



TOOLKIT FOR POLICE OFFICERS

Council of Europe standards
on racially motivated crimes
and non-discrimination with
focus on Roma and Travellers



COUNCIL OF EUROPE



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MESSAGE FROM **THE AUTHORS**

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Policing modern societies, combatting racially motivated crimes and upholding human rights are three challenges that police are confronted with on an everyday basis. All police officers, from the lowest to the highest ranking, are expected to be fully informed of the latest developments in human rights practice and standards and apply them in their everyday work, a truly demanding task even for human rights professionals.

The present toolkit aspires to contribute towards assisting the police in carrying out their challenging duties. Therefore, the authors considered the particular needs of police from the earliest development process.

This toolkit has been inspired by the responses provided by 12 Council of Europe member States via their national police related Ministries or structures to a detailed questionnaire sent via the Council of Europe Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM).

All 12 national police forces underlined their strong preference for a short and concise toolkit rather than an academic manual. They readily acknowledged their need for more practical information, training materials related to the identification and investigation of racially motivated crimes as well as different aspects of discrimination, and lastly, they noted the difficulties they faced in fully comprehending the degree of marginalisation and vulnerability of Roma and Travellers.

Drafted by two human rights lawyers in close collaboration with a serving police officer, this toolkit aims at satisfying training needs as identified by the police forces. It is a toolkit in the truest sense of the term: just like a worker reaches for his toolbox, takes out the tool he wants to use and then puts it back, so does the toolkit aim at providing police officers with accessible and easily understandable information. Though a toolkit with a focus on Roma issues, it is not a Roma and Traveller toolkit – rather, it focuses on key concepts (such as vulnerability, racially motivated crimes, stereotyping) that could also relate to other socially disadvantaged and vulnerable groups.

Addressed primarily to patrol police officers and “first responders” – namely those police officers who regularly encounter Roma and Travellers as well as other vulnerable social groups, its underlying objective is to promote the uniform application of Council of Europe (CoE) standards on racially motivated crime throughout the CoE member States. To that end, the toolkit contains references only to CoE standards and principles.

HOW TO USE THE TOOLKIT

The design of the toolkit aims to provide guidance to the most practical extent possible with a twofold purpose: inform police officers about Roma and Travellers issues from a diverse perspective and inform police trainers about core developments and implementation of standards truly relevant when policing Roma and Travellers communities. This is why each structure of the toolkit focuses on providing mainly three types of synthetic, easy to read materials, mostly designed in question and answer format, comprising:

- Basic information about an issue at stake that represents theoretical information;
- The standards applied in practice according to international human rights bodies that represent practical information;
- Relevant case-law applicable to the issue that provides further resources for in-depth analysis.

The content of the toolkit constitutes equally the basis for a training curriculum proposed in a form of a template with suggested topics, aim and objectives indicating for each training session the resources available in the structure of the toolkit. This toolkit covers the overarching standards, practice at CoE level, and thus reflects a European perspective on racially motivated crimes, non-discrimination and Roma and Travellers issues. Therefore, this perspective needs a merging approach with the relevant standards and practices at national level.

The police officer or the police trainer making use of this toolkit should consider this merging process in accordance with each specific country context. Clearly, since all the court cases included in the toolkit are from the European Court of Human Rights (ECtHR) and are thus relevant for all CoE member States, national police legislation, regulations and instructions on racially motivated crimes and/or discrimination should be further added and considered.



THE STRUCTURE OF THE TOOLKIT

The toolkit consists of five sections, which deal with key aspects of a human rights approach to policing Roma and Travellers communities, plus a set of annexes with additional material relevant on the issue of racially motivated crimes.

Section 1: The situation of Roma and Travellers in Europe and ways to improve relations between them and the Police;

Section 2: CoE standards on police and Roma and Travellers;

Section 3: The European Convention on Human Rights and policing Roma and Travellers issues;

Section 4: Racially motivated crimes in the context of CoE standards;

Section 5: Training for police officers.

This publication was developed on the basis of information available until April 2019. The presentation of the cases of the European Court of Human Rights is purely a selection for educational purposes and is not exhaustive.

Each section covers a number of topics presented in a short, concise and practical manner comprising the basics, the standards in practice and the applicable case-law of the European Court of Human Rights.

STRUCTURE OF THE SECTIONS

Toolkit Content	Section 1: The situation of Roma and Travellers in Europe		
	Basics	Standards in practice	Relevant case-law ECtHR
Roma and Travellers	<ul style="list-style-type: none"> What is the CoE terminology on Roma and Travellers? Estimates of Roma and Travellers in Europe Factsheets about Roma and Travellers Who is vulnerable in view of the ECtHR? Are vulnerable groups entitled to state protection? 	<ul style="list-style-type: none"> Concrete challenges and problems faced by Roma and Travellers in Europe; What does it mean to be Roma and Traveller in Europe? What challenges do they face concerning police? Does the ECtHR refer to them as a vulnerable group? Does the police have obligations in relation with them? 	<ul style="list-style-type: none"> Roma as a vulnerable group in various cases before the ECtHR
Section 2: Council of Europe standards on police and Roma and Travellers			
Council of Europe standards	<ul style="list-style-type: none"> What human rights standards and principles are applicable for policing Roma and Travellers? 	<ul style="list-style-type: none"> What Council of Europe bodies monitor human rights involving police and Roma and Travellers What relevant principles for police are set by the ECtHR? 	<ul style="list-style-type: none"> Police and Roma and Travellers issues in cases before the ECtHR
Section 3: The European Convention on Human Rights (ECHR), the European Court of Human Rights (ECtHR) and policing Roma and Travellers			
The European Convention on Human Rights and the European Court of Human Rights	<ul style="list-style-type: none"> What is the Convention? What is the role of the ECtHR? What can the Court do and not do? 		<ul style="list-style-type: none"> Violations of the ECHR in the case of Roma and Travellers applicants
Non-discrimination and police	<ul style="list-style-type: none"> What human rights instruments are relevant for the police? What forms of discrimination are prohibited in European law? 	<ul style="list-style-type: none"> What standards of the Court are relevant for the police when dealing with discrimination and anti-Gypsyism issues? 	<ul style="list-style-type: none"> Cases involving the police, discrimination and Roma and Travellers applicants before the ECtHR
Anti-Gypsyism, Stereotyping, prejudice	<ul style="list-style-type: none"> What is anti-Gypsyism, stereotyping and prejudice? 	<ul style="list-style-type: none"> Stereotyping and prejudice by the police Instances of positive roles of police in ensuring protection against racism; 	<ul style="list-style-type: none"> Cases involving stereotyping and prejudice against Roma and Travellers and police
Section 4: Racially motivated crimes in the context of Council of Europe standards			
Racially motivated crimes	<ul style="list-style-type: none"> What is a racially motivated crime? Why should the police treat racially motivated offences or incidents with priority? 	<ul style="list-style-type: none"> Crimes committed by members of extremist groups; Hate marches/demonstrations by extreme right-wing groups; Random attacks on Roma and Travellers Victims of a racially motivated crime by association; Mixed motives behind the commission of a racially motivated crime; Hate speech: a particular form of racially motivated crime; 	<ul style="list-style-type: none"> Case studies on various forms of racially motivated crimes
Section 5: Training for police officers			
Training curriculum	<ul style="list-style-type: none"> Template proposal training curriculum 	<ul style="list-style-type: none"> Training sessions and content; 	<ul style="list-style-type: none"> Resources in the toolkit
Annex	<ul style="list-style-type: none"> Sample police circular on racially motivated crimes Racially motivated incident form Good practice – guidance on housing related issues 		

SECTION 1

ROMA AND TRAVELLERS

BASICS



THE SITUATION OF ROMA IN EUROPE AND WAYS TO IMPROVE RELATIONS BETWEEN ROMA AND TRAVELLERS AND THE POLICE

- CoE terminology regarding Roma and Traveller groups in Europe
- Challenges and problems faced by Roma and Travellers in CoE Member States
- Vulnerable groups – basics
- Roma and Travellers as a vulnerable group – standards in practice
- Roma and Travellers as a vulnerable group – case-law of the ECtHR

TERMINOLOGY USED BY THE COUNCIL OF EUROPE ON ROMA AND TRAVELLERS

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

TERMINOLOGY USED BY THE COUNCIL OF EUROPE ON ROMA AND TRAVELLERS OVER TIME

- “Gypsies and other travellers”, “Nomads” (1975 and 1983);
- “populations of nomadic origin” (1981);
- “Gypsies” (1993);
- “Roma (Gypsies)” (1995);
- “Roma” (1997, 2002);
- “Roma/Gypsies” (1995, 1998, 2000); “Roma/ Gypsies and Travellers” (2001);
- “Roma and Travellers” since 2004.

ESTIMATED NUMBER OF THE ROMA AND TRAVELLERS POPULATION IN EUROPE?

- The average estimate for the number of Roma and Travellers throughout Europe, the geographical area covered by the CoE, is approximately 11 million, with 6 million of these living within the 27 European Union member states.
- Estimates for the whole of Europe range from 8 to 15 million, and accordingly, “10 to 12 million” seems to us to be the most appropriate figure for the CoE area.

[Estimates on Roma population in European countries](#) 

The CoE developed a series of brief Factsheets on Roma History, Culture, Language and Literature. These factsheets are available in various languages of CoE member States.

The Factsheets on Roma History describe the arrival of Roma from India to Europe, various waves of migration, the Holocaust and state policies under Communism.

- [Roma history factsheets](#)
- [Roma culture factsheets](#)
- [Roma language factsheets](#)
- [Roma literature factsheets](#)



CHALLENGES AND PROBLEMS FACED BY ROMA AND TRAVELLERS IN COUNCIL OF EUROPE MEMBER STATES

WHAT DOES IT MEAN TO BE ROMA IN EUROPE TODAY?

A 2016 survey by the European Union's Fundamental Rights Agency (FRA) provides an accurate picture of the degree of marginalisation of Roma in Europe.

EXTREME POVERTY

- 80% of Roma interviewed are at risk of poverty compared with an EU average of 17%;
- 92 % of Roma surveyed indicate that they face difficulties in making ends meet, with 45% facing 'great difficulties'.

BAD LIVING CONDITIONS

- 30% of Roma live in households with no tap water inside their house;
- 46% of Roma have no toilet, shower or bathroom inside their homes;
- 1 in 10 Roma live in housing without electricity.

DIFFICULT TO GET A JOB

- 30% of Roma aged 20-64 were in paid work; the EU average employment rate in 2015 was 70%;
- 63% of young Roma aged 16-24 years are not in employment, education or training, compared with 12% of their peers in the general population in the EU.

DISCRIMINATION ON A DAILY BASIS

- 41% of Roma surveyed felt discriminated against because of their ethnic origin at least once in their daily life in the past five years;
- 27% of Roma surveyed did not know of any law prohibiting discrimination based on ethnic origin;
- 82% did not know any organisations offering support to victims of discrimination.

CHILDREN TRAPPED IN VICIOUS CIRCLES OF POVERTY AND DISCRIMINATION

- 30% of Roma children in the countries surveyed live in households where someone went to bed hungry at least once in the preceding month;
- There is a high proportion of Roma without any formal education across all age groups surveyed, particularly those who are over 25.

[Second European Union Minorities and Discrimination Survey Roma – Selected findings](#)



DID YOU KNOW?

The Secretary General of the CoE underlined that “many member states lack the political will to implement CoE and national standards. They lack the confidence that they can achieve progress because of factors such as hostile public opinion towards Roma and Travellers integration; prejudice and stereotypes perpetuated by media and political discourse; mutual distrust between Roma and Travellers and public institutions”.

International organisations agree that the situation of Roma and Travellers across the CoE Member States is alarming.

The EU has acknowledged that despite its efforts and commitment to improving the situation of Roma and Travellers, their situation is actually worsening and that they are facing increasing intolerance.

The United Nations Development Fund (UNDP) shares these concerns, noting that despite the many initiatives, policies and strategies, the situation of Roma and Travellers remains dire not only in new but also old EU member States.

CHALLENGES AND PROBLEMS

FACED BY ROMA AND TRAVELLERS IN THE COUNCIL OF EUROPE MEMBER STATES

The Council of Europe's Human Rights Commissioner recently outlined an overview of human rights challenges faced by Roma and Travellers in all 47 member States of the CoE focusing on, among other issues, anti-Gypsyism, racially motivated violence, conduct of law enforcement and judicial authorities.

The Commissioner for Human Rights underlined certain repeated negative patterns in relation to police and Roma and Travellers across Europe:

Roma have been subject to police violence both in public places, such as in Roma settlements during police raids, and in detention facilities. In these instances, criminal investigations of racially motivated misconduct by police frequently appears to be manifestly biased or discriminatory.

Where isolated Roma settlements exist, people may be subject to particular police attention, often in the form of intrusive raids. In addition to the particular attention paid to Roma residential areas, police have targeted Roma persons, notably in cars or other vehicles, engaging in ethnically profiled stops and searches.

Arbitrary seizure of property may occur in stops on the street or at border controls, during searches in the context of begging, as well as during raids in Roma settlements.

Arbitrary detention practices concerning Roma have been reported in a number of countries where, in some cases, the police have used the detention of groups of Roma males – usually youths – as a criminal investigation method, even when no particular evidence against any of those detained existed.

[Read more about challenges faced by Roma: Council of Europe Human Rights Commissioner Report](#)



SECTION 1

VULNERABLE GROUPS

WHAT DO I NEED TO KNOW ABOUT VULNERABILITY?

Vulnerability generally refers to individuals or categories of people who, due to age, ill health, infirmity, minority status or a disempowered position in society, are at risk from a health, social, economic or political point of view.

HOW ARE VULNERABLE GROUPS DETERMINED?

