

# PARALLEL REPORT

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING ROMANIA

To the Human Rights Council, within its Universal Periodic Review, for consideration at its 15th session (21 January to 1 February 2013).



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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The European Roma Rights Centre submits this parallel report to highlight some key human rights concerns of the Romani community in Romania. The issues raised in this report implicate Romania's obligations under the following human rights laws: International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, International Convention on the Elimination of All Forms of Racial Discrimination, International Convention on the Rights of the Child and United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

## FORCED EVICTIONS

In its 2008 concluding observations, the UPR Working Group recommended that the Romanian Government take steps to ensure Roma are able to access housing.<sup>1</sup> Since then the Romani population has continued to face many institutional problems in terms of security of tenure, forced evictions and with respect to the provision of adequate alternative housing once evicted. According to the DecadeWatch review undertaken as part of the Decade of Roma Inclusion, very little has changed regarding Roma housing compared to the mainstream population.<sup>2</sup>

National law does not regulate how municipalities should conduct forced evictions; there is very little overview or framework as to what should happen in eviction situations.<sup>3</sup> Local authorities carry out the forced eviction of both formal and informal communities that are situated on both private and public land,<sup>4</sup> often in a manner that violates human rights standards. Romanian law places a moratorium on evictions between 1 December and 1 March.<sup>5</sup> This moratorium is not respected by the Government in the case of Roma, as illustrated in the December 2010 eviction of Romani families from Coastei Street in Cluj (see below). Local authorities often fail to give adequate notice of eviction to residents; for example, in Cluj, local authorities only notified Roma of their impending eviction one day before the eviction was conducted.

Where the Romanian government has relocated individuals, they have consistently failed to supply quality, adequate alternative housing.<sup>6</sup> While international human rights law requires alternative adequate housing, Romanian national law does not account for this.<sup>7</sup> Relocation plans often do not account for the hazardous nature of the land to which Roma face relocation; at times Roma are placed in locations where there is extensive pollution, toxic waste or which are generally unsuited for human life, raising concern about related violations of the right to health.<sup>8</sup> Forcibly relocated Roma are often left without proper access to basic hygiene facilities and living conditions. Lack of electricity and proper sanitation are problematic.<sup>9</sup> In some situations the accommodation provided lacks waterproofing and is vulnerable to animal and insect infestation. There is overcrowding in resettled communities because local authorities do not account for the actual number of individuals affected.<sup>10</sup> As the government largely places Roma at the edge of cities, public transportation access for work and school is affected negatively.<sup>11</sup>

In December 2010 local authorities forcibly evicted 56 Romani families from a long-standing settlement in the centre of Cluj-Napoca. The family were given a single day's notice of eviction and relocated to container housing at an alternate site near a toxic waste dump and the municipal landfill, segregated from the

1 U.N. H.R.C. Rep. of the Working Group on the Universal Periodic Review, June 2008, U.N. Doc. A/HRC/8/49 (3 June 2008).

2 Roma Civil Alliance of Romania, *Decadewatch Romania Report* (2010), available at: [www.romadecade.org/decade\\_watch\\_romania\\_2010](http://www.romadecade.org/decade_watch_romania_2010), 22.

3 *Ibid.*, 20.

4 For example: ERRC and others, "Forced Eviction of Roma from Coastei Street", 17 January 2011, available at: <http://www.errc.org/cms/upload/file/romania-pata-rat-17-january-2011.pdf>.

5 Romania, *Civil Procedure Code*, Article 578, index 1.

6 European Roma Rights Centre, *Standards Do Not Apply: Inadequate Housing in Romani Communities*, (Budapest: February 2011), available at: <http://www.errc.org/article/standards-do-not-apply-inadequate-housing-in-romani-communities/3808>, 46.

7 Roma Civil Alliance of Romania, *Decadewatch*, 20.

8 *Standards*, 56.

9 *Standards*, 47.

