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MIND THE LEGAL GAP

ROMA AND THE RIGHT TO HOUSING IN ROMANIA

HOUSING IS A HUMAN RIGHT

AMNESTY
INTERNATIONAL



The right to adequate housing is a human right that everyone is entitled to without discrimination. However, in Romania, the right to housing is not effectively recognized or protected by national legislation. This often leaves people without access to justice for the human rights violations that they experience.

The lack of an adequate legal framework protecting the right to housing can affect everybody in Romania, most of all the poorest and disadvantaged. However, the Roma are disproportionately affected. According to the Romanian government's Anti-Poverty and Social Inclusion National Plan of 2002, "[i]n the past 20 years, the situation of the Roma population has worsened much more than that of the rest of the population. The big majority of the population confronting extreme poverty in Romania is of Roma ethnicity."

There are almost 2.2 million Roma in Romania – making up about 10 per cent of the total population. Discrimination, both by public officials and society at large, remains widespread and entrenched. According to the Government's Anti-Poverty and Social Inclusion Commission (CASPI) report of 2003, as many as 75 per cent of Roma live in poverty, as compared to 24 per cent of Romanians in general and 20 per cent of ethnic Hungarians, the largest minority in Romania. Their levels of physical health and their living conditions are among the worst in the country.

Roma are particularly affected by the fact that the right to adequate housing is not protected in law as they have been historically excluded from access to land and property. They are further disadvantaged by the lack of social housing, in a country where 97 per cent of the housing is private. Despite the challenges facing Romani communities in accessing adequate housing, the criteria used by local authorities for allocation of social housing fail to target Roma.

“ WHEN WE GO TO THE CITY HALL
THEY THINK WE ASK FOR
TOO MANY RIGHTS.

BUT WE ONLY ASK
TO LIVE IN DIGNITY. ”

Florentina,
Pichet industrial port,
Tulcea





This report documents the stories of Romani individuals and communities across Romania and highlights the need for the adoption of an adequate legal framework incorporating international human rights standards into Romanian housing legislation. It demonstrates that the lack of such a legal framework, combined with pervasive discrimination against Roma, has led to widespread violations of the right to housing, including forced evictions, and resettlement of families and communities in conditions that fall far below international standards. It describes how local authorities are not held accountable for serious human rights violations and how some of the most vulnerable citizens of Romania and Europe have limited or no access to justice and remedies.

The Ministry of Regional Development and Tourism is currently revising Romania's Housing Law. This report calls for amendments which will bring the Law in line with international and regional human rights standards on the right to housing and the international obligations and its responsibilities arising from membership of the European Union (EU).

This report is part of Amnesty International's Demand Dignity campaign, which focuses on human rights violations that drive and deepen poverty. As part of the campaign, Amnesty International is focusing on human rights violations against people living in informal settlements and slums. Amnesty International is calling on all governments to end forced evictions, ensure equal access to public services, and promote the active participation of people living in informal settlements and slums in decisions and processes that affect their lives.

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Romani families have been offered social housing in a dilapidated building in the Horea neighbourhood of Baia Mare lacking access to water, electricity and sanitation facilities. Baia Mare, December 2010.

THE RIGHT TO HOUSING

The right to adequate housing is guaranteed in several international and regional human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the European Social Charter (revised).

This requires the government to respect the right to adequate housing by refraining from forced evictions, protecting people from interference with their rights by third parties such as landlords, and to adopt appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to adequate housing. It requires the government to guarantee the right of people to participate in and be consulted over decisions that will affect their lives, and to provide an effective remedy if their rights are violated. As a state party to these treaties, Romania has a legal obligation to respect, protect and fulfil the right to adequate housing.

Romania also has an obligation to recognize and respect the right to social and housing assistance under Article 34 of the Charter of Fundamental Rights of the EU.

THE ROMANIAN LEGAL FRAMEWORK

The Housing Law, No. 114/1996 defines adequate housing and contains provisions for evictions and for building social housing, while Law No. 50/1991 regulates the authorization of construction and demolition. Provisions on eviction of tenants are also included in the Romanian Civil Code. However, current legislation in Romania falls far short of international and regional standards regarding the right to adequate housing.

