendations.

The ERRC therefore calls on the Commission to work with the governments of accession countries to put in place "robust monitoring mechanisms" on Roma inclusion that align with the EU Framework, and an annual reporting schedule for those enlargement countries that coincides with that of the Member States.

As participants in the Decade of Roma Inclusion 2005-2015 enlargement countries have had Roma inclusion strategies in place for years, and Turkey produced a Roma strategy last year, such an alignment would allow for greater transparency and meaningful comparability between Member States and aspirant countries.

The news on 6 June 2016 of the EU's participation in the new initiative 'Roma Integration 2020' was most welcome. This initiative aims to "contribute to reducing the socio-economic gap between the Roma and non-Roma

population in the Western Balkans and Turkey and to strengthen the institutional obligations of governments to incorporate and deliver specific Roma integration goals in mainstream policy developments.”

It is clear from assessments of the EU Framework to date that no progress on inclusion can be made without resolute action against anti-Roma racism and discrimination. The Commission’s communications in 2015 and 2016 stressed the importance of combating all forms of anti-Gypsyism, including hate speech and hate crime; and highlighted how the failures of many member states to address anti-Roma racism has stymied meaningful progress. In the brief ‘Enlargement paragraph’, the Commission called for a reinforcement of Roma inclusion policies and made specific mention of the need for progress of the cross-cutting priorities related to anti-Gypsyism and gender equity.

As the Commission is a partner in ‘Roma Integration 2020’, it would be important to provide an update on progress and how government reporting, monitoring and evaluation within the 2020 initiative could actually align with the EU Framework and the agenda for Roma inclusion beyond 2020.

Such an alignment, with a revived emphasis on combating discrimination and racism, would also send a clear signal that Roma inclusion remains a priority for the European Commission in its “fundamentals first” policy approach to further enlargement, and provide enlargement countries with a timely reminder that the first Copenhagen Criterion, i.e. the “*stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities,*” actually counts as the essential criterion on the road to EU membership.

## COUNTRY-SPECIFIC OBSERVATIONS

The ERRC submitted a detailed overview in 2016<sup>1</sup>, with country-specific observations. The following is an update based on developments since then.

### ALBANIA

#### CHILDREN IN STATE CARE

*“If you are one of the children institutionalised in the care home for children in Shkodra, you are probably Roma or Egyptian. More than half the children there belong to these minority groups, which make up only a fraction of Albania’s overall population. To be a Romani or Egyptian child in state care means a childhood apart from your family with little to no chance of returning home. It also means being exposed to a higher risk of abuse.”<sup>2</sup>*

The ERRC, along with the Centre for Legal Civic Initiatives, the Children’s Human Rights Centre of Albania, and Tirana Legal Aid Society, submitted a complaint to the Commissioner for Protection from Discrimination on 7 July detailing how the overrepresentation of these groups of children constituted indirect discrimination against them. This comes after a draft report from the Ombudsman released on the 30th June, which found serious violations and abuses committed by those running the School Children’s Home, Shkodra. Among many other failings, they are treating the Romani and Egyptian children living there in a discriminatory way.

The system which is meant to care for these children and provide for their families has instead led to the institutionalisation of children, too many of whom are Roma and Egyptian. There are more than one and a half times as many Romani and Egyptian children in this institution as there should be, based on the total population of Roma and Egyptians in Shkodra, and in the other regions where children in this institution come from. Official data shows over representation in the institution of Roma and Egyptians at 58.8%. Yet these groups make up officially less than 1% of Albania’s overall population.<sup>3</sup>

1 Available at: <http://www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf>.

2 Discrimination Against Roma in Albanian Children’s Home. Available at: <http://www.errc.org/article/discrimination-against-roma-in-albanian-childrens-home/4495>.

## SEGREGATION IN EDUCATION

While some progress has been made in the field of education – since 2012 all children are entitled to one year’s free pre-school education – the *Roma Inclusion Index 2015* reports that on every education indicator, girls are doing worse than boys, very few Roma are completing primary or secondary education, and segregation is worsening.<sup>4</sup> The ERRC has been working on countering segregation in Albania, in cases such as the *Naim Frashëri* school on outskirts of the city of Korca. It is known as “Roma and Egyptian” school because all 283 children of this school come from families from these two communities. Although there are three schools in the catchment area, and the other two are racially integrated, poor Roma and Egyptian parents have been induced to enrol their children in this school in order to secure social support (mainly food packages). The ERRC has submitted information on these two situations to the Commissioner for Protection from Discrimination and the Ombudsman in Albania. Both institutions accepted that there is discrimination in the schools. The responsible authorities need to act on their findings and take all necessary desegregation measures including free transport for Romani children to mainstream schools, and a redrawing the boundaries of the catchment areas, to ensure full access to quality integrated education for Roma and Egyptian children.

The ERRC is also pursuing a complaint about the *Andyl Andya* segregated elementary school in a Roma settlement in Morave, Berat. The school was built as an annex to another school, in whose catchment area the settlement is located, and which has only non-Roma children. After discovering that the recent refurbishment of the school was funded by the Czech Embassy in Tirana, we also started pursuing complaints in the Czech Republic, on the grounds that the Czech Embassy is funding school segregation abroad.<sup>5</sup>

ERRC fully endorses the recent ECRI recommendations on inclusive education:

- that the authorities (i) step up the creation of new nursery schools so that Roma children can improve their knowledge of the Albanian language before starting primary school and (ii) support the long term functioning of such schools.
- that the authorities evaluate the Roma inclusiveness of the pre-school programmes so far in place; they should also evaluate whether they provide equitable access and quality teaching.

## HOUSING RIGHTS AND FORCED EVICTIONS

Housing rights is a priority for ERRC across Europe, and ERRC’s observations on the ground have been echoed by the most recent ECRI report published in 2015 which stated that an estimated 60% of Roma dwellings do not have running water. Many Roma and Egyptians cannot regularise their homes. A considerable number are threatened by forced evictions without alternative housing.

The Roma housing situation is characterised by very poor conditions: 15% of the members of this community live in shacks, tents or other non-brick housing units; 60% do not have running water within their house premises; and 12% lack toilet facilities. As concerns infrastructure, the majority of Roma report living in areas that have unpaved roads (52.2%) or have roads which are in a very bad condition (22.5%).

