



**OSCE Office for Democratic Institutions and Human Rights  
Contact Point for Roma and Sinti Issues (CPRSI)**

**Human Rights Assessment Report  
on the Situation of Roma in Romania**

**-- December 2021**

Authors:

*Eugen Ghiță*

*Norina Elvira Herki*

*This report was written as part of a capacity building activity for Roma Human Rights Defenders supported by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). This report should neither be interpreted as official OSCE recommendations based on a consensus decision, nor as the opinion of the OSCE/ODIHR or of any particular OSCE participating State. The content of this report reflects only opinions expressed by the authors of this report.*

## **1. Table of contents**

<b>Executive summary and Key Recommendations</b>	<b>3</b>
<b>Methodology</b>	<b>4</b>
<b>International &amp; domestic legal/policy framework</b>	<b>6</b>
<b>Thematic areas of human rights violations</b>	<b>6</b>
Police brutality	6
Apalina Community Case	6
Police bias in conducting investigation and brutality against Pîtea Constantin-Daniel	7
Police brutality against Stan Inspector	8
Police brutality against Cătălin Burdujel	8
Conclusions:	9
Hate speech in social media and news reports	10
Analysis and comments on the identified hate speech cases	11
Forced evictions	15
Forced eviction of Lara and her father	15
Forced eviction from Meșterul Manole Street	16
Analysis and comments	17
Eviction notices for informal housing from Stephenson Street	19
Analysis and comments	19
<b>Overall conclusions and recommendations to all actors</b>	<b>20</b>
<b>List of abbreviations</b>	<b>24</b>

## **2. Executive summary and Key Recommendations**

This report was prepared as part follow-up to a capacity building activity for Roma Human Rights Defenders supported by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). The report represents the follow-up and practice on documenting and reporting human rights violations of the Roma minority in Romania over a 10 month period, beginning with January 2021.

During the monitored period, the human rights violations identified and analyzed in this report include the right to dignity, as instances of hate speech against the Roma have been documented in social media and online news reporting, using well-known tropes for stereotyping the Roma, gross overgeneralizations and linking Roma ethnicity to crime and criminalizing the Roma.

The Roma continue to be discriminated against in the field of housing. The human rights violations documented and presented in this report indicate continued practices of forced evictions at local level without respecting international human rights standards, respectively ensuring alternative, adequate (re)housing. The cases and analysis point to systemic problems and structural discrimination of Roma in accessing social housing, as well as difficulties in implementing domestic legislation with regard to formalizing informal settlements/housing.

The cases of police brutality in the communities mentioned in this study reveal that the law enforcement agencies in Romania violated human rights and the violent raids in communities show institutionalized racism. Not only that the police failed to intervene and protect, but they themselves were the agents actually committing human rights violations against the people in the community, failing to treat them with humanity and respect. In the cases presented in this report police action has been verified as breaking the law through disproportionate use of force.

Because of their ethnicity, the victims's rights were violated as they were subjected to torture and cruel and degrading treatment. The police failed to consider them equal before the law and engaged in extra-legal punishing action.

Based on the findings of this report, the following key recommendations are put forward:

### *For State Actors*

- Comply with international legal standards as set out in General Comment 7 of the Committee on Economic, Social and Cultural Rights, respectively avoid rendering people homeless and offer alternative(re) housing solutions when eviction cannot be avoided.
- Ensure an adequate availability of social housing according to the needs of the localities as well as emergency solutions for inadequate and unsafe housing conditions
- Prolong the legal term to appeal an eviction notice from 5 days to 15 days.
- Prioritize the regularization/formalization of the status of informal settlements taking advantage of the existing domestic legislation and amend legislation ensuring that precarious people have adequate living conditions
- Ensure that local public authorities establish non-discriminatory criteria for accessing social housing

- Provide training for police, prosecutors and judges on how to deal with Anti Gypsyism and implement the newly adopted piece of legislation on combating and preventing Anti Gypsyism.
- Monitor and prosecute individuals engaging in hate speech as well as collect data and make public cases of hate speech and other hate crimes against the Roma in accordance with GDPR rules.
- Set up a public-private partnership to identify, report, litigate and monitor all cases of abuse between state institutions and human rights and human rights NGOs which can be supported through multi-year funding programmes.
- The Ministry of Justice, through the Romanian Parliament, should make amendments to the current legislation in order to reduce the length of trials in housing cases, health cases, etc.
- Regarding the implementation of court decisions or institutions regulating discrimination in Romania, the recommendation is for the Romanian Parliament, through the Ministry of Justice, to set up a national department for monitoring the phenomenon of discrimination, hate speech, hate crime, etc. to monitor all such cases at county level. To take preventive action by listing those found guilty as aggressors, into a statistical database and to follow special programs to raise awareness of the seriousness of abuse. If change is not observed, limit their access to public offices for the next 5 years.

#### *For Roma and pro-Roma civil society*

- Train NGOs to become key and resource people in the groups for evaluating and establishing measures for informal housing which have been/are being formed and are becoming active at local level (according to the legal provisions regarding informal settlements, Law 151/2019 for completing Law 350/2001 on Urbanism)
- Train and form a coalition of NGOs to prevent, monitor and report forced evictions.
- Train staff from NGOs to recognise and combat Anti Gypsyism and create a network at national level
- Train staff from NGOs and create a network of NGOs to engage in combating hate speech against the Roma

#### *To the OSCE*

- The express recommendation in our study is for the OSCE to carry out research into how the ECHR decisions are implemented in Romania, and how the Ministry of Justice, through its bodies, prevents and combats the occurrence of similar cases.
- Another recommendation to the OSCE is to train law enforcement and coordinating institutions on measures to prevent and eliminate abuses against the Roma community.

### **3. Methodology**

The research, data collection, analysis and tools or resources used for the preparation of this report include the following:

Secondary data analysis: the study included two months of desk research, wherein data was collected from official and unofficial sources, including academic research related to the legal and policy framework at national, international and European Union level.

Primary data analysis included information from news outlets, interviews by the press of individuals whose rights have been violated, press releases by official authorities, formal letters of official authorities, social media videos, etc. Information from NGOs already involved and supporting the victims of the human rights violations identified and documented in the report have been collected when possible.

Qualitative analysis: the report is based on several months of field research in which interviews were conducted with Romani individuals to document and monitor cases of discriminatory treatment and human rights violations such as forced evictions and police brutality. Some of the cases presented have already been identified, documented, reported and monitored by one of the authors of the report who is also country human rights monitor at the European Roma Rights Centre and president of RomaJust.

The desk research included media monitoring, secondary and primary source verification. The hate speech cases have been identified exclusively through media monitoring and primary sources included online videos (Youtube podcasts), Facebook posts, online news articles. The monitoring of forced eviction cases included interviews with the victims (carried out by RomaJust), and the desk research included (social) media monitoring, secondary and primary source triangulations (national TV interviews, social media videos, official letters from the authorities).

For police abuse cases interviews with victims have been carried out and the information has been verified by : interviewing witnesses, police, and local authorities. The online official portal [portal.just.ro](http://portal.just.ro) has been used to check the status of the court proceedings in the cases in which the court investigation is pending.

The research and preparation of this report have the following limitations:

- The monitoring activity was carried out between the end of September 2021 to mid-October 2021, however the monitored period had a time span of 10 months and 15 days, beginning with 1 January 2021 up to 15 October 2021. This means that due to the time span as well as the nature of the research, some human rights violations have been identified retroactively and cases that have featured prominently in the media have been documented and analyzed foremost in this report.
- The human rights violations identified and documented in this report, are not restricted to a region or locality or a thematic area, we have documented the following: a wave of forced evictions at local level in Cluj-Napoca in a rather short time span, cases of police brutality in several localities and regions from the country, social media instances of hate speech.
- The human rights violations and discriminatory instances identified in the report range from hate speech to police brutality or use of excessive force as well as forced evictions, creating a significant difference in approaches, human rights standards as well as international, european and national policies.

