

Council of Europe Dialogue with Roma and Traveller¹ Organisations

2nd meeting, 2-3 June 2016
Palais de l'Europe, Room 7

MEETING REPORT

Opening of the Meeting and Keynote Addresses

Chair Ambassador Ardiana Hobdari, Permanent Representative of Albania to the Council of Europe, Chair of the Committee of Ministers' Rapporteur Group on Social and Health Questions, opened the meeting by welcoming participants. She expressed her gratitude to the SRSB for Roma Issues and his Support Team. Ms Hobdari reminded participants of the current social context in Europe: the migration crisis and, in its wake, rising intolerance. Recalling the political commitment made by the Committee of Ministers in 2010, she presented recent developments, namely the Thematic Action Plan on the Inclusion of Roma and Travellers (2016-2019), approved by the Committee of Ministers in March 2016. It contains three political priorities, namely the fight against anti-Gypsyism, the protection of the most vulnerable (women, children, youth), and the promotion of innovative solutions at local level. Ms Hobdari also welcomed the establishment of the European Roma Institute for Arts and Culture (ERIAN), whose seat would be in Berlin thanks to an invitation of the German Government.

Representing the Secretary General, Ms Snežana Samardžić-Marković, Director General of Democracy, warned that, although many take human rights for granted, such rights remain abstract notions for many Roma facing extreme poverty and exclusion in their daily life. Does this mean that the Council of Europe and other international organisations are not doing enough? There is a need to develop policies in cooperation with the Roma and an ever greater need to achieve their full potential through the Dialogue. Ms Samardžić-Marković also pointed out that this meeting was structured around the themes of internal and cross-border migration and combating hate speech, since Roma and Travellers were often the first victims of these.

Turning to the Thematic Action Plan of **the Committee of Ministers**, Ms Samardžić-Marković underlined that its main priority was to fight prejudice and discrimination through access to justice, which required the creation of efficient mechanisms for reporting hate crimes and discrimination. However, such legal means would be insufficient in combating anti-Gypsyism since the attitude of the majority population towards Roma and Travellers would need to change, for example through showing the rich contribution of Roma and Travellers to the European cultural heritage. The second priority focused on Roma women, children and young people, recognising the need to provide special support for these vulnerable groups. Negotiations were underway with the European Commission to conclude a joint programme on access to justice for Roma and Traveller women. The third priority was to identify innovative solutions at local level to promote Roma empowerment and more inclusive public institutions. The joint EC/CoE programme ROMED was a prime example of such an initiative which, in 2011, initially focused on individual Roma mediators. Negotiations would soon start with the European Commission to continue this work. Finally, Ms Samardžić-Marković bade farewell to **Mr Ulrich Bunjes, SRSB for Roma Issues**, who would retire at the end of June 2016.

¹ The terms "Roma and Travellers" are used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "*Gens du voyage*", as well as persons who identify themselves as Gypsies.

Mr Jožek Horvat, Slovenia, President of the European Roma Union (ERU), echoed concerns expressed so far, namely that discrimination was still widespread and often went unnoticed. In his view, European institutions needed to have programmes and the right approaches to tackling discrimination against the Roma. He voiced deep concern at the trafficking of children and migration.

Mr Valeriu Nicolae, Secretary of State for Labour, Family, Social Protection and the Elderly, CAHROM Member, Romania, discussed the approach of the Romanian Government to tackling discrimination and poverty experienced by the Roma, namely how to use strategies that have already worked instead of reinventing the wheel. Issues to be tackled include death in childbirth, infant mortality, low levels of treatment of HIV AIDS, malnutrition, as well as significant challenges in meeting pension commitments by 2050-60. Against this backdrop, governments have a vested interest in keeping the Roma as active citizens.

The Romanian Government has adopted an anti-poverty package with the following aims: 1) to use EU funds more effectively, with all guidelines needing to take into account the anti-poverty plan and provide money at grassroots level; 2) to focus on poverty belts situated 30 km away from prosperous towns in order to reduce this growing and visible geographic discrepancy; 3) to address internal migration due to differences in income - once families accumulate enough income, they tend to leave the country as well.

There are several good examples of progress in the areas of children and education, for example the number of Roma, including children, who do not have official identification varies from 1,150,000 to 1,170,000. From now on, every child born would receive an ID card which was much easier to obtain and practically free of charge and, in turn, enabled access to public services. It was also necessary to ensure that every child attends kindergarten, since early childhood education decreases later school dropout and impacts migration - if a child attends kindergarten, migration decreases. Kindergarten vouchers were a good tool for encouraging attendance and local authorities also understand that attendance is compulsory, with the result that now 60,000 out of 110,000 children attend kindergarten. Regarding the 170,000 children absent from school, what incentives could be created for them? The Second Chance Programme was designed for children who have missed four years or less of school and is linked to vocational education. EU funds paid for accommodation and travel, particularly for the most disadvantaged. So far these funds have been improperly and inefficiently used - in the past they only used to purchase food, but now they are being used as an incentive for children to stay in school.

