

WRITTEN COMMENTS

of the European Roma Rights Centre, Concerning Ukraine

For Consideration by the Human Rights Committee at its 129th Session
(29th June – 24th July 2020)



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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INTRODUCTION

The European Roma Rights Centre (hereinafter also referred to as the “ERRC”)¹ hereby submit this document concerning Ukraine to the United Nations Human Rights Committee (hereinafter also referred to as “Committee”) for its consideration.

Roma in Ukraine face everyday discrimination and social exclusion. Available data, often collected by civil society organisations, and research conducted by ERRC and others, indicate that many Romani communities in Ukraine live in conditions of extreme poverty, often in segregated settlements or irregular encampments, with little or no access to essential services such as clean water and sanitation, adequate health care provision, and quality integrated education.

Other major issues of concerns also addressed in this submission are racially motivated acts of collective punishment and violence against Roma by far right groups often in collusion with local authorities; the lack of personal documents, the risk of statelessness, and the consequences; the lack of comprehensive or reliable ethnically disaggregated data essential for the design and costing of integration policies, and without which progress or otherwise cannot be measured; denial of access to quality reproductive healthcare.

TARGETING ROMA: FAR-RIGHT POGROMS, RACIST VIOLENCE AND FORCED EVICTIONS

The acts of collective violence against Roma by far-right paramilitaries, in some cases in collusion with local authorities, have spread terror and caused death and serious injury. The victims have included women, children and men; while the attackers have been able to engage in ethnic cleansing with seeming impunity.

After the riots which broke out in Loshchynivka, following the murder of a nine-year-old girl, and the calls for the eviction of the Roma community from the village in August 2016, the town’s mayor publicly stated that he shared the locals’ outrage.² The Secretary General of the Council of Europe addressed a letter to the Prime Minister, expressing his concern at the remarks made, and measures taken, by the local authorities, giving the impression that all members of that community were criminals and increasing existing prejudices.³

A crowd of 150-170 locals set fire to one Roma dwelling and destroyed ten others. Video footage showed the police standing by and watching. The entire community of terrified Romani families, including many small children was evicted. On 10 August 2018 the Odesa District Administrative Court agreed that the Mayor’s decision to evict the Roma community had been illegal. The court, however, refused to find the police inaction unlawful and also rejected the application for compensation.

Between late April and June 2018, a series of five anti-Roma pogroms marked an escalation of racist violence by neo-fascist militias in Ukraine, with evidence of official collusion adding a deeply sinister element. The ERRC expressed its deep concern at the lax response from law enforcement agencies to racially motivated violence, and has initiated legal action against law enforcement for their failure to act. The U.S. Embassy in Ukraine called on law enforcement officers to investigate the recent attacks on Roma and tweeted the following: “No one in Ukraine should live in fear because of who they are. We urge law enforcement to investigate recent attacks on Roma. Justice and Tolerance for minority communities are key in the new Ukraine.” <https://bit.ly/2khEFm5>.

1 The ERRC is a Roma-led 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. Since its establishment in 1996, the ERRC has endeavoured to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations. More information is available at: www.errc.org.

2 Jonathan Lee, Mob Rules Against Ukrainian Roma in 21st Century Pogrom, *ERRC News*, 30 August 2016. Available at: <http://www.errc.org/news/mob-rules-against-ukrainian-roma-in-21st-century-pogrom>.

3 ECRI Report on Ukraine (fifth monitoring cycle) Adopted on 20 June 2017 Published on 19 September 2017, p.17. Available at: <https://rm.coe.int/fifth-report-on-ukraine/16808b5ca8>.

21 April 2018: Lysa Hora, Kiev. Members of the neo-Nazi paramilitary group C14 filmed themselves carrying out a pogrom in the Lysa Hora nature reserve near Kyiv, where they drove fifteen families from their homes. As reported by ERRC, the C14 gang, carrying weapons, attacked the Roma. A video posted days later showed whole families with small children fleeing in terror, chased by masked men who hurled stones and sprayed them with gas canisters, before setting their tents ablaze.

Serhiy Mazur, a prominent member of C14, visited the camp the previous day with other gang members and representatives of the Holosiyiv District Administration, to give the Roma an ultimatum to leave within 24 hours. Soon after the attack, he posted **photos** on Facebook, boasting that they had driven the Roma from the mountain. The **Kharkiv Human Rights Protection Group (KHRP) reported** that the raid was the result of collaboration between C14 members of the so-called ‘Municipal Guard’ (Муниципальна варта) and the Holosiyiv District Administration. The head of this ‘Municipal Guard’, Serhiy Bondar, is a C14 member who signed a memorandum of cooperation with both the Holosiyiv District Administration and the Holosiyiv National Police in December 2017. Golosevskiy Police Department initiated criminal proceedings based on “violation of the equality of citizens based on race nationality, or religion” and “hooliganism” after the attack video surfaced on social media. However, C14 members felt confident enough to threaten more pogroms against Romani camps.