#### **4. International & domestic legal/policy framework**

Human rights violations have been analyzed against international human rights standards comprised in the following:

- *European Convention on Human Rights*
- *International Covenant on Economic, Social and Cultural Rights (ICESCR)*
- *International Covenant on Civil and Political Rights (ICCPR)*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*
- *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*

The following domestic legislation has been used to analyze the hate speech, forced evictions and police brutality cases:

- *The Law on preventing and combating Antigypsyism (Law no. 2/2021)*
- *Government Ordinance no. 137 of August 31, 2000 on the prevention and sanctioning of all forms of discrimination, republished*
- *Emergency Ordinance no. 45/2020 for completing the Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination*
- *Law no. 167/2020 for the amendment and completion of the Government Ordinance no. 137/2000 regarding the prevention and sanctioning of all forms of discrimination,*
- *Law no. 151/2019 for completing Law no. 350/2001 on territory and urbanism*

#### **5. Thematic areas of human rights violations**

##### **Police brutality**

##### **a. Apalina Community Case**

On the 6th of September 2021 at 05:45 in the locality of Reghin, in the Roma community of Apalina, Mures county, a group of employees of the Ministry of Interior consisting of police, gendarmes and special forces raided the community to arrest a suspected person. According to accounts from people in the community, the police had the wrong address because they did not know the exact whereabouts of the person in question. They therefore raided several homes where they entered without presenting a warrant. They broke the fence gate and the door of the house on two of the houses. One of the victims was held face down for about 15 minutes, he was beaten by them (trampled on ). In the other houses they entered and disturbed minor children, and destroyed furniture.

The victims testified that they were frightened. One child suffered psychological trauma and does not want to return home. An old woman fainted during the raid. Damage of property: broken furniture, broken doors, broken fence.

Almost 20 people were involved in the incident. According to the victims' testimonies, the police usually carry out such actions to keep the community under control.

This is the same situation as in *Lingurar v. Romania* and *Ciorcan et al v Romania* (Corcan case happened in the same Apalina community), two cases filed with the European Court of Human Rights where Romania was found guilty for violating human rights, the police in Romania being accused of institutionalized racism following violent raids in communities.

We have found that the following rights were violated, according to the applicable ECHR articles: ARTICLE 14 - Prohibition of discrimination; ARTICLE 3 - Prohibition of torture; ARTICLE 5 - Right to liberty and security; ARTICLE 8 - Right to respect for private and family life.

Not only that the police failed to intervene and protect, but they themselves were the ones actually committing violations against the people in the community, by not treating them with humanity and respect and by actually breaking the law when entering their homes without a warrant. They used unnecessary force and they were aggressive against the people in the Roma community. We consider that they violated the following ICCPR articles: Art.10 persons deprived of their liberty shall be treated with humanity and with respect Art.14 All shall be equal before the courts and tribunals Art.15 No one shall be held guilty of any criminal offence of any act which did not constitute a criminal offence Art.17 No one shall be subjected to arbitrary or unlawful interference with his privacy Art.26 All are equal before the law without any discrimination to the equal protection of the law Art.7 No one shall be subjected to torture or to cruel treatment or punishment Art.9 Everyone has the right to liberty and security of person.

#### **b. Police bias in conducting investigation and brutality against Pitea Constantin-Daniel**

On the 3rd of May 2021, Pitea Constantin-Daniel, residing in Baia village, Tulcea County, together with Constantin Dănuț Aurel were detained by Police without being informed why. On the way to the police station, the two were verbally abused, called names and humiliated by the police. As soon as they arrived at the police station, the station chef waited for them in the doorway, beating them up, banging them against the walls and knocking them down. The beating lasted around 30 minutes, then the policemen told them they had stolen 100 sheep from a sheepfold. The two denied the theft charge. The policeman took out a baton and for an hour he beat them, humiliated them and said they were gypsies and he knew they were stealing. This treatment continued until the next morning, with the policemen taking turns when they got tired.<sup>1</sup>

The victims had health issues for two months after the incident, they couldn't work and provide for themselves and their families. There has been unrest in the community, complaining that this practice has been going on for years. The community said they would react differently to the next police raid in the community.

Not only that the policemen failed to protect them and their rights, they were in fact the perpetrators in this case, punishing them without being judged, and torturing them and forcing them to make untruthful declarations. The following ECHR Articles were obviously violated: ARTICLE 14 - Prohibition of discrimination; ARTICLE 2 -Right to life; ARTICLE 3 - Prohibition of torture; ARTICLE 5 - Right to liberty and security; ARTICLE 6 - Right to a fair trial; ARTICLE 7 - No punishment without law.

---

<sup>1</sup> <https://www.libertatea.ro/stiri/politistii-dintr-o-comuna-din-tulcea-sunt-acuzati-de-tortura-amenintari-si-umilinte-3546334>



Because of their ethnicity, the victims were discriminated and they were subjected to torture and cruel treatment. The police failed to consider them equal before the law and they failed to respect the following ICCPR Articles: Art.14 All shall be equal before the courts and tribunals Art.26 All are equal before the law without any discrimination to the equal protection of the law Art.6 Every human being has the inherent right to life Art.7 No one shall be subjected to torture or to cruel treatment or punishment Art.9 Everyone has the right to liberty and security of person

#### **c. Police brutality against Stan Inspector**

On 29.03.2021, two policemen, one from the Romanian police and one from the local police, came to Stan Inspector's house in Murgeni, Vaslui county, and under false accusations that he did not respect the rules of house arrest, they roughed him up and used abusive words against him, handcuffed him forcefully to take him to the police. At his home, there isn't an exact demarcation of the property but an unfenced place. The policeman waited for Stan Inspector to go to the toilet that was located outside the house to accuse him of leaving the house. The policeman had a grudge against the victim because of old conflicts with his family and the community.

The policeman always opposes the community in Murgeni, as the members of this community told the experts of Romajust who documented the cases and interviewed them, he regularly gives large fines to community members, asks people without reason to present personal identification - profiling - and even stakes out cases that he abusively turns into crimes. He is a cop who has taken bribes and had criminal cases in which he was convicted, according to articles in the media.<sup>2</sup>

The fact that the two policemen were just outside his house, looking for reasons to accuse him of leaving his home and the abuse they used against him lead us to consider that these ECHR Articles were violated: ARTICLE 3 - Prohibition of torture; ARTICLE 7 - No punishment without law; ARTICLE 8 - Right to respect for private and family life.

Considering the fact that Stan Inspector was accused wrongly for disrespecting the rules of house arrest, we consider that the following ICCPR Articles were violated: Art.10 persons deprived of their liberty shall be treated with humanity and with respect Art.15 No one shall be held guilty of any criminal offense of any act which did not constitute a criminal offence Art.17 No one shall be subjected to arbitrary or unlawful interference with his privacy Art.26 All are equal before the law without any discrimination to the equal protection of the law Art.7 No one shall be subjected to torture or to cruel treatment or punishment Art.9 Everyone has the right to liberty and security of person. After the victim was taken to the police station, the prosecutor decided to revoke the measure of house arrest with the measure of pre-trial detention in Vaslui Penitentiary. The public authorities did not investigate whether the allegations were correct. He and his family filed a criminal complaint against the two policemen.

