

# ROMANIA

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



## Country Profile

2011-2012

CHALLENGING DISCRIMINATION PROMOTING EQUALITY



# Table of Contents

<b>1</b>	<b>About the Country Profile</b>	<b>5</b>
<b>2</b>	<b>Introduction and Background Data</b>	<b>7</b>
2.1	Socio-Economic Data	8
<b>3</b>	<b>Summary of (Crosscutting) Laws, Policies and Structures</b>	<b>11</b>
3.1	Compliance of Anti-Discrimination Legislation with EU Law	12
3.2	Lack of a Coherent Rights Based Approach of the Governmental Policy on Roma Inclusion	13
<b>4</b>	<b>Key Issues by Theme</b>	<b>17</b>
4.1	Housing and Evictions	17
4.1.1	Legal and Policy Framework	17
4.1.2	Background and ERRC Activities	19
4.2	Violence and Hate Speech	22
4.2.1	Legal and Policy Framework	22
4.2.2	Background and ERRC Activities	23
4.3	Movement and Migration	27
4.3.1	Legal and Policy Framework	27
4.3.2	Background and ERRC Activities	28
4.4	Women's and Children's Rights	30
4.4.1	Legal and Policy Framework	30
4.4.2	Background and ERRC Activities	31
	<b>Annex 1: Human Rights Treaty Ratification and Reservation Table</b>	<b>33</b>



# 1 About the Country Profile

The Romania country profile focuses strongly on housing and evictions as a key area of work for the ERRC. It also looks at the following areas: movement and migration; women's and children's rights; violence against Roma, including police mistreatment of Roma and anti-Roma statements from high-level officials, members of Government or politicians.

The information is correct as of April 2013.

The Romania country profile was produced by: Kieran O'Reilly, Robert Matei, Stephan Muller, Djordje Jovanovic, Dezideriu Gergely, Marianne Powell and Dzavit Berisha.

This publication and the research contributing to it have been funded by various ERRC funders, including the Swedish International Development Co-operation Agency, Open Society Foundations and the Sigrid Rausing Trust. The content of this publication is the sole responsibility of the European Roma Rights Centre. The views expressed in the report do not necessarily represent the views of donors.



## 2 Introduction and Background Data

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.<sup>1</sup> 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<sup>2</sup> 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).<sup>3</sup>

Roma in Romania are not a homogeneous group, but contain diverse identities. A 1999 case study of eight Roma settlements identified sub-groups including Sporitori, Ursari, Turkish/Muslim Roma, Vatrasi, Rudari, Hungarian-speaking Roma, Lingurari, and Caldarari.<sup>4</sup>

The Romani population in Romania faces discrimination, social marginalisation and extreme poverty. They face challenges in many areas of life, including employment, housing, health and education.

The decrease of the overall number of the population of Romania from more than 21 million (2002) to 19 million (2011) indicates that Romania is a country of emigration, which includes Romanian citizens of Romani origin. Tens of thousands or even more Roma have left Romania in recent years. International attention has been focused on the expulsion of many Romanian Roma from France.<sup>5</sup>

The EU Fundamental Rights Agency, in a recent report<sup>6</sup> focused on the movement of Roma from Central Europe, including Romania, notes that since the fall of communism, and even

1 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>.

2 Romania pe Regiuni de Dezvoltare si Judete, available at: <http://www.insse.ro/cms/files/rpl2002rezgen1/14.pdf>.

3 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>.

4 Ringwold, Orenstein & Wilkens, *Roma in an Expanding Europe: Breaking the poverty cycle*, World Bank, Washington 2005, p 93.

5 Accurate figures on migration are not available. However, the ERRC works with Roma migrant communities in France and Italy, and has noted that there are a significant number of Romanian Roma present. For example, in 2011 over 7.400 Romanian migrants received expulsion orders in France, and the ERRC believes that these expulsion orders particularly target Roma. ERRC, *Written Comments by the European Roma Rights Centre for consideration by the European Commission on the Transposition and Application of the Race Directive and on the Legal Issues Relevant to Roma Integration, France*, available at: <http://www.errc.org/cms/upload/file/france-red-written-comments-5-april-2013.pdf>.

6 EU FRA Report on the situation of Roma EU citizens moving to and settling in other EU Member States, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/705-Roma\\_Movement\\_Comparative-final\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/705-Roma_Movement_Comparative-final_en.pdf).

more so after the accession of Central and Eastern European countries to the European Union, many Roma moved to other EU Member States in search of a better life. However, many Roma continue to experience racism, discrimination and exclusion.<sup>7</sup> Research shows that poverty and racism are the main factors ‘pushing’ Roma to leave their countries of origin, with poverty being the primary factor.

### 2.1 Socio-Economic Data

**Housing:** Many Roma live in substandard housing conditions. Racism and discrimination pose obstacles to Roma in accessing adequate housing. Many communities lack security of tenure, which renders them vulnerable to further housing rights violations. Forced evictions persistently harm Romani communities and families. Access to social housing is restricted by a lack of information and by discriminatory selection criteria. Many communities live in segregated housing, often as a result of local policies. Some communities live next to rubbish dumps or other hazardous areas. The substandard living conditions of Roma have a negative impact on their access to education, employment and healthcare.<sup>8</sup>

Roma communities are frequently located on the outskirts of cities or in areas separated from other communities. This isolation has a direct impact on access to public transportation, schools, hospitals, libraries and other amenities.<sup>9</sup> This physical isolation is an obstacle to integration.

**Employment:** A key problem facing the Roma minority is their low level of participation in the labour market. Many Roma have never had a formal job, or have only held such positions for a short time, interrupted by long periods of unemployment. Roma are often involved in income generation in the informal economy or in seasonal work. A 2012 survey showed that for Roma aged 16 and over more than half (51.5%) did not have work, and only 10% reported having regular employment over the previous two years. In 2011 44% of Roma men over 16 declared that they had a job, while for women the figure was just 27%.<sup>10</sup> In 2010 45% of unemployed Roma declared that their ethnicity was one of the main reasons for not finding a job.<sup>11</sup>

**Health:** Health among the Roma population is much poorer than in other categories of the population as a result of poor living conditions and limited access to medical services. Roma have limited access to healthcare facilities because of the physical/geographical isolation of

7 *Ibid.*

8 ERRC, *Standards Do Not Apply. Inadequate housing in Romani communities*, 2010, available at: <http://www.errc.org/cms/upload/file/standards-do-not-apply-01-december-2010.pdf>.

9 Eurofund, *Living Conditions of the Roma. Substandard housing and health*, 2012, available at: <http://www.eurofound.europa.eu/pubdocs/2012/021/en/1/EF12021EN.pdf>, <http://www.eurofound.europa.eu/pubdocs/2012/02/en/1/EF1202EN.pdf>.

10 EU Inclusive, *Roma Inclusion in Romania: Policies, Institutions, and Examples*, 2012 p 207.

11 Soros Foundation Romania, *Legal and equal on the labor market for Roma communities*, 2010, p 33, available at: [http://www.soros.ro/en/program\\_articol.php?articol=251#](http://www.soros.ro/en/program_articol.php?articol=251#).



Roma communities, discriminatory practices in the medical system and the fact that many Roma have no access to health insurance and have no ID papers.<sup>12</sup> A 2011 UNDP and Fundamental Rights Agency survey showed that while 81% of non-Roma have access to health insurance, this figure falls to 52% for Roma. 73% of Romani individuals have no access to essential drugs. For non-Romani individuals this figure is 33%.<sup>13</sup> In 1996, the Romanian NGO Romani CRISS<sup>14</sup> initiated a health mediator programme, financed by the Ministry of Health, aiming at improving health conditions and access to public services in Romani communities. By 2008, there were 575 active health mediators, focusing mainly on women and children.<sup>15</sup> In 2009 many health and social programmes, including the Roma health mediation programme, underwent a process of decentralisation, and local councils were given greater responsibility in organising these programmes. The overall result has been a drop in the number of health mediators and in the quality of service they have been able to provide.<sup>16</sup>

In 2012, the ERRC launched a project in collaboration with the Open Society Foundation Roma Health Project, investigating health inequalities between Roma and non-Roma communities. The project aims to highlight the need for the collection and publication of data disaggregated by ethnicity in order to fully assess health inequalities in Romania. This project is based primarily on a Gallup survey of 1100 Roma and 800 non-Roma households measuring health indicators and access to medical care. The project is ongoing and results will be available in late 2013.

**Education:** Educational levels among Roma are also low. Recent research has shown that two out of 10 Roma children aged between six and 16 are not attending school because of lack of financial resources. Literacy levels remain low, with 25% of those over 16 stating that they cannot read or write.<sup>17</sup> Research from 2010 has also shown there is a significant decrease in the standard of education in schools with a higher ratio of Roma children. This includes a reduced number of qualified teachers, and poorer standards of facilities, such as laboratories, computers, and sports halls.<sup>18</sup>

The ERRC has noted during field research that the segregation of Romani children into separate schools persists, often as a result of residential segregation, although the discriminatory and

12 Romanian Government & DG Employment and Social Affairs, European Commission, *Joint Memorandum on Social Inclusion in Romania*, June 2005, 21, available at: [www.politici.ro/download/169/](http://www.politici.ro/download/169/).

