

WRITTEN COMMENTS

of the European Roma Rights Centre and Romani CRISS, Concerning Romania

For Consideration by the Human Rights Committee at its 110th Session
(10-28 March 2013).



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

TABLE OF CONTENTS

Introduction	3
Police Violence Against Roma (Articles 6, 7, 9 and 10)	3
Discrimination (Articles 2 and 26) and Access to Information (Article 19)	5
Discrimination in Relation to Family Life and Housing (Articles 2, 7, 17 and 26)	6

INTRODUCTION

This list of critical issues is presented by the European Roma Rights Centre (ERRC)¹ and Romani CRISS² to assist the Pre-Session Working Group with country-specific information on issues affecting Roma in Romania that raise questions under the International Covenant on Civil and Political Rights (ICCPR).

According to current unofficial estimates Roma in Romania make up approximately 9% of the population (approximately 1,700,000). A verified and accurate count remains, however, elusive.³ In February 2012, the National Statistics Institute published the preliminary results of the 2011 Census of the Population and Households, finding that the total population had dropped from 21.68 million inhabitants in 2002 to 19 million, while the percentage of persons self-identifying as Roma had increased to 619,007 (3.2% of the total population, an increase from 2.46% in the 2002 census).⁴

POLICE VIOLENCE AGAINST ROMA (ARTICLES 6, 7, 9 AND 10)

In the course of a police action on April 29 2013, several Romani families were targeted by police, who used excessive violence and force. Mrs. K.L. from Reghin, Mures County was in her home with her partner. At approximately 5:00 a.m. they heard a knock on the door and the men shouting to open it because they had a search warrant. They broke the door and 10 people entered, 8 of whom were in police uniform (masked), and two were dressed in civilian clothes. Three of these people took her from the bed, grabbed her by the throat and threw her to the ground. The other seven policemen held her partner with his face to the ground and handcuffed him. He asked the police to handcuff him with his hands in front as his hands ached, but they refused. Police officers obliged him to sign documents whilst he was handcuffed. K. L. was pregnant and during the search she felt sick. The policemen called an ambulance and K.L. was taken to hospital.

On April 29, 2013, at around 6:00 a.m. Mr. A.K., from Reghin, Mures County was in his home with his partner and their minor child. 10 representatives of the police entered the house. Two of them hit him in the back with batons. Then the police pushed him and held him face down, and when his partner tried to defend him by pulling him toward her one of the masked agents pushed her and hit her lip and right leg. They then handcuffed A.K. and took him to the yard. While in the courtyard, A. K. was not allowed to speak. He was taken to the police station in Mures and was released after half an hour.

On 10 June 2012, following an intervention by police and gendarmerie enforcement officials, two Roma men were shot, one fatally in Pusta Vale, Salaj county, in north-western Romania. According to Romani CRISS interviews with the victims' relatives and members of the local community, an altercation occurred among two minors, one Roma and one Hungarian. Shortly afterwards, two police officers from the locality came to the location. An older brother of the Romani child tried to pull him out of the courtyard of a house but he was moved on, and the police officers used tear-gas spray against him. Shortly afterwards, the police accompanied by members of the gendarmerie went to the Roma community, looking for the Romani child's brother. The police officers exclaimed "This is him, get him!" indicating a Roma family who were not connected with the previous conflict described above. L.F. was in front of the house together with another individual. At the sight of the gendarmes approaching, his brother L.D. immediately shut the gates of the courtyard. The police forced entry through the gates, entered the courtyard and struck the family members, the father and his five sons. The family responded and L.D. was subsequently shot in the leg, above the knee, as well as in the back. According to testimonies several shots were fired, creating a chaotic situation. Seeing his brother shot, L.N. fought back,

1 The European Roma Rights Centre 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. See: www.errc.org.

2 Romani Criss is a human rights organisation that defends and promotes Roma rights in Romania.

3 ERRC, Life Sentence. Romani children in institutional care, June 2011, p 7, available at: <http://www.errc.org/cms/upload/file/life-sentence-20-june-2011.pdf>.

