

# report

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## Roma in Ukraine – A Time for Action: Priorities and Pathways for an Effective Integration Policy

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A six year old Roma girl in Uzhgorod, Western Ukraine, taking part in the programme of pre-school preparations (for children but also their parents), run by Lola Kulchar, the director of Zakarpattia Regional Charitable Foundation *Blago*.

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### International Charitable Organization Roma Women's Fund 'Chirikli'

International Charitable Organization Roma Women's Fund 'Chirikli', which means 'bird' in Romani, is a non-governmental Roma-led organization that assists vulnerable Roma and advocates for their inclusion in Ukrainian society.

Chirikli's activities include local, national, and international advocacy, human rights trainings for Roma communities and State authorities, monitoring and addressing the situation of Roma communities across Ukraine in their access to healthcare, education, housing, employment, public life and decision making through the network of Roma mediators and partnerships with local and central authorities. A specific focus is devoted to the situation of Roma women due to their particularly distinct situation in terms of the multiple discrimination that they face in public life on ethnic and gender grounds.

Roma Women's Fund 'Chirikli' is part of the Coalition of Roma NGOs 'Strategy 2020', and is a partner organization with the European Roma Rights Centre (ERRC Budapest), Council of Europe (CoE, Roma and Travellers team, Strasbourg), Office of UN Women in Ukraine, and last but not least, Minority Rights Group Europe.

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# Roma in Ukraine – A Time for Action: Priorities and Pathways for an Effective Integration Policy

## Contents

Key findings	2
1 Introduction	3
2 History	5
3 Community Profile	8
4 Legal and institutional frameworks	12
5 Current issues	20
6 Recommendations	33
Notes	36

# Key findings

Key findings	
<ul style="list-style-type: none"> <li>Roma in Ukraine have a long history of discrimination that, despite some progress in recent years, continues to this day. Now more than ever is the time to act. The current Roma Integration Strategy for Ukraine ends in 2020 and despite positive intentions the violent anti-Roma attacks of 2018 have only highlighted the serious vulnerability and marginalization of many Roma in Ukraine. It is critical in preparation of the new post-2020 Strategy that Ukraine authorities learn from recent experience and in particular ensure the full participation of Roma in planning, implementation and monitoring of the new strategy.</li> </ul>	<ul style="list-style-type: none"> <li>Evidence shows the most effective measures to address social inclusion of Roma in Ukraine are those led by community members themselves. Actions designed and implemented by Roma CSOs, working at the heart of their communities, demonstrate concrete evidence of change. In particular the role of Roma Mediators has been key to empowering Roma citizens and brokering dialogue and partnership with public authorities and institutions. However, these initiatives are mainly supported by foreign donors: the long term sustainability of Roma CSOs and mediators should therefore be a priority for Ukraine authorities.</li> </ul>
<ul style="list-style-type: none"> <li>This discrimination is illustrated by the limited representation of Roma in public life in Ukraine and the increasing prevalence of hate speech and violence by far-right groups – attacks enabled in large part by the impunity that most of the perpetrators appear to enjoy. Troublingly, the series of attacks recently directed against Roma settlements reflect not only the increasingly visible presence of extremist groups in Ukraine, but also a broader climate of anti-Roma sentiment that has contributed to the insecurity communities now face.</li> </ul>	<ul style="list-style-type: none"> <li>Though the Roma population is diverse and living conditions vary significantly between different communities and regions, they nevertheless are disproportionately marginalized in almost every area of their lives, from education and health care to housing and employment. While poverty, isolation and high levels of illiteracy contribute to their destitution, discrimination against Roma at every level of society, including among police, prosecutors and officials, also plays an important part in perpetuating their secondary status.</li> </ul>
<ul style="list-style-type: none"> <li>A key factor in their exclusion is statistical and data invisibility. There is very little reliable, disaggregated data on the circumstances of the country's Roma as a whole, let alone the poorest and most marginalized communities among them. Many live in 'undocumented houses' that, because they are not officially recognized, lack access to clean water, electricity and sanitation. The situation is even harder for those who also lack personal documentation and as a result struggle to secure even basic civic rights.</li> </ul>	<ul style="list-style-type: none"> <li>While Ukraine has taken a number of steps to amend its legislation in line with international standards and publicly stated its commitment to promoting the inclusion of Roma and other minorities, in practice much of these promises remain unrealized. The ability of the Ukrainian government to achieve these ambitions in future will therefore provide an important gauge on the broader transition of the country to human rights, democracy and social progress.</li> </ul>

# 1 Introduction

There is no reliable and comprehensive data on the exact numbers, needs and living conditions of Roma in Ukraine. Estimates suggest there may be between 200,000 and 400,000 Roma dispersed across the country,<sup>1</sup> spanning a range of dialects and cultural identities. The human rights issues they face also vary, sometime substantially, in different regions. Notwithstanding this diversity, however, the Roma population as a whole are believed to be the most vulnerable minority group in the country.

Civil society organizations have highlighted the high levels of poverty among Roma and other issues, such as difficulties securing identity documentation. Thousands live in substandard and overcrowded housing, often in isolated settlements with little access to healthcare, social and administrative services. Many Roma households are also not connected to heating, electricity or running water. In many cases, this residential segregation is in turn reflected in the education system, with substandard schooling, discrimination and associated problems such as absenteeism commonly experienced by Roma children. As attested by the high levels of illiteracy among adult Roma, these barriers can have lasting impacts on their life opportunities.

This exclusion feeds into a vicious cycle that has afflicted Roma communities in Ukraine for generations, with a long history of persecution, oppression, exploitation and assimilation under a succession of regimes. While there has been significant progress since the end of Soviet rule, Ukraine's transition from totalitarianism to full-fledged democracy is still in progress. Having declared its commitment to the values of freedom, human rights, rule of law, equality and non-discrimination, the Ukrainian government has passed a range of laws and provisions on minority rights, including

the adoption in 2013 of the 'Strategy for the Protection and Integration of the Roma National Minority into Ukrainian Society for the Period up to 2020'<sup>2</sup> (Roma Strategy 2020) and the National Plan of Action for its implementation<sup>3</sup> (Roma Action Plan 2020). Yet to date, these and other Roma rights protections have remained largely declarative, with a weak institutional framework, inadequate financial resources and little understanding of the challenges facing Roma communities: in practice, their needs are rarely prioritized in public policy making and their problems are predominantly attributed to aspects of their own culture rather than the broader systemic inequalities they face.

Authorities at both the national and local level often dismiss concerns about the marginalization of Roma as a secondary priority, less pressing than the plethora of security and governance challenges confronting Ukraine in the context of Russian aggression, economic hardship and sweeping reforms. But while these issues are undoubtedly daunting – and Roma are not alone in experiencing profound uncertainty in many areas of their lives – it remains the case that they are disproportionately affected. Furthermore, the situation of the Roma population cannot be separated from the broader context of democracy, rule of law and civil society in general. Indeed, as one of the country's poorest and most stigmatized groups, the strength of Ukraine's democracy should be judged on the government's ability to deliver real and lasting change to their lives. At present, the failure of authorities to meaningfully resolve their continued discrimination remains a major stumbling block to the development of a strong, cohesive society built on justice, equality and human rights for all.

## Methodology

This research is the product of a collaboration between Minority Rights Group Europe (MRG) and the International Charitable Organisation Roma Women's Fund 'Chiricli' (Chiricli) within the framework of the joint EU-funded project, 'A Partnership for All: Developing Strategies for Socio-Economic Cooperation Between Roma Communities and Local Authorities in Ukraine'. The objective of the project is to increase engagement between Roma non-governmental organizations (NGOs) and relevant local authorities in ongoing sectoral reforms, in line with the EU-Ukraine Association Agreement and Visa Liberalization Action Plan.

The report draws on the testimony of Roma community members, NGO representatives and human rights organizations working across Ukraine, in a series of interviews conducted between January and March 2019. The respondents identified the most acute problems facing Roma in various communities, outlined their views on the root causes of these issues and also described their own experiences of attempting to remedy various human rights violations. In addition, the text incorporates extensive desk research and legal analysis.

Particularly helpful in this regard were the recent studies undertaken by Chiricli and the Coalition of Roma NGOs (Strategy 2020), an informal consortium of 16 Roma rights NGOs from across the country established to promote and monitor implementation of the Roma Strategy 2020 and Roma Action Plan 2020. While it is not possible to list all those who contributed to the development of this report, the author would like to specifically thank the following individuals whose guidance, thoughts, ideas and insights were invaluable: Maksym Dzhum (pro-Roma activist and Roma mediator in

Odesa region, with Chiricli), Volodymyr Kondur (Head of the Roma Human Rights Centre and Head of 'Strategy 2020' Coalition of Roma NGOs), Yulian Kondur (Co-ordinator of Chiricli), Zemfira Kondur (CoE 'Protection of ethnic minorities, including Roma, and minority languages in Ukraine' Project Coordinator), Anzhelika Kruhliak (Executive Director of Zaporizhzhia Roma Centre 'Latcho Drom'), Lola Kulchar (Director of Zakarpattia Regional Charitable Foundation 'Blago' and REYN-Ukraine Project Coordinator), Tetiana Kurach (Manager of the Secretariat for the Interagency Working Group for Realization of the Strategy for Protection and Integration of Roma National Minority into Ukrainian Society for the Period until 2020 - Roma Secretariat), Yurii Madych (Head of the Organization for Social and Legal Protection of Roma 'Bakhtalo Drom' and Uzhhorod City Council Member), Vadim Matiushenko (President of the Ethno-Cultural Society 'Romen' and member of the Civic Council to the Kharkiv Regional Administration), Sergiy Ponomaryov (Roma Programme Director, International Renaissance Foundation) and Olha Vesnianka (pro-Roma human rights activist and a media expert with the 'Strategy 2020' Coalition).

Many interviewees stressed that one of the fundamental problems in Ukraine's policy towards Roma is the lack of a human rights-based approach. With reference to their recommendations, this report aims to outline the situation of Roma in Ukraine through the prism of international human rights standards, with practical recommendations on the steps to be taken by Ukrainian authorities as a matter of urgency to improve rights protections for members of the Roma minority, promote their inclusion and in the long run rectify the entrenched inequalities they face.

## 2 History

Ukraine's Roma population is remarkably diverse. Besides having distinct cultures, languages and histories, Roma communities in different villages and regions frequently inhabit wholly separate realities. Though describing in detail the extraordinary variety within Ukraine's Roma population is beyond the scope of this study, it is important to recognize the breadth and diversity of these communities: this is one reason why there is no 'one-size-fits-all' solution to the human rights violations that Roma experience in Ukraine.

The variety of Roma ethnic and cultural sub-groups in Ukraine is intertwined with the complex and tragic history of the country. The largest of these communities are the Servos, whose dialect of Romani is closely tied with the Ukrainian language. Members of Servo Roma communities sometimes call themselves 'Ukrainian Roma'<sup>4</sup> and have a long history in the region, with the earliest mention of a Roma presence in Ukraine dating back to the fifteenth century. At the time, most of modern Ukraine's territory formed part of the Grand Lithuanian Duchy. The traditional crafts of Roma travellers, such as blacksmithing and barter trade, enjoyed considerable local demand: groups of Roma would migrate from village to village during the summer months and spend their winters hosted by locals in their homes.<sup>5</sup>

At the end of the sixteenth century, when these territories came under control of the Polish crown in the Polish-Lithuanian Commonwealth, the authorities ordered the expulsion of Roma from the Duchy. Many Roma from northwest Ukraine, particularly the Carpathian region, were forced to relocate to the scarcely populated steppes in what is the southeast of modern Ukraine. Between the fifteenth and seventeenth centuries this area also hosted numerous disenfranchised Ukrainian villagers and gave birth to Zaporizhzhia Sich – the cradle of Ukrainian national identity. The prospect of freedom offered by these lands also attracted Roma from elsewhere, escaping slavery in the principalities of Wallachia and Moldavia (present-day Romania and Moldova). These were the ancestors of the modern sub-ethnic group known as Vlachs (Vlahurja), whose dialect of Romani is also regarded as 'Ukrainian' due to the strong influence of the Ukrainian language on its development.

At around the same time as in mainland Ukraine, a Roma community began to develop in Crimea. In the

lands of the Crimean Khanate, Roma predominantly lived among the local Crimean Tatar population. 'Tatar Chingine', as locals called them, were Muslims – like most of the Crimean population until the second half of the twentieth century – and depended on traditional crafts such as veterinary care, metal working and music.

Although Tatar Chingine were ethnically distinct to the Crimean Tatar majority, their status was not very different from the 'autochthonous' Muslim population and they were closely integrated into local communities – to the point that by the nineteenth century most had forgotten the Romani language and spoke Crimean Tatar.

With the expansion of Russian Empire to the north coast of the Black Sea and the region then known as Bessarabia, many new and distinct groups of Roma came under its rule. Historians suggest that the expulsion of Tatars and other Muslims by the Russian rulers of these lands forced many Muslim Roma to relocate to Crimea, where Islam was still widely practised by most of the population. Today, the ancestors of these displaced Muslim Roma call themselves 'Kyrymlytica Roma', 'Kryms' or 'Krymuria', signifying their links with the Crimean Peninsula. Due to more recent historical events, particularly the annexation of Crimea by Russia in 2014, they are now scattered all over Ukraine and can also be found in Odesa, Kherson, Donetsk, Vinnytsia, Zhytomyr and Kyiv. Their dialect of Romani, which is the only one in Ukraine classified as a member of the so-called 'Balkan group' of Romani dialects, bears alongside strong Balkan and Romanian influences significant evidence of Crimean Tatar. The majority of Kyrymlytica Roma still practise Islam.

The jurisdiction of the Russian Empire also extended to many Christian Roma, who for centuries had been enslaved by Romanian landlords, Greek and Romanian Orthodox monasteries in Bessarabia and even other, more privileged Roma community members: according to Romanian law, they were regarded as the property of the state. However, the Russian authorities allowed Romanian landlords and monasteries to continue exploiting Roma as their slaves. In order to 'regulate' the status of Roma travellers who were 'owned' by the state institutions, Russian authorities also attempted to settle them on state-owned lands. These policies underline the history of the villages of Kairo (now Kryva Balka) and Faraonivka in

Odesa region, where Roma communities still reside. Yet these attempts at sedentarization were largely unsuccessful as many travellers feared that it would lock them into servitude.

The situation of Roma in the territory of western Ukraine, at that time under the rule of the Habsburg monarchy, was not much better. In the lands of modern-day Zakarpattia, Roma were subject to strict sedentarization and assimilation policies under Maria Teresa (1740 – 80). Beginning with the mandatory settlement of all Roma by local authorities at the places where they were identified, subsequent decrees prohibited Roma from wearing their traditional clothes, authorities from issuing passports to Roma and ordered Roma to be called ‘new Hungarians’ or ‘new peasants’. Soon authorities prohibited Roma from speaking Romani and from marrying among themselves. Roma children were to be removed from their families and placed in the ‘foster care’ of peasants to ensure a ‘Hungarian upbringing’. Because of these policies, a large number of Roma in modern Zakarpattia are no longer able to speak Romani: many speak Hungarian as their mother tongue and even self-identify as Hungarians, despite continuing to live in segregation.

In the lands of what is now Chernivtsi region, Austrian authorities initially preserved the practice of Roma slavery that had existed there since the area was under the control of the Principality of Moldavia. Though in 1783 the Habsburgs officially abolished slavery, the resistance of many Romanian monasteries and landlords to the decree meant that in practice Roma in this area – known as Bukovynian Roma – had no access to land and most were forced to remain working at the estates of their former ‘owners’ to survive.

In the mid-1850s, the Danubian Principalities of Moldova and Wallachia formally liberated all Roma slaves, though the owners had a right to ‘compensation’ from the taxes paid by their former slaves. The authorities subsequently embarked on an aggressive strategy to forcibly assimilate Roma, including dispersed settlement across Romania, compulsory education and prohibition of the use of Romani. This resulted in the mass displacement of Romanian Roma, Kalderari (Kalderash), Ursari and other ethno-social subgroups, some of whom ventured eastwards into the territory of modern-day Ukraine.

Industrialization, World War I and the social unrest, revolution and civil war that emerged in its wake triggered a wave of mass migration throughout Eastern Europe, including of Roma. The artificially orchestrated famines of 1921 and 1932-1933 that killed millions of Ukrainians encouraged many Roma to escape the famine-affected villages and resettle in larger cities, saving some from starvation, though many of these fugitives were

subsequently caught by Soviet authorities and deported to Siberia. To escape persecution, many sedentary Roma in Ukraine left their homes and returned to their previous nomadic lifestyles. As nomadism was associated with poverty and proletarianism, this may have saved some Roma from repression during the brutal process of ‘collectivization’. At the same time, the new economic and political order built by the Soviets undermined and even criminalized many traditional Roma trades, leaving them little means of subsistence. Authorities forced people, Roma as well as other Ukrainians, into collective farms by depriving them of passports, barring their access to liquid cash and imposing a strictly regulated system in the cities to control migration. It was also prohibited to own horses. By the 1930s, itinerants were likely to be arrested for ‘vagrancy’, ‘counterrevolution’, ‘spying’ or other charges.

During World War II, the entire area of Ukraine was occupied by Nazi Germany and its allies. From the second half of 1941, extermination squads sporadically killed Roma travellers and by the spring of 1942 the systematic murder of Roma in Nazi-occupied territories began. Itinerant groups were targeted first, with Roma ordered to present themselves for ‘resettlement’, on pain of death. Thousands of Roma throughout Ukraine complied, believing they would be resettled: instead, everyone who appeared was brutally slaughtered. In autumn 1942 Nazis, aided by the local police, set out to identify the surviving Roma for extermination. Mass atrocities continued, with both itinerant and settled Roma targeted. The latter in particular were barely distinguishable from their non-Roma neighbours, but police and local officials helped the Germans to identify the victims. For many Ukrainian Roma who managed to avoid the mass executions of 1942, the only option was to go into hiding in the woods. Some survived thanks to the protection of other Ukrainians.