10 May 2018: Rudne, Lviv region. In the village of Rudne, a 30-strong gang of masked men descended upon Roma shacks at 2a.m., dragged people out of their beds, beat them and set their homes alight, destroying all their belongings and documents and forcing them to flee. Police and ambulance responders were on the scene, but no arrests were made. KHRP reported the morning after that “there are now no Roma living at the camp – they either fled in the night or were taken away by ambulance, in at least one case, after being beaten by the assailants.”

Unknown persons reportedly visited the camp the day before the attack and warned the Roma to leave. The official municipality news service reported on 10 May, that state administration and security staff, together with police officers “conducted an explanatory work” involving the Roma, after which they left the territory. Later that same day, the office of Ukraine’s Ombudsperson Ludmila Denisova issued **a statement** concerning what were not isolated cases and that “*such demonstrations of xenophobia need particular attention from the police, including a more thorough investigation, as well as measures of a preventive nature to stop such cases in future*”. The following day the police in Lviv **initiated** a criminal investigation into ‘suspected hooliganism’.⁴

22 May 2018: Velyka Berezovytsia Ternopil. ERRC News reported that a group of masked men armed with guns and bats forced Roma families living near the village of Velyka Berezovytsia Ternopil to flee into the forest, and then set fire to their makeshift dwellings.⁵ Shots were fired and three people were injured in the attack. The terrified seven adults and 30 children lost all their property and documents in the arson attack. Doctors at the local hospital were forced to call the police when the injured Roma came under renewed attack as they were being brought in for treatment. Police detained a group of 12 individuals near the scene and held them for questioning; the group of five minors (aged between 14 and 17) and seven adults were identified as members of radical organizations such as the Right Sector and Trizup.

Lyudmyla Denysova, the Ukrainian Parliamentary Commissioner for Human Rights said that the attack showed indications of ‘discrimination on ethnic grounds and inciting animosity towards the Romani national minority’. She reported that a criminal proceeding has been opened and that she has filed an appeal to Ternopil regional police with a request to take all necessary measures in accordance with the law.

One Romani woman from the camp told an ERRC observer: “*I don’t trust the police. The next day I saw the police officer drinking coffee with one of the guys who attacked our camp.*” She added “*One of the guys who attacked us threatened to find us even underground if we dare to complain to the police.*”

Criminal proceedings were initiated under Part 4 of Art. 296 of the Criminal Code of Ukraine (Hooliganism committed with the use of firearms or ‘cold weapons’ or other objects, specially adapted for causing bodily injuries). The investigation is ongoing, however the police have still not received any official complaints from the Romani victims, and for this reason it is unlikely the attackers will face any criminal charges.

4 Kharkiv Human Rights Protection Group, ‘Another Roma camp attacked and burned down in Ukraine, with police seeing only ‘hooliganism’’. KHRPG Website. Available at: <http://khpg.org/en/index.php?id=1526086152>.

5 Jonathan Lee, ‘Far-right attack: third in recent weeks against Roma in Ukraine’, *ERRC News*, 24 May 2018. Available at: <http://www.errc.org/news/far-right-attack-third-in-recent-weeks-against-roma-in-ukraine>.

8 June 2018 Holosiyivskiy Park, Kyiv: Members of the National Druzhyna militia, first posted threats on Facebook, then broadcast the attack and destruction of the camp on Facebook live (<https://bit.ly/2MaITbV>). Swinging axes and sledgehammers as a camera rolled, members of the far-right Azov National Druzhyna militia destroyed the Romani camp less than a day after they issued an ultimatum on its Facebook page for the Roma to clear out within 24 hours or be forced out by a “mob.”⁶ The police stated that the camp was empty when the militia arrived, so there were no victims and no arrests, and they will not open any criminal proceedings related to this incident.

On the same day Freedom House published a new report warning of the dangers posed by increasingly active extremist groups in Ukraine. The report noted that after Ukraine’s 2014 Euromaidan Revolution and Russia’s subsequent aggression, extreme nationalist views and groups, along with their preachers and propagandists, have been granted significant legitimacy by the wider society. According to the author Vyacheslav Likhachev, “The most disturbing element of their recent show of force is that so far it has gone fully unpunished by the authorities. Their activities challenge the legitimacy of the state, undermine its democratic institutions, and discredit the country’s law enforcement agencies.”⁷

23 June 2018: Lviv. A gangs of masked assailants, armed with knives and bats attacked a Roma camp on the outskirts of Lviv in Western Ukraine. The attack left one 24-year-old Romani man dead, and several others wounded including a 10-year-old boy whose mother was stabbed protecting him. Initial reports from the mayor were that the police had detained that most of the assailants who were aged between 16 and 18, and were led by a 20-year-old. The assailants acknowledged involvement in an unregistered organization called ‘Sober and angry youth’ [«Твереза і зла молодь»], whose YouTube page was entitled Lemberg Jugend, or Lviv Youth in German, with the name carrying obvious associations with Hitler Jugend.⁸

This series of violent attacks designed to destroy shacks and camps and force the Roma living in them to leave the area, have drawn attention to the wider problem of appalling living conditions faced by many more Roma. Despite the lack of comprehensive studies on housing and living conditions of Roma across the whole of Ukraine, and differences across regions, overall Roma have less access to adequate shelter and basic utilities than the ethnic majority population, and very many live in ‘undocumented houses’. Many Roma are forced to migrate to the fields and forests and set up camp on the outskirts of cities and towns in search of casual and seasonal work.

