



CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



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Comments of the European Roma Rights Center (ERRC) and Centre on Housing Rights and Evictions (COHRE) on the occasion of the Article 16 Review of Bulgaria, Italy and Romania under the Revised European Social Charter supervision cycle 2004

**I. STANDING OF THE EUROPEAN ROMA RIGHTS CENTER (ERRC) AND
CENTRE ON HOUSING RIGHTS & EVICTIONS (COHRE)**

The European Roma Rights Center (hereinafter “ERRC”) is an international non-governmental organisation which has consultative status with the Council of Europe. The ERRC has had standing with the ESC to undertake collective complaints under the revised Charter since June 2002. The ERRC is a Budapest-based international public interest law organisation which monitors the human rights situation of Roma in Europe and provides legal defence in cases of abuse. Since its establishment in 1996, the ERRC has undertaken first-hand field research in more than a dozen countries and has disseminated numerous publications, from book-length studies, to advocacy letters and public statements.

- Concerning Bulgaria, the ERRC undertakes regular local monitoring of the human rights situation of Roma consistently since 1997, and has published a comprehensive Country Report on aspects of the human rights situation of Roma in Bulgaria.
- Concerning Italy, the ERRC has had a number of local monitors in the country since 1999, and in 2000 the ERRC published a comprehensive report on the situation of Roma in Italy, focusing in particular on housing rights issues.

- Concerning Romania, the ERRC has monitored the situation of Roma in Romania intensely since 1996, via regular field missions and Romania-based consultants. The ERRC has published two comprehensive Country Reports on the situation of Roma in Romania, and has provided information on social and economic rights of Roma in Romania to a number of review bodies.

ERRC publications, as well as additional information about the organisation, are available on the Internet at: <http://www.errc.org>.

The Centre on Housing Rights and Evictions (COHRE) is a leading international non-governmental human rights organization committed to promoting practical legal and other solutions to endemic problems of homelessness, inadequate housing and living conditions, forced evictions and other violations of economic, social and cultural rights. COHRE places particular emphasis on securing respect for the rights of groups that have traditionally faced discrimination. COHRE is registered as a not-for-profit foundation in the Netherlands with eight offices in Europe, Asia and the Pacific, Africa, Latin America, and the United States. COHRE has consultative status with the Council of Europe.

COHRE has worked in numerous European countries. For example, COHRE has designed housing and property restitution laws and institutions in various European post-conflict situations as well as undertaking fact-finding missions in Latvia, Turkey, Serbia and Montenegro, Kosovo, the Netherlands and United Kingdom. COHRE regularly works with and assists national-level non-governmental organisations in Western Europe (particularly Ireland, United Kingdom, Netherlands) and Central and Eastern Europe and South-Eastern Europe (particularly Bulgaria, Hungary, Serbia, Croatia, Bosnia, Turkey, Czech Republic). COHRE has a particular focus in Europe on the housing rights of Roma, Travellers, the homeless, refugees, returnees and people living with HIV/AIDS as well as inheritance rights of women in South-Eastern Europe. For further information see www.cohre.org.

II. PURPOSE OF THE PRESENT SUBMISSION

It is the understanding of the ERRC and COHRE that Bulgaria, Italy and Romania are presently under review by European Committee of Social Rights for their compliance with Article 16 of the Revised European Social Charter (hereinafter "RESC").¹ Bulgaria deposited a declaration with the Council of Europe on June 7, 2000, stating that it agreed to be bound by the RESC, including Article 16. Italy deposited a similar declaration on July 5, 1999, stating that it agreed to be bound by all Articles of the RESC apart from Article 25 in a Note Verbale from the Permanent Representation to the Secretary General at the time of deposit of the instrument of ratification. Romania ratified the RESC in a declaration deposited on May 7, 1999, in which it agreed to be bound *inter alia* by Article 16. The ERRC and COHRE restrict comments here to the issue of whether the three countries at issue can be seen to be fully compliant with the provisions of Article 16 of the RESC, taken together with its anti-discrimination provisions, in light of ongoing concerns in the area of the housing rights and access to social benefits of Roma.

Housing is fundamental for the development of family life. In order to ensure the necessary conditions for the full development of the family, which is a fundamental unit of society, Contracting States Parties have undertaken, in accordance with Article 16 of the RESC, to promote the economic, legal and social protection of family life by means such as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and by other appropriate means.

The "full development of family life" also requires the full recognition and realization of the right to adequate housing. The Committee of Independent Experts, previously responsible for the oversight of the European Social Charter, acknowledged the central role of the right to adequate housing in Article 16. In its Conclusions XII-1(p.30),

¹ Article 16 of the Revised ESC states: "With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal, and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means."

the Committee, "stressed the need to consider family welfare in terms of the right to receive adequate housing and essential services (such as heating and electricity), these being necessary for the welfare and stability of families".² The United Nations Committee overseeing the International Covenant on Economic, Social and Cultural Rights (ICESCR) -- ratified by Bulgaria, Italy and Romania -- reached a similar conclusion, deriving the right to adequate housing from the "right to an adequate standard of living, including adequate food, clothing and housing".³ Bulgaria, Italy and Romania have also ratified the International Covenant on the Elimination of All Forms of Racial Discrimination (1965) and so have undertaken "to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone ... to equality before the law, notably in the enjoyment of the ... the right to housing".⁴

The commitments made by States under Article 16 cannot be fulfilled by enacting laws, ordinances or directives, or by undertaking policies or practices that strike at the fundamental basis of family existence, namely the need for security, privacy and shelter, and freedom from racial and other discrimination.⁵ Security, privacy and shelter, as well as freedom from racial and other discrimination constitute the foundation not only for family stability but also for the successful realisation of other basic human rights.

In addition, the protections offered by Article 16 of the RESC, taken together with the broadened base of the right to housing provided under Article 31 of the Revised Social Charter,⁶ indicate that the quality and force of the right to housing flowing from the text of Article 16 is arguably stronger than when the 1961 Charter was originally adopted. Italy has further accepted the right to housing as provided in Article 31 of the RESC. Since 1961 the international community has also regularly affirmed the right to housing in international treaties and declarations.⁷

² Quoted in Lenia Samuel, *Fundamental Social Rights: Case Law of the European Social Charter*, Council of Europe, 1997, at p.352.

³ See Committee on Economic, Social and Cultural Rights (CESCR). General Comment 4: The right to adequate housing (Art. 11.1 of the Covenant). December 13, 1991, paragraph 1. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states, "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent." Further, the African Commission on Human and Peoples' Rights concluded that the right to adequate housing was implicitly recognised in rights to protection of family life and property: see *SERAC & CESR v Nigeria*, African Commission on Human Rights, Case No. 155/96, 30th Session at paragraphs 59 and 65.

⁴ See Article 5(e)(iii).

⁵ All three of the countries under review have agreed to be bound by a number of international instruments banning discrimination -- including the very serious harm of racial discrimination -- in the realisation of economic and social rights. Most notably for the purpose of this submission, the the non-discrimination clause in Part V Article E of the RESC states: "The enjoyment of rights set out in this Charter shall be secured without discrimination on any ground such of race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status."

⁶ Article 31 of the Revised Social Charter states: "With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources."

⁷ See in particular the following conventions (ratified by Bulgaria, Italy and Romania): Article 5(e)(iii), International Covenant on the Elimination of All Forms of Racial Discrimination (1965); Article 4 14(2)(h) International Covenant on the Elimination of all forms of Discrimination Against Women (1979); Article 27(3), International Convention on the Rights of the Child (1989), and various international declarations: Section III(8) Vancouver Declaration on Human Settlements (1976), adopted by the UN Conference on Human Settlements in 1976; Article 39, Habitat Agenda, adopted by the second United Nations Conference on Human Settlements (Habitat II) at Istanbul, Turkey on 14 June 1996; Paragraph 2, United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, resolution 1998/26 entitled "Housing and Property Restitution in the Context of the Return of Refugees and Internally Displaced Persons" on 26 August 1998; UN Commission on Human

Further, at Part V Article E, the RESC bans discrimination, including the particularly serious harm of racial discrimination: “The enjoyment of rights set out in this Charter shall be secured without discrimination on any ground such of race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

On basis of first hand field research documentation and on-going monitoring in all three of the countries at issue, the ERRC and COHRE contend that Bulgaria, Italy and Romania are failing to meet their housing rights obligations under the RESC where Roma are concerned. The ghettoisation of Roma is widespread in all three countries, and in the case of Italy, racial segregation is official policy. Roma living in segregated and ghetto-like conditions endure abusive police raids and forced evictions. Roma in segregated areas frequently lack basic security of tenure and live in substandard conditions, often with inadequate infrastructure and limited access to public services. Roma whose fundamental housing rights are violated frequently do not have access in practice to effective legal remedies for their redress.⁸ Additionally, in at least one instance, the ERRC is aware that a contracting State to the RESC, namely Romania, does not meet its requirements with respect to access to social and family benefits, which in turn also impacts the housing rights situation of many Roma. In all three countries at issue here, the housing conditions in which significant and visible sectors of the Romani community find themselves lead to serious doubts that housing policies are race-blind in practice. The ERRC and COHRE urge that these issues be considered in the course of this review.