A different, but no less tragic, fate befell Roma in the southwest of Ukraine. The lands between the rivers of Dniester and South Bug (in what is now the territory of Odesa region and part of Mykolaiv region in Ukraine), dubbed by Romanian authorities as Transnistria, were designated as a site for the ‘deportation’ of Jews and Roma from Romanian territory, including Bessarabia and Bukovina. Between June 1942 and December 1943, the Antonescu regime deported approximately 25,000 Roma to Transnistria. The deportees were ‘settled’ in village houses from which their Ukrainian owners had just been expelled, with no warm clothes or other possessions, no access to food or fuel, and no gainful employment opportunities in exile. Escaping north or crossing the South Bug river meant a likely death at the hands of the German authorities, who controlled the surrounding territory. Some managed to escape back to Romania, Bukovina and Bessarabia, though many of these runaways



were caught and returned to Transnistria. While there is no evidence to suggest that Romanian authorities specifically orchestrated mass executions of Roma in Transnistria, the records show that there were instances when gendarmes shot the exiles for transgressing the rules of 'settlement', as in Tryhaty (Ochakiv district of Odesa region) in May 1943, when police shot a group of Roma who had arrived from neighbouring villages in search of work. Ultimately, thousands of those deported to Transnistria died of starvation, cold and disease. The exact number of Roma who perished at the hands of the Antonescu regime in southwest Ukraine is unknown. In March 1944, when the deportees were allowed to return home, the number of survivors was around 14,000 people: this means that at least 11,000 Roma deportees must have perished in Transnistria. Not all Romanian Roma were able to return to their homes, with several thousand stranded behind the front line of the advancing Red Army. Some were repatriated after the war, with others scattered across Ukraine.

Approximately 15,000 Roma were based in Zakarpattia, including some sedentary and some itinerant Roma from Hungary and Slovakia. In 1941, the Hungarian government in control of the region curtailed the mobility of Roma and exploited their labour, confining Roma to ghettos and imposing a range of restrictions, including prohibiting marriages between Roma and ethnic Hungarians. Yet until 1944, when the German military took effective control over Hungary, no deportations or killings took place. Between April and June 1944, tens of thousands of Zakarpattia Jews were deported to Osventsim concentration camp. Roma would have followed if the Red Army had not subsequently taken control of Zakarpattia later that year. Many Roma in the west of Hungary were killed or deported: Roma in Zakarpattia very narrowly escaped the same fate.

In Crimea, after an initial wave of mass shootings, several thousand Roma were saved from certain death thanks to petitions by the Muslim Committee and the alteration by local administrations of population records to list them as Tatars and not Chingine. In May 1944, after the Soviets gained control over Crimea, the whole Tatar population of the peninsula was deported to Central Asia. The majority of surviving Crimean Roma shared their fate. Thousands died on the journey and Crimean Tatars were not allowed to return to their homes until the Perestroika period. Some Crimean Roma left the areas of

enforced settlement after the death of Stalin and eventually returned in the late 1980s and early 1990s along with Crimean Tatar repatriates. Others remain in Uzbekistan to this day.

Very few Roma survived the Nazi genocide in mainland Ukraine. Only nomadism and the cover of the forest helped the few survivors escape. In the mid-1950s, however, Soviet authorities enacted a range of policies forcing Roma to settle, predominantly in rural areas and often in substandard living conditions. Abstaining from labour was an offence in the Soviet Union so everyone was employed. Roma mainly worked at factories, collective farms or communal enterprises, though still segregated from the rest of the population. Despite every child being guaranteed education, many Roma were only able to access low quality schooling.

According to the 1989 population census, just under 48,000 residents of the Ukrainian Soviet Socialist Republic declared themselves to be Roma. In 1991, the Soviet Union and the socialist economy collapsed. The factories and collective farms where large numbers of Roma worked closed down. To survive, many Roma, particularly from Zakarpattia, engaged in seasonal migration to larger cities such as Moscow and St Petersburg in search of work. Throughout the turbulent 1990s and early 2000s, they were forced to live in temporary encampments and survived collecting scrap metal and other recyclables, doing handyman jobs, construction works and begging. Children of Roma migrants fell out of the education system. Generations were born without, or lost, their documents.

However, in recent years, particularly after the Russian occupation of Crimea in 2014 and the outbreak of conflict in eastern Ukraine, the migration routes to Russia have closed down. In addition, armed hostilities have caused mass displacement from conflict-affected areas. Some 1.5 million people, including Roma from Donetsk and Luhansk regions, were forced to leave their homes due to threat of prosecution by the Russian-backed armed groups<sup>6</sup> or acute shelling. Others remain in the conflict zone. Unfortunately, access of NGOs to information on the situation of Roma in the territories controlled by the armed groups is very limited due to severe restrictions on the operations of human rights groups in the area. This study therefore focuses on the problems of Roma within the peaceful territory of Ukraine where the government is fully in control.

### 3 Community Profile

The last National Population Census, carried out in 2001, recorded 47,600 Roma inhabitants (amounting to around 1 per cent of the total population).<sup>7</sup> It is likely that the actual number is significantly higher than this: independent estimates suggest there may be between 200,000 and 400,000 Roma dispersed across the country,<sup>8</sup> with the most numerous Roma communities situated in Zakarpattia, Odesa and Kharkiv regions. Although the estimates by different civil society groups are often conflicting and cannot generally be regarded as scientific estimates, they are likely to be better approximations than the modest figures recorded by the census. It is therefore crucial that national and local authorities have access to reliable data about demographic composition, geographic distribution and the specific needs of the population in general, particularly Roma and other minorities, to inform the development of effective and equitable policy making.<sup>9</sup> This requires not only reliable data at a national level but also disaggregated data by locality, community and gender. As Maksym Dzhum, a Roma mediator working with 'Chiricli' Foundation in Odesa region, explains:

*'You cannot just outline what the needs of Roma people in Ukraine are. The situation in Odesa region is very different from that in Zakarpattia or even Kharkiv region. Even within Odesa region Roma are not some sort of homogenous community. Roma are dispersed throughout Odesa region. Different groups may belong to different sub-ethnicities, talk differently, have different traditions and different realities of life.'*

The question remains, however, where Ukrainian authorities can obtain this data. As is the case in a number of other countries in Eastern and South-Eastern Europe, the population registries<sup>10</sup> and other official records are not helpful in mapping the Roma population. This is in part because many Roma lack identity documents and residency registration. Furthermore, in an effort to break from the Soviet system of institutionalized discrimination, Ukrainian authorities moved away from the practice of recording the ethnic identity of individuals in official registries and identity documentation.

The misrepresentation of the Roma population in the 2001 census may also be due in part to some Roma

respondents concealing their ethnic identity or avoiding the surveyors out of fear or distrust of the authorities. This was acknowledged by Vadym Matiushenko, a Roma activist from Kharkiv region, who described the difficulties of surveying Roma communities from his own experiences during the 2001 Census:

*'If they don't know you, Roma would tell you that they were Azerbaijanis or Armenians or whatever dark-skinned ethnic group they thought they might look like. People fear that if authorities know they are Roma it would call for some trouble. Many people did not open the door. Roma do not have a reason to expect anything good from the government representatives. They are afraid of public officials. When they see a stranger at the door with a pen and a notebook and automatically assume him to be a government representative, who is up to no good. Of course, they would not open that door! Even I, Roma myself, am sometimes perceived as a stranger, foreigner and a representative of the potentially hostile authorities in some communities. I think that the only way to unlock those doors and get people to openly discuss their realities is to get Roma mediators, who have solid relationships with the community and are trusted by them, to knock on those doors and ask those questions.'*

More generally, the undercounting of Roma also reflects their broader discrimination in Ukrainian society: many Roma in Ukraine spend their entire lives without any form of identity documentation or registration. This is illustrated by the situation of the Kotlier community in Odesa, described by Maksym Dzhum as follows:

*'In such communities you find lots of people who have no passports, children not going to school because they would have no birth certificates. They often live in horrendous poverty. Census figures tell you nothing about them. Sometimes you suspect that authorities may be intentionally denying them the right to exist in the eyes of the law, official registries, censuses and records. It wasn't once that I heard local officials say to me: 'Why are you helping Roma to get documented and registered? We would be better off without these*

*extra 'citizens' here! Once they are officially registered they would start demanding allocation of land plots and claiming other rights! We don't have resources for that!*

Some Roma houses and even neighbourhoods do not have an address and are not included on official maps as they were constructed without formal permits: as a result, they may be excluded from the census survey as they lack an official address.<sup>11</sup> This invisibility on paper further entrenches their exclusion.

This is precisely why the Advisory Committee of the Framework Convention for the Protection of National Minorities repeatedly insisted that, before beginning the next census, Ukrainian authorities should raise awareness of the objectives of the census among minority communities, inform them of the importance of reliable data on ethnic and linguistic composition of the population for their own communities, and clarify the safeguards that exist to make sure that all data provided to the surveyors is not be misused. Complex awareness-raising campaigns such as these must be planned and implemented by authorities in close cooperation with national minority representatives. Persons belonging to national minorities should, as far as possible, be represented among census officials at the stage of methodology design as well as during the surveying process itself. In areas populated by a significant number of people speaking minority languages, authorities should use bilingual or multilingual forms during the census. Last but not least, the census questionnaire should allow respondents to indicate more than one ethnic affiliation and more than one mother tongue.<sup>12</sup>

While the next census was originally supposed to take place in 2011, it has been postponed on several occasions and is currently scheduled to take place in 2020. Preparations by the State Statistics Service of Ukraine (StateStat) are underway, with a pilot of the methodology to be tested in December 2019 in one of the districts of Kyiv city as well as in one of the districts of Kyiv region. Judging from the questionnaire for the trial census released by StateStat, it intends to introduce a number of positive innovations to the census methodology.<sup>13</sup> It is commendable, for instance, that the new census will attempt to map the internally displaced population and verify to what extent 'place of residence registration' (formerly known as 'propiska') reflects their actual location. The census is also going to examine levels of education among the population and, to some extent, employment and housing conditions.

It must be noted, however, that as it stands the methodology sadly fails to implement the various steps recommended by a range of international institutions to

ensure improved protection of the rights of Roma and other national minorities in Ukraine. It is clear that, in order to avoid further misrepresentations, the authorities must involve Roma NGOs in designing the census methodology as early as possible so that all settlements, regardless of their official status, are included in the survey. They should also allocate sufficient resources to enable support of Roma mediators at the stage of surveying. Unfortunately, there has been little sign of meaningful consultation or participation from official channels. The Inter-Agency Commission to Facilitate the National Population Census (Census Commission), comprising representatives of various public and academic institutions, has so far failed to adequately involve minority community representatives and even members of the so-called Roma Secretariat, which operates under the auspices of the Ministry of Culture. If these underlying issues are not effectively addressed this time around, then it is likely that the problems of the 2001 Census will be similarly flawed.

In addition, while the national population census can – if well designed and implemented – be a crucial data collection tool, it alone is not sufficient to form a comprehensive evidence base for public policy towards national minorities. This is why various international institutions recommended that Ukrainian authorities develop alternative mechanisms for timely collection and analysis of data gathered by authorities when providing administrative, social or educational services.<sup>14</sup> Although Ukrainian law does not allow the collection and storage of data on ethnicity other than in the framework of the population census, some institutions have been reporting figures pertaining to the number of Roma provided with certain public services. For example, when reporting in 2017 on implementation of the 2020 Roma Strategy, Zakarpattia Regional Administration reported that social protection authorities in the region had provided a total of 17,516 Roma families with various forms of assistance, including child welfare, single mother support, disability benefits, low-income family subsidies, unemployment benefits and utility payments. Figures such as these are undeniably valuable for authorities to understand and address the specific needs of Roma and other minority communities. They are, however, only indicative given that many of the most marginalized Roma in Ukraine are barred from accessing any social and administrative services due to a lack of identity documentation or residence registration.

A separate concern, however, is that even anonymized ethnic data could potentially be misused and manipulated. Olha Vesnianka, a pro-Roma human rights activist, explained some of the potential dangers of unethical handling of ethnic data:

*‘In our local context, any initiative to “count the Roma” must be treated with caution. It may be driven by the best of intentions. But it takes next to nothing for reality to turn these good intentions into something monstrous –like the police harassing people on the street, raiding some settlements, figure-printing or even detaining people. Publication of ethnic data is a very sensitive matter. Mentioning ethnicity in crime statistics or individual crime reports, data on social benefits and payments – release of such information into public domain can easily trigger communal tensions, manifestations of hatred and even violence. One must be aware of these things and very careful with any sort of ethnic data.’*

Mindful of such risks, the United Nations Committee on the Elimination of Racial Discrimination (UN CERD) recommended that, in addition to conducting the population census as soon as practicable, Ukrainian authorities should also regularly and systemically gather ethnic data from academic and social surveys carried out in the field. The Committee pointed out that such information would not only help UN institutions understand the situation of various minorities better, but would also enable Ukrainian authorities to design better programmes, plans and strategies and measure their impact.<sup>15</sup> In the past few years, a number of informative research initiatives have been implemented in Ukraine by various NGOs and coalitions. For example, the Coalition of Roma NGOs published the results of a survey outlining the situation of Roma in Ukraine in relation to the ongoing implementation of the 2020 Roma Strategy.<sup>16</sup> Although the survey does not capture the complex regional variations discussed earlier, this sort of data could nevertheless help authorities estimate the scope of certain problems and community needs.

At a regional level, recent efforts to map the Roma population of Kharkiv oblast by the National-Cultural Society ‘Romen’ deserve specific attention. Between June and September 2018 the NGO surveyed Roma in the city of Kharkiv and several districts of Kharkiv region. The survey covered a total of 6,279 people, which the organization believed represented as much as 60-70 per cent of Roma in the region. According to Vadym Matiushenko, the head of the organization, the environment for Roma in Kharkiv region is less challenging than in other regions, though around 50 Roma were identified as lacking any personal documentation, placing them in an extremely vulnerable situation. The NGO intends to present the findings of their mapping exercise to the relevant local authorities in the hope that the data will help guide more targeted local policy interventions to reach the most vulnerable community

members. Matiushenko is optimistic about the willingness of local authorities in Kharkiv region to cooperate and that, in the context of ongoing decentralization, local evidence-based solutions are possible.

Yurii Mandych, a Roma rights activist and a member of Uzhhorod City Council in Zakarpattia region, is equally concerned about the lack of reliable data on the Roma population and their needs, but less optimistic about the possibility that data collected by NGOs or even established research institutions can fill this gap. Based on his experience of membership in Uzhhorod City Council, he explains that budgetary allocations are made according to the number of people registered as permanent residents in a certain municipality and those dwellings that appear on official plans and maps. When residents and houses do not exist officially in the eyes of the law, then local authorities are reportedly powerless to plan or implement any policies for them, regardless of their desire to help. Mandych explained the dilemma:

*‘Do you think we in the city council do not know how many Roma there are in Uzhhorod and what their needs are? There are Roma community representatives in the local authorities, myself included. We understand the situation in the city very well. In smaller settlements mapping and assessing the needs of the Roma population is even easier than here in Uzhhorod. This knowledge does not help us resolve the existing problems. If a house, a street or even the whole neighbourhood is not marked on the city map the authorities have no right to allocate any funding for housing or infrastructural projects in that area. If we were to do it based on our knowledge that is not supported by official data, SBU [the Security Service of Ukraine] would come after all of us and get us arrested on corruption charges.’*

Similar ‘red tape’ issues have been evident in many other post-socialist countries of Eastern Europe. In Romania, for example, it was local academic networks and civil society groups that researched and articulated the specific needs and problems of the Roma minority.<sup>17</sup> Public sector reforms as part of Romania’s accession to the European Union (EU) helped cut some of these administrative barriers. In light of Ukraine’s EU accession aspiration, authorities could benefit from the experience of the Eastern European EU member states in this area.

Authorities at the national and local level should encourage and support research into the situation of Ukraine’s national minorities, and Roma in particular, by academics and NGOs. They could also collect information on the socio-economic situation of Roma through periodic studies by contracted private research agencies.

Most importantly, authorities must ensure that policy development pertaining to the Roma minority and communities where Roma are present does not rely solely on the official population records because of their inaccurate representation of the true size of the Roma

population. Instead, decision making should be grounded in a comprehensive evidence base where official data is corroborated and enriched by the findings of academic institutions, NGOs, international organizations and private polling agencies.

# 4 Legal and institutional frameworks

The long history of discrimination experienced by Roma, frequently encouraged or perpetrated by state authorities themselves, underlines the many human rights violations Roma communities still experience today. Since Ukraine gained independence in 1991, it has begun the process of transition into a democracy based on rule of law and respect for human rights. In fact, it is widely recognized that development, peace and stability require effective, legitimate and resilient state institutions capable of promoting sustainable development and engaging with their citizens. Democracy is often described as a system in which majority rule is balanced by minority rights, with equality regarded as a prerequisite of human rights, democracy and rule of law, all elements that are crucial for successful modern states. Hence, for the success of the ongoing transformation process, it is crucial that Ukraine puts in place an effective legal and institutional framework for the protection of minorities, including Roma, and prohibition on all forms of discrimination.

This section outlines some of the main domestic and international legal frameworks relating to minority rights, including a number of provisions specifically introduced as part of the EU-Ukraine visa liberalization process, and highlights some of the ongoing institutional and budgetary barriers to their implementation.