Ms Ana Mirga-Kruszelnicka, Poland, contributor to the Congress of Local and Regional Authorities' Report on the Situation of Roma and Travellers in the context of rising extremism and xenophobia and the refugee crisis in Europe, addressed the combating of hate speech against Roma and Travellers. Anti-Gypsyism manifested itself in a time of crisis through hate speech in public and political discourse, in both formal politics and mainstream parties. Such anti-Gypsy rhetoric seemed to bring electoral gains, as a consequence of which these trends were rarely condemned, quite the contrary, they served to legitimise anti-Gypsyism. Another significant expression of anti-Gypsyism was online hate speech which could quickly escalate into violence organised by social media groups. There was a notable lack of social/moral stigma attached to anti-Gypsy hate speech, which rendered it normalised behaviour. Even in academic debates, Roma were treated as abnormal citizens, racialising social phenomena such as begging and poverty. **Mr Huub van Baar** noted that "reasonable anti-Gypsyism" emerges and the refugee crisis has intensified these trends. Muslims and Roma are the main public enemies. The impact on Muslim Roma groups in the Balkans is even more intense. Hate speech creates new obstacles to Roma inclusion, which raises the question of if there is a need to change the focus from social inclusion to combating anti-Gypsyism.

Mr Joseph G Jones, Gypsy Council, United Kingdom, informed participants that in the UK Romanian Roma have been targeted by extremely racist remarks. These have been reported but no action has been taken yet, with the Romanian Embassy in the UK not showing any interest in addressing this either. He asked how it was possible to stop racist videos and incitement to hatred.

Mr Ashmet Elezovski, ERTF, "the former Yugoslav Republic of Macedonia", suggested that preventive action could possibly be taken. In any case, extreme policies, such as "concentration camps for Roma" in Italy should not be tolerated. He expressed faith in the new leadership of the European Roma and Travellers Forum (ERTF), elected on 1 June 2016. He stressed that Roma were forced to migrate from countries such as Romania.

Mr Saimir Mile, France, queried whether the Council of Europe was the right platform for Ms Mirga's proposal to return to combating anti-Gypsyism. He proposed instead the coordination of local initiatives to combat hate speech, etc. For instance, a speech by Manuel Valls, Prime Minister of France, as recited in December 2015, constituted repeated hate speech and this was not properly reported, since France condemns some politicians but not Manuel Valls.

Ms Siobhan Curran, Pavee Point, Ireland, standing in for Mr Martin Collins, drew attention to Facebook and online comments. She noted that, even with the lack of extreme right-wing parties in Ireland, hate speech persisted and the government promoted anti-Traveller policies. She asked what could be done to address this: either to ask for anti-Gypsy posts and comments to be taken down or to engage with those who write such comments.

Ms Ágnes Daróczi reported to participants on the conclusions of the "Forgotten Voices" Conference on the Roma Holocaust held on 6-7- April 2016 in Bucharest. She drew attention to the ideological differences between new anti-Gypsyism and historical forms that had led to the Holocaust. She said that this new form should be recognised as a form of racism, similar to Anti-Semitism, Islamophobia, etc. named and defined in law. Anti-Gypsyism was not a Roma issue and the responsibility of the majority society needed to be brought to light. Poverty, racism and the lack of minority institutions were the greatest problems today. Poverty was racialized which was not justified by facts. Racism was a sickness of society. The lack of minority institutions such as museums, cultural centres and theatres was a huge problem because, without these institutions, minority communities would not be competitive in the labour market. It was also of imminent interest to bring useful skills to Roma communities, for example, solar and wind energy, sustainability and the training of IT experts in Roma settlements was the way forward.

According to Ms Daróczi, structural time bombs were ticking in societies because local authorities were vested in persecuting Roma and marginalised communities. For example, childcare was paid from the local budget but, if children were taken into state care, they became the financial burden of the central budget. A financial interest in persecution therefore emerged, namely "handing over" the care of the Roma to somebody else, subsequently pushing children into crime, drug use, etc. Housing ownership was also problematic due to the lack of a clear and transparent housing management system. Even though there was enough social housing to provide to those most in need, many social houses stood empty which worsened homelessness.

Mr Wolfram Bechtel, Secretariat of the European Commission on Racism and Intolerance (ECRI), suggested that Facebook and Google had internal guidelines and ethical standards but there was a need for them to implement these standards. Therefore, it was imperative to report anti-Gypsy hate speech to Facebook and Google. He commended some examples of success from equality bodies: in 2010, in Romania, the National Council for Combating Discrimination had issued warnings against the President, while in Albania the Commission for Equal Treatment had imposed fines on politicians using hate speech.

Working Session I – Causes of internal and cross-border migration of Roma and Travellers — poverty, evictions, expulsions and other reasons

Ms Rita Patricio, Amnesty International, conceptualised the loss of housing as a loss of livelihood as borne out in the pending case of *Cazacliu v Romania*. Amnesty International had reported on Bulgaria, Greece, Italy, Romania, Slovakia and France on issues concerning camps, housing on land with toxic waste and the lack of social housing. ECRI criticism of forced evictions in Italy came hand in hand with Amnesty International alerts. In May 2015, in relation to Barbuta, a monoethnic camp, judgments were passed by the civil section of the Tribunal of Rome, expressing the state obligation to discontinue the maintenance of such camps. The European Commission had started infringement proceedings against Italy for an alleged breach of the Racial Equality Directive in relation to housing. In France, 4,000 Roma in informal settlements had been evicted in 2015, including 150 Roma migrants from Romania including Roma children and pregnant women, even though many had long-term employment and their children in school.

There were positive examples as well, such as in April 2016 interim measures in Eforie, Romania were requested and imposed by the prefect to stop an eviction.

