

RUSSIAN FEDERATION

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



Country Profile

2011-2012

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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1 About the Country Profile

In addition to following individual cases of violence towards Roma, the activities of the ERRC in Russia focused on analysing access to personal documents in Rostov Oblast. Therefore, this presentation provides a brief overview of the human rights situation of Roma in Russia, but reflects in particular a case study on a specific problem: lack of personal documents which, however, is valid for Romani communities in other parts of Russia too and affects the possibility to enjoy fundamental rights.

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2 Introduction and Background Data

According to the 2010 census, there are 205,007 Roma living in Russia, or less than 1% of the total population (0.14% of a population of 142,905,200).¹ According to the Council of Europe, estimates of the total Romani population in Russia range from 450,000 to 1,200,000.² Roma in Russia are not a homogeneous group, but consist of several sub-groups, depending on the geographic origin of the group, their profession, main language or religion. The first official reference to Roma in the Russian Empire dates from 1733, although there is evidence of the presence of Roma populations on the territory before this date. The largest of the Roma sub-groups in Russia in the 18th and 19th centuries were the Russka Roma, who fled from Germany in the 16th and 17th centuries, and the Servi Roma, who moved eastwards from Ukraine. Other groups include Vlachi, who came from Wallachia and Moldavia in the mid-18th century, and Kalderara and Lovara who migrated from Romania in the 20th century. There are also Roma communities from other regions of the former Russian Empire living in Russia, such as Lyuli from Central Asia, Lom from Armenia, and Garachi from Azerbaijan.³

Nationwide, comprehensive data on the socio-economic situation of the Roma in Russia does not exist. Nationwide statistics are in general based on census results. However, the majority of Roma do not disclose their identity in census-taking, which creates a serious obstacle for the production of reliable data. Furthermore, in recent years, comprehensive research on specific topics relevant to Roma has not been conducted in Russia.

2.1 Overall Situation of Roma Communities

In many areas of Russia, Romani communities live in conditions of extreme hardship and poverty, and lack access to basic social services and adequate housing. Roma continue to face widespread discrimination in areas such as access to employment, as noted recently by the Council of Europe's Advisory Committee of the Framework Convention for the Protection of National Minorities.⁴ There is no comprehensive programme to address the significant under-representation of Roma in the labour market. Though there are no detailed and accurate

1 See the All-Russian population census results, available at: http://www.gks.ru/free_doc/new_site/perepis2010/croc/perepis_itogi1612.htm. This figure includes 49 people who identify as Central Asian Roma (Lyuli) specifically.

2 See Estimates on Roma populations in European countries available at: <http://hub.coe.int/web/coe-portal/roma>.

3 European Roma Rights Centre, *In Search of Happy Gypsies: Persecution of Pariah Minorities in Russia*, May 2005, pp 43 – 44.

4 Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on the Russian Federation, 25 July 2012, Conclusions, report available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_RussianFederation_en.pdf.

INTRODUCTION AND BACKGROUND DATA

statistical data on the representation of Roma in the labour market, reports indicate that these numbers are very low due to widespread prejudice against Roma in the public and private sectors, and their lack of training.⁵

Forced evictions of Roma without adequate alternative accommodation continue to take place in a number of regions. Even if evictions are carried out in accordance with a court ruling, the right to a fair trial is frequently violated, as many Roma lack registration and their claims are therefore not duly considered.⁶

Romani children whose parents lack identity documents continue to face denials of registration. Often Romani children are placed in separate classes or schools with low quality education. The Council of Europe's Advisory Committee has expressed its particular concern about the continuing separation and isolation of Roma children in many schools where barriers to their access to quality education openly demonstrate discriminatory attitudes by school authorities.⁷

Roma experience selective and disproportionately frequent identity checks by the police and are vulnerable to abuse. During police raids sometimes their properties are destroyed and disproportionate use of force is applied.⁸ The number of racially-motivated offences, including numerous instances of physical violence and murders, remains very high and manifestations of hostility against persons belonging to some groups continue to be frequently reported. The Council of Europe Advisory Committee expressed deep concern over this issue. Persons originating from Central Asia, the Caucasus, Africa or Asia, as well as Roma are particularly targeted by racist violence. According to reports in Russia, no less than 16 persons were killed between January and September 2011 and 90 injured as a result of racist violence in 25 regions of the Russian Federation.⁹

5 *Ibid*, page 51.

6 *Ibid*, page 17.

7 *Ibid*, page 41.

8 *Ibid*, page 28.

9 *Ibid*, page 24, reference to SOVA Center for Information and Analysis, Racism and Xenophobia in September 2011.

3 Summary of (Crosscutting) Laws, Policies and Structures

The legal foundation for the protection of the rights of national minorities in Russia is limited. Legal provisions present in different laws and sub-laws do not afford minorities sufficient grounds to fully realise the rights and freedoms guaranteed by the Constitution of the Russian Federation to its citizens. The legal concept of national minorities does not exist in the Constitution.

