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Human Rights in Europe - Review of 2019 - Romania [EUR 01/2098/2020]

The European Commission warned Romania to roll back legislative changes that posed a threat to the rule of law. NGOs criticized pending amendments to a law regulating the activities of organizations and foundations. The implementation of prison reforms was subject to delays. Roma continued to experience systemic discrimination in many areas of life, including education, housing and employment. The investigation into the excessive use of force by the Gendarmerie during 10 August 2018 protests in Bucharest remained pending.

Legal, constitutional or institutional developments

Two proposals gained overwhelming approval in a consultative referendum in May. The first was to prohibit amnesties and pardons for corruption offences. The second would ban the government from passing emergency orders concerning the judiciary and would extend the right to appeal against them to the Constitutional Court. In July, the Constitutional Court rejected two proposals initiated by parliamentarians to revise the Constitution.

In June, the Parliament rejected a draft law, sponsored by a member of parliament, proposing amending the law regulating the activity of NGOs and foundations by adding grounds under which such entities could be dissolved. National NGOs criticized the proposed grounds as either redundant, as some are already covered in the Criminal Code, or subjective and open to potential abuse against critical organizations. Legislation on the financing, organization and functioning of NGOs adopted in 2018 had similarly been criticized as having a potentially intimidating effect on civil society and conflicting with the rights to freedom of association and privacy.

The resumption of discussions around the approval of the draft National Housing Strategy, led to a draft new Law on Housing, being opened for public consultation in October, ending the previous stalemate. In its June report, the European Commission against Racism and Intolerance (ECRI) recommended that housing legislation be amended to improve access to social housing through transparent and non-discriminatory criteria, particularly in relation to vulnerable groups, including Roma.

In May, the European Commission (EC) warned Romania that it would initiate procedures under the Rule of Law framework unless the government addressed concerns in relation to threats to the independence of the judiciary; lack of cooperation between state institutions affecting the efficiency and independence of the judicial system; and measures negatively impacting the fight against corruption. Such procedures could lead to the triggering of the Article 7 of the Treaty of the EU, under which certain rights can be suspended from a member state for persistent breach of the EU's founding values. This followed the 2018 opinions of the Venice Commission that criticized the process of reforming the judiciary as “excessively fast and non-transparent” and recommended a number of procedural and institutional changes.

Detention

The seven-year plan put in place by authorities to address prison overcrowding and inadequate detention conditions, which had been criticized by the European Court of Human Rights in its pilot judgment against Romania in 2017, was under way. The judgement imposed an obligation on the state to resolve the highlighted structural dysfunctions or risk sanctions. NGOs, however, raised concerns over delays in the implementation of the plan.

Discrimination - Roma

Roma continued to face discrimination and segregation in many areas of life such as education, access to housing and employment.

In March, Blocul, a network of organizations promoting housing justice, published a study of evictions drawing on data obtained from online media and local, regional and national level authorities, including judicial authorities. It concluded that since 1989, over 100,000 evictions had been carried out across the country. Many constituted forced evictions, with people often left homeless without alternative housing provided, or placed in inadequate alternatives. They affected, among others, destitute families, Roma living in formal and informal housing, and families with children or adults with disabilities.

In April, in the case *Lingurar v. Romania*, the European Court of Human Rights condemned Romania for police ill-treatment of four Roma and for the first time, found that “Roma communities are often confronted with institutionalised racism and are prone to excessive use of force by the law-enforcement authorities” in Romania.

In its June report, ECRI called on the authorities to implement the 2015-2020 Roma Inclusion Strategy and include more targeted measures and impact indicators on education, housing and employment. This should include measures such as monitoring the effectiveness of anti-segregation legislation in education, legalizing informal settlements and providing safeguards against forced evictions.

Right to freedom of assembly

Throughout 2018 and 2019, many demonstrations were held across the country with people protesting against the government and denouncing their failure to fight corruption, attacks on the judiciary and the deteriorating economic situation.

An investigation by the Military Tribunal into allegations of excessive use of force by the Gendarmerie against protesters in Bucharest on 10 August 2018 remained pending. The Office of the Prosecutor General initiated criminal proceedings against several chiefs of the Gendarmerie and a former secretary of state for crimes related to these events. National and international media, the European Commission and foreign states expressed dismay at the allegations of indiscriminate use of water cannon, tear gas, pepper spray and batons by law enforcement officials while dispersing the demonstration, resulting in hundreds of protesters and some gendarmes requiring medical treatment.

Counter-terror and security

In September, the European Court of Human Rights convened a public hearing before the Grand Chamber in the case of *Muhammed and Muhammed v. Romania*. The case concerns two Pakistani students who were deported to Pakistan in 2012 based on secret intelligence information alleging that their activities posed a potential threat to Romania’s national security. The men argued that they should have had access to the reasons for their removal and relevant evidence in order to be able to mount a challenge to their deportations. A judgment in the case remained pending at the end of the year.

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Austrian Red Cross

Austrian Centre for Country of Origin and Asylum Research
and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien

T (Telefon) +43 1 589 00 583

F (Fax) +43 1 589 00 589

info@ecoi.net

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