Under the Romanian Constitution, international human rights treaties take precedence over national legislation. Once ratified by the parliament, international treaties become part of Romanian law. In practice, however, international standards regulating the right to housing are not adequately reflected in Romanian legislation and practice. The post-1989 transition to democracy and a market economy has led to decentralization, passing competence to local authorities to make decisions on and implement local housing policies. In the absence of adequate legislation, and in a wider context of limited resources and intolerance and prejudice against Roma, local authorities often take advantage of the lack of a procedural framework and openly discriminate against them.

They can do so without being held accountable. The Ministry of Regional Development and Tourism has devolved authority on housing to the local authorities, but does not have in place any framework to regulate and monitor how local authorities deal with housing matters.



LACK OF PROTECTION FROM FORCED EVICTIONS

Forced eviction is illegal under international law. Forced evictions are the temporary or permanent removal of people against their will from the homes or land they occupy when this takes place without genuine consultations, due process safeguards such as adequate notice and provision of adequate alternative housing and compensation.

"In two weeks they did everything... They kept coming, asking us to take our stuff and leave. The first week they came with papers... but then when they saw we didn't pay attention they came with the police, dogs, and masked people and took our stuff out, they took us out as well. [After the eviction] I stayed out there in a tent for around a month... I had my luggage with me, it was raining; it got damaged. I had a breakdown because it was very difficult... From the city hall they kept threatening us telling us to leave otherwise they would come with bulldozers..."

Lulius, forcibly evicted from Alunisului Street in Tulcea in 2006

Across the country, a pattern of forced evictions of Roma, and threats of forced evictions, has been documented for years by NGOs, such as Bucharest-based Romani CRISS and Budapest-based European Roma Rights Centre (ERRC). Forcibly evicted Romani communities do not just lose their homes; they lose also their possessions, their social networks and their access to work, schools and other state services.

When the authorities evict Romani communities against their will, without adequate consultation, adequate notice or adequate alternative housing, they are violating international and regional treaties that the government of Romania has signed up to.

Although some Roma people live in permanent structures with legal tenancy, the authorities consider many other long-standing Romani dwellings as "informal" or illegal, and their inhabitants do not have any documentary proof of tenancy, which exacerbates their vulnerability to eviction. This is also contrary to the international and regional legal standards that require states to ensure that all people are provided with a minimum degree of security of tenure, regardless of whether they rent, own, or informally occupy the homes or land that they live in, guaranteeing them legal protection against forced eviction, harassment and other threats.

SECURITY OF TENURE

According to the UN Committee on Economic, Social and Cultural Rights, "tenure takes various forms, including, rental (public and private) accommodation, co-operative housing, lease, owner occupation, emergency housing and informal settlements, including occupation of land or property... [A]ll persons should possess a degree of security of tenure, which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups." General Comment 4.

Romani couple living in the Ferneziu industrial area of Baia Mare, in fear of possible forced eviction, December 2010.

FAMILIES ARE MADE HOMELESS IN TULCEA

"In January we received the notices... we were told that... we have to move away from here, and that if we don't respect this they will come with bulldozers and we will have to pay for the demolition. It was cold, we waited for a while and in March they came and they said that if we don't go they will come with police... I was afraid... I had nowhere else to go... I borrowed money to pay for the transport of our luggage, wood, clothes, whatever was more important, and we moved away."

Simona, forcibly evicted from Zagan, Tulcea, 2011.

Simona was raised in an orphanage until the age of 14. She moved with her partner into the house her mother-in-law built in 2003 on the outskirts of Tulcea in eastern Romania. This area in the Danube delta is a natural protection zone due for ecological restoration and the creation of an EU-funded tourism destination. For years both Roma and ethnic Romanians have built homes on this land next to animal shelters that had been built before; although some of these homes did not have formal permission, local authorities did not prevent their construction and appeared to accept them. But, as reported by *Adevarul de Seara* newspaper on 14 March 2011, the Mayor of Tulcea stated that "now with the implementation of the [environment restoration] project they cannot be tolerated anymore, they knew this day would come." A few days later, on 21 March, the bulldozers arrived and the demolitions began.