OFFICIAL COLLUSION AND INEFFECTIVE RESPONSES FROM LAW ENFORCEMENT AND JUDICIARY

Discrimination and forced evictions by local authorities, as well as collusion with far-right militias in expelling Roma, and residential segregation is testimony to a long-standing crisis that has profound consequences for the health and welfare of Romani women, children and men. Failure to prosecute perpetrators of racially motivated hate crimes creates a climate of impunity for far-right groups, and their ‘service provision’ for local authorities further endangers Roma. As Vadim Karasev, director of independent Kiev-based think tank Institute of Global Strategies told *Associated Press*: “State institutions are weak, the police are ineffective and the government is forced to resort more and more to the services of right-wing groups, giving them a carte blanche in return.”

In a joint letter to the Ministry of the Interior in June 2018, just ten days before the lethal attack on the camp near Lviv, *Human Rights Watch* and three other rights organizations called for prompt action in response to a significant increase in physical attacks, threats, and intimidation by groups such as C14, Right Sector, *Traditsiï i Poryadok*, *Karpatska Sich*. Hiding beneath a veneer of patriotism and ‘traditional values’, “these groups have been vocal about their contempt for and intent to harm targeting ethnic minorities, LGBTI and women’s rights activists, other human rights defenders and journalists.”

6 Christopher Miller, ‘With Axes And Hammers, Far-Right Vigilantes Destroy Another Romany Camp In Kyiv’. *Radio Free Europe*, 8 June 2018. Available at: <https://www.rferl.org/a/ukraine-far-right-vigilantes-destroy-another-romany-camp-in-kyiv/29280336.html>.

7 Vyacheslav Likhachev, *Analytical Brief: Far-right Extremism as a Threat to Ukrainian Democracy*, Freedom House 2018. Available at: <https://freedomhouse.org/report/analytical-brief/2018/far-right-extremism-threat-ukrainian-democracy>.

8 Halya Coynash, ‘Fatal attack on Roma Camp in Lviv leaves young man dead, a child and others injured’, KHPG Website, 25 June 2018. Available at: <http://khpg.org/en/index.php?id=1529848824>.

The ERRRC maintains that the inadequate response from the central authorities sends a clear message to far-right groups that their vigilantism and criminal acts of racist aggression against Roma are tacitly tolerated. Collusion between law enforcement and such groups, further emboldens other groups to commit racist attacks.

We are further concerned at the failure to properly investigate and prosecute perpetrators of such acts; and at the light sentences imposed in those cases where assailants were brought before the courts. As our monitors report on the outcomes of investigations in the 2018 attacks, the authorities' response continues to be inadequate and in no way functions as a deterrent against further attacks. The following are updates on the prosecutions of perpetrators.

Concerning the 22 June 2018 attack that claimed the life of David Pap, two youths who signed a confession and cooperated with the investigation were found guilty and sentenced to four years and five months imprisonment. However, they were released on probation on condition that they give proof of their good character over the next eighteen months. Cases are still pending for the other 12 youths involved in the attack. Racial motivation was excluded from the accusation, due to what the public prosecutor termed a lack of evidence.

There have been no prosecutions following the attack in Lysa Gora on 20 April 2018. Charges against the C14 leader Sergey Mazur, were quashed by the court of appeal due to procedural errors. No further developments have been reported in this case.

Following the Ternopil arson attack on 22 May 2018 charges were brought against Pavlo Gryvnyak, a member of Right Sector. The case was forwarded to Ternopil court, the next hearings are scheduled for May 2020. According to local human rights activists, the case is not moving because victims do not intend to take part or testify in the court hearings, increasing the likelihood that the case will be suspended or closed.

2020: FURTHER INCIDENTS OF ANTI-ROMA VIOLENCE AND FAR-RIGHT COLLUSION

11 March 2020: Kiev. The Ukrainian Minister for Infrastructure, Vladislav Krikliij, was pictured with members of the C14 far-right organisation and the paramilitary 'Municipal Guards' at Kiev Central Railway Station.⁹ The head of C14, Yevgen Karas, uploaded a [video](#) to social media showing the Minister on a joint 'inspection' with far-right groups supposedly investigating problems associated with so-called "gypsy gangs". The same station was the site of a [C14 anti-Roma 'cleansing operation' in 2018](#) conducted alongside the National Police.

The video ends with a warning from Karas that the police have ten days to improve the way they deal with Roma, who he refers to as "born thieves". Karas announces that the Municipal Guards will be on duty at the station from now on to "clean up these organised crime groups". Later, C14 and Municipal Guards members posted racist posters around the station which read, "you may be robbed by Gypsies [вас можуть пограбувати Цигани]" in Ukrainian, but only "beware of pickpockets" in English.

