



ROMANIA

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW

15TH SESSION OF THE UPR WORKING GROUP, JANUARY - FEBRUARY 2013

FOLLOW UP TO THE PREVIOUS REVIEW

During the first Universal Periodic Review (UPR) of Romania in 2008, reviewing states made recommendations on a range of issues, including discrimination,¹ the rule of law,² detention,³ the right to health,⁴ freedom of religion,⁵ children's rights,⁶ and women's human rights.⁷ Although Romania accepted nearly all of these recommendations, the government delegation stated that it considered most of them to be either already implemented or in the process of implementation.

Amnesty International continues to have concerns in relation to many of the human rights issues raised in the first review, in particular as regards the access by Roma and other vulnerable groups to adequate housing and to protection from forced eviction.

In the 2008 review, Romania accepted recommendations to respect and promote the rights of vulnerable groups, including Roma, and to take measures to eliminate discrimination against Roma and to ensure their access to education, housing and healthcare.⁸ In its 2010 interim report on implementation of the UPR recommendations, the government of Romania reported that "various measures were implemented in the field of education, housing, healthcare and employment, which have produced concrete results over the last years".⁹ Amnesty International considers that despite these claims, Romania has failed to implement measures that would effectively respect, protect and fulfil the right to adequate housing for all its citizens, either in law or practice. As a result, marginalized communities, such as the Roma, frequently suffer systematic abuses of their right to housing, including forced eviction and relocation to highly polluted areas, such as landfills, threatening the health of its occupants.

In its submission to the previous review, Amnesty International raised concern about Romania's alleged involvement in the US-led rendition and secret detention programmes. Regrettably, the 2008 review did not adequately address this issue. Amnesty International continues to be concerned that - despite the existing evidence - the government of Romania refuses to carry out an investigation into these allegations or to hold those responsible to account.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Lack of protection of the right to adequate housing in national legislation

Despite the fact that Romania accepted a recommendation to ensure that domestic legislation is in conformity with its international undertakings,¹⁰ and further stated in its interim report that the government "examines the impact upon national laws of any international undertaking and takes the measures required for the implementation of such actions",¹¹ Amnesty International considers that, to date, the authorities have failed to do so, in particular with regard to the housing legislation which does not conform with Romania's obligations under the International Covenant on Economic, Social and Cultural Rights.¹² Gaps in the law have allowed a number of large scale forced evictions of Roma communities to be carried out by the authorities and the resettlement of residents in locations which fail to meet

international standards on the right to adequate housing, with regard to habitability, access to schools, health care, employment and other services.

Although the Housing Law states that free and unconfined access to housing is the right of every citizen, it fails to provide legal protection against forced eviction, harassment and other threats for everyone, irrespective of their tenure status, contrary to the requirement under Article 11 of the International Covenant on Economic, Social and Cultural Rights.¹³ The law provides some protection to tenants and specifies the conditions under which a landlord may legally evict tenants. However, people without formal tenure status – such as inhabitants of informal settlements – are not protected. The Code for Civil Procedure explicitly excludes protection from evictions for people who “occupy abusively, de facto, without any title, a house”.¹⁴ In addition, the Construction Law allows for the destruction of buildings built without authorization. These provisions disproportionately affect Roma, who frequently lack formal tenure and many of whom live in informal settlements.¹⁵

The law also does not require the authorities to put in place the necessary safeguards prior to, during and after evictions as required by international human rights law. There are no provisions in the law obliging the authorities to serve adequate and reasonable notice prior of the eviction of people living in informal settlements, as opposed to those who have tenancy agreements. Although an eviction can be postponed if the people affected challenge the court decision, they often only learn about the decision to evict a few days before the eviction is scheduled to take place, and often lack the resources to take legal action. Legal aid, although guaranteed by law for those lacking the necessary funds, is generally not available in civil cases. As a result, those who suffer forced evictions only rarely seek redress through the courts.

Following its 2008 review, Romania also agreed to “continue its efforts in combating discrimination and to take additional measures to fight discrimination against minorities, including the Roma population”.¹⁶ Amnesty International notes that although the Anti-Discrimination Law prohibits discrimination in access to housing, it fails to prohibit racial segregation as a form of discrimination. Similarly, the Housing Law does not prohibit construction of new housing units that would result in the segregation of a particular group, such as Roma. In practice, this leads to housing projects being implemented by local authorities which effectively segregate Roma.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Forced eviction and failure to provide adequate alternative accommodation

In its interim report on the implementation of the 2008 UPR recommendations, the Romanian government stated that in the event of an eviction, the authorities “seek the appropriate solutions to provide adequate housing alternatives available within the existing financial constraints”.¹⁷ However, Amnesty International has documented a number of cases which show that inhabitants of informal settlements who lack the legal security of tenure are particularly adversely affected by evictions, including forced evictions. The fact that Roma are particularly affected by the lack of security of tenure has also been acknowledged in the National Strategy for the Inclusion of Roma for 2012–2020, submitted by the Romanian government to the EU Commission.¹⁸

