

**The European Roma Rights Centre (ERRC)** is an 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 January 2016, the ERRC responded to the European Commission’s request for assessments of progress made by member states in implementing the EU Framework for National Roma Integration Strategies (NRIS) in 2015.

The ERRC submission comprised assessments of progress in seven countries: Bulgaria, Czech Republic, France, Hungary, Italy, Romania and Slovakia. Comments covered only those policy areas which have been monitored by the ERRC and its local partners. Therefore 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 over the past year.

Five years on, the EU Framework has hit “a mid-life crisis”. The NRIS have yet to deliver in terms of concrete change to the lives of millions of Europe’s Romani citizens; the implementation gap is more pronounced than ever; discrimination and segregation remain pervasive and human rights abuses against Roma are all too frequent.

From the summary of the ERRC’s observations below, one key point has become clear: if Roma integration is to be realised, access to justice and legal empowerment targets and indicators need to be included in the NRIS to address the structural barriers to equal participation in society. There is a clear need for justice to be seen to be done, for remedies to be effective and punitive sanctions to be timely and sufficiently proportionate to act as a deterrent. Without full access to justice for Roma, the stated ambition of the EU Framework to “make a tangible difference to Roma people’s lives by bringing about a change in the approach to their inclusion” cannot be realised.

Below are summary points and main issues of concern. The country-specific submissions are in the following pages.

### **School Segregation**

Despite the different political contexts, across the eight countries certain common features are evident. Regardless of the launch by the EU of infringement proceedings in two countries, school segregation persists: testing misdiagnosis and routing of disproportionate numbers of Romani children into

‘special schools’; separate Roma-only schools, either religious-run or situated in Roma neighbourhoods; and separate buildings, classes, or ‘container schools’.

## *PARTICULAR CONCERNS*

### **Hungary**

School segregation of Roma children is increasing in Hungary. The government has done little to address the issue of misdiagnosis and placement of Romani children in special schools despite the ruling of the European Court of Human Rights in the 2013 case, *Horváth and Kiss v. Hungary*.

Since the control of education and schools was nationalized under the authority of the Klebelsberg School Maintainer Centre (KLIK) in 2013, there have been no attempts to address school segregation, and there are eight pending segregation lawsuits. KLIK has taken no action to settle out of court, or to end segregation.

Since 2011 the Hungarian Supreme Court (Curia) ruled in five cases that Romani children were unlawfully segregated, and two municipalities have been convicted by the Equal Treatment Authority for segregation. But the courts have not ordered any of the schools to desegregate: no effective remedy has been provided.

In the Nyíregyháza re-segregation case, the Curia effectively exempted religious-run schools from anti-discrimination provisions and allowed the Greek Catholic Church to run a Roma-only school.

The decision by the Curia means that all domestic remedies have been exhausted. Government interventions have made it clear that the government has no intention to promote integrated schooling. On the contrary, it is clear that it intends to facilitate an expansion of religious-run Roma-only schools. Under any guise, school segregation is a breach of international and EU law pertaining to the prohibition of discrimination. ERRC recommends that ***the European Commission initiate infringement proceedings against Hungary for its deliberate segregationist policies in education.***

### **Slovakia**

The ERRC echoes the concerns expressed by Commissioner Nils Muižnieks, following his visit to Slovakia in 2015, that despite the gravity of the problems and the landmark district court ruling on segregation, and despite the launch of infringement proceedings, the Slovak authorities’ attitudes remain unchanged and on several occasions they denied or justified the segregation of Roma children. In June 2015, following remarks by Prime Minister Fico, the ERRC called on the Slovak government to refute the use of the “incest-argument” to justify segregated education for Romani children in Slovakia.

## **Racially Motivated Crime and Police Violence against Roma**

Incidents of hate speech and hate crime, and acts of violence committed by state and non-state actors remain all too frequent. Recent court judgments such

as those in Slovakia where police officers have been acquitted and all charges of violence and abuse of Roma dropped despite compelling evidence create a sense among Roma communities that law enforcement officers operate in a climate of impunity.

## *PARTICULAR CONCERNS*

### **Bulgaria**

In 2015, the failure by the authorities to provide Roma communities with effective protection in the face of racist mob violence was a major concern. The political manipulation of anti-Roma protests and the use of racist language for political gain by parties and mainstream media heightened communal tension, created a climate of fear, and posed a direct threat to the safety and security of Roma citizens.

### **Slovakia**

The ERRC and partner organizations have recorded a significant number of verbal and physically violent attacks and incidents of harassment committed by police against Roma, including minors, which have not been investigated effectively. In most of the cases monitored, there have been no successful prosecutions of offenders.

## **Housing and forced evictions**

Previous European Commission assessments of progress made by member states since 2012 confirm that of all the priority areas, it is housing that seems to pose the most intractable challenge, where little or no progress has been made. The situation appears to have worsened in 2015: forced evictions and demolitions continue apace, with many Roma 'relocated' to remote, sometimes toxic sites with no access to basic services. Thousands of Roma continue to live in squalid conditions in segregated camps and emergency shelters, in slum neighbourhoods and illegal settlements, harassed and harassed without any security of tenure and no prospect whatsoever of social integration.

## *PARTICULAR CONCERNS*

### **Czech Republic**

Discrimination in the rental sector has forced some 100,000 Roma into 4,000 substandard hostels and dormitories, where they are charged up to three times the market value of an ordinary flat by slumlords. In its 2015 report European Commission against Racism and Intolerance (ECRI) expressed its astonishment that "the authorities are complicit in this corrupt and degrading practice, which is contributing further to the segregation of Roma" and called for a halt to this practice.

### **France**

The *Ligue des droits de l'Homme* and the European Roma Rights Centre have repeatedly called on the French authorities to suspend systematic expulsions, demolitions and mass evictions. UN bodies have condemned French policies towards Roma. During 2015, every week 216 people were evicted by force; in total 11,128 people were subjected to forced evictions in France last year. We

urge the EU to echo the Council of Europe's call for an immediate halt to forced evictions.

### **Italy**

The ERRC is of the opinion that actions taken by Italian authorities placing evicted Roma in segregated temporary shelters amount to a breach of the Racial Equality Directive. The Italian NRIS, approved by the government in 2012, stated that “emergency policies” for Roma have to be “overcome,” and that housing solutions such as “nomad camps” are not adequate or suitable solutions for Roma. On 2 May 2013, Italy's highest court finally confirmed that the “Nomad State of Emergency” was unfounded and unlawful. Despite this, thousands of Roma subsist in segregated camps, are denied access to education and employment opportunities and face constant evictions, enduring harsh living conditions injurious to their health and safety; conditions which preclude any prospect of ‘Roma integration’. Considering the lack of progress and plans by municipalities to relocate Roma from camps into segregated settings, ***the European Commission should explore where municipalities are in breach of the Race Equality Directive and initiate infringement proceedings against Italy.***

### **Slovakia**

Mass forced evictions and the erection of walls separating Roma from non-Roma continue to attract international criticism. A recent survey confirmed that greater numbers of Roma in Slovakia live in poor and segregated settlements in substandard housing, unprotected from environmental hazards that include toxic industrial waste, rubbish tips, seasonal flooding, and the intermingling of waste and drinking water. The deaths of five children in January 2016 (one child froze to death, four others died in fires) in Luník IX and neighbouring Roma settlement near Košice, provided stark evidence of the dangers posed by such living conditions. The ERRC called upon the authorities to allocate resources and adhere to a fixed time frame to ensure that all Roma living in segregated housing conditions have access to adequate and safe housing, and to use European Regional Development Fund (ERDF) resources to implement integrated housing solutions for Roma.

### **Hungary**

In a ruling on 25 January, the Capital Public Administrative and Labour Court reaffirmed the Equal Treatment Authority's finding that the evictions of Roma residents from the “numbered streets” neighbourhood of Miskolc violated the principle of non-discrimination; and insisted that the authorities must provide adequate housing for those rendered homeless by its policies. This policy blatantly breaches international and EU law pertaining to the prohibition of discrimination and sets a particularly dangerous precedent. In the face of the Miskolc mayor's determination to persist with evictions in defiance of court rulings, and the failure of the national government to intervene, ***it is time for the European Commission to explore grounds to initiate infringement proceedings against Hungary.***

## COUNTRY ASSESSMENT SUBMISSIONS

### BULGARIA

*Thematic area: Education*

#### Assessment of progress

2015 was another year in which the gap widened between the majority and Roma in all domains, including education. In addition to the deteriorating education performance of all Bulgarian students in comparison to previous periods shown in PISA 2012, the discrepancy in performance between Roma and non-Roma has also grown. Roma represent 67% of the poorest 20% of the entire Bulgarian population and are the group with the highest rates of illiteracy and early school leaving in the country. Retaining Romani students beyond the age of 12 remained a challenge for the government, which also lacked effective programmes for reintegrating students who had dropped out. The governmental survey of 2013 shows that only 14.8% of Roma completed secondary school, 44.7% completed primary school (1st to 7th grade), and 15.5% never completed any level of education. Ethnic segregation of Roma in the education system is aggravated by a progressively socially stratified education system that limits students from disadvantaged socioeconomic backgrounds to lower quality education compared to peers from better-off families. NGOs criticized the NRIS for not providing specific school desegregation measures and not ensuring the necessary financial support for such measures.

