



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



CommDH/Speech(2011)13
English only

The Romani Holocaust and Contemporary Challenges: Tackling Discrimination and Human Rights Abuse of Roma

Chisinau 20-21 October 2011

**Intervention by Council of Europe Commissioner for Human Rights,
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There is a red thread running through the history of Roma people, the deeply-rooted anti-Gypsyism to which they are still overwhelmingly subjected and the discrimination and marginalisation which characterises their position across Europe today.

If we want to promote the inclusion of Roma in society, we cannot work on the surface; we must dig deeper and address all the different aspects that have concurred, and still concur, to make of the biggest minority in Europe also the most discriminated against and excluded. Roma history is one crucial point at which to pick up the thread.

The importance of teaching about Roma history cannot be overemphasised. Teaching about Roma history, raising awareness of the Roma genocide during the Second World War, and building and maintaining memorial sites are the least states could do to honour Roma victims.

After decades of denial or neglect, these initiatives also powerfully symbolise society's acknowledgment of the human dignity of the Roma. This is central to combating anti-Gypsyism, which feeds precisely on denial of equal human dignity (or carelessness towards equal human dignity) for this part of Europe's population.

In my review of the areas on which I believe Europe and its countries must concentrate their efforts towards Roma inclusion, anti-Gypsyism is therefore a natural stepping stone.

Anti-Gypsyism

Anti-Gypsyism is perhaps the most powerful mechanism of Roma exclusion. No programme aimed at improving the situation of the Roma populations, be at international, national or local level, can be successful without resolute action to combat anti-Gypsyism. There are several key actors that should be involved when working against anti-Gypsyism:

First, politicians and public opinion leaders. Racist or stigmatising anti-Roma rhetoric has been on the rise. This has included generalisations about criminal behaviour, with well known examples from France, Italy, Hungary and the Czech Republic. In some cases,

these words were understood as encouraging violent action against the Roma, such as mob violence and pogroms. Anti-Roma speech, including during electoral campaigns, must stop. It should be strongly condemned in all cases and punished when it breaks laws against incitement to hatred. This is not the case at present, as witnessed during my May 2011 visit to Milan, where posters all around the city warned against the risk of the city turning into a "Gipsytown". Political parties should adopt self-regulatory measures to exclude racist language.

Second, action must be intensified against extremist groups. These groups have been very active in galvanising segments of the public against Roma. Recent events in Hungary, Czech Republic (North Bohemia) and Bulgaria show that this is a real threat. Members of these extremist groups have been found to be at the origin of a number of hate crimes targeting Roma -- some of an exceptional cruelty -- for instance in Hungary and the Czech Republic.

Third, anti-Gypsy stereotypes also continue to be spread and perpetuated in several media across Europe. A number of journals and broadcast media have been only reporting on Roma in the context of social problems and crime. Reporters and editors should not be megaphones for particular interests. However, they can contribute to a fairer society through genuine professionalism, which can be achieved through better self-regulation and ethical journalism.

Fourth, we need to act directly on the general population to eradicate anti-Gypsyism. As mentioned above, this must be done through teaching of Roma history and culture. I have repeatedly called on Governments throughout Europe to translate the Council of Europe Factsheets on Roma History in their national languages in order to use and disseminate them as widely as possible in their national contexts, including schools.

Racist violence

In many countries, Roma are vulnerable to racist violence directed against their persons and property. These attacks have sometimes resulted in serious injuries and death. This violence has been prevalent in post-1989 Europe, with a notable increase of serious cases in recent years. The spate of attacks in Hungary, Italy and Czech Republic registered in the last three years are witnesses to this.

It is not only members of organised fascist or neo-Nazi groups who are behind these attacks. In some instances, non-Roma communities have engaged more or less spontaneously in vigilante violence against Roma. In other cases, the attackers were individuals motivated simply by racist hatred without any apparent political ideology.

Member states should ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of criminal acts into account. They should also establish mechanisms for systematic monitoring of racist, including anti-Roma, incidents.

