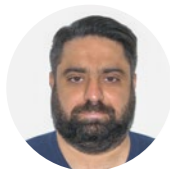


A BRIEF INSIGHT INTO THE SYSTEMIC RACISM ROMA FACE IN ACCESSING HOUSING IN ROMANIA

In order to understand the current state of extreme disadvantage and vulnerability that Roma are subject to today in Romania, it's necessary to dig deep into the roots of the systemic racism and discrimination Roma faced in history. This is exactly what Marian Mandache does, while also explaining how this deeply rooted anti-Roma racism seeps into housing law and legislation in Romania in the form of forced evictions. Also discussed are the measures that need to be taken by both the Romanian government and the EU to adequately address the profound marginalisation of Roma people in Europe.



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A BRIEF HISTORY OF ANTI-ROMA RACISM IN ROMANIA

Roma face systemic racism in accessing and maintaining housing in Romania, particularly in larger urban settlements, throughout the country. Whilst Roma do face similar problems throughout Europe, this article focuses on the specific situation in Romania. Roma access to housing (and real estate in general for that matter) is marred by a history of targeted exclusion embroiled with the current widespread anti-Roma racism.

Roma were enslaved in the Romanian Principalities for some five centuries (spanning from 1370 or 1371 to 1856), which amounts to one of the longest continuous periods of chattel slavery on the face of the Earth.¹ Following the emancipation of the Roma from enslavement, Romanian authorities failed to take any steps to support the newly freed human beings. Furthermore, the agrarian reform of 1864 which led to many peasants acquiring land excluded Roma people.² During the Holocaust in World War II, 25,000 Roma were deported by the Romanian state to Transnistria, of those 11,000 perished at the hands of Romanian authorities; they were shot and killed and were also subject to harsh living conditions, starvation, disease, etc.³ After the fall of Communism in 1989, Romanian citizens were entitled to reclaim properties they had possessed prior to WWII. However, most Roma could not benefit from this policy since they generally had not previously owned property. Nevertheless, the Roma did have to contend with an increased wave of racism, which included housing discrimination, pogroms, police brutality, hate crimes, and school segregation. The specific historic anti-Roma racism faced by our people caused, perpetuated and deepened the entrenched economic and social inequalities.

SYSTEMIC VIOLATION OF ROMA HOUSING RIGHTS

At present, the unequal access of Roma to housing takes various forms, which include: the demolition of property, the impediment of the legalisation of informal settlements, forced evictions, environmental racism, residential segregation, discrimination in accessing public housing, and sub-standard living conditions.⁴ The first four of these will be further discussed in this article.

 “The specific historic anti-Roma racism faced by our people caused, perpetuated and deepened the entrenched economic and social inequalities.”

One of the characteristics of anti-Roma racism is the fact that, whilst certain violations of housing rights may affect non-Roma, these tend to occur more on an individual basis, whereas Roma are collectively targeted by local authorities and are subjected, in corpore, to collective discriminatory measures. Simply put, the notion of demolishing the homes of an entire non-Roma neighbourhood and forcing them to relocate to a highly polluted area constitutes an inconceivable thought for any Mayor in Romania. Swap the Non-Roma for Roma in the previous statement and it constitutes just another routine administrative undertaking, despite its despicably racist and inhumane nature.⁵

Non-Governmental Organizations and Roma activists have consistently condemned and fought against the violations of the right to adequate housing perpetrated by the Romanian authorities, particularly local authorities.⁶ Criticism has also been levied by European institutions and the international community.⁷

CASES OF FORCED EVICTIONS OF ROMA

In 2001, the first case of a housing rights violation was documented by Romani CRISS – Roma Center for Social Intervention and Studies in Piatra Neamt. The Mayor evicted the 150 Roma families from the town and relocated them to former commercial poultry sheds located about 7 km outside the town.⁸ Despite continued efforts by the civil society and international organizations like the OSCE, the situation in Piatra Neamt worsened as local authorities continued to move Roma out of the city and relocate them to segregated areas, such as the eviction of 35 Roma families in 2006 from Piatra Neamt.⁹