#### What was the most important challenge encountered in this thematic area?

Major issues are school segregation and the overrepresentation of Roma in schools for pupils with Special Educational Needs (SEN), as well as the lack of funding for education of Roma. Different assessments suggest between 44% and 70% of the school-age Roma, or, between 44,000 and 70,000 students are segregated in separate schools. Research by the Open Society Institute (OSI) Sofia revealed that the total number of segregated Roma schools increased in the period 2001–2005 due to migration and “white flight” from mixed schools. In 2005, almost 20% of the total 2,657 were segregated. Overrepresentation of Roma in schools for children with SEN is another pattern of segregation in education that seriously affects the chances of the students to find employment upon graduation. In 2008, research by the Bulgarian Helsinki Committee in three SEN Schools – in Vratsa, Karnobat and Lom – suggests that Roma constituted 80% of the students in Vratsa, 70% in Karnobat and 50–60% in Lom. The scarce or missing funding for education and the lack of commitment of national authorities are major challenges.<sup>1</sup>

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<sup>1</sup>Advancing the Education of Roma in Bulgaria REF Country Assessment – 2015, p.5  
[http://www.romaeducationfund.hu/sites/default/files/publications/bg\\_country\\_assessment\\_2015\\_web.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/bg_country_assessment_2015_web.pdf)

*Thematic area: Housing*

### **Assessment of progress**

The current situation in Bulgaria has considerably worsened compared to previous years. 2015 has been defined by a high number of planned and implemented evictions of Roma in Gurmen, Vidin, Stara Zagora, Varna and other locations. These evictions were orchestrated by violent attacks against Roma by nationalist groups. After anti-Roma riots in September, Bulgarian authorities evicted Roma from the Kremikoytzi settlement in the municipality of Gurmen without prior notice. According to civil society sources, no alternative accommodation was offered and a total of 41 people, including 21 children, were made homeless as a result. Further evictions in the area, as well as in the Varna municipality, were feared. Altogether, there are 124 houses on the government demolition list. They were built in the early 1960s on municipal land by special decrees of the communist regime, which in 1957 and 1958, handed down laws that forced Roma to settle in permanent homes. Today, over 800 Roma live in the neighbourhood. An OSI article of 2015 mentions that the status of their homes has remained unclear for decades, and even though they were aware that their houses were considered illegal, the municipal authorities had issued a “certificate of tolerance” that made their demolition unlikely.<sup>2</sup>

### **What was the most important challenge encountered in this thematic area?**

A 2009 report by the Fundamental Rights Agency (FRA) notes that the Roma housing situation in Bulgaria is worsening instead of improving. Many Roma continued to live in appalling conditions. The 2011 census indicated that 55% lived in overcrowded urban neighbourhoods. NGOs estimated 50 to 70% of their housing was illegally and inadequately constructed, often without proper water supply and sewerage.<sup>3</sup> A major challenge for Roma people’s access to adequate housing is the widespread lack of security of habitation, which is due to the fact that many Roma live in houses that are formally considered “illegal” and on this basis may be destroyed at any time.<sup>4</sup> While several changes to the legal framework – particularly to the Law on Territorial Organisation – were made in 2003–2007, the need for prompt property legalisation, which is necessary to alleviate the housing situation, was not met and conditions regarding property ownership were made even more difficult.

*Thematic area: Anti-discrimination*

### **Assessment of progress**

According to Gallup, in the last 21 years there has been a very serious regression in relations between Bulgarians and Roma. 2015 has been defined by racially biased rhetoric during elections by politicians and media targeting

<sup>2</sup> <https://www.opensocietyfoundations.org/voices/opportunistic-politicians-bulgaria-evict-roma-votes>

<sup>3</sup> <http://sofiaglobe.com/2015/06/26/rights-report-notes-anti-semitic-rhetoric-prejudice-against-roma-in-bulgaria/>

<sup>4</sup> Advancing the Education of Roma in Bulgaria REF Country Assessment – 2015, p.13

[http://www.romaeducationfund.hu/sites/default/files/publications/bg\\_country\\_assessment\\_2015\\_web.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/bg_country_assessment_2015_web.pdf)

Roma minority, anti-Roma protests in Gurmen, Vidin, Stara Zagora Varna and other locations, and violent attacks against Roma by neo-Nazi groups. On 7 September, after anti-Roma riots last July, Bulgarian authorities evicted Roma from a settlement in the municipality of Gurmen without prior notice. According to civil society sources, no alternative accommodation was offered and 41 people, including 21 children and people with disabilities were made homeless. More evictions were feared throughout the country.

In May, violent anti-Roma protests were being organized by local nationalists, who were joined by football hooligans and other right-wing nationalist groups. People were injured, and the police forbid Roma children from going to school, saying they couldn't protect them. The European Court of Human Rights' (ECHR) letter on the request for interim measures and the injunctions issued by the Pazarjik Administrative court prevented making people homeless and potential victims of a future humanitarian crisis. On June 21 in Sofia, a Roma father and his twin sons were severely beaten just because of their ethnicity. According to the OSI, in March prosecutors indicted four persons accused of planting a bomb in front of a Romani cafe and club in Sandanski. The bomb killed the person who picked up the bag which contained it while he was opening the cafe. As of October, the trial was proceeding at the local District Court.<sup>5</sup>

### **What was the most important challenge encountered in this thematic area?**

Major challenges in the area of anti-discrimination are the lack of provision of effective protection from racist attacks by national and local authorities, politically manipulated protests against Roma in various locations, use of racist language for political gain, use of racist language by mainstream media in the country and the lack of taking measures by the national regulative organs. According to the US Human Rights State Department report and the Sofia Globe,<sup>6</sup> the Bulgarian media described Roma and other minorities using discriminatory and abusive language. Extreme nationalist parties such as Ataka and the Patriotic Front based their political campaigns on strong anti-Roma, anti-Turkish, and anti-Semitic slogans and rhetoric. In June, after a flood hit Varna, killing 13 persons and destroying many houses, municipal council member blamed the Romani inhabitants for the disaster, calling them "parasites" and "inhuman scum" that do not deserve "to inhabit our civilisation". Human rights activists filed hate speech complaints against Kostadinov and Rumenov, who had used similar language on the subject in a Radio Darik Varna programme.<sup>7</sup> As of November, the prosecution was conducting an inquiry into the case.

<sup>5</sup> <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=17096>

<sup>6</sup> <http://sofiaglobe.com/2015/06/26/rights-report-notes-anti-semitic-rhetoric-prejudice-against-roma-in-bulgaria/>

<sup>7</sup> <http://sofiaglobe.com/2015/06/26/rights-report-notes-anti-semitic-rhetoric-prejudice-against-roma-in-bulgaria/>

*Thematic area: Health*

### **Assessment of progress**

Roma life expectancy rates are more than 10 years lower than the average. According to 2001 census data, just 5.4% of Roma were between 60 and 100 years of age, while the national average was 22.3%. According to the National Statistics Institute for 2003, child mortality is 9.9 per 1,000 among Bulgarians; 17 per 1,000 among those of Turkish background and 28 per 1,000 among Roma. Recent research indicates that over the past years there has been a growing restriction of access to healthcare for Roma citizens. A 2011 study of OSI–Sofia in 2011 indicated that the share of Roma without health insurance is estimated at 45% (two percent did not know whether they had been insured). Uninsured Roma make up 14.6% of the overall population without health insurance. According to information gathered during the OSI study, the level of discrimination against Roma in healthcare remains unacceptable. The quality of care they receive from medical personnel and social workers is usually assessed as low or very low. Three quarters of the Roma interviewed stated that their health is poor and many suffer from chronic conditions or disabilities.<sup>8</sup>

### **What was the most important challenge encountered in this thematic area?**

Major challenges concerning the health of Roma are: access to quality health care, racial discrimination, and lack of health insurance. Romani access to health services continued to be a problem and in some cases Roma seeking healthcare were subject to discrimination, the US state department report mentioned. A 2013 government survey estimated 30% of Roma had not signed up with a general practitioner (i.e., lacked health insurance), and 78.8% had no access to a dentist. The US State Department report states that quality of medical care given Roma by medical personnel and social workers was very low.<sup>9</sup>

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<sup>8</sup> Advancing the Education of Roma in Bulgaria REF Country Assessment – 2015, p 14  
[http://www.romaeducationfund.hu/sites/default/files/publications/bg\\_country\\_assessment\\_2015\\_web.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/bg_country_assessment_2015_web.pdf)

<sup>9</sup> Advancing the Education of Roma in Bulgaria REF Country Assessment – 2015, p 14  
[http://www.romaeducationfund.hu/sites/default/files/publications/bg\\_country\\_assessment\\_2015\\_web.pdf](http://www.romaeducationfund.hu/sites/default/files/publications/bg_country_assessment_2015_web.pdf)



## **CZECH REPUBLIC**

*Thematic area: Access to education*

### **Assessment of the situation in this thematic area**

ERRC's assessment has been confirmed by reports published in 2015, which all highlight the persistence, the scale and the systemic character of discrimination against Roma in preschool, primary and secondary schools in the Czech Republic. In its 2015 submission to UNCERD, ERRC, MDAC and the Platform for Social Housing showed how those regions where a higher number of special schools have been maintained continue to have significantly more children labelled as having an intellectual disability, stating that "it is no coincidence these are the same regions where the Roma communities are larger".