Treatment of Roma by law enforcement authorities

Patterns of discrimination and ill-treatment by police towards Roma are widely reported. Roma have been subjected to police violence in detention facilities and public spaces, such as Roma settlements during police raids. When investigations have been carried

out, they frequently appear to have been biased or discriminatory. It is imperative (and an obligation highlighted by the Strasbourg Court) for the authorities to investigate effectively the possible racist motives in these situations. The establishment of independent police complaints mechanisms can help, among other things, to restore Roma trust in law enforcement authorities.

Roma have also been subjected to ethnic profiling, including during “stop-and-search” operations and in the context of their movement across international borders. Laws should explicitly prohibit racial profiling and establish a reasonable suspicion standard in police operations. The police must receive training in these issues.

Steps to establish trust between Roma communities and the police should be undertaken, such as the recruitment of Roma in the police or the recruitment and training of Roma mediators to liaise with the police.

Treatment of Roma by judicial authorities

A subject area not sufficiently researched is discrimination of Roma in the administration of justice. In a number of countries, Roma appear to be discriminated for instance in decisions to remand into custody, rates of prosecution and sentencing.

Some of the problems facing Roma in the field of criminal justice include: a lack of adequate representation when facing charges; an absence of respect towards Roma as witnesses; and deficiencies in interpretation services. The principle of the presumption of innocence is not always respected when Roma individuals are put on trial.

It is important that steps are taken to prevent racial discrimination against accused Roma persons who are subject to judicial proceedings so that these persons receive a fair trial.

Education

Discrimination and segregation in education is one of the factors with the most devastating long-term consequences for Roma. Because of governments’ failure to tackle this problem with sufficient resolve, generations of children in Europe continue to be relegated today to a future of second-class citizens.

Roma children can face difficulties when they try to enroll in schools; they are also often over-represented among those who do not attend regularly and drop out of school. More needs to be done to reverse this trend, with particular priority to be given to pre-school education.

In a number of countries, Roma children are disproportionately represented in schools for children with intellectual disabilities. They can also be sent to mainstream schools which are Roma-only, or to Roma only classes in mixed schools. In all cases, they receive sub-standard education.

The Strasbourg Court has addressed all these aspects in three important judgments (against Greece, for non enrolment; against Croatia, for separate classes; and against the Czech Republic, for education in schools for children with intellectual disabilities). These judgments now need to be fully implemented. The standards they set are binding

on all states, which should make sure that their practices concerning education of Roma children are in conformity with these judgments.

Housing

The situation of many Roma with respect to the right to housing is characterised by: sub-standard material conditions; segregation; forced evictions; and homelessness. Discrimination plays a crucial role in determining all of these situations.

Residential segregation of Roma is evident in many countries. Some mayors have made efforts to ensure that Roma remain in certain delimited areas. They have used public funds to establish segregated housing provision. Spatial segregation has been in some cases reinforced by the construction of walls around Roma neighbourhoods. These destructive measures must stop.

Many Roma continue to live in sub-standard conditions in most of European countries, without heat, running water or sewage. I have repeatedly drawn the attention to the situation of Roma in a series of localities in and around Mitrovicë/Mitrovica in Kosovo*, who have been, over the period of more than ten years, subjected to housing conditions in very toxic environments. The right of Roma to live in adequate housing in accordance with international legal standards needs to be guaranteed. All public utilities, including water, electricity, collection of waste and maintenance of access roads need to be provided to Roma, including in settlements.

Roma are also manifestly affected by lack of adequate recognition of tenure throughout the Council of Europe space. This situation directly leads to forced eviction. In some countries, forced evictions have increased in the last years, often targeting the same migrant Roma families, including children, repeatedly over short periods of time. This is the situation that was reported to me in Milan by a number of Romanian Roma families – they were moved often in the early hours of the morning; they often lost their property; and their children had to stop going to school. The authorities must respect the agreed standards on forced evictions. These require: genuine consultation with those affected; reasonable notice; access to legal remedies; compensation; and most importantly, alternative housing. Evictions must also not render individuals homeless.