III. PRIMARY ISSUES OF CONCERN

Racial Segregation

Racial segregation is a particularly extreme form of racial discrimination. Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) states, “States Parties particularly condemn racial segregation and apartheid and undertaken to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”⁹ In Italy, the racial segregation of Roma is official governmental policy. In Bulgaria and Romania, Roma frequently live in segregated informal settlements located far from the majority-occupied area of town. Endemic discrimination prevents Roma from integrating into the majority population and exacerbates their

Settlements Resolution 16/7 entitled: “The realization of the human right to adequate housing” adopted onn 7 May 1997; Point 13, Global Strategy for Shelter to the Year 2000, adopted by the UN General Assembly in resolution 43/181 on 20 December 1988.

⁸ Special Rapporteur Mr M. Cherif Bassiouni, in his final report to the United Nations Commission on Human Rights on “The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms”, found, “15. Adequate, effective and prompt reparation shall be intended to promote justice by redressing violations of international human rights or humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. 16. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for its acts or omissions constituting violations of international human rights and humanitarian law norms. 17. In cases where the violation is not attributable to the State, the party responsible for the violation should provide reparation to the victim or to the State if the State has already provided reparation to the victim. [...] 21. In accordance with their domestic law and international obligations, and taking account of individual circumstances, States should provide victims of violations of international human rights and humanitarian law the following forms of reparation: restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition. 22. Restitution should, whenever possible, restore the victim to the original situation before the violations of international human rights or humanitarian law occurred. Restitution includes: restoration of liberty, legal rights, social status, family life and citizenship; return to one's place of residence; and restoration of employment and return of property.

⁹ The Committee on the Elimination of Racial Discrimination (CERD), which monitor's States' compliance with the ICERD stated, in its General Comment 19 on racial segregation and apartheid, that racial segregation can “arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.” CERD. General Comment 19: Racial segregation and apartheid (Art. 3). August 18, 1995, paragraph 4.

marginalisation. The informal nature of the housing occupied by some Roma is put forth by governmental authorities as justification for their failure to assist Romani residents and, at times, to harass them and/or to subject them to invasive practices incompatible with the international human rights standards to which all three countries at issue in this submission have freely agreed to be bound. Romani residents of segregated housing settlements, both officially recognised and informal, are not afforded the legal protection residents of formal housing enjoy. As a result, they suffer frequent abuses of their fundamental rights, including forced evictions, abusive police raids and arbitrary destruction of their property. In many cases, persons residing in such housing do not have access in practise to public services such as the provision of electricity, heating and potable water, paved roads, street lighting and other infrastructure, and are excluded from a range of public services including removal of sewage and solid waste, public transport and access to quality schooling in close proximity.

Bulgaria

A large number of Roma in Bulgaria today live segregated from non-Roma in areas known as “mahalas” or “ghettos”. Mahalas are usually found in the outskirts of larger cities. Officially, the Fakulteta Romani mahala in Sofia is home to approximately sixteen thousand Roma; unofficial sources place the number of residents closer to thirty thousand.¹⁰ The Iztok Romani settlement in the central Bulgarian city of Pazardzhik is home to around thirty thousand Roma.¹¹ In rural areas, many Roma live on the outskirts of villages. In some instances, the segregation of Roma from rest of the community has been enforced in urban and/or rural settings by the construction of physical barriers, such as metal or concrete fences, around their neighbourhoods. Two-meter high fences constructed at the expense of the respective municipalities surround all the Sheker Romani mahala in Plovdiv, and in Romani neighbourhoods in Kazanlak and Kiustendil.¹² Regardless of whether they exist in an urban or a rural setting, segregated Romani mahalas or ghettos are characterised by markedly substandard conditions and the majority of residents do not enjoy legal security of tenure.¹³ Residents of such neighbourhoods have limited access to social benefits, employment or quality education. Public services such as trash collection or public transportation is also limited in such areas.

Italy

Italy maintains a system of segregated encampments in which Roma are housed, the premise being the belief that Roma are “nomads”. In some areas, Roma are excluded and ignored, living in filthy and squalid conditions, without basic infrastructure. These Roma “squat” in abandoned buildings or set up camps along the road or in open spaces. They can be evicted at any moment, and frequently are. A racist society pushes these Roma to the margins and hinders their integration. Their settlements are often called “illegal” or “unauthorised”. Where Italian authorities have expended energy and resources on Roma, these efforts have in most cases not been aimed at integrating Roma into Italian society. Instead, Italian authorities have devoted extensive efforts to constructing “camps” or squalid ghettos that are “authorised”.¹⁴ At the time the ERRC Country Report *Campland: Racial Segregation of Roma in Italy* was published in October 2000, roughly half of all Roma in Italy lived physically separated from non-Romani Italians.

Most of the camps in which Roma in Italy live are surrounded by a wall or fence and are located on the periphery of towns and cities, though some camps do exist in town and city centres. Many of the camps visited by the ERRC are

¹⁰ Information from the Romani Baht Foundation. August 2003. Sofia.

¹¹ ERRC interviews with Mr Minko Minkov and Mr Mitko Assenov of the Napredak and Badeshte foundations, respectively. September 2003. Pazardzhik.

¹² Open Society Institute (OSI). *Monitoring the EU Accession Process: Minority Protection*. p. 94.

¹³ For example, according to Mr Minko Minkov and Mr Mitko Assenov of the Napredak and Badeshte foundations, respectively, only 10 percent of the homes inhabited by the almost thirty thousand Romani residents of the Iztok Romani neighbourhood in Pazardzhik are legally registered.

¹⁴ For example, Regional Law 299/89 of Lombardy entitled “Regional Action for the Protection of Populations with Nomadic or Semi-Nomadic Traditions”.

crowded up to extremely overcrowded.¹⁵ Many lack basic infrastructure or the provision of services required for the realisation of fundamental economic and social rights. Moreover, public officials have on a number of occasions stated that they regarded the integration of Roma into mainstream housing as anathema. For example, in an interview with the daily national newspaper, *Il Nuovo*, Rome city council member Ms Laura Marsilio stated, on Monday, April 29, 2002, that “to give housing to nomads would be a social injustice.” According to the article, Ms Marsilio further stated that Roma should be housed in “isolated container camps with police surveillance” and that Roma have “a culture different from ours. They have to learn to respect the rules. They steal and mistreat minors [...] I don’t like them. Not because I am racist, but because they don’t obey the rules.” In practice, few Roma in camps are able to have access to non-camp housing, public or private.

Romania

Most of the Romani communities visited by the ERRC in Romania have been located outside the communities of which they were nominally a part. An October 2002 ERRC field mission revealed, for example, that the Ponorâta Romani neighbourhood of the village of Vălenii Lăpuşului near Târgu Lapus in northern Romania, was so far removed that the village was not even visible. The settlement was situated on municipal land, and the residents reportedly had temporary permission to be there, although the residents were concerned that they could be evicted at any time. Around seven hundred Roma reportedly lived in the settlement. The Patarât Romani settlement lies outside the city limits of Cluj in northwestern Romania in the middle of a farmer’s field. Around three hundred and eighty Roma live in the segregated settlement. In the town of Gura Văii near Bacău in central eastern Romania, all Romani residents of the community live segregated from non-Romani residents in the Morii Street Romani settlement.

The ERRC is aware of at least one instance in which the physical segregation of Romani from non-Romani Romanians was reinforced through the construction of a wall separating the two groups. In October 2002, the ERRC visited a Romani community on Păcii Street in Zalău, northwestern Romania. The community was located in an apartment building with four entrances. Roma inhabited apartments accessible through three of the entrances, while Romanians lived in apartments accessible through the fourth entrance. A wall had been constructed between the entrance providing access to the dwellings of ethnic Romanians and that used by Romani inhabitants of the building, reportedly at the request of one of the ethnic Romanian residents. Mr József Fekete, the mayor of Zalău, informed the ERRC that he was aware of the wall, but "since no Roma had complained about it, there was nothing he could do about it." However, a Romani activist with the Zalău-based Romani organisation Equal Chances told the ERRC that he had attempted to file a complaint against the wall, but that this had resulted in no action on the part of the municipality.