13 UNDP, *Data on Roma: Romania*, 2011, available at: <http://europeandcis.undp.org/ourwork/roma/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

14 Romani CRISS is a Romanian non-governmental organization established in 1993, which defends and promotes the rights of Roma in Romania by providing legal assistance and working to combat racial discrimination. See: <http://www.romanicriss.org/>.

15 Romani Criss, *Roma Health: Perspective of the actors involved in the health system – doctors, health mediators and patients*, 2011, available at: <http://www.romanicriss.org/PDF/brosura%20osi%20eng%20final.pdf>.

16 Open Society Foundation, *Roma Health Mediators: successes and challenges*, October 2011. p 50, available at: <http://www.opensocietyfoundations.org/sites/default/files/roma-health-mediators-20111022.pdf>.

17 These figures are from EU Inclusive and Soros Foundation Romania research in 2011. EU Inclusive, *Roma Inclusion in Romania: Policies, Institutions, and Examples*, 2012 p 192.

18 Figures are taken from a 2010 report on access to education. EU Inclusive, *Roma Inclusion in Romania: Policies, Institutions, and Examples*, 2012 p 193.

erroneous placement of Romani children in special education classes has also been reported. ERRC research conducted in Pata-Rât, Cluj-Napoca in 2012 revealed that 25% of children from one community reported racist remarks directed against them at school, while 10% of these children had been placed in special education classes. These children had been evicted from their previous place of residence and are now living near the city dump and in an isolated area of the city. Before the eviction they had not been placed in special education classes.<sup>19</sup>

The 2011 UNDP and Fundamental Rights Agency report showed that in the 16 to 24 age group, literacy is at 98% for non-Roma and 80% for Roma. The gross enrolment rate in compulsory education from the ages of seven to 15 is at 95% for non-Roma and 78% for Roma children, while the figure for upper secondary education for 16 to 19-year-olds is 83% for non-Roma and drops to 23% for Roma teenagers. For adults between the ages of 25 and 64, almost a third (31%) of Roma have no formal education, while the corresponding figure for non-Roma is 2%. Just 10% of Roma in this age group have completed upper secondary education, while for non-Roma that figure is 52%.<sup>20</sup>

19 ERRC, *Taken from the City: Romanian Roma evicted to a rubbish dump*, December 2012, available at: <http://www.errc.org/cms/upload/file/romania-report-pata-rat-17-dec-2012-en.pdf>.

20 UNDP, *Data on Roma: Romania*, 2011, available at: <http://europeandcis.undp.org/ourwork/roma/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

### 3 Summary of (Crosscutting) Laws, Policies and Structures

The Romanian Constitution recognises the existence of persons belonging to national minorities and, at the same time, recognises and guarantees the right of those persons to their identity (ethnic, cultural, linguistic and religious). Romania has a constitutional and legislative framework which guarantees equality before the law for all citizens of Romania and the participation of persons belonging to national minorities, in conditions of full and effective equality with the majority population, in all areas of economic, social, political and cultural life. The right of every person belonging to a national minority to use freely and without interference his mother tongue, in private and in public, is implicitly guaranteed and the state guarantees the right of persons belonging to national minorities to learn their mother tongue and to have the opportunity to be taught in that language.

Romania established a unique constitutional system providing for the recognition of organisations belonging to national minorities to be represented in the legislative authority (the Parliament). According to article 62 paragraph 2 of the Romanian Constitution, “the organisations of citizens belonging to a national minority, which fail to obtain the number of votes for representation in Parliament, have the right to one deputy seat each, under the terms of the electoral law”. In this regard, the Romanian Constitutional Court stated that the Constitution confers a special regime to the organisations belonging to national minorities, with the aim of applying the principle of equal opportunity among citizens by eliminating any form of discrimination on the grounds of, among others, nationality, ethnic origin, and political opinion. Consequently, it constitutes a guarantee of the rights of citizens belonging to a minority and a means to protect the rights stipulated in the fundamental law.<sup>21</sup>

The principal bodies responsible for structuring the dialogue between persons belonging to national minorities and the authorities are the Department for Interethnic Relations of the Government, assisted by the Council of National Minorities composed of 19 national minority representatives including a representative of the Roma minority. The National Agency for Roma develops, coordinates, and monitors the implementation of the governmental policy on Roma issues. One of the criticisms expressed by international bodies relates to the fact that, so far, Romania has adopted neither clear criteria nor a specific procedure for the recognition of national minorities.<sup>22</sup>

Similarly, Romania has not yet adopted a law on the Status of National Minorities, which has been under consideration in various forms for a number of years and continues to be discussed in the Parliament. Consequently, persons belonging to national minorities find it difficult to set

21 Romanian Constitutional Court, Decision no. 53 from 12 February 2004, Decision no. 517 from 25 November 2004, available at: <http://www.ccr.ro/en>.

22 Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Romania adopted on 21 March 2012, available at: [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_3rd\\_OP\\_Romania\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_Romania_en.pdf).

up organisations of national minorities and to benefit from particular provisions in the electoral legislation, which establish favourable conditions for organisations of national minorities currently represented in the Council of National Minorities.<sup>23</sup>

### 3.1 Compliance of Anti-Discrimination Legislation with EU Law

The EU Race Directive (2000/43/EC) was transposed in Romania by Governmental Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination on August 31 2000.<sup>24</sup> In order to comply with the requirement to have an independent specialised equality body at the national level, the 2006 amendments of the ADL provided that the National Council for Combating Discrimination (NCCD) is a quasi-judicial body, an autonomous state authority, under parliamentary control.<sup>25</sup> The change of the status of the equality body under the control of the Parliament brought a risk of increased politicisation of the NCCD Steering Board. NGOs active in the field strongly criticised NCCD for being too political at the expense of the independence and professionalism of the institution.<sup>26</sup>

The Romanian ADL had a number of flaws in relation to the transposition of the RED such as permitting exceptions to direct discrimination in the area of housing, access to services and access to goods or the shifting of the burden of proof. These gaps have been partially addressed only very recently with the Law no. 61/2013<sup>27</sup> and Governmental Emergency Ordinance no. 19 published on 2 April 2013.<sup>28</sup>

The ADL does not explicitly regulate segregation on the basis of racial or ethnic origin as a form of discrimination or subsequent sanctions for such discrimination. The practice of segregation of Roma children in education is regulated only at an administrative level by the Ministry of Education. This shows a major deficiency of the ADL, which neither refers to nor defines segregation in education on the basis of racial or ethnic origin as a form of discrimination. It is therefore not translated into the special section of the law that regulates which acts of discrimination are sanctioned accordingly by administrative fines.

Several inconsistencies regarding the mandate of the equality body persist. The law and the procedure of the equality body do not elaborate comprehensively the process of mediation. There is a fundamental question mark over the competence of the equality body to remove

23 *Ibid.*

24 Published in the Official Gazette of Romania, no. 431 of 2 September 2000.

25 Law no. 324/2006 for the amendment of the Government Ordinance 137/2000, (20.07.2006).

26 European Network of Legal Experts in the Non-discrimination Field, Report on measures to combat discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report Romania

27 Law no. 61/2013 for the amendment of the G.O. no. 137/2000 on preventing and combating of all forms of discrimination, published in the Official Journal no. 158 from 25<sup>th</sup> March 2013.

28 Governmental Emergency Ordinance no. 19 from 27 March 2013 published in the Official Journal no. 183 from 2<sup>nd</sup> April 2013, amendments to Article 10 of the G.O. no. 137/2000 republished.

the consequences of discrimination or to re-establish the situation prior to discrimination and overlap with the competence of the civil courts to provide redress for discrimination. Similarly the ADL does not define the *locus standi* of the equality body in litigation processes; it does not substantiate its role in the procedures before the Court, and the judicial consequence of the opinion provided if requested by the judge (whether or not it is binding).