In May 2004, 100 Roma people were relocated by the Council from the social houses in downtown Miercurea Ciuc to the outskirts of

the locality, on a piece of land that borders the town water-waste plant. There are signs hung on the common fence around the plant warning of the dangers of the toxic effects. Despite legal action, the families remain in that same location at the present date.¹⁰

The practice of local authorities evicting Roma and demolishing their homes has not subsided. If anything, it has intensified. In 2010, the Cluj Napoca Council evicted 300 Roma from a neighbourhood within the city and relocated them to Pata Rat, on the garbage dump of the town. Despite civic protests, legal action, and interventions funded through Norwegian funding, the situation persists today.¹¹

In 2017, the Council of Alba Iulia decided to evict 104 families living in a block of flats in the centre of the locality, out of which about one third owned their flats and the rest were social housing tenants. The local authority decided that the building would to be demolished to allow for the construction of a parking lot. The locality has no other social housing.¹² Mircea Hava, the Mayor who evicted the Roma, was elected as a Member of the European Parliament.

Even during the height of the coronavirus pandemic, forced evictions of Roma continued. The law mandated that they be briefly suspended, namely for the duration of the COVID 19 state of emergency (which lasted from mid-March to mid-May 2020), but not outside of this timeframe, despite the continued crisis affecting vulnerable people in particular.¹³

LEGAL TENURE AND INFORMAL HOUSING

Another matter of utmost concern is the precarious legal tenure of the Roma on their own houses. In Romania, the number of people who live in houses that do not have a clear legal status is extremely high.

In Bucharest alone, some NGOs estimated that about one third of the total number of existing buildings do not have a clear legal status in terms of ownership. This disproportionately affects members of vulnerable groups, especially Roma.¹⁴

The process of legalising an informal home is unduly cumbersome, particularly for those belonging to vulnerable groups. The hurdles include disproportionate financial obstacles, as well as the prohibition of legalising homes that were built without building permits. No distinction is made as to the primary dwelling of a family and other kinds of real estate.¹⁵ The adoption of new legislation aimed at legalising informal housing in 2019 was a mere statement of good intentions. It limits itself to the collection of an inventory of the informal settlements and mandates the formation of local commissions, but it fails to eliminate even a single one of the pre-existing legislative and financial obstacles that make legalising informal settlements a strenuous process.¹⁶

In summary, the prospect of legalisation of informal Roma dwellings in Romania in a timely manner and at reasonable costs remains purely illusory, even though some Roma families have lived in their homes for several generations.

RECOMMENDED ACTIONS FOR ROMANIA AND EUROPE

As the European Court of Human Rights established, when violations of the Convention appear, national authorities consider the impact on the persons affected by the forced evictions. They must also ensure the proportionality of measures taken in order to recover possession of the public buildings and lands, even when these are unlawfully occupied.¹⁷

Rather than following the mandatory lines set by the ECHR, the Romanian Government has been complicit with local authorities for decades in abusing Roma people. For example, pursuant to current legislation, Prefects of Government can appeal any unlawful decision taken by local authorities in court, but have failed to do so in all instances in which Roma face housing rights violations.¹⁸

At a minimum, the Romanian Government must refrain from such unlawful behaviour and provide quick and complete redress to all individuals affected by these systemic racist measures. It must also

“Rather than following the mandatory lines set by the ECHR, the Romanian Government has been complicit with local authorities for decades in abusing Roma people”

adopt and effectively enforce at once legislation to forbid forced evictions, residential segregation and hazardous living conditions. Government Prefects must be instructed to take prompt legal action against local authorities who perpetrate such violations against Roma, and sanction them if they fail to do so. It must also provide effective and dissuasive sanctions against the local authorities themselves, pursuant to the art. 15 of the EU Race Equality Directive.¹⁹

The European Commission has largely failed to initiate infringement procedures concerning discrimination against Roma by its Member States. Its recent undertaking against school segregation of Roma children constitutes a rather isolated event as the EC has failed and even refused to systematically address the pervasive and blatant violations of the European anti-discrimination legislation by the Member States in relation to the Roma.²⁰ For example, the European Commission consciously chooses to ignore the systemic discrimination of Roma in access to public housing, employment, freedom of movement and other fundamental rights guaranteed by law to EU citizens, despite continuous reports from various stakeholders, including its own bodies such as the Fundamental Rights Agency.²¹ The institutional cognitive dissonance reaches perilous heights with the EC itself making statements and reports about the widespread discrimination of the Roma,²² whilst refusing to initiate infringements procedures.²³

As a matter of urgency, the EC must initiate infringement procedures against the Romanian Government for its blatant disregard for the provisions of the Race Equality Directive, particularly insofar as it pertains to the observance of the art 2, 3 and 15. It must ensure that the Romanian Government swiftly provides concrete and substantial redress not only in the form of legal amendments but also in the form of definitive actions to reverse the terrible and continuous wrongdoings against Roma families and individuals.