The [evidence of widespread collusion](#) between the police and state authorities with far-right vigilante groups in 2018 led the European Roma Rights Centre (ERRC) to [sue the National Police of Ukraine](#) for discrimination in their failure to protect Roma from far-right violence. The case is still ongoing before the Ukrainian civil courts. This latest outing, where a government minister joined C14 on a 'Gypsy patrol' is further evidence that international criticism has had no impact as regards official fraternization with far-right extremists.

29 April 2020: Kiev. In Velika Kitaiivska Street, a Romani family of four including a pregnant mother and two children, was violently attacked in the early hours by two young men using tear gas who then set fire to their tent. According to volunteer community worker Vita Zinevich, who regularly brought the family food, Anzhela pleaded with the attackers not to use the tear gas on her as she was pregnant. They replied "a woman such as you should be raped" and began beating her husband Ruslan, causing the rest of the family to run outside and call for help. The attackers then set fire to the tent, destroying most of the family's belongings including their identification documents. The Holosiyiv Police have not opened investigative proceedings, and in a statement,

⁹ Jonathan Lee, 'Minister Accompanies C14 Neo-Nazi Inspecting Kyiv Railway Station for Roma', *Hope not hate*, 2 April 2020. Available at: <https://www.hopenothate.org.uk/2020/04/02/ukrainian-government-minister-accompanies-c14-neo-nazis-inspecting-kyiv-railway-station-for>.

said that officers are looking for the victims to take their statements and open proceedings. Local community volunteers did not know about the whereabouts of the victims, as the family fled immediately after the attack.¹⁰

CASES OF POLICE BRUTALITY AGAINST ROMA IN 2020

In 2018, sixteen years after police officers stood by as hundreds of Ukrainian villagers in Odessa carried out a pogrom, burning and looting Roma homes, the [European Court of Human Rights](#) awarded damages amounting to €177,000 for the racially-motivated inhuman and degrading treatment the Roma suffered. The ECtHR found that in the subsequent investigation, members of the local police played an active role in the investigation the subsequent investigation into the events had been inadequate and characterised by an absence of thoroughness and independence, with members of the local police actively taking part in it, despite being accused of involvement in the attack.

The ERRC has monitored police violence against Roma over two decades, and has documented incidents which include rapes, beatings and murders, extortion and intimidation at the hands of police officers, who have often colluded with mobs of ethnic Ukrainians and far-right extremists in racist acts of terror and violence.¹¹

Prior to the Euromaidan demonstrations, the police in Ukraine were long regarded as “one of the country’s most corrupt institutions and one of the most widely loathed.” Following the Euromaidan, a new national police was created aimed at restoring trust. However, criminal investigations are still the domain of the former police service; and when it comes to investigating crimes committed by the police, the responsible body, while it is run by civilians, reports directly to the Chief of Police, and “cannot be independent or impartial”.¹²

Police brutality remains a reality for many Roma in Ukraine. ERRC’s legal monitor provided updates on pending cases of police violence against Roma:

- The case of **Harmatij Ihor and Bukov Ivan** was opened in November 2019 (criminal investigation 4201907000000309 registered 16.09.2019) after the two men were subjected to torture in a police station. As the men explained on camera, various torture techniques were applied to induce the men to confess to crimes they had not committed. One of the men jumped from a fourth-floor window, and sustained injuries which included two broken arms, and loss of his front teeth. The case charging police officers with excessive use of force has been forwarded to the Uzhgorod city court (case number № 308/3251/20). At the time of writing the outcome is as yet unknown.
- The case of **Gyorgy Maria, Surmay Alyona and Surmay Roma** started in January 2018 after Uzhgorod city court 16 Jan 2018 allowed the complaint, and ordered the Prosecutor to register the case and start investigation into the alleged case of police brutality. However, since January 2018 pre-trial investigation, criminal proceedings (4201807000000026) were stopped twice, and after complaint lodged by the ERRC monitor, reopened twice. Four different organizations have investigated the case, but as yet no accusations have been made, despite the fact that the female victim clearly identified one of the police officers who used violence against her.
- The case of **Szabo, Takacs, Adam** concerns ill-treatment by police in a station in February 2017, where very similar techniques to those described in the Harmatij Ihor and Bukov Ivan case, were applied to coerce the victims. Criminal proceedings (number 42017071030000106 registered 25/09/2017) were initiated after Uzhgorod city court forced the prosecutor to register and investigate the case of excessive use of force. However, on 30 Sep 2019 the case was closed due to insufficient evidence, and no information was provided to Szabo, Takacs, Adam about the closure of the case. A complaint concerning the decision to close the case is still pending in Uzhgorod city court.

10 Jonathan Lee, ‘Roma Camp Attacked and Tents Burned Down by Unknown Assailants in Ukraine’, *ERRC News*, 4 May 2020. Available at: <http://www.errc.org/news/roma-camp-attacked-and-tents-burned-down-by-unknown-assailants-in-ukraine>.