10 ERRC interview with Ms E.S. Târgu Mureş, Romania: 30 January 2010.

11 *Ibid.*, 55.

mainstream community.<sup>12</sup> The ERRC conducted participatory research with the community in the year following the eviction. It found that almost a fifth (19% of individuals lost their main source of income from formal and informal work, mainly due to the destruction of social networks and the increased distance from work. Families faced a drop in income while having to pay much more for transport. In 2011 all the children due to be enrolled in primary school for the first time (that the ERRC is aware of) were rejected by mainstream schools on the basis of alleged insufficient space in the classrooms.<sup>13</sup>

In May 2012, the municipality of Baia Mare evicted and relocated nearly 100 Romani families from the city centre to a former copper factory which was not properly decontaminated after it was closed.<sup>14</sup> National organisations reported that the families were pressured into signing agreements to be moved to the factory, owned by Cuprom.<sup>15</sup> Before the factory's closure, it was one of the most polluted locations in the entire country.<sup>16</sup> Shortly after the Roma were moved into the factory, nearly two dozen residents were hospitalised due to contamination. The eviction happened a week before the local elections, and the mayor that presided over them gained an 86% majority. The municipality has announced its intention to move another 260 Roma families to the site by the end of 2012.<sup>17</sup>

The Romanian Government has not taken adequate steps to address the housing situation of Roma in the four years since the last periodic review. There is little indication that the 2012 National Strategy for Roma Inclusion submitted by the Government to the European Commission will impact the housing situation of Roma positively, as was the case with the 2005 National Strategy.<sup>18</sup>

## TRAFFICKING IN HUMAN BEINGS

According to ERRC research conducted in 2010, Roma are over-represented among victims of trafficking in Romania. According to a range of stakeholders interviewed in that research, Roma are highly represented among persons trafficked for the purposes of begging, forced labour and sexual exploitation.

In its 2008 concluding observations, the UPR Working Group recommended that the Romanian Government take additional measures to combat human trafficking, including the provision of training for police in dealing with victims of human trafficking and sexual abuse, strengthen protection of victims of trafficking against criminalisation as well as continuing to improve the protection and assistance to victims, and raising public awareness on the risks of trafficking.<sup>19</sup>

There has been little action by the Romanian government to address the high vulnerability of Roma to trafficking. While laws have been passed for the protection of trafficked Roma, adequate implementation has not followed.<sup>20</sup>

Identification of the actual impact of Government action on trafficking of Roma is significantly hampered by its refusal to collect data disaggregated by ethnicity on the victims of this crime. In its reporting on human trafficking, the Romanian Government focuses on the high number of Roma reportedly responsible for trafficking,<sup>21</sup> rather than considering them as a group highly vulnerable to this practice. The lack of disaggregated data also calls into question the veracity of the Government's claims as concerns Roma as traffickers.

12 ERRC, "ERRC and GLOC Call for Action on Evicted Romani Families in Romania", press release, 19 December 2011, available at: <http://www.errc.org/article/errc-and-gloc-call-for-action-on-evicted-romani-families-in-romania/3951>.

13 ERRC research on file. See also: <http://www.errc.org/article/errc-and-gloc-call-for-action-on-evicted-romani-families-in-romania/3951>.

14 Romani CRISS, "Baia Mare", press release, 12 June 2012.

15 Romani CRISS, Sanse Egale (Equal Opportunities) and Asociatia Umanitara Impreuna pentru Ei (Humanitarian Association Together For Them), "Open Letter to Romanian Authorities," press release, available at: <http://www.romanicriss.org/PDF/Open%20Letter%20Baia%20Mare.pdf>.

16 Michael Leidig, "Dozens of Roma Intoxicated with Toxic Waste After Local Authorities Moved Them in a Former Plant" *Romanian Times*, 5 June 2012, available at: <http://www.romaniantimes.at/?id=21586>.

17 Paul Ciocoiu, "Romanian Relocations Draw International Ire", *Southeast European Times*, 19 June 2012.

18 Roma Civil Alliance of Romania, *Decadewatch*.

19 U.N. H.R.C. Rep. of the Working Group on the Universal Periodic Review, June 2008, U.N. Doc. A/HRC/8/49 (3 June 2008).

20 ERRC, *Breaking the Silence: Trafficking in Romani Communities*, (Budapest: 2011), available at: <http://www.errc.org/article/breaking-the-silence-trafficking-in-romani-communities/3846>, 12.