## 3.2 Lack of a Coherent Rights Based Approach of the Governmental Policy on Roma Inclusion

The Romanian Inclusion Strategy of citizens belonging to the Roma minority for the period of 2012-2020<sup>29</sup> takes a socio-economic based approach aimed at “increasing the overall standard of living of the population and stimulating earnings from employment by facilitating employment and promoting inclusive policies with addressability to all vulnerable groups”, among others the Roma minority.<sup>30</sup> This approach is reinforced when defining the scope and the objectives of the Strategy, which are to ensure the social and economic inclusion of Romanian citizens belonging to the Roma minority, as well as the accountability of local authorities and the Roma minority for the increased level of social inclusion.<sup>31</sup>

This underlying assumption is much different from the approach laid out in the previous Governmental strategy for the improvement of the situation of Roma.<sup>32</sup> The previous strategy stressed the importance and the commitment to tackle human rights, minority protection issues, redress against existing and historical discrimination faced by Roma and the social inclusion of Roma.<sup>33</sup>

When defining the problems, the Strategy refers to non-participation of children in education, high rates of unemployment in the economic market, lack of coordination of mediators to improve health services, lack of adequate housing, lack of intercultural dialogue or lack of interventions on child protection, corroborated with out-dated statistics ranging from the year 2006 to 2009. None of the issues identified in the strategy are coherently placed in

29 Strategy approved on December 14<sup>th</sup> 2011 by Governmental Decision no. 1221/2011, published on the Official Journal no.6 from January 4<sup>th</sup> 2012.

30 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter I Introduction, available at: [http://www.anr.gov.ro/docs/Strategie\\_EN.pdf](http://www.anr.gov.ro/docs/Strategie_EN.pdf).

31 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter V Scope and Objectives.

32 Strategy of the Romanian Government for the improvement of the situation of Roma, approved by Governmental Decision no. 430/2001, published on the Official Journal no.252 from May 16<sup>th</sup> 2001.

33 Strategy for the improvement of the situation of Roma, Section I, General considerations; reference is made to Government's consideration to improve the condition of national minorities according to international human rights instruments, a clear reference to preventing discrimination against Roma by adopting a strategy for considerably improving its condition, takes note of the fact that, in the course of history, Roma were an object of slavery and discrimination, phenomena that have left deep marks on the collective memory and which have led to the social limitation of Roma etc.

the context of existing inequalities, barriers to access public services or structural problems related to discrimination, with the exception of education.

The issue of preventing and fighting discrimination is scarcely indicated as a problem by making a sole reference to a Romanian perception poll from 2007 reflecting the level of prejudice towards Roma and a report published by the EU Fundamental Rights Agency in 2009, failing thus to refer to the up-to-date situation or available data from Romania in regard to forms of discrimination against Roma and the impact on accessing public services.<sup>34</sup>

Non-discrimination as provided by the Romanian equality law<sup>35</sup> is one of the nine principles governing the implementation of the Strategy. Despite this positive aspect, it needs to be underlined that fighting discrimination, for example, is not mentioned among the priorities, policies or the framework set for the implementation of the strategy.<sup>36</sup> On the other hand, the principle of non-discrimination is not coherently and substantially translated into effective actions alongside the measures envisaged in regard to education, employment, health and housing.

A similar case is the “principle of equal opportunities and gender awareness” which stands as a governing principle of the Strategy but is not substantiated as a clear crosscutting issue in all the areas tackled by the Strategy and the subsequent measures.<sup>37</sup>

The Romanian equality body (National Council for Combating Discrimination) is indicated among other public authorities responsible for implementing the Strategy-related measures.<sup>38</sup> Yet, one of the most striking aspects is the fact that the National Council for Combating Discrimination is entirely left out in regard to its potential role, implication or at least cooperation with relevant Ministries, public authorities and local institutions in implementing the actions set in the Strategy or the Plan of Measures related to Education, Employment, Health and Housing.<sup>39</sup>

The National Agency for Roma is a governmental body set up in 2004, responsible for coordinating the public policies for Roma in Romania. The Agency is the main coordinator and implementing institution, acting as a catalyst between the specialised ministries, decentralised public institutions and local authorities responsible for implementing public policies for Roma.

34 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter II Relevant General information and Chapter IV Defining the problem, point 1-7.

35 The Strategy, in Chapter VI Principles mentions “the principle of non-discrimination and respect for human dignity in exercising the rights provided by Article 1 Para. 2 of the governmental Ordinance 137/2000 on prevention and punishment of all forms of discrimination, republished, as subsequently amended and completed”.

36 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter III Priorities, Policies, Existing Legal Framework; There is no reference to importance of effective implementation of anti-discrimination law, cross cutting cooperation with the equality body etc.

37 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter VI Principles; point 5 The principle of equal opportunities and gender awareness.

38 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020; Chapter XII Further Stages and Responsible Institutions; Central level, a2) (...) National Council for combating Discrimination.

39 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020; Annexes to the Strategy; Plans of Measures.

While the responsibilities of the National Agency for Roma are wide, criticism toward the institution was very much related to its capacity to fulfil such tasks. A report of the Presidential Commission for Social Risks Analysis took note, for example, of the fact that the problems faced by the Roma minority have been insufficiently tackled and in particular inefficiently addressed due to ambiguities and overlapping of responsibilities of NAR and other public authorities.<sup>40</sup> The report further mentions that despite the fact that the NAR absorbed EU funding, in the absence of formal and real partnerships with specialised state institutions the projects would lack effectiveness, sustainability and improvement of policies.<sup>41</sup> Concerns have also been expressed with regard to the limited capacity of the NAR to implement programmes,<sup>42</sup> as it is unable to plead for budget allocations and is not equipped with necessary powers to put pressure on ministries to implement their commitments on Roma policies.<sup>43</sup>

40 Presidential Administration, Presidential Commission for Social and Demographic Risk Analysis and social Inequalities in Romania, September 2009, page 210, report available in Romanian at: [http://www.presidency.ro/static/CPARSDR\\_raport\\_extins.pdf](http://www.presidency.ro/static/CPARSDR_raport_extins.pdf).

41 *Ibid*, page 210.

42 *Ibid*, page 210.

43 Roma Civic Alliance of Romania, Decade Watch Romania, Mid term evaluation of the Decade for Roma Inclusion, available at: [http://www.acrr.ro/download/DecadeWatchRomaniaReport\\_2010\\_EN.pdf](http://www.acrr.ro/download/DecadeWatchRomaniaReport_2010_EN.pdf).





## 4 Key Issues by Theme

The following section highlights some of the key topics in Romania on which the ERRC is working.

### 4.1 Housing and Evictions

Despite efforts in recent years to improve the housing situation, the Roma population in Romania has continued to face many institutional problems in terms of substandard housing conditions, security of tenure, forced evictions and with respect to the provision of adequate alternative housing once evicted.

#### 4.1.1 LEGAL AND POLICY FRAMEWORK

In its parallel report concerning Romania submitted to the UN Human Rights Council, within its Universal Periodic Review,<sup>44</sup> the European Roma Rights Centre underlined that Romanian 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>45</sup> Local authorities carry out the forced eviction of both formal and informal communities that are situated on both private and public land,<sup>46</sup> often in a manner that violates human rights standards. Romanian law places a moratorium on evictions between 1 December and 1 March.<sup>47</sup> This moratorium is not respected by the Government in the case of Roma, as is illustrated by 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 good quality, adequate alternative housing.<sup>48</sup> While international human rights law requires alternative adequate housing, Romanian national law does not account for this.<sup>49</sup> Relocation

44 Parallel report by the European Roma Rights Center concerning Romania to the Human Rights Council, within its Universal Periodic Review, for consideration at its 15th session (21 January to 1 February 2013) available at: <http://www.errc.org/cms/upload/file/romanian-un-upr-submission-9-july-2012.pdf>.

45 *Ibid.*, 20.

46 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>.

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

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

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

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 or toxic waste, or which are generally unsuitable for human life, raising concern about related violations of the right to health.<sup>50</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>51</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>52</sup> As the government largely places Roma at the edge of cities, public transportation access for work and school is affected negatively.<sup>53</sup>

The Romanian Inclusion Strategy of citizens belonging to Roma minority for the period of 2012-2020<sup>54</sup> does not include concrete measures as part of an integrated approach to tackling the housing situation and completely lacks specific measures aimed at promoting non-discriminatory access to housing.<sup>55</sup> In the context of assessing all the Member States policies on Roma, the European Commission generally considered that “the [Romanian] strategy does not reflect an integrated approach”. The Commission further states that “the strategy would benefit from a clear prioritization, a closer link between general and specific objectives, directions for actions and actual measures proposed, detailed description of clear targets, responsibilities, budget allocations, as well as of a robust monitoring and evaluation system.”<sup>56</sup>

With regard to the specific chapter on improving the housing conditions from the Romanian Strategy on Roma inclusion the European Commission remarks as positive aspects “a number of combined programmes such as social housing construction programs, social housing for Roma communities programme; social housing for tenant programme or the regional development infrastructure project for 10000 km of local and regional roads”. While mentioning these positive aspects the EC also identifies a number of gaps such as the fact that “the strategy does not appropriately address access to (social) housing”. In order to secure the effective implementation of the Strategy detailing a calendar, targets, indicators and budget are needed, concludes the European Commission. Clearly this statement is an indication that unless these issues are structurally addressed there will be little indication that the 2012 National Strategy for Roma Inclusion will impact the housing situation of Roma positively.

50 Standards, 56.

51 Standards, 47.

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

53 *Ibid*, 55.