The *Roma Early Childhood Inclusion (RECI+)* report found that the Czech education system ranks among the most unequal in Europe, with inequalities manifest from the very outset: less than 30% of Roma children attend preschool (compared to 80% of the non-Roma population), and in rural areas only 17% were enrolled.

An Amnesty International report found that Roma pupils faced frequent racial bullying, being ostracized by other pupils and even encountered open prejudice by some teachers. In 2015 the Czech School Inspectorate reported that 32% of Roma pupils were studying under educational programs for pupils with "mild mental disabilities". As the RECI+ report states "Given that the percentage of children with special educational needs of any given population cohort who might need separate provision should be in the range of 2 to 3 percent, this finding is particularly stark."

The most recent ECRI report was critical of the continued existence of so many 'only-Roma' schools providing a reduced curriculum; and the lack of any targets fixed for transfers of Roma children from practical to ordinary education, "and that to date none seems to have been carried out in practice". It concluded that the strategies for Roma integration and for combating social exclusion have had little effect.

Since 2010 the government has failed to allocate any specific budget to implement the National Action Plan for Inclusive Education. Neither has it adopted any other specific policies aimed at disassembling the special educational system or advancing the right to inclusive education on a comprehensive national basis for all children.

### **What was the most important success in this thematic area?**

Since the European Commission infringement proceedings were initiated, the government has promised an education reform package that will include a comprehensive desegregation plan to be implemented in September 2016. This includes the introduction of support measures for pupils with special educational

needs; a compulsory year of pre-school education for all pupils; and a proposal to abolish the educational programme for pupils with mild mental disabilities. It would be premature to call this a success, and if the reforms are to succeed, the government must address the prejudice that is so deeply embedded in the Czech educational system.

### **What was the most important challenge encountered in this thematic area?**

The persistence of unlawful discrimination and segregation in one of the most unequal education systems in Europe; compounding this inequality is deeply embedded racist prejudice, and a resistance to inclusive education that includes prominent public officials such as Czech President Zeman. Furthermore, as the ERRC stated in its Committee on the Elimination of Racial Discrimination (UNCERD) submission, the legal order of the Czech Republic does not recognise the term 'inclusive education' and principles of inclusive education are not enshrined in Czech law.

The critical shortage of kindergarten places (there are twice as many applications as places) especially in rural areas will prove to be a critical challenge because social exclusion has ceased to be predominantly urban in character as people forced to live in "socially excluded localities" now tend to move to remote villages with little functional and developed infrastructure, including quality preschool opportunities.

*Thematic area: Housing*

### **Assessment of the situation in this thematic area**

The basis is the 2015 submission to UNCERD by the ERRC, the MDAC and the Platform for Social Housing. Official reports estimated that between 80,000 and 100,000 Roma experience social exclusion, and government-commissioned research in 2015 revealed that the number of socially excluded areas (inhabited mostly by Roma) doubled over the last decade to more than 600.

Among the hidden homeless (those not showing up in official figures), there has been an increase in the number of young people, people with disabilities, women, and whole families with children. Amongst the most vulnerable are those leaving institutional care, settings where Roma are overrepresented.

Evidence shows that Roma are routinely denied access to rental accommodation on grounds of their ethnicity, forcing many into privately- (or municipally-) owned residential hostels. Roma are increasingly being evicted from developed urban areas to structurally disadvantaged regions and socially excluded localities. There is no government policy to control or halt these evictions, which force therefore Roma from cities to segregated neighbourhoods in small towns and villages.

According to The European Agency for Fundamental Rights (FRA) Regional Roma Housing survey, from the eleven countries studied, the Czech Republic

has the largest share of Roma (almost half) that perceive themselves as threatened by evictions. Fourteen percent live in ruined houses and slums, and one in ten households reported living in very poor accommodation conditions. For Roma with disabilities in such settings, there are no support services, and there are no data to assess their numbers and their needs. By failing to adopt comprehensive accessibility provisions, the Czech Government continues to marginalise and violate the rights of Roma people with disabilities.

Decision-making on allocation of social housing subsidies rests with State Labour Offices Housing allowances are paid directly to landlords. For the majority of Roma, these housing subsidies were paid to the owners of residential hostels, who charged significantly overpriced rents compared to the broader rental market. Some municipalities have refused to approve housing subsidies collectively across the board to all inhabitants of residential hostels, the majority of which are Roma. Consequently, as the media reported, 17,000 to 25,000 people, including families with children, are at an imminent risk of homelessness.

### **What was the most important success in this thematic area?**

Despite delays, the government is working on a social housing bill to be enacted and put into force in 2017, which would enhance the role of municipalities in providing housing, invest the necessary financing into the system, and provide for the renovation and refurbishment of around 500,000 vacant flats. In November 2015, Czech PM Bohuslav Sobotka admitted that the original deadline will probably not be met. The Platform for Social Housing advocacy group has criticized the delays, and is concerned that there will not be any political will to push through this complex topic in the run-up to elections. The lower house says it wants to return to this topic in March 2016.

### **What was the most important challenge encountered in this thematic area?**

Most municipalities currently do not have sufficient social housing facilities, nor do they have plans to build any. ERRC's research and experience concurs with the 2015 ECRI report which noted that discrimination in the rental sector has forced some 100,000 Roma into 4,000 substandard hostels and dormitories, where they are charged up to three times the market value of an ordinary flat: *"Housing support is provided for tenants to pay exorbitant rents to the 'slumlords' and ECRI is astonished that the authorities are complicit in this corrupt and degrading practice, which is contributing further to the segregation of Roma, and calls for a halt to this practice."*

### **Assessment of the situation in this thematic area**

Despite robust and persistent international criticism, the Czech government has yet to establish a compensatory mechanism and admit that sterilisation of Romani women was systemic and state-supported.

Significant barriers to access justice persist: the primary obstacle is the three-year statute of limitation for initiating civil claims, commencing from the date sterilisation is acknowledged by the victim, preventing the majority of victims from bringing civil claims for damages. The current legal system has denied the majority of victims of involuntary sterilisation justice and any right to seek compensation through domestic civil remedies. The ERRC is concerned that the Czech state is not being held to account for their past systemic human rights violations against Roma women, blatantly based on discrimination and within the present context also in direct breach of the Convention.

### **What was the most important success in this thematic area?**

The Minister of Human Rights established an inter-ministerial working group which in February 2015 adopted draft legislation in the form of the Compensation Act, which if adopted expands the category of eligible involuntarily sterilised women and provides a relatively transparent path to seek compensation. The ERRC believes that if adopted this legislation would be a decisive moment in the long history of this human rights abuse.

The ERRC remains concerned as to whether this scheme will actually deliver justice because the expert committee will only have an advisory role, and the Ministry of Health, which to date has not acknowledged the injustice of involuntary sterilisations, will decide on compensation claims.

### **What was the most important challenge encountered in this thematic area?**

The Act on Specific Health Services which came into force in April 2012, and for the first time defined sterilisation, contains shortcomings: the Act does not define the concepts of informed consent and informed choices. It does not clearly state when it is appropriate for doctors to initiate a discussion on sterilisation with patients and finally it does not oblige medical personnel to inform the patient that sterilisation is only one of many methods of contraception.

Challenges encountered in 2015 and still remaining include: the lack of disaggregated data based on ethnicity and gender in health care; the need to consider cumulative effects of multiple discrimination (ethnicity/gender) suffered by Romani women in accessing health care, education and other areas; to recognize and react to intersectionality between vulnerability factors including gender, ethnicity and other status of women such as “rural” or “migrant”.

*Thematic area: Anti-discrimination*

### **Assessment of the situation in this thematic area**

The Public Defender of Rights does not possess the necessary powers and responsibilities to combat racial discrimination effectively. Her mandate is limited and she is not entitled to represent victims of discrimination in court proceedings.

The Anti-Discrimination Act sets out a complex regime concerning the sharing of the burden of proof, which is limited to certain fields of discrimination only.