Employment

Despite positive efforts in some countries, levels of unemployment among Roma are invariably at levels significantly higher than among non-Roma throughout Europe. Under-education and endemic discrimination are the main challenges affecting the inclusion of Roma in the labour market.

Measures to address Roma unemployment must include both assistance to victims of discrimination in claiming their rights and positive measures targeting Roma specifically. During my visit to Madrid last April, I have had an opportunity to learn about Spain's ACCEDER Programme on access to employment for Roma, which has been noted as an example of good practice. The programme has promoted strong partnerships at local,

* Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

regional and national levels and has reportedly benefited tens of thousands of Roma. This includes almost 40,000 employment contracts concluded.

Special attention should be paid to Roma women who suffer from double discrimination, as Roma and as women. This should include efforts to improve their socio-economic status and to ensure their access to education and health as preconditions for employment.

Health

Throughout Europe, the average life span of the Roma is shorter than that of non-Roma. Roma infant mortality rates are also higher. Among the causes for this are a lack of funds to pay for insurance or treatment; a lack of identification documents; and a lack of means of transportation from remote areas to healthcare facilities.

Healthcare providers also reportedly discriminate against Roma, including in the provision of emergency services. Some hospitals regularly segregate Roma patients from non-Roma patients, especially in maternity wards. In some countries, Roma have been excluded from healthcare schemes, as they cannot afford to pay health insurance contributions or are not formally employed or registered in employment agencies.

Geographically accessible and affordable healthcare should be provided to Roma without discrimination. Efforts should be made by member states in the field of preventive care and awareness-raising campaigns regarding Roma, particularly in the area of sexual and reproductive health of Roma women.

Statelessness

Tens of thousands of Roma live in Europe without an effective nationality. Lacking birth certificates, identity cards, passports and other documents, they are often denied basic rights such as education, healthcare, social assistance and the right to vote.

The problem exists in many countries in Europe, but it is particularly acute in the Western Balkans. In recent years, the UNHCR has run programmes in the Western Balkans to help Roma accessing personal documents. The European Union has also started similar projects.

However, what is really needed is meaningful interest on the part of authorities to tackle and resolve the issues. Without state-level commitments to ameliorate conditions so that currently excluded persons can have access to documents, for example via “amnesties” for persons with no birth certificates, there is little indication that these projects can have a major impact.

Migration and free movement

Roma have repeatedly been treated differently from non-Roma in the exercise of freedom of movement within European Union, to which they are entitled as EU citizens. The expulsions of Romanian Roma from France over the Summer 2010 have rightly received considerable international attention, but these practices are carried out in other countries, too, including Italy. Efforts to expel EU citizens in contravention of EU law, as well as other discriminatory measures aimed at hindering access to territory, should be

stopped. The resources being used by EU member states to repatriate Roma who are EU citizens would be better spent facilitating their social inclusion.

Even when at risk of serious human rights violations, Roma face discrimination in accessing international protection on an equal footing with others. In some countries, Roma asylum seekers have been provided with forms of temporary protection which do not confer residence status or any progressive accrual of rights. The repeated provision of extremely short-term “tolerated” status has effectively prevented tens of thousands of third-country national Roma from integrating into host societies. Roma asylum-seekers and internally displaced persons should be treated the same way as non-Roma.

Many European countries have undertaken the practice of expelling Roma from their territory, including to Kosovo, despite the fact that Kosovo is at present unable to provide conditions for the sustainable reintegration of these returnees. I have repeatedly warned member states of the Council of Europe against forcibly returning Roma, Ashkali and Egyptians to Kosovo. Member states must also respect the agreed procedural safeguards applicable to forced return and respect the prohibition of the collective expulsion of aliens.

Sterilisation

In some countries, forced sterilisation of women, targeting especially Roma women, was a practice followed during Communist times. After the fall of communism, these practices became unlawful, but some health professionals have continued the practice in both the Czech Republic and Slovakia, with cases also having been documented in Hungary.

In November 2009, the Czech Ombudsman, Otakar Motejl, stated that as many as 90,000 women may have been sterilised on the territory of the former Czechoslovakia since the beginning of the 1980s.