Despite these acknowledgements, the authorities, particularly at the local level, have repeatedly demonstrated through their actions that they do not consider themselves to be bound by the requirements of international human rights law in cases involving informal settlements.¹⁹ Amnesty International has documented a number of cases where, following a forced eviction, local authorities have moved people to unsafe or polluted sites threatening the lives and health of both current and future occupants. Relocation sites have included areas close to landfills, waste water treatment plants, former industrial areas, and former chicken farms.²⁰ In some cases the evicted families were left effectively homeless.²¹

In these circumstances Amnesty International considers that Romania has failed to take the appropriate and effective measures to eliminate discrimination against Roma in their access to adequate housing and thus to implement the recommendations it accepted in the context of the 2008 review.²²

Racial segregation in access to housing

The lack of prohibition in law of racial segregation – as a form of discrimination - in access to housing, combined with negative attitudes towards the Roma has allowed local authorities to implement projects that effectively create segregated inadequate housing for Roma and other low income groups. For example, in 2010 the local authority of Constanța began building the “Henry Coandă Campus” designed to address the housing needs of low-income households. It provided housing in the form of metal containers on a former military base. In February 2012, the municipality announced a plan to allocate 1,000 of these “container houses”, based on a points system. The highest points were to be allocated to families with more than five children, with an income lower than 125 Romanian lei (€27), and families “in a special situation”. Having a large family is considered a common characteristic of low-income Roma families, and such a points system therefore raises concerns that it targets primarily Roma and thereby effectively creates a segregated social housing estate.

Accountability for complicity in the US-led rendition and secret detention programmes

Amnesty International remains concerned about the failure of the Romanian authorities to conduct a human rights compliant investigation into state actors’ complicity in the United States Central Intelligence Agency’s (CIA) rendition and secret detention programmes. The government has so far denied any involvement in these CIA operations. Following a secret internal investigation in 2005 and a Romanian Senate inquiry in 2007, the government claimed that it had found the allegations of complicity to be “groundless”.²³ Amnesty International considers, however, that neither of the two processes complied with Romania’s international obligation to establish an independent, impartial, thorough and effective investigation into state actors’ involvement in the CIA operations, which included illegal transfers of persons, enforced disappearance, secret detention, and torture and other ill-treatment.

In 2005, Romania was identified by the media as having housed secret CIA prisons in the aftermath of the 11 September 2001 attacks in the USA.²⁴ Council of Europe and European Parliament reports released in 2007 also named Romania as allegedly having housed secret CIA detention facilities.²⁵ Since 2008, similar claims have surfaced from a variety of credible sources. In February 2010, the UN Joint Study on Secret Detention concluded that a plane operating in the context of the CIA’s rendition programme – a Boeing 737, registration number N313P – had flown from Poland to Romania on 22 September 2003.²⁶ In a response to the study, the Romanian authorities claimed there was no evidence that passengers were on-board the aircraft. Documents released by the Polish authorities in July 2010, however, indicated that the same Boeing 737, registration number N313P, arrived in Poland on 22 September 2003 with no passengers aboard, but took on board five passengers before departing for Bucharest. In 2011, the Associated Press reported that for several years the US used a Romanian government building – code-named Bright Light – as a detention facility for high ranking al-Qaida operatives before eventually transferring them to Guantanamo Bay. In its November 2011 report detailing a delegation’s visit to Romania in September 2010, the European Committee for the Prevention of Torture expressed concern that Romania had not conducted an effective investigation into allegations that it hosted a secret CIA prison.²⁷

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Romania to:

Lack of protection of the right to adequate housing in national legislation

- Adopt the necessary legal and policy measures to ensure that everyone has at least a minimum degree of security of tenure, which provides them with protection against forced evictions, harassment and other threats;
- Amend the housing legislation so that it expressly prohibits forced evictions and sets down safeguards in line with international human rights standards which must be complied with prior to an eviction being carried out;
- Amend the housing legislation so that it expressly obliges the authorities to ensure that all relocation sites comply with international standards on adequacy of housing;
- Introduce mechanisms to monitor that the authorities, whether at the national or local levels, operate in accordance with the housing legislation.

Failure to ensure protection from discrimination in access to housing

- Ensure that the Housing Law expressly prohibits segregation on the basis of race or any other prohibited ground of discrimination to ensure equal treatment in access to housing and protection from discrimination.

Accountability for complicity in the US-led rendition and secret detention programmes

- Undertake an independent, impartial, thorough and effective investigation into allegations that Romanian state actors collaborated with US officials in the CIA's rendition and secret detention programmes;
- Pursue all relevant lines of inquiry regarding the establishment of the sites, including whether and when detainees were transported to or from Romania, under what procedures and conditions they were transported, and their treatment in detention;
- Explicitly include in the terms of reference investigation of the direct commission by state actors or their complicity in possible human rights violations in the context of the CIA rendition and secret detention programmes;
- Respond in full to the allegations of Romanian complicity in the CIA rendition and secret detention programmes contained in the February 2010 UN Joint Study on Secret Detention and to communicate directly with the UN Special Procedures involved in the study to pursue any evidence of such collusion;
- Ensure that where there is credible evidence that human violations under national or international law occurred, and particularly with respect to alleged torture and other ill-treatment and enforced disappearances, criminal proceedings are brought against those the investigation identifies as responsible.

