



AS/Ega/Inf (2016) 10
4 May 2016
Aegadocinf10_2016
Original: English

Committee on Equality and Non-Discrimination ***No Hate Parliamentary Alliance***

Anti-Gypsyism in Europe

Information memorandum prepared by the Secretariat

1. Introduction: facts and statistics

1. There are between 10 and 12 million Roma and Travellers living in the member States of the Council of Europe and approximately 6 million Roma and Travellers in the European Union member States. Roma are present in nearly all member States, with the largest population living in Turkey and in Romania. Other member States with large Roma populations are Bulgaria, France, Hungary, the Russian Federation, Serbia, Slovakia and Spain. The Roma, Europe's largest minority, are a transnational minority which has no kin state. This makes their situation unique among all minority groups in Europe.¹

2. According to the 2012 and 2015 Eurobarometer surveys on discrimination in the EU, some perceptions of the Roma population held by non-Roma were:

- 83% of Europeans said they would be “totally comfortable” working with a white colleague, whereas this proportion is 72% for working with a black person, 71% with an Asian and only 54% with a Roma person;²
- 34% of Europeans think that citizens in their country would feel uncomfortable and 28% would feel fairly uncomfortable if their children had Roma schoolmates.³

3. According to the survey on the “The situation of Roma in 11 Member States” made by the Fundamental Rights Agency (FRA) in 2011:

- about half of the Roma surveyed said that they had experienced discrimination in the past 12 months because of their ethnic background.⁴

4. According to the European Union Minorities and Discrimination Survey (EU-MIDIS) done by the same agency in 2009:⁵

- on average – 1 in 4 Roma respondents were victims of personal crime, including assaults, threats and serious harassment, at least once in the previous 12 months;
- on average – 1 in 5 Roma respondents were victims of racially motivated personal crime, including assaults, threats and serious harassment, at least once in the previous 12 months;
- 81% of Roma who indicated they were victims of assault, threat or serious harassment in the previous 12 months, considered their victimisation racially motivated;
- between 65% and 100% of Roma, depending on the country surveyed, did not report their experiences of personal victimisation to the police. The main reason given by Roma for not reporting being victimized to the police was that they were not confident police would be able to do anything.
- between 66% and 92% of Roma, depending on the country surveyed, did not report their most recent experience of discrimination in the last 12 months to any competent organisation or at the place where the discrimination occurred;
- when asked whether they could name an organisation that could assist them if they had been discriminated against, on average 86% of Roma could not name any organization.

¹ Aidan McGarry, *Who Speaks for Roma?: Political Representation of a Transnational Minority Community*, Bloomsbury Academic, 2010.

² Eurobarometer on Discrimination 2015: General perceptions, opinions on policy measures and awareness of rights, European Commission factsheet, 2015.

http://ec.europa.eu/justice/fundamental-rights/files/factsheet_eurobarometer_fundamental_rights_2015.pdf

³ Report on Special Eurobarometer on Discrimination in the EU in 2012, European Commission, 2012. http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_en.pdf

⁴ The proportions range from more than 25 % in Romania to around 60 % in the Czech Republic, Greece, Italy and Poland (FRA survey).

⁵ It is the first EU-wide survey to ask immigrant and ethnic minority groups about their experiences of discrimination and criminal victimisation in everyday life. The survey was done in Bulgaria, Czech republic, Greece, Hungary, Poland, Romania and Slovakia on a sample of 500 respondents in each Member State http://fra.europa.eu/sites/default/files/fra_uploads/413-EU-MIDIS_ROMA_EN.pdf

2. Anti-Gypsyism

2.1 What is anti-Gypsyism?

5. Anti-Gypsyism is a term used to express the manifestation of biases, stereotypes and prejudice that motivate the actions of members of majority groups towards the members of Roma and Traveller communities.⁶ Among prevailing anti-Roma prejudices and stereotypes are those labelling Roma communities as excessively reliant on welfare, being bound to “specific Roma” professions or the perception of Roma as exclusive perpetrators of various types of crimes.

6. At the international level, since the mid-2000s, explicit reference has been made to “anti-Gypsyism” as a specific form of racism directed towards Roma and, according to the European Commission against Racism and Intolerance (ECRI), it has certain distinct features:

- It is persistent both historically and geographically (permanent and not decreasing);
- It is systematic (accepted by virtually all the community);
- It is often accompanied by acts of violence.⁷

7. In 2011, ECRI adopted its General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma, defining the term as follows:

“Anti-Gypsyism is a specific form of racism, an ideology founded on racial superiority, a form dehumanisation and of institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination”. ECRI also underlined that anti-Gypsyism is “an especially persistent, violent, recurrent and commonplace form of racism”.