54 Strategy approved on December 14<sup>th</sup> 2011 by Governmental Decision no. 1221/2011, published on the Official Journal no.6 from January 4<sup>th</sup> 2012.

55 In the area of Housing the Strategy refers to legislative amendments in order to regulate the means to guarantee the quality of housing and to increase social housing by identifying solutions for disadvantaged, vulnerable or exposed to discrimination categories.

56 European Commission, Commission staff document, Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, National Roma Integration Strategies: a first step in the implementation of the EU Framework, available at: [http://ec.europa.eu/justice/discrimination/files/swd2012\\_133\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/swd2012_133_en.pdf).

## 4.1.2 BACKGROUND AND ERRC ACTIVITIES

### *European Court of Human Rights judgments and failure to address the housing situation of Roma*

The European Court of Human Rights found in numerous cases the Romanian authorities to be in violation of the principle of non-discrimination in relation to Roma rights and to racially-motivated incidents. After two judgments of the European Court in 2005 related to the consequences of racially-motivated violence, between 1990 and 1993, against villagers of Roma origin in Hădăreni, in particular improper living conditions following the destruction of their homes and the general discriminatory attitude of the authorities, including their prolonged failure to put an end to the breaches of the applicants' rights (*Moldovan and others v. Romania 1 and 2*)<sup>57</sup>, three more similar cases were decided by the Court in the following years (*Gergely v. Romania*, *Kalanyos v. Romania* and *Tanase v. Romania*). In November 2012 other applicants from Hădăreni won before the European Court, in the case of *Lacatus and others v. Romania*, on the basis of the same violations of the Convention as in the previous case *Moldovan and others*.<sup>58</sup>

The European Roma Rights Centre has submitted to the Council of Europe's Committee of Ministers a number of communications<sup>59</sup> on the lack of developments regarding the implementation of the judgments in the cases of *Moldovan and Others v. Romania (No.1)*, *Moldovan and Others v. Romania (No.2)*, *Kalanyos and Others v. Romania* and *Gergely v. Romania* (all cases collectively, the "Moldovan group").

The Government has failed to address, first and foremost, the housing situation of the Roma in Hădăreni. The housing problems of more than half the Roma victims have not been adequately dealt with. For a period of several years there was an absolute inactivity on the ground, and the action plans of the Government indicated the incapacity of the authorities to take concrete steps under a set timeline in order to comply with very precise obligations regarding the implementation of the Court's judgments.<sup>60</sup>

Following the 1144th meeting on June 2012, the Committee of Ministers took note that as regards the cases of *Moldovan and others (No. 1 and 2)*, the new organisational and financial

57 Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life and the home), the applicants complained about the destruction of their home in September 1993 by the mob and the poor and cramped conditions in which they had been forced to live afterwards. Further relying on Article 6 § 1 (right to a fair trial), the applicants also complained in particular that the courts had failed to provide reasons for the difference in damages awarded to the three widows of the men killed during the attack. The applicants also submitted that the domestic courts and other official authorities had referred to them in disparaging and discriminatory terms in the course of the proceedings to which they had been a party, in breach of Article 14 (prohibition of discrimination) in conjunction with Articles 6 and 8.

58 ECHR, case of *Lacatus and others v. Romania*, the European Court of Human Rights found Romania in violation of Article 3 and 8, Article 6 and Article 14 in conjunction with Articles 6 and 8.

59 European Roma Rights Center, submissions available at: <https://wcd.coe.int/ViewDoc.jsp?id=1818051&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383> and similarly at: <http://www.errc.org/cms/upload/file/implementation-moldovan-kalanyos-gergely.pdf>.

60 *Ibid.*

framework for the implementation of the remaining measures for the locality of Hădăreni has still not been adopted, and urged the authorities to speed up the adoption of this framework and to provide the Committee with a calendar for the implementation of the remaining measures as well as a detailed assessment of the impact of the measures taken so far at the level of this locality. As regards the judgments Kalanyos and others and Gergely, the Committee of Ministers asked the authorities to provide them with a detailed assessment of the impact of the measures taken for the localities concerned by these judgments as soon as possible.<sup>61</sup>

In relation to the failure of the Government to implement the Moldovan judgments and the subsequent general measures (Hădăreni programme), the ERRC and Romani CRISS supported several applicants in Moldovan 1 and Moldovan 2, as well as other members of the Romani community of Hădăreni to initiate domestic legal proceedings against the Romanian Government pending before the High Court of Cassation and Justice.<sup>62</sup>

### *Forced evictions and inadequate resettlements*

In 2012, Romani communities continued to deal with the impacts of evictions and residential segregation, as well as other housing policies that cause living conditions to deteriorate. In October and November 2012, the ERRC conducted research in the community evicted in December 2010 from their homes in the centre of Cluj-Napoca to the Pata-Rât garbage dump.<sup>63</sup> Interviews with the evicted individuals highlighted the poor condition of their accommodation since eviction. The average living space per family is 4.01 square metres and each available bathroom is shared between at least 17 people. 92% of residents reported the presence of mould in their accommodation, while 89% stated that they do not have adequate cooking facilities. There is no water connection in any of the modular homes, and no hot water. Heating is provided only through wood-burning stoves with improvised chimneys, and 11 homes are without electricity. The accommodation is far from the city centre, in an isolated and dangerous area near the city dump. There are also packs of wild dogs at the dump, which have attacked residents.<sup>64</sup> The stigma associated with living in this area has had a strong impact on the evicted people. A significant number of residents lack personal documents since the eviction: 50.7% of residents do not have a national ID for their new address and 20.1% of individuals report not having public health insurance for their new address. Residents also report widespread discrimination on the basis of their place of residence.<sup>65</sup>

61 Council of Europe, Committee of Ministers, Pending cases: current state of execution, Moldovan and others v. Romania, available at: [http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases\\_en.asp?CaseTitleOrNumber=Moldovan&StateCode=ROM&SectionCode](http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=Moldovan&StateCode=ROM&SectionCode).

62 European Roma Rights Centre, Memorandum concerning the implementation and state of general measures in the judgments of “Moldovan group” cases, document available at: <http://www.errc.org/cms/upload/file/second-communication-to-the-committee-of-ministers-on-judgment-implementation-moldovan-kalanyos-gergely.pdf>.

63 ERRC, *ERRC Raises Eviction Concerns as Roma Protest in Romania*, 19 January 2011, available at: <http://www.errc.org/article/errc-raises-eviction-concerns-as-roma-protest-in-romania/3804>.

64 ERRC, *Taken from the City: Romanian Roma evicted to a rubbish dump*, December 2012, available at: <http://www.errc.org/cms/upload/file/romania-report-pata-rat-17-dec-2012-en.pdf>.

65 *Ibid.*

The ERRC is providing legal assistance for this evicted Roma community<sup>66</sup> against the local government seeking damages for discrimination, forced eviction and improper relocation to inadequate housing. The National Council for Combating Discrimination held that the eviction and relocation of the families amounted to ethnic discrimination, and the municipality was fined approximately €2,000.<sup>67</sup> The ERRC has also been engaged in assisting the community to establish their own NGO through which the evicted families can now have a voice in advocating for their rights, and participate directly in advocacy and campaigning work. Residents of the settlement of Pata-Rât in Cluj-Napoca reported it was difficult to keep working and going to school because of the physical isolation of their new location.<sup>68</sup>

#### *Other cases of legal assistance*

The ERRC provided legal assistance to Romani applicants in Timisoara who were seeking to legalise the ownership of their houses and lands, through legal proceedings against the Local Council. In 2012 the first instance Court ruled in favour of the applicants, but appeals have been lodged in both cases by the respondents.

In June 2011, the municipality of Baia Mare, a city in North-West Romania, built a concrete wall to separate several buildings inhabited by Romani families, from the street nearby.<sup>69</sup> The ERRC provided an opinion in response to a request from the Romanian equality body concerning the wall. The ERRC underlined the international guidelines that Romania is compelled to respect in the field of non-discrimination and preventing housing segregation. Subsequently, the NCCD ruled that the erection of the wall constituted discrimination and fined the local Municipality in accordance with national anti-discrimination law.<sup>70</sup> Regrettably, this decision was appealed and overturned by the Court of Appeals. The case is pending before the Romanian High Court of Cassation and Justice.

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>71</sup> National organisations reported that the families were pressured into signing agreements to be moved to the factory, owned by Cuprom.<sup>72</sup> Before the factory's closure, it

66 ERRC, *ERRC Newsletter*, December 2011, available at: <http://www.errc.org/cms/upload/file/errc-newsletter-4-2011.pdf>.

67 NCCD, *Comunicat de presa referitor la deciziile Colegiului director al CNCD din data de 15.11.2011*, available at: <http://www.cncd.org.ro/presa/Comunicate-de-presa/Comunicat-de-presa-referitor-la-deciziile-Colegiului-director-al-CNCD-din-data-de-15-11-2011-124/>.