Article 5 of the Law on Education states that “Citizens of the Russian Federation are guaranteed the possibility to receive education irrespective of their sex, race, nationality, language, social origin, place of residence, attitude toward religion, personal convictions, membership in public organisations (associations), age, health status, property status, official status, criminal record.” The wording of the article is problematic because technically it applies only to citizens of the Russian Federation, in contradiction to the Constitution, which guarantees the right to education to everyone as opposed to only the citizens named in the Law on Education.

Existing guarantees contained in various federal laws related to, *inter alia*, media, education in minority languages, or the use of minority languages, continue to be in need of legislation as well as relevant mechanisms at regional level to guarantee their effective implementation.¹⁰

3.1 Prohibition Against Racial Discrimination in Criminal Law

The Criminal Code of the Russian Federation has been reinforced and complemented with provisions aimed at combating racism and intolerance. Article 63 (1) stipulates that “national, racial or religious hatred or enmity” is considered as an aggravating circumstance and gives rise to more severe penalties for the crimes of murder, assault and torture.

Article 136 criminalises direct or indirect advantages or disadvantages for a group of citizens on the grounds of race, language, residence, nationality, religion or conscience. This clause was amended in 2004 in order to expressly prohibit discrimination, notably racial discrimination.

Article 282 of the Criminal Code prohibits actions aimed at the incitement of hatred or enmity, as well as debasement of dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion, or affiliation to any social group, if these acts have been committed in public or through the use of mass-media.

The 2002 Federal Law on Counteracting Extremist Activities amended the Criminal Code to define “extremist activity” as “violent actions against the state and any actions aimed at inciting national, racial, religious and social enmity in connection with violence or threat

¹⁰ *Ibid*, page 6.

of violence, humiliation of national dignity; vandalism and mass disorder; propaganda of the exclusivity, superiority or inferiority of people on the grounds of their social, racial, religious, national and linguistic group, propaganda and public demonstration of Nazi or similar symbols.” According to the law, a court can prohibit the broadcasting or publication of media expressing extremist views.

3.2 Lack of Comprehensive Anti-Discrimination Legislation

There is no comprehensive law prohibiting forms of discrimination in all spheres of life. A general anti-discrimination clause is to be found in Article 19 of the Constitution stating that: “All people shall be equal before the law and court. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned. Man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them.”¹¹

Article 3 of the Labour Code contains several provisions to combat racial discrimination in the field of employment. Although clauses prohibiting discrimination are often included in the text of laws, they are drafted in broad language, which is not as precise and comprehensive as Article 3 of the Labour Code. Article 3 defines workplace discrimination while Article 64 of the Labour Code bans employers from refusing to conclude a labour contract for unjustified reasons. According to Article 64, the following shall not be permitted, except in specific circumstances stipulated by federal law: all and any direct or indirect restrictions or granting direct or indirect advantages when concluding a labour contract based on sex, race, skin colour, nationality, language, origin, property, social and official status, domicile (including availability or unavailability of registration at the place of residence or lodging) as well as on any other factors not connected with the professional qualities of employees.

Despite the existence of several anti-discrimination provisions in the Russian legislation, there is a need for more comprehensive anti-discrimination legislation containing a clear definition of what constitutes discrimination¹² and its various forms such as direct, indirect, victimisation, harassment etc. For example, the UN Committee on the Elimination of Racial Discrimination in its Concluding Observations on the Russian Federation, stressed the need to adopt comprehensive anti-discrimination legislation, covering direct as well as indirect discrimination and providing for a shared burden of proof in civil and administrative court proceedings concerning acts of racial discrimination.¹³

11 Constitution of Russian Federation, adopted on 12 December 1992, article 19.

12 Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on the Russian Federation, 25 July 2012, page 6, report available at: http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_RussianFederation_en.pdf.

13 Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Russian Federation*, (CERD/C/RUS/CO/19), 20 August 2008, available at: <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.RUS.CO.19.pdf>.

Also an independent and specialised body dealing solely with the issue of discrimination should be set up in order to conduct extensive monitoring of the situation in the field of discrimination, raise awareness of discrimination related problems and have the competence to deal with complaints of discrimination.

The UN Committee on the Elimination of Racial Discrimination recently issued its Concluding Observations on the Russian Federation, stressing the need to adopt a national plan of action that includes special measures for the promotion of access by Roma to employment, personal documents, residence registration, adequate housing with legal security of tenure, education and other economic, social and cultural rights. The Russian government has done little to address the concerns and recommendations raised by the Committee.¹⁴

3.3 Governmental Policies on Vulnerable Communities and Human Rights Structures

Under the 1991 Russian Federation Law on the Rehabilitation of the Repressed Peoples and the 1999 Federal Law on the Guarantees of the Rights of Small Indigenous Peoples the government undertook some measures intended for the protection of vulnerable social categories. However in July 2012 the Council of Europe's Advisory Committee of the Framework Convention for the Protection of National Minorities noted that no significant developments have been made in the promotion of equality of persons belonging to particularly disadvantaged groups, in particular the Roma, as well as persons belonging to indigenous peoples.¹⁵

To date, no comprehensive strategy has been adopted at federal or regional level to tackle the multiple disadvantages facing Roma in many areas of life, including education, access to housing, employment and health care. Furthermore, Russia is not participating in the process of the Decade of Roma Inclusion. The lack of initiatives to develop a comprehensive policy at central level is compounded by indifference at the local level. For example, officials in the Ministry of Social Care in Rostov admitted that no social care worker is designated to work with or in isolated Roma communities, and document-issuing authorities do not provide information campaigns or other measures facilitating document acquisition for illiterate individuals or isolated groups.