The Czech Anti-Discrimination Act does not regulate *actio popularis* (public actions) that would make it possible to file a legal action in discrimination cases with higher numbers and unknown identities of victims (e.g. in cases of discrimination in advertising, systemic discrimination, etc.). Free legal aid is granted only to people with proven limited financial resources.

There is no legislation and no case law specifically addressing cases of multiple and intersectional discrimination. The ERRC is concerned about the lack of case law on racial, disability-based and other forms of discrimination.

Roma remain the most common targets of hate speech. Criminal action is ruled out too easily and the hate speech provisions are rarely applied. Most recently ECRI noted with concern that the use of the term “inadaptable” to refer to vulnerable groups, in particular Roma, has become a normal expression in public discourse, and even employed officially.

There are systemic shortcomings related to alleged racially-motivated violence perpetuated by public officials and ineffective investigation into such acts of police brutality.

According to research cited by the ECRI, 32% of Roma have been subjected to hate speech and violence; two thirds of victims never reported these crimes. The report states that the real number of victims of hate crime could be up to ten times higher than estimated. Victims often do not report offences to police because they fear retaliation and due to the discriminatory attitude of law enforcement authorities.

### **What was the most important success in this thematic area?**

A Strategy for Combating Extremism has been drawn up. Police officers in the criminal police specialised in extremism are now included in every regional police department and anti-conflict teams are deployed during public gatherings. The ECRI noted in its 2015 report that as a consequence there has been a diminution in the kinds of rallies witnessed in 2013 which involved inflammatory speech, intimidating marches in Roma neighbourhoods, rioting and serious clashes with the police.

The government-sponsored Campaign against Racism and Hate Violence targeting young people aged 15-25 launched at the end of 2015 is to be welcomed. It is of course premature to comment on the impact of this intervention or deem it a success.

**What was the most important challenge encountered in this thematic area?**

As detailed in other sections, racial discrimination and segregation remain persistent and ubiquitous in the areas of education and housing. Public antipathy, prejudice and hate speech against Roma remains widespread.

The ERRC has called on the government to remove the requirement of having intent to cause physical and mental suffering in order for an act to constitute inhuman and degrading treatment; and to establish a fully autonomous institution to investigate complaints of alleged police misconduct including complaints with a possible racial motive.

Another challenge for the government and law enforcement officers is to ensure that anti-Roma rallies and marches do not result in violence against Roma individuals or attacks on Roma dwellings.

The authorities need to put in place a single mechanism for collecting publicly available disaggregated data on hate crime, including hate speech, recording the specific bias motivation, as well as the follow-up by the justice system.

## FRANCE

*Thematic area: Anti-discrimination*

### Assessment of progress

A 2016 joint report of the ERRC and the *Ligue des droits de l'Homme* shows that during 2015, 11,128 Roma people were forcibly evicted by the authorities from 111 living sites. 410 persons had to leave five sites due to a fire. These figures demonstrate that 60% of those living in slums have been forcefully evicted by the authorities during 2015, half of them in the summer period. There were 76 forced evictions in response to a summoning by the landowners for illegal occupation/establishment of squats in their properties, 31 following a notice of insalubrity or risk, taken by the local authorities (municipality) or the prefect. In four of the cases people left the slum themselves under the threat of imminent forced eviction. For 111 evictions executed by authorities, temporary shelter solutions have been proposed only 29 times. Following the other 82 evictions, families were left in the street by the police. In a number of cases police brutality has been observed. In regards to five evacuations following the fire, emergency shelter has been proposed on only two occasions. Since the beginning of the year, the Region Île-de-France continues to focus 62% of evictees. The analysis based on the type of the land ownership shows that practically 80% of the lands where forced evictions have been executed are public. As the distribution of the slums represents an almost equal ratio between public and private land it can be noticed that the forced evictions are much more likely to happen when the slums are situated on public land.

### What was the most important challenge encountered in this thematic area?

The 2016 joint report of the ERRC and the *Ligue des droits de l'Homme* notes that the housing situation of the about 20,000 Roma coming from Bulgaria and Romania is getting worse. There is a lack of positive measures or policies for integration of Roma, in particular in the area of housing. Roma continued to be subject to systematic forced evictions, in most cases without provision of alternative housing.

## HUNGARY

*Thematic area: Anti-discrimination*

### Assessment of progress

The strategy's main goal is to fight social exclusion, but it misses out a vital element: combating prejudice and discrimination. There have been no measures taken by the Hungarian government to tackle discrimination against Roma on ethnic grounds since the adoption of the Strategy. On the contrary, it has happened several times that the legislation and the mainstream policies adopted by the Government do not harmonize with the aims of the Strategy and further have contributed to the increased gap between Roma and the mainstream population.

#### ***Measures fail to address the school segregation of Roma children***

School segregation of Roma children is increasing in Hungary. Approximately 45% of Roma children attend schools or classes in Hungary where all or the majority of their classmates are also Roma. In 2014, 381 primary and secondary schools have been officially reported to have 50% or more Roma among their students. The Government has not targeted any of these schools by desegregation measures. The central authority responsible for schools (Klebensberg School Maintainer Centre (KLIK)) has since 2013 had the opportunity and means to take measures, but so far it has failed to map the situation of Roma children and to address school segregation. The Centre expressed its position towards integration in a lawsuit on 17 February 2014, maintaining that it is not its duty to promote integration in a proactive manner and to monitor segregation in schools. There are eight pending segregation lawsuits in which the Centre was invoked after the nationalisation of the schools. The Centre did not take action in any of the pending cases to settle the case out of court and to end segregation.

Since 2011 the Hungarian Supreme Court (Curia) has ruled in five Roma education cases that Romani children were unlawfully segregated and two municipalities have been convicted by the Equal Treatment Authority for segregation. Nevertheless, Hungarian courts have not yet ordered the desegregation of any of the schools, and effective remedy against systematic discrimination of Roma children has not been provided. In the recent, extensively debated Nyíregyháza resegregation case, the Curia has justified segregation of Roma children based on religious education. This interpretation casts a shadow over compliance of the current legislation and wording of the Equal Treatment Act (ETA) with relevant provisions of international and EU law pertaining to the prohibition of discrimination. The emblematic case of Nyíregyháza made it clear that the current government does not have political intentions to address segregation in the Hungarian education system. Moreover, its decisions and communications reassure the segregating schools. Minister Balog (Ministry of Human Resources) testified in favour of the Greek Catholic Church which reopened the segregated Roma school in Nyíregyháza in 2010. The Minister repeatedly assured the segregated church-run primary



school in Nyíregyháza of his support during the judicial proceedings. Despite protests and an anti-segregation campaign by several civil society organisations and professionals and the resignation of several CSOs from the anti-discrimination roundtable of the government, the modification was passed by the parliament in December 2014. The draft of the Ministerial Decree was leaked from the Ministry in 2015 causing indignation by human rights defenders as it was a clear attempt to create legal opportunity for racial segregation by religious schools. In January 2016 a prominent member of the Government's anti-segregation round table resigned also because of the planned legal changes and the current government policies.

### ***Measures fail to address the misdiagnosis and channelling of Roma children in special education***

Testing procedures to assess the mental ability of children are contributing to segregation as culturally biased testing results in misdiagnosis of Roma children. This has been affirmed in 2013 by the European Court of Human Rights (ECtHR) in the Horváth and Kiss v. Hungary case. The Court noted that Romani children had overall been overrepresented in the past in remedial schools in Hungary due to the systematic misdiagnosis of mental disability. The Committee of Ministers has called Hungary to provide data on the impact of new diagnostic procedures on Romani students. No data has been provided yet. The ERRC together with the Chance for Children Foundation (CFCF) reported their concerns in a Rule 9 submission to the Committee of Ministers based on evidence gathered for an ongoing court case in Heves County that culturally biased diagnostic protocols (e. the Budapest-Binet test) leading to the misdiagnosis of Romani children are still in use nationwide despite of the alleged governmental efforts.

In its official response, the Government reiterated its position that the channelling of Roma children into the special educational system is not a result of structural discrimination on ethnic grounds, but the inevitable consequence of poverty among Roma, although the ECtHR established racial discrimination against Horváth and Kiss.

The Committee of Ministers (CoM) issued their recommendations to the Hungarian Government in December 2015, reinforcing the major concerns raised by the ERRC and the CFCF and, among others, urged "the Hungarian authorities to pursue their efforts with a view to implementing an inclusive education policy and to provide specific information on the impact of this policy, in particular as regards the reduction of the high proportion of Roma children in special schools."

