COMMISSIONER FOR HUMAN RIGHTS

COMMISSAIRE AUX DROITS DE L'HOMME

COUNCIL OF EUROPE

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Mr Dacian CIOLOS
Prime Minister
Romania

Strasbourg, 23 June 2016

Dear Prime Minister,

Further to my visit to Romania from 31 March to 4 April 2014 and my subsequent report of July 2014, I would like to follow up on the constructive dialogue which I held with your authorities on certain major issues concerning the human rights of Romania's Roma population.

Anti-Roma public rhetoric

Firstly, concerning anti-Roma rhetoric by politicians and political parties, I look forward to receiving information on whether any self-regulatory measures have been adopted to effectively counter and sanction intolerant, xenophobic and racist speech used by politicians. In this context, I would like to draw your attention to ECRI's General Policy Recommendation No. 15 on Hate Speech which was published in March this year and which recognises that politicians, religious and community leaders and others in public life have a particularly important responsibility in this regard because of their capacity to exercise influence over a wide audience.

Forced evictions of Roma

In my 2014 report, I also urged your authorities to prevent forced evictions of Roma without providing alternative, adequate housing. According to the World Bank's country program snapshot from 2015, about 30% of Roma households live in dilapidated houses or slums. The UN Rapporteur on extreme poverty and human rights in his April 2016 report found that Roma in Romania still live under the shadow of forced evictions as a result of their lack of property or lease documents, combined with pressure on local governments to remove them.

I support the joint call made in April this year from the European Roma Rights Centre, Amnesty International and Romani CRISS for your government to commit to legislative changes which would prevent unlawful forced evictions of Roma. In particular, I support the call to: expand the domestic law definition of eviction to the demolition of informal housing; reintroduce a statute of limitations for the demolition of unauthorised housing; extend consultation requirements to cover mass evictions; introduce a remedy with automatic suspensive effect against forced evictions allowing for a full review of proportionality and take immediate measures to curb forced evictions. I note with satisfaction an important first instance judgment of the Constanța County Court on 1 June 2016 which ordered the Eforie Municipality to rehouse Roma evicted from Eforie in 2013. I see this as a step in the right direction.

F – 67075 Strasbourg Cedex, Fax: +33 3 90 21 50 53, http://www.coe.int/commissioner e-mail: commissioner@coe.int

Segregated education of Roma children

As to the question of segregated schooling for Roma children, in my report I urged your authorities to take measures to enhance the inclusion of Roma children in the school system. I would be pleased to receive information on any concrete measures which have been taken in this regard.

The fact that no official data on the segragation of Roma pupils has been made public by the Ministry of Education since 2006 makes it difficult, if not impossible, to assess the true scale of the problem. Various UNICEF-supported studies, and United Nations Development Programme reports indicate that the situation merits urgent attention.

I understand that the Commission within the Ministry of Education which would elaborate proposals for planning, organising, coordinating and monitoring the implementation of the Ministry of Education's strategy for improving Roma education, has still not been set up and that the Ministry of Education has not publicised data on desegregation. I strongly encourage your authorities to set up the Commission within the Ministry of Education and look forward to receiving data on school desegregation.

Police violence affecting Roma

Concerning prevention of police violence against Roma, in my 2014 report I urged Romania to ensure that all incidents of ill-treatment, especially those with a racial bias, by law enforcement officals are firmly condemned, adequately investigated and sanctioned. I also expressed my concern at the very slow pace of execution by Romania of some of the Strasbourg Court's judgments, for example the *Moldovan group* of cases and the *Barbu Anghelescu* group of cases. I note with satisfaction that the Council of Europe Committee of Ministers has closed examination of both groups of cases (some in 2015 and some as recently as June 2016). This shows that Romania has taken steps to address outstanding issues and I very much welcome these efforts.

Nevertheless, the recent judgment in the case of *Ciorcan and others v. Romania* from January 2015, as well as a number of pending cases (see for example, *Fogarasi v. Romania* , *Cioban v. Romania* and *Lingurar v. Romania* (communicated in 2013, 2014 and 2015 respectively)) clearly show that further efforts to eradicate institutional racism against Roma still need to be made. In *Ciorcan* the Court found violations of the European Convention on Human Rights following the complaints of 37 Romanian nationals of Roma origin that prejudice and hostile attitudes towards Roma had played a decisive role in a police operation in 2006. In particular, the authorities failed in their duty under the Convention to take all possible steps to investigate whether or not discrimination may have played a role in the events. The pending cases raise various issues, such as whether the applicants suffered discrimination on the ground of their Roma origin or whether stereotypical arguments concerning Roma affected the prosecution of crimes committed against them.

In my visit report, I found it crucial that your authorities establish as a priority a fully independent and well-functioning police complaints mechanism. My recommendation has been supported by the UN Rapporteur on extreme poverty and human rights in his 2016 report on Romania. I reiterate that recommendation and my Office stands ready to assist your authorities in any way possible.

In this context, I would like to re-emphasise the clear importance of collecting disaggregated ethnicity data. It goes without saying that safeguards would be needed to protect the privacy of individuals, and ensure that the data is collected and used only for legitimate purposes. Both the Advisory Committee on the Framework Convention for the Protection of National Minorities and the European Commission against Racism and Intolerance (ECRI) consider that the collection of data based on ethnicity is a valuable tool for evaluating the impact of minority policies and monitoring discrimination. This data is essential in order to demonstrate the scope of discrimination Roma face in all sectors and would permit your authorities to respond accordingly.

Such data is also of importance for an effective investigation into cases of ill-treatment of Roma by law enforcement agents. I urge your authorities to compile data on racially motivated crimes. In your government's response to my report you indicated that there is the will to update the data collection system by introducing a special criterion in order to gather information on the aggravating factors with respect to final decisions in criminal matters. If that data is now available, I would be very grateful if you would share it.

Execution of the Valentin Câmpeanu judgment

Lastly, I would be grateful for information as to the execution of the general measures in the case of *Center for Legal Resources on behalf of Valentin Câmpeanu v. Romania*, 17 July 2014. The case concerns notably the lack of adequate protection to a young man of Roma origin who died at the Poiana Mare neuropsychiatric hospital. In that case I made a third party intervention before the Grand Chamber of the Strasbourg Court. I understand that the Department for the Execution of Judgments of the European Court of Human Rights held discussions with your authorities in Bucharest in April 2015 and that a revised action plan is expected.

I look forward to receiving your reply and continuing our constructive dialogue and co-operation.

Yours sincerely

Nils Muižnieks