The Constitution of Ukraine,<sup>18</sup> adopted in 1996 following independence, contains a number of provisions relating to the respect and protection of its minority communities that state authorities are obliged to uphold. These provisions include supporting development of the ethnic, cultural, linguistic and religious identities of its national minorities (Article 11), promoting diversity (Article 15), upholding equal rights for all (Article 21) and prohibiting discrimination (Article 24). The Constitution also stipulates that international treaties ratified by the Ukrainian Parliament form part of Ukraine's national legislation and must be directly applicable (Article 9).

**Table 1:** Key international instruments to which Ukraine is a signatory

1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	
<b>Article 1</b>	Defines racial discrimination as 'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'.
<b>Article 2</b>	Requires the States to adopt a policy of eliminating racial discrimination. This among other issues implies the adoption of laws prohibiting discrimination and including the enactment of temporary measures to ensure adequate development of certain vulnerable minority groups.
<b>Article 4</b>	Requires the States to not just prohibit but also declare as 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. In addition, it stipulates that any organizations and activities which promote and incite racial discrimination must be declared illegal and prohibited.
1966 International Covenant on Civil and Political Rights (ICCPR)	
<b>Article 2</b>	Requires every State Party to the Covenant to respect and to ensure the rights specified by the Covenant to all individuals within its jurisdiction 'without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'.
<b>Article 26</b>	Reiterates that 'all persons are equal before the law and are entitled without any discrimination to the equal protection of the law' and prohibits discrimination on the ground of any status.
<b>Article 27</b>	Stipulates that States with ethnic, religious or linguistic minorities must not deny members of those minorities their right to enjoy 'in community with the other members of their group, their own culture, to profess and practice their own religion or to use their own language'.

**Table 1:** Key international instruments to which Ukraine is a signatory (continued...)

1966 International Covenant on Social, Economic and Cultural Rights (ICESCR)	
<b>Article 2</b>	Requires every State Party to the Covenant to respect and to ensure the rights specified by the Covenant to all individuals within its jurisdiction 'without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'.
<b>Article 9</b>	Recognizes 'the right of everyone to social security, including social insurance.'
<b>Article 11</b>	Recognizes '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.'
<b>Article 12</b>	Sets an obligation for the States to guarantee the 'right of everyone to the enjoyment of the highest attainable standard of physical and mental health.'
<b>Article 13</b>	Guarantees the right to education and stipulates that 'education shall be directed to the full development of the human personality and the sense of its dignity' and 'shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups.'
1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)	
<b>Preamble</b>	Emphasises that the 'eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women.'
<b>Article 1</b>	Defines discrimination against women as 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil and any other fields.'
<b>Article 5</b>	Prescribes that States 'modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.'
<b>Article 10</b>	Requires that States ensure that women have equal rights with men in the field of education, among other measures by enabling their access to programmes of continuing education (including adult and functional literacy programmes); ensuring reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely; and enabling access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.
<b>Article 14</b>	Demands that state guarantee rural women the right to participate in the elaboration and implementation of development planning at all levels; to have access to adequate health care facilities, including information, counselling and services in family planning; benefit directly from social security programmes; obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency; to have access to agricultural credit and loans, marketing facilities, appropriate technology; and to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.
1989 Convention on the Rights of the Child (UNCRC)	
<b>Article 2</b>	Obliges State Parties to 'respect and ensure the rights set forth in the Convention for every child within their jurisdiction without any discrimination irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status and protect children from discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'
<b>Article 3</b>	Obliges the States to make interests of a child a primary consideration in all actions concerning children undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.
<b>Article 7</b>	Requires that 'the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents.'

(continued overleaf...)

**Table 1:** Key international instruments to which Ukraine is a signatory (continued...)

1989 Convention on the Rights of the Child (UNCRC) (continued...)	
Article 9	Requires the States to ensure that ‘a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.’
Article 18	Stipulates that States Parties shall ‘render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.’
Article 27	Recognizes ‘the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.’
Article 28	Recognizes ‘the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity.’
Article 30	Stipulates that in those States ‘in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.’
1950 European Convention on Human Rights and Fundamental Freedoms (ECHR) and its Protocol No.12	
Article 1	Obliges States to guarantee everyone in their jurisdiction enjoyment of the civil and political rights set forth in the Convention.
Article 13	Stipulates that everyone has a right to an effective legal remedy in case of infringement of their rights.
Article 14	Guarantees the right to freedom from discrimination in access to the rights set forth by the Convention.
Article 1, Protocol 12	Prohibits discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth of other status in enjoyment of any right set forth not just by ECHR but any law or an act of any public authority.
1997 Framework Convention for the Protection of National Minorities (CoE FCPNM)	
Article 1	Emphasizes that ‘the protection of national minorities and of the rights and freedoms of persons belonging to those minorities form an integral part of the international protection of human rights.’
Article 4	Requires that the State Parties guarantee to persons belonging to national minorities ‘the right to equality before the law and of equal protection of the law’ and obliges them to take adequate measures to promote ‘full and effective equality between persons belonging to a national minority and those belonging to the majority.’

Ukraine is party to a whole range of international human rights instruments with relevant provisions to the situation of minorities, including the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD),<sup>19</sup> the 1966 International Covenant on Civil and Political Rights (ICCPR),<sup>20</sup> the 1966 International Covenant on Social, Economic and Cultural Rights (ICESCR),<sup>21</sup> the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),<sup>22</sup> the 1989 Convention on the Rights of the Child (UNCRC),<sup>23</sup> the 1950 European Convention on Human Rights and Fundamental Freedoms (ECHR)<sup>24</sup> and its Protocol No.12,<sup>25</sup> and the 1997 Framework Convention for the Protection of National Minorities (CoE FCPNM).<sup>26</sup>

The rights enshrined in the international legal instruments presuppose the positive obligation of the states to create ‘infrastructure’, allocate resources and take other measures to make those rights a reality. In Ukraine, however, the frameworks for realization of these constitutional and international legal principles – already at the level of the national laws and institutions, largely due to persisting legacy of the Soviet system – in practice are highly inconsistent, incomplete and contradictory.

Soon after the declaration of independence the parliament of Ukraine adopted the Law ‘On National Minorities in Ukraine’ setting the framework for the protection of minorities. According to Article 3 of this Law, any group of citizens of Ukraine who are not ethnic



Ukrainians but demonstrate a sense of national identity and unity are regarded as a national minority. Article 11 declares that citizens are free to choose and restore their national identity and that forcing an individual to renounce his/her nationality is prohibited. Article 18 specifies that any direct as well as indirect restriction of rights and freedoms on the basis of nationality is prohibited and shall be punishable by law. Article 7 requires the state to ensure that the network of state educational establishments prepares teachers and other cadres to enable preservation and promotion of national minorities' cultures and languages. Article 14 guarantees the state support for the NGOs representing national minorities. Article 10 guarantees the right of national minorities to 'living space' (such as land and housing) in the areas of their historic and current settlement.<sup>27</sup> Despite subsequent amendments, the Law 'On National Minorities in Ukraine' is widely seen as inadequate and outdated.<sup>28</sup>

In 2012, in the framework of the Ukraine-EU visa liberalization process, the Ukrainian parliament adopted the Law 'On the Principles of Preventing and Combating Discrimination in Ukraine'.<sup>29</sup> In 2014 it amended it in response to criticism by the European Commission in the course of the visa liberalization process. The Law, however, still contains a number of gaps and inconsistencies that need to be addressed to ensure it can be implemented effectively.<sup>30</sup>

Beyond the framework legislation, anti-discrimination clauses can be found in virtually every law regulating different aspects of civil life, including the Civil Code of Ukraine,<sup>31</sup> the Civil Procedure Code,<sup>32</sup> the Labour Code of Ukraine,<sup>33</sup> the Law 'On National Police'<sup>34</sup> and the Code of Administrative Procedure.<sup>35</sup>

Parallel to these civil and administrative laws, there also exists a criminal law framework designed, at least in theory, to support the protection of minorities against

**Table 2:** Key anti-discrimination provisions in civil and administrative law

Civil Code of Ukraine	
Article 1 (1)	Proclaims equality before the law among the key principles governing civil relationships.
Article 27	Regards all provisions which limit an individual's opportunity to exercise his/her civil rights null and void.
Article 300	Guarantees every person the right to preserve his/her national, cultural, religious, linguistic identity and freedom to choose the forms to express his/her individual personality as long as this expression does not violate the law.
Civil Procedure Code	
Article 6	Requires courts considering civil cases to ground themselves in principles of equality before the law and treat all parties to the proceedings equally, regardless of race, skin colour, political, religious or other beliefs, sex, ethnic or social origin, material status, place of residence, language or other characteristics.
Article 81 (2)	Stipulates that in cases concerning discrimination, the plaintiff is obliged to provide evidence that confirms discrimination has taken place and if this is provided the burden of proof shifts to the defendant.
Labour Code of Ukraine	
Article 2	Prohibits any form of discrimination, direct or indirect, in the area of employment on the grounds of race, skin colour, political, religious or other beliefs, sex, gender identity, sexual orientation, ethnic, social or foreign origin, age, state of health, disability, state of health, disability, actual or presumed HIV/AIDS status, actual or presumed, family and marital status, financial situation, family duties, place of residence, trade union membership or membership in other associations, strike participation, submission or intension to submit a court claim to protect one's rights or supporting other workers in protecting their rights, language or other characteristics that are not linked to the nature of work and performance conditions.
Law 'On National Police'	
Article 7 (5)	Prohibits in police operations any privileges or restrictions on the grounds of race, skin colour, political, religious or other beliefs, gender, ethnic or social origin, financial situation, place of residence, language or other characteristic.
Code of Administrative Procedure	
Article 2	Mandates the courts to examine whether any decision, act or omission of a certain public authority or office were compliant with the principle of non-discrimination and requires the courts to cancel and remedy those that were not.

hate-motivated violence, hate-speech and other criminal forms of discrimination.

Recalling Article 4 of the CERD, which demands that any acts of racist violence as well as dissemination of ideas based on superiority of one racial group over the other, incitement of racial discrimination or racist violence shall be declared an offence punishable by law, it is worth considering the international standards pertaining to the definition of criminal forms of discrimination as well as the required quality of the criminal law before turning to the analysis of the relevant provisions of the Criminal Code of Ukraine (CCU). In particular, the European Court of Human Rights (ECtHR) in the case of *Danilenkov and others v Russia* (No 67336/01, judgement of 30 July 2009),<sup>36</sup> which concerned labour discrimination, concluded that criminal prosecution is not always an appropriate remedy in the context of discrimination. The Court concluded in this case that civil proceedings would have provided the applicant who was unfairly dismissed from his job a more appropriate remedy. It concluded that criminalization of all forms of discrimination, which effectively barred the applicant's access to civil proceedings, amounted to a violation of his right to effective legal remedy against discrimination. On the other hand, the ECtHR specified in its case law that dealing with violent threats, harassment, bias-motivated verbal abuse or calls to violence against a particular minority group capable of leading to harmful consequences should be dealt with differently.<sup>37</sup> Moreover, the ECtHR explained that when incidents of violence and brutality may have a discriminatory motive, the states cannot treat those cases on equal footing with cases that have no such overtones as this would be turning a blind eye to the specific nature of the acts that are particularly destructive to fundamental rights.<sup>38</sup> In other words, while in some contexts the criminalization of discrimination is inappropriate, particularly when it prevents a victim's access to other types of remedies, in other cases – particularly where violence, threats of violence or incitement of discrimination and hatred against a minority group are concerned – criminal law must come into action. Even more so, criminal law provisions concerning violent crimes, such as murder, battery, torture, criminal injury as well as criminal damage to property, should regard bias as a specific aggravating circumstance leading to a punishment of appropriate severity.

However, the Criminal Code of Ukraine (CCU),<sup>39</sup> despite numerous amendments, including those made in the framework of the EU-Ukraine visa liberalization process, fails to correspond to the above outlined standards and to observe the required distinctions. Article 161 (*Violation of citizens' equality based on their race, nationality, religious preferences, disability or other characteristics*) provides:

*' 1. Deliberate actions aimed at inciting national, racial or religious enmity and hatred [1], at humiliation of national honour and dignity [2], or the insult of citizens' feelings in respect to their religious convictions [3], and also any direct or indirect restriction of rights or privilege to citizens based on race, colour of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics [4], – shall be punishable by a fine in the amount of 200 to 500 tax-free minimum [monthly] incomes, or restraint of liberty for a term up to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.*

*2. The same actions accompanied with violence, deception or threats, and also committed by a public official, shall be punishable by a fine in the amount of 500 to 1000 tax-free minimum [monthly] incomes, or by imprisonment for of two to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.*

*3. Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group of persons, or where they caused death of people or other grave consequences, shall be punishable by imprisonment for a term of five to eight years.'*

Clearly, the text above brings together incitement of hatred with a mere insult to a person's religious feelings as well as any form of discrimination ('the privilege or registration of rights' – using the language of Ukraine's legislation), direct or indirect, on any grounds. This appears to be precisely what the ECtHR warned against when considering the case of *Danilenkov and others v. Russia*, cited above. When the provision of criminal law is formulated in such a vague and broad manner that it does not meet a minimum standard of legal certainty and clarity, further criticisms about minor details – for example, the reference only to 'citizens' as victims – become redundant. It is not therefore surprising that this provision was rarely used in practice, particularly with regard to discrimination.<sup>40</sup>

Regarding the obligation to treat the hate motive as aggravating circumstances in case of violent crimes, Table 3 outlines some of the main provisions. While in principle the text appears to cover a wide range of criminal acts motivated by 'racial, national or religious enmity', including murder, physical assault, torture and propaganda of discriminatory material, in practice its provisions are rarely implemented in criminal

**Table 3:** Overview of key provisions in the Criminal Code of Ukraine

Article 67	<p><b>Circumstances aggravating punishment</b></p> <p>'For the purposes of imposing a punishment, the following circumstances shall be deemed to be aggravating: ... 3) the commission of an offense on the ground of racial, national, religious enmity or hostility.'</p>
Article 115	<p><b>Murder</b></p> <p>'Murder... motivated by racial, national, or religious enmity... shall be punishable by imprisonment for a term of ten to fifteen years, or life imprisonment.'</p>
Article 121	<p><b>Intentional grievous bodily injury</b></p> <p>'Intentional grievous bodily injury committed by a method characterized by significant suffering, or by a group of persons, and also for the purpose of intimidating the victim or other persons, or motivated by racial, national and religious enmity, or committed as a contracted offense, or which caused death of the victim... shall be punishable by imprisonment for a term of seven to ten years.'</p>
Article 122	<p><b>Intentional bodily injury of medium gravity</b></p> <p>'Intentional bodily injury of medium gravity, that is a deliberate bodily injury which is not dangerous to life and does not result in the consequences provided for by Article 121 of this Code, but which caused a lasting health disorder or a significant and persisting loss of not less than one-third of working capability... committed for the purpose of intimidating the victim or his/her relatives, or coercion to certain actions, or on the grounds of racial, national or religious enmity, shall be punishable by imprisonment for a term of three to five years.'</p>
Article 126	<p><b>Battery and tormenting</b></p> <p>'Intentional blows, battery or other violent acts which caused physical pain but no bodily injury... characterized by torture, committed by a group of persons or for the purpose of intimidating the victim or his relatives, or motivated by racial, national or religious enmity, shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.'</p>
Article 127	<p><b>Torture</b></p> <p>'Torture, that is a deliberate causing of severe physical pain or physical or mental suffering by way of battery, torment or other violent actions with the aim of forcing the victim or another person to commit involuntary actions, including for the purpose of obtaining information or confession from her or another person, or with the aim of punishing her or another person for actions committed by her or another person or which she is suspected of, as well as for the purpose of intimidation or discrimination against him or other people... repeated or committed by a group of persons upon prior conspiracy, or motivated by racial, national or religious enmity, shall be punishable by imprisonment for a term of five to ten years.'</p>
Article 300	<p><b>Importing, producing or distributing works that propagandize violence and cruelty</b></p> <p>'1. Importing into Ukraine for sale or distribution purposes, or production, storage, transportation or other movement for the same purposes, or sale or distribution of works that propagate violence and cruelty, racial, national or religious intolerance or discrimination, shall be punishable by a fine up to 100 tax-free minimum [monthly] incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years.</p> <p>2. The same actions in regard to motion pictures and video films that propagate violence and cruelty, racial, national or religious intolerance or discrimination, and also selling the works that propagate violence and cruelty, racial, national or religious intolerance and discrimination, or disseminating such works among minors, shall be punishable by a fine of 100 to 300 tax-free minimum incomes, or restraint of liberty for a term up to five years.</p> <p>3. Any such acts as provided for by paragraph 1 or 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, and also compelling minors to participate in the creation of works that propagate violence and cruelty, racial, national or religious intolerance and discrimination, shall be punishable by imprisonment of three to five years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.'</p>

prosecutions. Instead, law enforcement agencies usually classify violent attacks allegedly motivated by bias<sup>41</sup> under Article 296 of the Criminal Code of Ukraine, namely as 'hooliganism'.

In April 2013, also in the framework of the EU-Ukraine visa liberalization process, Ukrainian authorities adopted the Roma Strategy 2020.<sup>42</sup> In September 2013 the Action Plan for implementation of the Roma Strategy 2020 was approved.<sup>43</sup> The Roma Strategy 2020 has six major blocks of objectives (Table 4 - Overleaf).