The right to be educated free from discrimination was recognised in the Universal Declaration of Human Rights. A widespread phenomenon was bullying by non-Roma pupils and teachers and segregation in special schools. The European Commission had launched infringement proceedings in September 2014 against the Czech Republic, in April 2015 against Slovakia and in May 2016 against Hungary. In the European Court of Human Rights, *DH and Others v the Czech Republic* was the leading case concerning education.

Violence against Roma included anti-Roma marches and police attacks, reinforced by a lack of police protection. Many factors could explain why Roma migrate, including anti-Roma rhetoric, violence and discrimination in services. Migrants reencountered discrimination in countries of destination.

Mr Jim Davies, Gypsy Roma Traveller Police Association, United Kingdom, addressed evictions in the UK against unauthorised encampments. He characterised the situation as a Catch 22: Gypsies and Travellers were allowed to maintain their traditional way of life for economic purposes but there were not enough available caravan pitches. In his view, status recognition needed to be obtained to have access to the travelling way of life.

Recent changes have removed the need for local governments to plan for accommodation of Gypsies and Travellers. At least 13% of Gypsies and Travellers were homeless. The powers used to evict were enshrined in common law, Rule 55 of Civil Procedure Rules and Section 77 of the Criminal Justice and Public Order Act 1994. The majority of unauthorised encampments were situated on local government land. Section 61 of the Criminal Justice and Public Order Act 1994 should only be used in exceptional circumstances, since it allowed police to order trespassers to leave land as soon as is reasonable, taking their vehicles and other property, when criminal acts (such as trespassing, damage to land/property and threatening/abusive behaviour) were occurring.

Adverse press coverage of unauthorised Traveller sites and evictions could blow events out of proportion and contribute to community tensions. Mr Davies said that unauthorised Traveller sites should not be a police issue, but there were expectations from local communities that the police should take action against unauthorised caravan sites. The answer was to address the shortage of sites, but this often did not happen because the building of new sites was unpopular with local communities; where local authorities did provide sufficient caravan sites, local tensions quickly subsided.

Ms Sybil Lee, Forum of European Roma Young People (FERYP), United Kingdom, grew up in a local government-owned caravan site in bad health conditions. Given that she had been settled for 20 years, she was no longer recognised as a Traveller/Gypsy. She worked with Central and Eastern European Roma and lived in a settlement - many families' lives were better at home. In the UK, discrimination was endemic. UK-based minorities might exploit newly-arrived Roma youth, landlords overcharge for housing and there was overcrowding. She had been conducting human rights training. If children were taken into care for good reason, they should be placed with family members later. Many young people worked as classroom assistants but were exploited as they did not all receive the free courses that are available - they only had

access to project-based work for 12 months. She noted that communities from the Czech Republic and Slovakia had better access to services than Roma from Bulgaria and Romania: "I have to teach these parents how to work with the UK system and then teach the school teachers how to work with the Roma parents." Traditional stopping places were fenced off. Many professional bodies who worked with/for the Roma did not have Gypsy, Roma or Traveller representatives on their boards.

Mr Jones commented that the National Planning Policy Framework set out that local planning authorities should have an identified five-year housing supply at all points during the plan period. He did not believe that common law could be relied upon for evicting people as human rights law supersedes it and, in this way, the police could not and should not support bailiffs. Lawful eviction could only be performed on the basis of a court order, but a lot of police did not have any human rights education.

Ms Brisilida Taco, Forum of European Roma Young People, Albania, said that Albanian law had been adopted to prevent evictions but the government did not respect it in relation to consulting families regarding alternative accommodation, time of evictions, sickness, etc. In reality, evictions took place without administrative decisions. Amnesty International advocated with the Albanian Government. Evictions happened constantly all across Europe and called on governments to adopt laws to prevent evictions. She believed that it was vital to run projects that promote the rights of Roma and cater for their real, basic needs because if people do not have homes, they do not have a job, health or education either.

Ms Ágnes Daróczy recounted anti-Roma incidents which had occurred in Tula, Russian Federation, and Miskolc, Hungary. She believed that we were faced with a historical process and the question of ownership. During communist times, Roma were a national security issue and this remains the case in democracy. Today the situation of Roma in western democracies was no better, either. Since the 1960s, the Council of Europe had put forward proposals to end evictions to no avail, in her opinion. She asked if the Council of Europe could intervene directly in individual cases regarding whole communities. Furthermore, Roma or Roma organisations should gain ownership of the land on which caravans or settlements had been built.

Ms Kärt Juhasoo-Lawrence, Deputy Permanent Representative of Estonia to the Council of Europe, explained that the six-month Estonian Chairmanship of the Committee of Ministers had been opened by a photo exhibition on Roma culture. In general, she noted that it is important to leave victimhood and the victim narrative behind.

Ms Martine Serlinger, GATIEF, noted that the recognition of the travelling way of life was important and that it could not be substituted by another status. In France, there were sites but nobody moved.

Ms Soraya Post, MEP, Co-President of the European Parliament's Anti-Racism and Diversity Intergroup (ARDI), Sweden, observed that there was an apartheid policy and anti-Gypsyism was rife, stating that "we are still victims". Where were the safe countries and for whom? In Sweden, approximately 8,000 Roma from the Balkans would be sent back; people were being deported from Germany to countries where they had no place to stay to begin with. The EU's Freedom of Movement should be respected.

Mr Davies noted that in the UK, Gypsies, Roma and Travellers (GRT) were seen as a threat because of their ethnic origin.