As Amnesty noted in its 2015/16 report on Albania, the situation is aggravated by the fact that many Roma and Egyptians, as well as young people leaving social care, failed to meet the income threshold required to access social housing. Many Roma have been unable to regularize their homes under the 2014 law on the legalisation of property, which allowed “illegal constructions” to be demolished. In July 2015, seventy mainly Romani families’ houses were demolished in Selita, Tirana, during a forced eviction in advance of road construction.

The ERRC echoes ECRI’s call that access to social housing be improved; priority given to those Roma living in temporary accommodation; a Roma housing fund be set up; and that the authorities must ensure that persons facing eviction be notified well in advance and not be evicted without the possibility of being rehoused in decent accommodation.

3 More details available at: <http://www.errc.org/article/discrimination-against-roma-in-albanian-childrens-home/4495>.

4 Decade of Roma Inclusion Secretariat, *Roma Inclusion Index 2015*. Available at: <http://www.romadecade.org/news/roma-inclusion-index-2015/9810>.

The ERRC published a new report *Thirsting for Justice: Europe's Roma Denied Access to Clean Water and Sanitation* in March 2017.<sup>6</sup> This report provides an overview of the ERRC's research, which collected evidence on access to safe and affordable drinking water and sanitation in 93 Romani settlements and neighbourhoods in seven countries: Albania, France, Hungary, Macedonia, Moldova, Montenegro, and Slovakia. While the Albanian Decade of Roma Inclusion National Action Plan included "priority financing of water supply and sewage projects in the areas inhabited by Roma", the field research found the situation to be particularly acute, with Albania topping the charts in the number of cases where a lack of clean water and sanitation was attributed to discrimination. Romani communities had significantly worse conditions in accessing affordable drinking water resources than their non-Roma neighbours. The ERRC's findings revealed that many Roma suffer disproportionately from the failures of public authorities to secure access to water and sanitation. Significant numbers of Roma included in the research have no access to running water in their homes. Their water sources are often far from where they live, with the burden to secure water falling disproportionately on women and girls. These sources are often not tested to ensure their safety and are exposed to a wide range of contaminants, including dry toilets (pit latrines), insect, and wild animals. Roma often cannot afford public water service pipes and water charges, even if they are accessible. Many Roma communities only enjoy access to water thanks to private donations.

## ANTI-DISCRIMINATION

There is no reliable data on hate crime and many cases go unreported. Among the key recommendations by ECRI and others, the authorities should as a matter of urgency do the following: (1) spell out in the law the general duty for public authorities to promote equality; (2) enact clear legislation about the shared burden of proof in discrimination cases; and (3) enact provisions allowing for the discontinuation of public funding to political parties and other organisations that promote racism. The authorities should act upon the repeated recommendation by ERCI to ensure effective access to justice for victims of discrimination through a functioning and properly funded legal aid system.

### *Third party intervention concerning antigypsyism*

The ERRC made a third party intervention in the case of *Hysenaj v Albania* in August 2016, where the applicant is a Romani woman whose house was set on fire, and the authorities did not inform her about the criminal proceedings against the perpetrators, and as a result she was unable to lodge a civil claim against them. The ERRC urged the Court to name antigypsyism as underlying racist violence against and harassment of Roma in Europe. The ERRC relied in particular on a working paper published by the European Centre for Minority Issues about Romani people's awareness of the justice system and their experiences accessing it. The paper pointed to an institutional failure on the part of the Albanian justice system to provide an appropriate service to Roma, which, in the ERRC's view, met the definition of institutional racism. The ERRC urged the Court not to limit itself in its examination in a manner that might treat this omission as an isolated incident or an accident, when in fact such omissions were part of a broader pattern of racial exclusion. In the absence of a satisfactory explanation that the omission was not related to an applicant's ethnicity, there should be a finding of a violation of Article 14 taken with Article 6 § 1 on the basis that the authorities had deprived Roma of access to justice on grounds of race or ethnicity.<sup>7</sup>

## GENDER EQUITY AND THE RIGHTS OF ROMANI WOMEN AND GIRLS

Gender has long remained the most neglected cross-cutting priority in Roma inclusion strategies across the Western Balkans and beyond. Below is an assessment of the current situation by the ERRC monitor following the most recent CEDAW recommendations on Albania:

"The intersecting forms of discrimination mean that the barriers preventing Roma and Egyptian women from participating in political and public life, including exercising their right to vote, remain formidable

<sup>5</sup> Embassy of the Czech Republic in Tirana, "We renovated the Centre for Roma Community" 22 September 2015. Available at: [http://ec.europa.eu/justice/discrimination/files/roma\\_communication2015\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_communication2015_en.pdf).

<sup>6</sup> Available at: <http://www.errc.org/cms/upload/file/thirsting-for-justice-march-2017.pdf>.

<sup>7</sup> ERRC, *Hysenaj v Albania* (third-party intervention, pending) 22 August 2016. Available at: <http://www.errc.org/article/hysenaj-v-albania-third-party-intervention-pending/4511>.



and need to be addressed. The state should adopt targeted laws, policies and programmes to ensure equal rights for women belonging to disadvantaged and marginalized groups.

#### *Gender-based violence against women*

Regarding gender-based violence, the Committee recommended the Albanian state increase the number and capacity of state-run shelters, and increase funding for shelters run by non-governmental organizations and put in place mechanisms to respond to the needs of all such victims, including Roma and Egyptian women. There is also a need to ensure that Roma and Egyptian women have access to shelters, and benefit from recommended measures to encourage women to report cases of gender-based violence including the provision of free legal aid, and increased protection and rehabilitation of victims.

In addition to violence, the Committee drew attention to the deeply harmful practice of child marriage, and called for strict prohibitions that allow only very limited and clearly defined exceptions where the courts may authorize unions under 18 years of age with the consent of both partners, criminalize violations of that prohibition, and raise awareness among children, parents, community and religious leaders and the general public of the negative impact of child marriage on the health and development of children, in particular girls.

#### *Health*

The Committee was deeply concerned about the excessive use of abortion as a method of birth control in general and highlighted the limited access for Roma and Egyptian women to primary health care and sexual and reproductive health-care services. It called on the state to remedy this, to increase the budget and regularly monitor hospital facilities and services, and also to promote awareness by including age-appropriate education on sexual health and reproductive rights in all school curricula.