21 ANITP, *Submission to the US TIP Report* (2009).

Romanian law enforcement has also not taken necessary steps to help combat trafficking and protect the victims through implementation of procedures that emphasise the non-prosecution of trafficking victims. While existing law contains non-prosecution clauses,<sup>22</sup> ERRC evidence suggests that it is common among law enforcement personnel to bring criminal charges to “promote cooperation” from victims.<sup>23</sup> This policy prevents victims from cooperating with police on a large scale and reduces the trust between victims and police that is necessary to combat trafficking.<sup>24</sup> In addition, victims whose stories have changed due to various threats are often prosecuted for perjury.<sup>25</sup> The focus on Roma in preventative and protective services is extremely low. Very few Roma were reported to access victim prevention and protection services, and the general social protection system is failing to reduce the extreme vulnerability of Roma to trafficking.

## OVER-REPRESENTATION OF ROMANI CHILDREN IN INSTITUTIONALISED CARE

The Romanian constitution provides for a framework of social protection that seeks to ensure that children are able to enjoy the rights accorded to them. It states that the State will take measures of economic development and social protection to ensure a decent living standard for its citizens, and protect the “right and duty of the parents to ensure the upbringing, education and instruction of their children.”<sup>26</sup> In its 2008 concluding observations, the UPR Working Group recommended that the Romanian Government continued to work on improving the situation of children’s rights.<sup>27</sup>

During ERRC research in 2011, estimates provided by child protection authorities, NGO estimates and the results of field research in children’s homes revealed that Romani children are overrepresented in State care in Romania. Various factors contribute to the overrepresentation of Romani children in State care, including complex social and economic factors aggravated by ethnic discrimination and social exclusion of Roma. The most common factors are poverty-related, such as a lack of employment, inadequate housing and health care, household size, child abandonment in maternity wards and migration. A lack of data disaggregated by ethnicity renders existing policy ineffective in reducing the overrepresentation of Romani children in State care. There are a number of gaps in Romanian law and policy which give rise to this situation: there is no legal definition of child endangerment, although situations that may lead to the removal of parental rights are described. Clear methodological guidelines for assessing child endangerment are lacking, which may negatively impact Romani children and families.<sup>28</sup>

There is evidence of institutional discrimination against Romani parents in their dealings with Romanian child protection authorities, including domestic courts. Romani parents interviewed during research reported prejudicial behaviour displayed by the court, and stated that judges are dismissive and disrespectful of them.<sup>29</sup>

Romania also fails to provide adequate protection to Romani children placed in institutionalised care. In State care, some Romani children are subjected to physical abuse, ill-treatment and various forms of discrimination. They also experience discrimination in access to public services outside the institutions, such as education and health care. Discrimination may be experienced on multiple grounds, including their ethnicity and their status as an institutionalised child. Furthermore, a disproportionately high number of Romani children in State care are enrolled in special education,<sup>30</sup> which negatively impacts their education. Additionally, it is common for institutionalised Romani children to lose or distance themselves from their ethnic identity due to the lack of programmes which promote Romani identity and the lack of Romani workers in State children’s homes.

22 Romania, *Criminal Code*, Article 46; *Law on preventing and combating trafficking in persons*, Article. 20.

23 Breaking the Silence, 24.

24 Ibid, 25.

25 Romania, *Criminal Code*, Article 46.

26 Romania, *Law 429/2003 on Constitution of Romania*, Article 49, available at: [http://www.cdep.ro/pls/dic/site.page?den=act2\\_2&par1=2#t2c2s0a49](http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=2#t2c2s0a49).

27 U.N. H.R.C. Rep. of the Working Group on the Universal Periodic Review, June 2008, U.N. Doc. A/HRC/8/49 (3 June 2008).

28 ERRC, *Life Sentence: Romani Children in State Care in Romania* (Budapest: 2011), available at: <http://www.errc.org/cms/upload/file/life-sentence-romani-children-in-state-care-in-romani-20-june-2011.pdf>.

29 ERRC, *Life Sentence: Romani Children in Institutional Care* (Budapest, 2011), 47 available at: <http://www.errc.org/cms/upload/file/life-sentence-20-june-2011.pdf>.