4 National Statistics Institute, Central Commission for the Census of the Population and Households, Press release concerning the preliminary results of the Census of the Population and Households, 2011, 2 February 2012, available at: <http://www.insse.ro/cms/files/5Cstatistici%5Ccomunicate%5Calte%5C2012%5CComunicat%20DATE%20PROVIZORII%20RPL%202011.pdf>.

took an object and hit one of the police. As he turned and tried to run he was shot in the back, between the shoulder blade and the armpit. The bullet entered his heart.⁵

On May 31 2012, a 24-year-old Roma man was shot in the head by police officers whilst being pursued by police. The pursuit took place in the Petricani-Tei area, on the outskirts of Bucharest. The victim died. According to testimony from the victim's relatives and members of local community, several police teams from sections six and seven of the Bucharest police were trying to capture two suspects who had stolen construction materials. The two men jumped into the Plumbuita Lake to evade capture. Ten policemen surrounded the lake. The pursuing policemen announced that they would shoot, after which they fired two shots in the air. A policeman then fired in the direction of the two men who were stationary, treading water. The victim R.D., who was in the water about 10-15 metres from shore, was fatally shot in the head. The victim's body was recovered by divers after one hour of searching.⁶

On June 25, 2013, the European Court of Human Rights (ECHR) released the decision on *Gheorghe Cobzaru v. Romania*. The ECHR ascertained that the Romanian state violated the right to life, prescribed by article 2 of the Convention and obliged Romania to pay 30.000 euro as moral damages.

On November 19, 2006 Gheorghe Cobzaru formulated a criminal complaint to the Prosecutor's Office within the Bucharest Tribunal, in relation to the murder of his son (article 174 from penal code). The file followed procedural phases in front of Prosecutor's Office, as well as in front of courts of justice, without being definitively and irrevocably solved. At present the case is pending before the Prosecutor's Office within the Tribunal of Bucharest. In August 27, 2007 the applicant filed a complaint to the ECHR. Before the ECHR, as well as before the national courts, the applicant was represented by a lawyer, supported by Romani CRISS.

The applicant complained to the ECHR with regard to the murder of his son, Adrian Cobzaru, and the ineffectiveness of the subsequent criminal investigation. Departing from usual practice, the ECHR judged this case, even though domestic remedies had not been exhausted. The ECHR permitted this exception due to the fact that more than six years from the date of the incident in which Adrian Cobzaru lost his life the Prosecutor's Office investigation is still in progress and the excessive length of the investigation risks complicating the collection of evidence and the exact establishment of the facts by Romanian authorities.

The Court found that the Romanian state violated the right to life both under the procedural limb, and the substantive one. The Court showed that by shooting a bullet in the direction of Adrian Cobzaru, with the purpose of seizing him, at night, the policeman didn't take all cautionary measures sufficient for protecting the victim's life, and that the incident happened in the context of the lack of a precise legal framework for the use of guns by police forces.

The ECHR also held that the investigation was not effective or quick. The Court criticized the fact that the authorities established with a very large delay the shooting distance and bullet's trajectory, and also the fact that the applicant wasn't properly involved in the criminal investigation in the sense that he wasn't informed or consulted regarding the evidence and statements proposed by witnesses.

Romani CRISS points to the fact that this case is not unique. In the last years, Romani CRISS has documented approximately 50 cases of abuse by law enforcement forces. In many cases, the reaction of the representatives of the Ministry of Administration and Interior (MAI) was to make public statements, shortly after incidents, in which they sustained the legality of the action. This approach shows that the purpose of those statements is more to exonerate the policemen involved. They are also likely to cast shadows on the independency and efficiency of the internal investigation system of the MAI.

From the legislative point of view, the modifications introduced after the decision of *Soare and others v. Romania* are insufficient and do not address the core of the criticism of the ECHR decision of *Cobzaru v. Romania (2013)*, namely the use of firearms by police. Moreover, such new standards must form the object of initial and continuous training of police officers, in order to ensure that they will not remain only obligations assumed on paper.

On the level of the Prosecutor's Offices, in the majority of situations encountered by CRISS in practice, the statements of policemen involved in the incident are accepted without reservation, and therefore without

5 ERRC and Romani CRISS letter to Ministry of Administration and Interior Affairs, General Inspectorate of Romanian Gendarmerie, Mures County Gendarmerie Inspectorate and the Mures County Police Inspectorate, available at: <http://www.errc.org/cms/upload/file/romania-letter-violence-15-june-2012-en.pdf>.