11 Bernard Rorke, ‘Roma in Ukraine: 20 years of police terror’, *ERRC News*, 9 November 2018. Available at: <http://www.errc.org/news/roma-in-ukraine-20-years-of-police-terror>.

12 ECRI Report on Ukraine (fifth monitoring cycle) Adopted on 20 June 2017 Published on 19 September 2017, p.17. Available at: <https://rm.coe.int/fifth-report-on-ukraine/16808b5ca8>.

REPRODUCTIVE RIGHTS OF ROMANI WOMEN: DISCRIMINATORY TREATMENT, NEGLECT AND ABUSE

The health and wellbeing of new-borns and young children is to a critical extent dependent upon Romani women being able to access quality reproductive healthcare. Research conducted by ERRC and Roma Fund Chiricli, a Roma-led organisation working in Ukraine, found that pregnant Romani women face degrading and discriminatory treatment when accessing reproductive healthcare, especially when giving birth.¹³

The research was conducted over four months between March and June 2018; in-depth qualitative interviews were conducted with 359 Romani women from Antalovci, Beregovo, Poroshkovo, Svalyava, Uzhgorod, and Veliko-Beresny. The research found that:

- 95% of interviewees live in houses with very poor conditions, without water, electricity or sewage. Many houses were built informally in segregated areas, and there were cases where two-roomed dwellings housed 15-20 people
- Approximately 90% of interviewees were segregated from non-Roma when giving birth. Romani women in Uzhgorod had to pay extra money to access a segregated maternity ward, otherwise they had to give birth in the corridors
- Doctors were abusive and aggressive in their treatment of Romani women. The vast majority of the women came home as quickly as possible because of the hostile attitude of the doctors and nurses. One woman said: *“I was discriminated against, doctors talked to me without any respect, degrading me only because I am Roma. They called me Gypsy and screamed at me frequently... I asked some questions about putting my baby near with me after delivery, but the doctors screamed at me, ‘You Gypsies want too much, this is not a show house or theatre. It’s a hospital’”*.
- The conditions in the segregated wards were much worse, with limited access to toilets, no hot water, stained bedsheets. In Uzhgorod, Romani women complained that the bedsheets were old and stained with blood: *“I got these bedsheets for me and my child. My child was sick and I had to be in the hospital with him. Two days in a row I was getting a message delivered by a nurse in a very rude way that I had to pay for the bedsheets and other basic bed accessories because I am a Gypsy, or she would call the police. I started to cry and called health mediator”*.
- In Poroshkovo, 70 women of the 83 interviewed there stated they did not have access to hot and cold running water at all: *“We only had a toilet in the corridor of the hospital on the floor where deliveries take place”*.
- In Poroshkovo, Romani women were not provided with any food meals. The nurses simply said that they had no food for Roma. Romani women there had to get food from their relatives. In Antalovci, women complained that they got very little food and there was no hot water.
- 80% had limited access to medicines, in particular analgesics or anaesthesia, during their staying at the maternity ward or hospital. In Beregovo and Svalyava, most of women were told that if they needed medicine that was not available in the hospital, they had to go and buy it themselves.

The right to health, including the right to reproductive health, is a fundamental human right and is indispensable for the exercise of other human rights. Every woman has the right to the highest attainable standard of health, which includes the right to dignified, respectful healthcare throughout pregnancy and childbirth, as well as the right to be free from violence and discrimination.

ERRC research evidence suggests that the treatment many Romani women face when accessing reproductive healthcare in Ukraine is illegal. Ukraine has ratified international human rights treaties which protect the right to health, free from discrimination, explicitly in the International Convention on the Elimination of All Forms of Racial Discrimination and the European Social Charter. What many of the women interviewed for this research have experienced violates the European Convention on Human Rights, which protects the right to life, the right to be free from inhuman and degrading treatment, the right to respect for private and family life, and which prohibits discrimination in relation to these rights. What this research reveals is intersectional discrimination: the women interviewed have faced inferior treatment in complex ways based on being Romani, being women, being in the particular situation of giving birth, being poor, and living in segregated areas.

13 ERRC. *Reproductive Rights of Romani Women in Ukraine*. Cause of Action. February 2019. Available at: http://www.errc.org/uploads/upload_en/file/5126_file1_cause-of-action-reproductive-rights-of-romani-women-in-ukraine.pdf.

SCHOOL SEGREGATION, UNEQUAL ACCESS, OBSTACLES AND LOW EDUCATIONAL OUTCOMES

Research and reports by NGOs including ERRC, Roma Education Fund, and local partners confirm findings and recommendations by international bodies such as ECRI that there is an urgent need to increase the school attendance of Roma children, combat segregation and prejudice in the school system and improve the educational outcomes of Roma children, with the appointment of Roma school mediators forming part of these efforts.