Mr Afflerbach underlined that the Parliamentary Assembly had dealt with Roma issues since the 1960s, joined by the Committee of Ministers in the mid-1970s, a move that added credence to previous efforts. The Council of Europe also provided monitoring in collaboration with NGOs, through the CAHROM, ECRI and convention-based mechanisms. It funded certain projects, for example, the training of mediators. It also provided access to loans through the Council of Europe Development Bank.

Working session II - Internal and cross-border migration of Roma: current challenges and possible solutions

Professor Yaron Matras introduced the EU-funded MIGROM Project on "The immigration of Romanian Roma to Western Europe - Causes, effects and future engagement strategies". The basic facts were the following: most Roma were not Travellers and Travellers were not Roma. The travelling way of life did not underpin migration, while the cross-border migration among Roma and Central and Eastern European citizens showed the same patterns. Indeed, Travellers were seldom cross-border migrants. MIGROM, a longitudinal and multi-site research study over four years (2013-2017), was collecting data from the UK, Spain, France, Italy and Romania. It provided community-based ethnography in Romani.

Mr László Fosztó presented the key findings on Roma communities that were sending people from Romania to Western Europe, with a focus on structure and not Roma behaviour. The historical circumstances of this migration arose from the legacy of slavery and emancipation and forced repatriation in the early 1990s (from Germany). Roma participation depended on the removal of structural barriers that were manifest in housing (sites compared to rental housing), access to un/formal employment, constant fear of evictions (France and Italy) and taking children in institutional care, repeated effects of criminalising migration (trafficking, benefit fraud), and the family structure (early marriages, child neglect, under-valuing of education, overcrowding). Notably however, the Roma stood out due to rapid demographic changes. Migration had a modernisation effect. Mainstreaming was more effective than targeted interventions. Migration contributed to social mobility as migrant Roma sent money back home to build houses, usually outside of traditional living areas, and also brought back skills (social capital). Social remittances amounted to more than the money sent back and also included changing attitudes of the Roma. The ERTF, European Commission and Manchester City Council asked for policy recommendations, which could be summarised as follows:

1. remove structural barriers - often policy was targeted at changing Roma behaviour, for example, Roma had no other choice than to live in camps, whilst recent projects in western Europe segregated Roma in schools funded by the EU;
2. grant full employment rights;
3. support capacity building for community outreach: self-reliance, not "mediation";
4. ensure inclusion in mainstream policies, not targeted measures;
5. counteract prejudice on family structure and values - we tend to overrate differences in family structures;
6. recognise the key contribution of migration to promoting equality across the EU: migrant Roma help gain recognition of the sending communities in sending country, which is much more effective than the European Social Fund;
7. enable effective investment of remittances to help local development in origin communities.

Mr Karl-Friedrich Bopp, Secretariat of the European Social Charter, introduced the European Social Charter (ESC) through its legislative history that was complementary to the European Convention on Human Rights and Fundamental Freedoms (ECHR). The ESC was adopted 1961, revised in 1996, and had 43 members of whom 39 had ratified the revised Charter. The ESC provided an integrated system of guarantees: health, social protection, education, non-discrimination, housing, employment. The reporting procedure was based on thematic groups; Roma were found under Group 4 relating to children, families and migrants. NGOs and social partners could make comments on States' reports. The advantages of collective complaints available under the ESC were that there were no individual cases, it was not necessary to exhaust domestic remedies and the procedure was simple. 14 EU Member States and Norway allowed collective complaints, but interestingly not one state from the Balkans. So far, 121 collective complaints had been filed, of which 20 concerned Gypsies, Roma and Travellers. Out of the 14 adopted Decisions, one complaint each concerned Belgium, the Czech Republic, Portugal, Italy and Greece, two Ireland, three Bulgaria and four France. Provisions of special relevance for the Roma included Article 16 (The right of the family, legal and economic protection) and Article 31 (The right to housing). The Turin Process had been introduced to boost further ratification.

Ms Marie Pichault, Centre de Médiation des Gens du Voyage et des Roms en Wallonie, Belgium, noted that critical and common angles to mediation regarding Gypsies, Roma and Travellers concerned stigmatisation and discrimination. One common point between Roma and Travellers was stigmatization, disdain of "lifestyle", as well as incomprehension. The European Roma Policy Coalition surveyed Roma inclusion policies, but anti-Gypsyism, discrimination, etc. did not receive enough attention. The Centre de Médiation was of the view that stigmatisation should be seen as the source of the vicious circles of poverty. It noted the shortcomings of national strategies, including what was reported to the UN High Commissioner for Human Rights at a meeting in 2015: The five equality bodies present reported that legislation was either ineffective or not implemented. The Centre had formulated recommendations as follows: 1) to recognise the right to the Traveller way of life. Municipalities should be duty-bound to provide for temporary stays; 2) the EU Framework Strategy should be complemented with an anti-Gypsyism Strategy; 3) channel monitoring mechanism outputs into policy debates; 4) intercultural mediation should be promoted.

Ms Ana Oprisan, ROMACT Programme Manager, Support Team to the SRSG for Roma Issues, addressed the proposed co-operation between Western and Central Eastern municipalities through the ROMACT Programme, providing an honest account of the successes and structural sources behind some of the difficulties in cooperating with municipalities. She emphasized the importance of capacity-building and the need for focus to be at local level.

Mr Santino Spinelli (Italy) requested clarification on the selection criteria used to choose participants for the ROMACT Programme and asked why Roma intellectuals were not consulted and why those affected by segregation were not involved. He noted that money allocated for Roma did not often achieve results and that there was a need to promote Romani culture.