ERRC research has also revealed that in some localities in Romania in which Roma do not live in segregated conditions, local authorities have announced plans to create ghettosied housing environments for Roma. For instance, ERRC research in Piatra Neamţ revealed that, on October 9, 2001, the Mayor, Mr Ion Rotaru, announced during a broadcast of the private television channel PRO TV a plan to move local Roma to a structure surrounded by barbed wire fences and guarded by community police patrols and dogs. The proposed site for the ghetto was the former chicken farm of Avicola Company, three kilometres outside Piatra Neamţ. Mayor Rotaru was quoted as stating that he intended to turn the farm into a ghetto and that those Roma who did not agree to move voluntarily would be forced to move. He later denied that he had used the term "ghetto". Also according to ERRC field research in Piatra Neamţ, in the two years preceding the Mayor’s announcement, seventeen families had been living in the stables of the Avicola Company. Each family lived in a 20-square-metre room, regardless of family size, with no source of water or sanitary facilities. The rooms were also infested with insects.

¹⁵ For example, the authorised camp Via Candoni in Rome has an official capacity of two hundred and sixty-seven people, or five to six people per container. At the time of the ERRC field mission in summer 2003 there were almost five hundred people living in the camp, each container housing two families or approximately ten people. The Via Salone camp, authorised to accommodate around three hundred people, housed approximately one thousand people in the summer of 2002.

Forced Evictions, Abusive Police Raids and Arbitrary Destruction of Property

Roma living in segregated housing settlements without legal security of tenure are highly vulnerable to forced evictions, abusive police raids on their homes and even destruction of property, phenomena which strike at the fundamental basis of family existence and stability, namely the need for security, privacy and shelter.¹⁶

The obligations of States to prevent and remedy forced evictions are clearly set out in General Comments of the UN Committee on Economic, Social and Cultural Rights (CESCR) concerning Article 11(1) of ICESCR, which have been noted with appreciation by the United Nations Commission on Human Rights.¹⁷ In its General Comment 4, CESCR, which monitors States' compliance with the ICESCR stated, at paragraph 18, "[...] instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."¹⁸ In its General Comment 7 on forced evictions, the CESCR defined forced evictions as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."¹⁹ Paragraph 16 sets out, "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." The United Nations has further set out in its Fact Sheet 21 on the Right to Adequate Housing the duty of governments to respect and protect the right to adequate housing and specifically, refrain from and prevent the practise of forced evictions on their territory.²⁰

¹⁶ Abusive police raids and the violent disruption and destruction of Romani homes is in violation of Articles 3 (prohibition on inhuman and degrading treatment) and 8 (respect for private and family life, home and correspondence) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

¹⁷ UN Commission on Human Rights Resolution, 1993/77, *Forced Evictions*, adopted unanimously on 10 March 1993 during the 49th Session of the UN Commission on Human Rights.

¹⁸ Committee on Economic, Social and Cultural Rights (CESCR). General Comment 4: The right to adequate housing (Art. 11.1 of the Covenant). December 13, 1991, paragraph 18.

¹⁹ CESCR. General Comment 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions. May 20, 1997, paragraph 3.

²⁰ Fact Sheet 21 on the Right to Adequate Housing states: "To Respect': The duty to respect the right to adequate housing means that Governments should refrain from any action which prevents people from satisfying this right themselves when they are able to do so. Respecting this right will often only require abstention by the Government from certain practices and a commitment to facilitate the "self-help" initiatives of affected groups. In this context, States should desist from restricting the full enjoyment of the right to popular participation by the beneficiaries of housing, rights, and respect the fundamental right to organize and assemble.

In particular, the responsibility of respecting the right to adequate housing means that States must abstain from carrying out or otherwise advocating the forced or arbitrary eviction of persons and groups. States must respect people's rights to build their own dwellings and order their environments in a manner which most effectively suits their culture, skills, needs and wishes. Honouring the right to equality of treatment, the right to privacy of the home and other relevant rights also form part of the State's duty to respect housing rights.

'To Protect': To protect effectively the housing rights of a population, Governments must ensure that any possible violations of these rights by "third parties" such as landlords or property developers are prevented. Where such infringements do occur, the relevant public authorities should act to prevent any further deprivations and guarantee to affected persons access to legal remedies of redress for any infringement caused.

In order to protect the rights of citizens from acts such as forced evictions, Governments should take immediate measures aimed at conferring legal security of tenure upon all persons and households in society who currently lack such protection. In addition, residents should be protected, by legislation and other effective measures, from discrimination, harassment, withdrawal of services or other threats.

Steps should be taken by States to ensure that housing-related costs for individuals, families and households are commensurate with income levels. A system of housing subsidies should be established for sectors of society unable to afford adequate housing, as well as for the protection of tenants against unreasonable or sporadic rent increases.

In addition, a number of provisions of the European Convention on Human Rights provide protections against forced evictions, arbitrary invasion of the home, and destruction of property. Article 8(1) of the European Convention on Human Rights sets forth the following guarantees: "Everyone has the right to respect for his private and family life, his home and his correspondence." In *Buckley v. the UK*²¹, the Commission found that an applicant's complaint which argued she was prevented from living with her family in her caravans on her land fell within the scope of Article 8 of the Convention as relating to her right to respect for her family life, private life and home. In its opinion, the Commission stated that the "concept of a home is not limited to those which are lawfully occupied or which have been lawfully established. 'Home' is an autonomous concept which does not depend on classification under domestic law."²² Article 8's protection encompasses each of the following rights: the right of access²³, the right of occupation²⁴, and the right not to be expelled or evicted, and is thus intimately intertwined with the principle of legal security of tenure (see above).²⁵ Indeed, in the case of *Cyprus v. Turkey* the Commission specifically stated the following: "The Commission considers that the evictions of Greek Cypriots from houses, including their own homes, which are imputable to Turkey under the Convention, amount to an interference with rights guaranteed under Article 8 paragraph 1 of the Convention, namely the right of these persons to respect for their home, and/or their right to respect for private life..."²⁶ In *Velosa Barreto v. Portugal*²⁷, the Court confirmed that Article 8 does not give a landlord the right to recover possession of a rented house on request and in any circumstances. Further, the European Court has developed extensively under its Article 8 jurisprudence the concept of "positive obligations", under which a Contracting State must not only restrict its own interferences to what is compatible with Article 8, but may also be required to protect the enjoyment of those rights and secure the respect for those rights in its domestic law.²⁸ In addition, protections available under Article 1 of Protocol 1 to the European Convention -- guaranteeing the peaceful enjoyment of one's possessions -- have been interpreted to include the protection of housing rights.²⁹ In some

States should ensure the creation of judicial, quasi-judicial, administrative or political enforcement mechanisms capable of providing redress to alleged victims of any infringement of the right to adequate housing." The Fact Sheet is available on the Internet at: <http://www.unhcr.ch/housing/fs21.htm#obligations>.

²¹ *Buckley v. UK*, 23/1995/529/615.

²² See *Buckley v. UK*, Commission decision,

²³ *Wiggins v. United Kingdom*, No. 7456/76, 13 D & R 40 (1978).

²⁴ *Ibid.*

²⁵ *Cyprus v. Turkey*, 4 EHRR 482 (1976).

²⁶ *Ibid.*, para. 209.

²⁷ Series A, No. 334.

²⁸ E.g. *Costello-Roberts v. United Kingdom*, March 25, 1993, Series A, No. 247-C; 19 E.H.R.R. 112, para.26.

²⁹ In *Öneryildiz v. Turkey*, a case involving the destruction of slum dwellers' homes following an explosion at a rubbish tip, the European Court of Human Rights, while finding a violation by the Turkish government of Article 1 of Protocol 1 ruled, *inter alia*, "The Court reiterates that the concept of 'possessions' in Article 1 of Protocol No. 1 has an autonomous meaning and certain rights and interests constituting assets can also be regarded as "property rights", and thus as "possessions" for the purposes of this provision ... the Court considers that neither the lack of recognition by the domestic laws of a private interest such as a 'right' nor the fact that these laws do not regard such interest as a 'right of property', does not necessarily prevent the interest in question, in some circumstances, from being regarded as a 'possession' within the meaning of Article 1 of Protocol No. 1 ... It must be accepted ... that notwithstanding that breach of the planning rules and the lack of any valid title, the applicant was nonetheless to all intents and purposes the owner of the structure and fixtures and fittings of the dwelling he had built and of all the household and personal effects which might have been in it. Since 1988 he had been living in that dwelling without ever having been bothered by the authorities (see paragraphs 28, 80 and 86 above), which meant he had been able to lodge his relatives there without, *inter alia*, paying any rent. He had established a social and family environment there and, until the accident of 28 April 1993, there had been nothing to stop him from expecting the situation to remain the same for himself and his family. ... In short, the Court considers that the dwelling built by the applicant and his residence there with his family

circumstances, forced evictions may rise to the level of cruel and degrading treatment or punishment, as banned under Article 3 of the Convention.³⁰

Bulgaria

Forced evictions of Roma occur frequently in Bulgaria, often as a direct consequence of a lack of legal security of tenure, and has resulted in the homelessness of Roma in Bulgaria, for example:

- In September 2002, a Romani family comprised of eleven members, including a number of small children, was evicted from their municipally-owned flat in the central Bulgarian city of Shumen, due to non-payment of rent. According to ERRC research, local authorities failed to provide alternative housing and as of ERRC research in September 2003, the family lived in extremely substandard conditions in an abandoned building near the city centre.
- In Shumen, in 2002 and 2003, between thirty and forty Romani families were evicted from their state-owned flats without the provision of alternative accommodation. The evictions were reportedly the result of the inability of the Romani residents to pay increased rental fees for the flats in which local government had placed them at the beginning of the 1990s, following the construction of a road through their neighbourhood. Evictions rendering people homeless are in violation of Bulgarian domestic law.³¹ The majority of the evicted Romani families currently reside with relatives in the Romani settlement or in illegally erected shacks and shanties within the settlement short of electricity and potable water.
- In 2002, Ms Zlatka Raykova Marinova, a 41-year-old widowed Romani woman, and her four children, were evicted without prior notice or an eviction order from the brick home she had built without permission several years earlier in the Vitosha settlement in Shumen.³² According to Ms Marinova's testimony, police officers, who simply arrived at her home and told her to leave, were verbally abusive during the eviction. As local authorities failed to provide her with alternative accommodation, Ms Marinova moved in with her sister's family and applied repeatedly for social housing, only to be refused by the Municipal Administration Office. In April 2003, she decided to erect a 3.5 squared metre shack made of nylon, timber and old materials on municipal land on the periphery of the Vitosha settlement. The shack, which houses Ms Marinova and her four children, lacks electricity and running water. Since Ms Marinova still lacks legal security of tenure for her house, the imminent threat of eviction is continuously present. The Shumen-based Romani organisation Neve Droma entered negotiations on behalf of Ms Marinova with the municipality and, reportedly in connection to the local elections, the municipality donated cement and various building materials to Ms Marinova which will enable her to construct a solid house consisting of two rooms.
- In the summer of 2001, one hundred and fifteen Romani residents of the Assanova Romani settlement in Sofia were forcibly evicted and their homes destroyed by municipal authorities. The evicted Roma were reportedly relocated to a single room metal barrack lacking both electricity and running water.

With respect to threatened evictions, the Sofia-based Romani organisation Romani Baht Foundation reports that the Municipality of Sofia is about to implement a project for the construction of a new highway, running through the Fakulteta Romani neighbourhood, with funding from the World Bank. According to the Foundation, between 250 and 300 Romani homes will be destroyed to make way for the highway, creating mass homelessness among the

represented a substantial economic interest. That interest, which the authorities allowed to subsist over a long period of time, amounts to a 'possession' within the meaning of the rule laid down in the first sentence of Article 1 § 1 of Protocol No. 1..."

³⁰ See *Mentes and Others v. Turkey*, 58/1996/677/867 and *Selcuk and Asker v. Turkey*, 12/1997/796/998-999.

³¹ Civil Procedural Code, SG No. 12/8.02.1952. Article 339 states: "Execution may not be directed against the following items belonging to an individual in debt: [...] g) the dwelling of debtor, if the latter and neither one of the members of his family living with him have another place of habitation, irrespective of the fact that the debtor resides in it. (If the home surpasses the needs of the debtor or the members of his family, the part adjudged to exceed those needs should the conditions of Article 39, Para. 2 PA of the Property Act be present, shall be sold.)"

³² ERRC interview with Ms Zlatka Raykova Marinova. August 2003. Shumen.

residents. There is reportedly no provision of alternative accommodation in the plans and as the homes to be destroyed have been built without legal permission, the owners will not be compensated.³³

Italy

With alarming frequency, law enforcement officials in Italy subject Romani camp residents to abusive raids, forced eviction, threatened expulsions or expulsions from Italy and destruction of property. Raids are often carried out late at night or early in the morning. Roma are often taken into custody following arbitrary raids on their homes for “identity checks” and have, in numerous instances, returned to find their homes and possessions destroyed in their absence. All indications point to the conclusion that Italian authorities do not regard the homes of Roma as inviolable, and subject to the same level of protection as those of non-Roma. In the majority of cases of forced eviction of Roma, victims of these actions are left to fend for themselves as the Italian government fails repeatedly to provide them alternative accommodation. The following is only a partial listing of the most recent of such events of which the ERRC is aware:³⁴

- On February 6, 2003, at 6:00 AM, approximately fifty municipal police, military police (*carabinieri*) and fire fighters entered the Via Salaria Romani camp in Rome with bulldozers and ordered the approximately three hundred Romani inhabitants to evacuate the premises. Roma from the camp informed the ERRC that it was announced that their shacks and campers would be destroyed and that they were to move to the Via Salone Romani camp at another location in Rome. As the dismantling of the camp was taking place, Mr C.D., a 33-year-old Romanian Romani man³⁵ living in the camp, testified to the ERRC that they were simply put out on the

³³ Information from the Romani organisation Romani Baht Foundation, August 2003, Sofia.

³⁴ Further information is contained in the ERRC Country Report *Campland: Racial Segregation of Roma in Italy*, October 2000, available on the ERRC Internet website at: <http://errc.org/publications/indices/italy.shtml>.

³⁵ A high number -- though not all -- of the persons in segregated Italian camps are third-country nationals, de facto refugees and/or stateless persons, frequently from countries of the former Yugoslavia and Romania, as well as in some cases from Albania, Bulgaria or Turkey.

However, the category of non-citizens in Italy -- particularly among Roma -- is diverse and includes a number of persons whose family may have been in Italy for a number of generations. Many of the Roma with whom the ERRC met during field research were born in Italy. Of the foreign Roma born outside Italy, many had been living in Italy continuously for the past thirty years. Immigrant Roma and other Roma lacking Italian citizenship frequently have no official proof of how long they have lived in Italy, in part because of a series of amendments to Italian legislation pertaining foreigners undertaken repeatedly in the period since 1989, which have rendered Italian legislation on the issuance of residence permits extremely restrictive.

For example, 32-year-old Mr V.M. from the Secondigliano camp in Naples told the ERRC in 1999 that, although his family had been in Italy for seven years, he had no way of proving that fact (ERRC interview with Mr V.M. January 22, 1999. Naples). In the most extreme case, Mr T.B., a Romani man from Croatia, told the ERRC that he arrived in Italy in 1939 and was placed in a concentration camp until 1943. Mr T.B. stated that he married an Italian citizen in 1952 and subsequently had thirteen children, all of whom have Italian citizenship. However, Mr T.B. has been unable to acquire anything more than a two-year residence permit in the last 51 years (ERRC interview with Mr T.B. July 29, 2003. Rome). The longest period of validity on any residence permit held by a Romani individual seen by the ERRC is two years. The overwhelming majority were valid for only one to six months. In addition, traditional and common law marriages are often not recognised by Italian authorities, so many Romani families are unable to benefit from family reunification rules even if head of the family obtains a residence permit.

The ERRC and COHRE are aware that the Appendix of the RESC states, “Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 and 20 to 31 include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19.” The ERRC and COHRE note that a number of the frequent countries-of-origin of Roma who are third-country nationals in Italy indeed originate from countries which are party to the 1961 Charter and/or the RESC, including Albania, Bulgaria, Croatia, Macedonia, Romania, Slovenia, and Turkey. In addition, in its Second Report on Italy, made public on April 23, 2002, the Council of Europe’s European Commission against Racism and Intolerance, at paragraph 62, encouraged “Italian authorities to devote urgent attention to the question of Roma/Gypsies’ access to residence permits and citizenship.” On the basis of the above, the ERRC and COHRE urge the Committee to consider in its review the situation of all Roma residing on the territory of Italy.

street. At approximately 9:15 AM, a roadblock was set up on the road outside the camp in an attempt to keep the Romani inhabitants from re-entering the camp. Mr Luigi di Stefano, Rome's Municipal Police Co-ordinator, testified to the *ERRC* that the residents had not received any notice that the eviction would take place. When the *ERRC* left the camp at 1:30 PM, most of the shacks and campers had been destroyed and all of the personal belongings of the Romani inhabitants were scattered throughout the camp.