The authorities had verbally informed inhabitants of the area about the planned project and the need to leave the area in 2007. Amnesty International spoke to individuals who said that no alternatives to the eviction were explored and no consultation had taken place with them to discuss possible relocation sites. Simona said:

"No, no one came [to discuss with us]. I went to the municipality to talk to them but they ran away from me. And when other people from Zagan managed to talk to [a representative] he said they should go where they had come from... I lived here for four years and in these years, I also did a lot of work in the house, I worked in the garden, I repaired whatever was needed... and my heart hurts now. My mother-in-law couldn't even watch [the demolition]."

When Amnesty International visited Tulcea in April 2011, approximately 40 houses had been demolished, according to media reports, and the whole Zagan area had been reduced to rubble. There was only one house left standing, as Luminița and her partner, Nicolae, had refused to leave their home as they did not have anywhere to go. Luminița told Amnesty International:

"The mayor doesn't care where we go. He doesn't care if we have small children, who go to school. I don't have another place to go... He told me he is going to bring the police and force me out with the bulldozers. We had no electricity but I was happy, because I had a place to live... [During the last few weeks] we saw people crying, people moaning, asking what they can do. Because they had homes, animals, now it's all vanished... This house is everything for me and my children. We have nowhere else to go."

According to information received by Amnesty International, no family received compensation or was offered alternative housing. The local authorities, when asked by Amnesty International delegates to explain their actions, showed very little understanding of their obligation not to carry out forced evictions. The Deputy Mayor stated that, under Romanian law, eviction from an informal dwelling was perfectly legal: "You can talk about an eviction according to the law, or a subtraction of ownership, if people have authorization to build, but you

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...
ID...

WHERE ELSE TO GO ”

Simona, standing in front
of the ruins of her home,
Zagan, Tulcea



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Left and top; Simona and other members of her family three weeks after they had been forcibly evicted from their homes, April 2011.

Above: The last house standing in Zagan, Tulcea, where Luminița and Nicolae live with their children. “This house is everything for me and my children. We have nowhere else to go.”

cannot talk about an eviction if people are living there illegally.”

Romanian law does not prohibit forced evictions. The limited provisions that exist in national legislation regulate the relationship between tenants and landlords, stipulating that a tenant cannot be evicted without a court decision. People living in informal settlements or occupying houses – often individuals or families who moved to such houses after being evicted from elsewhere – or living in houses built without adequate construction authorization, are at constant risk of being forcibly evicted by local authorities. One official from the Ministry of Regional Development and Tourism told Amnesty International: “At this moment... if you occupy illegal houses you cannot be protected; we don’t have the legislation concerning these fields.”

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INTERNATIONAL STANDARDS ON FORCED EVICTIONS

The UN Committee on Economic, Social and Cultural Rights defines a forced eviction as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection.” Romania is obliged under a range of international human rights treaties, including the ICESR and the ICCPR, to refrain from and prevent forced evictions.

The UN Committee has emphasized that evictions may be carried out only as a last resort, once all other feasible alternatives have been explored and only after appropriate procedural and legal safeguards are in place. These include genuine consultation with the affected people, prior adequate and reasonable notice, adequate alternative housing and compensation for all losses, safeguards on how evictions are carried out, and access to legal remedies and procedures, including access to legal aid where necessary. Governments are also required to ensure that no one is rendered homeless or vulnerable to other human rights violations as a consequence of an eviction.

In 2007 the UN Special Rapporteur on the right to adequate housing developed the Basic principles and guidelines on development-based evictions and displacement (Basic principles) that reflect existing standards and jurisprudence on the issue of forced eviction.

Not every eviction that is carried out by force constitutes a forced eviction. If all the legal safeguards and protections required under international law are put in place and complied with, and if the use of force is proportionate and reasonable, then the eviction would not violate the prohibition on forced evictions.

FORCED EVICTION OF ROMANI FAMILIES IN CLUJ-NAPOCA

“I’m the only bread-winner in the family. It wouldn’t be fair to move us away from here. We wouldn’t be able to access jobs. We don’t want to be moved to the outskirts.”