#### **d. Police brutality against Cătălin Burdujel**

---

<sup>2</sup> <https://stiriest.ro/2021/03/17/politistul-stan-din-murgeni-alta-intrebare-amendeaza-pe-cine-vrea/>



In September 2020 in Homocea village, Vrancea County, Cătălin Burdujel was fighting with his brother and a neighbor. The police were notified, and police workers went to the place of the incident. Police tried to stop the scandal but failed. The national police were called. They came and talked to Cătălin. He told them that nothing was happening and that he was calming down, but that was not the case. Police then called special forces. After the arrival of the special forces, things calmed down. But unfortunately, Cătălin cursed his neighbor and his brother started beating him, during which time the chief officer approached and shot Cătălin 6 times in the legs. He was transported to the hospital, where he stayed for 2 days, after which he was arrested and accused of aggression against the policeman.

Cătălin was hospitalized. He was taken to detention when his health condition was still very bad.

There was an escalation of the incident when people from the Roma community in Homocea started to fight with the police officers and argued with them for a few days.

The disproportionate response to a fight between neighbours and the aggressiveness with which they calmed him down by shooting him six times violated Art.7 No one shall be subjected to torture or to cruel treatment or punishment of ICCPR. Also, the cruel treatment and the lack of medical care endangered Cătălin's life, indicating that the Romanian authorities failed to protect his rights to life and liberty and security, while also ignoring his right to a fair trial (ARTICLE 2 - Right to life; ARTICLE 5 - Right to liberty and security; ARTICLE 6 - Right to a fair trial of ECHR )

Cătălin Burdujel didn't benefit from the right to a fair trial because the policemen pressured witnesses not to testify truthfully. Romajust has evidence in this regard that are filed to the case in court. Cătălin's rights to life and health care were violated because he was arrested after 3 days of hospitalization, without being allowed to finish his convalescence period after the operation to remove the bullets from his body. His health worsened as a result of the conditions of detention, and 8 months after the first surgery, another surgery was necessary because his leg became very infected. Taking all these facts into consideration, we consider that the following ICCPR Articles were violated: Art.10 persons deprived of their liberty shall be treated with humanity and with respect Art.15 No one shall be held guilty of any criminal offence of any act which did not constitute a criminal offence Art.26 All are equal before the law without any discrimination to the equal protection of the law Art.7 No one shall be subjected to torture or to cruel treatment or punishment Art.9 Everyone has the right to liberty and security of person

### **Conclusions:**

The cases of police brutality in the communities mentioned in this study reveal that there is profiling of communities, some of which are considered to be generators of offenders across the country. Because of this, law enforcement interventions are greatly disproportionate in terms of the number of those intervening. Their brutality is intended as lessons for those in the communities considered in this study. This situation started in the past, Romania being condemned by ECHR (See *Lingurar v. Romania* and *Ciorcan et al v Romania* - Corcan case happened in the same Apalina community.), but the lesson was not learnt.

The general characteristics were that law enforcement agents act more out of prejudice - if you are Roma you are dangerous and criminal; there are no national programmes to train police

personnel on traditions, minority culture and the elimination of stereotypes and prejudices. The application of aggressive and forceful measures at the expense of mediation, conciliation methods should be considered. Applying group methods of measures at the expense of individual ones, accepting that each one must pay for his deed, not the whole group.

## **Hate speech in social media and news reports**

### *Biased news reporting*

Regional news outlet reports on "Dozens of Roma people set up their tents in the field, in mid-May, in Șelimbăr. Residents of the blocks of flats on Doamna Stanca Street reported their presence to the police, after a woman almost got robbed. One week later, the Roma were evacuated by local Police agents."<sup>3</sup> According to the article, the Roma have camped on the field, in great numbers, two years before. The article references another article reporting on the eviction of "over 25 Roma", "over two years ago" with the title "PHOTO VIDEO: Dozens of Roma live like in the Middle Ages on the outskirts of Sibiu - "They put up their tents here, they make a mess and steal", written by the same author a week before.<sup>4</sup>

The police has been notified by the woman who almost got robbed, that a week before, the Roma have returned "...they take refuge in tents on the banks of the river, behind the trees, so that they will not be seen by anyone. They defecate wherever they can and leave behind an indescribable mess."

### *Discrimination of Roma in Youtube podcast*

Renowned stylist, influencer and vlogger, Dana Budeanu was invited to a podcast by Damian Draghici, Roma artist and former political representative, in which she stated that Roma do not get sick from COVID-19, they are somehow immune. The podcast premiered on Feb. 25, 2021 and has 918.001 views, 19.000 likes. Her exact statement is the following: "Why don't the gypsies get sick?" Maybe we need to do some blood tests, take the cell, see what's in it, inject all of us. The newborns from the Polizu maternity hospital, where I gave birth, when it was not yet fashionable to give birth in private, were all breastfed, in proportion of over 60%, by Roma mothers. What does this mean? It means that they were Roma mothers who had given birth and filled 20 bottles at a time and all the children in the ward were fed." <sup>5</sup>

### *Discrimination of Roma on Facebook*

On the 20th of February 2021, on the occasion of celebrating 165 years since the abolition of Roma slavery in Romania, Daniel P Funeriu, a public person from Romania, former Minister of Education, sent a public message which instigates to hatred against the Roma. The hate

---

<sup>3</sup> Mădălina Roșu, "Romii care și-au pus corturile pe câmp la Șelimbăr au fost evacuați", Ora de Sibiu website, 3 June 2021, <https://www.oradesibiu.ro/2021/06/03/romii-care-si-au-pus-corturile-pe-camp-la-selimbar-au-fost-evacuati/>

<sup>4</sup> Mădălina Roșu, "VIDEO FOTO: Zeci de romi trăiesc ca în Evul Mediu la marginea Sibiului – „Și-au pus corturile aici, fac mizerie și fură”", Ora De Sibiu website, 26 May 2021, <https://www.oradesibiu.ro/2021/05/26/video-foto-zeci-de-romi-traiesc-ca-in-evul-mediu-la-marginea-sibiului-si-au-pus-corturile-aici-fac-mizerie-si-fura/>

<sup>5</sup> Youtube Podcast, "Podcastul lui Damian Draghici Invitat: Dana Budeanu", Minute 6:50, <https://www.youtube.com/watch?v=6GRUXW30oNs>

speech and potential for instigation to hatred is evidenced by the comments posted by his friends on that post, his profile reaching 31,351 followers on Facebook. Funeriu's followers were influenced to have racist behaviors. There were 1,283 reactions to post, 342 comments, 167 shares. In his post Funeriu states that Roma slavery has not ended and that Roma are de facto slaves of those who force them to beg in the metropolises of Europe, that young Roma women live under the bondage of a violent and oppressive "alpha male", Roma children live under the bondage of those who do not let them and do not support them to go to school, that physical and legalized slavery has been replaced by de facto slavery to a swindler in their own community and everywhere this system of de facto enslavement of the Roma is being watched over by the NGO constellation which traffics in the misery of people who are no better than others.<sup>6</sup>

### Analysis and comments on the identified hate speech cases

Hate speech is often used in conjunction with racism and xenophobia, discrimination, violence hatred and hate crime. Though there is not an agreed upon and general definition of hate speech, a report published in 2015 which examines the European and international law principles applicable for the prevention and repression of hate crimes, in particular, hate speech, having summed up elements from international human rights law, offers a tentative definition:

*“hate speech constitutes denigration of the reputation of a social group, stereotyped by some particular national, racial or religious characteristics, accompanied by incitement to hostility, violence and discrimination against that group. Hate speech jeopardizes the rights of an ethnic, religious or national group, in clear violation of the principles of equal dignity of and respect for the cultural differences among human groups.”<sup>7</sup>*

One of the earlier uses of the term and definition in policy making is Recommendation (97)20 of the Council of Europe, 30 October 1997, which has been used to identify the hate speech cases in this report.