ENDNOTES

- 1 See Petre Petcut, *Romii. Sclavie si libertate. Constituirea si emanciparea unei noi categorii etnice si sociale la nord de Dunare* [Roma. Slavery and Freedom. The Creation and Emancipation of a New Ethnic and Social Category North of the Danube], available in Romanian at <http://cncr.gov.ro/wp-content/uploads/2015/08/Romii.-Sclavie-si-libertate.pdf>, pages 34 and 102, presenting the fact that the first written account of the presence of the Roma in the Romanian Principalities dates as of 1385 and it describes the donation of 40 Roma families as slaves by to an Orthodox monastery around 1370 or 1371, as well as expressing that the abolition of slavery started in 1843 and ended in 1856.
- 2 See Petre Petcut, pages 151-152.
- 3 See International Commission on the Holocaust in Romania, *Rinal Report*, available at http://www.inshr-ew.ro/ro/files/Raport%20Final/Final_Report.pdf, page 241.
- 4 For a more detailed account, please see the reports and the work of the Romani CRISS – Roma Center for Social Intervention and Studies (www.romanicriss.org and www.drepturile-omului.info), the RomaJust – Association of Roma Jurists (<https://www.facebook.com/asociatiajuristilorromi/>), CRJ – Center of Legal Resources (www.crj.ro) or the Block for Housing (<https://bloculpentrulocuire.ro/>).
- 5 See also the arguments made by the parties in the decision of the European Court of Human Rights in the case of *Yordanova v. Bulgaria* (request no. 25446/06), para. 90, presenting some of the differences between the demolition/forced evictions in the cases of Roma and non-Roma.
- 6 See, inter alia, the Romani CRISS – Roma Center for Social Intervention and Studies *Romani CRISS, Accesul romilor la locuire* [The Access of the Roma to Housing], available in Romanian at <http://drepturile-omului.info/wp-content/uploads/2015/06/Accesul-romilor-la-locuire-Romani-CRIS-2016.pdf>, CRJ – Center of Legal Resources report on housing rights available at <http://www.crj.ro/antidiscriminare/publicatii-si-rapoarte/> or the Block for Housing, *Raport asupra evacuarilor fortate din Romania petrecute in perioada 2008-2017* [Report on Forced Evictions in Romania for the period of 2008-2017, available in Romanian at <https://bloculpentrulocuire.ro/wp-content/uploads/2019/04/Raport-Cercetare-Evacuari-2008-2017.pdf>.
- 7 See, e.g. the Fifth Report of the ECRI – European Commission against Racism and Intolerance on Romania, available at <https://rm.coe.int/fifth-report-on-romania/168094c9e5>, para. 76-80, criticizing the take of the Romanian Government on the forced evictions, house demolitions or