### ***Discrimination resulting in overrepresentation of Romani children in state care institutions***

Disaggregated data based on ethnicity is not available in Hungary, however research conducted by the ERRC in 2007 already revealed that Romani children are overrepresented in state care. Recent research confirmed that this

overrepresentation has not changed: on the basis of the interviews conducted in 24 children's homes in Hungary, the 2010 ERRC research found that approximately 65.9% of the children in children's homes visited were Romani. This figure was consistent with detailed information provided by 13 of those homes on the ethnic breakdown of the child population, where 89 of 135 (65.9%) children were reported to be Romani.

The ERRC together with the Hungarian Civil Liberties Union (TASZ) revealed several cases of Romani new-born babies being unlawfully removed from their parents shortly (a few days) after birth and taken to foster care in 2013 and 2014. The decisions were justified mainly by circumstances related to poverty and negligence of the parents. The NGOs provided legal aid for Romani parents who tried to get their children back, and represented the parents in three court cases out of which one has so far successfully ended with a court ruling that ordered the reintegration of the children with their family. In one case the Supreme Court maintained that the children should remain in foster care, and the third case is still pending.

The overrepresentation of Romani children in institutional care appears to be the result of indirect discrimination against Roma, a lack of clear guidance in the child protection law and policy and various shortcomings in the operation of the child protection system, which disproportionately impact Romani families. Poverty-related material conditions remain one of the major reasons for the removal of Romani children from their home environment, despite an explicit ban on such actions in the Hungarian Child Protection Act. School absenteeism, especially among Romani teenagers, is a major reason for their perceived endangerment and removal from their family. The perception that Romani families "deviate" from societal norms, compounded with negative stereotypes among some child welfare workers, also increases Romani children's chances of institutionalisation. The cumulative effects of poverty and marginalisation are often insurmountable barriers to the return of Romani children to their families once in state care. There is a lack of programmes promoting a positive Roma identity among Romani children living in state care and a lack of Romani child protection professionals. Few Romani children are reintegrated with their biological families and many end up staying in institutional care until they reach adulthood.

### ***Discriminatory fining practice of the Hungarian police and discriminatory inspections***

According to the reports of NGOs, including the Legal Defence Bureau for National and Ethnic Minorities (NEKI, [www.neki.hu](http://www.neki.hu)), the Hungarian Civil Liberties Union (<http://jogtalanul.blog.hu/>) and the Helsinki Committee for Human Rights, the local police are applying a discriminatory fining practice in numerous settlements – mainly in north eastern Hungary – with respect to local petty offences. Reports state that local police are imposing fines primarily on Roma when they are committing petty offences, mostly relating to riding bicycles (lack of bicycle accessories required by law such as a bicycle bell, front light and rear reflector). Paying the fines requires a considerable effort from the perpetrators, most of whom are unemployed and living on social benefits.

Perpetrators who are unable to pay the fines are sent to prison. Although the individual measures by the police were arguably lawful (as the law did require that bicycles be equipped with certain accessories), the sanctioning practice of the police indicates ethnic disproportionality that could not be reasonably justified and was based on ethnic profiling, a form of racial discrimination.

The Equal Treatment Authority examined the fining practice of the Rimóc Police after a report by a local official and the procedure ended in a settlement between the Nógrád County Police Headquarters and the Hungarian Helsinki Committee, the NGO that joined the proceedings. In its first instance decision the Court of Eger on 17 September 2015 settled that the police directly discriminated local Roma in Gyöngyöspata between May and December 2011 by failing to protect them from the far-right activists (who were illegally marching in the town), as well as by fining Roma in the settlement for petty offences.

Despite the above case and the dozens of complaints gathered by NGOs and media reports by the Roma Press Center, the National Police refused to examine the fining practice of the concerned police departments or to hold consultations with NGOs.

The Legal Defence Bureau for National and Ethnic Minorities also reported in its common submission to the UN Universal Periodic Review on Hungary<sup>10</sup> that law enforcement units of the Council of Miskolc, the fourth biggest city in Hungary, has been conducting inspections with other local authorities since 2013 in areas of the city where there is a considerable Roma population. During the inspections a group of 10-15 representatives of various local authorities entered apartments, inspected the rooms, bathrooms and toilets. According to the Council of Miskolc the purpose of the inspections was to observe and protect the property of the council (especially with regards to social housing), to review whether inhabitants are registered at their addresses, whether they are collecting rubbish according to the local rules and maintaining order around the house and whether rules for keeping pets are being respected. The inspections were clearly targeting apartments rented or owned by Roma. According to the inhabitants, although fines were imposed only in few cases, the inspections were frequent and very humiliating, so that the inhabitants felt harassed and intimidated when representatives of the local government entered into private homes and checked the families.

The Commissioner of Fundamental Rights (hereinafter referred to as: the Ombudsman) conducted an investigation in relation to these inspections and identified several violations of fundamental rights. In addition, the Ombudsman issued several recommendations to the Council of Miskolc, the most important of which is to discontinue the inspections in their present form.

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<sup>10</sup> <http://www.errc.org/cms/upload/file/hungary-submission-un-upr-september-2015.pdf>

## **Assessment of progress**

Previous research of the ERRC in 2007 and 2010 showed that young women and children living in poorer regions, especially Roma, are highly vulnerable to trafficking with 40% to 80% of the trafficking victims in Hungary being Roma women and youth.<sup>11</sup> ERRC research also indicated that children brought up in state care are more vulnerable to trafficking; given the overrepresentation of Romani children in state care (see above), Romani children, and especially girls, are highly vulnerable to this phenomenon. Minor victims of trafficking are mainly placed in childcare institutions, unlike the adult victims who could opt to be placed in secret shelters. These children could be easily identified, located and taken again by the perpetrators. Not to mention that staff in these institutions are not prepared or trained to provide tailor-made support for victims of trafficking.

Women living in poorer regions, young women, children, those living in childcare institutions and Roma are highly vulnerable to trafficking. According to recent research conducted by the Central European University in 2014, children from impoverished families and neighbourhoods are in the highest risk of victimization to trafficking.<sup>12</sup>

When children are at risk of being trafficked or have been already victims of trafficking in Hungary, they are treated by the general child protection system as there is no separate victim assistance service designed for children. However, the local child welfare institutions in Hungary have no appropriate means to prevent the risk of trafficking and to assist the children at risk, and endangered children are most likely to be re-victimised while in the child care institutions since their needs are not addressed efficiently during and after the placement procedures. The 2014 research also revealed that the Hungarian police and the judicial system are not able to address child trafficking properly. Criminal proceedings against the traffickers are only initiated if the victims file complaints. Witness support is not provided for the protection of victims and according to the protocols of the police, children between 14 and 18 are not considered to be a child anymore and are treated like adults. Hungarian police are reported to frequently neglect coercion claims by victims and fail to provide any special assistance to them.

As a consequence of all these shortcomings, only a few child trafficking cases are registered in Hungary yearly, although Hungary is both a country of origin and a destination of child trafficking, in at least three forms of child trafficking: begging, pickpocketing and sexual exploitation. The Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (GRETA) also highlighted in its 2015 report on Hungary that the number of identified child victims is low and urged the authorities to increase their efforts to identify child victims and to set up child-specific identification procedures. The GRETA report

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<sup>11</sup> European Roma Rights Centre (ERRC): Breaking the Silence: Trafficking in Romani Communities. 2011. <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>

<sup>12</sup> Vidra, Zsuzsanna, Baracsi, Kitti, Sebhelyi, Viktória (2015): Child Trafficking in Hungary: Sexual Exploitation, Forced Begging and Pickpocketing. Center for Policy Studies, Central European University

also called on the Hungarian authorities to identify any gaps in the investigation procedures and the presentation of cases in court with a view to ensuring that crimes relating to trafficking in human beings are investigated and prosecuted effectively.

## ITALY

*Thematic area: Housing*

### **Assessment of the situation in this thematic area**

The ERRC is of the opinion that actions taken by Italian authorities placing evicted Roma in segregated temporary shelters amount to a breach of the Racial Equality Directive (RED). The Italian National Roma Integration Strategy (NRIS), approved by the government in 2012, stated that “emergency policies” for Roma have to be “overcome,” and that housing solutions such as “nomad camps” are not adequate or suitable solutions for Roma. On 2 May 2013, Italy’s highest court confirmed that the “Nomad State of Emergency” was unfounded and unlawful. Despite this, thousands of Roma inhabit segregated camps in which they are denied access to education and employment opportunities and face constant evictions, enduring harsh living conditions injurious to their health and safety; conditions which preclude any prospect of ‘Roma integration’.

Approximately 3,000 Roma live in Milan. Around 1,000 of them have lived in so called formal ‘campi nomadi’ on local authority land for over 20 years; another 2,000 mainly Romanian Roma live in ‘informal camps’, most of them dating back from 2007. While there is a municipal plan to close all seven formal camps, there is no timeline, nor mention of how the authorities would accommodate camps’ residents.