To date there is no independent body specialising in the field of combating racism and racial discrimination in the Russian Federation. There is a national Ombudsman in the Russian Federation and 62 out of 89 regions in the Russian Federation have a regional Ombudsman.¹⁶ The Ombudsman institutions have the power to receive complaints from and monitor compliance with human rights standards. The Ombudsman also has the power to issue recommendations. According to

14 Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Russian Federation*, (CERD/C/RUS/CO/19), 20 August 2008, available at: <http://www2.ohchr.org/english/bodies/cerd/docs/co/CERD.C.RUS.CO.19.pdf>.

15 *Ibid*, page 16.

16 The list of regional ombudsmen is available at: <http://ombu.ru/node/1787>.

their 2011 report, the Ombudsman institution received 5,400 complaints, but did not provide specific information about how many complaints concerned discrimination, if any, or statistics on complaints disaggregated by ethnicity.¹⁷ The role of the Ombudsman's institution is advisory.

The Department for Interethnic Relations was set up within the Ministry for Regional Development, established in 2004. The representatives of this Department indicated to the ERRC that the task of the Department is to provide assistance to national and other minorities.¹⁸ Amongst other initiatives, this Department organises events to promote the culture of national minorities. It has also drafted programmes for the improvement of the economic and social conditions of some ethnic groups, including for Roma scattered throughout the country.

17 2011 Report of the Ombudsman of Russian Federation, available at: <http://ombudsmanrf.org/dok-lady/717-2011>.

18 ERRC interview, July 2012.

4 Key Issues by Theme

4.1 Access to Personal Documents

The primary focus of the ERRC's work in Russia in recent years has been the issue of access to personal documents, including birth certificates and passports, and also residence registration. The lack of such documents is a serious obstacle for many Roma and prevents individuals from accessing various other rights. The ERRC conducted field interviews in 2012 in Rostov Oblast (region) with individuals living in Romani communities.

4.1.1 LEGAL AND POLICY FRAMEWORK

The Constitution encompasses persons without citizenship or documentation, protecting the many Roma who lack identity documents. Article 62 states that foreign nationals and stateless persons in the Russian Federation shall enjoy the rights and bear the obligations of citizens of the Russian Federation, except for cases envisaged by federal law or international agreements of the Russian Federation.¹⁹

The Federal Law on Citizenship of the Russian Federation provides a simplified procedure for granting citizenship of the Russian Federation to citizens of the former Soviet Union.²⁰ However, the law includes a requirement to prove residence registration or a residence permit in the Russian Federation, preventing members of visible minorities, including Roma, from obtaining citizenship. International bodies have expressed concern that the new Citizenship Law may make it even more difficult than before for citizens from the former Soviet Union who lived permanently in Russia before the collapse of the Soviet Union to apply for citizenship. Some citizens of the former Soviet Union, in particular Roma, face insurmountable obstacles in obtaining Russian citizenship, and thus remain stateless.

Amendments to the Federal Law on Citizenship in 2002 extended the requirement of minimum registration of residence on the territory of Russia to five years before a person can apply for Russian citizenship and a passport. The simplified procedure outlined in Article 14 of the Law on Citizenship provides for a number of case scenarios where certain categories of applicants can obtain citizenship without the necessary prerequisite of living 5 years on the territory of Russia. However the applicants still need to have residence registration in order to apply and obtain Russian citizenship. It also introduced proof of command of the Russian language as a condition for accessing citizenship.²¹ This must be proven with education certificates from Russian schools or a certificate proving that one has passed a

19 Constitution of Russian Federation, adopted on 12 December 1992, article 62 para 3.

20 Article 14-4 of the Law on Citizenship of the Russian Federation

21 Federal Law on Citizenship No 62-FZ of 31 May 2002, Article 13.

State test in Russian language reading, writing and speaking.²² Applicants must also provide proof of a legal source of income and of lack of citizenship of another State.