¹ Report of the Working Group on the Universal Periodic Review on Romania; 3 June 2008; A/HRC/8/49, recommendations 58.3 (Czech Republic), 58.4 (Argentina, Canada, France), 58.5 (Philippines, Ireland, Bangladesh, Netherlands, Brazil, France), 58.6 (Ireland), 58.7 (Mexico), and 58.8 (Finland).

² A/HRC/8/49, recommendations 58.22 (Canada) and 58.23 (Canada).

³ A/HRC/8/49, recommendations 58.24 (Denmark) and 58.25 (Ireland, Turkey).

⁴ A/HRC/8/49, recommendations 58.26 (United Kingdom, Ireland), 58.27 (United Kingdom) and 58.28 (Guatemala).

⁵ A/HRC/8/49, recommendations 58.19 (Denmark), 58.20 (Finland) and 58.21.

⁶ A/HRC/8/49, recommendations 58.14 (Algeria, France), 58.15 (Mexico), and 58.16 (Russia).

⁷ A/HRC/8/49, recommendations 58.10 (Algeria, Guatemala), 58.11 (Slovenia), 58.12 (Canada, Czech Republic, Ukraine) and 58.13 (Italy, Turkey, France).

⁸ A/HRC/8/49, recommendation 58.5 (Philippines, Ireland, Bangladesh, Netherlands, Brazil, France).

⁹ Interim report on the implementation of recommendations under the UPR of Romania, 15th session of the Human Rights Council, Geneva, 23 September 2010, paragraph 6.

¹⁰ A/HRC/8/49, recommendation 58.2 (United Kingdom), as accepted by Romania during the Human Rights Council's adoption of the outcome of the UPR on Romania at its eight session in June 2008.

¹¹ Interim report on the implementation of recommendations under the UPR of Romania, 15th session of the Human Rights Council, Geneva, 23 September 2010, paragraph 2.

¹² Romania ratified the International Covenant on Economic, Social and Cultural Rights on 9 Dec 1974.

¹³ Committee on Economic, Social and Cultural Rights, General Comment 4: The right to adequate housing (article 11.1), 13 December 1991, para 8a, 18; and General Comment 7, The Right to Adequate Housing: forced evictions, 20 May 1997, paragraph 2.

¹⁴ Code for Civil Procedure, Article 578, paragraph 1

¹⁵ Fleck, Gabor & Rughinis, Cosima, *Come Closer: Inclusion and Exclusion of Roma in Present-Day Romanian Society*. Sper, Bucharest 2008, p.115.

¹⁶ A/HRC/8/49, recommendation 58.4 (Canada), as accepted by Romania during the Human Rights Council's adoption of the outcome of the UPR on Romania at its eight session in June 2008 (A/HRC/8/52, paragraphs 970-972).

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- ¹⁷ Interim report on the implementation of recommendations under the UPR of Romania, 15th session of the Human Rights Council, Geneva, 23 September 2010, paragraph 3.
- ¹⁸ Strategy of the Government of Romania for the inclusion of Romanian citizens belonging to Roma minority 2012 – 2020. 2011, p.8.
- ¹⁹ *Mind the Legal Gap*, Amnesty International, EUR 39/004/2011, 23 June 2012, p. 51
- ²⁰ *Unsafe foundations: Secure the right to housing in Romania*, Amnesty International, EUR 39/002/2012, 8 May 2012, p. 13
- ²¹ *Mind the Legal Gap*, Amnesty International, EUR 39/004/2011, 23 June 2012, pp.6-8
- ²² A/HRC/8/49, recommendations 58.4 (Argentina, Canada, France) and 58.5 (Philippines, Ireland, Bangladesh, Netherlands, Brazil, France).
- ²³ Response of the Romanian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, CPT/Inf (2011) 32, Paragraphs 143 – 147, Available at: <http://www.cpt.coe.int/documents/rom/2011-32-inf-fra.htm>
- ²⁴ Human Rights Watch Statement on U.S. Secret Detention Facilities in Europe, 6 November 2005, Available at: <http://www.hrw.org/en/news/2005/11/06/human-rights-watch-statement-us-secret-detention-facilities-europe>.
- ²⁵ Resolution 1562 (2007), "Secret Detentions and Illegal Transfers of Detainees Involving Council of Europe Member States: Second Report", para. 1, 7. <http://www.assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1562.htm>; European Parliament Temporary Committee on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners (TDIP), Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners, A6-0020/2007 FINAL, para. 164. http://www.europarl.europa.eu/comparl/tempcom/tdip/final_report_en.pdf
- ²⁶ UN Joint Study on Secret Detention, A/HRC/13/42, 26 January 2010, para. 117, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-42.pdf>
- ²⁷ Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following the visit in Romania, CPT/Inf (2011) 31, para. 143 – 147. <http://www.cpt.coe.int/documents/rom/2011-31-inf-fra.htm>