The criteria used when determining what categories may be considered as vulnerable is interlinked with the extent to which groups of people are marginalised, socially excluded, have limited opportunities and income, suffer from any kind of abuse, prejudice and stereotyping, discrimination, suffer from poverty and related risks, etc.

WHAT EXAMPLES OF VULNERABLE GROUPS COULD I CONSIDER?

Examples of groups that may be seen as vulnerable and more exposed to risk situations are people with disabilities, HIV infected people, the elderly, ethnic minorities, asylum seekers, refugees, IDPs, homeless people, children, single mothers, orphans, etc.

WHAT IS THE UTMOST NEED OF A VULNERABLE GROUP BROADLY SPEAKING?

Several categories of people often encounter structural discrimination, have difficulties defending themselves and are therefore in need of special protection.

VULNERABLE GROUPS ENJOY LEGAL PROTECTION BY INTERNATIONAL LAW

For example, international human rights treaties and legal instruments protect and ensure the rights of women, children, racial, national and ethnic minorities including Roma and Travellers, persons with disabilities and people with HIV-AIDS, to name a few.

ECtHR CONSIDERS ROMA A VULNERABLE GROUP

INITIALLY THE EUROPEAN COURT REFERRED TO THE VULNERABLE POSITION OF THE ROMA AND TRAVELLERS IN RELATION TO ITS MINORITY STATUS

“The vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases”. ECtHR, *Chapman v. the United Kingdom*, 2001.

THE ECtHR REFERRED TO THE VULNERABLE SITUATION OF ROMA AND TRAVELLERS IN RELATION WITH SOCIAL DISADVANTAGE

“[A]s a result of their turbulent history and constant uprooting the Roma have become a specific type of disadvantaged and vulnerable minority. As the Court has noted in previous cases, they therefore require special protection [...]”. *D.H. and others v. Czech Republic*, 2007.

VULNERABLE SITUATION OF ROMA IN RELATION WITH DISCRIMINATION, MARGINALISATION AND SEGREGATION

“[...]the disadvantaged position of the social group to which the applicants belong [Roma] could and should have been taken into consideration; [...] the underprivileged status of the applicants’ group must be a weighty factor”. *Yordanova and Others v. Bulgaria*, 2012.

ROMA AND TRAVELLERS AS A VULNERABLE GROUP

STANDARDS IN PRACTICE

DOES THE EUROPEAN COURT OF HUMAN RIGHTS (ECtHR) REFER TO ROMA AND TRAVELLERS AS A VULNERABLE GROUP? YES!

In over 20 judgments against several member States of the CoE, the Court identified Roma and Travellers as a vulnerable group.

THE ECtHR HELD THAT THE POLICE HAVE AN OBLIGATION TO ROMA AS A VULNERABLE GROUP

- Take preventive measures when racist manifestations against Roma and Travellers threaten fundamental values of society;
- Conduct thorough investigations when racially motivated offences are committed against Roma;
- Take steps to unmask any racist motive when a person makes credible assertions of harassment motivated by racism;
- Take steps to ensure physical and psychological integrity of Roma in the context of openly racist demonstrations.

THE ECtHR CONSIDERS THAT VULNERABLE GROUPS ARE ENTITLED TO PROTECTION BY THE STATE AND THE POLICE

- Children taken by police and questioned require special treatment and protection;
- Victims of domestic violence, sexual offences or victims of human trafficking require active state involvement in their protection;
- Asylum seekers, as members of underprivileged groups, are in need of special protection;
- Persons held in custody are in a vulnerable position and the authorities are under a duty to protect them;
- Detainees with intellectual disabilities are in a particular vulnerable situation and need protection;
- Detainees with a health condition including HIV are vulnerable and require protection;
- Juveniles in detention are vulnerable and in need of protection.

THE ECtHR HELD THAT:

Negative stereotyping of a group [such as the Roma], when it reaches a certain level, is capable of affecting the group's sense of identity and the feelings of self-worth and self-confidence of members of the group. *Aksu v. Turkey*, 2012

In situations where there is evidence of patterns of violence and intolerance against an ethnic minority, the positive obligations incumbent require a higher standard of states to respond to alleged bias-motivated incidents. *R.B. v. Hungary*, 2016

Organizing series of rallies allegedly in order to keep "Gypsy criminality" at bay by means of paramilitary parading can be regarded as implementing a policy of racial segregation. Intimidating marches can be seen as constituting the first steps in the realization of a certain vision of "law and order" which is racist in essence. *Vona v. Hungary*, 2013

When it comes to offences committed to the detriment of vulnerable groups [such as the Roma], vigorous investigation is required from state authorities including the police. *Balazs v. Hungary*, 2015

The cumulative effect of shortcomings of police investigations and lack of a comprehensive law enforcement approach led to an openly racist demonstration, with sporadic acts of violence virtually without legal consequences and the [Roma] without required protection. *Király and Dömötör v. Hungary*, 2017

ROMA AND TRAVELLERS AS A VULNERABLE GROUP

CASE-LAW

ARE YOU INTERESTED TO KNOW MORE ABOUT CASES BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS ON ROMA AND VULNERABILITY?

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
6.11.2018	Burlya and others	Ukraine	Article 3, 8, 13 & 14	Attacks and destruction of possessions, lack of protection from racist manifestations
14.03.2017	Fogarasi and Others	Romania	Article 3	Ill-treatment by the police Lack of effective investigation
17.01.2017	Király and Dömötör	Hungary	Article 8	Lack of protection from racist manifestations
11.10.2016	Bogdonavicius and Others	Russia	Article 8	Forced evictions and lack of alternative accommodation
12.04.2016	R.B.	Hungary	Article 8	Inadequate investigation into the applicant's allegations of racially motivated abuse
17.04.2014	CLR on behalf of Valentin Câmpeanu	Romania	Article 2	Death in medico-social institution Lack of effective investigation
17.10.2013	Winterstein and Others	France	Article 8	Forced evictions and lack of alternative accommodation
09.07.2013	Vona	Hungary	Article 11	Dissolution of association on account of anti-Roma demonstrations
28.05.2013	Lavida and Others	Greece	Article 2 & 14 Protocol 1	Discrimination Education
29.01.2013	Horvath and Kiss	Hungary	Article 2 & 14 Protocol 1	Discrimination Education
13.11.2012	I.G. and Others	Slovakia	Article 3 & 8	Forced sterilization Lack of legal safeguards for reproductive rights
31.07.2012	M. and Others	Italy and Bulgaria	Article 3	Lack of effective investigation in ill-treatment by private individuals

ROMA AND TRAVELLERS AS A VULNERABLE GROUP

CASE-LAW

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
12.06.2012	N.B.	Slovakia	Article 3 & 8	Forced sterilization. Lack of legal safeguards for reproductive rights
24.04.2012	Yordanova and Others	Bulgaria	Article 8	Forced evictions and lack of alternative accommodation
15.03.2012	Aksu	Turkey	Article 8	Publications insulting a Roma community
11.12.2012	Sampani and Others	Greece	Article 2 & 14 Protocol 1	Discrimination Education
08.11.2011	V.C.	Slovakia	Article 3 & 8	Forced sterilization. Lack of legal safeguards for reproductive rights
16.03.2010	Orsos	Croatia	Article 2 & 14 Protocol 1	Discrimination Education
08.12.2009	Muñoz Diaz	Spain	Article 1 & 14 Protocol 1	Refusal to recognize Roma marriage for establishing survivor's pension
5.06.2008	Sampani and Others	Greece	Article 2 & 14 Protocol 1	Discrimination Education
12.11.2007	D.H. and Others	Czech Republic	Article 2 & 14 Protocol 1	Discrimination Education
23.02.2006	Ognyanova and Choban	Bulgaria	Article 2, 3 & 5	Ill-treatment in police custody, lack of effective investigation, degrading treatment
13.12.2005	Bekos, Koutropoulos	Greece	Article 3 & 14	Police, racial abuse, failure to investigate whether discrimination played a role in the incidents
27.05.2004	Connors	United Kingdom	Article 8	Forced evictions and lack of alternative accommodation

SECTION 2
COUNCIL OF EUROPE
STANDARDS



**COUNCIL OF EUROPE
STANDARDS ON POLICE AND
ROMA/RACIALLY
MOTIVATED VIOLENCE**

- CoE instruments on policing Roma and Travellers – basics
- Roma and Travellers and Police – standards in practice
- Roma and Travellers and Police – case-law of the ECtHR

COUNCIL OF EUROPE INSTRUMENTS ON POLICING ROMA AND TRAVELLERS

BASICS

WHAT STANDARDS ARE APPLICABLE FOR POLICING MINORITIES FOR EXAMPLE, ROMA AND TRAVELLERS?

The Framework Convention for the Protection of National Minorities binds state authorities to protect persons including Roma and Travellers against harassment, discrimination, hostility or violence.

According to Article 6 of the Convention “The Parties undertake to act appropriately to protect persons who may be subject to threats or acts of discrimination, hostility or violence because of their ethnic, cultural, linguistic or religious identity”.

The European Convention on Human Rights binds the police to respect human rights irrespective of racial or ethnic origin of individuals.

The European Convention on Human Rights provides guarantees for human rights and in particular for the protection against discrimination in Article 14. Protocol 12 of the Convention has afforded a scope of protection which extends to the enjoyment of the rights set forth in the national law and guarantees that no public authority including the police shall discriminate any individual.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) attaches particular importance to rights for persons detained by the police.

The CPT provides a monitoring mechanism to protect persons deprived of their liberty against torture and other forms of ill-treatment.

WHAT PRINCIPLES ARE APPLICABLE FOR POLICING MINORITIES INCLUDING ROMA AND TRAVELLERS?

The European Code of Police Ethics outlines specific guidelines for police when dealing with ethnic minorities and vulnerable persons.

- The police shall carry out their tasks in a fair manner, guided, in particular, by the principles of impartiality and non-discrimination;
- Police personnel shall act with particular consideration for the situation of individuals belonging to especially vulnerable groups;
- Police investigations shall be objective, fair, sensitive and adaptable to the special needs of persons, such as children, juveniles, women, minorities including ethnic minorities and vulnerable persons;
- Police shall provide the necessary support, assistance and information to victims of crime without discrimination.

Recommendation No. 11 of the European Commission Against Racism and Intolerance refers specifically to police and combating racial discrimination. Furthermore it covers important principles relevant for the police:

- Racial and ethnic profiling by police shall be prohibited;
- Control, surveillance or investigation must be exercised on the grounds of reasonable suspicion and not on the basis of ethnic origin;
- Racial discrimination or racially-motivated misconduct by the police shall be effectively investigated;
- The police shall fully take into account the racist motivation of ordinary offences;
- The police should establish dialogue and cooperation with members of minority groups;
- The police should recruit members of under-represented minority groups.

ECRI RECOMMENDATION 13 DEALS PARTICULARLY WITH PRINCIPLES OF COMBATING ANTI-GYPSYISM AND DISCRIMINATION AGAINST ROMA INCLUDING POLICE

WHAT IS ANTI-GYPSYISM?

Anti-Gypsyism is a specific form of racism, an ideology founded on racial superiority and a form of institutional racism nurtured by historical discrimination. It is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination.

WHAT PRINCIPLES ESTABLISHES ECRI IN RECOMMENDATION No. 13 RELEVANT FOR POLICE?

- The police should receive special training concerning human rights, issues affecting Roma, the legislation on racially motivated crimes and its implementation as concerns Roma victims;
- The police should conduct requisite investigations of racist crimes and acts of violence against Roma and where allegations of police misconduct towards Roma have been documented so that perpetrators are prosecuted and punished;
- The police should take measures to promote Roma recruitment to the police force;
- Mediators, in particular from the Roma population should be engaged in order to ensure a liaison between Roma and the police.

ROMA AND TRAVELLERS AND POLICE

WHICH COUNCIL OF EUROPE BODIES MONITOR HUMAN RIGHTS INVOLVING POLICE AND ROMA ISSUES?

THE COMMISSIONER FOR HUMAN RIGHTS

The Commissioner is an impartial non-judicial institution that promotes awareness and respect for human rights. Its activities include country visits, thematic reports and awareness raising activities.

[Commissioner's report on Roma issues or country reports.](#)

THE EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

ECRI is a human rights body composed of independent experts, who monitor problems of racism and discrimination, prepare reports and issue recommendations to member States.

[ECRI's latest country reports](#)

THE ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

The Advisory Committee is the independent expert committee responsible for evaluating the implementation of the Council of Europe Framework Convention for the Protection of National Minorities. The results of this evaluation are published in detailed country-specific opinions.

[Latest Advisory Committee's opinion per country.](#)



STANDARDS IN PRACTICE

THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC)

CDPC is a body responsible for overseeing and coordinating activities in the field of crime prevention and crime control. The CDPC elaborates conventions, recommendations and reports.

THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT)

CPT is a monitoring body that assesses how ill-treated persons are deprived of their liberty in prisons, juvenile detention centres, police stations etc.

The European Court of Human Rights has developed five principles for the effective investigation of complaints against the police.

- **Independence:** there should not be institutional or hierarchical connections between the investigators and the investigated police officers;
- **Adequacy:** the investigation should be capable of gathering evidence to determine whether police behaviour complained of was unlawful and to identify and punish those responsible;
- **Promptness:** the investigation should be conducted promptly and in an expeditious manner in order to maintain confidence in the rule of law;
- **Public scrutiny:** procedures and decision-making should be open and transparent in order to ensure accountability;
- **Victim involvement:** the complainant should be involved in the complaints process in order to safeguard his or her legitimate interests.

IN ITS JUDGEMENTS INVOLVING THE POLICE THE EUROPEAN COURT OF HUMAN RIGHTS REFERS TO CoE MONITORING BODIES AND THEIR REPORTS.

Various cases before the ECtHR involving Roma victims relate to lack of an effective investigation.