#### *Education*

The ERRC drew attention to cases of school segregation in Korca and Morava, and expressed its concern at the slow and ineffective state responses, despite recommendations from the Ombudsman and the Commissioner for Protection from Discrimination. The Committee noted that while school enrolment rates among girls remain lower, and dropout rates higher than that of boys, the disparities are even starker among minority groups, especially Roma and Egyptians. Greater efforts must be made, through targeted policies and programmes, to ensure equal access and improved outcomes at all stages of compulsory education for Roma and Egyptian girls and boys.

#### *Conclusion*

The concluding CEDAW observations hardly come as a surprise - the challenge to close the gap between the formal legal framework for the protection of human rights, and the capacity of Roma and Egyptian women and girls to concretely realize those rights, remains daunting. The CEDAW concerns and recommendations cover inequalities in virtually every aspect of a Romani woman's life. They give some inkling of how deeply rooted, intersectional discrimination inhibits equality and postpones justice; these recommendations also set the agenda for change by defining precisely what needs to be done to safeguard the rights of Roma and Egyptian women and girls to make a democracy truly inclusive.”<sup>8</sup>

## **KOSOVO**

Further to our reporting submitted last year, little has changed apart from the fact that a new strategy and action plan for the integration of Roma, Ashkali, and Egyptian communities was drafted, which focuses on improving civil registration, access to housing, education, health care, and employment. The 2017 Human Rights Watch report confirms that Roma, Ashkali, and Balkan Egyptians continue to face problems acquiring personal documents, affecting their

<sup>8</sup> Aurela Bozo, Albania must move to ensure equal rights for Roma and Egyptian women and girls. Available at: <http://www.errc.org/blog/albania-must-move-to-ensure-equal-rights-for-roma-and-egyptian-women-and-girls/146>.



ability to access health care, social assistance, and education.<sup>9</sup>The ERRC shares the assessment that a lack of political will and insufficient allocation of funds resulted in the failure to adequately implement the 2009-2015 Strategy and Action Plan. Additional information based on developments in 2016-2017 is outlined below.

## ACCESS TO EDUCATION

Research commissioned by ERRC, as yet unpublished, confirms that despite laws, policies and strategies to ensure that members from non-majority communities can fully enjoy their rights, including their right to education, the situation of children from the Roma, Ashkali and Egyptian communities throughout Kosovo is particularly alarming.

It is characterised by low attendance in compulsory education, high drop-out rates, and low participation in higher education, especially among girls. Children are often subject to discrimination, and there is a lack of teachers and staff from these communities, as well as a lack of quality mother-tongue materials and education.

The majority of Roma children in Kosovo attend the Serbian-curriculum school system (SCSS) in Kosovo, funded and managed by the Republic of Serbia. When Roma children enrol in primary or even pre-school education, it is mostly understood and widely accepted by all actors, e.g. parents, children, school authorities, teachers, municipality administrations, that they shall attend the Roma only school(s).

Roma pupils are often seated together in the back rows of the classroom with their Serbian peers in front of them. The segregation is justified by reference to Roma pupils' low standard of hygiene and their indifference towards education.

The field research revealed that several of the Roma pupils couldn't express themselves in Serbian or even understand teachers' instructions properly.

## TREATMENT OF ROMA, ASHKALI AND EGYPTIAN COMMUNITIES AND RETURNEES

Human Rights Watch noted in its 2015 reports that Roma, Ashkali and Egyptians continue to face problems acquiring personal documents, which affects their ability to access health care, social assistance, and education.<sup>8</sup> A lack of political will, funds, and cooperation between central and municipal authorities have contributed to the failure to fully implement the 2010 Strategy for the Integration of Roma, Ashkali and Egyptian communities. The 2013 strategy on the reintegration of repatriated persons, including Roma, Ashkali and Egyptians resulted in the establishment of the Municipal Office for Committees and Return to help provide food and accommodation. Yet those who have been repatriated still face difficulties accessing employment, education, and health care.

## IDPS AND ACCESS TO PUBLIC SERVICES

The Special Rapporteur on the human rights of internally displaced persons, reporting on Kosovo visit in 2015, noted that access to public services for the Roma, Ashkali and Egyptians varies greatly, depending on where they are resident and whether the IDP concerned seeks services from Kosovar or Serbian administrative institutions. Each administrative institution requires its own documents (Serbian or Kosovar) before granting access to services. However, documents issued by one are not recognized by the other.

The Roma community, to a larger extent, relies on Serbian administrative structures for public services in the areas of health, education and social assistance. Conversely, the Ashkali and Egyptian communities rely more on Kosovar institutions. The Special Rapporteur recommended this dichotomy be addressed in a spirit of cooperation between the Government of Serbia and the authorities in Kosovo.

*“Differential treatment for Roma children extends to education, as Roma face constraints on their access to schools. It also involves language barriers, as not all Roma speak Serbian and not all Roma speak Albanian. In addition, Roma, Ashkali and Egyptian IDPs suffer from differential treatment due to the combination of their ethnicity and their displacement. There is a clear need for awareness-raising among the general population, that is designed to combat discrimination against Roma IDPs.”*

<sup>9</sup> Human Rights Watch, World Report 2017. Available at: <https://www.hrw.org/world-report/2017/country-chapters/serbia/kosovo>.

## **A matter of justice: UNMIK “tainted by racial prejudice”**

In a bluntly critical report published in 2016, the Human Rights Advisory Panel called on the United Nations Interim Administration Mission in Kosovo (UNMIK) to publicly acknowledge its abject failure to comply with applicable human rights standards and apologise to Roma, Ashkali and Egyptian IDPs placed in lead contaminated camps, and to compensate victims for material and moral damage.

Families were forced to flee and abandon the Roma Mahala in Mitrovice in the face of attacks by Albanian extremists who looted and burnt down the entire neighbourhood in June 1999. The victims of the pogrom were resettled in camps which were highly contaminated. This appalling situation, intended to be temporary, lasted for about a decade under UNMIK’s tenure and during this time the Roma, Ashkali and Egyptian IDPs were stranded in hazardous living conditions and without badly needed medical attention. The Panel found UNMIK responsible for discriminatory inaction and neglect, which caused IDPs to suffer inhuman and degrading treatment.