8. Preconceptions about Roma are constructed not only on the basis of race but also on many other elements which may vary across different countries and regions, such as language, religion or physical appearance. What therefore differentiates anti-Gypsyism from “typical” racism, is that people tend to identify Roma not only by focusing on their ethnicity alone, but also on a variety of criteria, such as their social class, clothing, profession and even according to the neighbourhoods or regions where they reside. This feature of anti-Gypsyism, creating stereotypes of Roma based on whichever characteristics are supposedly shown by the Roma in a specific area, is particularly worrisome, as it is able to adapt so that Roma can remain targeted as long as they admit to being Roma, regardless of the changes they make in their social status, living conditions etc.⁸

9. Anti-Gypsyism is reflected in the use of stigmatising anti-Roma rhetoric in public discourse, used either by individuals, e.g. politicians, or by some extremist groups. Such groups are increasingly active on the Internet, a medium which has allowed for their better organisation, promotion and enhanced cross-border cooperation. Stereotypes against Roma and Travellers are also present in the traditional media, where they can be perpetuated not only by the instances of outright hate speech but also, for example, by unreasonably referring to Roma and Travellers’ ethnicity while reporting on crimes or by reporting on Roma and Travellers solely in the context of articles on social problems.⁹

10. According to the Council of Europe’s Commissioner for Human Rights, a close connection is established between hate speech and hate crimes, and anti-Roma political and media discourse can legitimise sometimes violent actions against Roma individuals.¹⁰

11. The phenomenon of anti-Gypsyism encompasses not just targeting the Roma in the present, but also failing to acknowledge adequately their past sufferings, especially during the Second World War.¹¹ The lack

⁶ Commissioner for Human Rights, Human Rights of Roma and Travellers in Europe, Council of Europe publication, 2012, p.39.

⁷ Descriptive Glossary of Terms Relating to Roma Issues, Council of Europe, 2012, p.12.

⁸ Valeriu Nicolae, Towards a Definition of Anti-Gypsyism, ERGO Network, 2006, p.7.

⁹ Commissioner for Human Rights, Human Rights of Roma and Travellers in Europe, Council of Europe publications, 2012, p. 40-51.

¹⁰ Commissioner for Human Rights, Human Rights of Roma and Travellers in Europe, Council of Europe publications, 2012, p. 44.

¹¹ Factsheets on Roma History, University of Graz and Council of Europe, <http://romafacts.uni-graz.at/index.php/history/general-introduction/general-introduction>

of knowledge and visibility of the Romani Holocaust, or its outright denial, is also one of the factors contributing to the continuous marginalisation of Roma communities.

2.2 Reference texts at the level of the Council of Europe

ECRI GPR No. 13: Combating anti-Gypsyism and discrimination against Roma

12. In June 2011, the European Commission against Racism and Intolerance (ECRI) adopted the first international document to acknowledge and specifically combat anti-Gypsyism and discrimination against Roma. ECRI General Policy Recommendation No. 13 advises the governments of member States to apply certain courses of action which are laid down in 17 points, with most of them encompassing concrete sub-measures. Some of these measures aim at combating racist violence and crimes against Roma as well as combating manifestations of anti-Gypsyism in the media, in access to public services and in the treatment of Roma by the police. Other measures include developing mutual trust between Roma and public authorities, the adoption of a national plan aimed at dealing with the issues concerning Roma and involving them at all levels and introducing the measures to combat anti-Gypsyism in the fields of employment, education, housing and health.

13. Alongside these general recommendations, ECRI introduces three more specific recommendations for Governments to implement. First, ECRI recommends that member States encourage a monitoring system of expressions of anti-Gypsyism on the Internet and ensure the effective prosecution of the perpetrators of hate speech, acting in line with the principles of the 2003 Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No.189). Second, and with a view to effectively combating the manifestations of anti-Gypsyism, ECRI recommends that member States collect statistical data on Roma, especially in the fields of housing, employment, education and health, while safeguarding the principles of confidentiality, voluntary self-identification and informed consent. Finally, ECRI advises member States to publicly denounce all public discourse that could provoke discrimination, hatred or violence against Roma.