[Factsheet on Roma cases including on police issues before the European Court of Human Rights](#)



ROMA AND TRAVELLERS AND POLICE CASE-LAW

**ARE YOU INTERESTED TO KNOW MORE ABOUT CASES
BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS ON
POLICE AND ROMA ISSUES?**

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
16.04.2019	Lingurar	Romania	Article 3	Ill-treatment by police
29.01.2019	Kovacs	Hungary	Article 3	Ill-treatment by police
16.10.2018	Lingurar and others	Romania	Article 3 & 14	Excessive use of force
31.10.2017	M.F	Hungary	Article 3	Ill-treatment by police
14.03.2017	Fogarasi and others	Romania	Article 3	Ill-treatment by police
28.03.2017	Škorjanec	Croatia	Article 3	Inadequate investigation of racially motivated violence
14.03.2017	Fogarasi and Others	Romania	Article 3	Lack of effective investigation of ill-treatment by police
17.01.2017	Király and Dömötör	Hungary	Article 8	Lack of protection from racist manifestations
26.07.2016	Adam	Slovakia	Article 3	Lack of effective investigation of ill-treatment by police
31.05.2016	Gheorghiuță and Alexe	Romania	Article 3	Lack of effective investigation of ill-treatment by police
12.04.2016	R.B.	Hungary	Article 8	Inadequate investigation into the applicant's allegations of racially motivated abuse
17.02.2015	Ion Bălășoiu	Romania	Article 3	Lack of effective investigation of death in prison
17.04.2014	Guerdner and Others	France	Article 2	Excessive use of lethal force
09.07.2013	Vona	Hungary	Article 11	Dissolution of association on account of anti-Roma demonstrations
26.06.2012	Borbála Kiss	Hungary	Article 3	Ill-treatment by police lack of effective investigation
12.06.2012	Koky and Others	Slovakia	Article 3	Lack of effective investigation of violence and racist language

ROMA AND TRAVELLERS AND POLICE CASE-LAW

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
03.05.2012	Kleyn and Aleksandrovich	Russia	Article 2	Lack of effective investigation of death in police custody
22.02.2011	Soare and Others	Romania	Article 2 & 3	Use of lethal force and lack of effective investigation Conditions of police questioning
27.01.2011	Dimitrova and Others	Bulgaria	Article 2	Lack of effective Investigation of death of applicants
14.12.2010	Mižigárová	Slovakia	Article 2	Death in police custody, lack of effective investigation
18.11.2010	Seidova and Others	Bulgaria	Article 2	Lack of effective Investigation off death of applicants
13.07.2010	Carabulea	Romania	Article 2 & 3	Ill-treatment and death in police custody, lack of effective investigation
10.06.2010	Vasil Sashov Petrov	Bulgaria	Article 2	Use of lethal force and lack of effective investigation
22.04.2010	Stefanou	Greece	Article 3	Ill-treatment by the police
25.06.2009	Beganović	Croatia	Article 3	Lack of protection against violence, lack of effective investigation
24.04.2008	Sulejmanov	North Macedonia	Article 3	Lack of effective investigation of ill-treatment of police
10.04.2008	Dzeladinov and Others	North Macedonia	Article 3	Lack of effective investigation of ill-treatment of police
15.02.2007	Jašar	North Macedonia	Article 3	Ill-treatment in police custody, lack of effective investigation
23.02.2006	Ognyanova and Choban	Bulgaria	Article 2, 3 & 5	Ill-treatment in police custody, lack of effective investigation, degrading treatment
13.06.2002	Angelova	Bulgaria	Article 2, 3 & 5	Ill-treatment in police custody, lack of effective investigation, degrading treatment
18.05.2000	Velikova	Slovakia	Article 2	Death, police custody, lack of effective investigation

SECTION 3

THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND EUROPEAN COURT OF HUMAN RIGHTS



THE EUROPEAN CONVENTION ON HUMAN RIGHTS, THE ROLE OF THE EUROPEAN COURT OF HUMAN RIGHTS AND POLICING ROMA AND TRAVELLERS ISSUES

- The European Convention on Human Rights and the European Court of Human Rights: setting the record straight
- Violations of the European Convention on Human Rights in the case-law of the ECtHR involving Roma applicants
- Non-discrimination in international and European law – basics
- Roma and Travellers, discrimination and police – standards in practice
- Roma and Travellers, police, discrimination – case-law of the ECtHR
- Stereotyping and prejudice, Anti-Gypsyism – basics
- Stereotyping and prejudice, Anti-Gypsyism – standards in practice
- Stereotyping and prejudice, Anti-Gypsyism – case-law of the ECtHR

THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND EUROPEAN COURT OF HUMAN RIGHTS

SETTING THE RECORD STRAIGHT

PEOPLE ARE OFTEN CONFUSED ABOUT THE ROLE OF THE EUROPEAN COURT OF HUMAN RIGHTS, ITS MANDATE AND ITS POWERS. THIS IN TURN LEADS TO THE FORMING OF MISCONCEPTIONS AS TO ITS ROLE AND POWERS.

NOT TO BE CONFUSED WITH THE COURT OF JUSTICE OF THE EUROPEAN UNION (CJEU)

The CJEU is located in Luxembourg and the role of it is to ensure compliance with European Union laws and rules on the interpretation and application of the treaties of the European Union.

WHAT IS THE MAIN ROLE OF THE EUROPEAN COURT OF HUMAN RIGHTS?

The ECtHR is located in Strasbourg. Its main task is to supervise the observance of the European Convention on Human Rights primarily by examining complaints brought by individuals against states that have signed the European Convention or more rarely by states against states.

FILING AN APPLICATION WITH THE EUROPEAN COURT OF HUMAN RIGHTS:

Anyone who thinks that they are personally and directly victims of a violation of one or more of their rights, granted by the European Convention on Human Rights, can file a complaint with the ECtHR.

A simplified form of an application's lifecycle would look as follows:

A. The potential applicant needs to identify an act or omission, imputable to the state that they think violates their rights under the Convention.

B. The potential applicant needs to bring the case before the domestic courts and exhaust ALL remedies (appeals, constitutional complaints) that are available, accessible and effective.

C. If they are not satisfied with the final domestic court decision, they then can file an application before the ECtHR. If the ECtHR disagrees with the applicant, it will turn their application down. If the ECtHR agrees and finds there was a violation, it will grant compensation to the applicant and transmits the judgment to the Council of Europe's Committee of Ministers.

D. The Committee of Ministers supervises which measures the state will take in order to ensure that similar violations do not happen in the future. Only if it is satisfied that the state has taken all the necessary means to ensure that it will close the examination of the execution of the judgment.

DID YOU KNOW?

THE EUROPEAN CONVENTION ON HUMAN RIGHTS

It is an international treaty that protects and promotes a wide-series of human rights. By treating it as a living instrument with a view to addressing real, everyday problems, the Court has ensured that the Convention that came into effect in 1953 is always relevant and up-to-date. All members of the CoE are signatories to the Convention.

THE ROLE AND POWERS OF THE EUROPEAN COURT OF HUMAN RIGHTS EXPLAINED

Laypersons (and not only!) often have wrong ideas and opinions about the ECtHR:

WHAT THE COURT **CAN DO**:

- Hold that a state has violated its obligations under the European Convention on Human Rights. It can, for example, hold that the domestic law on the use of firearms does not comply with the Convention;
- Order the payment of equitable compensation that is usually symbolic in nature;
- Indicate to a state that it has to take measures in order to ensure that no similar violations take place in the future;
- Help the applicant to ask for the reopening of his / her case by the domestic courts, if the domestic law so provides.

WHAT THE COURT **CAN NOT DO**:

- As the ECtHR is not an appeals court or supreme court, it cannot overturn judgments or decisions issued by domestic courts;
- It cannot disregard the assessment of facts as carried out by the domestic courts, without very good reason;
- It cannot pronounce a person guilty or not guilty;
- The ECtHR does NOT assess personal criminal responsibility;
- It cannot find a police officer guilty of an offence;
- It cannot fine a state for violating the Convention but only grant compensation to the applicant.

I AM A POLICE OFFICER AND I THINK THAT MY HUMAN RIGHTS WERE VIOLATED. CAN I BRING AN APPLICATION TO THE EUROPEAN COURT OF HUMAN RIGHTS?

Many police officers have won cases (mostly related to salary issues and other labour disputes) before the ECtHR.

For example, in the case of *Milojević and Others v. Serbia* (nos. 43519/07, 43524/07, and 45247/07) (judgment of 12 January 2016), the Court held that the failure to reinstate two of the applicants police officers who had been dismissed, following their acquittal in criminal proceedings, was in violation of the European Convention on Human Rights. The Serbian Government will now have to report to the Council of Europe's Committee of Ministers what measures it will take in order to ensure that similar violations of their colleagues' labour rights do not happen again.

HOW CAN STATE RESPONSIBILITY BE ENGAGED UNDER ARTICLES 2, 3, 8, ALONE OR IN CONJUNCTION WITH ARTICLE 14 AND ARTICLE 1, PROTOCOL 12 OF THE EUROPEAN CONVENTION?

State responsibility under the European Convention for acts perpetrated or omissions by state officials can be engaged in three stages:

A. Before the commission of an act or an omission that falls within the scope of one of these articles (e.g. the lack of an adequate legislative framework regarding use of force, the flawed planning of a police operation) – this would be called a substantive violation of the relevant Article of the European Convention on Human Rights.

B. At the moment in time that either state officials commit an act in violation of these articles or allow/do not prevent (even though they are aware) third parties from carrying out such an act (e.g. torture committed by a police officer, failure to take operational measures to protect persons from threats posed by private individuals) – this would be called a substantive violation of the relevant Article of the European Convention on Human Rights.

C. After the commission of an act prohibited under these articles, by failing to mount an effective investigation to elucidate the circumstances of the act and punish the perpetrator(s), regardless whether the perpetrator(s) was a private person or a state official – this would be called a procedural violation of the relevant Article of the European Convention on Human Rights.

VIOLATIONS OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

CASE-LAW

The ECtHR found dozens of CoE Member States in violation of the Convention in respect to failure to provide or guarantee the rights of Roma and Travellers across Europe.

See below a list of cases related to issues arising under various Articles of the Convention applicable to Roma and Travellers related rights.

ARTICLE 2 - RIGHT TO LIFE AND ARTICLE 3 - PROHIBITION OF INHUMAN OR DEGRADING TREATMENT			
ISSUES			
ATTACKS BY PRIVATE INDIVIDUALS			
CASE	YEAR	ISSUE OF VIOLATION	ARTICLE
Šečić v. Croatia	2007	Lack of effective investigation of racially motivated attack	Article 3 & 14
Angelova and Iliev v. Bulgaria	2007	Lack of effective investigation of racially motivated attack	Article 3 & 14
Beganović v. Croatia	2009	Lack of effective investigation and protection from violence	Article 3
Koky and Others v. Slovakia	2012	Lack of effective investigation into violence incident	Article 3
Škorjanec v. Croatia	2017	Inadequate investigation of racially motivated violence	Article 3
SIMILAR CASES	Seidova and Others v. Bulgaria 2010; Dimitrova and Others v. Bulgaria 2011; Balázs v. Hungary 2015;		

EXAMPLES

- A police officer ill-treats a person – violation of Article 3 (substantive violation);
- A police officers ill-treats a person belonging to a minority while uttering racial abuse against him / her regarding his / her belonging to that minority– violation of Article 3 together with Article 14 / Article 1 Prot.12 (substantive violation);
- Failure to secure crucial evidence at the scene of a crime – violation of Article 3 (procedural violation);
- Failure to investigate if the crime was racially motivated – violation of Article 3 together with Article 14 / Article 1 Prot. 12 (substantive violation).

PARTICULAR OBSERVATIONS

- In the vast majority of cases, it will be all but impossible for the ECtHR to find a substantive violation of Articles 2/3 in conjunction with Article 14 due to standard of proof (beyond reasonable doubt) – though the standard as interpreted by the European Court of Human Rights is less strict than the respective criminal law standard in domestic jurisdictions;
- Nor can the Court shift the burden of proof to the respondent Government, as this would amount to requiring the respondent Government to establish a “negative fact” (absence of racial motivation) regarding the alleged perpetrator of the offence;
- Moreover, it should not be forgotten that the European Court of Human Rights is not a court of third or fourth instance – it does not examine personal culpability;
- Substantive violations of Article 3 in conjunction with Article 14 have been found only in a few cases (Stoica v. Romania, no. 42722/02, 4 March 2008, Antayev and Others v. Russia, no. 37966/07, 3 July 2014 – in both cases the police operations explicitly targeted Roma / Chechens respectively exclusively).