*“the term ‘hate speech’ shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”<sup>8</sup>*

In the first case, what we consider biased reporting, the article raises several questions, among which:

---

<sup>6</sup> <https://www.facebook.com/DanielPFuneriu/posts/1668537900000791>

<sup>7</sup> “Hate Crime and Hate Speech in Europe: Comprehensive Analysis of International Law Principles, EU-wide Study and National Assessments”, November 2015 p.10, [https://ec.europa.eu/migrant-integration/library-document/hate-crime-and-hate-speech-europe-comprehensive-analysis-international-law\\_en](https://ec.europa.eu/migrant-integration/library-document/hate-crime-and-hate-speech-europe-comprehensive-analysis-international-law_en)

<sup>8</sup> Recommendation No. R (97) 20 of the Committee of Ministers to member states on “hate speech”, adopted on 30 October 1997, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680505d5b](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680505d5b)

- A. How is the ethnicity of the people who have camped illegally relevant and why is it mentioned by the news reporter?
- B. Why is the number of the Roma people in the titles inflated "dozens", when the second article concludes only ten, five adults and five children have been found and identified by the police according to the conclusion of the article quoting the police representatives of the Local Police of Sibiu "During this morning, agents from the Șelimbăr Local Police and representatives of the Social Assistance Directorate went to the scene. The people were identified and were asked to leave the area. It is about five adults and five children, all domiciled in Sibiu County"?<sup>9</sup>
- C. How did the news reporter find out the ethnic identity of the people in question? Did they agree to have their ethnicity disclosed in the article?
- D. What is the role of the media in this case, reporting or scapegoating?

According to art. 3 of the Framework Convention for the Protection of National Minorities, "Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice." Thus, it is up to the persons belonging to national minorities to identify themselves as such or not, in various contexts.

According to Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination (republished) "It constitutes a contravention, according to this ordinance, if the deed does not fall under the criminal law, any behaviour manifested in public, having the character of nationalist-chauvinist propaganda, of incitement to racial or national hatred, or that conduct which has as goal or aims at infringing dignity or creating a degrading, humiliating or offensive atmosphere, of intimidation, hostility, directed against a person, a group people or a community and related to their belonging to a certain race, nationality, ethnicity, religion, social status or to a disadvantaged group or his beliefs, sex or sexual orientation."

We consider that the titles of the articles, are not only a gross overgeneralization and stereotyping of the Roma, but constitute discrimination against the Roma violating their right to dignity and own image. According to available public data the online news outlet Cotidianul on-line oradesibiu.ro is the most widely read in Sibiu, boasting of approximately 270.000 readership, according to an article in 2017. The title, content and tone of the articles(s) promote a hostile attitude against the Roma, portraying them as squatters, primitives "living in the Middle Ages" and thieves "a woman almost got robbed". Furthermore, the biased reporting affects the image of the Roma as a community, linking Roma ethnicity to crime and criminalizing the Roma. Using well-known tropes for stereotyping the Roma, hyperboles and overgeneralizations for the sake of readership, the article has the effect that it turns Roma into a danger for public order and safety.

In the second case of hate speech against the Roma, the influencer links Roma ethnicity and the Roma community to immunity against the COVID19 virus. She infers that Roma do not get sick (Roma have been portrayed by media in Romania as not respecting social distancing and COVID-19 restrictions), to undermine the measures and restrictions adopted by authorities, which she opposes, as she has declared herself as being anti-mask and against social-distancing.

---

<sup>9</sup> Mădălina Roșu, "Romii care și-au pus corturile pe câmp la Șelimbăr au fost evacuați", Ora de Sibiu website, 3 June 2021, <https://www.oradesibiu.ro/2021/06/03/romii-care-si-au-pus-corturile-pe-camp-la-selimbar-au-fost-evacuati/>

Furthermore, as she is a widely followed influencer, she boasts of having her own application for her show “Verdict Politic”<sup>10</sup>, her inferences might have an impact on vaccination and vaccination of Roma in particular, as February 2021 was the month in which the vaccination campaign started in Romania.

The influencer uses a pejorative term for Roma in the beginning of her statements “Why don’t the gypsies get sick?”, is corrected by the moderator and later on thanked for switching to the politically correct term “Roma”, however, the moderator, regrettably does not correct nor questions her inferences that Roma are immune to the virus. The anti-Roma rhetoric during the pandemic has focused on linking Roma ethnicity to the virus in two ways, both with an “othering” and dehumanizing effect on the Roma minority: in the first version, Roma ethnicity and Roma bodies are portrayed as a source of the virus, a source of illness and infection, ideas reminiscent of the nazi exterminations; and in the second version, Roma ethnicity and Roma are portrayed as immune to the virus, they do not get sick, they are resistant, their bodies can withstand the virus as they are different from “us”, they are genetically different, thus they are not human like us, they are savages. The influencer promotes the latter version, however both of them are classical examples of biological racism and such arguments have fueled eugenics policies in the past.

We will forego to comment on her statements about Roma mothers whom she portrays as a feeding/nursing machine of all the newborns in the maternity ward of the hospital, and linger on the following: “Maybe we need to do some blood tests, take the cell, see what’s in it, inject all of us.” Her statements are even more reprehensible as she references a traumatic period in Roma history, the Roma Holocaust, in which the Roma were not only victims of deportations and extermination (the deportation of the Romanian Roma in Transnistria during WW2) but also victims of horrendous “medical” experiments. The host does not correct or question her statements, only laughingly adding “to get all gypsy/sa ne tiganim toti” to the influencer’s statement to get injected with Roma blood and rhetorically asking “How paradoxical would it be for those who are racist, to get injected with gypsy blood to get rid of the virus?”. When she then mentions Roma mothers, he thanks her for using the politically correct term “Roma” instead of the pejorative one “gypsy”, also saying that he knows that she loves gypsies and gypsy music.

The fact that the host of the podcast is a Roma himself and former MEP and the fact that the cross heading or section under the video says “PODCAST by Damian Drăghici. A sincere discussion with and about friends, stories, music, a little humor and a lot of commitment. An unconventional podcast where we talk freely.” is no excuse to let such statements which might have a very damaging effect on the Roma community slide, on the contrary.

We consider that her statements are not only medically false, but also constitute incitement to hatred and hostility against the Roma with the potential to lead to violence and hate crime against the Roma, violating the following international human rights legal provisions:

The International Covenant on Civil and Political Rights (ICCPR) of 1966, art. 20, para. 2, states that “*any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*”<sup>11</sup> The General Comment no.

---

<sup>10</sup> <https://www.verdictapp.com/>

<sup>11</sup> <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>



34 by the Committee on Human Rights sheds light on what is meant by advocacy, hatred and incitement.<sup>12</sup>

The Convention for the Elimination of Racial Discrimination (CERD), article 4, stipulates the outlawing extreme manifestations of hate speech “*States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:*

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;*
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;*
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.”*

The Council of the European Union Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law stipulates that “*racism and xenophobia are direct violations of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles upon which the European Union is founded and which are common to the Member States.*”<sup>13</sup> The Decision obliges each Member State of the European Union to take the measures necessary to ensure that public inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin, as well as publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes are punishable.<sup>14</sup>

In terms of legislation on hate speech in Romania, Article 369 of the penal code condemns incitement to hatred or discrimination “*Inciting the public, using any means, to hatred or discrimination against a category of individuals shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine*”<sup>15</sup>

Additionally, in the pandemic and sanitary crisis context, the influencer’s statements that Roma are immune to the virus might impact the measures taken by the authorities to limit the spread

---

<sup>12</sup> General Comment no. 34 by the Committee on Human Rights,  
<http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

<sup>13</sup> Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law,  
[http://data.europa.eu/eli/dec\\_framw/2008/913/oj](http://data.europa.eu/eli/dec_framw/2008/913/oj)

<sup>14</sup> “Hate Crime and Hate Speech in Europe: Comprehensive Analysis of International Law Principles, EU-wide Study and National Assessments”, November 2015 p.10, [https://ec.europa.eu/migrant-integration/library-document/hate-crime-and-hate-speech-europe-comprehensive-analysis-international-law\\_en](https://ec.europa.eu/migrant-integration/library-document/hate-crime-and-hate-speech-europe-comprehensive-analysis-international-law_en)

<sup>15</sup> Criminal Code of the Republic of Romania (2009, amended 2017), English version,  
[https://www.legislationline.org/download/id/8291/file/Romania\\_Penal%20Code\\_am2017\\_en.pdf](https://www.legislationline.org/download/id/8291/file/Romania_Penal%20Code_am2017_en.pdf)

of the COVID-19 virus and might be interpreted as "*Thwarting the fight against disease*" (art. 352 Penal Code: Failure to comply with measures to prevent or combat infectious diseases, if it resulted in the spread of such a disease, is punishable by imprisonment from 6 months to 2 years or a fine).