The Panel deemed the living conditions in the camps to be “sub-standard”, “particularly distressing”, and “appalling”; and rejected the argument of the Special Representative of the Secretary-General for UNMIK (SRSG) that undue suffering was not caused, in light of the fact that prior to the conflict, Roma historically lived in substandard conditions. This comment was slammed as “discriminatory and debasing” since it suggested that social exclusion and deprivation of Roma is “based on race and on their own actions and, as such, may be perpetuated without responsibility.”

The UNMIK suggestion that the health crisis in the camps was generated by the “unhealthy” life-style of the RAE IDPs was deemed to be “tainted by racial prejudice”, contradicted by scientific evidence, “and certainly not objective or reasonable justification.”

The excuse that UNMIK could not move the RAE IDPs to an alternative, safe, location that was “acceptable” to all local stakeholders was rejected on the grounds that “such political considerations and discriminatory attitudes of local stakeholders should not in a democratic and pluralistic society take priority over the life, health and well-being of those in a vulnerable situation.”

The ERRC urges the European Union to call on UNMIK to act on the Human Rights Advisory Panel recommendations and issue a full public apology to the victims and their families, and to work with Kosovar authorities to ensure adequate compensation is paid to the victims to cover the human rights violations, moral damage, and medical costs they have incurred.

## **MACEDONIA**

### **VIOLENCE AGAINST ROMA AND ILL-TREATMENT BY POLICE**

Previously, the ERRC in written submissions to UNCERD expressed its deep concerns at the level of police brutality against Roma in Macedonia in parallel with the level of impunity displayed amongst the responsible authorities. The ERRC submissions included documented cases of police abuse against the Roma community in Macedonia reflecting persistent discriminatory police behaviour which is both excessive and unwarranted, breaching the overarching principle of non-discrimination prescribed under the ICERD in conjunction with Article 5.

This was detailed in last year’s submission to the European Commission. We would like to draw attention to two recent suspicious deaths in custody of Romani men:

On 11 March 2017, Andrias Redjepov, a 21-year-old Romani man died in KPU Idrizovo Prison. Media reports stated that the cause of death was a methadone overdose. However, the man’s mother insists that her son died due to injuries caused by extreme violence carried out by prison guards. She asserts that her son has never been a drug or alcohol abuser and that the cause of death is inconsistent with the information she has received. The ERRC is investigating the case.<sup>10</sup>

<sup>10</sup> More details available at: <http://www.errc.org/article/young-romani-man-from-macedonian-prison-dies-under-suspicious-circumstances/4560>.

On 22 March 2017, another Romani man, 25-year-old father of two, Jusinov Erdal died in KPD Shtip prison (known locally as 'the Sixth') after medical treatment was apparently withheld for hours prior to his death. According to testimonies, the day before he died, he allegedly complained to the prison doctor about toothache and pain in his head. The doctor is alleged to have told Jusinov he was faking his condition, called him 'gypsy bastard', and refused to treat him. Our sources say that on 17<sup>th</sup> March, the doctor gave him an unknown dosage of unlabeled pills without a prescription, which he took these until the day he died. Many eyewitnesses interviewed by the ERRC declined to give testimony for fear of reprisals.<sup>11</sup>

## RACIAL PROFILING

In a judgment that has not been made public, The Basic Court Skopje Ii Skopje – Civil Court, determined that the defendant The Republic of Macedonia - Ministry of Interior violated the right to equal treatment of the plaintiffs by not allowing them to cross the state border of the Republic of Macedonia on 04.06.2013, 08.06.2013, and 07.12.2013. This case was the result of an ERRC testing case on the borders to document the violation of the right to leave one's own country. ERRC has appealed the case as the court did not provide the full compensation to the plaintiffs.

On 24 November 2015 in a court case represented by the Macedonian Young Lawyers Association, and supported by the ERRC, the judgment was that the Macedonian authorities racially profile their citizens who are trying to leave the country and stop Roma from leaving. This was the second case supported by MYLA where the Court determined there is discrimination and violation of the right to equal treatment on the ground of ethnicity. Such restrictions to freedom of movement targeting the Roma population have been numerous over the past four years and the ERRC reminded Macedonian authorities more than a year previously that this practice is unconstitutional.

In response to the gravity of these violations on the right to leave one's own country, the ERRC conducted several legal and advocacy activities. Between 2011 and May 2015, the ERRC documented the cases of 176 Romani individuals who were prevented from exiting the country, and became aware of another 63 such cases.

In the same period, the ERRC documented 75 cases in which Macedonian border officials revoked the passports of Romani individuals who had been deported from EU countries as failed asylum seekers, and became aware of another 155 such cases.

Additionally, ERRC documented cases where Macedonian Roma after being deported from Western European countries and having their passports confiscated by Macedonian authorities faced a ban on using their ID card to cross the border.

Most of the ERRC's documented cases show that only Roma were asked for evidence to justify why they intended to leave Macedonia, non-Roma were never requested to do so. It appears that the border officials were instructed to act based on the ethnicity of the people trying to leave, some Roma were told explicitly by the border officials that they could not cross the border due to their ethnicity.

According to the ERRC documented cases in the period between 2011 and 2014, 60% of Roma refused the right to leave were told by the border officials that they (the border officials) were instructed to restrict the rights of Roma. It appears that they were 'instructed' to act based on race. Thirty per cent of those Roma concerned were told *explicitly* by the border officials that they could not cross the border due to their Roma ethnicity.

## HOUSING AND FORCED EVICTIONS

Most of the Romani population in the Republic of Macedonia continues to live in segregated settlements characterised by substandard housing conditions and without proper access to services. Residents often do not have property papers for their houses or land where they live, making them an easy target for forced evictions. The ERRC would be interested to hear from the Commission if they have any information from the Macedonian authorities about substantive policy interventions targeting Roma living in informal settlements to enable them to legalise their properties, or if there are any cases of ongoing or planned infrastructure improvements in Roma settlements or neighbourhoods.