VIOLATIONS OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

CASE-LAW

ARTICLE 2 - RIGHT TO LIFE AND ARTICLE 3 - PROHIBITION OF INHUMAN OR DEGRADING TREATMENT			
ISSUES		ATTACKS ON ROMA VILLAGES	
CASE	YEAR	ISSUE OF VIOLATION	ARTICLE
Moldovan (no. 2) and Others v. Romania	2005	Lack of improving living conditions, excessive length of proceedings, discrimination	Article 3, 6, 8 & 14
Lacatus and Others v. Romania	2005	Lack of improving living conditions, excessive length of proceedings, discrimination	Article 3, 6, 8 & 14
SIMILAR CASES	Moldovan (no. 1) and Others v. Romania 2005, Gergely v. Romania 2007, Kalanyos v. Romania 2007, Tănase and Others v. Romania 2009;		
ISSUES		BULLET WOUNDS DURING POLICE INTERVENTION OR ARREST	
Nachova and Others v. Bulgaria	2005	Use of firearms, lack of effective investigation, lack of investigating if discrimination played a role in events	Article 2 & 14
Guerdner and Others v. France	2014	Use of lethal force	Article 2
SIMILAR CASES	Vasil Sashov Petrov v. Bulgaria, 2010, Soare and Others v. Romania 2011;		
ISSUES		DEATH IN MEDICO-SOCIAL INSTITUTION	
C.L.R. on behalf of Valentin Câmpeanu v. Romania	2014	Lack of life protection, lack of effective investigation	Article 2
ISSUES		DEATH IN ARSON ATTACK	
Fedorchenko and Lozenko v. Ukraine	2012	Lack of effective investigation of death, lack of investigation of possible racist motives	Article 2
ISSUES		DEATH IN POLICE CUSTODY OR IN DETENTION	
Angelova v. Bulgaria	2002	Failure to provide medical care, lack of effective investigation	Article 2, 3, 5 & 13
Ognyanova and Choban v. Bulgaria	2006	Ill-treatment, lack of effective investigation	Article 2, 3, 5 & 13
Mižigárová v. Slovakia	2010	Lack of life protection, lack of effective investigation	Article 2
Ion Bălășoiu v. Romania	2015	Lack of effective investigation of ill-treatment	Article 3
SIMILAR CASES	Seidova and Others v. Bulgaria 2010; Dimitrova and Others v. Bulgaria 2011; Balázs v. Hungary 2015;		

ARTICLE 2 - RIGHT TO LIFE AND ARTICLE 3 - PROHIBITION OF INHUMAN OR DEGRADING TREATMENT			
ISSUES	POLICE BRUTALITY		
CASE	YEAR	ISSUE OF VIOLATION	ARTICLE
Bekos and Koutropoulos v. Greece	2005	Ill-treatment, lack of effective investigation	Article 3 & 14
Jašar v. "The former Yugoslav Republic of Macedonia"	2007	Lack of effective investigation of ill-treatment by police	Article 3
Cobzaru v. Romania	2007	Ill-treatment, lack of effective investigation, lack of investigation of possible racial motives	Article 3 & 14
Petropoulou-Tsakiris v. Greece	2007	Ill-treatment, lack of effective investigation, lack of investigation of possible racial motives	Article 3 & 14
Stoica v. Romania	2008	Ill-treatment, lack of effective investigation, lack of investigation of possible racial motives	Article 3 & 14
Borbála Kiss v. Hungary	2012	Ill-treatment, lack of effective investigation	Article 3
Boacă and Others v. Romania	2016	Ill-treatment, lack of effective investigation, lack of investigation of possible racial motives	Article 3 & 14
Adam v. Slovakia	2016	Ill-treatment, lack of effective investigation	Article 3
Fogarasi and others v. Romania	2017	Ill-treatment, lack of effective investigation	Article 3
SIMILAR CASES	Dzeladinov and Others v. "The former Yugoslav Republic of Macedonia" 2008; Sulejmanov v. "The former Yugoslav Republic of Macedonia" 2008, Carabulea v. Romania 2010, Ciorcan and Others v. Romania 2015, Gheorghişă and Alexe v. Romania 2016		
ISSUES	FORCED STERILISATION OF ROMA WOMEN		
V.C. v. Slovakia	2011	Lack of legal safeguards on reproductive health, medical intervention	Article 3 & 8
N.B. v. Slovakia	2011	Similar issue	Article 3 & 8
IG., M.K. and R.H. v Slovakia	2012	Similar issue	Article 3 & 8
R.K. v. Czech Republic	2012	Similar issue	Friendly settlement
ISSUES	PROHIBITION OF FORCED LABOUR		
M. and Others v. Italy and Bulgaria	2012	Lack of effective investigation of forced work, sexual abuse	Article 3

ARTICLE 5 - RIGHT TO LIBERTY AND SECURITY AND ARTICLE 6 - RIGHT TO FAIR TRIAL			
ISSUES	DETENTION, DEPORTATION, COURTS RULING		
CASE	YEAR	ISSUE OF VIOLATION	ARTICLE
Čonka v. Belgium	2002	Collective expulsion; lack of due process; arrest	Article 5
Seferovic v. Italy	2011	Unlawful detention, deportation	Article 5
K.H. and Others v. Slovakia	2009	Lack of effective access to court	Article 6
Paraskeva Todorova v. Bulgaria	2010	Discriminatory court reasoning	Article 6 & 14
ARTICLE 8 - RIGHT TO PRIVATE AND FAMILY LIFE			
ISSUES	FORCED EVICTIONS AND ALTERNATIVE ACCOMODATION		
Borbála Kiss v. Hungary	2004	Lack of procedural safeguards related to evictions	Article 8
Yordanova v. Bulgaria	2012	Lack of proportionality in assessing the impact of evictions for social disadvantaged group	Article 8
Winterstein and Others v. France	2013	Lack of consideration of special needs of vulnerable group related to evictions	Article 8
Bogdonavicius and Others v. Russia	2016	Lack of examination of proportionality of eviction	Article 8
ARTICLE 8 - RIGHT TO PRIVATE AND FAMILY LIFE			
Connors v. UK	2014	Lack of procedural safeguards related to evictions	Article 8
Yordanova v. Bulgaria	2012	Lack of proportionality in assessing the impact of evictions for socially disadvantaged group	Article 8
Winterstein and Others v. France	2013	Lack of consideration of special needs of vulnerable group related to evictions	Article 8
Bogdonavicius and Others v. Russia	2016	Lack of examination of proportionality of eviction	Article 8
ISSUES	PROTECTION AGAINST RACIAL VERBAL ABUSE, HARRASMENT		
M. and Others v. Italy and Bulgaria	2016	Inadequate investigation of racially motivated abuse, anti-Roma marches	Article 8
Király and Dömötör v. Hungary	2017	Inadequate investigation of racially motivated abuse, anti-Roma marches	Article 8

ARTICLE 2/PROTOCOL 1 - RIGHT TO EDUCATION**ISSUES****PLACEMENT OF ROMA CHILDREN IN SEPARATE SCHOOLS**

CASE	YEAR	ISSUE OF VIOLATION	ARTICLE
D.H and Others v. Czech Republic	2007	Indirect discrimination by placement of Roma children in schools for children with mental disabilities	Article 2 & 14 Protocol No. 1
Sampanis and Others v. Greece	2008	Discrimination by placement of Roma children in an annex of the primary school	Article 2 & 14 Protocol No. 1
Orsus and Others v. Croatia	2010	Indirect discrimination by placement of Roma children in separate classes	Article 2 & 14 Protocol No. 1
Sampanis and Others v. Greece	2012	Discrimination by placement of Roma children in Roma only school	Article 2 & 14 Protocol No. 1
Horvath and Kiss v. Hungary	2013	Indirect discrimination by placement of Roma children in schools for children with mental disabilities	Article 2 & 14 Protocol No. 1
Lavida and Others v. Greece	2013	Discrimination by placement of Roma children in Roma only school	Article 2 & 14 Protocol No. 1

ARTICLE 1/PROTOCOL 1 - PROTECTION OF PROPERTY**ISSUES****LACK OF VALIDITY OF ROMA MARRIAGE, SURVIVOR PENSION**

Muñoz Díaz v. Spain	2009	Discrimination by refusal to recognize Roma marriage and survivor pension	Article 1 & 14 Protocol No. 1
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ARTICLE 3/PROTOCOL 1 - RIGHT TO FREE ELECTIONS**ISSUES****PROHIBITION OF ROMA TO STAND FOR ELECTION**

Sejdic and Finci v. Bosnia and Herzegovina	2009	Discriminatory provisions providing eligibility only for people declaring Bosnian, Croat or Serbian ethnic affiliation	Article 3 & 14 Protocol No. 1
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NON-DISCRIMINATION IN INTERNATIONAL AND EUROPEAN LAW

IS NON-DISCRIMINATION A FUNDAMENTAL ELEMENT OF INTERNATIONAL AND EUROPEAN LAW?

THE PRINCIPLE OF NON-DISCRIMINATION IS ONE OF THE MOST IMPORTANT AND FUNDAMENTAL PRINCIPLES OF INTERNATIONAL HUMAN RIGHTS LAW.

- Non-discrimination is one of the central themes of international human rights law. It is included in the Charter of the United Nations, the Universal Declaration of Human Rights and all successive major human rights instruments and human rights treaties;
- Non-discrimination is a fundamental principle of European law including the European Convention on Human Rights and related CoE legal instruments.

THE EUROPEAN CONVENTION ON HUMAN RIGHTS (ECHR) GUARANTEES THE PROTECTION AGAINST DISCRIMINATION INCLUDING BY THE POLICE

- The ECtHR provides guarantees for human rights and protection against discrimination in Article 14;
- Protocol 12 of the Convention has afforded a scope of protection, which extends to the enjoyment of the rights set forth in the national law and guarantees that no public authority including the police shall discriminate against any individual.

DISCRIMINATION OCCURS WHEN A PUBLIC AUTHORITY, FOR NO OBJECTIVE OR UNDERSTANDABLE REASON:

- Treats a person less favourably than others in similar situations on the basis of a particular characteristic;
- Fails to treat people differently when they are in significantly different situations;
- Applies apparently neutral policies in a way that has a disproportionate impact on individuals or groups.

THE EUROPEAN CONVENTION ON HUMAN RIGHTS PROHIBITS DISCRIMINATION ON ANY GROUND

- Article 14 specifically prohibits discrimination based on "sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status";
- The term "other status" allows the ECtHR to extend Article 14 protection to other grounds not specifically mentioned such as a person's sexual orientation, disability, HIV status, marital status etc.;
- From its establishment until December 2016, the ECtHR ruled on over 250 judgments finding discrimination on different grounds.

In view of the ECtHR **"discrimination means treating differently, without an objective and reasonable justification, people in relevantly similar situations"**.

Universal human rights treaties prohibiting discrimination

The International Covenant on Civil and Political Rights; International Covenant on Economic Social and Cultural Rights; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child.

Universal declarations prohibiting discrimination

Universal Declaration of Human Rights; Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

Council of Europe human rights treaties prohibiting discrimination

European Convention on Human Rights; European Social Charter and European Social Charter (Revised); Framework Convention for the Protection of National Minorities.

ROMA AND TRAVELLERS, DISCRIMINATION AND POLICE STANDARDS IN PRACTICE

STANDARDS ESTABLISHED BY THE EUROPEAN COURT OF HUMAN RIGHTS RELEVANT FOR THE POLICE WHEN DEALING WITH DISCRIMINATION ISSUES

THE POLICE HAVE A DUTY TO COMBAT ETHNIC DISCRIMINATION

The ECtHR ruled repeatedly that authorities including the police must use all available means to combat racism and ethnic discrimination.

THE POLICE HAVE A DUTY TO INVESTIGATE ETHNIC DISCRIMINATION

The ECtHR ruled that if there is suspicion of racial attitudes inducing a violent act, it is particularly important that the official investigation is pursued with vigour and impartiality, having regard to the need to continuously reassert society's condemnation of racism and ethnic hatred.

THE POLICE HAVE A DUTY TO TAKE ALL REASONABLE STEPS TO UNMASK ANY ETHNIC MOTIVES

States have a general obligation under Article 2 and Article 3 of the Convention to conduct an effective investigation in cases of deprivation of life or of ill-treatment by the police.

The ECtHR ruled that this obligation must be discharged without discrimination.

State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether ethnic hatred or prejudice may have played a role in the events at stake.

THE VULNERABILITY OF ROMA AND TRAVELLERS REQUIRES VIGOROUS INVESTIGATION FROM THE POLICE

Noting that Roma have become a specific type of disadvantaged and vulnerable minority, the ECtHR ruled that this requires special protection. For example, when it comes to offences committed to the detriment of vulnerable groups, vigorous investigation is required.

THE POLICE HAVE A DUTY TO INVESTIGATE CREDIBLE ASSERTIONS OF HARASSMENT OF ROMA FROM PRIVATE INDIVIDUALS

When a person makes credible assertions that he or she has been subject to harassment motivated by racism, including verbal assaults and physical threats, the police have a duty to take all reasonable steps to establish whether ethnic hatred or prejudice may have played a role.

In general, the case-law of the ECtHR distinguishes between overt discrimination (direct discrimination) and covert discrimination (indirect discrimination).

DIRECT DISCRIMINATION occurs where certain categories of persons are treated differently, without this difference in treatment having an objective and reasonable justification.

The ECtHR uses the formulation that there must be a difference in the treatment of persons in relevantly similar situations, which is based on an identifiable characteristic.

INDIRECT DISCRIMINATION occurs when a general policy or measure that is apparently neutral has disproportionately prejudicial effects on persons or a group of persons notwithstanding that such policy or measure is not aimed at that group.

In fact, Article 14 does not prohibit a member state from treating groups differently in order to correct "factual inequalities" between them. In certain circumstances, a failure to attempt to correct inequality through different treatment may give rise to a breach of the Article.

RACIAL OR ETHNIC DISCRIMINATION requires vigorous reaction from police.

In view of the ECtHR, discrimination on the basis of a person's ethnic origin is a particularly invidious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction.

DISCRIMINATORY REMARKS AND RACIST INSULTS FROM THE POLICE MUST BE CONSIDERED AN AGGRAVATING FACTOR

The ECtHR ruled that discriminatory remarks and racist insults must be considered as an aggravating factor when considering a given instance of ill-treatment in the light of Article 3.