Hate speech against the Roma on social media or online can translate into or lead to hate crime and violence against the Roma in the "real world". From the cases we have examined so far, the mechanism of hate speech against the Roma relies on stereotyping the Roma, highlighting stereotypes about the Roma and thus creating a climate of hostility against those belonging to Roma ethnicity.

With regard to the ambiguous message posted by the former minister of education about the Roma and Roma NGOs on the occasion of celebrating 165 years since the abolition of Roma slavery in Romania, committed the following offences:

Instigation to hatred, Violation of Article 3 of Law 2 /2021. Article 3: *The act of promoting, in public, in any way, anti-gypsy ideas, concepts or doctrines constitutes a criminal offense and is punishable by imprisonment for a term of three months to three years and disqualification.*

RomaJust sent a criminal complaint to the Timisoara prosecutor's office. It was forwarded to the Prosecutor's Office of Iasi. It is currently at the Criminal Investigation Department of the Iasi County Police Inspectorate, and as far as we know this is the first complaint formulated on the basis of the Anti Gypsyism legislation, passed in Romania early in 2021.

We are aware that the Civic Union of Roma Youth in Romania has filed a petition with the National Council for Combating Discrimination complaining about Mr Funeriu's discriminatory message. We have not yet received a response from the Council regarding the petition. A debate was issued at the time and it even reached the European Parliament, which reacted against Funeriu's message.

## **Forced evictions**

### **Forced eviction of Lara and her father**

Three-year old cited together with her father, Lara and Darius Szabo, as defendants for forcibly/abusively occupying a social housing unit from Pata Rat<sup>16</sup>. Cluj-Napoca Municipality declares that Darius Szabo has the right to social housing from December 16 2010 in an apartment with 2 rooms and a total surface of 28,7 square meters in Pata Rât and the legal action is against his abusive occupation of another social housing space.<sup>17</sup> The spokesperson has stated that the action against his three year-old daughter is just a formality.<sup>18</sup> The first court

---

<sup>16</sup> "CLUJ-NAPOCA O fetiță de trei ani a fost chemată în instanță pentru evacuarea unei locuințe. Protest în fața primăriei", Stirile TVR website, [http://stiri.tvr.ro/cluj-napoca-o-feti-a-de-trei-ani-a-fost-chemata-in-istan-a-pentru-evacuarea-unei-locuin-e--protest-in-fa-a-primariei\\_890712\\_foto.html#view](http://stiri.tvr.ro/cluj-napoca-o-feti-a-de-trei-ani-a-fost-chemata-in-istan-a-pentru-evacuarea-unei-locuin-e--protest-in-fa-a-primariei_890712_foto.html#view)

<sup>17</sup> Adina Florea, Adelina Mărăcine, "Povara de pe umerii Larei. Cum a ajuns Primăria Cluj-Napoca să dea în judecată o fetiță de 3 ani din Pata Rât", Libertatea website, <https://www.libertatea.ro/stiri/povara-de-pe-umerii-larei-cum-a-ajuns-primaria-cluj-napoca-sa-dea-in-judecata-o-fetita-de-3-ani-din-pata-rat-3739304>

<sup>18</sup> <https://observatornews.ro/justitie/o-fetita-de-trei-ani-chemata-in-stanta-de-primaria-din-cluj-desi-na-ajuns-nici-macar-la-gradinita-are-inclusiv-o-datorie-catre-stat-435299.html>



appointment took place on September 1, motion has been made to exclude the three year-old from the trial/court proceedings. The court action is pending. The movement Social Housing NOW! has launched a campaign for solidarity for Lara and protest in front of the city hall on the day of the trial.<sup>19</sup> ERRC and RomaJust are offering legal assistance and representation. A court decision which confirms that the two have abusively occupied the space, is a heavy burden for them to carry as it leads to the father being declared as ineligible for social housing in Cluj-Napoca.

### **Forced eviction from Meșterul Manole Street**

11 people have been forcibly evicted from social housing units on Meșterul Manole Street nr. 2 for living informally, respectively abusively occupying social housing units that have been empty. The eviction has been carried out based on an eviction order from 2015. The legality of the court order is in question, given the time it has passed since it has been issued and secondly, the excessive use of force by the Gendarmerie. In subduing a 15 year-old, as the Gendarmerie (Jandarmeria Română) used tear-gas, including on the children.<sup>20</sup>

The court proceedings are in progress as the youth has been accused of assault. Legal representation has been ensured by ERRC and Social Housing NOW! has been involved in offering support and awareness raising.

The official statement of the authorities is that the court ordered the eviction of those people due to the fact that they were abusively occupying the City Hall space, the families were informed both in the past and recently about the possibility of accessing the subsidy to pay the rent and the non-execution of this civil sentence regarding the evacuation, may cause damages to the City Hall. Regarding the incident between the youth and Gendarmerie, the official position of the Gendarmerie has been made clear in a press release, that is to say the Gendarmerie has stated that their role in the forced eviction has been that of offering protection to the bailiff and not that of evicting the people.<sup>21</sup>

The family lived informally in empty social housing. In 2013, the mayor's office filed a lawsuit against them, and in 2015 the sentence was handed down. During all this time, the mayor's office demanded that the family leave the house without offering alternatives for a family that cannot afford the real estate market prices in Cluj.

The court order has been carried out and the people have been evicted. They have not been offered alternative social housing, but they have been offered housing at the DASM Emergency Social Center. For occupying abusively a public space, they will no longer be eligible for accessing social housing in Cluj-Napoca, as one of the criteria for accessing social housing is NOT to have abusively occupied a public space.

---

<sup>19</sup> <https://www.facebook.com/CasiSocialeACUM/posts/1455448384819814/> and <https://www.facebook.com/ObservatorAntena1/videos/377266950652228/>

<sup>20</sup> Horea Soica, "Cluj: Evacuare forțată cu lacrimogene pe strada Meșterul Manole. Ocupau abuziv o locuință socială ținută goală de Primărie – FOTO", Știri de Cluj, 20 May 2021, <https://www.stiridecluj.ro/politic/cluj-evacuare-fortata-cu-lacrimogene-pe-strada-mesterul-manole-ocupau-abuziv-o-locuinta-sociala-tinuta-goala-de-primarie-foto>" Video-Evacuare cu scandal la Cluj-Napoca. Jandarmii sunt acuzați că au dat cu spray , inclusiv pe copii", Ziarul Clujean, 20 May 2021, <https://ziarulclujean.ro/video-evacuare-cu-scandal-la-cluj-napoca-jandarmii-sunt-acuzati-ca-au-dat-cu-spray-inclusiv-in-copii/> and Căși sociale ACUM!/Social Housing NOW! <https://fb.watch/8vG5Nc02ZK/>

<sup>21</sup> Press Release, The Mobile Gendarmerie of Cluj-Napoca, 20 May 2021, [http://www.jandarmeriamobilacluj.ro/buletine/20\\_05.pdf](http://www.jandarmeriamobilacluj.ro/buletine/20_05.pdf)

## Analysis and comments

Both cases raise questions on how the rights of the child are safeguarded both in making children the subjects of court actions, but also in rendering homeless people, families, belonging to vulnerable groups, such as ethnic minorities.