2012 Declaration of the Committee of Ministers on the Rise of Anti-Gypsyism and Racist Violence against Roma in Europe

14. In February 2012, the Committee of Ministers adopted a Declaration drawing the attention of its member States to the rise of anti-Gypsyism and violence against Roma in Europe. This Declaration expressed deep concern about the rise of anti-Gypsyism, anti-Roma rhetoric and violent attacks against Roma. In its Declaration, the Committee of Ministers requested member States to take concrete actions in order to fight this problem. Alongside calling for countries to publicly condemn any form of violence or the use of anti-Roma rhetoric, by media and government at all levels, the Declaration recognised the interdependence between discrimination against Roma and their exclusion from society and thereby, the importance of addressing anti-Gypsyism. In this regard, the Declaration stressed the need to include measures combating discrimination in any programme or strategy aimed at improving the situation of Roma, alongside the other measures promoting their social and economic inclusion.¹²

2016 Thematic Action Plan for the Inclusion of Roma and Travellers

15. In March 2016, the Committee of Ministers adopted a Thematic Action Plan for the Inclusion of Roma and Travellers for the period 2016-2019. This Action Plan provides the Council of Europe with a political and budgetary framework for the next four years. It announces three specific objectives to be pursued in the context of fighting anti-Gypsyism: strengthening the competence to fight against anti-Gypsyism (by teaching and raising awareness of Romani history and culture), improving the access of Roma and Travellers to justice (by, for instance, providing them with effective legal aid) and finally, by developing the skills and knowledge of legal professionals and administrators (by offering training programmes on non-discrimination to national police forces, judges, lawyers and prosecutors).¹³ Among three main priorities upon which the Council of Europe will focus its actions in 2016-2019, alongside establishing innovative models for inclusive policies targeting the most vulnerable and promoting solutions at local and regional levels, is combating anti-Gypsyism: anti-Roma prejudice, discrimination and crime. The Action Plan stresses the role anti-Gypsyist prejudice and stereotyping play in upholding the marginalisation of Roma and Traveller communities as well as their adverse effect on any policy initiative aimed at improving their situation.

¹² Declaration adopted by the Committee of Ministers on 1 February 2012 at the 1132nd meeting of the Ministers' Deputies.

¹³ Thematic Action Plan on the Inclusion of Roma and Travellers (2016-2019), Adopted by the Committee of Ministers, 2016.

3. Relevant case-law of the European Court of Human Rights

16. Cases of hate speech or violence directed against Roma motivated by anti-Gypsyist sentiments have also been brought to the European Court of Human Rights, and the Court has recognized that “as a result of their turbulent history and constant uprooting the Roma have become a specific type of disadvantaged and vulnerable minority (...) and they therefore require special protection”.¹⁴

17. Some of the landmark judgments of the Court, representing a breakthrough in the protection of Roma rights and effective sanctioning of actions motivated by anti-Gypsyist attitudes, were made in the beginning of 2000s. For instance, it was in the 2005 *Nachova and Others v. Bulgaria* case that the Court recognised, for the first time in its history, that racist motives may have had a role in the use of excessive force by the police and in killing of two men of Roma origin.¹⁵ In its judgment, the Court underlined the positive obligation of the member States’ officials to examine whether racist motives played a role in the events or not.¹⁶

18. The positive obligation principle was reaffirmed in the 2005 case *Moldovan and Others v. Romania*. This case concerned the attack that took place in 1993 on three men of Roma origin by a crowd of non-Roma villagers, including the local police commander and several officers. In its judgment, the Court once again concluded that racial discrimination towards Roma influenced the public authorities’ dealings with the case and reaffirmed the positive obligation of the State to ensure that people within its territory are not inhumanly treated.¹⁷

19. The Court has condemned police brutality against Roma, and/or the failure to conduct effective investigations into allegations of such police brutality, in several further cases.¹⁸

20. There have also been a number of cases concerning violent attacks by private individuals against Roma in which the Court has found violations of Article 3 of the European Convention on Human Rights and/or Article 14 of this Convention in conjunction with Article 3 due to the failure by the investigating authorities to carry out adequate investigations into these attacks or the possible racist motivations behind them. The examples of such cases include *Šečić v. Croatia, Angelova and Iliev v. Bulgaria, Beganović v. Croatia, Koky and Others v. Slovakia* etc.¹⁹

21. The Court delivered a landmark judgment on discrimination against Roma in the field of education in the 2007 *D.H and Others v. the Czech Republic* case, concerning 18 children of Roma origin who were placed in schools for children with special needs in the period between 1996 and 1999.²⁰ The importance of this judgment was the Court’s recognition, and sanctioning, of member State’s practice of systemic discrimination against the Roma as well as in its raising awareness about the right to education of the Roma children. Since then, similar judgments have been delivered by the Court in the cases of *Sampanis and Others v. Greece, Oršuš and Others v. Croatia, Sampani and Others v. Greece, Horváth and Kiss v. Hungary* etc.²¹