ROMA AND TRAVELLERS, DISCRIMINATION AND POLICE

CASE-LAW

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
16.04.2019	Lingurar	Romania	Article 3 & 14	Ill-treatment by police, ethnic profiling by police
11.12.2018	Lakatosova and Lakatos	Slovak Republic	Article 2 & 14	Lack of investigation into racist motives
16.10.2018	Lingurar and others	Romania	Article 3 & 14	Excessive use of force, lack of investigation into allegations of racially motivated abuse
5.12.2017	Alkovic	Montenegro	Article 8 & 14	Lack of effective investigation, lack of protection against acts with discriminatory motives
31.10.2017	M.F	Hungary	Article 3 & 14	Ill-treatment by police, lack of effective investigation, failure to investigate possible racist motives
28.03.2017	Škorjanec	Croatia	Article 3 & 14	Inadequate investigation of racially motivated violence
12.01.2016	Boacă and Others	Romania	Article 3 & 14	Police, lack of investigation of discrimination claims
27.01.2015	Ciorcan and Other	Romania	Article 2 & 14	Police, lack of investigation of discrimination motives
20.10.2015	Balázs	Hungary	Article 3 & 14	Violence by private individuals Ineffective investigations, racist/ethnic motives not duly considered
13.11.2012	Lacatus and Others	Romania	Article 6, 8 & 14	Violence by private individuals. Biased court decisions, failure of authorities to redress violations
20.09.2012	Fedorchenko, Lozenko	Ukraine	Article 2 & 14	Violence by private individuals; Lack of investigation of possible racist/ethnic motives of crimes
22.03.2010	Paraskeva Todorova	Bulgaria	Article 6 & 14	Biased court decision on account of ethnicity
04.03.2010	Stoica	Romania	Article 6 & 14	Police. Prosecutor and police racially bias investigations. Discriminatory attitudes from the police.
06.12.2007	Petropoulou Tsakiris	Greece	Article 3 & 14	Police. Failure to investigate possible racial motives, discriminatory attitudes from police
26.07.2007	Angelova and Iliev	Bulgaria	Article 2 & 14	Police. Failure to consider and charge accordingly racially motivated crimes
26.07.2007	Cobrazu	Romania	Article 3, 13 & 14	Prosecutor's racially bias investigation, failure to investigate possible racial motives
31.05.2007	Šečić	Croatia	Article 3 & 14	Violence by private individuals. Failure by police to consider racially motivated crime
13.12.2005	Bekos, Koutropoulos	Greece	Article 3 & 14	Police. Racial abuse. Failure to investigate whether discrimination played a role in the incidents
12.07.2005	Moldovan and Others	Romania	Article 6, 8 & 14	Violence by private individuals. Biased court decisions, failure of authorities to redress violations
06.07.2005	Nachova and Others	Bulgaria	Article 2 & 14	Police. Failure to investigate possible racial motives, discriminatory attitudes from police

STEREOTYPING AND PREJUDICE

ANTI-GYPSYISM

WHAT IS A STEREOTYPE?

Stereotypes are “a fixed idea that people have about what someone or something is like, especially an idea that is wrong” (Cambridge Dictionary).

WHAT IS A PREJUDICE?

Prejudices are “an unfair and unreasonable opinion or feeling, especially when formed without enough thought or knowledge” (Cambridge Dictionary).

Stereotypes are preconceptions and clichés, while prejudices are unfounded feelings of fear and dislike.

WHAT IS ANTI -GYPSYISM?

The Council of Europe Human Rights Commissioner notes: “Anti-Gypsyism, a term indicating the specific expression of biases, prejudices and stereotypes that motivate the everyday behaviour of many members of majority groups towards the members of Roma and Traveller communities, is deeply rooted in Europe”. (Council of Europe, Human Rights of Roma and Travellers in Europe).

THE CoE’S EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE DEFINES ANTI -GYPSYISM

WHERE IS ANTI-GYPSYISM MANIFESTED?

Anti-Gypsyism: manifested in the use of stigmatizing anti-Roma rhetoric in public discourse, most notably in politics and the media. The Internet is increasingly used as a platform for both, the expression of anti-Gypsyism and the organisation of groups that promote it. (Council of Europe, Human rights of Roma and Travellers in Europe)

WHAT IS A PREJUDICE?

The social construct of ‘Gypsy criminality’ has had a significant negative impact upon the social status of the Roma community, perceived as a community inclined to commit crimes. This construct is not only stereotypical in nature but a manifestation of racism.

A specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination.

STEREOTYPING AND PREJUDICE

STANDARDS IN PRACTICE

THE EUROPEAN COURT OF HUMAN RIGHTS AND THE ISSUE OF “GYPSY CRIMINALITY” RELATED TO RACISM

- In the case of *Vona v. Hungary* the ECtHR stated that organising a series of rallies allegedly in order to keep “Gypsy criminality” at bay by means of paramilitary parading can be regarded as implementing a policy of racial segregation.
- The ECtHR noted that intimidating marches could be seen as constituting the first steps in the realisation of a certain vision of “law and order” which is racist in essence; *Vona v. Hungary*, 2013 and *R.B. v. Hungary*, 2016;
- In the case of *Király and Dömötör*, the ECtHR referred to rally in general quite clearly targeting the Roma minority, which was supposedly responsible for “Gypsy criminality”, with the intention of intimidating this vulnerable group; *Király and Dömötör v. Hungary*, 2017.

NEGATIVE STEREOTYPING MAY IMPACT THE SENSE OF IDENTITY AND SELF-WORTH

- The ECtHR underlined that any negative stereotyping of a group, when it reaches a certain level, is capable of affecting the group’s sense of identity and the feelings of self-worth and self-confidence of members of the group. In this sense, it can be seen as affecting the private life of members of the group. *Aksu v. Turkey*, 2012 and *R.B. v. Hungary*, 2016.

STEREOTYPES AND PREJUDICE MAY INDICATE POLICE IS NOT RACIALLY NEUTRAL

- In the case of *Stoica vs. Romania*, the ECtHR considered that “the remarks from the Police report describing the villagers’ alleged aggressive behaviour as ‘pure Gypsy’, are clearly stereotypical and prove that the police officers were not racially neutral, neither during the incidents nor throughout the investigation”;
- The Court was further “dissatisfied that the military prosecutor did not address in any way the remarks from the Police report describing the villagers’ alleged aggressive behaviour as ‘purely Gypsy’, although such remarks are clearly stereotypical”. *Stoica v. Romania*, 2008;
- In the case of *Petropoulou Tsakiris*, the ECtHR noted that the Deputy Director of Police made tendentious general remarks in relation to the applicant’s Roma origin throughout the administrative investigation. In particular, the Court was struck by the report on the findings of the informal administrative investigation. It considers that the general assertion that complaints raised by Roma were exaggerated and formed part of their “common tactic to resort to the extreme slandering of police officers with the obvious purpose of weakening any form of police control” discloses a general discriminatory attitude on the part of the authorities. *Petropoulou Tsakiris v. Greece*, 2008.

STEREOTYPES AND PREJUDICE MAY INDICATE PROSECUTORS ARE NOT RACIALLY NEUTRAL

- In the case of *Cobzaru v. Romania*, the ECtHR found that the tendentious remarks made by the prosecutors in relation to the applicant’s Roma origin disclose a general discriminatory attitude of the authorities;
- The prosecutor noted that both the applicant and his father were known as “antisocial elements prone to violence and theft”, in constant conflict with “fellow members of their ethnic group”. Furthermore, the prosecutor found that it was for “obvious reasons” that C.M., a “gypsy as well”, had denied having beaten the applicant. The prosecutor considered that the statement given by V.L. could not be taken into consideration since she was also a gypsy – and the applicant’s cousin – and therefore her testimony was insincere and subjective. *ECtHR, Cobzaru v. Romania*, 2007.

POLICE CAN PLAY A POSITIVE ROLE IN ENSURING PROTECTION AGAINST MANIFESTATIONS OF PREJUDICE AND RACISM

- In the case of *Sampanis*, non-Roma parents protested several times against the enrolment of Roma children in school, blocking the school entrance and shouting or displaying anti Roma messages: “No Roma will enter the school. You will not get in!” or “The school remains closed because of Gypsy problems”.
- A confrontation in front of the school was avoided due to the prompt intervention of the police;
- With the assistance of the police, Roma children were able to go to school;
- From the first day of incidents, police officers were stationed outside the school to secure the entry and exit of Roma students;
- In its *Sampanis* judgment, the ECtHR referred to the non-Roma manifestations as “racist incidents which took place in front of the primary school”. The Court noted, “police forces were dispatched several times to the primary schools of [...] in order to maintain order and prevent the commission of illegal acts against pupils of Roma origin. This does not, however, preclude the assumption that the above-mentioned incidents have weighed on the subsequent decision of the authorities concerned to place pupils of Roma origin in prefabricated rooms forming an annex to the primary school”.

STEREOTYPING AND PREJUDICE

CASE-LAW

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
16.04.2019	Lingurar	Romania	Article 3 & 14	Ill-treatment by police, ethnic profiling by police
17.01.2017	Király and Dömötör	Hungary	Article 8	Lack of protection from racist manifestations
12.04.2016	R.B.	Hungary	Article 8	Inadequate investigation into the applicant's allegations of racially motivated abuse
09.07.2013	Vona	Hungary	Article 11	Dissolution of association on account of anti-Roma demonstrations
28.05.2013	Lavida and Others	Greece	Article 2 & 14 Protocol 1	Discrimination in Education
29.01.2013	Horvath and Kiss	Hungary	Article 2 & 14 Protocol 1	Discrimination in Education
11.12.2012	Sampani and Others	Greece	Article 2 & 14 Protocol 1	Discrimination in Education
13.11.2012	Lacatus and Others	Romania	Article 6, 8 & 14	Violence by private individuals. Biased court decisions, failure of authorities to redress violations
20.09.2012	Fedorchenko, Lozenko	Ukraine	Article 2 & 14	Violence by private individuals. Lack of investigation of possible racist/ethnic motives of crimes
12.06.2012	N.B.	Slovakia	Article 3 & 8	Forced sterilization. Lack of legal safeguards for reproductive rights
24.04.2012	Yordanova and Others	Bulgaria	Article 8	Forced evictions and lack of alternative accommodation

STEREOTYPING AND PREJUDICE

CASE-LAW

YEAR	CASE	STATE	VIOLATION	ISSUE AT STAKE
15.03.2012	Aksu	Turkey	Article 8	Publications insulting Roma community
8.11.2011	V.C.	Slovakia	Article 3 & 8	Forced sterilization. Lack of legal safeguards for reproductive rights
22.03.2010	Paraskeva Todorova	Bulgaria	Article 6 & 14	Biased court decision on account of ethnicity
16.03.2010	Orsus	Croatia	Article 2 & 14 Protocol 1	Discrimination in Education
4.03.2008	Stoica	Romania	Article 3 & 14	Police. Prosecutor and police racially biased investigations. Discriminatory attitudes from the police.
11.12.2012	Sampani and Others	Greece	Article 2 & 14 Protocol 1	Discrimination in Education
12.11.2007	D.H. and Others	Czech Republic	Article 2 & 14 Protocol 1	Discrimination in Education
06.12.2007	Petropoulou Tsakiris	Greece	Article 3 & 14	Police. Failure to investigate possible racial motives, discriminatory attitudes from police
12.07.2005	Moldovan and Others	Romania	Article 6, 8 & 14	Violence by private individuals. Biased court decisions, failure of authorities to redress violations
27.05.2004	Connors	United Kingdom	Article 8	Forced evictions and lack of alternative accommodation

SECTION 4

RACIALLY MOTIVATED CRIMES



RACIALLY MOTIVATED CRIMES IN THE CONTEXT OF COUNCIL OF EUROPE STANDARDS

- Defining and understanding the concepts of racially motivated crime and racist incident
- Crimes committed by members of extremist groups
- Hate marches - offences committed during demonstrations by racist/ extreme right wing groups in Roma and Travellers across settlements of neighbourhoods
- Random attacks on Roma and Travellers
- Victim of a racially motivated crime by association/mistaken identity
- Mixed motives behind the commission of a racially motivated crime
- Hate speech: a particular form of racially motivated crime

THE CONCEPTS OF RACIALLY MOTIVATED CRIME AND RACIST INCIDENT

STANDARDS IN PRACTICE

WHAT IS A RACIALLY MOTIVATED CRIME?

By racially motivated crime (also known as “hate crime” or “bias motivation crime”) we refer to a criminal offence committed intentionally against a person or his / her property, exclusively or at least partly on account of that person’s or object’s actual or perceived possession of, or association with, a particular characteristic (such as race, religion, disability) prescribed by law.

A common misconception regarding racially motivated crime is that only some particular individuals (such as members of minorities) can be victims of racially motivated offences. This is not the case.

- A victim of a racially motivated crime does not have to be a member of a vulnerable social group – in fact, anyone could be a victim of such a crime. This is because what is important in classifying a criminal act as a racially motivated crime is the perpetrator’s belief that his / her victim is a member of a particular group.

WHY SHOULD THE POLICE TREAT RACIALLY MOTIVATED OFFENCES WITH PRIORITY?

The ECtHR has acknowledged the particularly damaging impact of racially motivated crime on victims and has held that the police and prosecuting authorities should give precedence in the investigation and sanctioning of such crimes:

- “Treating racially induced violence and brutality on an equal footing with cases that have no racist overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in the way in which situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention.”

RACIALLY MOTIVATED CRIMES UNDER THE EUROPEAN CONVENTION ON HUMAN RIGHTS

POLICE CAN PLAY A POSITIVE ROLE IN ENSURING PROTECTION AGAINST MANIFESTATIONS OF PREJUDICE AND RACISM

A criminal offence that is committed with bias motivation

Translating this formula into ECtHR terms, a racially motivated offence will be:

An act / omission in violation of Article 2 / 3 / 8 (the equivalent to the criminal offence of the formula above) perpetrated against persons on account of their having one of the characteristics set out in Article 14 / Article 1 Protocol 12 (the equivalent to the bias motivation of the formula above).