George, evicted from Coastei Street, 2010

On 17 December 2010, the authorities of Cluj-Napoca, the third largest urban centre in Romania, forcibly evicted 56 Romani families from Coastei Street in the city centre, where some of them had been living for approximately 25 years. Around 6am, police officers, together with representatives from the City Hall, arrived at Coastei Street and informed the community that they should move their belongings by the end of the day. No consultation with the affected individuals had been conducted and no feasible alternatives to eviction had been explored. The community was not given the opportunity to challenge the eviction decision. Those evicted were not given any written or detailed notification with sufficient notice. Representatives of the municipality informed them in person only two days before the eviction took place that their homes would be demolished.

Forty families were rehoused in new housing units on the outskirts of the city, on a hill above the long-standing Romani settlement of Pata Rât, which is home to approximately 1,000 Roma living in very poor conditions. The new housing units are located close to the city’s garbage dump and a former chemical waste dump. The remaining 16 families were not provided with alternative housing. They were allowed to build their own shacks next to the new buildings.

The housing provided, which was constructed with public funds especially to house these families, does not comply with international or Romanian standards on adequacy of housing, particularly in relation to location, habitability and availability of services, facilities and infrastructure. Each housing unit consists of four rooms – each of 18m² – occupied by

different families and sharing one bathroom. George, one of the evicted Roma told Amnesty International:

“The room is very small; the water from outside is coming through the walls. It is really bad, it is a nightmare... Whenever my 16-year-old daughter has to change, I have to get out of the room. This is no place to stay with a family... Next to me, there is a family of 13 people, including 11 children, who live in one room... It is really bad”.

Although water, electricity and sewage are provided, sanitation facilities are inadequate, the rooms do not have protection from damp and mould and there is no gas connection. Alina, a Romani woman who was allocated a room for her family, shares the bathroom with more than 20 people who live in the same unit. This created great discomfort and insecurity for her: “There is no privacy. When we go to the toilet we go two at once, one of us keeps an eye on the door while the other is using the toilet.”

The closest bus stop is approximately 3km away. Access to public transport, school, employment and health services is difficult. The community was moved from the centre of the city, where they used to live among the rest of the population, to an area primarily, if not exclusively, inhabited by Roma. The relocation, as well as leading to violations of the right to housing, also raises serious questions about segregation by the local authorities.

Top to bottom: Over 50 Romani families were forcibly evicted from their homes on Coastei Street in the early morning of 17 December 2010, Cluj-Napoca. Their homes were demolished and they were resettled to the outskirts of the city at Pata Rât. The housing provided is inadequate, segregated and in an area potentially hazardous for their health December 2010.



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RESETTLEMENT TO INADEQUATE HOUSING

The Romanian housing law defines adequate housing as a “convenient dwelling... which... covers the essential resting needs, preparation of food, education and hygiene, ensuring minimal requirements.” The specific criteria for adequacy required by the law, which also cover the construction of social housing, include access to electricity, drinking water, sewage and garbage collection and 110m² of usable space for an eight-person family, but do not take into consideration other factors. This was criticized by the UN Special Rapporteur on the right to adequate housing who, after a 2002 visit to Romania, stated that “the adequacy of housing needs to be understood in a broader sense. It should cover not only the physical aspects of housing, but also social, economic, cultural, climatic, ecological and other factors.”

The housing law does not include any minimum standards with regards to location – for access to health care services, education, employment and other social services – or proximity to hazardous environments. The latter is only implicitly regulated through a 2006 Order of the Ministry of Health that establishes a protection zone to separate human habitation from potentially unhealthy environments, such as sewage plants, garbage dumps and industrial areas.

In cases documented by Amnesty International, alternative housing provided to Romani families who had been forcibly evicted from their homes often fails to comply with standards included in international and national law. When alternative housing is offered by the authorities, it is often built in very precarious conditions and lacks basic facilities such as water, heating or electricity, in breach of even the minimum standards included in Romanian legislation. In recent years,

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Top: Romani families living in the Celulozei industrial area of Constanța have to go long distances to get water.

Right: Romani woman living on Munții Tatra Street, Constanța, Romania, 7 April 2011. More than 30 Romani families have been living in inadequate housing conditions here since 2000. They have no access to electricity, water and sanitation.