Citizens of the former USSR born in Russia who missed the 31 December 2003 deadline for updating their passports must meet the same requirements, with a one-year residence condition instead of five. Amendments recently proposed to Russia's Law on Citizenship aim to simplify naturalisation procedures for children born abroad who have one Russian parent, leaving in place all other conditions for passport acquisition.²³

The Russian Federal Law On Acts of Civil Status sets the parents' nationality and the place of birth as the main criteria for issuing citizenship at birth. A child born to parents without personal documents will become a Russian citizen at birth if he or she would otherwise remain stateless.²⁴ The Law On Acts of Civil Status further provides the opportunity for any person with a Russian passport to apply for a birth certificate for the child if his or her parents do not have personal documents.²⁵ The same law states that birth registration should be made within one month of birth, as a precondition for acquiring a birth certificate.²⁶ If there is no document confirming birth from a medical institution or a private practitioner, the fact of birth can only be established through witnesses in the first year of birth, or through court procedure after that period.²⁷

According to the Law on Migration Record of Foreign Nationals and Stateless Persons in the Russian federation No. 109-FZ from 18.07.2006,²⁸ Russian residents are required to register their place of residence with authorities. Residence registration is issued on the basis of "a document serving as a ground for moving a citizen into living quarters (a warrant for living accommodation, contract for lease, statement of the person who has given living quarters or any other document) or its certified copy". The same Article also requires foreign nationals to provide their identity cards and residence permit in addition to proof of being legally present in the place of residence and, from stateless people, a residence permit.²⁹ However, according to Russian law "[r]egistration or non-registration [at the place of residence] may not serve as a ground or condition for the implementation of rights and freedoms."³⁰

Article 19(15) of the Code of Administrative Misdemeanours of the Russian Federation establishes that staying or residing without an identity card (passport) or without residence

22 ERRC interview with the Head of Passport Issuing Office from the Federal Migration Service, Rostov, 18 July 2012.

23 Amendments to the law on citizenship have been submitted to the State Duma, 24 .04.2012, available at: <http://eng.kremlin.ru/news/3698>. At the time of publication the amendments had not yet been adopted.

24 Federal Law No. 62-FZ, *On Russian Federation Citizenship*, May 31, 2002, Article 9.

25 Federal Law N 143-FZ *On Civil Status Acts*, 15 November 1997, Article 14 para 3.

26 Federal Law N 143-FZ *On Civil Status Acts*, 15 November 1997, Article 16.

27 Federal Law N 143-FZ *On Civil Status Acts*, 15 November 1997, Article 23.

28 The Federal Law on Migration Record of Foreign Nationals and Stateless Persons in the Russian federation No. 109-FZ from 18.07.2006, available at: <http://www.rg.ru/2006/07/20/migracia-uchet-dok.html>.

29 *Ibid*, Article 17.

30 *Law of the Russian Federation* No. 5242-I, 25 June 1993, Article 3.

registration, or with an invalid identity card, or an invalid residence or stay registration, is punishable by a warning or a fine of up to one minimum monthly salary (approximately 20 EUR) or, in the event of a repeated offence, up to RUR 2,000 (EUR 80).

According to the Rules on State Health Insurance in the Russian Federation the general requirement for obtaining state insurance is to provide ID and proof of place of residence.³¹ In cases where applicants cannot prove their place of residence and do not have proof of ID, social care institutions and organisations can apply on their behalf.³² However given that in some areas these social care institutions do not exist, or their capacity to support state health care insurance for vulnerable groups is limited, it is difficult to imagine how in practice people without an ID and registration of their place of residence can obtain access to free health care.

In its Opinion on the Russian Federation, the Council of Europe’s Advisory Committee of the Framework Convention for the Protection of National Minorities highlighted the fact that, despite simplified procedures, practical barriers still prevent some minorities from accessing personal documents. The Committee noted that despite the fact that registration, according to Article 27 of the Constitution as well as constant Constitutional Court jurisprudence, has only notification character and does not constitute a permission to stay, a series of ‘administrative barriers’ are reportedly put in place by the police in some areas to delay or sometimes even prevent the registration of individuals belonging to some minorities, including Roma.³³

4.1.2 THE IMPACT OF LACK OF PERSONAL DOCUMENTS

Lack of personal documentation is a major obstacle faced by many Roma in Russia, and one which has an impact across all spheres of life. Because of the pervasive nature of this problem, and its cross-cutting impact on the enjoyment of a broad range of rights, the ERRC’s recent research in Russia has focused primarily on the extent and impact of this problem. Lack of personal documents prevents Roma from accessing employment (documents might be needed for signing an employment contract), social allowances and healthcare and also from voting in the Russian Federation. Without personal documents Roma are not able to obtain state health insurance. ERRC field research has shown that lack of documents also creates obstacles in accessing education in some schools due to local practices of school authorities. Research has shown that Roma also lack security of tenure due to the absence of documents to prove ownership of property or land, and the lack of registration and other personal documents and this excludes them from participating in housing programmes. Roma without Russian passports cannot leave Russia or even purchase a ticket for travel to domestic destinations by train or plane.³⁴

31 Russian Federation, *Rules on State Health Insurance*, No. 158, 28 February 2011, part II article 6 para 1.

32 *Ibid.* Article 6 para 10.

33 Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on the Russian Federation, 25 July 2012, page 15.

34 European Roma Rights Centre, *Roma in Russia: a Personal Documents Disaster*, 29 October 2003, available at: <http://www.errc.org/article/roma-in-russia-a-personal-documents-disaster/1053>.

There are several reasons why Roma have not been able to obtain all personal documents. Some may have missed deadlines for exchanging documents following the collapse of the Soviet Union, some did not have documents during Soviet times and now cannot prove their birthplace, length of Russian residence, etc. Many Roma do not have one or more personal documents because they cannot meet the requirements set out in Russian law, and many are unaware of the procedures for accessing such documents.