68 ERRC, *Taken from the City: Romanian Roma evicted to a rubbish dump*, December 2012, available at: <http://www.errc.org/cms/upload/file/romania-report-pata-rat-17-dec-2012-en.pdf>.

69 Available at: <http://www.hotnews.ro/stiri-esential-9215801-zidul-baia-mare-protectia-sau-ghetoizarea-tiganilor.htm>.

70 Available at: <http://cncd.org.ro/presa/Comunicate-de-presa/Comunicat-de-presa-referitor-la-deciziile-Colegiului-director-al-CNCD-din-data-de-15-11-2011-124/>.

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

72 Romani CRISS, Sanse Egale (Equal Opportunities) and Asociația Umanitară Împreună 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>.

was one of the most polluted locations in the entire country.<sup>73</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>74</sup>

## 4.2 Violence and Hate Speech

### 4.2.1 LEGAL AND POLICY FRAMEWORK

The right to life, physical and mental integrity is guaranteed in Article 22 of the Constitution.<sup>75</sup> In the context of providing the inviolability of the right to freedom of expression, the Romanian Constitution prohibits, in Article 30 paragraph 7, incitement to racial or national hatred as well as incitement to discrimination.<sup>76</sup> The Romanian Criminal Code regulates racial motivation as an aggravating factor if any crimes are committed on the grounds of race, nationality, ethnicity, or language.<sup>77</sup> Similarly the Criminal Code prohibits incitement to hatred or discrimination on the grounds of race, nationality, ethnicity, language etc.<sup>78</sup> A law on the prohibition of organisations and symbols with fascist, racist and xenophobic character, aiming to prevent and combat hatred on the basis of nationality, race and religion, was adopted in 2006.<sup>79</sup>

The anti-discrimination law prohibits harassment on the ground of race, nationality, ethnic and social origin<sup>80</sup> and has a special section guaranteeing the right to personal dignity, thus prohibiting any behaviour inciting racial or national hatred or any behaviour aimed or intended to offend dignity or to create an intimidating, hostile, degrading, humiliating or offensive

73 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>.

74 Paul Ciocoiu, “Romanian Relocations Draw International Ire”, *Southeast European Times*, 19 June 2012.

75 Constitution of Romania, Article 22, available in Romanian at: [http://www.cdep.ro/pls/dic/site.page?den=act2\\_1&par1=2#t2c2s0a22](http://www.cdep.ro/pls/dic/site.page?den=act2_1&par1=2#t2c2s0a22).

76 Constitution of Romania, text available in Romanian at: [http://www.cdep.ro/pls/dic/site.page?den=act2\\_1&par1=2#t2c2s0a30](http://www.cdep.ro/pls/dic/site.page?den=act2_1&par1=2#t2c2s0a30).

77 According to the Romanian Criminal Code (Art. 77 paragraph h) as amended by law no.286/2999 racial motivation is a general aggravating circumstance applicable to any criminal act; see Criminal Code, available in Romanian at: <http://www.avocatura.com/il491-noul-cod-penal.html>.

78 According to Article 369 from the Criminal Code as amended by law no. 286/2009 incitement of the public, by any means, to hatred or discrimination against a category of individuals is punished with imprisonment or fine; see Criminal Code, available in Romanian at: <http://www.avocatura.com/il491-noul-cod-penal.html>.

79 Law no. 107 from 27 April 2006, published in the Official Journal of Romania no. 377 from May 3rd for the approval of the Governmental Emergency Ordinance no. 31 from 13 March 2002.

80 The anti-discrimination law (as amended by law no 324/2006 republished) stipulates in Art. 2 par. 5 that: “Shall constitute harassment and shall be contraveniently sanctioned *any behavior based on a ground of race, nationality, ethnic and social origin*, language, religion, beliefs, gender, sexual orientation, affiliation to a disadvantaged category, age, disability, the refugee or asylum-seeker status or on any other ground that leads to creating an *intimidating, hostile, degrading or offensive environment* constitutes harassment and shall be contraveniently punished”.

environment, which is directed against a person, a group of persons or a community and is related to their affiliation to a certain race, nationality, ethnic group or social category.<sup>81</sup>

## 4.2.2 BACKGROUND AND ERRC ACTIVITIES

### *Incidents of conflict and police mistreatment of Roma*

In August 2011, the ERRC addressed the Romanian Prime Minister, the Minister of Interior and the Racoş Police Chief in response to local authorities employing private security forces to monitor residents of the Municipality of Racoş in Brasov County. According to media and reports from local Romani organisations, a private security firm employing former soldiers conducted patrols in Racoş from July 2011 onwards. The security firm was invited and contracted by Racoş authorities using municipal funds following conflicts between Romani and non-Romani residents of the town, which is home to about 2,000 ethnic Hungarians and 1,000 Roma. Thirty security guards were reportedly equipped with truncheons, bullet-proof vests and guard dogs, patrolling the town day and night. According to Romani activists, the security guards monitored Romani people, checking identification documents and the contents of their bags. There were also reports of security guards physically assaulting local Roma, bringing them to the police station for alleged thefts and fights, and intervening in matters taking place in the local school such as quarrels.<sup>82</sup> According to Romani CRISS, in April 2012 alone the organisation documented three cases of abuses against Roma in Racoş, committed either by police representatives, or by employees of the private security firm, contracted by the Mayor's Office. CRISS reported that minors were also threatened and hit by the employees of the private security firm.<sup>83</sup>

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. The victim died. According to testimony from the victim's relatives and members of local community, several police teams from sections six and seven from Bucharest 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

81 The anti-discrimination law (as amended by law no 324/2006 republished), Section V on "the right to personal dignity", in Article 15 stipulates: "According to this ordinance, any behavior exhibited in public, having a nationalist and chauvinist nature, inciting to racial or national hatred or any behavior aimed or intended to offend the dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment, which is directed against a person, a group of persons or a community and is related to their affiliation to a certain race, nationality, ethnic group, religion, social or disadvantaged category or to their beliefs, gender or sexual orientation is a contravention, if the deed is not subject to criminal law".

82 ERRC, *Romanian Authorities Urged to Stop Private Security Patrols*, 2 August 2011, available at: <http://www.errc.org/article/romanian-authorities-urged-to-stop-private-security-patrols/3919/0>.

83 Romani CRISS, El Tera Association, Sanse Egale Association, Sange Egale pentru Copii si Femei, Submission on Romania to the UN Universal Periodic Review 15th session of the UPR - Human Rights Council, 2012, report at: <http://www.romanalibera.ro/usr/imagini/2013/02/06//281173-written-submission-upr-romania-romani-criss.pdf>.

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.<sup>84</sup>

On 10 June 2012, following an intervention by police and gendarmerie enforcement officials, two Roma men were shot, one fatally. According to Romani CRISS interviews with the victim's relatives and members of the local community, an altercation occurred among two minors, one Roma 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 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 weren't 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 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 testimonies 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 and tried to run he was shot in the back, between the shoulder blade and the armpit. The bullet entered his heart.<sup>85</sup>

In both instances, the ERRC and Romani CRISS called on Romanian authorities to conduct an independent, thorough and effective investigation into the legality of the police actions and to make any findings public. The NGOs also asked the authorities to condemn these deaths and to put training in place to ensure that similar incidents do not happen again.<sup>86</sup>

The actions of the law enforcement authorities appeared to violate the Constitution of Romania, which guarantees everyone the right to life and physical integrity, as well as Romania's international treaty obligations, which are enshrined in the Constitution as an integral part of national law, in particular, the European Convention on Human Rights and Fundamental Freedoms (ECHR)<sup>87</sup> and the International Covenant on Civil and Political Rights.<sup>88</sup>

84 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>.

85 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>.

86 ERRC and Romani CRISS, Romania: Authorities Must Investigate Police Responsibility for Death of Two Romani Men, available at: <http://www.errc.org/cikk.php?cikk=4010>.

87 European Convention of Human Rights, Article 2; available at: <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>.

88 International Covenant on Civil and Political Rights, Article 6; available at: <http://www2.ohchr.org/english/law/ccpr.htm>.



Article 2 of the ECHR guarantees the right to life and, in peacetime, allows no derogation under Article 15. Any use of lethal force must be “absolutely necessary” and strictly proportionate.<sup>89</sup> States have a procedural obligation to ensure a timely, independent and effective investigation capable of leading to a determination of whether the force used in such cases was justified and to the identification and punishment of those responsible.<sup>90</sup> Moreover, the obligation to conduct an effective investigation in cases of deprivation of life must be undertaken without discrimination, as required by Article 14 of the ECHR. When investigating violent incidents and, in particular, deaths at the hands of State agents, State authorities must take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events.<sup>91</sup>

*Anti-Roma statements from high level officials, members of Government or politicians*

Stigmatising anti-Roma rhetoric is found in Romanian public and political discourse, including explicit or implicit references to Roma as an ethnic group engaged in criminal behaviour. Such statements have been made by high level officials, members of Government and politicians.