Romani CRISS and other NGOs have documented a number of cases where Romani communities have been forcibly evicted and relocated next to garbage dumps, sewage treatment plants, or industrial areas on the outskirts of cities that could be hazardous for their health.

DEFINITION OF ADEQUATE HOUSING

The UN Committee on Economic, Social and Cultural Rights has emphasized that “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.” General Comment 4.

The UN Committee has identified the following aspects which are crucial to determine whether any particular form of housing can be considered to constitute adequate housing under Article 11(1) of the

ICESCR: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.

AVAILABILITY OF SERVICES, MATERIAL, FACILITIES AND INFRASTRUCTURE

“An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.” UN Committee on Economic, Social and Cultural Rights, General Comment 4

Amnesty International visited Romani communities in the towns and cities of Baia Mare, Cluj-Napoca, Constanța, Craiova, Mangalia, Miercurea Ciuc, Piatra Neamț, Podari and Tulcea. The local authorities had resettled – or offered to resettle – 12 of those communities in housing with limited or no access to basic services such as water and electricity, sanitation and other facilities, in breach of international standards and Romanian legislation. In many cases, communities were cut off from water or electricity as a result of arrears and their lack of financial means to pay accumulated bills.

Many communities rely on support from their neighbours to fill plastic bottles with water, or for connection to electricity. In some cases, water sources could only be reached after a long walk. Lack of access to water has a negative impact on many aspects of the lives of inhabitants. Adequate sanitation facilities were also missing from most dwellings given to Romani communities visited by Amnesty International.

LIVING WITHOUT BASIC SERVICES IN CONSTANȚA

"I was evicted because the house was restituted [returned to its previous owner] and we were brought here. We all have lots of children and there is no water, no electricity, no conditions of any kind. There are six to seven people living in one room."

Romani man, Celulozei, Constanța, April 2011

Approximately 30 Romani families live on the outskirts of Constanța, an urban centre on the Black Sea coast of Romania, behind the railway tracks and well inside Celulozei, the city's industrial area. Most of them were forcibly evicted from flats and houses in the city when buildings nationalized during communism were returned to their former owners. Ibrahim, one of the Romani men, told Amnesty International:

"The city hall brought us here; the owner came to claim his house and they evicted us. They told us to stay here for a while until they give us something else. We waited and then we improvised shacks. They left us here... It's been six or seven years since they brought us."

Approximately 25 families occupy a derelict former military block of flats. Others have built shacks with material they found scattered around the city. Neither the building nor the shacks are connected to public utilities, even though this location was reportedly provided by the Constanța local authorities to some of the families. Others moved there later after they had been made homeless as a result of forced eviction. One woman told Amnesty International:

"We don't have electricity, we don't have water. I bring plastic bottles in order to make a fire; we don't have money for food, wood or clothes. We gather scrap iron, plastic, whatever we find. To sell it we have to go far away, we have to walk 5km and we carry it on our backs. We make 15-20 RON (approximately 3-4 euros) per day; whatever we earn we eat."

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Left: View of the bauxite ore dock from the yard of the resettled Romani families living in the former military block in the Pichet industrial port, Tulcea, April 2011.

Right: Nicoleta and her children have been offered a small room at a former military block in the Pichet industrial port, next to a bauxite ore dock, after they had been forcibly evicted in 2006. Tulcea, April 2011.

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HABITABILITY

“Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.” Committee on Economic, Social and Cultural Rights, General Comment 4

In 2000, Romani families evicted from the centre of Constanța were brought by the local authorities to an empty field on Munții Tatra Street, on the outskirts of the city. They were unofficially given small plots of land where they were allowed to construct shacks. However, the authorities did not provide the families with any official authorization or contracts that would secure their tenancy. The families were told the location was temporary and that they would later be given social housing. The plot allocated per family was 27m². Some families Amnesty International spoke to consisted of more than eight members, resulting in severe overcrowding.

The informal constructions do not protect the families from wind or rain, and their inhabitants are exposed to unwanted visitors:

“Our children were born here. I am afraid. There are big rats; my son was bitten by one of them and got infected. We want to raise our children in different conditions than the ones we have been living in for the last 11 years. We use lighters and torches to scare the rats away every night.”