Ms Oprisan clarified that ROMACT Facilitators, National Focal Points and National Project Officers were selected following an open Call for Applications.

Ms Brisilida Taco remarked that, in countries where the right to housing was not recognised in the Constitution, this should be an objective to work towards. By failing to provide protection from forced evictions, she noted that governments were in fact pushing the Roma into a nomadic "lifestyle".

Mr Gheorghe Raducanu, European Roma and Travellers Forum (ERTF), announced that that he had resigned from his post on 25 April and welcomed Ms Miranda Vuolasranta as the new ERTF President. He commented that he had been coming to the Council of Europe since 1991 and had listened to many nice presentations during that time, but there was no change on the ground. In his opinion, migration was a relative issue, but Roma were not migrants. He was born in a caravan and grew up in a tent, but many Roma were settled. Travelling could be fun for the better-off, but was a necessity for the poor. If the non-Roma understood this, travelling would not be seen as migration.

Mr Orhan Galjus noted that the Council of Europe was the richest interstate organisation with expertise on Roma communities. He expressed the need to be kept more closely informed of what the CAHROM etc. were working on because "we need to be at one level so that we can inform our communities of what the Council of Europe is doing".

Mr Fernand Jehl, Council of Europe Conference of International Non-Governmental Organisations, offered the assistance of the Committee on Education and Culture that surveyed education on intercultural dialogue for Roma, emphasizing that Roma and Traveller participation was needed in order to build a symmetrical approach.

Ms Curran stated that Travellers were still not recognised as an ethnic minority. Roma were blamed and scapegoated. Hampered access to the medical card was a structural issue difficult to overcome. She asked who needed to change – the Roma and Travellers or the State? The mediation model presented in Ireland was to liaise through a hostile system which was not good for the community. There would be no tangible results unless we promoted projects that were participatory and provided agency to the Roma.

Mr Sejdic pleaded as follows: "Please, European organisations, take our hand! Let's plan, implement and monitor projects together! Let's not fall into the same mistake as the Roma Decade - without Roma, nothing about Roma, this is not only a motto, it is our aim ... Why is it, that when Roma migrate to work, it is a

social problem, when others [migrate], it is OK." In closing, he said that "I feel a real partner when I collaborate and work with the Council of Europe, not when I am invited to a conference."

Mr Jones confirmed that they were not victims, but that they were there to represent the victims. There was a dichotomy between cultural heritage and the lack of cultural opportunities. There was a need for a pan-European approach: how could people in Western Europe relate to Roma from the Balkans if even Western European Gypsies were treated differently? There was training fatigue: what if you cannot do anything you are already trained to do, if you do not get funding to put your skills into practice, what then? Is the Roma community consulted to identify the needs of the Roma community? Funding went to organisations that were good at filling in funding applications.

Professor Matras drew attention to the complacency of political organisations, relying on the example of begging and trafficking mentioned also in the Strasbourg Declaration. To him, it seemed that flagging these issues was right, but characterising them as a Roma peculiarity was not. In a similar vein, why was the regulation of the transnational migration of Roma called for and not of other communities? Transition from this approach to self-reliance made a difference, because stigmatising images must not be reproduced. Roma migrants saw a future in their countries of origin, for which reasons the MIGROM research on Roma participation had been ground-breaking.

Mr Robert Rustem, Support Team to the SRSB for Roma, and moderator of this session, asked for feedback on how to best structure the next meetings and establish a new *modus vivendi*.

Gordana Herold, Forum of European Roma Young People, Germany, told the story of various migration waves into Germany, where Roma arrived as refugees in the 1990s. In the German context, she observed that state authorities did not see NGOs as partners. Hate speech emerged from politicians, but also "from our own groups: we are told we are prostitutes, do not have our own families". It was important to support the emancipation of Roma woman migrants, because there was a hierarchical structure within the individual, with no protected space at home and often psychological illness.

Working Session III - Combating hate speech against Roma and Travellers

The topic was introduced by the Moderator, Mr Ian Naysmith (United Kingdom), Rapporteur on Anti-Gypsyism and Hate Crime of the Ad Hoc Committee of Experts on Roma and Traveller Issues (CAHROM) of the Council of Europe.

Mr Stefano Valenti, Secretariat of the European Commission against Racism and Intolerance (ECRI), introduced ECRI General Policy Recommendation (GPR) No. 15 on Combating Hate Speech. He drew attention to the use of ECRI reports by the ECtHR, noting that this gave ECRI a double edge: "this is how us good cops become bad cops". Touching upon related themes, such as counter speech, the lack of synergies, anti-Gypsyism in GPR No 13 and stigmatisation in GPR No 15, he dwelt upon ECRI's relationship with NGOs and the need to collect good practices. Regarding the definition of hate speech, one defines it according to the tools one has. Three out of ten recommendations deal with the measures to combat hate speech, including the monitoring of hate speech. It was not straightforward how to register hate speech, which category to use, how to rely on self-reporting and helper reporting. Hate speech was most often directed against groups, not individuals.

Mr Menno Etterna, No Hate Speech Movement, recalled that the No Hate Speech Movement started in 2013 in Norway following the attack by Breyvik and had been prolonged until the end of 2017. Its goal was to prevent radicalisation. There were 50 national campaign groups including Roma. They worked in order to eliminate hate speech from the internet, promoting human rights narratives in its place, for which a manual would be available from September 2016. He questioned how (young) Roma could get involved in discussions with internet providers on how to regulate against hate speech. Several Central and Eastern European national groups worked on hate crimes against Roma, for instance, in Hungary, Poland, the Czech Republic and Slovakia.