As ECRI noted, in its 2017 Report, while increasing the educational level of Roma is one of the commitments of the Strategy for the Protection and Integration of the Roma Ethnic Minority in Ukraine up to 2020, the strategy has no budget and remains largely unimplemented; and “Roma children experience numerous problems in education, including segregation, lack of access to preschool, high dropout rates and bullying.”¹⁴

Reports continue to indicate a low level of education among the Roma population in Ukraine: 24% have no education at all, 37% have not completed compulsory education and only 1% has higher education; 23% are illiterate and 34% do not speak Ukrainian. Other reports indicate that over 90% of Roma children drop out of school, only completing five or six years of education, and only 6% have completed secondary education or professional training. Many Romani children do not speak Ukrainian and have no access to pre-school education. When they start compulsory school, they are already at a disadvantage.¹⁵

ERRC research identified the many obstacles Romani children face in accessing education, and shown that Romani children often study in fully segregated and sub-standard schools, are not permitted to register in integrated schools, and are overrepresented in so-called ‘special education’ schools which have adapted curricula for children diagnosed with special education needs.

Some schools refuse Romani students as they lack personal documents, such as birth certificates. Many Roma-only schools actively encourage Romani children to enrol in a segregated rather than a mixed school; this involves teachers going directly to Romani families to enrol their children in a segregated school. Although education is free in theory, many schools require an unofficial monthly contribution from parents to cover running costs; for poorer Romani parents this monthly contribution is unaffordable. In some areas, a lack of transport to schools is an obstacle. Some parents are too poor to provide warm clothes for their children and keep them home during the winter months causing the kids to fall further behind and drop out. Finally, Romani students who attempt to enrol in integrated schools are often refused without clear reason and it is evident that these schools limit the number of Romani students that they accept.

The ERRC echoes the strong recommendation from ECRI that the authorities adopt an effect strategy facilitate access to preschools, and put an end to racial segregation of Romani children in education, as a pernicious practice which is “highly detrimental and deprives Roma children of the chance to escape the cycle of poverty resulting from low education levels.” ERRC also recommends that effective measures are taken to combat stigmatisation, bullying and abuse against Romani children in schools, as this has been identified as one of the main reasons causing children to drop out of school.

A variety of progressive educational initiatives supported by the International Renaissance Foundation (IRF), Roma Educational Fund (REF) and the leadership of certain local schools and NGOs demonstrate the effectiveness of pre-school language instruction, Roma teaching assistants and free lunches. These interventions are delivering clear results but need to be scaled up and taken on by the authorities. Currently these programmes rely on foreign donors; without state funding and ownership they cannot be sustainable in the long term. Also, any gains made by Romani children who received pre-school language and skills training are quickly lost if children are placed in segregated schools; many children who attend integrated schools are likely to fall behind if they do not receive parental or mentor support with out-of-classroom studies and homework.

As previously mentioned, a key factor in Romani children’s continued exclusion is statistical and data invisibility. The deficit of reliable, disaggregated data on their life circumstances means that there cannot be a holistic understanding of the impact of acute poverty, isolation and discrimination on the lives of Romani children in Ukraine.

14 ECRI Report on Ukraine. Available at: <https://rm.coe.int/fifth-report-on-ukraine/16808b5ca8>.

15 Equal Rights Trust (ERT) (2016), Alternative report submitted to the 90th session of the Committee on the Elimination of Racial Discrimination in relation to the combined 22nd and 23rd periodic reports submitted by: Ukraine.

This is especially the case for the most excluded and marginalised, many of whom live in ‘undocumented dwellings’, without access to clean water, electricity and sanitation; where the precarious living conditions are further complicated by the lack personal documentation, which makes life a struggle to secure basic human rights.

LACK OF DOCUMENTATION AND STATELESSNESS IN UKRAINE

There is no reliable data on the exact size of Ukraine’s stateless population as the scope of the problem has never been thoroughly mapped. According to Ukraine’s 2001 census, 82,600 persons claimed to be stateless and another 40,400 persons did not specify their citizenship.¹⁶ According to the State Migration Service of Ukraine, as of 2015, 5,159 stateless persons had permanent residence permits and 574 had temporary residence permits in Ukraine. The Ukrainian Government does not keep a record of irregular stateless persons residing in Ukraine and does not have an official statelessness determination procedure in place. In 2015, UNHCR estimates of the stateless population in Ukraine ranged from 35,22811 to 45,87712. Either figure makes this one of the largest stateless populations in Europe.¹⁷

The last and only All-Ukrainian Population Census of 2001 reported 47,600 persons who defined their affiliation to the Roma nationality.¹⁸ According to different sources, the current size of the Roma population in Ukraine ranges between 120,000 and 400,000 persons.¹⁹ The Roma constitute one of the main national minorities with the highest proportion of stateless persons. According to the Report on the Implementation of State Policy on Roma 2015, by the Ukrainian Ombudsman’s Office, the International Renaissance Foundations, and the ERRC, 83% of Roma have a passport or another identity document, while the remaining 17% are undocumented.²⁰

While most Roma have the right to the Ukrainian nationality under the Law, their risk of statelessness relates to their lack of documentation and the documentation requirements for birth registration. The lack of documentation among Roma is a widespread and long lasting, sometimes inter-generational issue that needs a particular attention by local and national authorities.