In the first case, what strikes us from the start, is obviously the summoning of the father together with his 3 year old daughter, whose name appears in the citation. Whether it is mistake that has not been owned up by the authorities, matters little, as the action is a violation of the rights of the child, according to the Romanian Civil Code, minors under the age of 14 do not have full legal capacity, following that they cannot be sued in their own name, only through their legal guardian.

When it comes to forced evictions and safeguarding the rights of the child, Article 27 (3) of the Convention on the Rights of the Child (CRC) states that the State is supposed to take measures to assist parents for an adequate standard of living for the child: *“States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”*<sup>22</sup>

When it comes to analyzing the above human rights violations, we ask ourselves the following questions to guide us in our analysis:

1. Why did the families abusively occupy another public housing space given that they were allocated and were living in a public social housing unit? Did they have adequate living conditions?
2. How are the rights to housing of people belonging to a vulnerable group respected and ensured by the public authorities if they are evicted and no suitable housing alternatives are offered?
3. How is the right to housing of the Szabo family (who has been eligible for and living in social housing!) protected by a court action whose result may render them ineligible to apply for social housing in the future?

According to Darius Szabo, Lara’s father, the reason for which they illegally occupied another social housing unit “I and the little girl were called to court for abusively occupying a social housing unit. She was a newborn and we were living in a shack where rats were sitting, and one morning when I went to work, I found a rat in bed next to her.”<sup>23</sup>

Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) stipulates that *“The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will*

---

<sup>22</sup> United nations, Convention on the Rights of the Child,  
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>23</sup> “CLUJ-NAPOCA O fetiță de trei ani a fost chemată în instanță pentru evacuarea unei locuințe. Protest în fața primăriei”, Stirile TVR website, [http://stiri.tvr.ro/cluj-napoca-o-feti-a-de-trei-ani-a-fost-chemata-in-istan-a-pentru-evacuarea-unei-locuin-e--protest-in-fa-a-primariei\\_890712\\_foto.html#view](http://stiri.tvr.ro/cluj-napoca-o-feti-a-de-trei-ani-a-fost-chemata-in-istan-a-pentru-evacuarea-unei-locuin-e--protest-in-fa-a-primariei_890712_foto.html#view)

*take appropriate steps to ensure the realization of this right, recognising to this effect the essential importance of international cooperation based on free consent.*"<sup>24</sup>

Not offering alternative housing following eviction of vulnerable people, without ensuring alternative housing or measures adapted to their needs risks making them homeless and is a violation of European/national legislation. General Comment 7 of the Committee on Economic, Social and Cultural Rights, stipulates that: *"Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available."*<sup>25</sup>

Furthermore, Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination (republished). Art. 10 (h) "It constitutes a contravention, according to this ordinance, if the deed does not fall within the scope of criminal law, discrimination against a natural person, a group of people because of their belonging to [...] a certain race, nationality, ethnicity, religion, social category or to a disadvantaged group, respectively because of their beliefs, age, sex or sexual orientation of the persons concerned by: refusing to grant to a person or a group of people of certain rights or facilities."<sup>26</sup> Art. 2 (1) "According to the present ordinance by discrimination we understand any difference, exclusion, restriction or preference, based on race, nationality, ethnicity, language, religion, social status, beliefs, sex, sexual orientation, age, disability, chronic non - contagious disease, HIV infection or belonging to a disadvantaged category, which has as its purpose or effect the restriction of or denial of the recognition, use or exercise, on equal terms, of the human rights and fundamental freedoms or the rights recognized by law in the political, economic, social and cultural or in any other field of public life."<sup>27</sup>

In both cases presented, as a consequence of eviction due to occupying abusively a public space, they will no longer be eligible for accessing social housing in Cluj-Napoca, as one of the criteria for accessing social housing is not to have abusively occupied a public space. It is quite difficult to access social housing, generally speaking the demand exceeds the offer. Social Housing NOW! is lobbying and advocating to change the criteria for allocating social housing and for increasing the public social housing stock, as the public housing stock in Cluj-Napoca is below 1% and according to data by NGOs in the last three years approx. 10 social housing units have been allocated, even though the number of annual requests is over 350.<sup>28</sup> This begs the question how to ensure alternative housing following eviction and to what extent are these

---

<sup>24</sup> United Nations (UN), International Covenant on Economic, Social and Cultural Rights (ICESCR), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

<sup>25</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, available at: <https://www.refworld.org/docid/47a70799d.html> [accessed 6 December 2021]

<sup>26</sup> Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination (republished), <https://www.cncd.ro/wp-content/uploads/2021/02/og-nr.-137-din-2000-republicata-2014.pdf>

<sup>27</sup> Ibid.

<sup>28</sup> Oleg Chilias, "Zeci de asociații au lansat un apel internațional pentru a-l convinge pe Emil Boc să stopeze evacuările din Pata Rât: „Așa se răzbună autoritățile publice pe cei care i-au dat în judecată pentru evacuarea din 2010, caz care acum se află la CEDO?", Ziar de Cluj, 7 July 2021, <https://www.ziardecluj.ro/zeci-de-asociatii-au-lansat-un-apel-international-pentru-l-convinge-pe-emil-boc-sa-stopeze-evacuările-din-pata-rat-asa-se-razbuna-autoritățile-publice-pe-cei-care-i-au-dat-judecata-pentru-evacuarea-din-2010-caz-care-acum-se-afla-la-cedo>

criteria in line with the international standards? What about national legislation? The Housing Law establishes priority criteria for allocating social housing, however it also allows local public authorities to establish additional criteria. Talking about Cluj-Napoca specifically, the National Council for Combating Discrimination sanctioned the local administration by Decision no. 531 / 27.09.2017, noting: “Granting a score of only 5 points for obtaining social housing by persons without education or primary education, 10 points for people with disabilities, up to 20 points for poor living conditions in unconventional housing, compared to 40 points for people with university education and 45 points for those with doctoral studies, represent discrimination according to art. 2 para. 1 in conjunction with art. 10 lit. a) and h) of GO no. 137/2000.”<sup>29</sup> However, the problem of criteria for social housing is not singular and specific to Cluj-Napoca, but pointing to structural discrimination, in the sense that several NGOs have indicated that the criteria for accessing social housing are indirectly discriminating Roma. Thus, in 2021 the Resource Center for Roma Communities published a monitoring report analyzing and finding discriminatory criteria for allocating social housing in over 15 localities.<sup>30</sup>

### **Eviction notices for informal housing from Stephenson Street**

7 Roma families on Stephenson street, nr. 15, received a notice for demolition, based on a civil sentence from 2014. No housing alternatives have been offered to those who have received the eviction notices nor is there evidence that efforts have been made to formalize their informal housing conditions. The court order received by the 7 families stipulates that the illegal construction work executed on the western side of the block should be demolished.