In the case of the forced eviction of approximately 100 Roma from the centre of Miercurea Ciuc in June 2004, the local authorities resettled them in metal cabins next to the city’s sewage plant on the outskirts of the city; the Roma have been there ever since. The metal cabins are extremely overcrowded.

Erzsébet, mother of nine children, told Amnesty International in May 2009: “It is tight: when the whole family goes to sleep we don’t fit in. We cannot take a bath; we cannot clean ourselves. It is too small. We don’t want the older girls to take a bath in front of their fathers.” In addition, the metal cabins do not provide enough space or protection from cold, damp, heat, rain and wind and suffer from lack of fresh air.

LOCATION

“Adequate housing must be in a location that allows access to employment options, health care services, schools, child-care centres and other social facilities.” Committee on Economic, Social and Cultural Rights, General Comment 4

“It would be good if there was a store close by, if they would provide a bus for the children that go to school, for the people that want to work but it’s far away. They can’t walk back and forth, it’s not possible.”

Mariana, Pichet industrial port, Tulcea

Romani communities have been increasingly pushed further away from city



centres, as a result of evictions or the practical impossibility of accessing housing at market prices in those areas. Pushing Roma to the outskirts means disruption of their social networks and creates yet another obstacle to accessing employment opportunities, education, health care and other social services. When Romani communities are placed next to potentially hazardous areas, such as sewage plants, garbage dumps and industrial areas, such housing also violates the inhabitants' right to a healthy environment.

Approximately 80 people were forcibly evicted in October 2006 from a building on Alunisului Street in Tulcea in eastern Romania, as reported by NGOs Romani CRISS and the ERRC. They were resettled by the local authorities into two derelict former military buildings at Pichet, the industrial port 4km from the city. There are no sanitation facilities and only limited access to water, from one tap in the yard. The building is surrounded by industry and located next to an unloading bay for ships carrying bauxite ore. Mariana, a Romani woman, whose sick nephew suffered because of the bauxite dust and mould caused by damp conditions, told Amnesty International: "In this place you can die before it's your time. When you wash a blouse it comes out red not white... and you can't keep the window open because all the dust and bauxite comes in. You can clean everything again and again but it will still be covered in dust."

But the location of the buildings does not only constitute an unhealthy living environment. The road to the city is not paved and as a result access is difficult. A walk to school on a rainy day, will result in children arriving muddy, and often them being sent back home by their teachers. It also makes access to other services difficult.

"Although we had no water or electricity [in the previous building] I was happy that it was in the centre of the town. I am not asking

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Following their forced evictions from buildings in the centre of Piatra Neamţ approximately 500 Roma were placed in segregated housing in the outskirts of the city, next to the railway lines and the city's sewage treatment plant. Muncii Street, Piatra Neamţ, April 2011

them to move me right next to the hospital or the police, but at least that it wouldn't be as far as here. There we were close to the hospital, the police... For example, one year ago... I was looking for a job and when they asked where I lived, and I said at the industrial port Pichet, they would say it's very far [and would not hire me]."

lulius, Pichet Industrial port, Tulcea

PROHIBITION OF DISCRIMINATION AND SEGREGATION

"They want to take all the Gypsies out of the city. If they had the power they would put us all against the wall and shoot us."

Maria and her family were forcibly evicted from the centre of Piatra Neamţ in 2001. The local authorities moved them to a former chicken farm on the outskirts of the city in the Speranţa neighbourhood.

The UN Committee on the Elimination of Racial Discrimination has clarified the obligation of states to develop and implement policies and projects aimed at avoiding segregation of Romani communities in housing. In order to meet their international obligations to prevent, prohibit and eradicate all practices of racial segregation, governments are required to

monitor all trends which can give rise to racial segregation and to work for the eradication of any negative consequences that ensue. As a member state of the EU, Romania is also bound by prohibition of discrimination based on racial or ethnic origin including in relation to "access to supply of goods and services which are available to the public, including housing".

Amnesty International and other NGOs have documented a series of cases where Romani communities had been forcibly evicted and resettled in a way that created or entrenched segregation.