Mr Florian Kronbichler, member of the Parliamentary Assembly of the Council of Europe, Subcommittee on the Rights of Minorities, explained that the Committee on Equality and Non-discrimination was preparing a report on promoting the inclusion of Roma and Travellers. Anti-Gypsyism was targeted by the No Hate Parliamentary Alliance who organised a hearing on anti-Gypsyism in Stockholm in May 2016. Highlights from that hearing included that anti-Gypsyism was everywhere (in segregated housing, forced evictions, judicial system, media, government) and institutionalised racism created mistrust. Politicians must accept their role and responsibility as leaders and lend their voices to this cause and hear the voices of the Roma, otherwise they give legitimacy to haters. Parliamentarians needed more information. When people felt excluded, they could not feel they had a duty with regard to society.

Ms Post pointed out the need to collect data on hate crimes, which was dependent on a coherent definition, not yet available across Europe. She gave the example of the Swedish police files. Ms Post, her children and grandchildren were on the list. Hate speech by politicians was also widespread across the EU. Politicians disseminated false information and engaged in hate speech to secure electoral gains. Ms Post strongly recommended joining the No Hate campaign.

Ms Shay Clipson, National Alliance of Gypsy Traveller & Roma Women, United Kingdom, believed that every hate crime began with hate speech, thus without tackling hate speech first, hate crime could not be fought effectively. Focus should be put on crime prevention. Freedom of expression was important but censorship laws to protect public decency were in place. Laws on hate speech were open to (mis)interpretation. There was victim blaming, i.e. successful victims were blamed for breaching freedom of expression. Balancing between rights was important. Hate speech was the root cause that stopped children from going to school (bullying). Social pressure and marginalisation were expressed through hate speech, and racism was expressed through hate speech. Haters believed that they were entitled to discriminatory views, politicians echoed these views and the police failed to protect the victims. If freedom of expression amounted to freedom to oppress, it could not be a freedom worth of protection, nor a freedom anybody should be entitled to. Hate speech should be attacked at its source. Promoting a positive image was a long-term solution but in the short term, hate speakers must be sanctioned by custodial sentence. Hate speech must not be tolerated.

Mr Elezovski noted that no mayor or president in Europe had been sanctioned for hate speech. He asked if Roma were targeted because God was punishing them or if they were targets of businessmen. Refugees

were also stigmatised but EU borders had been opened to them, which was not the case of Roma from “the former Yugoslav Republic of Macedonia”. It was the responsibility of institutions to fight hate speech.

Ms Taco reminded participants that she coordinated 100 young activists at grassroots level and housing was most problematic in Albania.

Mr Galjus remarked that the Council of Europe structure was conducive to fighting anti-Gypsyism. Roma NGOs could not succeed alone; they needed Council of Europe backing, for example, with campaigns or a common action plan for Roma NGOs together with the Council of Europe. Thematic planning involving high level experts from CAHROM and ECRI was needed.

Ms Serlinger recalled that Ms Post mentioned the responsibilities of governments which were essential. Consultation was only an alibi as long as the government and the majority did not change. Travellers are a minority at meetings, their voice is a minority and their attendance is taken to signify consent to what governments agree. She asked if the Council of Europe could go further than simply listening to governments.

Mr Raducanu welcomed ECRI GPR No 15, but noted that there were lots of recommendations in force without impact. 25 years ago, a Roma SRSG would not have been appointed but “I will only retire once I see a Roma Secretary General of the Council of Europe”.

Mr Michaël Guet, Support Team to the SRSG for Roma Issues, reminded participants that the Council of Europe had been cooperating with the Albanian Government, together with UNDP and the European Commission, through a consultant in order to make social housing available to Roma since current eligibility criteria indirectly exclude them. The absence of recognition of anti-Gypsyism as a form of hatred had been on the agenda for years: ECRI issued a recommendation but only a few member States accepted to consider it as a form of racism in the same way as they do for anti-Semitism and Islamophobia. As long as it was not recognised as a specific form of racism, responsibility did not stand. Only if it was legally and politically recognised would it become a habit to recognise anti-Gypsyism as a form of racism. Norway and Sweden were good examples in this regard.

Mr Sejdic, Bosnia and Herzegovina, reminded participants of the Dosta! Campaign and asked whether there was another campaign called No Hate Speech. How many people had received Council of Europe help with this campaign? Had it stopped Roma people from being killed? He continued, “I know that ECRI is not the police, but the Council of Europe is a political organisation with strong powers – does it use them?” For instance, take the non-implementation of the judgement from *Sejdić and Finci v. Bosnia and Herzegovina* case. Mr Sejdic believed that member States did not respect the Council of Europe, because it was not using its political powers to their fullest: “I want you to prosecute hate speech, not campaign about it.” **Ms Post** responded that the campaign was only one tool, that there was no political will to fight racism, including anti-Gypsyism, and the extreme right was on the rise.

Ms Curran observed that combating online hate speech was extremely difficult. Perhaps this was why there was a shift to working on hate crimes, even in NGOs. The police did not take action on hate speech. The Pavee Point perspective was the following: solidarity between Roma and Travellers had been really important, especially European solidarity. In Ireland, the Roma movement was now gaining from the Traveller movement.