The ERRC has worked with communities in Odessa region since 2011, assisting Roma to apply for personal documents. In three communities between 30% and 40% of Roma reported that they lack at least one of the documents which are necessary in order to access a range of services. These include birth certificates, internal passports (which serve as identification documents) and residence registration documents. Many Roma in Ukraine also lack documents proving ownership of either the place of residence, or of the land on which they reside. The lack of personal documents creates obstacles with regard to education, housing, health care and other forms of social security, and employment.

In some cases, individuals lack any form of identification and so cannot prove their identity in order to avail of any state services. There are several reasons why Roma lack particular documents; some missed deadlines for exchanging documents following the collapse of the Soviet Union and were not aware that such deadlines existed; some did not have documents during the Soviet period and now cannot prove their place and date of birth, or their length of residence in Ukraine; some had lost personal documents and were unable to replace them.

Risks of statelessness among Roma in Ukraine and obstacles to solving their statelessness are linked to historical reasons of segregation and social exclusion by the majority community. In Ukraine, many Roma live in compact settlements, also known as ‘tabor’, which are excluded from the rest of the population. Birth at home also results in the lack of birth certificates because of the abovementioned requirement to present medical documents ir-respectively of the child’s birth in or out of the hospital. The issue particularly impacts Roma living in remote

16 First All-National Population Census: historical, methodological, social, economic, ethnic aspects. - The Institute for Demography and Social Studies of the NAS of Ukraine, the State Statistic Committee of Ukraine. – 2004. - P. 109 - http://2001.ukrcensus.gov.ua/d/mono_eng.pdf.

17 UNHCR Populations. - <http://globalfocus-interim.unhcr.org/population>.

18 The statistics are available at - <http://2001.ukrcensus.gov.ua/>.

19 Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis. - OSCE ODIHR, 2014. – Available at: <https://www.osce.org/odihr/124494?download=true>.

20 The Conditions of the Implementation on the Roma State Policy. – 2015. – 80 p. - p. 10. - Available at: http://www.ombudsman.gov.ua/files/alena/ZVIT_ROMA.pdf. (In Ukrainian.)

rural areas. They are more likely to remain stateless as they do not have access to legal assistance to solve this problem. This also causes additional financial burdens for Roma, as travel costs are likely to be an obstacle to acquiring documentation.

The situation of the Roma lacking identity documents is further aggravated by state sanctions against those who lack documentation. Furthermore, expenses, including paying a fine (for instance, for illegal stay in Ukraine, or late application for a birth certificate after the expiry of a month since the birth date); a court fee (if a person can establish his/her affiliation to the Ukrainian nationality only through a court procedure); or a fee for certain administrative services (for example, issuance of a registration certificate as a citizen of Ukraine by the State Migration Service of Ukraine) make documentation inaccessible to many Roma.

As a result, and a consequence of marginalisation, social exclusion and poverty, the level of literacy and formal education remains very low among Roma in comparison to the rest of the Ukrainian population. This leads to barriers to completing applications and providing the required documentation, making Roma more likely to have their applications rejected.

Furthermore, discrimination is both a cause and a consequence of statelessness among Roma in Ukraine. Roma, along with other groups, are systematically discriminated against in Ukraine, at different levels, and on various grounds, as reported by the Office of the Ukrainian Ombudsman, as well as by UN agencies.²¹ In October 2016, concluding observations and recommendations of the Committee on the Elimination of Racial Discrimination on the twenty-second and twenty-third periodic reports of Ukraine were published, which welcomed the positive steps undertaken by Ukraine in addressing discrimination, but underlined a range of further concerns and recommendations thereto. The Committee looked specifically at the situation of Roma in Ukraine, raising concern as to the persistence of discrimination, stereotypes, and prejudices against Roma, and on the particularly insecure situation of Roma IDPs. One of the concluding recommendations of the Committee addressed the issue of statelessness among Roma in Ukraine:

‘Recalling its general recommendations No. 27 (2000) on discrimination against Roma and No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party: [...] (e) Strengthen its efforts to provide all Roma with identity documents free of charge’²².

RECOMMENDATIONS

GENERAL INCLUSION POLICIES TO COMBAT DISCRIMINATION AND SEGREGATION

1. Establish a system of ethnically disaggregated data collection, that includes a gender dimension, in all areas related to Roma inclusion, while strictly adhering to the principles of confidentiality, voluntary self-identification and informed consent.
2. ERRC once again calls on the Ukrainian authorities to adopt an effective strategy to end racial segregation of Roma in education, and facilitate full access to preschool and early childhood education opportunities for Romani children.
3. Further steps should be taken to end the bullying and stigmatization of Romani children in schools, with measures addressed to pupils, parents and teachers.
4. A post-2020 inclusion policy for Roma should be based on a thorough evaluation of the failings of the Strategy for the Protection and Integration of the Roma Ethnic Minority and its Action Plan. In line with the EU post-2020 Roma inclusion initiative, the future strategy should focus on combating

21 For more details, see: The Annual Report of the Ombudsman of Ukraine on Human Rights in Ukraine. – 2015. – 552 p. – Available at: www.ombudsman.gov.ua/files/Dopovidi/Dopovid_2015_10b.pdf. (In Ukrainian.); The Annual Report of the Ombudsman of Ukraine on Human Rights in Ukraine. – 2016. – 537 p. – Available at: www.ombudsman.gov.ua/files/Dopovidi/Dopovid_2016_final.pdf. – p. 156. (In Ukrainian.); Ukraine combined twenty-second to twenty-third periodic report CERD/C/UKR/22-23. – 2016. - Available at: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20318&LangID=E#sthash.By19x2Q2.dpuf>.