11 More details available at: <http://www.errc.org/article/another-romani-man-dies-in-macedonian-prison/4564>.

The only evident moves on housing issues in Macedonia in the last year seem to have been on forced evictions. On 9 January 2017, following a request by the ERRC, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) called on the government to provide suitable emergency housing, nutrition, clean water and immediate access to health care services, including to maternal health services for four Romani women made homeless by Macedonian authorities in August 2016. Three of the women were pregnant and the fourth had a new-born baby. All of the women were evicted from the settlement under the Kale Fortress, known as Poligon.

This was the second request made by the ERRC that the Committee has urgently responded to regarding pregnant Romani women from the same settlement. In November last year, the Committee requested from the Macedonian government to provide emergency housing, nutrition, clean water and immediate access to reproductive care for two other pregnant Roma, evicted from Poligon on the same day.<sup>12</sup>

While the authorities responded, this was no more than a temporary fix that does not address the longer-term needs of the women. All of the women represented before CEDAW suffer from a lack of proper nutrition, inability to maintain regular hygiene and they have experienced severe health complications because of poor access to water. Statements from the affected women give some sense of the dire consequences of forced evictions on pregnant women and mothers of newly-born or very young infants:

*“We have no water, no electricity, no heating. I cannot even have a bath since it is so cold. I have gone a whole month without a bath, and we are exposed to so many diseases because of these living conditions.”*

Another said *“Our life was a bit better before the evictions, when we had a house. Now it is very difficult. We live under the open sky in tents with no water or electricity. We are outside all the time and the weather is very cold. I am a single mother and I have no financial income or social support.”*<sup>13</sup>

## WOMEN'S HEALTH CARE

Shocking testimony of brutal treatment by medical staff of a Romani woman in childbirth in Macedonia surfaced at the same time as news that provision for Roma has been slashed from the Ministry of Health's 2016 Programme for Health Protection of Mothers and Children. Representatives of the NGO ESE condemned these cuts especially in light of the fact that the mortality rate among Roma newborns is 25% higher than the national average. They claimed that funds targeting Roma children and marginalized groups are the subject of frequent budget cuts and funds get reallocated for capital investments, reconstruction and refurbishment of hospitals. Further severe cuts are anticipated in immunisation programmes and medical checks for school pupils. Health spending in Macedonia is already far behind that of neighbouring countries.<sup>14</sup>

The Decade of Roma Inclusion monitoring report on Macedonia published in 2013 found that awareness of patient rights is low among both patients (including but not limited to Roma), and healthcare service providers: “In this respect, the recommendation of the 2004 *Strategy for Roma in the Republic of Macedonia* that healthcare workers receive training on appropriate communication ‘respecting [the patient’s] dignity, personality and confidentiality’ appears to be, at best, in the early stages of implementation.” In the context of current cutbacks on provision for Roma mothers and children, and on the evidence of S.A.’s harrowing testimony, the day when a Romani woman patient’s “dignity and personality” is accorded due respect seems even more remote.

## ACCESS TO CLEAN WATER AND SANITATION

In March 2017, the ERRC published its report *Thirsting for Justice*, on access to clean water and sanitation in seven European countries including Macedonia. The research focused on accessibility, affordability and quality of drinking water resources and sanitation in Romani neighbourhoods and settlements.

<sup>12</sup> More detail on this case available at: <http://www.errc.org/article/second-un-emergency-order-macedonia-must-rehouse-pregnant-romani-women-made-homeless-by-authorities/4542>.

<sup>13</sup> Interviews by ERRC researcher.

<sup>14</sup> More detail can be found on: <http://www.errc.org/blog/childbirth-in-macedonia-racist-abuse-slapped-faces-and-slashed-budgets/114>.

The ERRC research revealed that Roma experience discrimination and suffer disproportionately from the failures of public authorities to secure access to water and sanitation.

Of the 12 Roma settlements and neighbourhoods surveyed by the ERRC in Macedonia:

- In 10 the inhabitants could not afford to connect their households to the public water supply; in the remaining two, the houses which were connected were under threat of being cut off due to the debts that had accrued;
- Only half were informal settlements (i.e. with outstanding issues of land ownership / building permits / formal recognition as a settlement), while the other half had by and large no such issues; consequently, difficulties in accessing water were not mainly or exclusively attributable to the informality of the settlement, as the authorities often claimed;
- In eight, the residents had no tap water; in seven, the residents used external water resources (public pumps), shared between a large number of people (dozens of families for each pump);
- Nine experienced seasonal water problems (wells that dry up in summer and freeze in winter);
- Seven used uncontrolled open sources of water which are unprotected from insects and are accessible to wild animals and stray dogs;
- Four used wells reportedly contaminated by faeces from nearby pit latrines and dry toilets;
- Four used wells reportedly contaminated by ground water from nearby rivers;
- Nine had no sewerage system and had to use external pit latrines as toilets.
- The ERRC's research strongly suggests that, in respect of Roma communities, Macedonia is systematically failing to comply with its core obligations on the right to water.

## SERBIA

In our 2016 submission, we detailed the many issues of concern in Serbia. It is safe to say that little has changed since then. As the 2017 Human Rights Watch report confirmed Roma continue to face discrimination and harassment primarily in areas of housing.<sup>15</sup> Forced evictions of Roma living in informal settlements continued without prior consultation with families concerned, with insufficient recourse to challenge decisions, and with inadequate provision of alternative accommodation. This was highlighted by renewed expressions of concern from international bodies, e.g.

The Council of Europe human rights commissioner in a letter to the Serbian government in February 2017 expressed his concerns with respect to forced evictions and the lack of legal safeguards and failure to provide adequate alternative housing. The commissioner called on Serbian authorities to halt further evictions of Roma without providing alternative housing.

That same month, UN Special Rapporteur on Right to Housing Leilani Farha expressed concerns about aspects of a new housing law that fails to guarantee consultation with affected communities prior to evictions; lacks adequate provisions with respect to the period of notice prior to evictions; and fails to outline appeals.