Ms Ramiza Sakip, Forum of European Roma Young People, “the former Yugoslav Republic of Macedonia”, remarked that there was a lack of Roma governmental representatives. Roma politicians should be supported by Roma as well. Anti-Gypsyism was not new for the Roma, who have been working on it for ten years now. Roma know what hate speech is, they do not need a theory, but European mechanisms and laws did not reverberate at national level. Roma had never been involved in drafting hate speech strategies. Inclusion and integration did not speak to them as concepts, because they are already citizens - this is why they respond to anti-Gypsyism. Roma should be involved in drafting the documents; otherwise they would not be used by them. She concluded as follows: “I am fed up saying what we or the Council of Europe should do without being meaningfully involved - I cannot change this, I do not want to complain but I do not want to sit here unless the Roma are protected”.

Closing of the Meeting and Conclusions

Ms Aurora Ailincai, Head of the Strategic Partnerships Unit, Support Team to the SRSG for Roma Issues, chaired the closing session.

Summary conclusions were presented by **Ms Lilla Farkas, General Rapporteur**. Five main themes emerged during the meeting, namely: 1) recapping standards; 2) revisiting the framework; 3) reconceptualising rights; 4) implementation; and 5) examples and dissemination and good practice.

1. Recapping Standards

Standards established by various Council of Europe bodies, such as ECRI and the European Committee on Social Rights, have been discussed in detail and standards set within the EU have complemented the debate. These standards relate broadly to the right to housing, particularly protection from evictions and a positive duty to provide reasonable accommodation to Travellers, and to fighting hate speech.

Regarding social rights such as the right to housing, some issues remain to be explored, including the following: 1) Are synergies with ECHR case law, such as *Yordanova and Winterstein*, ensured and explained to potential applicants? 2) In light of the standards that may differ, do materials exist to advise potential clients on access to the ECtHR, CERD, ESC, UN bodies, particularly with regard to the availability of interim measures and other effective remedies against, for example, forced evictions? 3) Do tools exist to promote the access of Roma to the ESC and, particularly, to collective complaints? 4) Are there intra-Council of Europe procedures to ensure synergies between structures dealing with, for instance, forced evictions?

The absence of recognition of anti-Gypsyism as a form of hatred has been on the agenda for years and internal Council of Europe processes have led to the ECRI recommendation but only a few member States have accepted to consider it as a form of racism on a par with xenophobia. As long as anti-Gypsyism is not a recognised form of racism, identifying, measuring and sanctioning it may be cumbersome. Different from the right to housing, wide array of standards do not exist within the Council of Europe in relation to hate speech. Participants did not note the case law of the ECtHR, but it must be borne in mind that it is not as progressive in relation to anti-Romani hate speech (*Aksu v Turkey*) as in relation to other grounds (LGBTI in *Vejdeland v Sweden* and anti-immigrant hate speech in *Feret v Belgium*, etc.).

2. Revisiting the Framework

Three different, but complementary, frameworks were debated during the meeting, with the majority of participants supporting the need to strengthen the anti-Gypsyism perspective. No participant seemed to disagree with the conclusion that "Poverty, racism and the lack of minority institutions are the greatest problems today". Poverty is racialised and there is a financial interest in persecution - to make Roma the care of somebody else, instead of the State to whom those citizens belong or on whose territory they reside. The social inclusion frame that attaches to poverty and exclusion was however criticised, since it opens up the debate to voices that throw into question the full membership of Roma in the societies whose citizenship they hold or where they (permanently) reside.

Hate speech creates obstacles to Roma inclusion, which poses the question of whether there is a need to change the focus from social inclusion to combating anti-Gypsyism: Are these obstacles new or not? Is the Council of Europe the right platform for combating anti-Gypsyism or shall it content itself with coordinating local initiatives that combat hate speech? One question not asked during the debate was the following: is there a threat that a shift in focus to anti-Gypsyism may weaken claims for social rights? Will the majority assume an adequate level of liability for anti-Romani hate speech if this frame is favoured?

Flagging issues such as migration and begging was considered to be right, however characterising them as a Roma peculiarity was not. In a similar vein, calling for the regulation of the transnational migration of Roma is only right if done equally with other communities. Transition from this approach to self-reliance was advised, as care needs to be taken not to replicate stigmatising images. However, a meaningful debate on this proposition did not develop, nor were the difference in EU and Council of Europe legal standards as they relate to the fundamental element of this framework, namely the right to freedom of movement and work.

3. Reconceptualising Rights

Clearly, the poverty and social exclusion framework attaches to claims of social rights vis-a-vis the state. The scope of the anti-Gypsyism framework was not fully explored during the meeting. While it was suggested that anti-Romani hate speech lays the ground for discrimination, it was not clarified how, under this framework, discrimination and poverty could be tackled and the link to social rights made. Similar incompleteness can be observed in relation to the self-reliance framework, although the focus on the right to employment as part of the freedom of movement regime, which is undoubtedly well protected under EU law, provides a strong basis for claiming social rights in this space. However, the number of Roma to whom this argument applies is rather low in comparison to those who do not move within the EU. Moreover, the rules on freedom of movement are not yet accessible to Roma outside of the EU.