In its Concluding Observations on Russia in 2008, the UN Committee on the Elimination of Racial Discrimination expressed its concern that “in practice, the enjoyment of many rights and benefits depends on residence registration” and noted that Roma “continue to be subject of disproportionately frequent identity checks”.³⁵

With regard to residence registration, the Council of Europe urged member states to ensure that the rights of individuals are not infringed or limited on the basis of residence registration, in particular regarding acquiring citizenship, access to education, access to health care, the right to pensions and social allowances, access to employment, equal opportunities for benefits regarding privatisation and indiscriminate access to property rights, and the right to vote.³⁶

4.2 ERRC Case Study: Rostov Oblast

4.2.1 BACKGROUND INFORMATION

There are no official estimates on the number of Roma affected by a lack of personal documents. ERRC research in Rostov Oblast in 2012 shows that out of 136 individuals interviewed, 22 (16%) did not have any personal documents (birth certificates, passports and residence registration) or means of demonstrating their Russian citizenship. An additional 43 (32%) Romani individuals were lacking one or more personal documents.

Many Romani people’s only means of identification are their expired Soviet papers.³⁷ Roma in Novocherkassk who only have expired Soviet documents say they were not informed of the December 31, 2003 deadline, of any procedures for updating their documents or of any legal consequences of not acting within the deadline. The majority of Roma interviewed (70 individuals, or 51%) say they have never had contact with any document-issuing authority and are not aware of the locations of the relevant offices. Special government measures to assist this particular minority in obtaining new passports would be fully justified, bearing in mind the high rates of illiteracy among Roma.³⁸

35 Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Russian Federation*, (CERD/C/RUS/CO/19), August 20th 2008.

36 Parliamentary Assembly of the Council of Europe, Document 9262 of 12 October 2001, *The propiska system applied to migrants, asylum seekers and refugees in Council of Europe member states: effects and remedies*, available at: <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=9539&Language=EN>.

37 ERRC monitoring of 2011 and 2012 in Rostov region, Russia.

38 European Roma Rights Centre, *In Search of Happy Gypsies: Persecution of Pariah Minorities in Russia*, 150.

Many Roma who moved to Russia from Ukraine after the collapse of the Soviet Union and who have Ukrainian passports also face difficulties in obtaining a Russian passport. Roma living in Kuleshovka told the ERRC they had been informed by officials that they do not qualify for a Russian passport as they fail to meet citizenship criteria, i.e. residence registration and proof of a legal source of income as required by law.

Based on this research, ERRC identified the following as some of the biggest obstacles Roma face with regard to personal documents.

4.2.2 APPLYING FOR AND ACQUIRING A RUSSIAN PASSPORT

Applicants must provide proof of knowledge of Russian. Most Roma interviewed by the ERRC had never attended or completed formal education, could not read or write and were only fluent in spoken Russian. According to state officials, knowledge in Russian entails writing, speaking and understanding and therefore requires literacy.³⁹ This condition is particularly burdensome considering that Roma cannot enrol in formal education without personal documents.

Applicants must prove a legitimate source of livelihood. Roma face severe difficulties in proving a legal income. Many Roma live in isolated communities and in extreme poverty below the minimum wage. Many are unemployed or live off seasonal work. Working contracts and bank accounts – documents generally certifying a legitimate source of livelihood – can only be accessed if personal documents are at hand.⁴⁰

Applicants must have a residence registration. Residence registration is one of the most difficult conditions to meet for most Roma who live in substandard housing, lacking access to gas, water or electricity. Roma stated that they cannot afford the cost of improving living conditions or of legal assistance to legalise their house and land.⁴¹

The application process often requires a number of lengthy, costly, Court proceedings. Roma without any personal documents must prove the fact of birth, determine their legal status, and legalise their house and land in 3 distinct Court proceedings. Roma born in Russia who only have their expired Soviet passport must also prove in Court the fact of residence on the territory of Russia on July 1, 2002. The latter is particularly burdensome for many Roma: the fact of residence is normally evidenced by housing documents and residence registration which many Roma lack.⁴²

39 ERRC interview with Mihail Somorov, head of Passport Issuing Office/Federal Migration Service, Rostov, 18 July 2012.

40 ERRC interview with Aleksandr Tsybrovskiy, local lawyer, 20 July 2012.

41 ERRC interviews with 25 Roma living in an informal settlement under a bridge in Rostov-on-Don, 19 July 2012.

42 ERRC interview with Aleksandr Tsybrovskiy, local lawyer, 20 July 2012. ERRC interview with Anatoly Harkovskiy, Ombudsman for Human Rights in the Rostov region, 16 July 2012.