In the last three years about 2,200 people have been evicted from informal camps without adequate alternative accommodation, many temporarily housed in crowded and squalid segregated emergency shelters. On average each of these persons has been evicted at least five times over this three-year period. Evictions create circular patterns: Roma living in irregular settlements are evicted, and, if there is sufficient space, put into emergency camps for a certain period of time, then cast out onto the street and forced to build squats on irregular sites until being evicted yet again.

While the ERRC welcomes the closing of the Guigliano camp in Naples as it is located in a highly toxic area, it calls on the authorities not to place the Romani community into another form of segregated temporary housing, but instead seek to ensure their access to an integrated housing setting.

The judgment of the Court of Rome of 30 May 2015 in respect of the formal camp in *La Barbuta* established that Roma-only housing maintained by municipalities violates the RED. It is the same for these Roma-only shelters in Milan. The ERRC urges the European Commission to initiate infringement proceedings against Italy on the basis of the clear shortcomings of its implementation of the RED. While these breaches are not limited to Milan, we hope the Commission will take into account the situation in Milan when assessing Italy’s compliance with the RED.

## **What was the most important success in this thematic area?**

The judgment of the Court of Rome of 30 May 2015 in respect of the formal camp in *La Barbuta* established that Roma-only housing maintained by municipalities violates the RED. The court found that: "It must indeed be considered as discriminatory any large scale housing solution directed only at persons belonging to the same ethnic group, especially if realised, as in the case of the settlement site in *La Barbuta*, in order to hinder cohabitation with the majority population, and in terms of equal access, to fair conditions, to education and social health services located in an area where there is a serious risk to the health of persons residing there."

## **What was the most important challenge encountered in this thematic area?**

The Council of the European Union called on member states to "Take effective measures to ensure equal treatment of Roma in access to housing and whenever relevant, ensure that applications from local authorities for urban regeneration projects include integrated housing interventions in favour of marginalised communities". While the commitments contained in the Italian NRIS to move beyond emergency measures and segregated camps is laudable, and the recent Court of Rome judgment against Roma-only housing is encouraging, there seems to be no end in sight to repeated evictions, families being forced out onto the street or into overcrowded segregated Roma-only emergency shelters. The actions of the Milan authorities and other municipalities simply fly in the face of Italy's EU commitments.

*Thematic area: Education*

## **Assessment of the situation in this thematic area**

The system of segregated camps effectively precludes any prospect of social inclusion and aggravates discrimination and lack of opportunity in every aspect of daily life. Inadequate housing conditions and forced evictions reduce school enrolment and otherwise negatively affect the education of Romani children. Forced evictions and relocation often far away from schools disrupt children's education. Transportation to school becomes difficult and the constant fear of being evicted creates anxiety and undermines the stability of families. As a consequence, many Romani children fall behind or drop out from school, and large numbers of them end up illiterate.

*Thematic area: Health*

## **Assessment of the situation in this thematic area**

Discrimination against Roma also has a negative impact on their health. Prejudices, together with poor conditions in the camps, lack of knowledge and communication barriers, affect the health of Roma who, in general, have poorer

health. The limited data available suggest that Roma have a lower life expectancy and higher infant mortality rate than the population at large; Romani children are more frequently born underweight than other children and become ill with respiratory disease in greater numbers than their Italian peers, as well as suffer more often from poisoning, burns and accidents at home. There is as a greater incidence of “diseases of poverty”, such as tuberculosis, scabies, lice, and some viral infections, fungal infections and venereal diseases, which now occur with greater frequency than in the past. Among adults, Roma more frequently suffer from diseases of the digestive, respiratory and skeletal systems. In some communities there is widespread hypertension and there are more frequent metabolic diseases (largely attributed to lifestyle) and there are high risks for maternal and child health.

*Thematic area: Anti-discrimination*

### **Assessment of the situation in this thematic area**

The ERRC monitors cases of violence against Roma, including cases of violence by law enforcement officials, attacks against camps and Romani homes and violence by private citizens. Anti-Romani statements by public figures are common, including public insults and defamation and dissemination of ideas based on racial hatred and racial superiority. Political parties often use anti-Roma sentiments during their electoral campaigns and contribute to inciting hatred. Demonstrations by political movements encouraging people to protest against Roma and the production and dissemination of material inciting violence (“games” on Facebook, blogs and flyers against Roma and camps) are dangerously common in Italy. Public figures continue to denigrate Roma in their rhetoric. Despite the fact that violent attacks against Roma are very common, prosecutions for racially motivated attacks are very rare.

### **What was the most important success in this thematic area?**

Despite extreme delays and the reluctance of the authorities to initiate investigations into a mob attack which culminated in a Roma camp being set on fire, the court decision in the “La Continassa” case in July 2015 marked an important step forward. While racist motives are often ignored in cases of violence against Roma, in this case the Turin Criminal Court, found six people guilty of hate crimes against Roma following the mob violence four years earlier. Despite such assaults being common in Italy, ERRC does not have knowledge of prior convictions of this kind.

### **What was the most important challenge encountered in this thematic area?**

Prosecutions for racially motivated attacks are rare in Italy due to a narrowly drafted hate crime law. The challenge for the Italian authorities is to reinforce their response to hate crimes both in terms of punishing perpetrators and supporting victims, and to work with civil society to devise better responses to hate crime and hate speech against Roma. To respond to the challenge of public hostility and racism, the authorities need to be more robust in publicly



condemning and sanctioning all forms of racist violence and use of racist and xenophobic speech against members of the Romani community by public and/or private actors; and be more effective in guaranteeing Roma physical security and free access to legal aid, when needed; the state needs to re-establish adequate penalties against incitement to racial discrimination and violence; and to effectively and proactively implement the anti-discrimination law.

## ROMANIA

*Thematic area: Housing*

### Assessment of progress in this thematic area

There is no progress to report in this thematic area for 2015. As a matter of urgency ERRC calls on the Romanian government to prohibit all forced evictions, which disproportionately affect Roma, and for local authorities to halt such evictions immediately until a legal framework is adopted that establishes appropriate requirements and procedures to be followed prior, during and after evictions in line with the Covenant and other international human rights standards.

Concerning provision of social housing and forced evictions, a number of issues need to be addressed. Social housing is allocated on a points system based on locally set criteria which indirectly discriminate against marginalised groups. While social housing is predominantly financed from the national budget, there is no oversight mechanism to ensure that housing allocation is transparent and non-discriminatory.

The ERRC reported and provided supporting evidence in its most recent submission to the Committee on Economic, Social and Cultural Rights that in the case of forced evictions of Romani communities, the authorities fail to fulfil their obligations under Article 11 of the Convention, as elaborated in General Comment No. 7 on the right to adequate housing.

In particular, authorities failed to explore feasible alternatives before evicting individuals; failed to ensure that evictions were carried out in compliance with international and national obligations, including Romania's obligations under the CESCR; and failed to ensure that adequate alternative housing is available.

The evictions detailed in the ERRC submission were carried out in particularly bad weather conditions, thereby failing to respect procedural protections. National and local authorities have repeatedly failed to ensure that any proper safeguards are in place with regard to evictions. Furthermore, the current national legal framework does not cover evictions from informal housing.

There is no legal requirement to conduct any consultation with regard to proposed evictions or to alternative accommodation being considered by the authorities. The Civil Procedure Code, which entered into force in 2013, interprets eviction in a narrow manner which does not appear to cover the clearing of informal housing by public authorities, the type of eviction which most affects Roma.

The legal framework does not protect vulnerable Roma as it does not provide adequate time for challenging an eviction notice and obtaining a remedy. There are no legal remedies with automatic suspensive effect in cases of potential or threatened evictions.

In his remarks on housing in his end-of-mission statement on Romania issued on 11 November 2015, Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights, strongly concurred with ERRC's findings when he said:

*“The structural problem in many places is that Roma lack security of tenure. Either they have no property title or rental agreement, or they live in ‘formerly nationalized houses’. At any time, they can be evicted from their homes, with all of the attendant stress. All too often, evictions have taken place with little advance notice, have been carried out in an abusive fashion, result either in homelessness or relocation far away from jobs, schools, hospitals, and other facilities, and end up reinforcing residential segregation of a discriminatory nature.”*

*Thematic area: Health*

### **Assessment of progress in this thematic area**

A survey commissioned by ERRC and carried out by Gallup Romania in 2013-14 revealed the extent of inequality and discrimination Roma face in the health system. The survey revealed a 16-year gap in mortality rates between Roma and non-Roma. The average time between first diagnosis of a condition and death is 3.9 years amongst Roma, while it is 6.8 years in the general population. Roma also face more obstacles in accessing healthcare, are less able to afford medication, and are less likely to have knowledge of or access to screening and vaccination programmes. The findings revealed that more than twice as many Roma respondents reported needing health care but not getting it; twice as many Romani women reported never having had a gynaecological examination.

In relation to vaccinations and other preventive measures for children, the survey revealed that almost four times as many Romani children had never been vaccinated when compared with the general population (6.4% compared with 1.7%). The number of Romani girls who have never been vaccinated was 11 times higher than non-Roma (6.6% of Romani girls compared to 0.6% in the general population).