- Fifteen municipal police, accompanied by Mr Mario Vallarosi, head of Rome's Immigration Office, entered the Villa Troili Romani camp on the northern periphery of Rome to perform "routine checks" at approximately 3:00 AM on November 8, 2002, according to an *ERRC* investigation. Villa Troili is a state-run camp, authorised to house one hundred and fifty Roma in container units. Two hundred Roma lived in the camp. On November 10, 2002, Ms A.M., a 25-year-old Romani woman living in the camp with her husband and 3-year-old daughter, testified to the *ERRC* that an officer opened the door to their container home, shined a bright light and yelled at them to go outside with their documents. Ms A.M. told the *ERRC* that she asked the officer if her daughter could stay inside because it was very cold and raining, but the officer said she could not. The Romani inhabitants of the camp were reportedly forced to stand outside until around 7:00 AM, at which point the officers reportedly stated that anyone not on the list of people registered to live in the camp would be expelled from Italy.
- Earlier, on November 4, 2002, the Italian national daily newspaper *Il Nuovo* reported that more than two hundred municipal police and military police officers (*carabinieri*) entered the Via Salone Romani camp on the outskirts of Rome and conducted a "check" on the camp inhabitants from 7:00 AM until 8:00 PM. The raid reportedly followed a meeting of the Provincial Committee of the Lazio Region, in which the Committee agreed to carry out regular checks of the Romani inhabitants of the Via Salone camp and remove Roma living illegally in the state-authorised camp, according to the Italian national daily newspaper *Corriere della Sera* of October 21, 2002. On October 22, 2002, the Italian national daily newspaper *La Repubblica* reported that the Committee also decided to dismantle illegal housing structures in the Via Salone camp, in an apparent attempt to reduce the number of inhabitants in the camp to three hundred from one thousand.
- In mid-October 2002, police raided the unauthorised Via Magliana Romani camp on the northwestern periphery of Rome, according to the testimony of Ms Liliana Baboi, a 25-year-old Romani woman, provided to the *ERRC* on December 12, 2002. Ms Baboi reported that police entered the camp at 4:00 AM, loaded all the Roma living in the camp onto a bus and brought them to the police station on Via Genoa. At the station, Ms Baboi stated, the Roma were fingerprinted and photographed, after which they were held until around 2:00 AM the following evening, when they were taken to another camp and without their possessions. Ms Baboi reportedly went back to the Via Magliana camp in the morning and found that everything in the camp had been destroyed while the Roma were held at the police station.
- Forty police officers rounded-up Roma, principally from three Romani camps in and around Rome -- Villa Troili on the northern periphery, Via Salone on the southern periphery and Vicolo Savini on the southeastern periphery -- led by Police Commander Antonio di Maggio, at around noon on September 26, 2002. Mr L.C., a 30-year-old Romani man who lives at the Via Salone camp, testified to the *ERRC* that he was sprayed with pepper while a plainclothes police pulled his 18-month-old son out of his arms. Other Roma in the camp with whom the *ERRC* spoke reported incidents of police misconduct during the round-up. In an interview with the *ERRC* on September 26, 2002, following the raid, Mr di Maggio stated that the operation was planned following a court order which gave the police investigative power and the right to detain Romani beggars suspected of exploiting children for financial purposes. Mr di Maggio told the *ERRC* that thirty Romani minors had been sent to a local clinic to be examined for signs of "malnutrition and abuse" and that seventy Romani adults had been taken to the Rome's immigration headquarters at the police station on Via Genoa for identification.
- On August 27, 2002, Mr Alija Memed, a 36-year-old Romani man, testified to the *ERRC* that at around 6:00 AM that same morning, thirty state police, military police and municipal police raided camp Tor de' Cenci and camp Lombroso on the southern periphery of Rome. Following the raid, Mr Memed reported that twelve Roma from camp Tor de' Cenci and ten Roma from camp Lombroso, all without visas, were taken to the nearby Tor de' Cenci Police Station, some of whom were held in custody until approximately 8:00 PM for what police called "routine checks", according to Mr Memed. None of the detained Roma were served expulsion notices. According to Mr Memed, "the detained Roma were all activists, mostly from the organisation Šutka. Other Roma from the same two camps were without visas, however, they were not taken to the police station."
- On July 4, 2002, the Milan-based daily newspaper *Il Giorno* reported that, on July 2, 2002, in the town of Monza, in central Italy, approximately sixty Roma were removed, along with their campers, vans and cars from

camp Via Carrá by municipal police and military police. According to *Il Giorno*, the remaining ten Roma were expelled from the camp early in the morning on July 4, 2002.

- On July 3, 2002, the Florence daily newspaper *La Nazione* reported that around three hundred Romani refugees from Kosovo were to be removed from the Romani camp Masini, on the periphery of Florence, by the police. According to *La Nazione*, approximately thirty of the families were to be moved to the Poderaccio camp where the municipal government had set up prefabricated housing units. On August 2, 2002, the ERRC received information from Mr Piero Colacicchi of the Association for the Protection of Minorities that, beginning July 5, 2002, ninety Roma were expelled from camp Masini. On the same day and also on July 8, 2002, the police entered camp Masini with bulldozers, which was reportedly guarded by police and military police, and proceeded to destroy huts in the camp. Mr Colacicchi further informed the ERRC that, “For a whole week, the Roma were left on their own and lived under self-made tents with twenty or so children.” One week later, after protest by the Roma and NGOs, some were moved to a gymnasium and some were placed in economy hotels around Florence with the assistance of the city. Approximately one hundred and sixty Roma remained at the Masini camp because they had no where else to go. Two families were reportedly threatened with expulsion because they did not have residence permits.
- On July 2, 2002, the Bologna-based daily newspaper *Il Resto di Carlino* reported that at sunrise in Ancona, a central Italian town on the Adriatic Coast, municipal police removed Roma in their campers with municipal towing machines, as a final step in dismantling their camp on the town’s periphery.
- *Il Nuovo* reported on May 27, 2002, that, on May 26, 2002, in front of the Milan City Hall, around fifty Romani men, women and children were involved in a protest for housing. According to *Il Nuovo*, the Roma were removed from the Barzaghi camp in November 2001 when it was dismantled, but had not been provided with alternative housing. On January 25, 2002, the Municipal Office for Nomadic Affairs in Milan informed the ERRC that, according to a census conducted in the camp in August 2001, there were five hundred and eighty Roma living in the camp, three hundred of whom were allowed to enter into the new camps next to Barzaghi. On December 21, 2001, Mr Fabio Zerbin, an attorney working with *3 Febbraio* and *S.O.S. Anti-Expulsion Switchboard*, reported to the ERRC that on November 6, 2001, municipal police began dismantling Barzaghi at dawn. Romani families possessing resident permits were moved to Triboniano. Approximately one hundred and thirty inhabitants had their homes destroyed with their belongings inside, resulting in loss of property. Many inhabitants were away from the site and returned to find the area bulldozed. Field investigation conducted by the ERRC revealed that as of October 24, 2002, about one hundred Roma who were not provided with accommodation following the dismantling of Barzaghi camp appeared to have returned to the site of the former camp and were living without any shelter, sanitary facilities or electricity. According to *Il Nuovo*, a number of Roma were expelled from Italy following the destruction of the camp.

Romania

ERRC field research in Romania and monitoring of Romanian media sources has revealed that forced evictions of Roma frequently occur, often without the provision of alternative accommodation, or at best, with the provision of inhuman and highly inadequate alternative housing. Forced evictions have rendered large numbers of Roma, including many children, in Romania effectively homeless. Forced evictions of Roma are often carried out with little or no written notice. During eviction procedures, in many of the cases that the ERRC is aware of, the homes formerly occupied by Romani evictees are destroyed.³⁶ For example:

- On November 5, 2002, a representative of the Cluj Mayor's Office informed the Roma living in the Casa Calăului Romani settlement that they would be evicted the next day and moved outside of the city. The Cluj-based Romani organisation Amare Phrala reported to the ERRC that on November 6, 2002, fifty police, gendarmes and representatives of the mayor's office evicted the Roma and, following negotiations between the Mayor's Office and Amare Phrala, they were given a one-month contract at a bomb shelter in the basement of an apartment building in the city, in which there were no windows but heat, electricity and one water source per six families. On November 29, 2002, the Cluj-based Romani organisation Resource Center for Roma Communities (RCRC) informed the ERRC that the Roma were evicted from the bomb shelter to the Patarăt Romani settlement

³⁶ The destruction of Romani homes violates Article 8(1) of the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR), which states, “Everyone has the right to respect for his private and family life, his home and his correspondence”. Romania ratified the ECHR on June 20, 1994.

outside of Cluj, without an eviction order, following the public protest of building residents. Sixty-two Roma were moved into eleven barracks made of thin metal at the Patarăt Romani settlement where there is no source of electricity, one source of running water, no sanitary facilities and no source of heat except what the residents can find to burn. On February 3, 2003, the RCRC informed the ERRC that since the first eviction, Romani children from the Casa Calăului settlement had been attending school irregularly because it was too far for them to travel;