In February 2010, the Minister of Foreign Affairs at the time, Mr. Teodor Baconski, speaking about Romanians in France, referred to Romanian communities and especially to Roma ethnic Romanian citizens in regard to “some physiological, natural problems of criminality”.<sup>92</sup> Human rights organisations<sup>93</sup> have protested against such statements, expressing concerns over stigmatising and basically criminalising the Roma community. A complaint was lodged by non-governmental organisations before the Romanian equality body, which found in 2011 that the statements of the Minister were discriminatory towards the Roma. The equality body issued a recommendation without imposing a sanction relative to the act of discrimination.<sup>94</sup>

89 European Court of Human Rights, *McCann v. United Kingdom*, available at: <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695820&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

90 European Court of Human Rights, *Kaya v. Turkey*, available at: <http://sim.law.uu.nl/sim/caselaw/Hof.nsf/1d4d0dd240bfee7ec12568490035df05/72669eff087cbf14c1256640004c3804?OpenDocument>. Ögur v. Turkey and Tarnrikulu v. Turkey, available at: <http://sim.law.uu.nl/sim/caselaw/Hof.nsf/d0cd2c2c444d-8d94c12567c2002de990/f742f5c3238e4350c1256783003f2697?OpenDocument>.

91 8 European Court of Human Rights, *Nachova and others v. Bulgaria*, available at: <http://sim.law.uu.nl/sim/caselaw/Hof.nsf/1d4d0dd240bfee7ec12568490035df05/e1e3b8d07542dad9c1257037004e6634?OpenDocument>.

92 Mediafax.ro, 23.02.2010, statement of Minister Teodor Baconski available at: <http://www.mediafax.ro/social/baconschi-cuvantul-fiziologica-sublinia-ca-rata-infractionalitatii-e-similara-altor-comunitati-5600317>.

93 Alianta Civica a Romilor din Romania, Centrul de Resurse Juridice, Asociatia ACCEPT, Romani CRISS, Centrul Euroregional pentru Initiative Publice, Centrul Romilor AMARE RROMENTZA, Asociatia ‘DIVANO-ROMANO’, Asociatia Agentia de Dezvoltare Comunitara INTER-ACTIVA ‘ADCIA’, Asociatia ‘Sanse Egale’, Asociatia ‘ROMII ROMASCANI’, Fundatia Ruhama, Asociatia Parudimos, Asociatia Roma ACCESS TOMIS, Asociatia Sanse Egale pentru Femei si Copii, Centrul Tinerilor Romi ‘Amare Suno’, Asociatia Sanse Egale pentru Romi si Sinti ADOSE/S, Alianta pentru Unitatea Romilor Braila, Asociatia ‘O Del Amena’, Asociatia Thumende, Asociatia Romilor Ursari, Policy Center for Roma and Minorities, Uniunea Democratica Culturala Valea Jiului, Organizatia Amare Prhala, Asociatia Generatia 2008, Asociatia Pro Nobis, Asociatia Comunitara Impreuna, Centrul de Dezvoltare Comunitara Neamt, Asociatia Ketaness 2005, Asociatia Romii in Europa.

94 National Council for Combating Discrimination, 26 November 2010, available at: <http://www.cncd.org.ro/noutati/cauta/Precizare-privind-solutionarea-dosarului-in-cazul-Baconschi-95/>.

A couple of months later in November 2010, the President of Romania Mr Traian Basescu, during an official visit to Slovenia stated that the integration of the nomadic Roma is difficult, that “very few of them want to work” and “many of them, traditionally, live off what they steal.”<sup>95</sup> Non-governmental organisations referred the statements to the equality body, which dismissed the case in 2011 on the basis of procedural grounds.<sup>96</sup> The decision has been appealed and the case is pending before the Romanian High Court of Cassation and Justice.

Further remarks related to Roma were made by the President of Romania in 2011 stating that diplomacy cannot succeed when confronted with “gypsies [that] beg aggressively and are beginning to steal from buses...”<sup>97</sup> In this case the equality body decided that the statements were discriminatory towards the Roma minority and issued a warning.<sup>98</sup>

In May 2012 during a TV debate the Minister of Foreign Affairs Mr Andrei Marga made several statements related to Roma. In the context of a discussion about “beggars in London” the Minister considered that there is “a problem”, “a pretty embarrassing situation” as “there were recorded, at least by the British press, many Roma buying vodka, enjoying themselves and sitting on the clean streets of London for the passers-by to see them.” The Minister expressed his view that “an accident or “an incident” would endanger the efforts made by Romania to close the Schengen file or to get access to other facilities, such as American visas.<sup>99</sup> Romani CRISS and the Center for Legal Resources publicly protested against the statements made by the Minister of Foreign Affairs.<sup>100</sup>

As a general note, when anti-Roma statements are made by state or non-state actors in Romania, there is neither public reaction nor condemnation from the Government or the

95 Mediafax.ro, Basescu: Mulți dintre romii nomazi, “în mod tradițional trăiesc din ce fură” [Basescu: many of the nomadic Roma live off what they steal], 03.11.2010, available at: <http://www.mediafax.ro/social/basescu-multi-dintre-romii-nomazi-in-mod-traditional-traiesc-din-ce-fura-7689349/>.

96 The equality body raised the issue of lack of its competence *rationae loci* in regard to a misdemeanour act committed outside the territory of Romania.

97 National Council for Combating Discrimination, press release, 17 October 2011, decision on the statements of Mr. Traian Basescu (“What can diplomacy do when the Government finds out that gypsies are aggressively begging, started to steal in busses...”).

98 NCCD, Press Release regarding the decisions of the Steering Committee from 17.10.2011, available in Romanian only at: <http://www.cncd.org.ro/presa/Comunicate-de-presa/Comunicat-de-presa-referitor-la-deciziile-Colegiului-director-al-CNCD-din-data-de-17-10-2011-122/>. In the case file 352/2011 against the plaintiff Traian Basescu, President of Romania, the Steering Board decide with 5 votes in favor and 2 against that the statement of the defenent constitutes discrimination according to Article 2 paragraph 5 of the Governmental Ordinance no. 137/2000 republished. In regard to the finding it has been subsequently imposed the sanctioning with warning agasint the defenednt.

99 The recording of the show *Realitatea la Raport* (Reality under review), moderated by Andreea Cretulescu and Adrian Cioroianu, from 17.05.2012, is available at: <http://www.realitatea.net/realitatealaraport.html#emisiune17Mai2012-2130>.

100 Center for Legal Resources and Romani CRISS, Press Release: The Center for Legal Resources and Romani CRISS condemn the racist statements of MoFA Andrei Marga, 21.05.2012, available at: <http://www.crj.ro/EN/News/The-Center-for-Legal-Resources-and-Romani-CRISS-condemn-the-racist-statements-of-MoFA-Andrei-Marga>.

political class. Only the equality body has a positive but limited record in taking a stand on such cases.<sup>101</sup>

## 4.3 Movement and Migration

The EU Fundamental Rights Agency, in a recent report<sup>102</sup> focused on the movement of Roma from Central Europe, including Romania, notes that since the fall of communism and even more so after the accession of Central and Eastern European countries to the European Union many Roma moved to other EU Member States in search of a better life. However, many Roma continue to experience racism, discrimination and exclusion.<sup>103</sup> Research shows that poverty and racism are the main factors ‘pushing’ Roma to leave their countries of origin, with poverty being the primary factor. A defining aspect of the experience of poverty in countries of origin is unemployment, but segregation and a feeling of ‘not belonging’ are also key push factors. Factors ‘pulling’ Roma to certain destination countries include their assumed prospects for finding work and improved living standards.<sup>104</sup>

### 4.3.1 LEGAL AND POLICY FRAMEWORK

With the Maastricht Treaty in 1992, European Union citizens were given the right to ‘move and reside freely’ within the EU’s borders (Article 18 of the EC Treaty). This is reaffirmed by Article 45 of the Charter of Fundamental Rights of the European Union,<sup>105</sup> and Council Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.<sup>106</sup>

The right of movement and residence applies to all EU citizens without discrimination, as stated under consideration 31 of the Free Movement Directive: ‘[...] Member States should implement this Directive without discrimination between the beneficiaries of this Directive on grounds such as sex, race, colour, ethnic or social origin, genetic characteristics,

101 Similar considerations made by the Centre for Legal Resources (CLR), Submission by the CLR to the 15<sup>th</sup> session of the Universal Periodic Review on Romania 2012, report available at: <http://www.crj.ro/userfiles/editor/files/evaluare-evaluation.pdf>. Romani CRISS, El Tera Association, Sanse Egale Association, Sange Egale pentru Copii si Femei, Submission on Romania to the UN Universal Periodic Review, report available at: <http://www.romanalibera.ro/usr/imagini/2013/02/06/281173-written-submission-upr-romania-romani-criss.pdf>.