Another need for reconceptualising rights emerged in relation to Travellers who, perhaps more vocally than in the previous meeting, expressed their wish to have their specific status recognised on the basis of their travelling way of life - an expression borrowed from the case law of the ECtHR (*Buckley v UK, etc.*) and deliberately used by the General Rapporteur in order to avoid potential pitfalls of the expression "lifestyle". However, further debate is needed on the exact formulation of such a status, potential implications, concrete textual proposals, as well as compliance with existing Council of Europe texts, including reports of ECRI, the Advisory Committee of the Framework Convention for the Protection of National Minorities and the Commissioner for Human Rights.

4. Implementing Standards

Mediation, political action, capacity-building for implementation and potential legal challenges by the European Commission, through the ESC and before domestic equality bodies were touched upon by speakers. Participants, on the other hand, maintained a keen interest in domestic enforcement, particularly before the courts and the impact on it by enforcement at European level. They discussed ways of addressing online hate speech; either by asking site moderators to remove it or engaging with those writing such comments. It is also imperative to report anti-Gypsy hate speech to Facebook and Google, as well as to engage with equality bodies. Hate speech is most often directed against groups, not individuals. A theme that needs to be further explored is group or collective standing, since it is not often provided under national law, nor under the ECHR, which renders challenges against hate speech impracticable.

UK legislation pertaining to reasonable accommodation of the travelling way of life provides an example of mismatches between legislation and implementation, as well as an example of where the classic implementation through legal means (challenges to existing legislation in court) could result in change on the ground. The situation, described as a Catch 22, is as follows: in order to maintain their status as such, the law requires Gypsies and Travellers to maintain their traditional way of life but does not provide enough sites in order for them to do this. In turn, this unresolved issue feeds anti-Gypsyism and cuts off access to services, etc. The solution is to address the shortage of pitches but local politics prevented this, since the building of new sites is unpopular with local communities. The examples provided in *Yordanova and Others v Bulgaria* and *Winterstein and Others v France* lay bare similar mismatches between the law and practice. Challenges before the ECtHR, particularly reliance on interim measures, can successfully stop forced evictions. The debate did not cover the possibility of mounting a critical number of legal challenges before the ECtHR in order to trigger legislative and policy change through the heightened scrutiny of the implementation of judgments by the Committee of Ministers that such litigation efforts would certainly trigger.

Can the Council of Europe's monitoring, political and enforcement bodies intervene directly and/or through a combined effort in concrete cases regarding whole communities? The Council of Europe is a complex organisation with strong powers which may not be used to their fullest potential. Is there perhaps a *modus operandi* that could better utilise potential synergies between the various bodies/mechanisms vested with monitoring, enforcement, political and judicial decision-making powers within the Council of Europe to stop evictions and hate speech (starting with hate speech by politicians)? Further debate could focus on specific aspects of the topics selected for discussion. This would require speakers who present their work within the Council of Europe to the participants of the Dialogue Meeting to engage with the question of efficiency and by zooming in on visible results at community level.

In relation to capacity-building, training fatigue was noted: what if you cannot do the things you are trained to do, if you do not get funding to put your skills into practice?

5. Good Practice Examples and Dissemination

There are positive examples of legal challenges, judgments and decisions partly emerging as a result of (inter)national advocacy. Advocacy by Amnesty International regarding the right to quality integrated education and the right to housing is one such example. The European Commission has launched infringement proceedings against the Czech Republic, Slovakia and Hungary on account of segregated education and against Italy for an alleged breach of the Racial Equality Directive in relation to housing. In April 2016, interim measures in Eforie, Romania, were requested and imposed by the prefect to stop an eviction. Norway and Sweden are good examples in recognising and reporting anti-Gypsyism as a specific category of wrongdoing through commissions on the atrocities committed during the 20th century. The Council of Europe also maintains a database of good practice. It was not discussed how these are structured (for example, according to themes) and disseminated.

Ms Daróczy delivered the concluding remarks on behalf of the European Roma and Travellers Forum (ERTF) stating that, whilst Roma needed to collaborate with lawyers and journalists, emancipation was also required. Since anti-Gypsyism was a problem of the majority society, an active, positive image of Roma was essential to counteract it. Lawyers should stop being decision-makers and legislators. Direct links to stakeholders and monitoring bodies, etc. were needed, such as the partnership that the ERTF had with the Committee of Ministers. Roma women's participation in ERTF had been strengthened. In order for Roma NGOs to collaborate with the Council of Europe, a change in the format, participation and purpose of the dialogue was required. In the next meeting in September 2016, it would be necessary to further clarify the structure, focus on thematic action plans and ensure that the Dialogue had regular contacts with the CAHROM, monitoring bodies, ESC, EU Platform and FRA. A specific discussion on anti-Gypsyism with the participation of researchers and victims could be an agenda item, as well as the strong, legal tools to use and ERTF and ILO guidelines.

Mr Afflerbach, Head of the Support Team to the SRSB for Roma Issues, Council of Europe took stock of achievements and shortcomings, concluding that the following needed to be done: organise the meeting of the Working Group in September; look closely at the format and participation of the meeting; identify the topics for the meeting on 15 November (travelling way of life, Roma youth and ILO guidelines) to be followed by the CAHROM meeting on 16 November. The ESC and ECRI would also be invited to be present. He announced that the Council of Europe would participate at a Conference on anti-Gypsyism co-organised with the OSCE-ODIHR and the Central Council of German Sinti and Roma in Berlin on 6 September. He also pointed out that the database of good practices (<http://goodpracticeroma.ppa.coe.int/en>) already exists and is accessible via the website of the SRSB for Roma Issues (<http://www.coe.int/roma>).