Monitoring by Romanian NGO Romani Criss has shown that segregation of Romani patients in hospitals in Romania continues. In Craiova segregated wards for women and for children were observed, and many of them were sub-standard. Doctors were observed providing negligent treatment to Romani patients; in one case a Romani child who was suffering from tuberculosis was placed in a ward with Romani children who were not. In Zalau, Romani children were segregated in dirty and unfurnished rooms.

Among the recommendations on health, there is a need to increase the number of Roma Health Mediators and steps to be taken to ensure that all local authorities support the Roma Health Mediators programme, and make proper use of the budget allocated for this specific purpose.

As with all of the priority policy areas in the EU Framework, it is imperative that the authorities collect and publish data disaggregated by ethnicity and gender in relation to health and access to healthcare. A monitoring mechanism needs to be put in place covering all healthcare facilities to bring an end to discriminatory treatment and segregation of Roma in hospitals and health centres, with a mandate to thoroughly investigate and remedy any such occurrences.

*Thematic area: Anti-discrimination*

### **Assessment of progress in this thematic area**

The ERRC in its 2015 Written Comments Concerning Romania to the United Nations Committee Against Torture, expressed particular concern about the rise in anti-Roma rhetoric and racism in Romania: *“The climate of impunity for hate speech, stigmatisation, and discrimination is compounded by the absence of a robust framework to address anti-Roma violence, in particular violence perpetrated by the police.”*

It is ERRC’s experience that the Romanian authorities’ investigations into allegations of police violence against Roma often neglect any consideration of possible racist motives. Excessive use of force against Roma remains prevalent with all too frequent resort to heavy-handed tactics such as the use of special intervention forces when interacting with compact Roma communities, even for such mundane tasks as the service of a notice to appear in court. Operational decisions appear to be informed by stereotypes against Roma rather than any rational needs assessment.

The existing complaints system ensures that complaints are unlikely to be filed, let alone to lead to a successful prosecution or other sanctions. NGOs have reported that between 2012 and 2014, of the 3,034 complaints that were submitted to the office of the Prosecutor, only 4 cases led to convictions of police officers.

Professor Philip Alston, the United Nations Human Rights Council Special Rapporteur, made similar findings and stated in 2015 that assurances from senior police officers and Interior Ministry officials will come to naught unless the police introduce stricter rules, vastly more transparent figures, regular reporting, and a meaningful complaints procedure.

Recommendations by ERRC include the need for an independent body to investigate claims of police brutality; necessary steps to ensure that racial motivation is considered and investigated in cases of violence against Roma; a clear justification for the deployment of special intervention forces when planning a mission; and the need to collect ethnically disaggregated data on the complaints of alleged torture and ill-treatment, details of the investigations and their outcomes.

It is clear that unless there is access to justice, an end to the culture of police impunity, and a determined effort to tackle institutional anti-Roma racism in law enforcement, the justice system, and indeed, all public authorities, the

Romanian National Roma Integration Strategy (NRIS) is doomed to fail. Concrete steps are needed to ensure that access to justice for Roma becomes a priority in the EU Roma Framework, and it should be firmly within the competences of DG Justice to ensure that justice can prevail without prejudice in Romania and all of the other member states when it comes to Roma citizens.

In his end-of-mission statement the United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights, said *"Many officials are in a state of denial about both the extent of poverty in the country and of the systemic and deep-rooted discrimination against the extremely poor, especially the Roma."*

The Special Rapporteur's verdict on the NRIS is consistent with ERRC's assessment. He found that there was no political will to implement the NRIS: *"The strategy is disconnected from, and not appropriately integrated in, government policies in general, there is no clear budget for it other than external funds, no ministry is keen to lead on the issue, and no senior political figures are prepared to take the lead."*

In addition to these structural deficits, the NRIS cannot hope to succeed until the authorities get beyond the culture of denial, face up to the reality of anti-Gypsyism and begin to deal with the direct and indirect forms of structural racism and discrimination against Roma. The Rapporteur's recommendations on combating discrimination are most pertinent, and we would strongly urge that the European Commission incorporate these recommendations into its own assessment of Romania's NRIS.

### **Recommendations**

- Romania's highest public officials should publicly acknowledge that there is severe discrimination against Roma in Romania.
- Because of the depth and scope of past discrimination, special measures to assist the Roma population are needed in areas such as education, health care, employment and housing.
- A new census needs to be undertaken. The interviewees should not be required to present an ID and specially trained census-takers of Roma origin should be used in areas with a significant proportion of Roma. Lessons should be learned from international organizations such as UNICEF that have undertaken social censuses in the past in a manner that allows Roma to state their ethnicity.
- Unless the State has disaggregated data on ethnicity in areas such as employment, housing, education and health care, it is difficult to devise special measures to assist specific minority groups, including the Roma population. The National Council for Combating Discrimination should publicly acknowledge the importance of collecting such disaggregated ethnicity data and prepare and publish a legal opinion on the interpretation of Law 677/2001. Although that law implements EU Data Protection Directive 95/46, the current official interpretation of the law appears to contradict article 8 (2) of EU Directive 95/46 and the European Commission should start an infringement procedure against Romania if it continues to misinterpret the EU Directive.

- The national Law on building permits (50/1991) should be brought into conformity with international human rights law on forced evictions, including General Comment no. 7 of the UN Committee on Economic, Social and Cultural Rights (1997).
- Eviction should be a matter of last resort. The Government should give clear instructions to local authorities to prioritize the regularization of informal settlements over eviction.
- The Civil Code should be amended to apply to evictions from informal settlements, to allow for a full review of eviction decisions by the courts, and for temporary or permanent stays of execution to be granted.
- Prefects are required to review the legality of all administrative acts by municipalities, including eviction orders. In reviewing the legality of eviction orders, they should take account of international human rights standards. The Ministry of the Interior should issue guidelines for Prefects when undertaking such legality reviews.

## SLOVAKIA

*Thematic area: Access to education*

### Assessment of the situation

In June 2015, following remarks made by Prime Minister Fico in response to infringement proceedings, the ERRC and others called on the Slovak government to refute the use of the “incest-argument” to justify segregated education for Romani children in Slovakia. The government dismissed EU criticism of school segregation and claimed that “One of the reasons why there is higher occurrence of genetically determined disorders is that Slovak Roma have the highest coefficient of interbreeding in Europe.”<sup>13</sup>

Research and submissions by the ERRC to CEDAW and UN Committee on Discrimination fully concur with the opinion expressed by the National Lifelong Learning Institute of Slovakia that the Slovak education system is “one of the most unfair systems in Europe”, the most discriminated children being those who are affected by social marginalisation, poverty, or a language barrier.

In 2013, based on research carried out in 21 schools, the Ombudsperson found that Roma children represented 88% of children enrolled in special primary schools and classes. Amongst eleven European countries with a sizeable Roma minority, the Slovak Republic has the highest level of segregation of Roma in mainstream education and the second highest in the special education system.

Completion rates for secondary education remain very low, with 39% of Roma women and 28% of Roma men aged 16-24 having stopped school before the age of 16. An Amnesty International report in 2015 has noted that despite a district court ruling in 2012 that segregation of Romani children was illegal, children face even more severe segregation by being placed in “container schools”, where they are completely cut off, not just from their peers, but from almost anybody from the non-Roma population.

In 2014, within the UN mechanism of the Universal Periodic Review, Slovakia was asked to address the discrimination against Roma in schools. The government dismissed these recommendations arguing that equal treatment was already guaranteed.

The ERRC echoes the concerns expressed by Commissioner Nils Muižnieks, following his visit to Slovakia in 2015, that despite the gravity of the problems and the landmark district court ruling on segregation, the Slovak authorities’ attitudes remain unchanged and on several occasions they denied or justified the segregation of Roma children.

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<sup>13</sup> <http://www.errc.org/article/slovakia-racist-stereotyping-should-not-determine-education-policy--international-ngos-criticize-slovak-government/4368>

## What was the most important challenge encountered in this thematic area?

The most important challenge is that poor quality and low spending in education overall, combined with racist prejudice and a determination to continue segregating Romani children spells disaster for social cohesion. The Social Justice in the EU - Index Report 2015 confirms that the quality of education and training in Slovakia has suffered both from low levels of spending and a lack of structural reforms. Spending levels on education are among the European Union's lowest, and have fallen as a percentage of GDP since 2009. Deemed to be the 'most unfair educational system in Europe', the authorities remain unbothered by the illegality of segregation and unmoved by criticisms from the EU, UN and other international bodies.