102 EU FRA Report on the situation of Roma EU citizens moving to and settling in other EU Member States, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/705-Roma\\_Movement\\_Comparative-final\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/705-Roma_Movement_Comparative-final_en.pdf).

103 *Ibid.*

104 *Ibid.*

105 Charter of Fundamental Rights of the European Union, OJ 2007/C 303/01, 14 December 2007.

106 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF>.

language, religion or beliefs, political or other opinion, membership of an ethnic minority, property, birth, disability, age or sexual orientation'. The Free Movement Directive applies to all Union citizens who move to or reside in a Member State other than that of which they are a national and to their family members, irrespective of nationality, who accompany or join them. According to the directive, all Union citizens have the right to enter another Member State by virtue of having an identity card or valid passport. Under no circumstances can an entry or exit visa be required.<sup>107</sup>

In Romania, movement and residence is regulated by the Government Emergency Ordinance no. 102/2005 republished with modifications in 2011,<sup>108</sup> implementing Directive 38/2004/CE, and by Law no. 248/2005 on the free movement of Romanian citizens abroad.<sup>109</sup> The law on free movement allows domestic courts to restrict the freedom of movement of Romanian citizens abroad for up to three years if a person's presence in a country, due to the actions that he/she performs or is expected to perform, would seriously damage the interests of Romania or, where appropriate, bilateral relations between Romania and that country. The provision targets mainly persons expelled from European countries or returned to Romania under bilateral Readmission Agreements.

### 4.3.2 BACKGROUND AND ERRC ACTIVITIES

In the last three years, the ERRC has been engaged in ongoing monitoring of Romanian migrant returns and advocacy on the issue of forced return of migrants, particularly in France, Italy and Denmark. Romanian Roma continue to face major difficulties regarding freedom of movement within the EU and the most prominent example is the expulsion of Romanian citizens from France.

The ERRC, assisted by other organisations,<sup>110</sup> has undertaken documentation and fact-finding missions in a number of locations in France, Romania and Bulgaria, which indicate repeated violations by France of the Free Movement Directive, the Data Privacy Directive and the Charter of Fundamental Rights.

In September 2010, the ERRC submitted written observations to the European Commission indicating that infringement proceedings on the basis of the found violations should be warranted.<sup>111</sup> Ethnic discrimination in French policy has been manifest, as evidenced by the

<sup>107</sup> Free Movement Directive; Articles 5(1) and 4(1).

<sup>108</sup> Government Emergency Ordinance no. 102/2005, republished in 2011, regarding the free movement on the territory of Romania of the citizens of the EU member states, the European Economic Space and the citizens from the Swiss Confederation, published on the Official Journal of Romania, no. 774 from 2 November 2011.

<sup>109</sup> Law no. 248/2005 on the free movement of Romanian citizens abroad with amendments by Law no. 206/2010 published on the Official Journal of Romania no. 767 from 20 November 2010.

<sup>110</sup> Particular assistance has been provided in Romania and France by the Association Parudimos and in France by GISTI, Imédiat, Médecins du Monde, MRAP93, Romeurope and Sodiarité Rroms St-Etienne. In Bulgaria, the ERRC was assisted by Integro Association.

<sup>111</sup> European Roma Rights Centre, *Submission in relation to the Analysis and Consideration of Legality under EU Law of the Situation of Roma in France: Factual Update*, available at: <http://www.errc.org/cms/upload/file/france-ec-legalbrief-27-sept-2010.pdf>.

President's Communiqué of 28 July 2010, which singled out Roma as an ethnic group for law enforcement action. This was confirmed by the French Interior Ministry Circular of 5 August 2010 by which the French security forces were instructed to 'give priority to Roma' in conducting eviction and expulsion operations.<sup>112</sup> All of the returns reported in the French media have involved Roma and the ERRC was not able to identify a return to Romania or Bulgaria which did not involve Roma. The evidence collected by the ERRC suggested that mass expulsions and other expulsions without individual considerations were commonplace, coupled with a lack of extensive examination of personal circumstances as required by the Free Movement Directive. In some, if not all, cases Roma who were expelled did not understand the legal process to which they were being subjected and thus had no meaningful opportunity to challenge that process. Almost all of the individuals interviewed report being subjected to repeated police checks, which also raise legal concerns under the Free Movement Directive. Regardless of their legality, these checks have clearly influenced decisions by individual Roma to return to their countries of origin in cases where Roma have accepted or applied for 'aid to return' or have simply returned home in fear of receiving expulsion orders.<sup>113</sup>

While the European Commission did not open infringement proceedings against France, in November 2011 the Council of Europe's European Committee of Social Rights found that returning Roma of Romanian origin to their countries of origin was based on discriminatory provisions that directly targeted Roma individuals and families. The Committee found France in violation of the European Social Charter, with reference to ERRC research on mass expulsions and violations of EU Law by France.<sup>114</sup> The Committee noted that the French Government failed to supply credible evidence to refute the proof based on research conducted by the European Roma Rights Centre<sup>115</sup> and that it has been demonstrated that returning Roma of Romanian to their countries of origin was based on discriminatory provisions that directly targeted Roma individuals and families. The Committee reached this conclusion after considering the aforementioned ERRC survey and stated that "all the cases of removal of illegal immigrants reported in the media concerned Roma and the ERRC has yet to identify a single case of a return to Romania ... that did not involve this community."<sup>116</sup> Secondly, the Committee considered that the collective nature of these expulsions has been apparently confirmed by the examples, cited in the ERRC report, of mass expulsions with no consideration given to the individual circumstances of those concerned. It refers to dozens of orders to leave French territory, using standard forms with identical content (other than handwritten names and dates of birth), with no account taken of individuals' circumstances or how long they had already been in France.<sup>117</sup>

112 *Ibid.*

113 *Ibid.*

114 The European Committee of Social Rights, Complaint No. 63/2010 Centre on Housing Rights and Evictions (COHRE) v. France (decision public on 11th of November 2011), available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC63Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC63Merits_en.pdf).

115 *Ibid.*, para. 52.

116 *Ibid.*, para 66.

117 *Ibid.*

An agreement between France and Romania was signed in September 2012 on the deportation of certain Romanian Roma families from France to Romania.<sup>118</sup> The ERRC expressed its concern that such an agreement to send Roma migrants back to Romania from France should not breach freedom of movement rights for EU citizens, and should not encourage the French government to continue with its current policies on Roma.<sup>119</sup>

Freedom of movement has also been restricted for Romanian Roma in other European countries.<sup>120</sup> In July 2010, a group of 21 Roma were arrested and deported from Denmark and were banned from returning for one year. The ERRC appealed a number of these orders, which were issued despite the fact that there were no charges or judgments against the individuals<sup>121</sup> and in April 2011, the Danish authorities decided to reverse the orders, which were found to be in contravention of EU law.<sup>122</sup> The ERRC is currently considering submitting complaints before the Danish equality body highlighting discriminatory treatment in regard to the profiling of Romanian Roma.

## **4.4 Women's and Children's Rights**

### **4.4.1 LEGAL AND POLICY FRAMEWORK**

The principle of equal treatment and protection of children, irrespective of their ethnic origin, is stated in Law 272/2004 on protecting and promoting the rights of the child. The National Strategy on the Protection and Promotion of the Rights of the Child for 2008-2013 and its Operational Plan for Implementation, adopted by Government Decision no. 860/2008, lists among the target groups children belonging to ethnic minorities, and provides that increased attention shall be given to children from Roma communities. Unfortunately, to date there is no assessment of the implementation.

Equality between women and men is guaranteed by law no. 202/2002<sup>123</sup> which also sets out the establishment of the National Agency for Equal Opportunities between Men and Women with the aim of promoting the principle of gender equality. In 2010, the Government adopted its national strategy for equality between women and men for 2010-2012 and a General

118 ERRC, *New Deal between France and Romania on Roma Returns Must Not Breach Rights to Free Movement*, 14 September 2012, available at: <http://www.errc.org/article/new-deal-between-france-and-romania-on-roma-returns-must-not-breach-rights-to-free-movement/4053>.

119 *Ibid.*

120 ERRC, *Factsheet: Roma Rights in Jeopardy*, 16 February 2012, available at: <http://www.errc.org/article/factsheet-roma-rights-record-2011/3828>.

121 ERRC, *ERRC Challenges Danish Expulsion of EU Roma*, 6 September 2011, available at: <http://www.errc.org/article/errc-challenges-danish-expulsion-of-eu-roma/3675>.

122 ERRC, *Danish Authorities Reverse Decisions in Roma Expulsions*, 18 April 2011, available at: <http://www.errc.org/article/danish-authorities-reverse-decisions-in-roma-expulsions/3833>.