4.2.3 ACCESS TO BIRTH CERTIFICATES

The lack of birth certificates is another problem encountered during the ERRC's research. Out of 65 minors, 37 (56%) did not have a birth certificate, mostly due to missing the deadlines for birth registration and lack of information regarding relevant procedures. Out of 72 women interviewed by the ERRC in 2012, 32 gave birth to children outside of hospital. 30 of these women did not obtain a medical certificate confirming birth and did not follow up with procedures for birth registration. All 30 reported they had missed the deadline for birth registration and were unaware of special Court procedures to obtain birth certificates for their children.

Women who give birth in public maternity wards say that the institutions do not have a consistent approach in dealing with patients without personal documents. A Roma woman in Kuleshovka who gave birth in a maternity ward in Moscow told the ERRC that she was not issued a medical certificate confirming birth on the basis that she did not have a Russian passport. An official medical certificate signed by the maternity doctor who assisted the woman at birth is essential to apply for a birth certificate and one of her three children still lacks the document.⁴³ According to officials in other maternity wards, personal documents are not necessary to assist women at birth and medical certification of birth is issued to everyone.⁴⁴

Some of the women who were issued a medical certificate confirming birth despite their lack of personal documents report that further applications for birth certificates have been rejected due to the fact that they do not hold a Russian passport. A Roma woman in Novocherkassk, who has a Russian birth certificate, told the ERRC that when she tried to apply for birth certificates for her two sons, the authorities rejected her application on the grounds that she did not have a passport. She was allegedly not informed by authorities that an application can be issued in her name by any other person with a Russian passport.⁴⁵ When asked by the ERRC, Officials from the Birth Certificate authority in Rostov and Azov refused to comment on the reasons for rejecting this particular application. A birth certificate is also a prerequisite to apply for a Russian passport. Out of 65 minors encountered during research, 12 (18%) were older than 14 and could not apply for a Russian passport on time due to the lack of a birth certificate.

4.3 Consequences of Lack of Documents: Rostov Oblast

Research by the ERRC and others indicates there are many areas where Roma communities face discrimination and exclusion. The problems faced are often linked to or exacerbated by the question of personal documents. Many rights and benefits are dependent on having personal documents, especially: healthcare services; voting in elections; social allowances; unemployment benefits; pensions; opening a bank account; and State-provided housing allowances.

43 ERRC interview with Roma woman, 27, in Kuleshovka, 15 July 2012.

44 ERRC interview with four Roma women, 25-30, in Kuleshovka, 15 July 2012; ERRC interview with Gynecologist in Maternity of Azov, Rostov region, 15 July 2012.

45 ERRC interview with Roma woman, 20, in Novocherkassk, Socialisticheskaya ul, 20 July 2012.

As a matter of practice, Roma also report that officials in some schools in Russia refuse to enrol their children in schools in the absence of personal documentation. Residents of this community also reported they are often targeted by local police for identity card checks and are asked to pay bribes in money and cigarettes to be checked less frequently.

4.3.1 HOUSING

One of the biggest challenges faced by Roma in accessing personal documents is to obtain a residence registration. Research carried out by the ERRC in Rostov-on-Don showed that 49% of those interviewed were unable to register their place of residence because they lived in informal housing and could not produce ownership or tenancy documents as required by law. Many Roma live in substandard housing, lacking access to gas, water or electricity. Twenty-five of the 67 Roma interviewed without registered residence had Russian passports and citizenship but could not effectively exercise citizenship rights. Even when individuals are living in formal housing, the Committee for the Elimination of Racial Discrimination observed in 2008 that Russian authorities are often reluctant to grant residence registration to Roma.⁴⁶

All 25 Romani residents of one informal Romani community lack registration of their residence.⁴⁷ Members of the community reported that they cannot afford the high cost of legal representation for court proceedings to legalise their informal housing and/or costs of improving their living conditions to reach the standards at which they would be able to legalise and register their housing. Residence registration is also an essential prerequisite for applying for a Russian passport. Another resident of Kuleshovka who has a Ukrainian passport said that he cannot apply for a Russian passport due to lack of residence registration and is thus forced to live in Russia under a temporary foreigner status.

4.3.2 HEALTH

Lack of residence registration creates significant barriers for Roma to access healthcare and social security. One Romani woman from Kiziterinovskaya balka, Rostov-on-Don, reported that State officials had informed her she cannot obtain State-provided medical insurance without residence registration. Without medical insurance, an unemployed Romani woman reported that she had to borrow money to pay the full price of costly surgery. A family of 10 living in informal housing in Kuleshovka reported that they were also denied health insurance due to their lack of residence registration.

An unemployed Romani woman in Novocherkassk, whose only document is her expired Soviet passport, recalled one of the many instances when she could not access her rights due to lack of a Russian passport: “I got sick last spring and needed surgery. The procedure was

46 Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Russian Federation*, (CERD/C/RUS/CO/19), 20 August 2008.

47 ERRC interviews with residents of an informal settlement under a bridge on Kiziterinovskaya Balka, Rostov-on-Don, 19 July 2012.

cheaper to do in Ukraine but I could not cross to Ukraine without a Russian passport, even though I live two hours away from the border”.