Roma rights NGOs have complained that when developing the 2020 Roma Strategy and the Action Plan, the authorities did not involve them in the process. They were also concerned with the absence of an anti-discrimination or human rights framework in the Action Plan and the fact that it presented Roma rights as a social problem rather than a more systemic issue. In addition, there are certain discrepancies between the Strategy and the Action Plan, and neither of the documents contains any objectively verifiable indicators. The experts agree,

**Table 4:** Overview of Roma Strategy 2020

#### Legal protection of Roma

- to promote Roma participation in public life, including decision in making by executive and local self-governance authorities that affect the situation of Roma national minority;
- to increase legal awareness among Roma;
- to prevent discrimination against Roma;
- to strengthen dialogue between law enforcement and other executive authorities and Roma NGOs;
- to enhance cooperation with international institutions on Roma-rights issues;
- to promote tolerance towards Roma.

#### Social security and employment

- to implement social policy aimed at ensuring social protection of Roma, including families with children, orphans, children deprived of parental care, children in difficult circumstance, pensioners and single disabled and homeless persons, as well as to enhance Roma employability;
- to raise awareness among Roma for prevention of violence and abuse in the family, and prevention of child labour exploitation;
- to prevent discrimination of Roma in employment;
- to engage Roma in publicly beneficial work;
- to enhance cooperation between Roma NGOs and social protection and employment aid officials.

#### Education

- to raise awareness among Roma on educational opportunities for children;
- to enhance cooperation between educational establishments and Roma NGOs;
- to decrease school drop-out rates among Roma;
- to promote vocational training opportunities among Roma.

#### Healthcare

- to raise awareness among Roma on public healthcare systems;
- to raise awareness on Roma customs, culture and living conditions among healthcare professionals;
- to pay special attention to the health of Roma children;
- to raise awareness and promote healthy lifestyle among Roma.

#### Living conditions and housing

- to improve social infrastructure in places of residence of Roma;
- to assist Roma in accessing housing and subsidised mortgages in line with the current legislation.

#### Culture

- to facilitate preservation and development of Roma culture and arts;
- to raise public awareness about life and culture of Roma.

however, that the main weakness of these strategic documents is that they have not received any budgetary funding to support their implementation. As Tetiana Kurach, Manager of the Roma Secretariat, explained:

*The government needed to adopt the Roma Strategy in 2013. They had to do it in a rush in order to comply with the conditions set forth by the EU-Ukraine Visa Liberalisation Process. The law requires the authorities to hold public consultations before adopting such strategy documents. Thus, the authorities must have called for recommendations and suggestions. But not many were received. Certainly, the basic formal public consultation procedure may not be the best and most effective means of meaningful engagement of the public into the decision making process. So, it is very good that we are now starting to talk about how the strategic framework for Roma inclusion should look*

*like well in advance of 2020, when the current Strategy will expire. In any case, the main problem with the 2020 Roma Strategy I think is not so much the issue of participation, but the fact that there has been no funding whatsoever budgeted to implement it.*

The Strategy and the Action Plan designated the Ministry of Culture as the primary coordinating agency for implementation of the 2020 Roma Strategy, and established the Inter-Agency Working Group for Integration of Roma Minority into Ukrainian Society until 2020. The documents required the Ministry to establish a special unit that would serve as a Secretariat to the Inter-Agency Working Group. For three years after the adoption of the Strategy and Action Plan, however, little progress was observed in their implementation. The main reason for this was lack of funding. In 2016, the International Renaissance Foundation funded two freelance experts on

Roma rights issues to staff the Secretariat. Due to their unusual position, they are not regarded as government officials and are somewhat secluded from the rest of the Ministry: for example, they are not able to apply for funding through the normal budgetary process and are not always informed of policy developments underway in the 'regular' Ministerial departments.

Following adoption of the Strategy and the Action Plan, regional administrations were mandated to adopt their own regional action plans on Roma integration. Most of these ended up simply copying the text of the national strategic documents, with no measureable indicators or actual budget. Nevertheless, thanks to the tireless work of Roma rights NGOs and the support of international institutions, including the International Renaissance Foundation, Council of Europe (CoE) and the EU, the thematic working groups involving relevant state institutions and civil society organizations began meeting and examining the problems of the Roma community. In 2018, the Roma Secretariat ran a series of strategic planning sessions for local authorities with the support of the CoE. Some regional administrations revised their strategies for Roma integration as a result. However, a lot of work is still required before local authorities are in a position to develop and implement the resources necessary to meet the needs of the Roma population.

Regional action plans and institutional arrangements to promote Roma inclusion and protection of their human rights at the local level are particularly important in the context of Ukraine's ongoing decentralization reform, with local authorities having greater control over financial management and decision making in future. In fact, in some exceptional cases, local authorities have already allocated some limited funding to support implementation of certain strategy priorities at the local level. Most of them, however, lack the skills and knowledge necessary to budget for and effectively manage minority protection projects. Hence, a great deal of effort is still required to increase the capacity of local authorities and empower them to enact the 2020 Roma Strategy and Action Plan in partnership with NGOs and local Roma communities.

To avoid the risk of the so-called 'decentralization trap' associated with the generally weaker capacities of community level officials compared to staff within the central government, as well as to maximize the potential benefits of decentralisation, the role of Roma advisers and other consultative mechanisms with Roma communities should be officially instituted. In addition, national authorities should also identify and support with additional funding economically disadvantaged areas where adequate funding for the needs of Roma and other minority groups may not be readily available.

# 5 Current issues

## Personal documents and civil registration

It is widely recognized that lack of identity documentation is among the key issues preventing many Roma in Ukraine from securing basic human rights.<sup>44</sup> It perpetuates disenfranchisement, discrimination and impoverishment, barring access to social, administrative and medical services, education, regular employment and housing. Lack of identity documentation in Ukraine makes an

individual invisible in the eyes of the law, unable to access basic rights.<sup>45</sup>

Due to the absence of reliable disaggregated data, it is difficult to estimate the exact number of Roma living without identity papers. Yet the experience of Roma rights NGOs suggests that lack of access to civil registration and identity documentation remains a significant challenge. For example, surveys conducted by the Coalition 'Strategy 2020' in 2017/2018 seemed to suggest that the majority of requests for advice and assistance to Roma rights NGOs

### The challenges of securing health care without documentation

As explained by Zemfira Kondur, a project coordinator of a CoE minority rights programme, the bureaucratic hurdles Roma face are not only a legacy of the Soviet era but also a product of the current government's emphasis on ensuring secure documentation – an approach that she believes may in fact be counterproductive:

*In Ukraine possession of an ID is a precondition for access to rights. I believe it is a Soviet legacy to a large extent. Yet, many problems related to documentation are a product of modern times too. They often originate from regulatory omissions or some additional, completely unnecessary zeal on the part of the authorities. For instance, the new national electronic population register, biometric technology, etc. provide Ukrainian authorities with an incredible opportunity to register, document and identify everyone. And I mean everyone. If there are some criminal elements hiding out there somewhere undocumented, you would think, the authorities would want to have them on record and in check. If someone tried to impersonate someone else to get a fake passport, modern technology allows them to uncover the deception. The more data the authorities have, the better they can identify this sort of thing and punish them.*

She believed that Ukraine's ongoing process of association with the EU had compounded these difficulties:

*They believe that in the range of priorities for EU-Ukraine association, 'document security' stands*

*above everything else. So, they keep introducing more and more access obstacles at every stage of document issuance procedure as if to safeguard the document from the person. This approach ultimately renders many Roma and other vulnerable citizens of Ukraine undocumented. It destroys their lives...*

*Another example is the ongoing healthcare reform. The overall transformation of Ukraine's healthcare system that started after the revolution of dignity deserves a lot of praise. People will now be able to choose their family doctors; the money will follow the patients, thus increasing competition, quality of the service and eliminating corruption; medical records are getting computerized. This is all amazing. However, you are no longer able to access planned healthcare without an identity document. I understand it is done to avoid fraud – there is a risk that some dishonest doctors could register fake patients making the government pay for them. However, there are thousands of people in Ukraine who have no valid passport and I am not only talking about Roma now. This also includes all the grannies with Soviet passports, IDPs who are unable to restore their documents because their records are at the armed-groups-controlled territory and therefore authorities cannot 'identify' them. Leaving all these people out of the healthcare system's coverage creates a serious risk to public health. The Ministry of Health must have a plan B that would take specific circumstances of all these people into account.*

concerned the issuance of passports and birth certificates, with a significant number of Roma respondents stating that they had faced problems and rights violations when applying for identity documents.<sup>46</sup>

The situation in this respect is reportedly most acute in Zakarpattia, with Odesa, Chernihiv and Cherkasy regions also experiencing similar issues. Even in Kharkiv region, where access to documents appears to be less of a problem, the mapping exercise implemented by 'Romen' NGO in the Kharkiv city and several adjacent districts revealed 50 Roma who had no identity documents whatsoever. According to the NGO representatives all Roma without such documents identified by the survey lived in extreme deprivation. The lack of passports was the main institutional factor causing their destitute situation.

According to local experts, in Odesa region as much as a quarter of the Roma population were without documentation in 2011: though the proportion had fallen significantly since then, thanks to Roma rights NGOs who had helped hundreds of Roma to navigate the complete process of registering and proving their identity, they estimated that between 10 to 15 per cent of Roma still lack identification papers today.<sup>47</sup> Those without documentation find themselves caught in a vicious cycle: while poverty, social exclusion, illiteracy and lack of adequate housing conditions had contributed to their lack of documentation, at the same time being undocumented cut them from education, welfare support, health care and other opportunities that might help them improve their lives. As a result, many remain trapped in destitution.

There are also pronounced disparities between urban and rural areas, with Roma living in the countryside disproportionately affected. One expert reported that in the city of Uzhhorod the proportion of undocumented Roma residents has been decreasing in recent years and currently stood at around 10 to 15 per cent, but that in the surrounding rural and peri-urban areas the numbers were much higher, with as much as 30 per cent or more of Roma lacking documentation. This was attributed to a number of factors, including higher levels of illiteracy outside towns and cities, the large distances separating some Roma settlements from administrative centres, the cost of travel that was prohibitive to many poorer community members and the lengthy time required to complete the process once there.<sup>48</sup>

In addition to those living in remote rural areas, Roma who engage in seasonal migration to urban centres in search of work are also at risk of being rendered undocumented. As noted earlier, the collapse of the socialist economy in the 1990s and the widespread closure of many state-owned factories left the majority of Roma in Zakarpattia without work. As was also the case for other Ukrainians who suddenly found themselves unemployed –

though it is widely agreed that Roma were disproportionately affected compared to other ethnic groups<sup>49</sup> – many Roma were forced to look for any opportunity to survive, such as tending crops in their gardens. Others, including many Hungarian-speaking Roma from Zakarpattia, or 'magyar ciganok' as they call themselves to outsiders, migrated on a temporary basis to larger cities in Russia and, to a lesser extent, within Ukraine. Migration to Russia was predominantly irregular since Ukraine's eastern border was barely guarded. In the course of countless raids on temporary encampments set up by 'magyars' on the outskirts of Moscow, St. Petersburg or Tambov, hundreds of people lost their documents.<sup>50</sup> Because of Ukraine's complex and often opaque verification requirements for the issuance of passports, the children of Ukrainian citizens born while their parents were living outside Ukraine as irregular migrants, particularly the children of Roma, now find themselves consigned to a life without identity documentation until such a time as Ukrainian law evolves to accommodate their circumstances.

As described previously in this report, the Russian occupation of Crimea and armed hostilities in eastern Ukraine cut off the illicit labour migration routes to Russia, leaving some 'magyar' stranded there without papers. The fighting also resulted in mass displacement, particularly from the conflict-affected regions in Donetsk and Luhansk regions, with Roma and other displaced people especially vulnerable to documentation issues. Besides the risk of shelling, large numbers of Roma caught behind the front line in Donbass fled into Russia to escape harassment by Russian-backed armed groups, with many moving to areas where they had relatives to live with. As a result, there are thousands of Roma refugees from Donetsk region in the south-west regions of Russia. Many of them are unable to regularize their status because the houses of their Roma relatives, who host them, were constructed in the 1950s<sup>51</sup> without the necessary planning permits and so do not qualify as acceptable accommodation for the purposes of registration. Living with an irregular status in a foreign country poses additional problems in terms of accessing consular protection. The loss of their Ukrainian passports or the birth of children while they are living irregularly outside Ukraine not only creates risks for these groups vis-à-vis Russian authorities, but also means they may lose their right to return to Ukraine. This leaves them in a situation of de facto statelessness, since their birth certificates and other records remain in the territory outside the Ukrainian government's control.<sup>52</sup>

Those who managed to relocate into the government-controlled part of Ukraine and now live as internally displaced persons (IDPs) may have better access to the relevant authorities in charge of documentation. Yet the

risk that Ukrainian authorities will not be able to identify them or confirm their citizenship because their official records remain in territory controlled by pro-Russian armed groups remains, leaving many IDPs struggling to secure documentation.

The problem of missing personal documents, including birth certificates, and the impact it has specifically on the situation of the Roma minority in Ukraine, has been raised time and again by various international human rights institutions. In recent years ICERD, ICESCR and the UN Human Rights Committee (HRC), when reviewing Ukraine's progress in implementation of relevant international human rights treaties, all urged Ukrainian authorities to put in place an accessible and cost-free system to enable Roma to secure the necessary documentation.<sup>53</sup> Yet Ukrainian authorities are still reportedly a long way from doing so. Documentation problems in Ukraine are not confined solely to Roma and some of the issues lie in internal inconsistencies in the citizenship, migration and personal documentation laws, as well as the complicated procedures surrounding them, affecting a variety of groups dispersed throughout Ukraine; however, Roma are nevertheless disproportionately affected as a result of the long-standing discrimination they face.

To overcome this problem, Roma rights NGOs continue to tirelessly advocate for further changes in the laws and procedures to ensure that every citizen of Ukraine can access, without discrimination on any grounds, identity papers. As a member of the Civic Advisory Council to the SMS, the 'Chirikli' Foundation can observe and comment on certain reforms under development within the agency. Representatives of Roma NGOs are also involved in an EU-funded civil society initiative aimed at changing the residence registration ('propiska') system.<sup>54</sup> Nevertheless, Roma activists are concerned that these ongoing deliberations have so far failed to address the pressing needs of many vulnerable and disadvantaged citizens of Ukraine, including thousands of Roma. According to experts interviewed for this report, the additional levels of control introduced with the aim of enhancing security had the effect of excluding certain categories of vulnerable populations from accessing documentation: in their view, the greatest impediment in the current identification and documentation regime was the excessive burden of proof for Roma to prove that they were indeed citizens of Ukraine.

In this regard, one expert<sup>55</sup> noted that Ukraine's Roma have been settled on its territory for a very long time. Even those who migrated to Russia after 1991 are citizens of Ukraine according to Ukrainian law, as are their children: all of them, with very few exceptions, should be regarded as citizens of Ukraine regardless of whether or not they are

registered and documented. She also expressed concern that draft laws aimed at regulating the status of stateless persons in Ukraine, which were recently introduced to Parliament,<sup>56</sup> in the absence of parallel instruments simplifying access to identity papers for undocumented citizens, could unwittingly be construed as a mechanism to resolve Roma documentation problems. While she saw this initiative as undoubtedly necessary to regulate the situation of undocumented stateless persons and implement Ukraine's international obligations,<sup>57</sup> she believed that it should only be enacted alongside procedures simplifying access for undocumented citizens, many of whom are Roma, to appropriate documentation attesting to their identity and citizenship of Ukraine. A situation where undocumented citizens might be forced to resort to statelessness determination procedures in order to be recognized as persons before the law and access basic human rights dependent on their access to identity documents and/or residence registration, would be unacceptable: indeed, it could amount to arbitrary deprivation of nationality and would likely disproportionately affect members of the Roma minority.<sup>58</sup> Consequently, alternative measures to ensure the universal documentation of Ukraine's Roma population should be put in place, with authorities working in close cooperation with Roma rights NGOs and community representatives through a prompt and accessible administrative process.

## Education, including vocational training

In addition to the issue of documentation, improving education is also a very important tool to break the cycle of discrimination and exclusion. The Soviet schooling system destined the majority of Ukraine's Roma to low-skilled manual labour at the bottom of the social hierarchy. This sector of the economy was hit hardest by the collapse of the socialist system and the transition to a free market. As a result, the 1990s and 2000s saw a dramatic slide in education among Roma, a process not just of professional deskilling but of a decline in literacy levels too. Today, many Roma children still have limited access to quality education: a survey of Roma conducted in 2018 found that more than a quarter of Roma with one or more children had school-age children not attending school.<sup>59</sup> It is likely that illiteracy and non-attendance is especially acute among those (and their children) who engage in seasonal labour migration, though there is little available information on this segment of the population.

However, it is hoped that with greater efforts by national and local authorities directed towards the specific educational needs of Roma, supported with partnerships



## Lost in the labyrinth: The difficulties of securing a birth certificate for undocumented Roma

Maksym Dzhum, an activist and mediator working in Odesa region, describes the experiences of 'R.', a Roma woman who has spent her entire life in Ukraine, in securing a birth certificate from the authorities. Despite support from Roma rights groups, the process of navigating the tortuous bureaucratic hurdles involved took years – and illustrates the profound difficulties that undocumented Roma go through to prove their existence.

