

Legal Protection of Housing Rights: the Case of the Roma

A Few Points of Discussion

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Housing Rights – Second Generation Rights

- Entail positive actions not only refraining.
- To be achieved progressively due to the high financial costs.
- However, this should not serve as an excuse for the Governments to do nothing for the implementation of these rights.

Difficulties to Be Aware of

- Great financial interests (including corruption) lead to Roma being “side victims”;
- Local authorities suddenly become entirely independent from the government – this is merely an excuse Governments use to justify their lack of action in the housing area.
- Litigation is particularly difficult, due the fact that many of the evicted Roma might be “vulnerable” in relation with the Mayoralty. They fear repercussions if they initiate a lawsuit against the Mayoralty (e.g. exclusion from social welfare). When moved or evicted, people are worried about getting a new house, protecting their families and belonging, so litigation falls becomes secondary.

Housing is maybe the field in which the least progress was made in the Roma inclusion process. E.g. in Romania, there was almost nothing until about 2-3 years ago, when the Ministry was of to a timid start. The legal framework is very much outdated. There is extremely poor implementation of international standards of international law.

Major Problems Roma Face

- Sub-standard living conditions (poor protection against the elements, very small living space etc);
- Inaccessibility (at the outskirts of the localities);
- Security of tenure (vulnerable to demolition of property, forced evictions etc);
- Forced evictions (general practice throughout many European countries);
- Environmental racism (placing Roma houses in toxic areas);
- Ethnic purifying (moving Roma away from the cities – trends to evict Roma from the town to the outskirts are thought to lead to a “Gypsy-free town”).

Case Study

Eastern Romania. Since 2002, the Mayorality successively evicted Roma from various neighborhoods (social housing) in the town to the outskirts (in three areas). The last move was in 2007. The new plan seems to be that the Mayorality wants to evict the Roma from these three segregated communities at the outskirts of the town, into one big segregated community. This continued regardless of the Mayor in power and regardless of the political affiliation of the members of the local council. Thus, this might become a dream city for many mayors. It could become the first “Gypsy-free town” in the country.

Housing Segregation

- Is peculiar. Anyone has right to live in their own communities. So should the Roma (e.g. Roma compact communities, mahalas etc). The main indicator should be the existence of a sense of community, usually due to the long existence of that community. Roma communities and mahalas should not be desegregated, when such separation is long-standing and natural. According to the particular situation, efforts should be done to enhance the development of the local community.
- A clear distinction must be drawn between the above mentioned situation and the cases in which the Mayoralties move, evict, relocate Roma in order to separate them (usually at the outskirts of the society).

Conclusions and Recommendations

- EU should adopt a Directive on housing rights following the standards set forth in the General Comments no. 4 and 7 of the UN Committee on Economic, Social and Cultural Rights as well as those set under the CoE Rec. 4/2005.
- Protection under art. 15 of the EU Race Equality Directive asking for proportionate and dissuasive sanctions against discrimination remains illusory. Even the few sanctions that are decided, very rarely they applied (e.g. M Ciuc). The FRA and the Equality bodies should evaluate the impact of art. 15 in practice and they should come up with proposals to increase adequate protection. EC funds should be earmarked to litigation related programs on combating desegregation.
- The EC, the FRA and the national equality bodies should support and capacitate Roma NGOs and activists to systematically challenge housing discrimination. Absent substantial litigation, change will be long waited for.
- Social houses should not be build all in the same areas and then (de)populate them with Roma. Rather, the law and the funding policies should ensure that smaller numbers of houses are built in various areas of the towns, integrated with other types of housing. EC funding must include a initial filtering system evaluating that project proposals are in line with EU fundamental Rights. The FRA can be resourced and capacitated to fulfill such a task.

More Conclusions and Recommendations

Looking at a Distant Future

- Rule of law weakens when law is supposed to be protecting Roma. Should there be a supplementary mechanism to bridge this gap? If so, what should this be? Can EU law play this role? What reforms need there be operated on the EU institutional framework to implement this? Should the European Court of Justice in Luxembourg play a more active role?
- A minimal strand of non-progressive housing rights must be developed and implemented. These should include a minimal package of fundamental, the core of the standards vital to implement the right to housing. (e.g. no evictions in wintertime).



Thank you for your attention!