## HOUSING: EVICTIONS, RESIDENTIAL SEGREGATION AND DISCRIMINATION

In Kruševac, a 120-metre long and 2-metre high wall was erected in November 2016, separating over 2,000 Roma living in the Marko Orlović settlement from the rest of the city. The public agency that built the wall, “Roads of Serbia”, claimed that the wall was a “noise barrier” to protect citizens from the traffic from the highway. In fact, the wall only shields the Roma settlement, and does not extend to other stretches of this allegedly “noisy” road where non-Roma dwell. The wall creates a barrier which considerably limits access for public services such as ambulances, firefighters, and sanitation services. In addition, this wall exacerbates segregation and ghettoisation, further stigmatising the Roma community, in particular Romani children. Since the wall was

15 Human Rights Watch, World Report 2017. Available at: <https://www.hrw.org/world-report/2017/country-chapters/serbia/kosovo>.

built, activists and Roma from the community have expressed the view that their children feel more isolated and discriminated at school and excluded from the wider society.

In Niš, the electricity company cut the power to the Romani settlement Crvena Zvezda on August 22, 2016 leaving the entire Roma community without access to electricity. The power cut was the inevitable result of an unheard of arrangement whereby the community's electricity is distributed through collective meters located off-site with the discriminatory label "Roma settlement" on them; the collective bills, which the residents cannot pay, are addressed, likewise, to the "Roma settlement".

Representatives from the ERRC and the Office of the UN High Commissioner for Human Rights visited the area to investigate what appears to be an obvious case of discrimination. Information gathered on the ground suggests Serbian authorities are breaching human rights obligations by allowing the electricity company to relegate this community to total deprivation.

Disconnecting the electricity seriously worsened the already dilapidated conditions in the settlement. The decision to cut electricity is already unnecessarily heightening the risk of illness, and putting the lives of children, pregnant women and the elderly at risk. The electricity was reconnected on 26 of December 2016. However, the Roma households are still required to collectively pay their bills and could have the electricity cut off at any time.

As ERRC reported in its 2016 submission to the Commission, Roma in informal settlements often live in appalling conditions, suffer a disproportionate number of evictions of Roma, and their quality of life is gravely affected by a lack of provision of basic services, and lack of legal security of tenure.

We fully endorse the recommendations made by the UN Special Rapporteur on adequate housing:

- Local authorities, particularly in the City of Belgrade, must immediately stop evictions of Roma from informal settlements leading to segregation and substandard housing conditions, such as those involving mobile housing units. Durable, integrative housing solutions must be found.
- Central government must adopt and immediately implement a law which prohibits any level of government from the practice of forced evictions except in the most exceptional circumstances, in keeping with international human rights law. This law must also incorporate international human rights standards as found in the CESCR's General Comment No. 7 with respect to the pre-, mid- and post-eviction process.

## ACCESS TO EDUCATION

In its analysis of National Roma Integration Strategies, *Eurochild* highlighted the fact that a holistic, child-centred perspective is limited or non-existent; and that the strategies fail to address broader issues of children's rights and wellbeing such as social services and benefits including family and parenting support, the child protection system and child and youth participation.<sup>16</sup> This is also the case across the Western Balkans, and common Issues of concern are that of Romani children in state care, birth registration and school segregation.

In March 2014, ERRC published *A Long Way to Go: Overrepresentation of Romani Children in "Special Schools" in Serbia*<sup>17</sup>

Despite positive developments and the promise of inclusive education with the legal and policy reforms Serbia adopted in 2009, including the Law on the Foundations of the Education System, there remain many issues of concern when it comes to equal access to quality education for Roma.

### Key Findings

*Romani students are still overrepresented in special schools though their absolute number in these schools has decreased*

While there has been a welcome decrease in the absolute number of students attending specialised educational institutions, the share of Roma remains high. ERRC research data, collected from 31 schools throughout the

<sup>16</sup> Eurochild: Review of the National Roma Integration Strategies. Available at: [http://eurochild.org/fileadmin/public/05\\_Library/Thematic\\_priorities/02\\_Child\\_Poverty/Eurochild/Roma\\_NAP\\_Review\\_2012.pdf](http://eurochild.org/fileadmin/public/05_Library/Thematic_priorities/02_Child_Poverty/Eurochild/Roma_NAP_Review_2012.pdf).

<sup>17</sup> ERRC, *A Long Way to Go: Overrepresentation of Romani Children in "Special Schools" in Serbia*. Available at: <http://www.errc.org/cms/upload/file/serbia-education-report-a-long-way-to-go-serbian-13-march-2014.pdf>.



country, indicates an ongoing and notable degree of overrepresentation of Roma in special schools. Furthermore, a number of individual schools have alarmingly high shares of Romani students, reaching up to 73% in 2012/13.

#### *Insufficient assistance to children to stay in mainstream schools*

The practice of transferring students from mainstream schools to Education of Pupils with Disabilities (EPD) schools still continues. Both the overall number and the number of Romani students even increased from 2011/2012 to 2012/2013.

In 70% of the cases, the interviewees confirmed that the school did not offer any additional support to their children in order to keep the student enrolled in the mainstream schools, as opposed to transfer.

In the cases of students transferred to “special schools” after they had spent some time in mainstream education, 41% of their parents and carers were never contacted in relation to the difficulties their children experienced.

Once students end up in a specialised educational institution, there is hardly any return, and only one in ten respondents attempted to transfer the students to (or back to) main-stream schools.

#### *Limited information for parents - the ability of parents to make informed decision on the educational choices for their children*

A large majority of respondents (75%) to the ERRC survey says the commission did not inform them on the limitations and negative consequences associated with attending EPD schools. 71% were not told by the commission that they have the right to refuse the commission’s opinion.

#### *Treatment of Romani children in mainstream education*

46% of the interviewees alleged that the treatment in mainstream schools was not good. The most common reasons given were:

- the teachers ignored the student (50%)
- the student had to sit in the back of the class (50%)
- the teachers humiliated the student in front of their peers (39%)

The most common reasons why students who additionally experienced bullying in mainstream schools were:

- Romani ethnicity (75%)
- disabilities or low grades (42%)
- poverty (33%).

ERRC commissioned additional research on education in Serbia in 2016. Work is still in progress but among the key points are:

- Confusion over the catchment area system, which has not been revised in a long time to take into account demographic changes and is not observed in practice, exacerbates the segregation of Roma children in schools close to Romani settlements by allowing unchecked “white-flight”.
- In integrated classes Romani children are far more likely to be designated to follow individual education plans, which allows schools to reduce the size of the class.
- There has still not been marked progress in addressing the issue of over-representation in special schools continues.