*'It is very difficult to get documents for a person who grew up without a birth certificate. It is nearly impossible without legal support. Imagine a Roma woman, who is unable to read and write... Let's take R. for example, one of our recent success stories. She was born in the early 1980s in Odesa region. Her parents died when she was only five. Her older brother took care of her upbringing until she reached her teens. R. came to me with her problem in 2013. First, we needed to collect evidence that she was who she said she was and that she lived in Ukraine in 1991. You would think that the authorities would be interested to have their population identified and counted and would help someone who is not. But in Ukraine you must prove to the authorities beyond reasonable doubt that you even exist. In R.'s case it was helpful that her older brother had a passport and could vouch for her. It usually helps if a person attended school. Even if a child was admitted to study without documents the school is in a position to issue a certificate confirming that he studied there. It may sound ironic, but if a person committed a crime and served a prison sentence he is better off than law-abiding undocumented citizens – prison authorities can issue him a certificate with his picture confirming that this person existed.*

*Coming back to R., when we had the papers and witnesses ready we needed to first get her a birth certificate. For that we went to the court. These court proceedings are fast and easy for a lawyer – you get your court decision within a month or two. But what if you can't hire a lawyer or don't know about NGOs? Would you really be able to pass through this labyrinth, if you were unable to read and write? But this is not the end of it still... With the court decision confirming your birth you go to the civil registry office so that they issue you a birth certificate. They issue it, but do not give it to you. To get it you need a passport. It is a real trap: if you want to get a*

*passport you need a birth certificate, which you won't get unless you have a passport.*

*Luckily for us, 'Chiricli' works with lawyers. They are allowed to collect such documents on behalf of their clients. Once we had R.'s birth certificate, we again returned to the court. This time we had to prove that she was a citizen of Ukraine. According to the law everyone who lived in the territory of Ukraine in 1991 when the Soviet Union collapsed is a citizen. But in practice, for the authorities the only proof that you lived here was your official residence registration ('propiska'). In cases where something is 'outside the box' with the 'propiska' thing, like when papers are lost or the house where you lived was not properly registered, you get into a lot of trouble. If the court qualifies you as a citizen, you have got to make sure that you have your current 'propiska' (address registration) before you can go to the State Migration Service (SMS) and apply for your passport. The thing is that you can access most of the administrative services only in the municipality where you are registered. But in practice, if you or your family do not own a house or if you bought your house without getting all the papers in due order it is extremely difficult to get the registration.*

*For the authorities it is a matter of administrative convenience – 'propiska' defines their territorial jurisdiction and the constituency that they serve. For people like R. it is a nightmare. If you do not have a registered address you can get yourself registered at a sort of social address. But that temporary registration is only valid for no more than six months. Imagine a person who cannot read or write trying to go through this process on his own.... I tell you that will be very fast: he'd enter a SMS office; the agency's staff would direct him to the info stand in the lobby and he'd leave immediately thinking: "I've lived without a passport for thirty years. I shall manage somehow, because getting it is just impossible." Our struggle for R.'s passport from the first court hearing to the passport issuance lasted for more than three years. During this time, she gave birth to two kids. We were able to get birth certificates for them, but the system is such that now R. will have to go to court again to prove that she is their mother. Before she had a passport her relationship with her kids could not be officially registered.'*

with NGOs, schools and communities, the situation could be improved. Roma rights activists across the country have expressed their strong belief that the majority of community members, particularly among the younger generations, now appreciate the value of education. A variety of progressive educational initiatives supported by the International Renaissance Foundation (IRF), Roma Educational Fund (REF) and the leadership of certain local schools and NGOs are also now underway. These include the work of the 'Blago' and 'Krok za Krok' Foundations to support Roma inclusion through pre-school language and skills training, with the involvement of Roma teaching assistants. Many of these successes are taking place at a local level: for example, thanks to the work of NGOs in the village of Korsuntsy village, Odesa region, the number of children of school age not attending school dropped from 20 to two in the 2017/18 school year.<sup>60</sup>

These initiatives, building on experiences elsewhere in Europe that demonstrate the effectiveness of pre-school language instruction, Roma teaching assistants and free lunches, are delivering clear results but there is still significant scope for the expansion and improvement of these programmes. Lola Kulchar, a member of 'Blago' NGO who recently took charge of the coordination of the Romani Early Years Network (REYN) in Ukraine, expressed concern that Roma children who received pre-school language and skills training tend to lose them very quickly if they end up in segregated schools. In addition, children attending non-segregated schools often start falling behind in their studies after one or two years even if they attended pre-school training due to lack of continued parental or mentor support with out-of-classroom studies and homework. Her worry is that this problem has not received sufficient attention even from NGOs, let alone education officials, and that there is a continued lack of qualified cadres to staff such roles in schools. Most troubling, however, is that these programmes rely almost exclusively on the assistance of international donors and, without full and adequate state funding, they may become unsustainable in future.

In parallel with these grassroots initiatives there is a great deal of activity at the national level. In 2017, Ukraine began a total overhaul of its educational system and, following the adoption of the new framework law<sup>61</sup> on education, the Ministry of Education and Science (MES) approved a programme of reform, the 'New Ukrainian School'.<sup>62</sup> With a new funding model for schools and higher starting salaries for teachers to attract better qualified professionals, the programme has been widely welcomed and among other provisions ensures that all children must be admitted to schools regardless of whether they have a birth certificate – a positive step for the many undocumented Roma in the country.<sup>63</sup> Under the new framework, authorities have

already developed a digital e-learning platform to ensure adequate quality of education for home-schooled children and made it accessible for children living in the 'temporary occupied territories' (Crimea and those areas of Donetsk and Luhansk regions controlled by pro-Russian armed groups).

One of the key innovations of the educational reform is its focus on 'inclusivity' – a concept defined by the current legislation in the context of children with disabilities. To achieve this, the government has begun to phase out special schools for children with disabilities, introducing accessible design into its schools and other infrastructure. Roma rights activists interviewed for this report emphasized their belief that the concept of inclusivity should be expanded with similar measures to ensure access for minority children, particularly Roma, and other potentially excluded groups such as migrant children. While they remain hopeful that the Ministry of Education and Science (MES) will be open to further cooperation and dialogue on this issue, at present the reforms have unfortunately had negative impacts for some Roma children and their parents due to the local financing models introduced for schools and the new rules that requires schools to prioritize children in their catchment area – a stipulation that could exacerbate the existing problem of segregation of Roma children in schools.<sup>64</sup>

Apart from these systematic issues, there are other structural problems impeding access of Roma children to education, particularly relating to poverty and isolation. For example, some Roma parents are unable to provide warm clothes for their children and as a result they are forced to stay home and miss school during the winter, pushing them further behind and increasing the risk of them dropping out completely from the education system. Roma children may also be bullied at school by other non-Roma children.<sup>65</sup> These and other factors help explain why the percentage of Roma children who complete full secondary education is disproportionately small compared to the rest of the population.

Roma girls are especially at risk when it comes to dropping out of school due to the persistent practice of early marriages in certain communities and other aspects of gender inequality, including the perception that schooling is less necessary for women than men. In many Roma communities, when girls reach their teenage years they are increasingly involved in household chores and taking care of their siblings.

With regard to adult literacy, the situation is reportedly even more complicated. The ongoing reform of the educational system mandated the closure of the few remaining evening schools where adults could in theory catch up on their basic education. The new rules provide for the opening of evening schools using the facilities of

## How Ukraine's educational reform could make segregation in schools even worse

Lola Kulchar, Director of Zakarpattia Regional Charitable Foundation 'Blago' and REYN-Ukraine Project Coordinator, describes how recent reforms to the school admissions system in Ukraine has troubling implications for Roma students that authorities must urgently address:

In September 2018 we saw children admitted to the first grade in schools under the 'new Ukrainian school' system for the first time. Unfortunately, the admission process confirmed our worst fears. The school districts are delineated in such a way that they separate and segregate Roma and non-Roma neighbourhoods. Don't get me wrong. Segregation is not a new problem. It has not come with the educational reform. This new rule, however, mandating the schools to take all the children from their own district first and then maybe consider some others, if places are still available, made it practically impossible for us to fight segregation. Ukrainian schools now have an excuse for not taking Roma kids in: 'No vacant places are available and off you go...'

You see in our region [Zakarpattia] many Roma live in segregated neighbourhoods. There are approximately 100 Roma neighbourhoods, compact settlements, in Zakarpattia alone. In total in Ukraine there are more than 400 of these segregated Roma settlements. In general, if we forget about Roma children and their problems, I can perfectly understand the logic behind this new admissions rule – by depriving the schools of the opportunity to pick and choose their pupils the Ministry of Education is attempting to eradicate the bribes the schools would sometimes demand for a place in their establishment. I get it completely. But we must not forget about Roma children and their problems! Even the best of intentions and the best of policies do not work equally well in all circumstances.

Residential segregation of Roma is a reality in Ukraine. This is what the authorities must understand too. In those places where there are segregated Roma settlements another approach is required, an approach that would eliminate segregation of Roma children in schools.

regular schools, where at least five adults request this, but it is not yet clear how this system will work in practice. Accessibility, due to the time and financial constraints may Roma adults face, will be key to ensuring broad uptake of adult education opportunities. For example, one expert pointed to the success of some NGO adult literacy programmes in Zakarpattia and Odesa regions, where many Roma live in compact settlements, that ensured classes were easy to access. On the other hand, when community members were more scattered, as in Kharkiv, these programmes were much less effective.<sup>66</sup> Another noted that, when organizing literacy training programmes for adults, NGOs have to arrange parallel activities for their children to enable Roma women to join in. As a result, these programmes can be very costly and so international donors may be reluctant to support them in the future. However, no state support, either from national or local authorities, has so far been made available for this purpose.<sup>67</sup>

Nevertheless, these programmes offer a crucial opportunity for Roma to engage with broader society, access employment opportunities or other regulated income-generating opportunities. At present, illiteracy prevents many Roma from accessing vocational programmes and various training programmes offered by the state through the network of employment centres. To make the latter accessible to disenfranchised Roma, authorities have to offer basic literacy programmes within the framework of the existing employment assistance

programmes and make other training programmes available to people who do not have school graduation certificates.

## Livelihoods

In a country with high levels of unemployment and a large shadow economy, Roma minority are particularly vulnerable to being excluded from the formal labour market. Lack of education and personal documentation as well as widespread racism work together to drive many Roma into destitution and sometimes even illicit activities to feed themselves and their families. Unemployment among Roma is common: of the hundreds of Roma surveyed in 2018 by the Coalition 2020, around half were unemployed.<sup>68</sup> In certain economically disadvantaged areas, such as rural or peri-urban areas in Zakarpattia region, the rate of unemployment in Roma communities was estimated by one respondent to be as high as 95 per cent.<sup>69</sup>

Many Roma sustain themselves cultivating produce on small plots of land near their homes. Some families crack walnuts for a living: they sell the kernel and use the shells to heat their homes in winter. Others collect scrap metal and other recyclables to survive. This type of informal employment is very unhygienic and dangerous for the health of those involved as well as those around them. In some regions, such as Zakarpattia, there is not enough waste to sort for those who have no alternative means of subsistence. In the summer, when weather conditions allow, some Roma families travel to other regions to collect scrap for sale.

Only a small number of Roma are able to secure low skilled, poorly paid jobs such as garbage collection, street cleaning and sewage maintenance. These opportunities are scarce, however, and only accessible to people who have completed their secondary education, given the requirements of the public employment programmes. But even with these strict requirements and the low status of the roles themselves, Roma applicants may be barred from these positions when anti-gypsyism comes into play. One activist in Odesa region described a recent incident where a Roma woman who qualified for support from the employment centre was directed to three potential employers. When she visited these enterprises, however, she was informed at the doorstep that the position she was applying for had been already filled, despite staff from the employment centre having just confirmed its availability before her visit.<sup>70</sup>

Other less marginalized Roma have mastered various construction skills and earned their living working on projects in cities across Ukraine and in Russia. However, with tightening migration controls in Russia and the outbreak of armed hostilities in Eastern Ukraine, the opportunities have reduced to those in government-controlled areas of Ukraine. It has also reportedly made

the mostly seasonal makeshift camps of Roma scrap-collectors in the major Ukrainian cities more visible and as a result there is growing popular hostility towards them. Throughout 2018, in the absence of any official protection, temporary settlements in Kyiv and Lviv inhabited by Zakarpattia Roma became an easy target for right-wing violence.

Olha Vesnianka, a pro-Roma human rights activist and media expert with the 'Strategy 2020' Coalition, observed that attacks on settlements have frequently been preceded by anti-Roma hate speech in the media or opportunistic statements from politicians. Other respondents also stated that the violence could have been prevented if authorities had responded adequately to outbreaks of hate speech, engaged residents of the settlements in a constructive fashion and provided them with adequate security. The absence of these measures and a number of incidents when police and local authorities failed to either prevent attacks or meaningfully investigate them contributed to the further dehumanization of Roma in the dominant public discourse, fostering a climate of impunity among far-right groups that eventually had deadly consequences. Indeed, police have themselves been the major perpetrators of violence against Roma. For

**Table 5:** Timeline of major attacks against Roma

**March - April 2017, Kyiv:**

- following hate speech on social media against residents of an informal settlement close to Nyzhnii Telbyn lake and petitions to Kyiv City Administration for the 300 or so Roma, including children, living there to be evicted, law enforcement officers dressed in balaclavas visited the settlement in March and photographed residents there before ordering them to leave, with the threat that extremists would attack the camp should they remain. At the same time local politicians, including one member of Kyiv City Council, publicly stated that they were dealing with the issue. Many frightened residents of the camp left the city as a result and in April a number of the empty huts were set on fire; the entire campsite was subsequently burnt to the ground. Despite condemnation by the Ombudsperson and complaints by Roma rights NGOs authorities have not initiated any investigation into the incident whatsoever.<sup>72</sup>

**May 2017, Kyiv:**

- men in uniforms attacked a group of Roma, mainly women and children, at a square near the main railway station, verbally abusing and kicking them before 'confiscating' money from them and telling them to leave Kyiv. Representatives of the Congress of National Minorities of Ukraine (CNGU) believed that the attackers were associated with a known vigilante organization called Safety of Life. Despite the incident being widely publicized on social media, police reportedly did not seek to prosecute the perpetrators of the attack.<sup>73</sup>

**April 2018, Kyiv:**

- a small community of Roma in Lysa Hora park, Kyiv were visited on several occasions by the Holoiv district authorities, national police and members of the 'municipal guard' under the auspices of Kyiv City Administration. Following a number of threats, a group of young men wearing face masks attacked the Roma settlement and forced its inhabitants out with stones and tear gas. The right-wing extremist group C14, which is not only officially registered as an NGO but has also received financial support from Kyiv City Administration for 'educational' projects and has several prominent members of the 'municipal guard' in its ranks, published a video of the attack and boasted about burning the remains of the camp to the ground. After a public outcry, police initiated an investigation, yet the victims were only questioned two months after the incident. In July 2018 police charged the leader of the local C14 group, Serhii Mazur, with the attack and for a while upon the decision of the Holoivskyi District Court of Kyiv he was placed under house arrest pending trial. Later in the year, however, the court cancelled the charges against him due to procedural violations by law enforcement officials. The prosecutor's office has appealed against this decision and a decision is currently pending before the Kyiv City Court of Appeal.<sup>74</sup>

**April 2018, Kyiv:**

- a small Roma settlement in Rusanivsky Gardens was attacked by unknown assailants who set at least five houses on fire using Molotov cocktails. A few days later the far-right group Nemezida published a video on social media showing several young men pouring kerosene on the belongings in one of the Roma homes and setting them alight. The incident was reported to police who eventually initiated criminal proceedings. However, members of Nemezida reportedly threatened a witness to the attack who testified to the police and at the time of writing, law enforcement authorities have not yet identified the perpetrators.<sup>75</sup>

**Table 5:** Timeline of major attacks against Roma (continued...)

**May 2018, Lviv:**

- a group of young people set a Roma campsite on fire while its 30 inhabitants were sleeping. At least two Roma, a man and his son, were injured during the attack. With the help of Ternipe, a Roma rights NGO, they filed reports with the police. Law enforcement authorities started investigating the incident only after the Ombudsperson's appeal as 'hooliganism'; after returning to the remains of their camp the Roma inhabitants were again expelled, this time by local police. Authorities have so far failed to identify the perpetrators of the arson.<sup>76</sup>

**May 2018, Ternopil:**

- A makeshift Roma settlement, housing around 30 adults and 15 children, located in Velykohaivskyi forest near Ternopil, was ambushed by a group of masked men who poured gasoline on all three tents in the camp and set them on fire. Police arrived at the site after the settlement had burnt to the ground. Authorities apprehended 12 teenagers near the crime scene, including a number who were reportedly members of far-right groups. They were subsequently released. The Head of Ternopil region police announced that the incident was due to a local conflict and that there were no grounds to classify it as a xenophobic incident. The criminal proceedings under charges of 'hooliganism' are pending.<sup>77</sup>

**June 2018, Kyiv:**

- an employee of Holosiivskyi National Nature Park, accompanied by journalists and a group of men associated with a new far-right organization, National Squads, who were allegedly there to protect the journalists, burst into a seasonal Roma camp near Novobyllychi, Kyiv. They demanded the Roma residents vacate the area and despite the arrival of police at the scene soon after, were not prevented from chasing away the camp residents away and destroying their temporary homes. Only after a public outcry were criminal proceedings of 'hooliganism' instituted, but police have allegedly been unable to identify the perpetrators of the attack.<sup>78</sup>

**June 2018, Lviv:**

- a Roma camp located on Truskavetska Street in Lviv was suddenly attacked by masked men with baseball bats who began beating Roma, including women and children, sleeping in the tents. 24-year-old Davyd Pap, a Roma man from Zakarpattia who earned his living collecting scrap metal, died after his stomach was cut open with a knife. In addition, a 19-year-old man, a 30-year-old woman and a 10-year-old child were hospitalized after the ambush with various injuries. Police detained 12 suspects, including eight high school students aged 16 and 17 and an alleged 20-year-old organizer, who was charged with 'homicide, committed by an organized group', 'aggravated hooliganism' and 'luring minors into criminal activity'. The presumed perpetrators admitted to being members of an unregistered far-right group called Sober and Angry Youths and to their intent to kill. Despite racial bias being classified in Ukrainian law as an aggravating circumstance, authorities chose not to classify the incident as a hate crime. Roma rights NGOs have challenged this decision in the courts and the trial against the accused perpetrators is pending.<sup>79</sup>

**March 2019, Ivano-Frankivsk:**

- an article in a local newspaper on the Roma community, mainly from Zakarpattia, living in an informal camp on the outskirts of Ivano-Frankivsk sparked an outburst of xenophobic discussion on social media. The next day, a group of men dressed in dark clothes ambushed the settlement and threw several Molotov-cocktail bottles at the tents before running away. Two of the tents caught fire in the course of the attack. The residents of the camp were reportedly afraid to support the police investigation and reluctant to file complaints.<sup>80</sup>

example, a makeshift camp housing some Roma families from Zakarpattia, including children, which appeared in Dniprovskyi district in Kyiv near a rubbish dump was forcibly evicted in May 2012 ahead of the city's hosting of the international football tournament Euro 2012 in June of that year. A group of men in plain clothes, among whom Roma residents of the camp recognized several local police officers, arrived at the encampment and set it on fire. The men ordered Roma to leave Kyiv and one of the police officers reportedly shot a dog in the camp to demonstrate the seriousness of these demands.<sup>71</sup> Table 5 outlines a selection of more recent anti-Roma incidents between 2017 and 2019.