- On August 13, 2002, over fifty Romani families were evicted from the shacks they were living in behind the unfinished Radio House on Splaiul Independenței in the centre of Bucharest's 1st District, according to the Romanian national daily newspaper *Gardianul* of August 14, 2002. According to the *Gardianul*, the Romani men were taken to the Third Police Station when they failed to show the police their identification documents, while the women and children were expelled from Bucharest to the towns from which they originally came;
- On July 27, 2002, the Bucharest-based daily newspaper *Monitorul de București* reported that, on July 26, 2002, at around 8:00 AM, eight Romani families were evicted from Bucharest's 1st District by police officers, public guardian and inspectors from the District's Mayors Office. According to the daily, the Roma were forced into their carts, escorted to the city limits and expelled. In addition, the Roma were given administrative fines for having brought their carts into the Bucharest's 1st District, in violation of the Bucharest General Council's Decision 233 dated October 26, 2000, which prohibits people from entering the city centre with horse-drawn carts;
- According to the electronic newsletter *Inforrom* of July 25, 2002, dozens of Romani families were evicted from the Romani neighbourhood Ghidiceni in the Prelungirea Ghencea zone of Bucharest. The neighbourhood was located near a reservoir in Bucharest owned by the Apa Nova Water Supply Company. The Roma had reportedly been served eviction notices several times in the past by the local council of Bragadiru, a village on the outskirts of Bucharest, and the Apa Nova Water Supply Company. When they did not leave, Mr Emanuel Nica, the Bragadiru Police Chief, together with police officers, evicted the Romani families and destroyed their homes. The police forced the Roma into their carts and out of Bucharest. *Inforrom* reported that a representative of the Bragadiru Mayor's Office stated that the cleansing of Roma from the area had just begun and the action would continue;
- According to the daily *Monitorul de București* of June 13, 2002, several Romani families were evicted from Cremenita Street in Bucharest's 2nd District. According to the article, the Roma were living in illegal constructs on the street. During the eviction, the buildings were reportedly destroyed on the order of Mr Neculai Ontanu, Bucharest's 2nd District Mayor, to prevent the return of the Roma. According to the article, the Romani families were escorted to the outskirts of Bucharest by police officers and public guardians and expelled from the city;
- On the morning of May 15, 2002, twenty Roma were evicted from Bucharest's 4th District, according to the electronic newsletter *Romanews* of the same day. Six tents were reportedly demolished during the eviction carried out by the police in the presence of representatives of the 4th District Mayor's Office. According to an official statement issued by the Mayor's Office, the Roma, had been in the area for only a few weeks. However, one of the evicted Roma, Mr Enache Gigel, stated that the group, which had been living in the area for several years, had been given only one day's warning.

Substandard Living Conditions

The housing conditions endured by a large number of Roma in Bulgaria, Italy and Romani fall far short of international standards related to the right to adequate housing. In its General Comments 4 on the right to adequate housing, the CESCR set out very clear criteria as to what characteristics housing must possess to be considered adequate. In accordance with the CESCR's comments, adequate housing entails legal security of tenure, access to services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.³⁷

Bulgaria

The standard of housing in Romani settlements is generally below the average Bulgarian standard. According to the Bulgarian government, living space per capita for Roma is only 7.1 metres squared, while the figure for the country as a whole is 16.9 square metres.³⁸ In some rural areas, it has been found that Roma live in as little of 5.2 square

³⁷ CESCR. General Comment 4, paragraph 8.

metres of living space per person.³⁹ High levels of overcrowding in Romani neighbourhoods is in many cases aggravated by a lack of public services such as running water, hot water, central heating and adequate sewage systems. According to the World Bank, 32.4 percent of Romani households in Bulgaria do not have access to cold running water, 90.6 percent do not have access to hot running water, 47.7 percent do not have canalisation or sewers, 76.5 percent do not have bathrooms or showers in their homes, 85 percent do not have indoor toilets and 36.7 percent sleep on earthen floors in their homes.⁴⁰

The living conditions in Romani neighbourhoods in Bulgaria are often appalling. Many homes consist of makeshift shacks made of cardboard, metal scraps and mud bricks and frequently are devoid of windows, doors and walls. Homes in the outer areas of informal settlements ("mahalas") often lack electricity and running water. More than twenty thousand Roma live in the Maksuda Romani neighbourhood in northern Bulgarian city Varna on the coast of the Black Sea; according to ERRC research, a mere twenty houses in the neighbourhood had running water as of September 2003. The entire neighbourhood lacked a sewage-removal system, and inhabitants were forced to dig self-built outdoor toilets. Very few of the Romani residents of this neighbourhood had legal security of tenure and at the time of ERRC field research in September 2003; a legal case for the repossession of land has recently been filed by pre-Communist Era landowners. Thousands of Roma are therefore faced with the threat of homelessness.⁴¹ Romani residents of the Iztok Romani neighbourhood in Pazardzhik live almost entirely without basic infrastructure. At the time of ERRC field research in September 2003, in the settlement, which is home to up to thirty thousand Roma, only two streets were paved. Only half of the homes had access to water and about seventy homes had access to public sewage removal. Further, the municipality did not collect trash from the settlement.⁴² Many of the homes had access to electricity, but, as is common in Romani settlements in Bulgaria, electric meters had been placed on poles approximately five metres from the ground, meaning that Roma are unable to check the validity of the bills they receive, leading many Roma to contest the amounts of their electricity bills.⁴³ Common metres count electrical usage in many Romani communities in Bulgaria, meaning that individual Romani residents cannot tell how much power they have consumed and therefore do not know how much money they owe.

The Stolipinovo Romani neighbourhood in the central Bulgarian city of Plovdiv is home to approximately forty thousand Roma. According to ERRC research, 95 percent of the residents of the neighbourhood live without legal security of tenure. A Romani activist from the neighbourhood informed the ERRC that during the 1970s, the Bulgarian government built several blocks of flats in the neighbourhood which stand today in terrible condition as the government does not maintain the buildings. Residents living on the top floors of the buildings do not have water due to problems with water pressure in the buildings and, despite complaints filed with the Water Company, no actions have reportedly been taken to restore water in the flats. While there are some standard houses in the settlement, a large number of makeshift shacks exist and several families inhabit each house. Residents in the neighbourhood live without electricity between 8:00 AM and 8:00 PM due to debts to the National Electric

³⁸ CESCR. Reply to the List of Issues: Bulgaria 09/07/99. November 15 to December 1, 1999, paragraph 4(1). Available on the Internet at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/d3ca19895b9f9922802567ac004ecbd6?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/d3ca19895b9f9922802567ac004ecbd6?Opendocument).

³⁹ Zoon, Ina. "On the Margins: Roma and Public Services in Romania, Bulgaria and Macedonia". Mark Norman Templeton, ed. New York: Open Society Institute. 2001, p.142.

⁴⁰ Revenga, A., Ringold, D., and Tracy W.M. "Poverty and Ethnicity: A Cross-Country Study of Roma Poverty in Central Europe". In Ringold, D., Orenstein, Mitchell A., and Wilkens, Erika. "Roma in an Expanding Europe: Breaking the Poverty Cycle". The World Bank: Washington, D.C. 2003, p. 34.

⁴¹ ERRC field research in Varna. August 2003.

⁴² ERRC interviews with Mr Minko Minkov and Mr Mitko Assenov of the Napredak and Badeshte foundations, respectively. September 2003. Pazardzhik.

⁴³ For example, in summer 2003, Romani Baht Foundation initiated legal action on behalf of Ms Lyutfia Kocheva, a Romani woman from Sofia, who, upon receiving an unusually high bill, asked the National Electric Company to check her metre because she is unable to. The National Electric Company refused to either check her metre or to allow Ms Kocheva to view the data from the metre.

Company. Four segregated schools exist in the settlement, which are also cut off from electrical supply during this time, rendering education nearly impossible.⁴⁴ The non-provision of electricity to entire neighbourhoods affects also Roma who regularly pay their bills, as has been reported to the ERRC by Romani residents of the Fakulteta Romani neighbourhood in Sofia.⁴⁵

Italy

The living conditions in camps inhabited by Roma/Gypsy families are in many instances extremely harsh, due to the lack of basic infrastructure and facilities, including energy, heating and lighting, sanitation as well as washing facilities and refuse disposal, site drainage and emergency services. The City of Rome's Assessor of Social Politics, Mr Carlo Chiaramonte, informed the ERRC that authorised camps are "equipped" ("*attrezzato*") by the city in line with minimum housing code standards.⁴⁶ Housing in the camps frequently consists of makeshift shacks, containers and trailers. Few of the camps visited by the ERRC had asphalt groundcover. Those without had only dirt, which quickly turned to mud during rain and created clouds of dust during the summer. According to ERRC research, about three-quarters of the camp inhabitants have access to running water and electricity, though in unauthorised camps, Romani inhabitants are forced to illegally access such services or to go without water and electricity. In many of the authorised camps, such as Rome's Casilino 900 camp, at the time of an ERRC visit in August 2003, there existed a situation in which common meters counted electrical usage, meaning that individual Romani residents could not know how much power they had consumed and therefore did not know how much money they owed.⁴⁷ At the time of the ERRC field mission to Rome in August 2003, only authorised camps in the city had any form of sewage system. None of the camps visited by the ERRC during its five-year presence in Italy had adequate sewage removal systems. For example, in the Casilino 700 camp in Rome, about twelve chemical toilets served nearly one thousand five hundred residents until its dismantling in late 2000.