- discriminatory access to social housing when it pertains to the Roma. See also the Department of State of the United States of America, Romania 2019 Human Rights Report, page 28, available at <https://www.state.gov/wp-content/uploads/2020/03/ROMANIA-2019-HUMAN-RIGHTS-REPORT.pdf>, noting that many Roma are facing difficulties in acquiring ID papers due to the fact that their homes are not legally registered.
- 8 See Romani CRISS, Jurisprudence Report, pages 61-67, available in Romanian at <http://www.romanicriss.org/Juristprudenta%202004.pdf>.
 - 9 See Romani CRISS, Accesul romilor la locuire [The Access of the Roma to Housing], pages 13 – 15, available in Romanian at <http://drepturile-omului.info/wp-content/uploads/2015/06/Accesul-romilor-la-locuire-Romani-CRIS-2016.pdf>. See also Romani CRISS, Anexa 1: Cazuri: Evacuare, excludere sau marginalizare a romilor cu privire la dreptul la locuire in Romania [Annex 1: Cases: Eviction, exclusion or marginalization of the Roma with regard to the Right to Housing in Romania, pages 7-9, available in Romanian at <http://www.romanicriss.org/Raport%20drepturile%20omului%20%20CRIS%202006.pdf>.
 - 10 See also Romani CRISS, Anexa 1: Cazuri: Evacuare, excludere sau marginalizare a romilor cu privire la dreptul la locuire in Romania [Annex 1: Cases: Eviction, exclusion or marginalization of the Roma with regard to the Right to Housing in Romania, pages 5-7, available in Romanian at <http://www.romanicriss.org/Raport%20drepturile%20omului%20%20CRIS%202006.pdf>.
 - 11 See the protest letter and march organized in 2012 by various NGOs and local Roma activists, Romania: aduceti romii inapoi in orasul Cluj-Napoca [Romania: Bring Roma Back to the city of Cluj-Napoca] available in Romanian at <https://www.amnesty.org/download/Documents/20000/eur390132012ro.pdf>. For a more detailed presentation of the case, see ERRC – European Roma Rights Center, Mutati din oras [Moved Out of the City], available in Romanian at http://www.errc.org/uploads/upload_en/file/romania-report-pata-rat-17-dec-2012-ro.pdf.
 - 12 See Center for Legal Resources and Romani CRISS, Comunitatea Turturica - Alba Iulia [The Community of Turturica - Alba Iulia], available in Romanian at www.crj.ro/wp-content/uploads/2020/02/Studiu-locuire-romi-Alba-Iulia.pdf.
 - 13 See Libertatea, Sute de oameni evacuati din locuinte chiar de primarii. Legislatia interzice asta! [Hundreds of People Evicted from Their Homes by the Mayoralties. The Law Forbid This!], available in Romanian at <https://www.libertatea.ro/opinii/sute-de-oameni-evacuati-din-locuinte-chiar-de-catre-primarii-in-plina-pandemie-legislatia-interzice-asta-3293813>.
 - 14 See Center for Legal Resources, General Presentation of the Observance of the Right to Housing in the Case of the Vulnerable Groups and Proposals for Statutory and Public Policy Changes, available in Romanian at <http://www.crj.ro/wp-content/uploads/2020/02/policy-paper-final.pdf>, arguing that the poor job done by the Romanian authorities has also led to numerous condemnations of the Romanian state before the European Court of Human Rights (see also the pilot decision in the case of Maria Atanasiu and others v. Romania pertaining to the shortcoming associated with the restitution real estate).
 - 15 For a more detailed presentation of the legal hurdles in legalizing homes in Romania, see Center for Legal Resources, Comunitatile de romi din zona Hotar – municipiul Aiud [the Roma Communities from the Hotar – Aiud Municipality Area, available in Romanian at <http://www.crj.ro/wp-content/uploads/2020/02/Aiud-final.pdf>.
 - 16 See Law no. 151/2019 adopted by the Romanian Parliament.
 - 17 See the decision of the European Court of Human Rights in the case of Yordanova v. Bulgaria (request no. 25446/06), para. 166.
 - 18 According art. 3 of the Law no. 554/2004 the decisions of the local authorities that have been contested by the Prefect in court are suspended de jure.
 - 19 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
 - 20 See Euobserver, EU's Roma Policy Struggles to Produce Results, available at <https://euobserver.com/justice/138834>, announcing that the European Commission has launched infringement procedures against the Czech Republic, Slovakia and Hungary.
 - 21 See the reports of the Fundamental Rights Agency on the discrimination of Roma, available at <https://fra.europa.eu/en/themes/roma>.
 - 22 See the work of the European Commission on Roma, available in part at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-eu/roma-equality-inclusion-and-participation-eu_en.
 - 23 See, for example the outrageously lenient decision of the EC to discard the complaints made by Romani CRISS against France in 2010 by refusing to initiate infringement procedures, effectively allowing the racist collective deportations of Roma from France to continue to date, available at <http://www.romanicriss.org/Raspuns%20Franta%20EC.pdf>. The EC completely looked the other way in the case of the massive deportations of Roma from Italy in 2008.