30 Ibid., 64.

## VIOLENCE AGAINST ROMA

Roma continue to be targeted with violence by both State and non-State actors, at times with fatal results. Most recently, the ERRC and national NGO Romani CRISS have called on Romanian authorities to act effectively in two cases involving police officers resulting in the death of Romani individuals.<sup>31</sup> On 31 May 2012, a 24-year-old Romani man was shot and killed by police officers while under pursuit. Ten police officers pursued two Romani men suspected of stealing construction materials. The men jumped into Pumbuita Lake, Bucharest, where one was shot in the head while treading water 10 to 15 metres from the shore.

On 10 June 2012, two Romani brothers were shot, one fatally, in Agraşteu, Mures County, following a police intervention in response to a local conflict. According to Romani CRISS interviews with the victim's relatives and members of local community, an altercation occurred among two minors, one Romani and one Hungarian. The father of the Hungarian child admonished the Romani child, and several members of the community gathered around, including the mother of the Romani child. Shortly afterwards, two police officers came to the location. An older brother of the Romani child tried to pull him out of the courtyard of a house and the police officers used tear-gas spray against him.<sup>32</sup>

Shortly afterwards, the police accompanied by members of the gendarmerie went to the Romani neighbourhood looking for the Romani child's brother. The police officers exclaimed: "This is him, get him!", indicating a Romani family not connected with the earlier conflict. 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 gendarmes forced entry through the gates, entered the courtyard and hit 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 Romani Criss documentation, several shots were fired, creating a chaotic situation. Seeing his brother shot, L.N. fought back, took an object and hit one of the gendarmes. As he turned to run he was shot in the back, between the shoulder blade and the armpit. The bullet entered his heart.

Special force police were also present. According to Romani Criss documentation, after the use of the firearms, all the family members as well as the other individuals present in the courtyard were beaten.<sup>33</sup> L.N., 18 years old, died.

Earlier, in 2009 ethnic violence against Roma took place in two localities in Harghita county: Sanmartin and Sancraieni. On 31 May 2009, approximately 400 individuals of Hungarian ethnicity from Sanmartin gathered and went towards the 40 houses of the Roma. They caused damage to houses, breaking windows, doors and destroying goods in the houses, damaged several cars and killed several dogs belonging to the Roma. A few days later, a Romani home was set on fire. The Roma fled their houses. According to Romani NGOs, after two months, 50 of the 170 Roma had not returned to the village for fear of being attacked. Locals continued to gather in the village and threaten the Roma for weeks after the initial incident.<sup>34</sup>

## RECOMMENDATIONS

The ERRC makes the following recommendations to the Romanian Government:

- Regularly collect and analyse data disaggregated by ethnicity in all spheres of life to improve policy implementation and achieve Roma inclusion;
- Ensure that Roma are afforded all procedural protections available under international law where eviction can not be avoided;
- Provide adequate alternative accommodation to evicted Roma. In the immediate term, move Roma forcibly relocated to hazardous areas to safe living conditions;

31 ERRC and Romani Criss, "Romania: Authorities Must Investigate Police Responsibility for Death of Two Romani Men", press release, 18 June 2012, available at: <http://www.errc.org/article/romania-authorities-must-investigate-police-responsibility-for-death-of-two-romani-men/4010>.

32 Interview with Roma family, Romania: 13 June 2012.

33 Interview with Roma family, Romania: 13 June 2012.

34 Romani Criss, "Human rights in practice: from discrimination to law enforcement abuses (2008-2009). Report on monitoring actions and human rights advocacy in Romania" (updated 2010), available at: <http://www.romanicriss.org/PDF/Raport%202008-2009%20rom.pdf>.

- Ensure that forcibly evicted Romani communities have regular access to work, education, health care and public services;
- Ensure that trafficking victims are not prosecuted;
- Increasing anti-trafficking and victim support services for Romani victims of trafficking;
- Ensure that Romani children are not removed from their families on the basis of poverty or material concerns, as is prohibited in Romania;
- Develop clear methodological guidelines for assessing child endangerment in line with the law in Romania;
- Ensure that any discrimination against Roma families in child protection procedures and against Romani children in State care is redressed;
- Conduct an independent, thorough and effective investigation into any police actions resulting in the death of Romani individuals and make the findings public; and
- Put training in place to ensure that similar incidents do not happen again.