*Thematic area: Housing*

### Assessment of the situation in this thematic area

According to the Slovak Anti-Poverty Network "housing and the protection of the right to housing is the weakest component of public policies". There is an acute shortage of affordable accommodation; just 2.7% of dwellings are publicly owned (EU average 18%). The Commissioner Nils Muižnieks noted that partly as a result of lack of tenure, many Roma in Slovakia live with the threat of forced eviction; and that although there are several state mechanisms allowing for the construction of flats for marginalised communities, housing interventions remain limited, with many municipalities reluctant to use existing resources to promote inclusion. Mass forced evictions and the erection of walls separating Roma from non-Roma continue to attract international criticism.

There is a plenty of evidence, in particular *The Atlas of Roma Communities* (a comprehensive survey of Romani neighbourhoods and settlements in Slovakia in 2013 commissioned by the Ministry of Interior and executed by the UNDP and the University of Prešov). The survey confirmed that greater numbers of Roma in Slovakia live in poor and segregated settlements in substandard housing, unprotected from environmental hazards that include toxic industrial waste, rubbish tips, seasonal flooding, and the intermingling of waste and drinking water.

In the last couple of years, 14 walls and barriers were erected to segregate Roma from the rest of the society. Most of the walls were either directly commissioned by the municipality or the municipality provided financial contributions to support residents' initiatives to build walls.

Spatial segregation and social exclusion are often accompanied by substandard living conditions including poor sanitation and a lack of public utilities, which adversely affects health conditions.

There is no public sewage system in 453 Roma neighbourhoods (56.41%) and about 33% of these neighbourhoods do not even have a private sewage facility



and houses discharge the sewage (a mix of waste water and secretion) to nearby surroundings.

### **What was the most important challenge encountered in this thematic area?**

The most important challenge is the failure of central government and the unwillingness of local authorities to devise an effective and proportionate response to the housing crisis. In 2014, a new Building Act was drafted and debated in the Slovak Parliament. The Act was to follow a policy piloted in some municipalities willing to formalise their Roma neighbourhoods by the Roma Plenipotentiary Office. According to the draft, the Act should have created an exemption for informal Roma settlements and allow Roma to legalise their homes. The Act relied upon the mediation of local authorities, tasked to purchase the land from private owners (by offering alternative land) and subsequently sell it to Roma residents. There was a specific period until 2022 earmarked for this policy. Unfortunately, the Parliament rejected the Act. Taking into account that the Office of the Plenipotentiary for Roma has only managed to support four municipalities to legalise their Roma settlements in the last 2 years, the housing situation of vast numbers of Roma families remains precarious and hazardous – five Romani children have perished in fires or from the cold in January 2016.

*Thematic area: Protection of Roma children and women*

### **Assessment of the situation in this thematic area**

The basis is the evidence gathered by ERRC that Romani women had insufficient access to justice in cases of multiple discrimination, faced discrimination in education, health care and that compensation and safeguard provisions for involuntary sterilisation of Romani women were missing.

Based on the given analysis as well as its own legal experience from the courts the ERRC concludes that the implementation of the provisions of the Anti-discrimination Act by courts in cases of gender and multiple discrimination remains inconsistent and often flawed. Courts remain insufficiently informed about anti-discrimination legislation and its proper application in practice. Specifically, the application of the reversed burden of proof continues to fall short of legal consistency; the court proceedings concerning discrimination last excessively long periods (rarely less than several years); the courts remain extremely reluctant to award any financial compensation for victims of discrimination. They tend to downplay the seriousness of discrimination; biases have been noted when dealing with cases of discrimination against Romani women and damages for racial discrimination are too low to have any deterrent effect.

Discriminatory practices (including segregation) towards Romani women in the area of healthcare are still a reality in Slovak hospitals. Romani women are still segregated at Gynaecological and Obstetrics Departments of some hospitals in

Eastern Slovakia, such as the state-run hospital in Prešov. Monitoring by ERRC partner Poradňa found that Romani women are regularly placed in Roma-only rooms, sometimes forced to share one bed, and facing verbal abuse and harassment from non-Roma women and health care staff. In some hospitals Romani women are prevented from using the same bathrooms and toilets as non-Roma, or are prevented from entering dining rooms or assigned to separate tables.

The ERRC report concurred with Commissioner Nils Muižnieks' concerns during his visit in June 2015 that the Slovak authorities have still not taken responsibility for the unlawful sterilisation of Romani women in the past, and for the future have yet to adopt uniform standards for obtaining free and informed consent in line with recommendations from international bodies. Despite recommendations from international bodies and the Human Rights Council, the authorities have not yet adopted uniform standards concerning the obtaining of free and informed consent in cases of sterilisation.

### **What was the most important success in this thematic area?**

The formal acknowledgement by the authorities of the injustice of forced sterilisations and the payment of compensation to individual complainants in line with the ECtHR rulings was welcomed but deemed insufficient. Similarly the Ministry of Health's adoption in 2014 of legally binding regulations that contain sample forms of informed consent when performing sterilisations, were a step in the right direction but are not sufficient. What is missing is any effective monitoring of medical practitioners so that failures and abuses can go undetected. Also missing is any provision for awareness-raising in Roma communities. It is necessary to disseminate information on rights connected with providing informed consent and also to empower Roma women themselves to bring complaints in cases their rights are violated.

### **What was the most important challenge encountered in this thematic area?**

The Slovak Government would need to do the following to meet the challenges identified:

- Enhance the speed and efficiency of court proceedings concerning discrimination;
- Ensure effective implementation of the Anti-discrimination Act and access to justice for women facing discrimination including adequate reparation or satisfaction;
- Establish an independent commission to investigate the full extent of the practice of coerced and forced sterilisation in the communist and post-communist period in Slovakia, to propose institutional and administrative measures to prevent the recurrence of the practice and to recommend financial and other reparations for affected women and girls;
- Conduct a thorough effective criminal investigation into all relevant cases of sterilisation focusing on conditions under which consent was provided and criminally prosecute those responsible for these human rights violations;

- Introduce clear guidelines for medical staff and provide long term and systematic training of healthcare personnel on how to ensure informed consent for any medical intervention including sterilisations;
- The State party should also monitor the implementation of the current legislation by healthcare providers and introduce effective sanctions if violations occur;
- Collect disaggregated data based on ethnicity and gender in health care;
- Adopt comprehensive policies and earmark resources to improve and address the situation of Romani women and girls in terms of access to healthcare and other services.

*Thematic area: Anti-discrimination*

### **Assessment of the situation in this thematic area**

We recorded a significant number of verbal and physical violent attacks and incidents of harassment committed by police against Roma, including minors, which have not been investigated effectively. In most of the cases monitored, there have been no successful prosecutions of offenders. However, precise data is impossible to collect as many hate crimes go unreported, there is no hate crime data disaggregated on the basis of ethnicity and in certain cases racial motives are not taken into account.

Commissioner Nils Muižnieks echoed similar concerns during his visit in June 2015. With regards to the frequent allegations of excessive use of force by police officers during raids on Roma settlements, he was gravely concerned with the lack of follow up investigations. Muižnieks called on the authorities “to ensure that all allegations of ill-treatment committed by law enforcement officers, including those with an alleged racist motive, are promptly and effectively investigated and that adequate, dissuasive penalties are imposed on those responsible.” The Commissioner is particularly concerned by manifestations of anti-Gypsyism and hate speech which have been reported at local level and which show the need for the authorities to redouble their efforts aimed at eradicating intolerance and racism.

### **What was the most important success in this thematic area?**

The Ombudsperson’s proactive approach in taking up issues such as police abuse against Roma is encouraging, but the lack of support from the authorities for such work is a cause for concern. The work of the Ombudsperson’s office faces many obstacles: its reports are discredited, recommendations pointedly ignored, and the office itself critically understaffed and under-resourced.

### **What was the most important challenge encountered in this thematic area?**

The number of discrimination cases filed in Slovak courts remains constantly very low. ERRC partner Poradňa conducted a nationwide survey which showed that among the most frequent reasons for not pursuing discrimination cases was the lack of trust in the institutions that could successfully resolve

discrimination, and a lack of information as to where and to whom to turn for legal aid. The results also indicated an overall scepticism and even resignation, as well as the conviction that discrimination in Slovakia is so normal and widespread that it makes no sense to oppose it and that in Slovakia it is not possible to achieve justice.

To restore some sense of confidence it is crucial that the authorities establish a fully independent and well-functioning complaints mechanism covering all law enforcement officials. Such a body should be set up taking into account the five principles of effective complaints investigation: (a) independence; (b) adequacy; (c) promptness; (d) public scrutiny; and (e) victim involvement. There is a need to gather and disseminate data disaggregated by ethnicity to identify the extent of racially motivated police violence against Roma and the outcomes of these investigations. Policies and practices need to be put in place to prevent and combat any institutional culture within law enforcement authorities that promotes impunity. The Slovak authorities need to take all necessary measures to ensure that all allegations of ill-treatment by law enforcement officers are promptly and effectively investigated, and that those who commit these violations are brought to justice.