6 ERRC and Romani CRISS letter to Ministry of Administration and Interior Affairs, General Department of Bucharest Police, Prosecutor Office of the Bucharest Tribunal available at: <http://www.errc.org/cms/upload/file/romania-letter-violence-6-june-2012-en.pdf>.

a just and balanced appreciation of all evidence; this leads to the exoneration of police officers involved. Although this practice has often been condemned by the ECHR, there are no significant changes at the level of the practice of the Prosecutor's Offices.

SUGGESTED QUESTIONS TO THE GOVERNMENT

- Does the Romanian Government keep information on incidents where the police have used force (notably firearms) against people? If so, do they keep specific information about incidents where they have used force against Roma? Please supply detailed information to the Committee.
- Does the Romanian Government keep detailed data on the number and type of racially motivated crimes committed against Roma, as well as information on prosecutions? Please supply detailed information to the Committee.
- Have the official investigations into the above referenced cases resulted in prosecutions or sanctions for the perpetrators? Please supply detailed information on the outcomes of the investigations to the Committee.
- Is there specific guidance (such as internal procedures or protocols) for police, prosecutors and other law enforcement officials on how to investigate racially motivated crimes?
- What professional training and capacity-building activities have been implemented for law-enforcement, prosecution and judicial officials dealing with hate crimes?
- What measures have been taken to improve policing with minority communities, in particular Roma? Are there measures in place to encourage Roma enrolment within law-enforcement agencies and their deployment in multi-ethnic communities? What steps are taken to measure the quality of policing in Roma communities and the presence and impact of Roma within law-enforcement agencies?
- What legal changes, if any, is the Government considering in order to ensure a detailed regulation of the use of firearms by law implementation officers (especially by police and gendarmes);
- Is the Romanian Government considering the adoption of measures aimed at reducing the loss of human lives, inter alia through (a) initial and continuous training of police officers and gendarmes that includes with priority and in a comprehensive fashion, at the very least the training of command officers in planning interventions with minimal use of force and training MAI workers on the modalities of use of lethal force, regarding the preparation and control of those operations, (b) revising the internal investigation system for increasing transparency, independence and impartiality and (c) adopting guidelines for public statements in violent incidents in which police officers are involved, with a view to ensuring correct and balanced information;
- Are the Romanian Government and the Superior Council of Magistracy working towards identifying concrete measures for preventing the management of cases in a manner that is openly and routinely violating the fundamental principles established by the European Convention of Human Rights and UN treaties and standards, especially regarding the length of the proceedings and the acceptance without reservations of statements of the police officers involved in the events.

DISCRIMINATION (ARTICLES 2 AND 26) AND ACCESS TO INFORMATION (ARTICLE 19)

Data disaggregated by ethnicity is needed to assess and monitor fully the extent of existing inequalities, including health inequalities. Although information is collected by various bodies in Romania, and some information relating to ethnicity and health is also collected, such information is not available and used for public policy. The lack of information means that inequalities and indirect discrimination remain hidden. Public policy cannot effectively address inequalities without the collection, publication and use of disaggregated data.

ERRC research⁷ conducted in Romania in 2013 has shown significant health inequalities between Roma households and the general population, and indirect discrimination in relation to access to public services. The average

⁷ ERRC, *Hidden Health Crisis: Health inequalities and disaggregated data*, (Budapest, 2013), available at: <http://www.errc.org/cms/upload/file/hidden-health-crisis-31-october-2013.pdf>.

age at death is 16 years lower in Roma households, and the average survival time after diagnosis of disease is three years shorter in Roma households. Romani individuals are more likely to be diagnosed with serious medical conditions, and face more difficulties and obstacles in accessing necessary medical care and affording medication. They are more likely to take less of a prescription or interrupt the prescription in order to save money or because they cannot afford it. Roma are less likely to receive vaccinations or access preventive screening programmes.