4.3.3 EDUCATION

The UN Committee on the Elimination of Racial Discrimination noted instances where ethnic minority children whose parents lack residence registration were denied access to education, despite contrary instructions from the Federal Ministry of Education.⁴⁸ Similarly, Council of Europe bodies noted that the practice of denying registration and enrolment of Roma pupils without identity documents seemed to persist despite steps taken by the authorities to put an end to the practice of schools not enrolling children from families lacking residence registration.⁴⁹

During field research interviews, Roma parents reported that officials in some schools refuse to enrol children in schools in the absence of residence registration. According to Roma in Novocherkassk and Kuleshovka, local schools require residence registration and birth certificates in order to enrol children. As a result, 13 out of 20 (65%) Romani children of school age were not attending school in those communities. Out of 136 Roma interviewed in 2012 by the ERRC, 90 (66%) were illiterate and only three (2%) had completed high-school education. None of the three children of school age of a family of six in Kuleshovka were enrolled in formal education. The family reported being told by school officials that residence registration was mandatory for the enrolment.

4.3.4 EMPLOYMENT AND SOCIAL ASSISTANCE

Many Roma who lack personal documents cannot find formal permanent work, due to the difficulty of concluding a work contract without registration and correct documentation. Low levels of literacy, stemming from difficulties in accessing education, also present an obstacle in accessing employment. In addition to difficulties in finding employment, it is also difficult to access other social support mechanisms.

One 67-years-old member of a Romani community in Kuleshovka said that his application to receive a pension was not approved due to his foreign citizen status, despite the fact that he lived and worked in Russia for the past 20 years as a seasonal trader. Like many other residents of the community, he does not qualify for a Russian passport due to lack of residence registration and proof of legal income. In order to qualify for child allowance, the applicant must fill in an application form stating the family income and provide a copy of the birth certificate of the child. A single mother of four in Kuleshovka reported⁵⁰ that her applications for child allowances had been rejected on the grounds that her children do not have birth certificates.

48 Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Russian Federation*, (CERD/C/RUS/CO/19), 20 August 2008.

49 Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on the Russian Federation, 25 July 2012, page 41.

50 ERRC interview with Roma woman, 22, in Kuleshovka, 15 July 2012.

5 Other Issues Facing Roma in Russia: Violence and Hate Speech

In 2012, the Council of Europe's Advisory Committee of the Framework Convention for the Protection of National Minorities noted that Roma experience selective and disproportionately frequent identity checks by the police and are vulnerable to abuse. During police raids sometimes their properties are destroyed and disproportionate use of force is applied.⁵¹ In ERRC research in Rostov-on-Don region, Roma communities reported that they are frequently targeted by police, who are aware that they do not have the correct documents and registration for their place of residence. Police officers demand money and other gifts from these individuals.⁵²

In May 2012, the European Court of Human Rights found the Russian Federation to have violated Article 2 of the European Convention by not conducting an adequate investigation into the death of a Romani woman in St Petersburg, in the case of *Kleyn & Alexandrovich v Russia*.⁵³ The ERRC and a local attorney have represented the clients through domestic and ECHR proceedings. The applicants were awarded financial compensation in the amount of 20,000 EUR.⁵⁴

Similarly, the ERRC is supporting two Romani individuals before the European Court of Human Rights in relation to mistreatment in detention and denial of the right to a fair trial. Two young Romani men, who were arrested and subsequently convicted of robbery, suffered mistreatment while in police detention. Later on, during the judicial consideration of the case, they endured violations of basic guarantees of fair trial, including permitting the use of confessions obtained through torture. Appeals to national law enforcement authorities to remedy violations and provide justice did not yield a positive result, and the case has been brought to the European Court of Human Rights. On behalf of its clients, the ERRC alleges that the ill-treatment at the hands of police and the failure to investigate it constitute violations of the European Convention on Human Rights.⁵⁵

Roma in Russia remain vulnerable to violent attacks, as well as violence, harassment and intimidation from law enforcement authorities. As highlighted by international bodies, the number of racially-motivated offences, including instances of physical violence and murders, remains high and manifestations of hostility against persons belonging to some groups, including Roma, continue to be reported.⁵⁶

51 ERRC interviews in Roma communities , Rostov-on-Don, 16 July 2012

52 ERRC interviews Kuleshovka, 15 July 2012.

53 European Court of Human Rights, case of *Kleyn & Alexandrovich v Russia* May 2012, HUDOC, judgment available at: <http://hudoc.echr.coe.int/webservices/content/pdf/001-110720>.

54 ERRC News, Volume 17, September 2012, available at: <http://www.errc.org/cms/upload/file/errc-newsletter-3-2012.pdf>.

55 ERRC, "ERRC Seeks Justice for Romani Victims of Police Violence Before European Court", Press release, 28 September 2011, available at: <http://www.errc.org/article/errc-seeks-justice-for-romani-victims-of-police-violence-before-european-court/3931>.

56 *Ibid*, page 24, reference to SOVA Center for Information and Analysis, Racism and Xenophobia in September 2011.