22. The number of other cases concerning forced evictions of Roma and Travellers and their right to housing was also brought before the Court. Amongst such cases, *Yordanova and Others v. Bulgaria* and *Winterstein and Others v. France* are particularly illustrative of the types of violations that Roma and Travellers are facing. In *Yordanova and Others v. Bulgaria*, the Court concluded that the order for removal of Roma from the settlement situated on municipal land, if enforced by the public authorities, amounts to violation of their right to private and family life. In *Winterstein and Others v. France*, a case concerning eviction of numerous Traveller families from their homes, most of the families were not even provided with adequate, or if any, alternative accommodation. In this case, the Court held that the municipal authorities, by

¹⁴ *D.H. and others v. Czech Republic*, Application No 57325/00, 13 November 2007, §182.

¹⁵ Branimir Pleše (ERRC), The Strasbourg Court Finally Redresses Racial Discrimination, <http://www.errc.org/cikk.php?cikk=1851#1>

¹⁶ *Nachova and Others v. Bulgaria*, Applications Nos. 43577/98 and 43579/98, 6 July 2005, §168.

¹⁷ *Moldovan and Others v. Romania* (No.2), Application nos. 41138/98 and 64320/01, 12 July 2005, §98.

¹⁸ See in particular: *Bekos and Koutropoulos v. Greece*, Application No. 15250/02, 13 December 2005, §§51 and 55; *Jašar v. “The former Yugoslav Republic of Macedonia”*, Application No. 69908/01, 15 February 2007, §§54 and 60; *Cobzaru v. Romania*, Application No. 48254/99, 26 July 2007, §§ 74-75; *Petropoulou-Tsakiris v. Greece*, Application No.44803/04, 6 December 2007, §§ 42 and 53-54; *Stoica v. Romania*, Application No. 42722/02, 4 March 2008, §§80-81.

¹⁹ *Šečić v. Croatia*, Application No. 40116/02, 31 May 2007, §§59-60 and 70; *Angelova and Iliev v. Bulgaria*, Application No. 55523/00, 26 July 2007, § 105 and 117; *Beganović v. Croatia*, Application No. 46423/06), 25 June 2009, §§87-88 and 98; *Koky and Others v. Slovakia*, Application No 13624/03, 12 June 2012, §§225, 239 and 240.

²⁰ *D.H. and Others v. The Czech Republic*, Application no. 57325/00, 13 November 2007.

²¹ *Sampanis and Others v. Greece*, Application No. 32526/05, 5 June 2008.

failing to provide the evicted families with an alternative accommodation, violated their right to respect for private and family life and home. Similar cases are currently pending against Bulgaria, Romania and France.²²

23. The most severe cases of violations of Roma and Travellers' rights are those concerning forced sterilisations of Roma women. In one such case, *V. C. v. Slovakia*, a woman of Roma ethnic origin was sterilised in a public hospital without her full and informed consent, and without understanding the consequences and irreversibility of the procedure. In this case, the Court concluded that the medical staff acted with "gross disregard to her right to autonomy and choice as a patient", and have therefore violated the Article 3 (prohibition of inhuman and degrading treatment) as well as the Article 8 (right to respect for private and family life) of the European Convention on Human Rights.²³

24. The more recent cases brought by Roma before the Court most often involve violations of the following rights guaranteed by the European Convention on Human Rights²⁴:

- The right to life;
- Freedom from torture, inhuman and degrading treatment or punishment;
- Right to liberty;
- Right to fair trial;
- Right to respect for private and family life;
- Right to education;
- Prohibition of mass expulsions.

4. Conclusion

25. Anti-Gypsyism is one of the root causes of Roma and Travellers' exclusion and, as shown by the European Court of Human Rights' case law, it can take numerous forms. For that reason, there is a pressing need to increase the visibility of the issue of discrimination against Roma and Travellers, including the phenomena of anti-Gypsyism. This is essential in order to combat deeply rooted stereotypes and prejudice, and to enable Roma to finally become full members of European societies.

²² *Cazacliu and Others v c. Romania*, Application No. 63945/09; *Hirtu and Others v. France*, Application No. 24720/13; *Dimitrova and Others v. Bulgaria*, Application No. 39084/10.

²³ *V. C. v. Slovakia*, Application No. 18968/07, 8 November 2011, § 119, 120, 154, 155.

²⁴ Marc Willers, Recent developments in EU anti-discrimination law: Litigating Roma rights under EU law and experiences from the ECHR, April 2011.

http://www.era-comm.eu/oldoku/Adiskri/10_Race_Roma/2011_04_Willers_EN.pdf