The states concerned must acknowledge and apologise for these practices: this has been done only in the Czech Republic in November 2009.

They should also make effective remedies available to victims to obtain reparation and compensation. However, this is not the case in any of the countries mentioned. According to information available, only two Roma women (one in the Czech Republic and one in Hungary), have been able to obtain compensation so far for having been unlawfully sterilised.

Legislation must clearly define a requirement of free, prior and informed consent with regard to sterilisations, and be accompanied by implementing guidelines. There is progress to be made in this area, too, for instance in Slovakia.

Judicial and administrative sanctions must also be upheld against those persons liable for sterilising women without their full and informed consent.

Placement of children in institutional care

Roma children are often heavily over-represented among the children placed in out-of-family care, including institutional and foster care.

In a report published by the ERRC in June 2011, the percentages of Roma children in the institutions visited were 82,5% in Slovakia; 65,9% in Hungary; 63% in Bulgaria; 40,6 in Hungary and 10,4 in Italy.

These children are often placed in institutional care solely on grounds relating to the poor housing conditions or financial situation of their families. However, this practice contravenes international standards and must stop. Institutional placement of a child should remain the exception and should have as the primary objective the best interest of the child.

Roma and trafficking

Reports indicate that trafficking in persons in Europe affects Roma disproportionately – particularly but not only, Roma women and children. Roma are trafficked for various purposes including sexual exploitation, labour exploitation, domestic servitude, illegal adoption and begging.

The vulnerability of Roma must be acknowledged in national policies regarding trafficking in human beings, without any stigmatisation. Protection measures should include training of law enforcement officials and awareness-raising campaigns targeting Roma communities, in particular in segregated and socially excluded communities.

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Conclusions

As we have seen, the factors that result in the seriously sub-standard human rights situation of many Roma in Europe are numerous and interconnected. As a result, an effective government's response can only take the form of systematic human rights work, which addresses all aspects in a manner that is both comprehensive and long-term.

Such systematic work can be based on the following guidelines:

European states should adopt comprehensive and adequately resourced strategies to improve the situation of Roma. These strategies should recognise the complementarity of inclusion and anti-discrimination. In particular, they should make clear that the responsibility for Roma inclusion rests to a considerable extent on the majority population. As a result, Roma inclusion measures should include both measures targeted at the Roma population (in particular positive measures) and measures targeted at the majority population (notably to reduce anti-Gypsyism and discrimination). It is important that reasonable progress is made on all areas mentioned earlier at the same time, and that no area is neglected.

National strategies should put a strong emphasis on the importance of local authorities' involvement in Roma inclusion. The Summit of Mayors on Roma held in Strasbourg on 22 September has inaugurated an alliance of cities and regions for Roma inclusion – this is an initiative that will hopefully bring useful results.

An effective legal and institutional framework to counter discrimination and anti-Gypsyism is paramount. This includes in particular, effective anti-discrimination

legislation and independent and adequately resourced national equality bodies that can assist with the implementation of this legislation. Extensive guidance is available on these aspects and governments should make the most of it. The legal framework must be completed through ratification of Protocol No. 12 to ECHR (which provides for a general prohibition of discrimination) and effective provisions against hate speech. The case law of the ECtHR regarding cases of discrimination against Roma – for instance, on segregated schooling and on anti-Roma violence – should be fully executed and more actively disseminated.

Participation of Roma must be ensured. They must be key partners in the designing, implementation and monitoring of policies regarding them at local and national level. In co-operation with them, the most appropriate ways of collecting quality, long-term data disaggregated by ethnicity must be devised. Without this data – and without a fair use of it by public authorities respecting data protection systems - it is virtually impossible to assess the effectiveness of measures taken for Roma inclusion or progress achieved. Therefore, securing durable advances becomes all the more difficult.

It should be ensured that the best possible use is made at national level of funding opportunities available, notably EU funds. This include securing a satisfactory absorption capacity, but also monitoring that the funds are actually used for the purposes for which they were allocated.