It is welcome that belatedly, in response to the death of Davyd Pap, law enforcement agencies appear to have reconsidered their strategies of engagement with Roma communities. For example, the Ministry of the Interior has revitalized the working group set up to address law enforcement issues outlined in the 2020 Roma Strategy: working in close cooperation with Roma rights activists,

this supports the development of an algorithm to ensure effective protection for temporary Roma settlements. Senior officials have also sent a clear message that violence against Roma living in these settlements will not be tolerated. Yet this alone is not sufficient to break the climate of impunity, especially when anti-Roma sentiment remains high. Authorities must therefore ensure that every attack is adequately investigated and classified, with the perpetrators identified and prosecuted, particularly when police officers may themselves have been involved. Similarly, all victims should be recognized as such and afforded access to available remedies, including compensation.

Parallel to the effective prevention and prosecution of hate speech and xenophobic violence, authorities must also respond to the factors that drive many Roma in search of a means of subsistence and force them to live in substandard conditions in temporary camps. These factors include discrimination, lack of adequate housing and economic opportunities. Rural and peri-urban areas in

Zakarpattia, Odesa and government-controlled parts of Donetsk region are unlikely to benefit, at least in the short run, from fiscal decentralization. This means that the central government must ensure that funding is available from the national budget to substitute for the lack of local resources and provide support to local authorities in disadvantaged regions to improve housing conditions and create economic opportunities for poor and deprived groups.

Furthermore, security goes beyond the presence of police. With reference to the Constitution of Ukraine that guarantees every citizen the right to freely move within its borders and choose one's place of residence,<sup>81</sup> and bearing in mind the lack of economic opportunities in rural areas and in Zakarpattia region as a whole where many Roma are based, authorities need to ensure the availability of safe accommodation arrangements for at-risk migrant groups. One way to do this would be through amendments to the laws regulating temporary and social housing provision<sup>82</sup> and substantial investment in the construction or acquisition of temporary and social housing stocks. Given the evidence that a roof over one's head and adequate living conditions are among the most significant factors determining an individual's access to a livelihood, implementing these changes could expand opportunities for Roma and pave the way for much-needed poverty reduction within the community.

## Housing and living conditions

There have been no comprehensive studies or assessments on the housing and living conditions of Roma across the whole of Ukraine. The situation in this area is very varied and area specific: while in some regions the housing context for Roma may be comparable to that of the majority population, overall access to adequate shelter and basic utilities is significantly more constrained among Ukraine's Roma population.

The structural factors underpinning the housing sector in Ukraine are complex and difficult to resolve. Severe housing shortages which were already evident during the Soviet era, particularly in urban areas, have worsened significantly in the years since independence as the construction of public housing ground to a halt while the existing housing stock deteriorated. Hundreds of 'undocumented houses' in Roma neighbourhoods throughout Ukraine are also, to a large extent, a legacy of the Soviet era. The 1956 Decrees that criminalized Roma nomadism also ordered local authorities to accommodate the forcibly sedentarized Roma travellers. In many cases, however, the authorities not only neglected their obligation to assist them but also failed to duly register the

dwelling, which Roma were forced to construct themselves to avoid persecution.<sup>83</sup> Partly because of this and other reasons, including population growth and the expansion of Roma neighbourhoods, secondary migration, hostility of local authorities and communities, poverty and high levels of illiteracy that hindered compliance with the necessary bureaucratic formalities, many houses where Roma lived for decades remained unregistered and were excluded from the wave of privatization carried out after the collapse of the Soviet Union. On the pretext of the 'irregularity' of Roma neighbourhoods, Soviet and post-Soviet authorities alike have consistently sidelined these areas from infrastructure and development.

In some cases, even when Roma residents had all the necessary paperwork to prove their title under Soviet law, the complicated procedures surrounding privatization and other bureaucratic hurdles, as well as rampant corruption, made it difficult for them to secure recognition of their ownership rights. Particularly problematic in this sense was the privatization of low-rise housing in rural or suburban areas that also involved determination of title over poorly demarcated land-plots.<sup>84</sup> Despite the existence of legal provisions guaranteeing every citizen a right to an allocation of land shares attached to one's house as well as for construction and farming purposes,<sup>85</sup> the complex and opaque regulations in this area facilitated corruption and typically prevented the most discriminated sections of the population, including Roma, from accessing this right. It also served to limit competition among private developers, exacerbating the housing deficit and further inflating prices to unaffordable levels for most Ukrainians.

Social housing options that were made available in theory under Ukrainian law in the 2000s<sup>86</sup> proved incapable of meeting their declared objectives. Although these legislative initiatives should be credited for simplifying access for homeless persons and many Roma living in unregistered houses to identity documents, they contributed to overall uncertainty in the regulation of the housing market. These laws stipulated the creation of rented social housing stock although in most regions of Ukraine this has yet to be implemented. 'Affordable housing programmes' introduced by the government in 2010 and offering support to the purchase of newly constructed housing to young families and certain 'less advantaged' categories of population failed to meet even a small fraction of the country's housing needs and in particular did not reach the most vulnerable.<sup>87</sup> The failure was again due to cumbersome regulations, lack of transparency in allocation procedures, the high costs of housing and insufficient resources.

Meanwhile, most of the privately owned rental housing in Ukraine operates in the shadow economy, as landlords are often reluctant to formally register their tenants in part

## The barriers to resolving housing issues in unregistered Roma settlements

Yurii Mandych, a Roma rights activist and a member of Uzhhorod City Council, explains the complex administrative hurdles around registering, servicing and upgrading informal Roma settlements – and the absence of adequate funding to push through real change:

*We have three compact Roma settlements in Uzhhorod. Most houses there lack proper papers. Those are not new houses. They have been there since Soviet times and were never registered properly. Even the city council does not always know if the house is registered or not and what land is available for allocation. Land title registries were a total mess. Until recently Uzhhorod did not even have the city layout plan – an official land registry map. This year the council finally developed it. Now the next step is to develop the detailed plan. If the house is not properly documented authorities are not allowed by law to spend any money to connect it to water, electricity, gas, sewage, to link it to the rest of the village with a road.*

*Now you may be thinking that there must be a way to regularize it somehow as many people do. But this is not that easy. To be regularized a house must conform to a whole range of standards and those standards constantly change. For example, in 2006 they introduced a requirement that houses must be built at least four meters away from each other, so that the fire engine can navigate a neighbourhood freely, put down fires and save lives. The problem is that all those houses were built long before that standard existed. In Roma neighbourhoods you would not find a single pair of them standing whole four meters away from each other.*

*Another problem is that most of the houses in Roma neighbourhoods are very old. They are literally falling apart. Ideally, we need to help people build new houses. There is this programme where the government contributes 30 to 50 per cent of the cost*

*of a newly constructed dwelling that a person intends to buy. But find me a Roma here who'd be able to pull the money together to pay 70 per cent of his own contribution for such a deal.*

*Alright, if it is impossible to regularize a house maybe it is possible to officially allocate people land where their houses stand. After all, the Constitution guarantees every citizen of Ukraine a plot of land. According to the law, however, municipal authorities can only allocate land that is unoccupied. In our case, it is occupied. Even though on paper it is empty, any unofficial and unregistered buildings come to matter when we are talking about land allocation.*

*The Housing Code still says that local authorities must provide housing to everyone who needs it. The lists of people registered in the queue for allocation of public housing are huge. Roma often drop out because they lack residence registration that is a precondition for being on the waiting list. But even if they did, we have nothing to give out.*

*We are aware of all the problems and we've been thinking hard about how to resolve them, but nothing seems to work. Representatives of the MinRegion who were in charge of the working group on housing issues under the 2020 Roma Strategy, we showed them how people lived here – they took notes and seemed to understand everything. We developed a plan to construct a range of new houses. We hoped to use them to accommodate the most vulnerable, including Roma and veterans. We sent the papers to the MinRegion and they sent it to the Ministry of Finance. They just responded that the programme looked great, but the state budget would not allocate any money for it. They said that with decentralization local authorities should find the funds locally. Uzhhorod is not some industrial rich city – there are no funds in our local budget.*

because of complications around registrations and other regulations.<sup>88</sup> A substantial share of private title transfers, particularly in rural areas, is also informal. Be it due to complexity of laws and procedures or rampant income tax evasion, the 'informality' of the housing market renders buyers and particularly tenants vulnerable to all sorts of abuse. They are, however, often willing to take the risk

because formalizing the transactions drives up the costs. In other words, in the absence of affordable social housing, the informal housing market is used by many poor residents as the best available option.

Clearly, the whole system of regulating, land allocation and construction in Ukraine requires far-reaching reform. Roma rights activists agree that the difficulties in this

sector are not confined exclusively to Roma, but that Roma communities are disproportionately affected. A 2006 monitoring report of Roma by the European Roma Rights Centre (ERRC), for example, found that many Roma households did not have access to running or potable water, with rural Roma settlements lacking drainage or sewage system, heating and even electricity. Over half of the Roma surveyed by ERRC in Kherson region and the Autonomous Republic of Crimea did not have a permanent place of residence and were not officially registered anywhere.<sup>89</sup>

According to the experts interviewed for this report, the most challenging housing situation for Roma is in Odesa and, to an even greater extent, Zakarpattia region. Many Roma communities in these areas live in unregulated settlements that are often segregated from the rest of the town or village, with little or no access to even the most basic services. According to one respondent, the absence of garbage collection in many Roma settlements poses a serious threat to the health of residents: large numbers of impoverished Roma families survive by sifting through garbage and selling recyclables such as paper, card and metal, bringing the waste home first to sort and clean for sale. The leftover rubbish remains piled up in the settlement and exacerbates the unsanitary conditions in these settlements, endangering the whole community.<sup>90</sup>

In some regions the situation is less acute. The mapping of the Roma population by one NGO in an area of Kharkiv region revealed that 30 per cent of the surveyed households were renting the flats and houses where they lived and over 60 per cent of Roma families owned their dwellings and 5 per cent lived with distant relatives. Only a small proportion, around 1 per cent, were effectively homeless: living in extreme poverty with no heating, safe drinking water or sanitation, this group also lacked identity documentation. Besides this community, however, the housing situation of Roma in Kharkiv region appeared to be relatively equitable and though there were certainly cases of overcrowding, poor access to utilities and geographic isolation, these issues were also experienced by other non-Roma residents. There were even instances where local authorities and businesses worked with Roma families to make housing available to them – though these inspiring examples were generally exceptions rather than the rule.<sup>91</sup>

Indeed, it is sadly the case that discrimination by local authorities and communities has often contributed to the continued segregation of Roma households, and even their evictions. Ukraine has been criticized by, among others, the case law of the European Court of Human Rights (ECtHR) for their failure to provide Roma with safe and adequate housing.<sup>92</sup> This was documented by the ERRC in their 2006 survey, with Roma respondents reporting that

local officials had refused their requests for housing, cut off their connections to public utilities and even mobilized local populations against them.<sup>93</sup> More recent incidents suggest that Roma communities, particularly IDPs fleeing conflict elsewhere, are still vulnerable to expulsions carried out with the knowledge or active involvement of local officials. At the end of 2016, for instance, there were reports that local residents in Sheludkivka, Kharkiv region had petitioned authorities to expel a small community of Roma who had arrived after leaving their homes in conflict-affected areas of Donbass.<sup>94</sup>

An even more challenging situation arose in Loshchynivka, Odesa region in August 2016 when the body of an eight-year-old girl was found near an abandoned house in the village. Following reports that the suspected perpetrator was of Roma descent, a gang of local residents ambushed the houses of local Roma families and the next day the head of the village council issued a decree expelling Roma from the village. No alternative accommodation was provided for them. The Roma Human Rights Centre filed a court case on behalf of the victims and in August 2018 Odes District Administrative Court recognized that local authorities had issued an illegal order to expel Roma residents from Loshchynivka, though it denied the victims any form of compensation. The Roma Human Rights Centre filed an appeal against this court decision, arguing that by denying adequate compensation to the victims of the attack the court has failed to afford them an effective remedy. Alongside pressure from human rights groups, the police opened a criminal investigation but allegedly failed to identify the individual perpetrators of the violence or acknowledge the biased motive behind it. Furthermore, there have been no sanctions for those police who were present during the expulsion but did nothing stop it taking place.<sup>95</sup>

Housing poverty has had long-lasting consequences for the welfare of Roma communities and lies at the root of many problems, including food insecurity and poor health. Notwithstanding the complex challenges in the sector, it must be dealt with as a matter of urgency to reverse the continued marginalization of Ukraine's Roma and achieve meaningful change. It is not enough, however, that authorities refrain from facilitating attacks and support housing construction. Any government policies must duly take into account the specific needs of Roma families, the local economies of particular neighbourhoods and the cultural preferences of these communities. International experience demonstrates that large-scale, high-rise public housing projects have failed to meaningfully improve the housing situation of Roma and instead perpetuated residential segregation.<sup>96</sup> Alternative initiatives, such as subsidized shelter upgrading in line with relevant safety and hygiene standards, may enable



marginalized communities to play a role in improving their living conditions and with sufficient community participation, transparency, funding and civic partnerships, could prove effective.

## Participation, security and access to justice

International experience demonstrates that a key element in any successful policy for Roma inclusion is the principle of ‘nothing about Roma without Roma’<sup>97</sup> – the participation of Roma leaders, NGOs and community members in the design, implementation and evaluation of measures that directly affecting them at all levels. Looking at the progress of the 2020 Roma Strategy and Action Plan as the date of completion nears, it is hard to avoid the conclusion that Ukrainian authorities have failed to provide Roma communities with a meaningful role in decision-making. As noted above, these strategic documents were adopted in response to the requirements of the EU-Ukraine visa liberalization process and appeared to take little account of the needs of Ukraine’s diverse Roma communities or the recommendations of Roma rights groups.

As a result, a range of crucial issues, such as the development of Roma youth potential and other pressing concerns, were not covered by the Strategy. Many provisions of the Action Plan, including those regarding the organization of the national population survey, monitoring of social welfare programmes, pre-school education for Roma children, healthcare, housing, crime prevention and public order, did not outline in any detail the engagement of Roma NGOs in the process. Despite these crucial omissions, Roma activists have taken the stated aims of these strategic documents and turned them into an effective advocacy tool. Using it as a shared point of reference for different NGOs and civil society groups, rather than the government, brought the 2020 Roma Strategy and Action Plan to life.

Thanks to their efforts and the support of international donors, national and regional coordination structures responsible for implementation of the Strategy and the engagement of Roma civil society, representatives were subsequently established. In fact, given the communicating barriers in place between various government institutions, the NGOs not only serve as a bridge between the government and Roma population but also help different state institutions to collaborate more effectively on Roma issues amongst themselves. Similar dynamics can be observed at the regional and community levels. In Kharkiv region, for example, Roma rights NGOs eventually managed to engage the regional authorities and

created functioning consultative mechanisms that allow them to collect data on the situation of the Roma population and facilitate dialogue between Roma and other minority communities as well as with local authorities.

The impact of these measures for Roma cannot be underestimated. Roma social and health mediators working with NGOs help their communities access legal remedies, resolve documentation issues, access healthcare, education and other essential services, enter employment and communicate their needs to local authorities, as well as prevent rights abuses and violence against Roma. For instance, many experts attribute the recent reduction in the number of unwarranted arrests of Roma by police to the dialogue established by Roma rights NGOs with law enforcement authorities.<sup>98</sup> For instance, one NGO leader working in Kharkiv region observed that as a result of the cooperation mechanisms NGOs had managed to build with authorities in the region, he now received a call from the police as soon as any situation involving Roma developed. He believed that this had enabled the timely involvement of Roma NGOs to help prevent violence in a range of localities across the region over the last two years, including Sheludkovka, Lozova and Volchansk villages.<sup>99</sup>

This activism, however, also sometimes puts Roma community leaders, dialogue facilitators, mediators and lawyers at substantial risk. Many of them regularly face abusive language and even receive serious threats from supporters of right-wing groups or lay members of the public via social media. Although no NGO represents the whole of the diverse and dispersed Roma population of Ukraine, authorities often assume NGOs have an intimate knowledge of what is going on in a particular Roma community, including incidents of crime, substance abuse or violence, and can attribute responsibility for these situations to NGOs and their staff. Activists may be told to make sure there is no crime carried out by Roma – as if they, rather than the police, were responsible for law enforcement.

