

## List of critical issues BY THE EUROPEAN ROMA RIGHTS CENTRE

For Consideration by the Human Rights Committee at its 106th session. 15 October to 2 November 2012.

This list of critical issues is presented by the European Roma Rights Centre (ERRC)<sup>1</sup> to assist the Pre-Session Working Group with country specific information on issues affecting Roma in Ukraine of relevance to the International Covenant on Civil and Political Rights (ICCPR).

A 2001 census shows there are 47,587 Roma living in Ukraine, out of a general population of approximately 46 million (as counted in 2011).<sup>2</sup> However, unofficial statistics show that the number of the Roma in Ukraine might be between 120,000 and 400,000.<sup>3</sup> The Ukrainian Government does not collect and disseminate data disaggregated by ethnicity, therefore it is difficult to assess the extent of the problems faced by Roma. Anecdotal information indicates that Roma in Ukraine continue to face discrimination.

On 28 September 2012 Ukraine adopted a law on the principles of preventing and combating discrimination.

### Suggested questions to the Government:

- Is the anti-discrimination legislation adequate?
- Are there sufficient measures in place to monitor implementation?
- Is it being implemented effectively?

### Violence against Roma

Roma in Ukraine are subjected to violent attacks against their person and property. Article 161 of the Ukrainian Criminal Code provides for criminal responsibility for deliberate actions whose aim is inciting ethnic, racial or religious animosity as well as hatred aimed at humiliating the national honour and dignity of a person or offending citizens' feelings based on their religious views. This provision has seldom been included in convictions, as it requires proof of deliberate action on the part of the perpetrator, which is difficult to establish.<sup>4</sup>

The ERRC has compiled information on recent attacks against Roma in Ukraine, including some involving State actors. On 31 May 2012 a Romani settlement in Kiev inhabited by 70 people was burned to the ground by unknown perpetrators. As a result, many Romani individuals lost valuable personal documents, including passports, and had to move in with friends and relatives. Sources quoted in the media claimed that law enforcement officers were

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<sup>1</sup> 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](http://www.errc.org).

<sup>2</sup> State Statistics Committee of Ukraine, *All-Ukrainian Population Census*, available at: <http://2001.ukrcensus.gov.ua/eng/>.

<sup>3</sup> European Commission, *An EU Framework for National Roma Integration Strategies up to 2020*, Brussels, 2011, available at: [http://ec.europa.eu/justice/policies/discrimination/docs/com\\_2011\\_173\\_en.pdf](http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf)

<sup>4</sup> ECRI *Report on Ukraine (fourth monitoring cycle)*, adopted on 8 December 2011, para. 22-24, 15, available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/UKR-CbC-IV-2012-006-ENG.pdf>.

ordered to remove the settlement. A police spokesperson stated publicly that preliminary information indicated that police were not involved but that an investigation remained open.<sup>5</sup> On 11 January 2012 law enforcement officials used tear gas and beat residents with rubber batons during a violent police raid on a Romani settlement in Uzgorod. Some of the victims were women, children, older people and people with disabilities in the community, according to media reports and victim testimonies.<sup>6</sup>

In September and October 2011 law enforcement officials reportedly beat a number of Romani people in detention in Lviv in the context of a wave of unlawful discriminatory identity checks, including fingerprinting and verification of documents targeting Roma. Romani individuals in Lviv were subject to specific measures to collect personal identifying information, in the absence of any allegation of involvement in criminal activities. Police reportedly inquired about Roma in the process of regular checks of public places, checking the identity documents of any Romani person found and taking some into police custody.<sup>7</sup>

The ERRC has asked the Ukrainian Government to investigate all attacks against Romani individuals and clearly elucidate whether the crimes have been racially motivated. In the recent Kiev case, above, the prosecutor indicated that he would not be opening an investigation into the incident. In the other two cases listed above, national authorities indicated that investigations were ongoing but have not provided any further information about their outcomes or status.<sup>8</sup>

#### **Suggested questions to the Government:**

- Does the Ukrainian 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.
- 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 adopted to ensure that victims of hate crimes access to counselling, legal assistance and justice is explored in co-operation with relevant actors?