In the case of Cluj-Napoca, NGOs Amare Phrala, Romani CRISS and Fundația Desire had been warning for more than a year of the local authorities' plans to segregate the city's Roma in the outskirts. When the forced eviction of the community from Coastei Street took place and they were moved next to the informal Romani settlements in Pata Rât, a Working Group of Civil Organizations was established at the local level trying to oppose the effective policy of segregation of Roma in Cluj-Napoca. This practice of segregation is not explicitly prohibited by the Romanian housing law, and is also hidden in the absence of ethnically disaggregated data.

NEED FOR REMEDIES AND ACCOUNTABILITY

"I was thrown out of my house; there is no one I can complain to."

Virgil, Celulozei, Constanța, April 2011

International law entitles all victims of human rights violations to access to effective remedies and reparation. Reparation requires that, as far as possible, the consequences of the violation are corrected. The body providing a remedy should award the measures necessary to repair the specific harm suffered by victims, including some or all of the following:

- restitution, for example by restoring homes that were taken away during a forced eviction;
- compensation;
- rehabilitation, through services to address physical or psychological harm;
- satisfaction, by imposing additional or alternative remedies that are satisfactory to the victim; for example, a public apology; and
- guarantees of non-repetition.

Although the Romanian Housing Law guarantees "free and unrestricted access to dwelling... [as] a right of every citizen", not everyone whose housing rights were violated is able to access justice. Remedies available under the existing legislation for evictions are mainly available to tenants or owners and do not adequately cover other groups of people, such as people living on public land. In addition to the lack of an adequate legal framework protecting the right to housing for all persons, Romani individuals face difficulties in accessing the remedies that are available because of lack of information on their rights and on how to access legal remedies. This significantly undermines access to effective remedies in cases where people are forcibly evicted or experience other violations of the right to adequate housing.

In addition, the Romanian government has so far failed to introduce an effective system that would hold local authorities accountable for non-compliance with human rights treaties to which Romania is a state party.

Apart from the courts, the main body people can complain to in cases of discrimination is the National Council for Combating Discrimination (NCCD), an independent body set up to monitor the implementation of the national anti-discrimination legislation. The NCCD can apply administrative sanctions but cannot provide an effective remedy or reparations to victims of discrimination. On 23 August

2005, the NCCD, in the case of the forced eviction of 100 Roma from the centre of Miercurea Ciuc in 2004, ruled that moving the community next to the sewage plant was an act of discrimination, constituting a violation of the right to private life and the right to a healthy environment. The NCCD also ruled that the municipality of Miercurea Ciuc should be sanctioned with a fine.

Seven years later, however, none of the individuals forcibly evicted in 2004 and resettled by the local authorities in very poor conditions have been rehoused. The Vice-Mayor of Miercurea Ciuc stated in *Informația Harghitei* newspaper on 19 April 2011: "It is their right to find it [another space]. They are not obliged to stay there... [T]he Miercurea Ciuc City Hall does not have the possibility to offer a home for everyone... They stay there. They have a roof. It is a chance given by life. They had a first chance; they received a home that other citizens have not received. The City Hall cannot provide another."

The failure of the authorities to remedy the ongoing human rights violations resulting from the original forced eviction in 2004 breaches Romania's international and regional human rights obligations. Having exhausted domestic options for remedy, in December 2008, members of the community, supported by Romani CRISS, filed a complaint to the European Court of Human Rights alleging violations of the European Convention on Human Rights.

The Romanian government should ensure that the amended housing law prohibits forced evictions and segregation and introduces a monitoring and control mechanism so that authorities violating the right to adequate housing can be held to account. This should be combined with effective remedies and reparations being made available to victims of housing rights violations.

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COMMITMENTS AT THE EU LEVEL FOR INTEGRATION

One of the flagship policies of the EU 2020 growth strategy is to enable people in poverty to live in dignity and take an active part in society. In its Guidelines for Roma inclusion for the period 2011-2020, adopted in 2011 as part of Romania's EU 2020 Growth Strategy, the government committed to "create a legislative framework, which permits intervention to resolve a crisis situation in the area of housing with an impact on human freedoms and rights conforming to existing European standards."