Despite the growing strength and professionalization of Roma civil society organizations, the success of Roma inclusion cannot depend solely on them. The impunity of perpetrators of hate crimes and the politicians, local officials and law enforcement officers who assist them undermines all the efforts by NGOs to promote Roma education and participation in public and political life. Instead, it fosters distrust in authorities among Roma and perpetuates negative stereotypes widely held among non-Roma Ukrainians about the community.

In many Eastern European countries, the participation of Roma in governance structures and policy-making processes has been instrumental in bringing the problems experienced by their communities onto agendas of local

## Two years on, no justice for the victims of anti-Roma violence in Vilshany

The continued security challenges that Roma communities may face, as well as the impunity frequently enjoyed by the perpetrators of violence against them, is due in part to the failure of police and other law enforcement officials to protect them. The failings of the judicial system are illustrated by a case in Vilshany, Kharkiv region in May 2017. Andrii Litvinov, the head of the Vilshany village council, and Oleksii Litvinov, his father and a former head of the Vilshany village council and a member of Kharkiv Regional Council at the time, invited the leaders of the local Roma community to come to the village council to resolve a minor conflict that occurred between the village head and one of the members of the Roma community. When in the morning a number of Roma led by community elders arrived at the village council, the authorities were 'represented' by the village head and his father, regional council members and their 'business partners' – a group reportedly numbering almost 30 people. Three minutes into a verbal confrontation, during which Oleksii Litvinov allegedly demanded that Roma leave Vilshany, his associates started shooting with rubber-bullet handguns and sporting weapons. At least five Roma men were seriously injured, including Mykola Kaspytskyi, one of the Roma community leaders, who was speaking with Oleksii Litvinov when the shooting began. He was rushed to the hospital where he

died as a result of his injury. When police arrived at the scene they arrested 15 people and initiated criminal proceedings under Article 296 ('hooliganism') and Article 115 ('premeditated murder') of the CCU. Though members of the Roma community were convinced that Oleksii Litvinov had masterminded the massacre, police only pressed charges of hooliganism against him, Andrii Litvinovs and one of their 'business associates', a local magnate named Yevhen Kryvoruchko, who was allegedly one of those who had fired on the Roma men. Based on the appeals by the Ombudsperson, police also initiated proceedings under Article 161 of the CCU ('incitement of hatred and discrimination') but refused to investigate the biased motives of the shooting in their investigations of Lytvyns and Kryvoruchko. There were subsequently allegations of attempted evidence tampering by a local prosecutor and intimidation of the victim's lawyer, who was allegedly beaten up and threatened with further violence if he continued to defend Roma. Roma NGOs allege that the investigations into the Vilshany shooting have been inadequate and procedurally flawed, with the result that Lytvyns and other accused could escape prosecution. In the meantime the village officials, who are accused of violence against Roma, allegedly continue to instigate hostility among Vilshany residents against the Roma community.<sup>100</sup>

and national authorities.<sup>101</sup> In Ukraine, however, Roma are still barely represented in elected or administrative governance structures. Even in Zakarpattia region, where in some settlements Roma constitute a substantial proportion of the population, there are only a few members of local councils who are vocal about their Roma origin and advocate on behalf of Roma in the region.

The low level of political participation among Ukrainian Roma, particularly the young, is often explained by the lack of suitably qualified community members – an issue that goes back to the limited access of many Roma children and youth to education. Thanks to the efforts of Roma civil society and its mobilization of Roma across the country, as well the broader support of

the Romani movement and international donors, more educational and leadership programmes aimed at Roma youth are now underway. An example is the plan of the Roma Human Rights Centre, in partnership with the national NGO Committee of Voters of Ukraine, to run a series of workshops for Roma youth ahead of the upcoming parliamentary elections to raise their awareness of political process, election monitoring and political participation. Roma Education Fund fellows and other talented young Roma have also pursued studies in social work, law, public policy and administration and undertaken internships with state institutions to understand government from within, and to engage in advocacy work at the local, regional and national levels.

# 6 Recommendations

## To the government of Ukraine:

### Data collection

- **Support accurate and disaggregated data collection on Roma to inform policy-making:** The absence of reliable information on the specific needs of different Roma, including undocumented groups and internally displaced persons (IDPs), should be remedied through surveys, mapping and assessments undertaken with the close involvement of Roma community representatives and NGOs.
- **Measures to ensure inclusion of Roma in 2020 census are essential:** one of the key barriers to gathering the necessary statistical information to develop effective inclusion policy lies in the low recording of Roma in census information, in part because fear of discrimination means many Roma do not identify themselves. Planning for Roma inclusion in the census needs to start immediately, with a de-centralized awareness raising campaign in Roma communities, training for census officials on inclusive practice and the direct involvement of Roma intermediaries (such as counsellors, mediators and NGOs) in the census process.
- **Develop a better understanding of the social, economic and cultural variety within the Roma population, as well as the specific challenges experienced by certain groups such as women, children and migrants:** as Roma communities in Ukraine are highly diverse and face a variety of contexts depending on region, educational level, access to documentation and other factors, any policies aimed at promoting Roma inclusion need to recognize and reflect these differences.

### Access to justice

- **Ensure hate crime, hate speech and other forms of bias-motivated crimes targeting Roma are properly investigated and prosecuted, in line with national and international law:** in particular, authorities should take steps to ensure that discriminatory violence is not classified under lesser charges such as ‘hooliganism’
- **Ensure thorough and speedy investigation of incidents of violence and intimidation of Roma and**

**Romani settlements, including prosecution of perpetrators and restitution for victims.** Police, prosecutors and officials are fully accountable for the failure to identify, investigate and convict those accused of carrying out these acts. Effective prosecution and investigation is necessary to end a de facto culture of impunity against perpetrators of anti-Roma hate crimes.

- **Harmonize the existing legal framework to clearly delineate civil, administrative and criminal liability, enforcement mechanisms and institutions, in line with relevant international human rights standards:** in particular, Article 161 of the Criminal Code of Ukraine must be amended to remove the lack of clarity regarding liability for discrimination on the one hand and incitement of hatred on the other. Substantive articles of the Criminal Code of Ukraine pertaining to general violent crimes, including crimes against property, should explicitly provide for an aggravated punishment when violence was motivated by bias.

### Funding and budgetary allocations

- **Establish adequate funding is in place, ringfenced for Roma and other highly marginalized populations, to support adequate and inclusive service provision for all:** given the current move towards greater decentralization, it is essential that the central government takes steps to establish additional budgetary support for poorer regions in Ukraine to guarantee funding allocations for Roma and other impoverished or discriminated groups.
- **Incorporate more detailed and specific indicators in post-2020 Roma integration strategies:** a lack of measurable indicators has undermined effective implementation of the 2020 Strategy. Improved budgeting for integration strategies needs to be linked to detailed indicators of progress and achievement. Indicators should also be de-centralized and appropriate to regional and local contexts

## Documentation

- **Prioritize the provision of identity documentation and proof of citizenship to Roma and other groups at risk of statelessness through a free, easily accessible and non-discriminatory application system:** authorities should establish a clear administrative procedure of identity and citizenship verification and issuance of documents to undocumented Roma, free from administrative fees and unrealistic burdens of proof.
- **Address the barriers that undocumented Roma and others without documentation face in securing health care, education and other public services:** lack of access to documentation is particularly concentrated among the poorest and most marginalized Roma, such as migrants, IDPs and those in remote rural areas, reinforcing their destitution. Authorities should therefore ensure that these basic rights are available to all, regardless of their documented status.

## Education and vocational training

- **Promote equitable, accessible and non-discriminatory education for Roma children:** authorities should increase educational outcomes among school-age Roma by addressing the complex financial, social and geographic barriers that prevent many, particularly girls, from accessing their right to education. This can best be achieved through close cooperation with Roma NGOs and community members.
- **Ensure the current educational reforms in Ukraine promote inclusion for Roma:** Ukraine authorities need to acknowledge and take substantive measures to end the practice of de facto segregation policy for Roma children in amongst many schools and education authorities. In particular, measures are urgently needed to prevent the recent educational reforms on catchment area requirements inadvertently reinforcing segregation of Roma children.
- **Support vocational training and literacy programmes for adult Roma:** lack of access to education and high levels of illiteracy among older Roma continue to undermine their life prospects and employment opportunities. This legacy of discrimination needs to be addressed through a carefully designed programme of skills development and outreach among Roma communities.

## Livelihoods

- **Take steps to address the multiple drivers of discrimination that concentrate Roma disproportionately in poorly paid and dangerous informal labour:** in addition to addressing the many barriers to employment, from discrimination and poverty to illiteracy and lack of documentation, authorities should also take steps to prevent exploitation, health hazards and other risks in informal labour.
- **Strengthen security for Roma migrant workers from human rights abuses, including attacks on informal settlements and camps:** migrant Roma have been particularly targeted by far-right groups and while more effective police protection is needed to prevent further incidents, particularly given the complicity of local officials in some attacks, authorities should also ensure safe and accessible accommodation to improve security for migrant populations.

## Housing

- **Address as a matter of urgency the adverse housing and living conditions affecting Roma communities, including lack of access to adequate and affordable accommodation:** at present, high housing prices, discrimination and a lack of social housing stock force many Roma into informal, makeshift settlements. As housing subsidy programmes are failing to reach many of the most excluded Roma, more targeted and culturally appropriate systems of support are needed.
- **Prioritize the registration and servicing of 'undocumented houses', a situation that particularly affects Roma households:** as many Roma houses, even those built decades ago, are not formally registered they are excluded from access to clean water, sanitation, waste disposal and other important services, a situation that locks them into a cycle of poverty and ill health. Authorities should remove discriminatory barriers to registration to ensure that the rights of residents in these houses are officially recognized.

## Participation

- **Establish clear consultative mechanisms for Roma representatives, activists and community members at national, regional and local levels to engage in policy design and implementation:** this is especially important when the decisions in question directly affect them. Authorities should ensure that programmes and service provision in education, health and other sectors draw meaningfully on the perspectives and preferences of local Roma.
- **Ensure financial sustainability and the expansion of the role of Roma mediators and CSOs as key intermediaries and agents of delivery for Roma integration policy:** the most positive examples of integration policy since 2013, have been led by Roma civil society actors, however these have largely been reliant on foreign or inter-governmental donors. In particular, Roma mediators have been proven to have had a substantial impact in the areas of education, health, documentation and conflict resolution. Recognition of the role of Roma mediators, with an official qualification, is an urgent priority and long term sustainable funding for mediators should form a key component of any post-2020 strategy.

# Notes

- 1 For example, see Chiricli, *Monitoring the Human Rights Situation of Roma in Ukraine*, 2014, p.7; Initiative Group 'Roma in Ukraine', *Shadow Report to Ukraine's 2nd National Report Under Framework Convention for the Protection of the National Minorities*, 2006, pp.2-3.
- 2 The full text of the Strategy in Ukrainian is available at <https://zakon.rada.gov.ua/laws/show/201/2013>.
- 3 The full text of the Action Plan in Ukrainian is available at <https://zakon.rada.gov.ua/laws/show/701-2013-%D1%80>.
- 4 Interview with Anzhelika Kruhliak, Executive Director of Zaporizhzhia Roma Centre 'Latcho Drom'.
- 5 Roma are widely represented in Ukrainian folklore under the ethnonym 'Tsyhan'. These tales paint a stereotypical image of Roma men as amicable, light-hearted tricksters and travellers, and demonstrate that Roma were an integral part of Ukrainian society. Many Ukrainian idioms attest to the close relations between Ukrainians and Roma, describing their mastery of traditional crafts and specialist skills. For example, see Mushketyk, L., Людина в народній казці Українських Карпат: на матеріалі оповідальної традиції українців та угорців [A person in the folk tale of Ukrainian Carpathians: Based on the material of oral tradition of Ukrainian and Hungarians], 2010; Sukalenko, T., Типаж «циган» крізь призму українських прислів'їв та приказок [Image of 'Tsyhans' through the prism of Ukrainian proverbs and sayings], Література та культура Полісся. Серія: Філологічні науки, 82: 241–253, 2016.
- 6 In April 2014 a number of attacks against Roma were perpetrated by Russian-backed armed groups in Sloviansk in Donetsk region. In areas controlled by the armed groups, Roma are reportedly targeted with arbitrary detention, extortion, beatings and killings. For example, see ADC 'Memorial', *Roma and War in Eastern Ukraine – Refugees, Displaced Persons and Victims of Violence*, 2015, p.20
- 7 See <http://200.ukrcensus.gov.ua/results/general/nationality> for the findings of the 2001 National Population Census regarding the ethnic composition of Ukraine's population.
- 8 For example, see Chiricli, *op. cit.* and Initiative Group 'Roma in Ukraine', *op. cit.*
- 9 Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, 'Fourth opinion on Ukraine', adopted on 10 March 2017 and published on 5 March 2018
- 10 Introduced as part of the package of EU-Ukraine visa-liberalisation measures, as stipulated by the Law of Ukraine, *On Unified Demographic Registry and Documents Proving Citizenship of Ukraine, Certify Identity or a Special Status*. The registry is still in the process of being uploaded with citizens' data.
- 11 A detailed discussion of the different factors that constrain collection of data on the numbers and needs of Roma is available in Petrova, D., "The Roma: Between a myth and the future", *Social Research*, Vol. 70, No. 1, 2003.
- 12 Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, *op. cit.*
- 13 Available at [http://www.ukrcensus.gov.ua/ukr/laws/2018/prg\\_test2019.pdf](http://www.ukrcensus.gov.ua/ukr/laws/2018/prg_test2019.pdf)
- 14 For example, see Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, *op. cit.* This advises that there is nothing to prevent Ukrainian authorities from collecting ethnic data with the consent of the individuals concerned, provided it is properly protected.
- 15 UN CERD, *Concluding Observations on the Twenty-Second and Twenty-Third Periodic Reports of Ukraine*, 2016.
- 16 Report on the Study by the Coalition of Roma NGOs 'Strategy 2020', *Rights of Roma in Ukraine: Problems, Challenges, Perspectives*, 2018.
- 17 Ionescu, M. and Cace, S., *Public Policies for Roma: Evolution and Perspectives*, 2006.
- 18 The full text of the Constitution is available at <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>
- 19 See the full text of the CERD in English at <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx> and in Ukrainian at [https://zakon.rada.gov.ua/laws/show/995\\_105](https://zakon.rada.gov.ua/laws/show/995_105)
- 20 See the full text of the ICCPR in English at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> and in Ukrainian at [https://zakon.rada.gov.ua/laws/show/995\\_043](https://zakon.rada.gov.ua/laws/show/995_043)
- 21 See the full text of the ICSECR in English <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> and in Ukrainian at [https://zakon.rada.gov.ua/go/995\\_042](https://zakon.rada.gov.ua/go/995_042)
- 22 See full text of the CEDAW in English at <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> and in Ukrainian at [https://zakon.rada.gov.ua/laws/show/995\\_207](https://zakon.rada.gov.ua/laws/show/995_207)
- 23 See full text of the UNCRC in English at <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> and in Ukrainian at [https://zakon.rada.gov.ua/laws/show/995\\_021](https://zakon.rada.gov.ua/laws/show/995_021).
- 24 See full text of the ECHR in English at [https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf) and in Ukrainian at [https://zakon.rada.gov.ua/laws/show/995\\_004](https://zakon.rada.gov.ua/laws/show/995_004)
- 25 See the full text the Protocol No.12 to ECHR in English at <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680080622> and in Ukrainian at [https://zakon.rada.gov.ua/laws/show/994\\_537](https://zakon.rada.gov.ua/laws/show/994_537)
- 26 See the full text of the CPNM at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c10cf> and in Ukrainian at [https://zakon.rada.gov.ua/go/995\\_055](https://zakon.rada.gov.ua/go/995_055)
- 27 Law 'On National Minorities in Ukraine' (1992), as amended in 2012, available at <https://zakon.rada.gov.ua/laws/show/2494-12>
- 28 OSCE and ODIHR, *Situation Assessment Report: On Roma in Ukraine and the Impact of the Current Crisis*, 2014.
- 29 Law 'On Principles of Prevention and Combatting Discrimination in Ukraine', available at <https://zakon.rada.gov.ua/laws/show/5207-17>
- 30 OSCE and ODIHR, *op. cit.*
- 31 Civil Code of Ukraine (2003), available at <https://zakon.rada.gov.ua/laws/show/435-15>
- 32 Civil Procedure Code (2004), available at <https://zakon.rada.gov.ua/laws/show/1618-15>