Despite being furnished with basic amenities, at the time of the ERRC field mission in summer 2003, the majority of authorised camps in Rome suffered from insect and rat infestations, poor storm drainage and inadequate garbage collection. One camp, Via Candoni, suffered from a serious rat infestation and, as a result, many families were afraid to let their children play outside in the evening. According to camp residents, the Villa Troili camp regularly floods in hard rain, bringing refuse and garbage into people's homes. Further, camps Salviati 1 and Salviati 2 amassed enormous piles of garbage, including large pieces of furniture and home appliances, at the entrance of the camps that had not been collected for several months.⁴⁸ The conditions in unauthorised camps were generally found to be worse.

Despite the highly inadequate living conditions available to camp inhabitants, local authorities refuse permission to Roma wishing to improve their housing on their own. Authorities often do not permit Roma in authorised camps to build homes and several Roma informed the ERRC during research in 1999 that they had not built homes because they had not obtained a guarantee from local authorities that their home would not be destroyed if built. For example, Mr F.S., a Romani man from the former Yugoslavia living in Rome's Casilino 900 camp, told the ERRC that non-Roma who had previously lived in the camp had been given housing by the state about half a kilometre from the camp. However, Mr F.S. repeatedly requested permission from the municipality to build a house, but was invariably told that he would not be granted building permission and if he chose to build without such, the illegal structure would be demolished.⁴⁹

⁴⁴ ERRC interview with Mr Anton Karagyozov, Head of the Roma Foundation. September 2003. Plovdiv.

⁴⁵ For example, Romani Baht Foundation informed the ERRC that interviews with Mr Georgi Yubov, Mr Nayden Naydenov and Ms Stefka Naydenova, who regularly pay their bills were told by the National Electric Company in September 2003 that they would have electricity when they made their neighbours pay their bills, September 2003, Sofia.

⁴⁶ ERRC interview with Mr Carlo Chiaramonte, Assessorato alle Politiche Sociali Comune di Roma, July 31, 2003, Rome.

⁴⁷ Observations from an ERRC field mission to Rome, July 28 to August 3, 2003.

⁴⁸ Observations from an ERRC field mission to Rome, July 28 to August 3, 2003.

⁴⁹ ERRC interview with Mr F.S. January 21, 1999, Rome.

Romania

According to the World Bank, 89.3 percent of Romani households in Romania do not have access to hot running water, 58.6 percent do not have access to cold running water, 70 percent do not have canalisation or sewers, 81.1 percent do not have bathrooms or showers in their homes, 81.7 do not have indoor toilets and 39 percent sleep on earthen floors in their homes.⁵⁰ Nearly every Romani community visited by the ERRC was characterised by markedly substandard conditions.

In the Patarăt Romani settlement, around three hundred and eighty Roma live in around seventy shacks made from old wood, scrap metal, cardboard and/or mud. The one water source for the settlement was located on a hill beside a farmer's field. Mr Ioan Florin, a 23-year-old Romani man, told the ERRC that the government had done nothing to improve the substandard living conditions in the settlement. Ms Titilia Kolozsi stated that most of the Roma in the settlement did not have personal identification cards and therefore could not get access to social aid or social housing.

The apartments in which Roma lived on Păcii Street in Zalău did not have any source of electricity, heat or water, while those living in the section of the building inhabited by ethnic Romanians had access to such services, according to Equal Chances. There were large amounts of garbage accumulated around the area of the building inhabited by Roma and the façade was black, as if it had been on fire. According to Equal Chances, this was due to the Romani inhabitants burning whatever they could find to heat their apartments. Each apartment reportedly accommodated three or more Romani families, and in one flat, there were twenty-seven people residing.

The Ponorâta Romani neighbourhood of the village of Vălenii Lăpuşului was situated on municipal land and the residents reportedly had temporary permission to be there, although the residents were concerned that they could be evicted at any time. Around seven hundred Roma reportedly lived in the settlement, in houses that were constructed from mud and/or clay. Many of the houses did not have glass in the windows or doors covering the entrance; the floors in the houses were the ground that they were built on and some houses did not have roofs. There was no source of electricity in the settlement, and some of the houses did not even have a wood stove with which to provide heat. According to Mr G.L., a 50-year-old Romani man, in the middle of September 2002, Mr Ioan Faur, the Mayor of Vălenii Lăpuşului, visited the settlement and when offered by local Roma 500,000 Romanian lei (approximately 15 Euro) per person for electricity in the community, stated "Never. You will never get light here." Additionally, there was no water source in the settlement, and the Roma reported that they gathered water for drinking and cooking from a stream in a farmer's field adjacent to the settlement. At the time of the ERRC visit, there were cows grazing in the stream.

In the village of Ocolna near Craiova in southern Romania, when asked by the ERRC whether their house had running water, Mr Marian Căliu, a middle-aged Romani man replied in confusion, "Running water? What is that? Oh, I know, I have seen that once in Craiova."⁵¹ In Alexandria, a town in southern Romania, at the time of an ERRC visit in May 2000, the Romani houses on Potcoava street had no sewage removal system, even though non-Romani houses located at both ends of that street were connected to a sewage system.⁵² In some quarters of the predominantly Romani neighbourhood Ferentari in Bucharest, there was only cold water for tenants, and the municipal cleaning service teams had not taken away rubbish, which had then piled up all over the settlement.⁵³ The

⁵⁰ Revenga, A. et al, p. 34.

⁵¹ ERRC interview with Mr Marian Căliu, May 12, 2000, Ocolna.

⁵² ERRC interview with Ms Sanda Garaliu, May 11, 2000, Alexandria.

⁵³ ERRC interviews with Romani tenants of the Văltore street in the Ferentari neighbourhood. May 17, 2000. Bucharest. One survey, conducted in 1992, indicated that Roma were three times more likely than non-Roma in Romania to live in dwellings without electricity (see Zoon, Ina. *On the Margins: Roma and Public Services in Romania, Bulgaria and Macedonia*. Mark Norman Templeton, ed. New York: Open Society Institute. 2001, p.127).

same complaint regarding the lack of garbage removal by the authorities was heard in other Romani communities.⁵⁴ The lack of heating reportedly led to several deaths of Roma due to exposure in the Ferentari neighbourhood in the winter of 1999/2000.⁵⁵ According to reports, Roma in one community have been housed by municipal officials in former pigsties.⁵⁶

Denial of Access to Social Welfare

In addition to the provision of social and family benefits as outlined in the RESC, Article 9 of the ICESCR guarantees “[...] the right of everyone to social security, including social insurance.” While irregularities in the provision of such in itself constitutes a breach States’ obligations under the RESC, they further directly impact the ability of Roma, many of whom are greatly dependant on state support as a means of survival, to secure adequate family housing. Paragraph 8 of the CESCR’s General Comment 4 states that one of the key tenants of adequate housing is the notion of affordability: “[...] Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs.” The Committee further stated, “[...] a general decline in living and housing conditions, directly attributable to policy and legislative decisions by States parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations under the Covenant.”⁵⁷ The high level of unemployment amongst the Romani population in many European countries means that a great number of Roma rely on social welfare benefits as their main source of income, without which, housing of any standard becomes unattainable.

ERRC documentation over the past several years indicates that local authorities in Romania have enacted legal measures which preclude many Roma under their jurisdiction from having access to state-provided welfare benefits. The outcome of such policies is disastrous for the housing situation of the affected Roma, as such persons are rendered incapable of improving the very substandard conditions in which they live, as outlined above.

On January 1, 2002, the Law on Guaranteeing Minimum Income came into effect in Romania. In accordance with the law, Romanian families with an income below a set level would receive supplemental income from the Romanian government. Since the adoption of the law, the ERRC has heard disturbing accounts of Roma being discriminated against in its application. Under Article 8(2) of the law, the mayor shall take into consideration the rent or other products of any land, buildings or other goods, when taking a final decision on the amount of social assistance to grant. Mr George Andreescu, the Mayor of Gura Văii, in Bacău County, central eastern Romania, stated that nearly all local councils throughout the country had taken decisions based on this article.⁵⁸ In some cases, the

⁵⁴ ERRC interviews with Romani tenants of the IAS settlement of Mangalia, May 14, 2000.

⁵⁵ ERRC interview with Ms Florica Niță. May 10, 2000, Bucharest.

⁵⁶ According to human rights researcher Ina Zoon, “In Deva, Hunedoara, Romani families used to live scattered in state-owned apartments all over the city. The loss of employment has resulted in impoverishment, inability to pay rent, and systematic evictions. Homeless, some of the evictees gathered in an abandoned building at the edge of the city. In May 1998, the company that owned the building obtained a court order and forced more than a hundred people, including children, out onto the streets. Some of these families and other homeless Roma from the city gathered in front of city hall asking the municipality for help. After a two-month demonstration, the mayor offered the protesters and their families some pigsties on the outskirts of the city. [...] Residents also reported that they were not required to pay rent, but they had to improvise their own infrastructure and services, without any assistance from city hall in money, materials, or equipment. Leasing contracts do not exist, and residences do not have addresses. When residents have to fill out forms, they write in the space for the address: ‘to the pigs’ (la porci).” (Zoon, pp.124-125).