### **Analysis and comments**

For properly analyzing the case, it is worth mentioning that the area around Stephenson street is an urban regeneration area (Liberty Residential and Liberty Technology Park, Armătura Factory closed down, the Cortizo building and former TDS on the corner of Oaşului-Gării street demolished for a new real estate investment Hexagon and the Armătura Park is meant to be rehabilitated by the Municipality.) Additionally, majority population have asked since 2015 to "move the gypsies living illegally on Stephenson's street" <sup>31</sup>

It is also important to mention that due to the fact that activists for housing justice, such as Social Housing NOW!, human rights NGOs such as RomaJust and ERRC have offered support and assistance to the 7 families, the eviction notice has been contested and the people have not

---

<sup>29</sup> Eniko Vincze, Obligația de a nu discrimina prin politicile locative. Ghid pentru autorități publice locale în vederea elaborării de criterii nediscriminatorii de atribuire și pentru îndeplinirea sarcinilor acestora cu privire la locuințe sociale. Resource Center for Roma Communities Foundation, 2020, <https://romacenter.ro/wp-content/uploads/2021/02/01-GHID-OBLIGATIA-DE-A-NU-DISCRIMINA-PRIN-POLITICILE-LOCATIVE.pdf>

<sup>30</sup> Monitoring report on housing policies and Roma inclusion post-employment, HEKS EPER Romania and Resource Center for Roma Communities Foundation, 2021, <https://romacenter.ro/wp-content/uploads/2021/04/HEKS-raport-de-monitorizare-A4-EN-1.pdf>

<sup>31</sup> "Clujenii de pe strada Stephenson cer evacuarea țiganilor care trăiesc ilegal acolo: "Vă dictează ONG-urile ce să faceți?". Ce a răspuns Primăria", realitatea.net, 23 March 2015, [https://www.realitatea.net/stiri/ultimele-stiri/clujenii-de-pe-strada-stephenson-cer-evacuarea-%C8%9Biganilor-care-traiesc-ilegal-acolo--%E2%80%9Dva-dicteaza-ong-urile-ce-sa-face%C8%9Bi%E2%80%9D--ce-a-raspuns-primaria\\_5dcc91f0406af85273cf850b](https://www.realitatea.net/stiri/ultimele-stiri/clujenii-de-pe-strada-stephenson-cer-evacuarea-%C8%9Biganilor-care-traiesc-ilegal-acolo--%E2%80%9Dva-dicteaza-ong-urile-ce-sa-face%C8%9Bi%E2%80%9D--ce-a-raspuns-primaria_5dcc91f0406af85273cf850b)

been evicted nor their illegally erected construction demolished.<sup>32</sup> Additionally, just like in the previous cases of forced eviction, though a notice for demolition has been received by the 7 families, no alternative housing solution has been made available by the authorities, in effect, if the demolition order had been carried out, they would have been rendered homeless. Thus, we consider that the authorities are in violation of General Comment 7 of the Committee on Economic, Social and Cultural Rights, which stipulates that:

*“Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”<sup>33</sup>*

It is also worth mentioning and we should take note that the local public authorities have been aware and have neglected the illegal housing situation of these Roma families for approximately 7 years, given that the civil sentence for the demolition dates back to 2014. In this sense, to address issues arising from informal housing, in 2019 Law no. 151/2019 was passed for the completion of Law no. 350/2001 on spatial planning and urban planning, as well as Order no. 3.494 from 27 July 2020 for modifying and completing the methodological norms of applying Law no. 350/2001. According to this new piece of legislation, informal settlements can be identified and can be legalized in Romania, however there is no evidence that the local public authorities have tried to use the new legislation to formalize the illegal/informal constructions, instead of proceeding with issuing a demolition order, which has been stopped due to the campaign carried out by Social Housing NOW!<sup>34</sup>

All the forced eviction cases monitored in this report, have been identified in a rather short time span (3-4 months), at local level in Cluj-Napoca. The incidents happen in the aftermath of the forced evictions of the Roma from Pata Rat in 2010 from Cantonului and Coastei Street, a case which is now mediated by ERRC at the European Court for Human Rights.

## **6. Overall conclusions and recommendations to all actors**

The alignment of Romanian legislation with the European legislation started in 2007 when Romania joined the European Union and at the same time assumed the implementation of all EU, European Commission and European Parliament directives on preventing and combating all forms of discrimination, abuse and hate speech and hate crimes. Thirteen years after accession, although we have adopted to be part of the implementation of all directives, in reality this is not happening because the justice system in Romania is not efficient and does not primarily address the interests and rights of the citizen, and even more so of minorities.

---

<sup>32</sup> Oleg Ghilas, “RISC IMINENT DE EVACUARE FORȚATĂ ÎN CLUJ-NAPOCA: „Primăria nu vine cu soluții pozitive, ci cu “soluția” demolării!” Șapte familii vor rămâne pe drumuri”, Ziar de Cluj, 8 September 2021, <https://www.ziardecluj.ro/risc-iminent-de-evacuare-fortata-cluj-napoca-primaria-nu-vine-cu-solutii-pozitive-ci-cu-solutia-demolarii-sapte-familii-vor-ramane-pe-drumuri>

<sup>33</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22, available at: <https://www.refworld.org/docid/47a70799d.html> [accessed 6 December 2021]

<sup>34</sup> <https://casisocialeacum.ro/archives/6384/o-evacuare-in-grup-iminenta-in-cluj-napoca/>



We draw the following conclusions with regard to the administration of justice, noting that the tools used in the human rights redress are inefficient and do not lead to justice and the protection of fundamental rights and freedoms.

Although the state authority has transposed European legislation into national law, it has failed to further strengthen the punishment and sanctioning of abuses or misconduct of several public officials. This gives rise to serious abuses that lead to a lengthy process, without, in particular, resolving cases in favor of vulnerable people. Even if the institutions are aware that their officials are committing an abuse, they act in order to gain publicity at the expense of respecting the rights of vulnerable people. If the institution can commit an abuse within 24 hours, the victim can find justice even after 8 or 9 years in an institution superior to national courts.

The most discouraging for human rights defenders is the length of a trial, because cases start with victims when they are minors in many cases and end with them when they are already adults, which makes it impossible to restore the situation to its original form, as the law requires. Moreover, victims, after a certain period, no longer want to claim their rights, being totally disillusioned and understanding that the authority of the state is zero in terms of their rights. Although in some cases, referring to housing, the victims are right, the abuse having been made, it can no longer be repaired after 3, 5 or 7 years, thus restricting several fundamental rights such as the right to health, education, housing, family, identity. People give up all these rights belatedly and without anyone paying. The delay in settling a case also leads to global mobility, with many communities migrating to societies that respect fundamental human rights.

Our **recommendations** to the ministry, the Ministry of Justice and the Romanian Parliament, is to amend the current legislation in order to reduce the length of trials in areas of reference related to discrimination, torture, inhuman and degrading treatment, illegal evictions.

#### Access to justice for vulnerable people

From our experience in dealing with vulnerable people and communities we observe that there are thousands of cases of abuses committed by state institutions through its officials precisely because access to justice is not provided by the Romanian state and, even worse, it is not free. If we look at the law regulating the activity of lawyers in Romania, we can identify the fact that pro bono actions cannot be carried out in Romania and this makes it impossible for many law firms to support access to justice for vulnerable people.

The fact that vulnerable people do not have living conditions that allow them access to education means that they are unable to identify cases of abuse or discrimination that they experience and as a result, these cases go unreported, unresolved and unpunished, resulting in social injustice that leads to abuse becoming the norm among vulnerable communities. Furthermore NGOs have limited resources and cannot cover very large areas or populations to identify, report and monitor such cases.

We **recommend** that pro bono work by lawyers should not only be allowed, but encouraged, and supported by the state. In this way, we would ensure justice by enabling timely and equitable redress for human rights violations.

#### Implementation of court decisions

Regarding the implementation of court decisions or institutions regulating discrimination in Romania, the state should be more rigorous in order to set an example to those who intend to

commit such abuses in the future. Here we refer to the fact that there are decisions of the courts or of the National Council for Combating Discrimination which are not monitored by the national bodies to see whether the punishment is implemented and whether the aggressor/aggressors is/are introduced into special programmes to raise awareness of the seriousness of committing such abuses. The institution recommended to be set up should have the main purpose of making judgments given in favour of the victim enforceable in fact and in law in order to alleviate the discriminatory situation in fact, so that the consequences are not long-term.