- 33 Labour Code of Ukraine (1971), as amended in the end of 2015 in the framework of the EU-Ukraine visa liberalisation process, available at <https://zakon.rada.gov.ua/laws/show/322-08>
- 34 Law 'On National Police' (2015), available at <https://zakon.rada.gov.ua/laws/show/580-19>
- 35 Code of Administrative Procedure (2005), available at <https://zakon.rada.gov.ua/laws/show/2747-15>
- 36 The full text of the ECtHR judgement in the case of *Danilenkov and others v Russia* (№ 67336/01, 30 July 2009) is available at <http://hudoc.echr.coe.int/eng?i=001-93854>
- 37 See ECtHR judgement in the case of *R.B. v. Hungary* (No. 64602/12, judgement of 12 April 2016), available at <http://hudoc.echr.coe.int/eng?i=001-161983>; ECtHR judgement in the case of *Kiraly and Domotor v. Hungary* (No 10851/13, judgement of 17 January 2017), available at <http://hudoc.echr.coe.int/eng?i=001-170391>
- 38 For example, see the ECtHR judgment in the case of *Identoba and others v. Georgia* (No. 73235/12 of 12 May 2015) at <http://hudoc.echr.coe.int/eng?i=001-154400>; the ECtHR judgement in the case of *Burlya and Others v. Ukraine* (No.3289/10, of 6 November 2018) at <http://hudoc.echr.coe.int/eng?i=001-187508>
- 39 Criminal Code of Ukraine (2001), available at <https://zakon.rada.gov.ua/laws/show/2341-14>
- 40 See Social Action Centre - No Borders Project and MRG, *Shadow Report to Ukraine's 19th to 21st Periodic Report under ICERD*, 2001.
- 41 Note that in the case of lethal consequences legal classification would usually entail CCU Art. 115 (murder). It is, however, unlikely to include any reference to point 14 of the second part of Article 115, which lists racist motives among specific aggravating circumstances.
- 42 See the full text of the Strategy in Ukrainian at <https://zakon.rada.gov.ua/laws/show/201/2013>; for unofficial translation of the Strategy document into English see <https://bit.ly/2In6mbw>
- 43 See the full text of the Action Plan in Ukrainian at <https://zakon.rada.gov.ua/laws/show/701-2013-%D1%80>
- 44 For example, see ERRC and Chiricli, *Written Comments of Concerning Ukraine for Consideration by the Human Rights Committee at its 108th Session*, 2013; OSCE and ODIHR, *Access to Personal Documents for Roma in Ukraine: More Efforts Needed*, 2018.
- 45 In Ukraine the possession of identity documents is essential for everyday life in the society. A person needs to present them when taking a train, being stopped and asked by police, making bank transactions, finding employment, placing children in school or kindergarten, accessing medical care. In such circumstances government's act or omission forcing the person to live without identity documents would be inconsistent with right to respect for private life enshrined, among other, in Article 8 of ECHR (see ECtHR judgement in the case of *Smirnova v. Russia*, Nos 46133/99 and 48183/99 of 24.07.2003)
- 46 Report on the Study by the Coalition of Roma NGOs 'Strategy 2020', *op. cit.*
- 47 Testimony of Volodymyr Kondur and Maksym Dzhum.
- 48 Testimony of Yurii Mandych.
- 49 For example, see Bielikov, O., *Цыгане України в концe XX века: проблемы и пути их разрешения* [Roma of Ukraine in the end of XX century: problems and solutions], available at [http://www.iai.donetsk.ua/\\_u/iai/dtp/CONF/13/articles/sec2/stat22.html](http://www.iai.donetsk.ua/_u/iai/dtp/CONF/13/articles/sec2/stat22.html)
- 50 ADC 'Memorial', a Russian human rights NGO recently labelled a 'foreign agent' by Russian authorities, documented dozens of such incidents. In many cases the perpetrators of the attacks were the local police. For example, in only one encampment near metro station 'Rybatskoye', the group documented a whole series of attacks, including armed assaults and arsons. One of the occurred in 2004 when during a special operation, law enforcement authorities set on fire dozens of Roma tents. In 2005, just as the settlement had been rebuilt, a group of masked men again burned down the settlement. In 2010 police again set the settlement on fire. See Lenta.ru, *Убили цыгана, так вышло Как в Петербурге жил мадьярский табор*: [A Roma man was killed, it just happened so: a commentary on the life of a Roma encampment in St. Petersburg], 12 December 2013, available at <https://lenta.ru/articles/2013/12/12/tabor/>.
- 51 Following the enforced sedentarization decrees issued by the Soviet authorities in 1956.
- 52 For more on the situation of Roma refugees from Donbass in Russia, see the thematic interview of Olga Abramenko by ADC 'Memorial', *Абраменко о том, как донбасские цыгане прозябают на юге России*, 8 April 2016, available at <http://www.test.kavkaz-uzel.ru/articles/280529/>.
- 53 CERD, *Concluding Observations on the Twenty-Second and Twenty-Third Periodic Reports of Ukraine*, August 2016, para 22(e); UN HRC, *Concluding Observations on the Seventh Periodic Report of Ukraine*, July 2013, para 12; ICSECR, *Concluding Observations on the Sixth Periodic Report of Ukraine*, June 2014, para 8.
- 54 More details on this project are available at [https://eeas.europa.eu/headquarters/headquarters-homepage/49259/freedom-movement-everybody-reform-residence-registration-system-ukraine\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/49259/freedom-movement-everybody-reform-residence-registration-system-ukraine_en).
- 55 Testimony of Zemfira Kondur.
- 56 Draft Law No. 9123, 'On Amendments to Some Legislative Acts Concerning Statelessness Determination', 21 September 2013, available at [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=64673](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64673)
- 57 In particular, the 1954 UN Convention relating to the Status of Stateless Persons (UN CSSP, available at [https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons\\_ENG.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf))
- 58 Article 7 of the 1961 Convention on Reduction of Statelessness (UN CRS, ratified by Ukrainian Parliament in 2013, prohibits situations when a national of a Contracting State would lose his/her nationality and become stateless on the ground of departure, residence abroad, failure to register or any similar ground (Article 7). It also prescribes States to ensure that no one becomes stateless as a result of state succession and territorial transfers (Article 10) and prohibits States from depriving any person or a group of persons of their nationality on racial, ethnic, religious or political grounds (Article 9). Similarly, the 1997 European Convention on Nationality (CoE ECN), ratified by the Parliament of Ukraine in 2006, affirms the right of everyone to nationality (Article 4) and prohibits discrimination on the grounds of sex, religion, race, colour or national or ethnic origin (Article 5). It also does not permit State Parties to enact laws allowing the loss of nationality *ex lege* when it would result in statelessness, unless the nationality was acquired fraudulently or the person's conduct seriously endangered the interests of the state (Article 7). Even more so, in cases of state succession, such as Ukraine's independence following the dissolution of USSR in 1991, it requires State Parties to make nationality accessible to everyone who has a genuine link with the new state, originates from the territory of that country or habitually (and not necessarily 'lawfully' or 'officially') resided at its territory at the time of succession. The article also specifies that when the law of the State Party requires one to abandon a foreign nationality, exceptions should be made in cases where it is impossible or cannot reasonably be required (Article 18).
- 59 Report on the Study by the Coalition of Roma NGOs 'Strategy 2020', *op. cit.*
- 60 Testimony of Maksym Dzhum.

- 61 Law of Ukraine 'On education', 2017, available at <https://zakon.rada.gov.ua/laws/show/2145-19>
- 62 See the text of the Framework Concept for Reform of the Secondary Education "New Ukrainian School" at <https://www.kmu.gov.ua/storage/app/media/reforms/ukrainian-a-shkola-compressed.pdf>; the reform schedule with key benchmarks was published by the Ministry at: <http://nus.org.ua/about/calendar>.
- 63 See MES Decree No.367 of 16 April 2018, available at [https://mon.gov.ua/storage/app/media/news/%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8/2018/05/10/1\\_nakaz\\_367.pdf](https://mon.gov.ua/storage/app/media/news/%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8/2018/05/10/1_nakaz_367.pdf) It must be noted, however, that these novelties in the admission procedure do not, however, fully resolve all access problems faced by Roma and other undocumented children. First of all, some school administrations are either not aware or prefer to ignore the new requirements and may refuse the admission of undocumented children. Furthermore, when children are admitted to primary schools without birth certificates, they may have trouble accessing free-lunch programme because of their mode of their financing from the local budgets. Furthermore, when undocumented children completes their schooling, they could face problems obtaining their school graduation certificate and being admitted to sit the External Independent Testing, a precondition for applying to a university.
- 64 See more details on the issue of school segregation prior to the reform in Equal Rights Trust, In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine, 2015; Chiricli, *Monitoring the Human Rights Situation of Roma in Ukraine*, 2014.
- 65 This problem was documented by Equal Rights Trust, *op. cit.*
- 66 Testimony of Vadym Matiushenko.
- 67 Testimony of Maksym Dzhum.
- 68 Report on the Study by the Coalition of Roma NGOs 'Strategy 2020', *op. cit.*
- 69 Testimony of Lola Kulchar.
- 70 Testimony of Maksym Dzhum.
- 71 For more details on the incident, see Podrobnosti, Київские цыгане утверждают, что милиционеры сожгли их табор [Kiev gypsies claim that the police burned their camp], 1 June 2012, Nashkiev, Цыганский табор в Киеве жгли милиционеры, "очищая" город под Евро? [Gypsy camp in Kiev burned by police, 'clearing' the city ahead of the Euro?], 24 July 2012.
- 72 For more details, see <https://hromadske.ua/posts/viselennya-romiv-z-taboru-v-kiyev>; and Report by the Congress of National Minorities of Ukraine (CNGU), [Data Analysis and Development of Recommendations for Action in the Fight Against Antisemitism and Xenophobia Against Roma People in Ukraine: For Equal Rights and Equal Opportunities], 2017, available at [http://www.kngu-recommendations.org/data/pdf/evz\\_report\\_2017\\_print\\_re.pdf](http://www.kngu-recommendations.org/data/pdf/evz_report_2017_print_re.pdf)
- 73 For more details, see CNGU, [Data Analysis and Development of Recommendations for Action in the Fight Against Antisemitism and Xenophobia Against Roma People in Ukraine: For Equal Rights and Equal Opportunities], 2017, available at [http://www.kngu-recommendations.org/data/pdf/evz\\_report\\_2017\\_print\\_re.pdf](http://www.kngu-recommendations.org/data/pdf/evz_report_2017_print_re.pdf)
- 74 For more details, see Amnesty International, ЛИСА ГОРА: Пік минул після нападу на ромів у Києві – жертви досі не дочекалися справедливості, 2019.
- 75 For more details on the incident see CNGU, Ксенофобія в Україні 2018 [Xenophobia in Ukraine in 2018], 2019; Hromadske Radio, Злочин без кари: як розслідуються напади на ромські поселення [Crime without penalty – how attacks on Roma settlements are being investigated], 26 June 2018, available at <https://hromadske.ua/posts/rozsliduvannya-napadiv-na-romski-poselennia>.
- 76 For more details, see CNGU, 2019, *op. cit.*; Hromadske Radio, *op. cit.*
- 77 For more details see CNGU, 2019, *op. cit.*; Hromadske Radio, *op. cit.*
- 78 *Ibid.*
- 79 *Ibid.*
- 80 For more details, see Hromadske Radio, В Івано-Франківську роми заявили про напад на табір та підпал: писати заяву відмовилися [Roma in Ivano-Frankivsk declared assault camp and arson: they refused to write an application], 25 March 2019.
- 81 Article 33 of the Constitution of Ukraine reads: 'Everyone lawfully present in the territory of Ukraine shall be guaranteed freedom of movement and travel, free choice of place of residence, and the right to freely leave the territory of Ukraine, with the exception of restrictions stipulated by law. A citizen of Ukraine may not be deprived of the right to return to Ukraine at any time.'
- 82 Legislation in need of review includes the Law of Ukraine 'On social housing fund', 12 January 2006 (most recent edition of 13 October 2018), available at <https://zakon.rada.gov.ua/laws/show/3334-15>; CabMin Decree No. 422 of 31 March 2004, available at <https://zakon.rada.gov.ua/laws/show/422-2004-%D0%BF>. These normative acts, with some exceptions inapplicable to Roma, link access to social or temporary housing to one's permanent, i.e. registered (even if formerly) place of residence. It must be noted, however, that due to structural conditions determining the situation of Ukraine's post-privatisation housing market, any reform aimed at practical implementation of the legal framework regulating provision of social housing (with or without inclusion of mobile groups of vulnerable population) will require a substantial revision of the evidently outdated 1983 Housing Code (available at <https://zakon.rada.gov.ua/laws/show/5464-10>).
- 83 'Memorial' ADC and FIDH (2008), Право цыган на жилье и проблема насильственных выселений в России [Right of Roma to housing and the problem of forced expulsions in Russia], 2008.
- 84 UNECE (2013) Country Profile on Housing and Land Management in Ukraine. *United Nations Economic Commission for Europe*. Available at [http://www.unece.org/fileadmin/DAM/hlm/documents/Publications/CP\\_Ukraine\\_ECE.HPB.176.en.pdf](http://www.unece.org/fileadmin/DAM/hlm/documents/Publications/CP_Ukraine_ECE.HPB.176.en.pdf)
- 85 Article 6 of the 1990 Housing Code, available at <https://zakon.rada.gov.ua/laws/show/561-12> and Article 121 of the 2001 Housing Code, available at <https://zakon.rada.gov.ua/laws/show/2768-14>.
- 86 These included Articles 1321 and 1322 introduced into the 1983 Housing Code in 2003, mandating the authorities to create temporary housing stocks of adequate standard in order to provide temporary shelter to vulnerable individuals, particularly families with children, who had no means to buy or rent an accommodation after losing their homes as a result of repossession, enforced displacement or if their homes became uninhabitable (<https://zakon.rada.gov.ua/laws/show/5464-10>).
- 87 Until 2018, the procedure for allocation of the funds under these programmes was not transparent and hardly accessible for most citizens, even those who were, in theory, eligible. Alarming signs of corruption on both the supply and demand side of the 'affordable housing' programmes forced the authorities to alter the programme in 2018. However, given the high cost of newly constructed housing, the programme remains inaccessible to the most disadvantaged groups of population. Furthermore, the programme does not extend to low-rise single-family homes that better fit the needs of most Roma families in Ukraine, given their traditional way of life and cultural preferences.



- 88 A significant portion of the Ukrainian population do not reside where they are officially registered. See more on reasons of this phenomenon and its consequences for the rights of affected populations in a recent study by Human Rights Centre 'Zmina', available at <https://drive.google.com/file/d/1IJtuQIQZz4H47dWP-dpCcmfc3-8ExeuO/view>
- 89 ERRC, *Proceedings Discontinued: The Inertia of Roma Rights Change in Ukraine*, 2006, p.70.
- 90 Testimony of Yurii Mandych.
- 91 Testimony of Volodymyr Matiushenko.
- 92 According to the ECtHR, the failure of the authorities to provide shelter and protect from destitution certain particularly vulnerable individuals may amount to degrading treatment prohibited by the Article 3 of the European Convention on Human Rights (ECHR, *mutatis mutandis* M.S.S v. Belgium and Greece, No. 30696/09, judgement of 21 January 2011). On 6 November 2018 the ECtHR delivered the judgement in the case of *Burlyla and others v. Ukraine* (No.3289/10). The case concerned an attack on Roma houses that took place in Petrivka village in Odesa region on 7 September 2002. The circumstances of the case are remarkably similar to what happened in the village of Loshchynivka in 2016: following the tragic death of a 17-year-old girl, allegedly killed by a young Roma man following an argument, local residents called for the expulsion of Roma residents from the village and a large crowd subsequently attacked a number of Roma houses, burning one to the ground. Though authorities filed a pro forma investigation, the incident was not classified as a hate crime, no perpetrators were formally identified and the victims received no compensation or alternative accommodation. The Court stressed that violent attack on Roma houses and the village council 'expulsion order' were undoubtedly motivated by anti-Gypsyism and concluded that Roma, who were forced to flee the village as a result of the attacks had suffered degrading treatment in violation of Article 3 of the Convention.
- 93 ERRC, 2006, *op. cit.*
- 94 Fakty i Kommentarii, На Харьковщині люди вигоняють цыган из села [In Khariv, residents expelled Roma from a village], 24 January 2017.
- 95 Hromadske Radio, Виселення ромів з Лощинівки: суд визнав дії сільського голови незаконними [Eviction of Roma from Loshynivka: The court found the actions of the court illegitimate], 10 August 2018.
- 96 For example, see Slaev, A., 'Bulgarian policies towards the Roma housing problem and Roma squatter settlements, *European Journal of Housing Policy*, 7(1), 63-84; EU Fundamental Rights Agency, Case study: Roma Housing Projects in Small Communities, Slovakia, 2009.
- 97 Eurocities, *Mapping of the situation of Roma in cities in Europe*, August 2017, p.33.
- 98 Kharkiv Institute of Social Research, Безпека ромського населення: результати дослідження в Одеській та Закарпатській областях [Security of Roma population: Research Findings from Odesa and Zakarpattia Regions], 2018, available at <http://khisr.kharkov.ua/files/docs/1546699810.pdf>
- 99 Testimony of Vadym Matiushenko.
- 100 Kharkiv Human Rights Protection Group, 'Local authorities implicated in fatal attack on Roma residents in Kharkiv oblast', 23 May 2017; Kharkiv Human Rights Protection Group, 'Ukrainian prosecutor accused of brutal attack on Roma hate crime lawyer', 28 May 2018.
- 101 Trehan, N., & Sigona, N. (2009). *Romani politics in contemporary Europe: Poverty, ethnic mobilization, and the neoliberal order* / edited by Nando Sigona and Nidhi Trehan. Basingstoke: Palgrave Macmillan.





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## Roma in Ukraine – A Time for Action: Priorities and Pathways for an Effective Integration Policy

Roma in Ukraine have a long history of discrimination that, despite some progress in recent years, continues to this day. Now more than ever is the time to act. The current Roma Integration Strategy for Ukraine ends in 2020 and despite positive intentions the violent anti-Roma attacks of 2018 have only highlighted the serious vulnerability and marginalisation of many Roma in Ukraine.

While poverty, isolation and high levels of illiteracy contribute to their destitution, discrimination against Roma at every level of society, including among police, prosecutors and officials, also plays an important part in perpetuating their secondary status. This is illustrated by

the limited representation of Roma in public life in Ukraine and the increasing prevalence of hate speech and violence by far-right groups – attacks enabled in large part by the impunity that many perpetrators appear to enjoy.

While Ukraine has taken a number of steps to amend its legislation in line with international standards and publicly stated its commitment to promoting the inclusion of Roma and other minorities, in practice much of these promises remain unrealized. The ability of the Ukrainian government to achieve these ambitions in future will therefore provide an important gauge on the broader transition of the country to human rights, democracy and social progress.

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