⁵⁷ CESCR, paragraph 11.

⁵⁸ ERRC interview with Mayor George Andreescu, October 2003, Gura Văii.

decisions, which in effect may arbitrarily limit the amount of social aid allocated, affected Roma disproportionately. In Braşov in central Romania, Mr Tibor Gabor, a Romani man, told the ERRC that it was his impression that the lower the representation of Roma in local councils, the greater the limitations placed on social aid payments. Mr Gabor was in possession of various decisions taken by local councils regarding the allocation of social aid. According to the minutes of Hearing 35 on July 31, 2002, the Maerus Commune Council in Braşov County decided that "People who have horses and not land, use the horses to steal." Because of this, according to the decision, horse-owners who receive social aid were assumed to earn 2,000,000 Romanian lei (approximately 57 Euro). As this amount is higher than the maximum payment allowable under the Minimum Income Law, no one with a horse in Maerus is eligible for social aid. Many local Roma own horses and are therefore ineligible for social welfare aid. Mr Gabor told the ERRC that there were no Romani council members in the Maerus commune. However, in the Budila Commune in Braşov County, there were reportedly four Romani council members. Here, according to Mr Gabor, the Budila Commune Council passed a decision that horse-owners are assumed to earn only 150,000 Romanian lei (approximately 4 Euro) and the government supplements people's income beyond this amount.⁵⁹

The ERRC is aware of cases in which local governments in Romania take arbitrary decisions to withhold social welfare payments from Romani recipients. In May 2002, four hundred Roma protested in front of the Mayor's Office in Gura Văii after not being paid their social benefits from February onwards. During an ERRC field mission in October 2002, some of the Roma from Gura Văii reported that they had received partial payments of their social aid but that the mayor retained a portion of the payments. Others reported that they had not received any portion of the payment. Ms Maricela Mihai reported that her 26-year-old daughter Maria Mihai and her husband, Mr Gelu Stănescu, had applied for social assistance shortly after the adoption of the Law on Guaranteeing Minimum Income in January 2002. According to Ms Maricela Mihai, Ms Maria Mihai and her husband were told that they did not qualify for the social aid because they owned a horse. The horse reportedly died in February 2002, less than one month after they originally applied, but Ms Mihai stated that her daughter and her husband had still not received a social aid payment at the time of the ERRC visit.⁶⁰ During an interview with the ERRC, the Mayor of Gura Văii, Mr George Andreescu, stated that when he sees a horse or a cart at someone's home, he "knows approximately how much money the family makes." According to Mr Andreescu, the local council decided that a person owning a horse and/or a cart can earn around 600,000 Romanian lei (approximately 18 euros) per month. Therefore, this amount is deducted every month from the social aid payments of persons in possession of such items: "Here, a man with a cart can earn up to 200,000 lei per day and if he doesn't do this, he is lazy and the state shouldn't pay for him anyway," stated Mr Andreescu "[...] How did they (Roma) live before the adoption of the Law? Now, suddenly they don't have any money?" According to Mr Andreescu, at the time of the ERRC visit, the last month in which his office had paid any social aid was June 2002.

In other cases, the ERRC has been informed that Romanian officials are unwilling to accept applications for social assistance from Roma. In May 2003, Ms Adriana Boroş, a Romani woman from the village of Frata in northeastern Romania, testified to the ERRC and partner organisation the Resource Center for Roma Communities (RCRC), that Ms L.Ş., the secretary of the Frata Mayor's Office, refused her and ten other Romani women birth allowances, stating that they needed to be legally married before she would receive their applications. According to the Article 25(1) of the Law 416/2001 on Guaranteeing Minimum Income, the birth allowance is a one-time payment of 1,400,000 Romanian lei (approximately 40 Euro) given to women who apply within six months of giving birth.⁶¹ In the Calea Mireşului Romani settlement in Somcuta Mare in northern Romania, Mr Boldijar Gherman, President of the Romani organisation Foundation Som Rom, told the ERRC that employees of the mayor's office did not, for a long period of time, accept Romani applications for social assistance. After some time, Roma were allowed to submit their applications, but when a mayoral commission visited the settlement to decide who qualified for the benefit, not all of

⁵⁹ ERRC interview with Mr Tibor Gabor, October 2003, Braşov.

⁶⁰ ERRC interview with Ms Maricela Mihai, October 2003, Gura Văii.

⁶¹ ERRC/RCRC interview with Ms Adriana Boroş, May 2003, Frata. The ERRC is providing legal representation to Ms Boroş and a number of other Romani women who have filed complaints in connection with the incident.

the applicants were visited. Despite this, the commission decided that none of the Romani applicants at the time qualified for social aid.⁶²

Summary

Roma in Bulgaria, Italy and Romania are not ensured adequate family housing and other forms of social protection. The vast majority of Roma with whom the ERRC has met in each country live in segregated settlements in conditions unsuitable for living. Many of the residents of such settlements do not possess legal security of tenure making them vulnerable to forced evictions, abusive police raids on their homes, destruction of property and in the case of Italy, threat of expulsion. In the three countries at issue, the ERRC is unaware of a single instance in which Roma have been provided restitution or compensation for gross violations of housing rights and, in particular, forced evictions. Life in segregated settlements increases the level of marginalisation experienced by residents and impedes their access to other fundamental rights and freedoms, such as quality education, employment and medical treatment. Bulgarian, Italian and Romanian officials are directly responsible for the appalling housing conditions Roma endure via enacting programmes to segregate Roma from the majority society and/or failing to enact programmes aimed at the improvement of Romani housing, forcibly evicting Roma from the homes they occupy and/or destroying their property.

Recommendations

The ERRC and COHRE urge the European Committee of Social Rights to recommend that:

1. The governments of Bulgaria, Italy and Romania ratify, without delay, Protocol 12 to the European Convention on Human Rights;
2. The governments of Bulgaria, Italy and Romania use all appropriate means to protect and promote the right to adequate housing for all, and guarantee protection against forced evictions including ensuring that:
 - (a) Evictions do not result in individuals being rendered homeless or vulnerable to other human rights abuses;
 - (b) Evictions only proceed where there is a justifiable reason for doing so, in accordance with international human rights law;
 - (c) Security of tenure is guaranteed to all Romani occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions;
 - (d) Evictions conducted for discriminatory reasons or carried out in a discriminatory fashion are prohibited;
 - (e) Due process in accordance with international standards is guaranteed in relation to any forced eviction, including (i) opportunity for genuine consultation; (ii) adequate and reasonable notice; (iii) full disclosure of information concerning the eviction, including purpose for which land or housing will be used; (iv) presence of government officials during eviction; (v) proper identification of those carrying out eviction; (vi) evictions not to proceed in bad weather; (viii) provision of legal remedies; adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of illegal forced evictions; and (ix) provision of legal aid where possible for those seeking redress in courts;
 - (f) Adequate alternative housing, resettlement or access to productive land is made available to those affected by evictions who are unable to provide for themselves.
3. Bulgarian, Italian and Romanian authorities cease forthwith arbitrary invasions of the homes of Roma, destruction of property belonging to Roma and forced evictions, and that all public officials responsible for, or who have

⁶² ERRC interview with Mr Boldijar Gherman, President of the Foundation Som Rom, October 2003, Somcuta Mare.

acquiesced in the carrying out of forced evictions of Roma, destruction of property belonging to Roma and arbitrary invasions of the homes of Roma, in breach of national and international law, are prosecuted to the fullest extent of the law.

4. The governments of Bulgaria, Italy and Romania take immediate steps to improve the living conditions in Romani settlements, including:

- (a) Ordering local authorities to provide, without delay, adequate potable water, electricity, waste removal, public transport, road provisions and other public infrastructure to those Romani settlements which presently lack one or more of the above;
- (b) In the interest of empowering Roma to take control of their own housing fate, provide an executive “amnesty” for the so-called “illegal” Romani settlements currently existing on state-owned land, granting title to land and property to persons factually resident on a particular plot, and establishing a “year zero” for the purposes of zoning and future regulation.

5. The governments of Bulgaria, Italy and Romania ensure that Roma are not denied access to social services, including social housing.

6. The governments of Bulgaria, Italy and Romania ensure that adequate legal assistance is available to victims of discrimination and human rights abuse, including forced evictions, by providing free legal services to indigents and members of weak groups, including Roma.

7. The governments of Bulgaria, Italy and Romania conduct systematic monitoring of access of Roma and other minorities to social and economic rights -- the right to adequate housing in particular -- and establish a mechanism for collecting and publishing disaggregated data in these fields, in a form readily comprehensible to the wider public.

8. The governments of Bulgaria, Italy and Romania conduct public information campaigns on human rights and remedies available to victims of human rights abuse, including such public information campaigns in the Romani language.

9. At the highest levels, officials of all three countries at issue in this submission speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.