The **recommendation** is for the Romanian Parliament and Government (through the Ministry of Justice), to set up a national department for monitoring the phenomenon of discrimination, hate speech, hate crime, etc. to monitor all cases at county level, and those found guilty as perpetrators, to be listed into a statistical database and to follow special programs to raise awareness of the seriousness of abuse and violation of human rights. If corrective behaviors are not observable and human rights violations continue the state should limit their access to public offices.

A **general recommendation** to Romanian institutions is to initiate a public-private partnership to identify, report, litigate and monitor all cases of abuse between state institutions and human rights and human rights NGOs which can be supported through multi-year funding programmes.

The **express recommendation** in our study would be for the OSCE to carry out research into how the ECHR decisions are implemented and how the Ministry of Justice, through its bodies, and how it prevents and combats the occurrence of similar cases.

Our monitoring concludes that law enforcement is not sufficiently educated on human rights, although training and awareness-raising courses have been deployed in Romania. We recommend that an analysis of these trainings is conducted in order to make them more effective, so that these discrepancies between the number of courses and the behavior change of the police forces can be noted.

We **recommend** that the OSCE deploy its capacity building toolkit and train law enforcement and coordinating institutions on measures to prevent and eliminate abuses through mediation or harmless behavior. We further recommend rigorous and comprehensive impact assessment of the delivered training sessions.

When it comes to hate speech, the commitment of EU to fight against racism, xenophobia and hate crime has been strengthened in 2013, with the adoption of the European Parliament of a resolution calling on "the role of national authorities responsible for fighting discrimination to be strengthened in order to facilitate accountability for the promotion of hate speech and incitement of hate crime".<sup>35</sup> However, hate speech against the Roma on the internet, social media still occurs and shows a need to prevent and combat negative stereotyping, stigmatization and ethnicizing crime and criminalizing the Roma. The source of hate speech against Roma in the identified and documented cases, are not the average person, but journalists, (former) officials, well-known influencers, who are public opinion leaders, have a great number of followers and have the potential to shape the opinion, attitudes and behaviour of the public. While social media platforms such as Facebook and Youtube facilitate

---

<sup>35</sup> European Parliament resolution of 14 March 2013 on strengthening the fight against racism, xenophobia and hate crime (2013/2543(RSP)), <https://eur-lex.europa.eu/legal-content/HR/TXT/?uri=CELEX:52013IP0090>



documenting hate speech cases as the content remains available and can be easily found, the drawback is that such platforms and content can be shared and re-shared, acquire likes, followers, comments, amplifying and multiplying the intolerant, hostile attitudes towards Roma. New legislation has been passed in early 2021 on combating and preventing Anti Gypsyism, though it remains to be seen to what extent it will be used by police, prosecutors and the courts for hate speech against the Roma. Similarly, the new EU Strategic Framework for Roma Inclusion calls for measures to combat Anti Gypsyism, however the National Roma Integration Strategy from Romania could not be consulted for checking measures against this, as it has not been approved at the time of writing this report.

Discrimination of Roma in the field of housing remains an issue, this report having identified 3 instances at local level in which Roma have been or risk being forcibly evicted by local authorities without ensuring (re)housing alternatives. Additionally, the cases dealing with the right to housing/forced evictions at local level, point to structural issues dealing with discriminatory criteria for accessing social housing, shortage of social housing and other type of housing solutions for avoiding rendering people homeless.

Following our analysis of the cases presented, the following recommendations are put forward for improving efforts for combating and preventing hate speech against the Roma and for preventing forced evictions and housing justice:

*Recommendations for state actors:*

- When eviction cannot be avoided, state authorities should comply with international legal standards as set out in General Comment 7 of the Committee on Economic, Social and Cultural Rights, respectively avoid rendering people homeless and offer alternative(re) housing solutions.
- Ensuring an adequate stock of social housing according to the needs of the localities as well as emergency solutions for inadequate and unsafe housing conditions
- Prolonging the legal term to appeal an eviction notice from 5 days to 15 days. We consider that 5 days is much too short to mount an appeal as it requires legal assistance which might be difficult to obtain in the case of vulnerable people. Additionally, according to art. 1042 alin. (5) from C.P.C the eviction decision might be executed while the trial and appeal are ongoing, violating the right to housing and to private and family life.
- Prioritize the regularization of the status of informal settlements. Authorities should take advantage of the existing domestic legislation in this sense, respectively Law no. 151/2019 for completing Law no. 350/2001 on urbanism, as well as the methodological norms for the application of the law, Order 3494/2020, which provide for the definition, identification and regularization/formalization of informal settlements, in order to improve the living conditions of communities. With regard to the implementation of this law and norms the following observations and recommendations are put forward:
  - Make public and transparent the work of county and local „Commissions for coordinating the implementation of the measures necessary to improve the living conditions of the inhabitants of informal settlements informal ”, according to the law.
  - Ensure that these commissions are fully functional and that local authorities do not underreport situations of informal housing/informal settlements so that statistics reflect the reality of the phenomenon and the commissions may address and work towards formalizing informal settlements/housing conditions.

- Revise and amend the law and methodological rules which do not provide for cost subsidy mechanisms for legalization and / or extension of public utility networks. In the absence of such procedures, the most precarious persons / families in informal settlements continue to be excluded from ensuring adequate living conditions/housing;
- The methodological norms provide for temporary relocation/(re)housing options in Article 38 (5) for the community from the informal settlement that cannot be formalized, in case the local authority does not have a sufficient fund/stock of social housing, respectively“a) in temporary housing units, which should be located on land outside the area exposed to natural, biological and anthropogenic risk, and ensure the protection of the population and the access of the inhabitants to the services of general public interest; b) in residential centers, according to the Social Assistance Law no. 292/2011, with its subsequent amendments and completions; "Thus, we draw attention to the temporary units (most likely containers) and centers for homeless people which are not adequate relocation/(re)housing solutions. Their stipulation as legal and viable options will lead to making permanent temporary/provisional housing and maintaining the social marginalization and exclusion of the community.
- Train people responsible for Roma inclusion at local level in access to (social) housing for Roma and to become key and resource people in the Groups for evaluating and establishing measures for informal housing at local level
- Ensure that local public authorities establish non-discriminatory criteria for accessing social housing and that they prioritise vulnerable groups. In this sense, the National Council for Combating Discrimination can elaborate and put forward a point of view to the Parliament, regarding the implementation of Housing Law 144/1996, with the recommendation to eliminate the possibility for local authorities to formulate and impose additional discriminatory criteria which is contrary to the national law and against the spirit of that law;
- Provide training for police, prosecutors and judges on how to deal with Anti Gypsyism and implement the newly adopted piece of legislation on combating and preventing Anti Gypsyism.
- Collect data and make public cases of hate speech and other hate crimes against the Roma in accordance with GDPR rules.

*For Roma and pro-Roma civil society*

- Train NGOs to become key and resource people in the Groups for evaluating and establishing measures for informal housing which have been/are being formed and are becoming active at local level (according to the legal provisions regarding informal settlements, Law 151/2019 for completing Law 350/2001 on Urbanism)
- Train and form a coalition of NGOs to prevent, monitor and report forced evictions.
- Train people from NGOs to recognise and combat Antigypsyism and create a network at national level
- Train people from NGOs and create a network of NGOs to engage in combating hate speech against the Roma

## **7. List of abbreviations**

*ERRC European Roma Rights Center*

NGO Non-Governmental Organization

NRIS National Roma Inclusion Strategy

ECHR The European Convention on Human Rights

ICCPR International Covenant on Civil and Political Rights

ICESCR International Covenant on Economic, Social and Cultural Rights

CNCD, Consiliul Național pentru Combaterea Discriminării/National Council for Combating Discrimination

## 8. Annexes