123 Law no. 202/2002 regarding the equality between women and men, republished with amendments in the Official Journal of Romania no.10 from 8 January 2007.

action plan for the implementation of the Strategy.<sup>124</sup> The Romanian Inclusion Strategy of citizens belonging to the Roma minority for the period of 2012-2020<sup>125</sup> refers to the “principle of equal opportunities and gender awareness” which stands as a governing principle of the Strategy, but unfortunately the principle is not substantiated as a clear crosscutting issue in all the areas tackled by the Strategy and in particular on the subsequent measures.<sup>126</sup>

#### 4.4.2 BACKGROUND AND ERRC ACTIVITIES

The ERRC has supported research concerning the conditions of Romani women and children in Romania. In particular ERRC research has addressed trafficking in human beings, the overrepresentation of Romani children in State care, and child marriage.

In March 2011, the ERRC published the report *Breaking the Silence: Trafficking in Romani Communities*.<sup>127</sup> The ERRC research found a disproportionate number of Romani persons among victims of human trafficking in several countries, including Romania.<sup>128</sup> Although Roma only constitute 9% of the Romanian population,<sup>129</sup> an estimated 50% of victims of trafficking are Roma. Most are trafficked abroad for sexual exploitation, forced labour, forced begging/petty crime and debt bondage.<sup>130</sup> Street children remained especially vulnerable.<sup>131</sup> A 2008 survey by ECPAT International, a global network of organisations and individuals working together for the elimination of child prostitution, child pornography and the trafficking of children for sexual purposes, showed that most street children came from Roma families.<sup>132</sup>

While Romania recognises the Roma as a group vulnerable to human trafficking, data protection laws prohibit the collection of ethnic data, thereby posing an obstacle to the full assessment of Roma as victims. Roma are often also excluded from victim support services and discriminated against within the public health sector. Romani children who are survivors of trafficking also often face discrimination in public education.<sup>133</sup>

124 Governmental Decision no. 237 from 24 March 2010, published in the Official Journal of Romania, no. 242 from 15 April 2010.

125 Strategy approved on December 14<sup>th</sup> 2011 by Governmental Decision no. 1221/2011, published on the Official Journal no.6 from January 4<sup>th</sup> 2012.

126 Strategy for the Inclusion of citizens belonging to Roma minority for the period of 2012-2020, Chapter VI Principles; point 5 The principle of equal opportunities and gender awareness.

127 ERRC, *Breaking the Silence: Trafficking in Romani Communities*, March 2011, available at: <http://errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>.

128 *Ibid*, p 11.

129 *Ibid*, p 35.

130 *Ibid*, pp 37 and 11.

131 ERRC, *Breaking the silence*, 51.

132 European Committee of Social Rights, *European Social Charter (Revised), Conclusions 2011, Romania*, (Articles 7, 8, 16, 17, 19 and 27 of the Revised Charter), January 2012, p 12.

133 *Ibid*, pp 32, 61, 62.

In June 2011, the ERRC concluded a multi-country study, publishing a comprehensive report *Life Sentence: Romani Children in institutional care*<sup>134</sup> which outlined the overrepresentation of Romani children in institutional care in six European countries, as well as country reports, including one focusing on Romania.<sup>135</sup> The reports indicate the extent to which Romani children are overrepresented in State care in Romania and examine the factors contributing to this environment. Gaps in Romanian law and policy persist and the lack of disaggregated data collection renders existing policy ineffective in addressing the issue. There is neither a legal definition of, nor clear methodological guidelines for, assessing child endangerment. Various factors, aggravated by discrimination and social exclusion, contribute to the overrepresentation of Romani children in State care. Most factors are poverty-related, such as a lack of employment, inadequate housing and health care, household size, child abandonment in maternity wards, and migration. Preventative social work at the community level is not sufficient to help Romani families overcome these factors. Families also experience problems such as difficulties accessing their right to information during child protection proceedings, bias, and a lack of legal representation. In State care, some Romani children are subjected to physical abuse, ill treatment and various forms of discrimination. Many prospective adoptive parents refuse to adopt Romani children and a significant number of Romani children in State care have been categorised as mentally disabled.<sup>136</sup>

In September 2011, the ERRC sent a submission on child marriages among Roma to the Joint CEDAW-CRC General Recommendation/Comment on Harmful Practices in a number of countries, including Romania.<sup>137</sup> Children are not adequately protected from early marriages, as the minimum age for marriage is 16<sup>138</sup> and there are no specific legal provisions criminalising forced marriage. Most child marriages among the Roma are conducted informally, outside of the law. In such cases, Romania often does not apply international legal provisions, instead claiming that child marriage is a Romani custom.<sup>139</sup> Child marriage affects the rights of the children involved, as it “creates the conditions for serial human rights abuses”.<sup>140</sup> Often, child marriage interferes with the education, particularly of the girl, consequently also affecting her employment opportunities. These children may be subject to violent practices such as virginity testing and the associated punishments, face increased vulnerability to becoming victims of trafficking in human beings or domestic violence, and often suffer physical and psychological health problems.

134 ERRC, *Life Sentence: Romani Children in institutional care, June 2011*, available at: <http://www.errc.org/article/life-sentence-romani-children-in-institutional-care/3923>.

135 *Ibid.*

136 *Ibid.*, p 47.

137 ERRC, *Submission to the Joint CEDAW-CRC General Recommendation / Comment on Harmful Practices: Child Marriages among Roma*, 9 September 2011, available at: <http://www.errc.org/cms/upload/file/cedaw-crc-child-marriages-submission-9-sept-2011.pdf>.

138 ERRC interview with representatives of the General Directorate of Social Assistance and Child Protection of Brasov County, Romania: September 2010.

139 ERRC interview with representatives of the DGASPC. Brasov County, Romania: September 2010.

140 ERRC, *Submission to the Joint CEDAW-CRC General Recommendation/Comment on Harmful Practices: Child Marriages among Roma*, p 4.



## Annex 1

## Human Rights Treaty Ratification and Reservation Table

Treaty	Accession/ Ratification Date	Objections and Reservations
<b>UN Conventions</b>		
International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) (1966)	15 Sep 1970 a	<p>Declaration: (21 March 2003)</p> <p>“Romania declares, in accordance with article 14 paragraph 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, that it recognizes the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from persons within its jurisdiction claiming to be victims of a violation by Romania of any of the rights set forth in the Convention, to which Romania acceded by Decree no. 345 of 1970.</p> <p>Without prejudice to the article 14 paragraphs 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, Romania considers that the mentioned provisions do not confer to the Committee on the Elimination of Racial Discrimination the competence of examining communications of persons invoking the existence and infringement of collective rights.</p> <p>The body which is competent in Romania, according to domestic law, to receive and to examine communications in accordance with article 14 paragraph 2 of the International Convention on the Elimination of All Forms of Racial Discrimination is the National Council for Combating Discrimination established by the Government Decision no. 1194 of 2001.”</p>
International Covenant on Economic, Civil and Cultural Rights (1966)	9 Dec 1974 (r)	
International Covenant on Civil and Political Rights (1966)	9 Dec 1974 (r)	
Optional Protocol to the ICCPR (1966)	20 Jul 1993 (a)	
Optional Protocol to ICCPR: Abolishment of the Death Penalty (1989)	27 Feb 1991 (r)	

## ANNEX 1: HUMAN RIGHTS TREATY RATIFICATION AND RESERVATION TABLE

Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (1968)	15 Sep 1969 (r)	
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	7 Jan 1982 (r)	Had previously reservation to Article 29, was withdrawn on 2 April 1997.
Optional Protocol to CEDAW (1999)	25 Aug 2003 (r)	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	18 Dec 1990 (a)	
Optional Protocol to CAT (2002)	2 Jul 2009 (r)	Declaration upon ratification: "In accordance with Article 24, paragraph 1 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Romania declares that it postpones for three years the implementation of the obligations under Part IV of the Optional Protocol, concerning national preventive mechanisms."
Convention on the Rights of the Child (1989)	28 Sep 1990 (r)	
Optional Protocol CRC: Involvement of Children in Armed Conflict (2000)	10 Nov 2001 (r)	Declaration: "According to the law, military service is compulsory for Romanian citizens, males, who reached the age of 20, except in case of war or upon request, during peacetime, when they may be recruited after the age of 18."
Optional Protocol CRC: the Sale of Children, Child Prostitution and Child Pornography (2000)	18 Oct 2001 (r)	
Convention on the Rights of Persons with Disabilities (2006)	31 Jan 2011 (r)	
<b>COE Conventions</b>		
Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	20 June 1994	
Protocol 12 to ECHR on general prohibition of discrimination	17 July 2006	

European Social Charter (revised) <sup>141</sup>	May 7 1999	Romania has not ratified the Additional Protocol providing for a system of collective complaints
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	Oct 4 1994	
Framework Convention for the Protection of National Minorities	11 May 1995	
Council of Europe Convention on Action against Trafficking in Human Beings	21 Aug 2006	
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse	17 May 2011	
European Charter for Regional or Minority Languages	29 Jan 2008	

141 The table of accepted provisions is available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/countryfactsheets/Romania\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/countryfactsheets/Romania_en.pdf).

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