CRIMES COMMITTED BY MEMBERS OF EXTREMIST GROUPS

STANDARDS IN PRACTICE

Racist incidents: a potential precursor to a racially motivated crime

A concept related to racially motivated crime is that of the racist incident, defined by ECRI in its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing (2007) as "any incident which is perceived to be racist by the victim or any other person"

Not every racist incident will constitute a racially motivated crime but every racist incident should be thoroughly investigated with a view to ascertaining if it constitutes such a crime. Every racist incident should be recorded as it can provide important background information in case of a subsequent commission of a racially motivated crime (e.g. a crime committed by a person that has made many anti-Roma statements in the past).

Adopting such a wide-ranging definition of the term racist incident is important for the following reasons:

- It conveys the message to victims of hate-crime that their voices shall be heard and that they can have confidence and trust in the police;
- It allows the police to form a comprehensive picture of the situations regarding the occurrence and manifestations of racism in society, as well as monitoring the criminal justice system's response to that phenomenon;
- It ensures that all potential racially motivated crimes will always be investigated effectively by, for example, ensuring that the police will take all appropriate measures at the scene of the crime with a view to securing the necessary evidence. Conversely, the belated classification of a crime as racially motivated might have deprived the police and the prosecuting authorities of crucial material;
- It provides the police an insight into the crime perpetrator's motives and might explain his/her subsequent criminal behaviour;
- An important tool in ensuring that all racist incidents are adequately monitored and registered is the employment of a racist incident form, an example of this is provided in the Annex of the Toolkit.

POINTS TO CONSIDER

Perpetrators of hate crimes might not make their racist motivation known (e.g. making explicitly racist remarks when committing a crime or leaving telltale signs). Nevertheless, often the factual circumstances of the crime will allow the police to suspect the existence of racial motivation, thus giving rise to an obligation to investigate

STUDY CASE

Šečić v. Croatia - 40116/02, judgment of 31 May 2007

- Two unidentified men attacked the applicant, a person of Roma origin when collecting scrap metal in Zagreb in April 1999. They beat him with wooden planks and shouted racial abuse while two other men kept watch. Shortly afterwards the police arrived, interviewed people at the scene and made an unsuccessful search for the attackers. The applicant sustained multiple rib fractures and diagnosed as suffering from post-traumatic stress disorder;
- In July 1999, his lawyer lodged a criminal complaint. The prosecutor ignored information to the effect that the persons responsible for the attack on the applicant had also carried out a number of other attacks on Roma, as admitted in a television interview by a young skinhead;
- Nevertheless, the police were unable to question the person who had appeared in the television interview as the journalist refused to reveal his identity.

RACIALLY MOTIVATED CRIMES

THE COURT JUDGMENT

The ECtHR found a violation of Articles 3 and 14 because of numerous failures by the police and prosecuting authorities to mount an effective investigation.

- Although they had concluded that skinheads known to have participated in similar incidents had carried out the attack, they did not question anyone belonging to that group or follow up the information that had been provided in any way.
- Moreover, they had failed to question an individual identified by an eyewitness. Nor had the police sought a court order to compel the journalist to reveal his source.
- Seeking such an order would not necessarily have been incompatible with the freedom of the media guaranteed under Article 10 of the Convention, since it would have been for the competent court to weigh up all the interests and to decide whether the source's identity should be revealed.
- The ECtHR placed particular emphasis on the fact that the applicant's attackers were suspected of belonging to a group of skinheads. It was in the nature of such groups to be governed by extremist and racist ideology.
- Accordingly, knowing that the attack was probably the result of ethnic hatred, the police should not have allowed the investigation to drag on for more than seven years without taking any serious steps to identify or prosecute those responsible.

KEY OPERATIONAL POINTS OF THE JUDGMENT WITH RELEVANCE TO THE POLICE

- Information to the effect that the perpetrator of an alleged crime is a member of a racist/extreme group that espouses violence and extreme ideologies should immediately alert the police and the prosecutor to the fact that the crime might have been racially motivated;
- Investigating authorities should also examine whether the alleged racially motivated crime was an isolated occurrence or part of a wider pattern of crimes perpetrated against a particular social group; the higher the number of such crimes, the higher the likelihood that these are orchestrated and racially motivated;
- Investigating authorities should pursue all lines of inquiry available to them, such as questioning the victim and eyewitnesses. They should also not neglect to summon for questioning professionals such as journalists, even though the latter might have a particular privileged status;
- A potential refusal on the part of the journalist to provide the police with the details of the skinhead he interviewed would not be in violation of his right not to disclose his sources, a right guaranteed under Article 10 (the right to freedom of expression) of the European Convention.

HATE MARCHES

DEMONSTRATIONS BY RACIST/ EXTREME RIGHT

HATE MARCHES – OFFENCES COMMITTED DURING DEMONSTRATIONS BY RACIST/EXTREME RIGHT WING GROUPS IN ROMA AND TRAVELLERS SETTLEMENTS OF NEIGHBOURHOODS

POINTS TO CONSIDER

- A newly emerging form of racist intolerance consists of the staging of demonstrations or marches organised by members of extremists groups in localities where Roma and Travellers are known to reside. The purpose of these marches is to intimidate them into leaving their homes while there is always the risk that such demonstrations will degenerate into violent incidents.

STUDY CASE

Király and Dömötör v. Hungary - 10851/13, judgment of 17 January 2017

- The applicants were Hungarian nationals of Roma origin. In August 2012, an anti-Roma demonstration was held in their locality. Speeches were made and subsequently demonstrators marched between houses inhabited by Roma, threatening the inhabitants and engaging in acts of violence;
- The applicants complained that the authorities had failed in their obligations to either ban the holding of the demonstration or protect them from racist threats uttered in the course of the anti-Roma march, and to conduct an effective investigation into the incident in breach of Article 8.

RACIALLY MOTIVATED CRIMES

THE COURT JUDGMENT

- The Court noted approvingly that the police had undertaken a series of operational measures with a view to ensuring that the demonstration would not lead to violence. It also did not disagree with the decision taken by the police not to ban the demonstration, considered that the police had acted professionally and their decision to allow the march to take place was not unreasonable, all the more as they had taken measures towards ensuring that no harm would come to the Roma inhabitants of the locality;
- The Court also considered that the threats uttered against Roma during the course of the demonstration did not actually materialise into concrete acts of physical violence against the applicants themselves;
- Nonetheless, the ECtHR considered that the fact that certain acts of violence had been carried out by at least some of the demonstrators and that following the speeches the demonstrators had marched in the Roma neighbourhood shouting threats would have aroused in the applicants a well-founded fear of violence and humiliation, all the more since they could not react by e.g. leaving and therefore constituted a captive audience;
- The threats had been directed against the Roma inhabitants because of their belonging to an ethnic minority, and had thus necessarily affected the feelings of self-worth and self-confidence of its members, including the applicants;
- The ECtHR was very critical of the manner in which the criminal law mechanisms had been implemented, which it held to be in violation of the respondent State's positive obligations under Article 8;
- The domestic authorities should have paid particular attention to the specific context in which the racist statements were uttered. In particular, the authorities should have taken into account the fact that the event had been organised during a period when marches involving large groups targeting the Roma had taken place on a scale that could qualify as large scale, coordinated intimidation;
- Racist statements taken together with the context in which they were expressed could constitute a clear and imminent risk of violence and cause apprehension to their recipients;
- Even though the police could not be held as being under an obligation to ban the holding of the demonstration, they, together with the prosecuting authorities, should have reacted more effectively during and after the end of the demonstration. Thus despite the size of the demonstration and the number of violent incidents that took place, the police questioned only five demonstrators;
- That course of action had not been capable of leading to the establishment of the facts of the case and did not constitute a sufficient response to the true and complex nature of the situation. On the contrary, such an inefficient reaction risked conveying the message to the public that such racist demonstrations were, if not legitimised by the state, then at least tolerated.

KEY OPERATIONAL POINTS OF THE JUDGMENT OF RELEVANCE TO THE POLICE

- The ECtHR will not try to second-guess the police as to the nature and extent of operational measures to be employed in such circumstances, if the police do not act in a manifestly inadequate manner. In this case, the Court readily accepted the argument that banning the demonstration (as the applicants requested) would have led to the outbreak of even more serious violent incidents. This however does not absolve the authorities from the obligation to monitor closely the conduct of the demonstrators and take measures against those who are acting violently.
- The Court emphasised that this was not an ordinary demonstration in which the protestors sought to voice their real or imaginary grievances. Rather, it was an openly racist demonstration aimed at intimidating and psychologically harassing the Roma who were in no position to defend themselves and hence were in need of increased protection by the authorities. As a result, a more dynamic reaction to it was called for.
- A robust response by state authorities to the phenomena of racism is necessary not only in order to sanction criminal acts and protect the human rights of individuals but also in order to convey the clear message to society that racist phenomena shall not be tolerated.

RACIALLY MOTIVATED CRIMES

ATTACKS ON ROMA AND TRAVELLERS

POINTS TO CONSIDER

A characteristic element of racially motivated crime is the lack of prior contact, of any kind, between the perpetrator and the victim. For example, there is nothing to suggest in the *Šečić v. Croatia* case (see ECtHR Case 352 31.5.2007) that another Roma person in the applicant's position would not have been assaulted.

STUDY CASE

Yotova v. Bulgaria, 43606/04, judgment of 23 October 2012

- The applicant was of Roma origin and had decided to throw a party at her house two days after serious altercations had occurred between some youths of Roma origin from the village where she lived and some youths of Bulgarian origin from a nearby village;
- At about midnight, some shots were fired from a car towards the front gate of her house and the applicant was hit in the chest, shoulder and arm. Following the attack, she was declared over 75% disabled;
- The authorities carried out a series of investigative acts and questioned a number of ethnic Bulgarian youth from the nearby village but in light of the random nature of the incident, did not pursue a line of inquiry into the potential racist nature of the incident.

THE COURT JUDGMENT

- The Court noted that the applicant had alerted the investigating authorities to the possibility that the crime against her was racially motivated, without however the authorities considering her complaint and launching a line of inquiry into it;
- The investigation was deficient with the Court criticising the failure of the authorities to question the accused ethnic Bulgarian youth of their general attitude towards Roma;
- Furthermore, they failed to ascertain whether one or more of these young men had taken part in racially motivated violent incidents in the past or whether they subscribed to an extremist or racist ideology;
- Nor were they questioned regarding the existence of any link between the previous altercation between Roma and non-Roma and the event in question (namely the shooting of the applicant);
- The above shortcomings in the investigation were found by the ECtHR to be in violation of the procedural aspect of Article 2 (right to life) in conjunction with Article 14 (right to protection from discrimination).

KEY OPERATIONAL POINTS OF THE JUDGMENT OF RELEVANCE TO THE POLICE

- The ECtHR considered that the investigating authorities should have suspected that the crime could be racially motivated as alleged by the applicant in light of its nature, the ethnic origin of the victim and the fact that it took place shortly after a violent altercation between Roma and ethnic Bulgarian youths;
- The ECtHR also deemed it important that the authorities should, in cases of alleged racially motivated crime, attempt to assess whether the potential perpetrator might harbor prejudice or bias against the Roma;
- In line with ECRI's recommendation regarding the collection of data on racist incidents and their subsequent use in the course of a criminal investigation, the Court appears to have considered that such measures might be important when investigating whether a crime could have racial overtones.

VICTIM OF A RACIALLY MOTIVATED CRIME BY ASSOCIATION AND/OR MISTAKEN IDENTITY

POINTS TO CONSIDER

- An interesting problem arises when, at the same time, a perpetrator targets both a member of a socially vulnerable group and a person belonging to the majority, without possessing any external characteristics that could lead to the mistaken belief that he / she is a member of the vulnerable social group too;
- For example, a skinhead, after uttering racial slurs against the Roma, assaults a couple of which only one person is of Roma ethnic origin. In order to complicate this scenario even further, let us assume that only the Roma person bears external characteristics that are usually associated with Roma (e.g. a dark skin complexion or the wearing of what is known to constitute a traditional Romani garment), with the other person not being of Roma ethnic origin and not conforming to any of the stereotypes regarding the external appearance of Roma;
- Would this constitute a racially motivated crime and if yes, would it be a crime in relation to both victims or only in relation to the Roma one?;
- A related problem arises in cases where the perpetrator is mistaken about the identity of a victim when committing a racially motivated crime. For example, a perpetrator attacks a person that he thinks is of Roma ethnic origin, only to discover subsequently that his victim is not Roma.

STUDY CASE

Škorjanec v. Croatia, 25536/14 - judgment of 28 March 2017

- The applicant, who was of ethnic Croatian origin, and her partner, who was of Roma origin, entered into an altercation with two persons who started pushing the applicant, insulting her and threatened her for being in a relationship with a man of Roma origin;
- Soon afterwards, one of the attackers grabbed the applicant by the t-shirt, threw her to the ground, and kicked her in the head;
- The attackers then turned to the applicant's partner and, while saying that all Roma people should be killed, started kicking him and even tried to stab him with a knife;
- The police filed a complaint against both perpetrators but mentioned the applicant only as a witness and not as a victim. The perpetrators were ultimately sentenced to one year and six months' imprisonment for the racially motivated attack on the applicant's partner;

- Of her own will, the applicant filed a criminal complaint, arguing that she too was a victim of a racially motivated crime;
- Nevertheless, her complaint was rejected since she was not of Roma ethnic origin, thus the attack against her could not have been racially motivated.