## **IDENTITY DOCUMENTS AND BIRTH REGISTRATION**

Many Roma in Serbia, following years of exclusion, discrimination, and, especially in the 1990s, forced movement, do not have identity documents. When they give birth in Serbia, the registrars refuse to register the birth. The provision being challenged gives them legal cover: it vaguely allows registrars to delay birth registration for



an indefinite period to verify the details to be entered in the register of births. This would seem contrary to the human right of every child to be registered immediately after birth and to have a name and a legal personality.

Article 23(3) is unnecessary, and it violates the child's right to immediate birth registration. Unicef Insights survey data from 2014 reveals that almost 5% of Roma children born in Serbia are unable to secure a birth certificate, leaving them at risk of statelessness as a result of this rule. Ensuring birth registration for the prevention of statelessness is Action 7 in UNHCR's action plan to end statelessness by 2024.

The ERRC and Praxis, with support from the European Network on Statelessness, lodged a constitutional "initiative" with the Constitutional Court in Serbia in February 2016 attacking a provision of the Law on Registries, which allows registrars to delay birth registration. The ERRC and Praxis relied primarily on Article 24(2) of the ICCPR, and the requirement that births must be registered "immediately". In September, the Constitutional Court rejected the initiative. In its 2017 submission to the UN Human Rights Committee, the ERRC and Praxis strongly urged the Committee to give careful consideration to this judgment, which does not appear to be in accordance with Article 7(1) of the Convention.<sup>18</sup> The ERRC would strongly urge the European Commission to highlight this issue and the implications of the judgment in its mid-term review of the enlargement component of the EU Framework.

## CHILDREN IN INSTITUTIONAL CARE

Despite the comprehensive legal framework in the Republic of Serbia prohibiting any discrimination against children on the basis of ethnicity, prejudices against Roma persist. Among professionals in the social welfare system there are two prevailing views: 1) that poverty itself is not a sufficient reason for the relocation of Roma children from their biological parents, however in combination with other elements particularly the lack of parental competence often leads to relocation and 2) professionals emphasise poverty less when it comes to Roma parents when deciding on relocating a child, since there is limited interest in fostering Romani children. However, interest among foster parents in taking children of Roma origin has increased and consequently reduced the number of Roma children in institutions. The process of deinstitutionalization of institutions for children without parental care has positively impacted this phenomenon. However the process remains very slow. There is a large proportion of Romani children remaining in institutions disaggregated data shows that in some cases between 30% and 50% of the children are Roma when information on ethnicity is available.

The 2008 report of the Committee on the Rights of the Child has warned the Serbian state about "*the lack of a systematic support system and multisectoral service provision to parents, and at the overall weakness of measures to support families and prevent deterioration of family relations and its effect on children due to the lack of well-trained social workers.*" However, progress has been slow or in some areas completely lacking. The Praxis and ERRC research suggested that Roma children in care have very limited contact with their parents and "systematic support for strengthening biological families for the return of children is completely undeveloped. The advisory-therapeutic and socio-educational services are at a very low level, which results in a very small number of Roma children being returned to their biological families.

## INTERNALLY DISPLACED PERSONS (IDPS)

Among the most urgent problems facing Roma IDPs:

- Among IDPs' most urgent protection needs is obtaining documentation to enable them to access basic public services. The Special Rapporteur witnessed how the lack of documentation forces Roma, Ashkali and Egyptian IDPs to live in informal, substandard and overcrowded settlements without electricity, energy, water or sanitation.
- A considerable proportion of Roma IDPs do not have birth certificates as their birth was never legally registered, while some lost their birth certificates during flight and remain without access to official registration books. Generations are being affected, as thousands of people are "legally invisible" and potentially stateless. Not having a birth certificate impedes registration and the issuance of an identity card, on which access to public services such as health care, education, housing programmes and employment programmes, as well as social integration in general, depends.

<sup>18</sup> WRITTEN COMMENTS of the European Roma Rights Centre Concerning Serbia for Consideration by the Human Rights Committee of the Concluding Observations of the 119 Session (6 – 29 March 2017). Available at: <http://www.errc.org/cms/upload/file/serbia-un-hrc-13-february-2017.pdf>.

- In Serbia, for example, urgent admissions to hospitals are available for IDPs, but regular treatment and medication is only available in Kosovo at IDPs' place of origin.

## RECOMMENDATIONS CONCERNING THE SITUATION OF ROMA IN SERBIA

1. Establish a systematic approach to keeping records of national and ethnic origin in all institutions in the system of social protection in the Republic of Serbia, in accordance with national and international standards.
2. Adopt guidelines to prevent removals of Romani children at risk from their biological families
3. Ensure additional education of professionals in the social welfare system in order to eliminate the prejudices and strengthen counselling work with parents of Roma children in care to strengthen their capacities for bringing the child back in the biological family.
4. Continue encouraging potential foster families in order to dispel prejudices when it comes to the adoption of Romani children.
5. Develop precise guidelines for social welfare centres on the treatment of cases of urgent relocation of children and displacement of children at particular risk, such as: readmitted persons, refugees and IDPs, „legally invisible” persons, women victims of domestic violence, etc.
6. Further improve the plan for the transformation of social care institutions for children and youth in the Republic of Serbia for the period 2009-2013 and continue its implementation as a managing principle of deinstitutionalization process in the country.
7. Introduce new and/or improve existing social services (such as the service of family assistant) aimed at strengthening biological families, who, in this context, should be the primary objective of all stakeholders in the system of social protection. Services of empowerment of biological families should include both financial and advisory support, so that services provided to families at risk and the same range of those provided to foster families.
8. Amend the Law on Registries to ensure that all births are registered immediately.
9. Publicly condemn and sanction all forms and instances of discrimination based on ethnicity by public and/or private actors, in particular those targeting Roma community.
10. Eradicate all forms of spatial segregation and ghettoisation and ensure equal treatment and access to services for Roma communities in Serbia; dismantle the wall separating Roma from non-Roma in Kruševac and prevent the building of any further walls designed to segregate Roma communities.
11. Implement the recommendation of the Serbian Equality Commissioner concerning access to electricity for Roma from Crvena Zvezda in Niš and ensure that Romani households are not subjected to “collective punishment” by electricity providers.