22 Concluding observations and recommendations of the Committee on the Elimination of Racial Discrimination on the combined twenty-second and twenty-third periodic reports of Ukraine. - CERD/C/UKR/CO/22-23. - 4 October 2016. – Paras. 19-22. - Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fUKR%2fCO%2f22-23&Lang=en.

discrimination and anti-Roma racism, set clear targets, include robust monitoring and evaluation, and allocated sufficient funding for effective implementation in partnership with Roma civil society.

5. National level comprehensive anti-discrimination legislation should include the express prohibition of direct and indirect discrimination in access to health care and related public services; provide provision for a shift in burden of proof; combat victimization, support positive action; allows legal entities to support complainants in judicial or administrative proceedings; and provides for effective and proportionate sanctions and remedies.
6. Ensure the enactment, monitoring, and enforcement of prohibitions against discrimination on the part of health-care workers and institutions, and professional associations. Provide training and education to health care professionals on diversity and anti-discrimination in service provision.

COMBATING RACIALLY MOTIVATED HATE CRIMES AND POLICE VIOLENCE AGAINST ROMA

7. The Parliamentary Commissioner for Human Rights should be granted investigation powers in order to combat racism and racial discrimination effectively.
8. Take measures to effectively investigate hate crimes under article 161 of the Criminal Code, especially in the attacks on Roma settlements in Kyiv, Ternopol and Lviv in 2018. There is no need to strengthen the sanctions already provided for the crime, but it is necessary to ensure the steadfast application of these sanctions against the perpetrators as ERRC deems impunity to be a driving force for further pogrom-style attacks or copycat ‘cleansing operations’ waged against Roma.
9. Request that Ukrainian authorities report regularly on progress with the prosecutions in racially-motivated attacks, whether aggravated circumstances are being investigated, which provisions of the criminal code are being used when it comes to prosecution, including details concerning prosecutions, convictions, and sentencing.
10. Ensure that the post-2020 Roma Integration policy has specific references to tackling hate crimes and building trust and understanding between police and Romani communities
11. Set up a body independent of the police and prosecution authorities should be set up to investigate alleged cases of racially-motivated misconduct by the police
12. Take measures to prevent the illegal and racist activities of extreme right-wing organizations, and to combat the spread of hate speech and incitement to racial hatred both online and offline. Where such groups pose a threat to public safety, take the appropriate legal measures to disband them.
13. Investigate and terminate any formal and informal cooperation between state institutions and far-right civil organisations.

STATELESSNESS

14. Compliance with international obligations, including through law reform. The Ukrainian Government should ensure that all international and regional obligations related to the right to nationality, prevention and reduction of statelessness, identification and protection of stateless persons, non-discrimination, and birth registration are fully incorporated into domestic law and implemented in practice.
15. Simplified procedure for Ukrainian citizenship confirmation. The Ukrainian Government should put in place a simplified, cost-free procedure to establish Ukrainian citizenship of all persons who face barriers to accessing documentation, including those who hold documents of the former USSR, IDPs, those residing in the temporarily occupied territories, and those who cannot access documentation or proof of citizenship for other reasons.
16. Access to legal aid services. The Ukrainian Government should ensure that all Roma, in particular those denied documentation and at risk of statelessness have equal and fair access to high quality legal aid services, and that they are not required to provide the very documentation they have been denied and evidence of their low income, in order to access legal aid.
17. Access to fundamental rights. The Ukrainian Government should ensure that stateless and undocumented Roma are able to exercise their rights such as access to health care, education, freedom of movement, liberty and security of the person and to equally participate in the social and political life of the country.

18. Accessibility of birth registration and documentation procedures. The State Migration Service of Ukraine and Ministry of Justice of Ukraine should ensure that all birth registration and documentation procedures are universally and easily accessible online, and eliminate all bureaucratic, cost and distance related barriers.
19. Professional training and capacity building for the authorities. The Ukrainian Government should conduct rigorous and continuous professional training for all relevant officials, including the staff of registry offices and healthcare centres, who have a legal role to play in the registration of births.
20. Enhancing cooperation with Roma communities. The Ukrainian Government should enhance relations and ties between Roma leaders and community groups and relevant government officials, to facilitate the civil registration process, to build community capacity, provide legal services, and strengthen data collection, mapping and monitoring of statelessness.