THE COURT JUDGMENT

- The Court underlined that both the applicant and her partner repeatedly stated in the course of the criminal proceedings that they considered that the attack on both of them was racially motivated. This, the ECtHR held, should be enough to trigger the police and prosecuting authorities' obligation to investigate whether racial motivation played a role in the attack;
- The ECtHR also reiterated that the authorities should also have regard to the wider context of the crime as well as bear in mind that perpetrators might have mixed motives;
- The Court then held that the authorities, upon receiving credible allegations of a racially motivated crime, should try to ascertain whether a link exists between a criminal act and racial prejudice not only in relation to crimes against persons on grounds of their actual or perceived personal status or characteristic but also in relation to crimes based on the victim's actual or perceived association or affiliation with another person who actually or presumably possesses a particular status of protected characteristic;
- The ECtHR held that no such investigation took place in the present case, primarily because the authorities considered the fact that the applicant was not of Roma ethnic origin as critical. As a result, the authorities did not try to ascertain if the applicant was assaulted due to her association with a Roma person and whether this perception of an association (on the part of the perpetrators) would be enough to render the crime a racially motivated one. The Court held that this failure was in violation of the procedural aspect of Article 3 in conjunction with Article 14 (right to protection from discrimination).

VICTIM OF A RACIALLY MOTIVATED CRIME BY **ASSOCIATION AND/OR MISTAKEN IDENTITY**

KEY OPERATIONAL POINTS OF THE JUDGMENT OF RELEVANCE TO THE POLICE

- The ECtHR expects the police to continue investigating alleged racially motivated crimes even if during the course of the investigation evidence arises that the perpetrator was mistaken as to the victim's ethnic identity;
- Such evidence cannot, on its own, subsequently render the offence a non-racially motivated one; rather, what is important for the police is to ascertain whether at the time of the commission of the offence, the perpetrator believed that his / her victim belonged to a vulnerable social group. The perpetrator's mistake as to his / her victim's ethnic identity should therefore not be used to his (the perpetrator's) advantage, by e.g. leading to the downgrading of the charges;
- Similarly, the Court expects the police to bear in mind that at times perpetrators of racially motivated crimes target victims in full knowledge that they do not belong to a vulnerable group but just because they are or are perceived to be associated with a person who actually or presumably belongs to a vulnerable group;
- The association can take different forms: it can be a personal relationship, a friendship, or a marriage. Even the fact, that the perpetrator knew that his / her victim did not belong to a vulnerable group but was merely associated to a person belonging to that group, should not prevent the police from classifying the crime as a racially motivated one and investigating it accordingly;
- Thus even if the perpetrators in the Škorjanec case were fully aware that the applicant was not Roma but attacked her because she was in a relationship with a Roma person, the attack should still be qualified as a racially motivated one.

MIXED MOTIVES BEHIND THE COMMISSION OF A RACIALLY MOTIVATED CRIME

POINTS TO CONSIDER

- Human nature being as unpredictable and unfathomable as it is, it is often difficult to ascertain the exact motives behind a particular criminal offence. The situation is complicated further when there is evidence that more than two motives were at play: by way of example, let us consider the case of a robbery of a Roma person, with the perpetrator shouting racial abuse regarding the person's ethnic origin while hitting him and removing his wallet;
- Can the perpetrator subsequently argue that as he was primarily interested in the contents of the wallet, he merely committed a robbery and not a racially motivated crime?

STUDY CASE

Balázs v. Hungary, 15529/12, 20 October 2015

- The applicant was a Romani man who after leaving a club in the early hours was attacked by a man who presented himself as a police officer (and who later turned out to be a penitentiary officer). The officer had joined a scene during which three men who made comments about his Roma origin had insulted the applicant and his girlfriend;
- The officer had then referred to him as a "dirty gypsy". The fight ended because of the intervention by three of applicant's acquaintances. The applicant, his girlfriend and the penitentiary officer, who had in the meantime called the police, were taken to a police station, where they stayed until the next day. Although both men had been injured in the fight, only the penitentiary officer underwent a medical examination;
- A general practitioner recorded the applicant's injuries, bruises on his chest, back, neck and face, two days after the incident. The applicant lodged a criminal complaint against the penitentiary officer, describing the incident and submitting material he had found on the Internet, namely posts by the officer in a social network, according to which the night before he "had kicked in the head of a gypsy lying on the ground";
- The Public Prosecutor opened a criminal investigation against the officer on suspicion commission of a racially motivated offence but subsequently discontinued the investigation for lack of evidence that the officer had attacked the applicant exclusively out of racial hatred;
- Following the applicant's complaint against that decision, his lawyer's request that the officer be heard as a suspect or as a witness was dismissed on the ground that in parallel proceedings against the officer, on charges of disorderly conduct, he had already been heard as a suspect. The decision to

discontinue the investigation was upheld in September 2011. In May 2012, the officer was convicted of disorderly conduct for becoming involved in a fight and placed on a one-year probation.

THE COURT JUDGMENT

- Despite the fact that the person who assaulted the defendant was found guilty, the ECtHR found a violation of the procedural aspect of Article 3 in conjunction with Article 14. Taking the view that not only acts based solely on a victim's characteristic can be classified as racially motivated crimes, the ECtHR acknowledged that perpetrators may have mixed motives, being influenced by situational factors equally or stronger than by their biased attitude towards the group the victim belongs to;
- As a result, it considered that the prosecutor's concern in establishing where the perpetrator's motive was "precisely" due to the applicant's Roma ethnic origin was misplaced;
- The ECtHR was critical of the prosecuting authorities' failure to take into consideration the perpetrator's posts on Facebook after the incident, where he specifically mentioned the applicant's Roma origin, as well as another post where he provided a link to a film scene containing a racist and intolerant message and alluded to the Roma "rubbish".

Reference to OSCE principles

The ECtHR also referred approvingly to the following two principles set out by the Organization for Security and Co-operation in Europe / Office for Democratic Institutions and Human Rights OSCE-ODIHR namely that:

- *Perpetrators of racially motivated crimes often warn or "brag" about their "exploits", before, during or after they carry them out. They might for example paint a message / the initials of their group or some code words / signs, which constitute powerful evidence of (racial) motivation;*
- *Perpetrators of racially motivated crimes often commit a second offence (e.g. theft) in order to be able to claim that their crime was not exclusively racially motivated.*

(Principles referred in the OSCE / ODIHR resource guide entitled Preventing and responding to hate crimes (2009)).

MIXED MOTIVES BEHIND THE COMMISSION OF A RACIALLY MOTIVATED CRIME

KEY OPERATIONAL POINTS OF THE JUDGMENT OF RELEVANCE TO THE POLICE

- The Court clearly held that racially motivated crimes can be committed even when the perpetrator was not motivated primarily or even exclusively by racial prejudice;
- Because the existence or not of racial prejudice is dependent on subjective factors that cannot be easily ascertained, investigating authorities should utilize all tools at their disposal with a view to ascertaining the existence of such prejudice. In the present case, the Court considered that even posts on social networking sites could provide insight as to the perpetrator's racial motivation;
- The perpetrator's espousal of racist ideologies or endorsement of racist statements / ideas constitutes a strong evidence of racial motivation that should be examined.

Lakatošová and Lakatoš v. Slovakia, 655/16

- An off-duty municipal police officer took an illegally purchased gun and drove in his private car to a town with a sizeable Roma community. He stopped in front of the applicants' house, entered the property and, without saying a word, started firing bullets at the family members who happened to be in the yard. He stopped shooting once he ran out of ammunition;
- As a result, three members of the applicants' family were shot dead and both the applicants were seriously injured. The first applicant was injured in the hips and thighs and the second applicant in the liver, lower appendix, stomach and elbow. After the shooting, the perpetrator returned to the car. On his way, he met two other Roma men, members of the applicants' family, and threatened to kill them. Then he got to his car and drove to the house of the mayor of the town, in front of which he was eventually arrested;
- Three psychiatric and psychological experts who concluded that he developed a paranoid personality connected to an intense fear of aggressive behaviour of some "Roma fellow citizens" towards him or people close to him. This triggered a need to protect himself, in the sense of a paranoid defence. He developed a "paradoxically altruistic motive of a radical solution of public order issues in the town, in particular towards the part of it which contained the non-adaptable and problematic Roma people";
- An important motive determining his behaviour before and during the crime could be his continual frustration about his own work, and that he was unable to resolve the public order issues in the town, in particular the problems concerning the Roma part of the population. He had been developing a burnout syndrome as well. However, the experts concluded that

the immediate motive behind his behaviour at the critical moment could not be established with any degree of precision;

- Additionally, the experts concluded that the perpetrator did not remember clearly, what had happened but was able to credibly reconstruct some events and realise that he had fired at someone. He also mentioned some incidents he and his colleagues had had with people of Roma origin, his worries, his fear of them, and his despair at his inability to deal with them;
- He was sentenced to nine years' imprisonment. His gun was forfeited and protective psychological treatment in an institution was ordered for him, with protective supervision amounting to three years.

THE COURT JUDGMENT

- The ECtHR did not dispute that the main motive behind his acts could have been his psychological condition, however the Court also considered that the perpetrator may have had mixed motives, being influenced as much or more by situational factors as by his biased attitude.
- As a result, the ECtHR was critical of the authorities, and in particular of the Public Prosecutor's failure to examine whether the attack could also have been motivated by racial hatred. This was due to the fact that there were significant racist indicators, which included the perpetrator's own statements, a previous incident between the perpetrator and some Roma boys and the findings of a clinical psychologist who did not rule out the existence of a racial motive.

HATE SPEECH A PARTICULAR FORM OF RACIALLY MOTIVATED CRIME

POINTS TO CONSIDER

- Public expressions of hate, often referred to as hate speech, represent a serious concern, as they can create environments that are conducive to hate crimes (regarding the interplay between hate speech and violence see for example the ECtHR's findings in the case of Király and Dömötör v. Hungary referred to above);
- Hate speech is a rather elusive concept – the ECtHR has not defined it in its jurisprudence, opting for a case-by-case review and analysis of whether the statements in question amount to hate speech. Under the Convention, and among the various forms of expression, only hate speech/incitement to violence can legitimately attract a prison sentence. It is therefore imperative to ascertain whether an expression or a statement qualifies as hate speech;
- The CoE Committee of Ministers Recommendation No. R. (97) 20 on "Hate Speech" offers a working definition as follows: "hate speech [covers] all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."

STUDY CASE

Balázs v. Hungary, 15529/12, 20 October 2015

- It should be noted that according to the Committee of Ministers Recommendation No. 20, it is not only expressions that incite to acts of violence/discrimination that qualify as hate speech; furthermore, there is no requirement for a situation of "clear and present danger" to be established;
- The ECtHR has accepted this definition in two racial hate speech cases under Article 10 (right to freedom of expression);
- In *Féret v. Belgium* (no. 15615/07, judgment of 16 July 2009), the applicant had been found domestically criminally liable over the distribution of leaflets/posters calling for the expulsion of all Muslims and non-European immigrants from Belgium and charging them collectively with criminality. The ECtHR held that his criminal sentence was not in violation of Article 10 (right to freedom of expression);
- In *Vejdeland and Others v. Sweden* (no. 1813/07, judgment of 9 February 2012) the applicants (almost all in their early to mid-twenties, with one applicant aged 18 at the material time) had been found criminally liable by the domestic courts for distributing, in an upper secondary school, approximately 100 leaflets considered by the courts to be offensive to homosexuals. The statements in the leaflets were, in particular, allegations that homosexuality was a "deviant sexual proclivity", had "a morally

destructive effect on the substance of society" and was responsible for the development of HIV and AIDS;

- The applicants in this case claimed that they had not intended to express contempt for homosexuals as a group and stated that the purpose of their activity had been to start a debate about the lack of objectivity in the education in Swedish schools. The domestic courts found the applicants guilty and sentenced them to suspended prison sentences together with fines ranging from 200 to 2,000 EUR, while the youngest applicant was sentenced to probation;
- The ECtHR held that these statements amounted to hate speech and hence the (proportionate) prison sentences and ancillary sanctions were not in violation of Article 10;
- The Court agreed with the domestic court that although a discussion regarding the alleged lack of objectivity (i.e. the "homosexual agenda", according to the applicants) in sex education was in the public interest, the applicants' statements, although not inciting anyone to commit any criminal act, constituted "serious and prejudicial allegations" that were unnecessarily offensive and amounted to hate speech;
- The Court also placed emphasis on the fact that the applicants broke into a school (i.e. a restricted area) and their intended audience was young people of "an impressionable and sensitive age" who moreover could not choose not to receive them (i.e. constituted a captive audience).

KEY OPERATIONAL POINTS OF THE JUDGMENT OF RELEVANCE TO THE POLICE

- As member States to the European Convention on Human Rights have adopted different legislative responses to hate speech (some more restrictive than others) and in light of the very context-specific approach by the ECtHR on this issue to date, it is difficult to identify a uniform standard throughout the Council of Europe legal space on combatting hate speech;
- Nevertheless, at the very minimum, it is submitted that police should record any instance of hate speech as this might allow the police to shed light on the existence or not of racial motivation in any crime committed subsequently;
- In other words, it is suggested that regardless whether or to the extent to which hate speech is punishable in a particular jurisdiction, the police should record hate speech as a racist incident (see model Racist Incident – Racially Motivated Offence Form available in the Annex of the Toolkit).