In May 2011, the Council of the EU adopted the EU Framework for National Roma Integration Strategies which aims to improve the socioeconomic situation of Roma. Member states agreed to develop (or update) strategies in key areas, including housing. The framework makes particular reference to social housing and gradual housing desegregation and aims to achieve better access to services. Romania will thus have to complement its legal reform with

After they were forcibly evicted from the centre of Miercurea Ciuc in 2004, Romani families resettled in inhumane conditions next to the city's sewage plant have been waiting for relocation in adequate housing. Their voices are being ignored. August 2010.

pro-active practical measures facilitating housing and desegregation.

The EU 2020 flagship policy and measures falling within the EU Roma framework may both benefit from EU funding. The EU has made it easier to use EU structural funds for housing renovation and construction through Regulation (EU) No. 437/2010 of the European Parliament and the Council. The Regulation promotes desegregation by stipulating that housing interventions focused on a specific group should not exclude other people sharing similar socio-economic circumstances. It suggests that in order to limit segregation, housing interventions should use an integrated framework with actions in other fields, such

as education, health, social affairs, employment, security and desegregation measures.

As a result, the Romanian authorities will be able to use the EU structural funds for housing construction projects. An official of the Ministry of Regional Development and Tourism told Amnesty International that the upcoming legal review also aims at assisting local authorities to access the funding in order to facilitate the take-up by Romania of structural funds which to date has been very low.

CONCLUSION

The current Romanian legal framework on housing fails to respond to the situation in which many Roma, and other vulnerable groups, find themselves. At the same time, local authorities across Romania commit serious human rights violations without being held to account, taking advantage of the legal gap that exists between Romania's international legal obligations and its domestic legal framework on housing. The envisaged reform of the legislation is an opportunity for the government of Romania to bring its national legal framework on housing in line with international and regional human rights standards. If this fails, any use, absorption and spending of additional public and EU structural funds may not only be unsuccessful but also counter-productive.

Cover image: On 20 August 2010, approximately 200 Roma were forcibly evicted and watched their homes being demolished in Făcăi, Craiova, Romania. © Boldir Victor Catalin.

RECOMMENDATIONS

Amnesty International calls on the Romanian government, in particular the Minister of Regional Development and Tourism to:

- Amend the Housing Law to bring it in line with international and European human rights standards. This should include
 - A legislative provision prohibiting forced evictions;
 - National eviction guidelines, which set out the process that must be followed for all evictions, based on the UN Basic principles and which are consistent with international human rights standards;
 - A definition of adequacy of housing that goes beyond the physical aspects of the house to fully incorporate other elements of the right to adequate housing, including a prohibition of housing construction or resettlement of people outside populated areas that are isolated and without access to health care and other facilities and/or in polluted areas that could be hazardous for the health of the people;
 - An explicit prohibition on segregation in housing and an official body designated to monitor housing policies and trends to ensure that there is no segregation in housing;
 - Provisions to provide all victims with an effective remedy, including through access to justice and the right to reparations, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.
 - Revision of criteria for access to social housing included in the legal framework on housing, in order to ensure that the most vulnerable groups, including Roma, are reached as beneficiaries of social housing programmes.

- Ratify Article 31 of the European Social Charter (revised).

- Adapt the national Roma integration strategy to the standards set by the EU Framework for National Roma Integration Strategies and ensure effective implementation and monitoring.

- Ensure that people who have been forcibly evicted receive adequate alternative housing and effective remedies.

- Facilitate local authorities' access to available EU funds to complement national efforts improving access to housing, in particular for Roma.

Amnesty International calls on local authorities across Romania to:

- Stop all forced evictions, and ensure that infrastructure projects do not result in any further forced evictions.

- Define policies and make use of available EU Funds within the context of the Europe 2020 strategy or the EU cohesion policy, in order to ensure adequate housing for all Roma in accordance with international standards.

Amnesty International calls on the EU and its member states to:

- Take adequate measures to ensure that EU-supported projects do not cause or contribute to human rights violations, including forced evictions or other violations of the right to adequate housing and non-discrimination.

- Closely monitor Romania's adherence to the Race Directive and the EU Framework for National Roma Integration Strategies.

HOUSING IS A HUMAN RIGHT
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Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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