Negative representations of Roma in media and in public discourse frequently associate Roma communities with organised crime, including the drug trade. The Anti-discrimination Centre Memorial St Petersburg drew attention to an incident in Bryansk in 2012 surrounding the disappearance of a young child. The police organised an operation which focused on questioning people living in Roma settlements in the area, despite a lack of any evidence. The investigation eventually concluded that the child's parents had been responsible for her disappearance. Memorial also drew attention to xenophobia and anti-Roma statements in public discourse, including several statements from the mayor of Sochi.⁵⁷ The mayor stated his belief that Roma had recently arrived in large numbers in Sochi, and stated that Roma should be forced to work 'around the clock' in order to discourage them from coming to Sochi.⁵⁸

57 See: <http://www.hro.org/node/13727>. The operation in Bryansk was widely reported in media also; see: <http://www.aif.ru/society/news/120880/17>.

58 The mayor made this statement about both Roma and homeless people. See RFE/RL, *Russian Mayor's Comments about Roma criticized*, 29 October 2009, available at: http://www.rferl.org/content/Russian_Mayors_Comments_About_Roma_Criticized/1864367.html.

Annex 1

Human Rights Treaty Ratification and Reservation Table

Treaty	Accession/ Ratification Date	Objections and Reservations
UN Conventions		
International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) (1966)	4 Feb 1969 a	Declaration: The Union of Soviet Socialist Republics states that the provision in article 17, paragraph 1, of the Convention on the Elimination of All Forms of Racial Discrimination whereby a number of States are deprived of the opportunity to become Parties to the Convention is of a discriminatory nature, and hold that, in accordance with the principle of the sovereign equality of States, the Convention should be open to participation by all interested States without discrimination or restriction of any kind.
International Covenant on Economic, Social and Cultural Rights (1966)	16 Oct 1973 (r)	Declaration made upon signature and confirmed upon ratification: The Union of Soviet Socialist Republics declares that the provisions of paragraph 1 of article 26 of the International Covenant on Economic, Social and Cultural Rights and of paragraph 1 of article 48 of the International Covenant on Civil and Political Rights, under which a number of States cannot become parties to these Covenants, are of a discriminatory nature and considers that the Covenants, in accordance with the principle of sovereign equality of States, should be open for participation by all States concerned without any discrimination or limitation.
International Covenant on Civil and Political Rights (1966)	16 Oct 1973 (r)	Declaration made upon signature and confirmed upon ratification: The Union of Soviet Socialist Republics declares that the provisions of paragraph 1 of article 26 of the International Covenant on Economic, Social and Cultural Rights and of paragraph 1 of article 48 of the International Covenant on Civil and Political Rights, under which a number of States cannot become parties to these Covenants, are of a discriminatory nature and considers that the Covenants, in accordance with the principle of sovereign equality of States, should be open for participation by all States concerned without any discrimination or limitation.
First Optional Protocol to the ICCPR (1966)	1 Oct 1991 (a)	

ANNEX 1: HUMAN RIGHTS TREATY RATIFICATION AND RESERVATION TABLE

Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (1968)	22 Apr 1969 (r)	Declaration on ratification: The Union of Soviet Socialist Republics declares that the provisions of articles V and VII of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, which prevent certain States from signing the Convention or acceding to it, are contrary to the principle of the sovereign equality of States.
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	23 Jan 1981 (r)	
Optional Protocol to CEDAW (1999)	28 Jul 2004 (r)	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	3 Mar 1987 (r)	Declaration (1 October 1991): The Union of Soviet Socialist Republics declares that, pursuant to article 21 of the Convention, it recognizes the competence of the Committee against Torture to receive and consider communications in respect of situations and events occurring after the adoption of the present declaration, to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Convention. The Union of Soviet Socialist Republics also declares that, pursuant to article 22 of the Convention, it recognizes the competence of the Committee to receive and consider communications in respect of situations or events occurring after the adoption of the present declaration, from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.
Convention on the Rights of the Child (1989)	16 Aug 1990 (r)	
Optional Protocol CRC: Involvement of Children in Armed Conflict (2000)	24 Sep 2008 (r)	Declaration: The Russian Federation, pursuant to article 3, paragraph 2, of the Optional Protocol, declares that, in accordance with the legislation of the Russian Federation, citizens under the age of 18 may not be recruited for military service in the armed forces of the Russian Federation and a military service contract may not be concluded with them; In accordance with the legislation of the Russian Federation, citizens who have reached the age of 16 are entitled to admission to professional military educational institutions. Upon enrolment in these institutions they shall acquire the status of members of the military performing compulsory military service. The legislation of the Russian Federation guarantees that such citizens shall conclude military service contracts on reaching the age of 18, but not before they have completed the first year of education in these educational institutions.

COE Conventions		
Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	5 May 1998	
European Social Charter (revised) ⁵⁹	16 Oct 2009	Russia has not ratified the Additional Protocol providing for a system of collective complaints
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment	5 May 1998	
Framework Convention for the Protection of National Minorities	21 Aug 1995	

59 The table of accepted provisions is available at: http://www.coe.int/t/dghl/monitoring/socialcharter/Presentation/ProvisionTableRevMarch2013_en.pdf.

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