## TURKEY

### *Comments on The National Strategy Paper and Action Plan on the Social Inclusion for Roma People 2016-2021*

More than six years after Turkish President Tayyip Erdogan held the so-called Roma opening, when he gathered 10,000 Roma and promised to sort their problems in April 2016, the government adopted The National Strategy Paper and Action Plan on the Social Inclusion for Roma People. The European Commission in its 2016 report on Turkey called it “a positive step forward,” and stated Turkey “needs now to step up its engagement,” and start implementing the strategy.

While the Fundamental Implementation Principles of the strategy largely adhere to the EU's 10 Common Basic Principles on Roma Inclusion, when it comes to education, there is a swift departure from Principle No.1 (on the need to base policy on in-depth research, data and evidence, rather than “hypotheses and prejudices”). The strategy states that “Roma families do not believe in the future.” To put it mildly, this stands as an unsubstantiated generalization. In all marginalized communities deprived of a sense of agency, what parents deem to be a sufficient level of educational attainment for their children is constrained by what seems possible. Inclusive education policies need to expand the sense of what is possible and foster a sense of agency and empowerment among excluded communities.

The strategy seems content to blame inequalities and segregation on the children themselves, their parents and those who ‘complain’ about segregation. From the side of the authorities, it is stated “segregation regarding student distribution is not possible but it is observed in the past that Roma children have education in different classrooms or environments or they form isolated groups among themselves.” It is unclear how different ways of ‘having education’ or becoming isolated could happen spontaneously without direct institutional interventions.

The hypothesis that complaints about segregation have led to a perception that there is segregation, which restrains Roma children from attending schools, and causes some Roma children who continue to study to “leave education just because they think that they are exposed to social exclusion”, is not entirely comprehensible; nor is it clear what evidence there is to sustain such a line of argument, which only serves to blame the victims.

The major problem with the strategy is that in all of the priority areas outlined in the Action Plan, apart from the envisaged starting date of 21 December 2018, there is no indication of the scale of activities envisaged or how they might be implemented. There is no detail on which to base any assessment of how the strategic objective “to improve the living conditions and socio-economic status of Roma people” might be achieved. In short there are *no targets, no data, no benchmarks, no costing, no earmarked funding*. This kind of detail is missing and envisaged only to materialize in the course of research and consultation processes in 2016-2017.

In this preliminary form, this document stands as a draft declaration of intent (and somewhat surreal given the political circumstances that current prevail), but it lacks any of the detail that would make it a strategy.<sup>19</sup>

## CONCLUSIONS AND RECOMMENDATIONS

The report commissioned by DG NEAR *The Thematic Evaluation on IPA Support to Roma Communities*, clearly identified why EU funding did not have a discernible impact on Roma inclusion in the first round of IPA assistance. The findings from the first round of IPA funding raised a number of concerns:

- Credible assessment of project effectiveness proved to be difficult “because of poor design of indicators and means of verification, together with scarce project level evaluation”;
- Even in the sphere of education where most progress has been made the report concluded that “Evidence for improved educational attainment is piecemeal and anecdotal – but points strongly in the right direction”;
- Displacement projects were not designed specifically for Roma, but for all displaced persons so there were no Roma-specific activities, objectives or indicators. Specifically for the Roma population, sustainability is highly questionable and there are concerns that housing projects creating (or re-creating) segregated communities.
- Housing projects are expensive and relatively insignificant interventions compared to the scale of the needs.
- Employment projects have not achieved any notable successes;
- Monitoring at country, programme and project level remains very poor. At country level, there are some efforts to provide indicators and data on the situation of Roma communities, but there is an almost complete lack of comparable information over time to show changes.

The recommendations concerning political will, financial allocations, robust monitoring, gender equity, and the “need for a strong, independent and sustainable civil society”, mirror the challenges facing the EU Framework. What is clear from ERRC’s various submissions, advocacy, research and litigation in the enlargement countries of the western Balkans over the past years is that for Roma inclusion to be effective, national and local authorities must prioritise combating all forms of discrimination; ending residential and school segregation; challenging ethnic profiling and police brutality; addressing statelessness and ending forced evictions; and ensuring access to justice.

The need to **step up the fight against all forms of discrimination against Roma including institutional racism**, which is evident in the enlargement countries, is something that is common to all of the Member

<sup>19</sup> The full version of the ERRC evaluation of The National Strategy Paper On The Social Inclusion For Roma People 2016-2021 (Ankara, April 2016) is available here: <http://www.errc.org/cms/upload/file/turkish-strategy-in-english-november-2016.pdf>.

States of the European Union. The Commission in its 2016 Communication on the EU Roma Framework, explicitly called on Member States to demonstrate greater political will to combat discrimination, described rising anti-Gypsyism as “a specific form of racism”, and urged public authorities to distance themselves from racist and xenophobic discourse that targets Roma. When it comes to anti-Roma hate speech and hate crime, the Commission bluntly stated that authorities’ failure to take action effectively amounts to complicity: “it is important to realise that a reluctance to act also contributes to the acceptance of intolerance in societies.”

The ERRC fully agrees with the Commission’s observations, and it is clear from this ERRC submission and the previous one, that Roma in enlargement countries face similar or even more serious problems than in many EU Member States. As mentioned earlier, the ERRC welcomes the Commission’s statement that enlargement policy remains focused on the “fundamentals first” principle, which includes the rule of law and fundamental rights, with specific mention of the “need to better protect minorities, in particular Roma.”

Therefore, the ERRC recommends that the Commission work with the governments of enlargement countries to put in place “robust monitoring mechanisms” on Roma inclusion that align with the EU Framework, and to establish an annual reporting schedule that coincides with that of the Member States. This would allow for greater transparency and meaningful comparability between Member States and aspirant countries.

It is important from the outset to send a signal to these countries that combating discrimination and racism is a priority for the Commission in its “fundamentals first” policy approach to further enlargement. Based on our common experience of the EU Framework, ERRC fully endorses the Commission’s assertion that “stepping up the fight against racism and discrimination” remains essential to making any advances in “reducing the socio-economic gap between the Roma and non-Roma population in the Western Balkans and Turkey” up to 2020 and beyond.