SUGGESTED QUESTIONS TO THE GOVERNMENT

- In what domains (e.g. housing, education, health, employment) are data disaggregated by ethnicity available and in what way are these data used to shape public policy?
- What are the barriers in collecting, using and publishing such data and what steps are undertaken by the Romanian authorities to overcome these barriers (e.g. guidelines on data collection, information campaigns to encourage self-identification as Roma)?
- What data does the Romanian state use to measure progress in relation to the implementation of the National Strategy for Roma Inclusion⁸ and towards fulfilling its obligations under the ICCPR?
- Is there a domestic legal obligation or consistent practice of gathering data in order to design and assess public policies aimed at combating long-standing discrimination against Roma?

DISCRIMINATION IN RELATION TO FAMILY LIFE AND HOUSING (ARTICLES 2, 7, 17 AND 26)

The ERRC has closely monitored evictions of Roma communities in several areas of Romania. In most cases, no suitable alternative accommodation has been provided, and Roma have been moved to physically isolated and remote areas which are polluted and environmentally hazardous. The living conditions in these areas are entirely unsuitable and fail to meet national and international standards.

On September 27, 2013 in Eforie Sud 101 people, including 55 children, were made homeless in severe weather conditions (low temperatures, high winds and rain), after their houses were demolished ostensibly due to lack of building permits. No remedy was available to suspend the eviction, pending judicial review.

The local council, which carried out the eviction, did not provide any alternative accommodation.⁹ The people were forced to spend four days outdoors in makeshift shelters, again, in particularly bad weather.¹⁰ Following pressure from NGOs and media, the local authorities placed these Roma people in an abandoned high school, where they are still forced to endure cold, insanitary conditions and overcrowding. To date, the evicted Roma have not been provided with suitable alternative accommodation and the local authorities have no clear plan to do so.

On December 17, 2010 almost 200 people from 56 Romani families were evicted from Coastei Street in the centre of Cluj-Napoca in north-west Romania. 40 families were given accommodation in 18 m² modular shelters on the site of the city rubbish dump at Pata-Rât. The others were given no accommodation and had to share with relatives, increasing overcrowding. The accommodation is overcrowded, far from the city, and in an area totally unsuitable for human habitation. Four families share one bathroom, and there is no adequate ventilation or heating, cooking facilities or hot water. The smell and fumes from the site of the dump also mean that residents cannot open windows for long periods.

⁸ See: http://ec.europa.eu/justice/discrimination/files/roma_romania_strategy_en.pdf.

⁹ ERRC, 'Romania Eviction Leaves 100 People Homeless in Dangerous Conditions – Authorities Must Act Urgently', Press Release, 2 October 2013, available at: <http://www.errc.org/article/romania-eviction-leaves-100-people-homeless-in-dangerous-conditions-%E2%80%93-authorities-must-act-urgently/4204>.

¹⁰ The National Meteorological Administration issued a "code orange" alert for dangerous weather phenomena consisting in very strong winds and heavy rains.

Romani families were given just one day's notice of the evictions. Many had been living in Coastei Street for over 20 years. The families were not given proper notice of the evictions, and were evicted in mid-December, despite a ban on wintertime evictions in Romania. Again, the evicted families have been offered no suitable accommodation and there is no plan in place to address the housing issue.

SUGGESTED QUESTIONS TO THE GOVERNMENT

- How does national law define an “eviction”? In what situations can people be removed from the places where they are living without the protections the UN and international law prescribes for evictions? What safeguards in particular are in place for the clearing of informal settlements, where Roma often live?
- What measures does the Romanian state take to ensure that evictions are carried out in compliance with the international standards on forced eviction¹¹ in the light of article 2 and article 26 of the International Covenant on Civil and Political Rights?
- What are the remedies that the Romanian legal system offers in case of a forced eviction? Are there remedies available with automatic suspensive effect (i.e. to ensure that a court reviews the lawfulness of the eviction before it takes place), so as to ensure those evicted will not be subjected to inhuman or degrading treatment?
- What is the Government doing towards eliminating obstacles (financial, administrative, legal etc) that preclude Roma from regularising the legal status of the houses they have lived in for long periods of time?

¹¹ In particular, General Comment no.7 of the International Convention on Economic, Social and Cultural Rights.