#### **Lack of personal documents**

Lack of access to personal documents remains one of the main problems for Roma in Ukraine. Although more comprehensive research is needed, ERRC research in Odessa oblast indicates that this problem requires immediate intervention and resolution. Out of 191 people interviewed by the ERRC between June and November 2011 in Odessa oblast, 42 people (22%) did not have personal documents. The lack of personal documents has several causes: some Roma missed deadlines for exchanging documents following the collapse of the Soviet Union; some did not have documents during Soviet times and now cannot prove their birthplace, length of Ukrainian residence, etc. as is required to obtain personal documents; and others lack registration of their place of residence, which is a prerequisite for a passport.<sup>9</sup>

Roma often face significant problems accessing other rights because they lack identification documents. Out of 191 people interviewed by the ERRC in Odessa oblast, 53 people (28%) did not have documents certifying their property rights for land or house, making them vulnerable to forced eviction, and 30 children of school age could not enrol in school because of the lack of

<sup>5</sup> ERRC, "Slovakia and Ukraine Must Investigate Attacks against Roma", press release, 25 June 2012, available at: <http://www.errc.org/article/slovakia-and-ukraine-must-investigate-attacks-against-roma/4011>.

<sup>6</sup> ERRC, "Ukrainian Authorities Must Investigate Violent Police Raid Against Roma", press release, 25 January, 2012, available at: <http://www.errc.org/article/ukrainian-authorities-must-investigate-violent-police-raid-against-roma/3961>.

<sup>7</sup> ERRC, "Ukrainian Police Must Stop Targeting Roma" press release, 20 October 2011, available at: <http://www.errc.org/article/ukrainian-police-must-stop-targeting-roma/3937>.

<sup>8</sup> On file with the ERRC.

<sup>9</sup> Information provided by respondents during ERRC interviews carried out in the Odessa oblast: June-November 2011.

personal documents.<sup>10</sup> Lacking personal documents and/or official residence registration, many Roma are often unable to be recognised by the courts or submit official complaints to the police. This, in effect, denies them their fundamental right to be recognised as individuals before the law.<sup>11</sup> According to the ERRC's partner in Ukraine, Chiricli, barriers to accessing healthcare and medicines beyond emergency treatment very often stem from the fact that many Roma do not have personal documents.

Research carried out by Chiricli has revealed the same problems concerning access to personal documents and land/housing documents to be present in Donetsk, Lviv, Kiev and Zakarpatye oblasts.<sup>12</sup>

The circular effect of access to personal documents and the effective exercise of other rights is significant. Despite this, there has been a lack of effective policy or concerted Government action to facilitate access of Roma to personal documents and associated rights, documentation and processes. The new legislative changes were passed in July 2012 abolishing the old system of registration at the place of residence, formerly a prerequisite for a passport which many Roma lack, but given the overwhelming lack of information available to Roma the extent to which the change will bring positive effect for Roma in the absence of proactive information campaigns.

**Suggested questions to the Government:**

- What measures aimed at facilitating access of Roma to personal documents are planned?
- What measures have been adopted to facilitate the legalisation of land and housing for individuals at risk of forced eviction?
- What measures have been adopted to ensure that all individuals have access to other rights regardless of the status of their personal documents?
- What measures are being taken to ensure that all children can access quality education?

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<sup>10</sup> Information provided by respondents during ERRC interviews carried out in the Odessa oblast: June-November 2011.

<sup>11</sup> ERRC, Proceedings Discontinued: The Inertia of Roma Rights Change in Ukraine (Budapest, 2006), available at: <http://www.errc.org/article/proceedings-discontinued-the-inertia-of-roma-rights-change-in-ukraine/2713>.

<sup>12</sup> See: <http://www.enjoyyourlife.ru/2012/01/370/-na-otsutstvie-pasportov-i-priyutov-zhaluyutsya-tsigane-zakarpatya.html>