SECTION 5
TRAINING FOR POLICE OFFICERS



**TRAINING FOR
POLICE OFFICERS**

- Template proposal for a training curriculum
- Case studies

TRAINING FOR POLICE OFFICERS

**Council of Europe standards
on racially motivated violence and non-discrimination
with a focus on Roma and Travellers**

Template proposal for a training

COUNCIL OF EUROPE STANDARDS ON RACIALLY MOTIVATED VIOLENCE AND NON-DISCRIMINATION WITH A FOCUS ON ROMA AND TRAVELLERS

CHALLENGES FACED BY ROMA AND TRAVELLERS COMMUNITIES: A STARTING POINT FOR FINDING WAYS TO IMPROVE POLICE ROMA AND TRAVELLERS RELATIONS

Tools	Overall description of training session
Timing	Up to 1 hour (depending on the level of knowledge, awareness and exposure of participants to Roma and Traveller issues)
Objective	Understanding the common features and structural barriers or challenges faced by Roma communities across Europe
Focus	<p>Roma and Travellers communities in Europe</p> <ul style="list-style-type: none"> • Diversity of Roma groups and Council of Europe terminology regarding Roma and Travellers • Historic challenges faced by Roma (e.g. slavery, Holocaust, deportations) • Social, economic, educational and other barriers faced by Roma • Council of Europe measures addressing social inclusion <p>Roma and Travellers as a vulnerable group</p> <ul style="list-style-type: none"> • Vulnerable groups before the European Court of Human Rights • The state protection in the case of vulnerable groups • Roma, a vulnerable group before the European Court of Human Rights • Police obligations in relation with Roma as a vulnerable group
Methods	Power point presentation, interactive discussions, video materials
Resources	Toolkit for police officers <i>The situation of Roma and travellers in Europe and considerations for finding ways to improve relations and policing Roma and travellers communities</i>

COE STANDARDS ON POLICE AND ROMA ISSUES INCLUDING RACIALLY MOTIVATED VIOLENCE

Tools	Overall description of training session
Timing	Up to 1 hour (depending on the level of awareness of COE instruments on the subject matter)
Objective	Raising awareness of Council of Europe instruments addressing police and Roma and Travellers issues including racially motivated violence
Focus	<p>Council of Europe instruments on policing Roma and Travellers</p> <ul style="list-style-type: none"> • Framework Convention for the Protection of National Minorities (FNCM) • European Convention on Human Rights • The European Code of Police Ethics • ECRI Recommendation No.11 and No. 13 <p>Council of Europe bodies monitoring police practices and/or Roma and Travellers issues</p> <ul style="list-style-type: none"> • The Commissioner for Human Rights • The European Commission against Racism and Intolerance (ECRI) • The Advisory Committee on the Framework convention for the protection of National Minorities (FNCM) • The European Committee on Crime Problems • The European Committee for Prevention of Torture • The European Court of Human Rights (ECtHR)
Methods	Power point presentation, interactive discussions, video materials
Resources	Toolkit for police officers <i>CoE standards on police and Roma and Travellers issues including racially motivated violence relations and policing Roma and Travellers communities</i>

COUNCIL OF EUROPE STANDARDS ON RACIALLY MOTIVATED VIOLENCE AND NON-DISCRIMINATION WITH A FOCUS ON ROMA AND TRAVELLERS

THE RANGE OF VIOLATIONS FOUND BY THE EUROPEAN COURT OF HUMAN RIGHTS IN THE CASES INVOLVING ROMA AND TRAVELLERS APPLICANTS

Tools	Overall description of training session
Timing	Up to 1 hour (depending on the level of knowledge and awareness of the European Convention on Human Rights and Roma cases before the European Court of Human Rights)
Objective	Raising awareness and understanding the case-law of the European Court of Human Rights on Roma and Travellers related issues
Focus	<p>The European Convention on Human Rights</p> <ul style="list-style-type: none"> • Introducing the European Convention on Human Rights • Introducing the role of the European Court of Human Rights and its competences <p>The European Court of Human Rights</p> <ul style="list-style-type: none"> • Overview of cases and violations found by the Court in general • Overview of violations found by the European on Roma and Travellers related issues (e.g. segregation in education, forced evictions, sterilisation of Roma women, racially motivated violence by private individuals or state agents etc.)
Methods	Power point presentation, interactive discussions, video materials
Resources	Toolkit for police officers <i>The European Convention on Human Rights and the role of the European Court of Human Rights in protecting Roma and Traveller applicants</i>

ADDRESSING STEREOTYPING, PREJUDICE AND ANTI-GYPSYISM

Tools	Overall description of training session
Timing	Up to 1 hour (depending on the level of knowledge and awareness of concepts relating to stereotypes, prejudice and anti-Gypsyism)
Objective	Understanding stereotypes and prejudice against Roma and Travellers, anti-Gypsyism and the impact the of work of the police when policing Roma and Traveller communities
Focus	<p>Stereotyping, prejudice and anti-Gypsyism</p> <ul style="list-style-type: none"> • Introducing the concepts and the Council of Europe's work on combatting anti-Gypsyism <p>The European Court of Human Rights' case-law</p> <ul style="list-style-type: none"> • Cases referring to stereotypes, prejudice, hostile attitudes and harassment against Roma
Methods	Power point presentation, interactive discussions, video materials
Resources	Toolkit for police officers <i>Stereotyping, prejudice and anti-Gypsyism</i>

COUNCIL OF EUROPE STANDARDS ON RACIALLY MOTIVATED VIOLENCE AND NON-DISCRIMINATION WITH A FOCUS ON ROMA AND TRAVELLERS

THE PRINCIPLE OF NON-DISCRIMINATION AND ITS RELEVANCE FOR THE POLICE

Tools	Overall description of training session
Timing	Up to 2 hours (depending on the level of knowledge and awareness of discrimination and relevant legal standards)
Objective	Understanding the principle of non-discrimination and applicable legal standards, obligations relevant for the work of the police outlined in the case-law of the ECtHR
Focus	<p>The principle of non-discrimination in European law</p> <ul style="list-style-type: none"> • The concept of discrimination in European law and the case-law of the European Court of Human Rights <p>Standards relevant for the police in discrimination cases</p> <ul style="list-style-type: none"> • The European Court of Human Rights' case-law relevant for the police in discrimination cases including Roma and Travellers related cases
Methods	Power point presentation, interactive discussions, video materials
Resources	Toolkit for police officers <i>Non-discrimination in international and European law, Roma, discrimination and police</i>

RACIALLY MOTIVATED CRIMES IN THE CONTEXT OF COUNCIL OF EUROPE STANDARDS

Tools	Overall description of training session
Timing	Up to 2 hours (depending on the level of knowledge and awareness of standards and practice related to racially motivated crimes)
Objective	Understanding racially motivated crimes and Council of Europe standards relevant for the police and the case-law of the European Court of Human Rights
Focus	<p>Racially motivated crimes: concept and manifestations</p> <ul style="list-style-type: none"> • Working definition of what constitutes racially motivated crime • Forms and manifestations of racially motivated crimes <p>Standards relevant for the police in racially motivated crimes</p> <ul style="list-style-type: none"> • The European Court of Human Rights case-law relevant for the police in racially motivated crimes and applicable obligations
Methods	Power point presentation, interactive discussions, video materials
Resources	Toolkit for police officers <i>Racially motivated crimes in the context of Council of Europe standards, Racist incident forms, Police circulars dealing with racially motivated crimes</i>

CASE STUDIES SAMPLE

Police workers are expected to respond to racially motivated crimes in a more effective way. The purpose of these case studies is to help identify racially motivated incidents by using common investigation techniques, while applying knowledge and skills learnt from this manual.

SAMPLE PROPOSAL FOR POLICE TRAINERS

- Often we hear police officers say, “but we never deal with racially motivated incidents”. Others will be convinced “racially motivated crimes do not occur in my town”.
- Roughly, this proves that racially motivated crimes, or even incidents, are not reported, recorded or not seen by police.
- One way to help trainees explore this issue is debating through case studies. Real and preferably recent incidents can be discussed in training sessions. It will help a lot if trainers use cases that are recognizable from the trainees’ points of view. Cases that have occurred at regional or even local level would be the most effective. The cases listed below are just a suggestion. By examining police files, you might be able to come up with more recent or regional cases to use.
- This toolkit aims at providing a practical guide to help visualise and investigate the racially motivated crimes that are often hidden behind different reasons, or are usually seen as common crimes like insult, damage of property or simply assault.
- We expect the police to respect human rights and fundamental freedoms and equally to promote respect of these rights and freedoms. This function makes the role of the police ambivalent. On one hand, the police sometimes promote and protect human rights, including those of vulnerable groups in society.
- On the other hand, the police are, sometimes forced to act from its legitimate dominant position so that human rights and freedoms are being limited. For the police this constitutes an ongoing challenge to find the right balance between the role of the police in a democratic society and the fundamental rights of individuals.
- An open discussion between trainees concerning these challenges can help determine if this balance can be found more easily. Facilitating such a discussion demands courage and skills from trainers.

Police workers should be able to analyse a case and determine:

- Was the case a racially motivated crime? If so, what were the indicators that lead to this conclusion?
- Was the case properly investigated? How did the investigation take place? What could have been done otherwise?
- What actors were involved? How was the cooperation between police and partners?
- How was the police response to this case? What could have been done differently?
- How were the Council of Europe standards taken into consideration?
- By making use of the different sections from this toolkit you will find out you can put all these aspects into perspective of the used case.

CASE STUDIES SAMPLE

HOW WOULD YOU DEAL WITH THESE CASES INVOLVING ROMA INDIVIDUALS?

READ THE CASES CAREFULLY AND DECIDE WHAT YOU WOULD DO, IN LINE WITH THE POLICE WORK.

CASE STUDY #1

Two men – later identified as Roma – are arrested after allegedly assaulting a man in a local bus. One of them is said to have punched the perceived victim in the face and the second man kicked the victim. According to the victim, the suspects were two men who wanted to rob him and used violence. Bystanders (possible witnesses) are holding the two men back and the police are called. The victim files a police report against these two individuals and they are taken to the police station.

In the police station, the men are questioned. They declare (individually) that they did not intend to rob the victim.

Their side of the story: In the bus, the two men were talking to each other in Roma language about some common things. A man who was sitting near them yelled at them and said, "Don't speak that strange language in my bus. Speak our language! Are you gypsies? Go back to Romania! Dirty foreigners."

The two men were surprised by this act and when the man stood up and threatened to hit them, by raising his arm and verbally attacking them, one of them punched the man in the face and the other kicked him. They were afraid the man would really hit and hurt them.

They did not have any intention to rob or even argue with him. They only wanted to defend themselves.

When the police officer asked the reason for not making this statement at the time of their arrest, they asked: "Would the police have believed us?", and added: "We are always on the wrong side anyway".

QUESTIONS TO ANSWER WHEN DISCUSSING THE CASE

- How would you proceed with investigating this case?
- Why do you think the two men did not report the "victims" behaviour in the first place?
- Do you think the men were informed and presented with the possibility to file a complaint against the presumed victim?

CASE STUDY #2

In a smaller town, in a rural area of the country, a large group of right-wing extremists tries to storm a 'gypsy quarter' where several hundreds of Roma people live.

There have been a large number of complaints and official reports to police indicating an increase in crime such as theft and burglary. The extremists blame the Roma people for the crimes.

From intelligence services you have learned that the extremists have decided that they would not stop until all the Roma would be chased away from their quarter.

About 100 Roma individuals try to protect their neighborhood. A police cordon keeps the two groups apart.

At least 25 demonstrators have been seen with bats, sticks and even Molotov-cocktails.

QUESTIONS TO ANSWER WHEN DISCUSSING THE CASE

- To which rights the right-wing demonstrators are entitled?
- To which rights the Roma individuals are entitled?
- Which rights and duties does the police have in such cases?
- What can the police can do to maintain public order and prevent casualties from taking place?

CASE STUDIES SAMPLE

CASE STUDY #3

A written complaint was received at the service centre of a police station reading as follows “I am a young man, aged 20. One Sunday, early this spring, I planned to have a nice evening out together with some friends. I had booked some early-bird tickets for a local dance club in advance to make sure my friends and I would be able to enjoy our evening to the maximum.

At the venue, I joined the queue together with a friend of mine. After waiting for almost 15 minutes we were almost able to enter the club but all of a sudden I heard someone behind me making a remark, to which the door-bouncer replied and asked the person behind me: “Is he the one?”, pointing at me. The bouncer then asked me to wait at the door, which I did. I presumed it was a bit busy in the club, so we could not enter yet. But then another bouncer came to me and told me to wait outside the line of visitors queuing up.

As I did not want any troubles I did as I was told, but saw that my friend was allowed into the club and that others followed. At that moment I realised something wasn't right and I asked the bouncer what was wrong. Immediately he answered he didn't know anything and that he couldn't help me.

I reminded him that his colleague at the door had told me to wait outside the line, and in the same moment the bouncer at the door turned to me and told me to go away and not cause any problems. He raised his arms and talked quite loudly, which appeared rather intimidating to me.

I told the bouncers that I only wanted to know why I was being refused into the club, because this was still not clear to me.

One of my other friends, who was still lined up to enter the club, also asked the bouncer why I was not let in, to which the bouncer answered: “He is simply not coming into the club”.

I could just not think of any reason to be refused into the club. So again I asked for an explanation, after which one of the bouncers became furious and walked towards me and pushed me back, away from the line and the entrance. As I am not the kind of person that likes arguments and conflicts, I decided to walk away and stay calm.

I really had done nothing wrong, I paid for my ticket and I just wanted a nice night out with my friends. The only thing I got for this was being refused from the club and a big mouth from the bouncer.

The friends I was with are all of native origin. I am a mix of Roma and native origin. Probably you can tell by my appearance that I have a Roma background. The only reason I can think of for being refused into the club is that the bouncers did not want a Roma man into the club and someone warned them of this, before they told me to leave the queue. This is the reason I want to file an official complaint against the bouncers of the club.

I must tell you that the day after this incident I contacted the anti-discrimination office. Together with a counsellor I sent a letter to the owner of the club. I received an apology from them soon after and they promised me to refund my ticket and look into the case. Sadly, I have not heard from them after that and it's been 5 weeks since.

Actually, I just want to make a statement now and tell my story if you ask me. In this day and age certain incidents must not happen. I never thought something like this would happen. Not to me. I hope you can help me.”

QUESTIONS TO ANSWER WHEN DISCUSSING THE CASE

- How would you respond to this (written) complaint?
- Have you dealt with similar cases?
- Is this a hate incident? Would you treat it as such?
- What possible actions could you take?

TIP: In this case it would help to stress on the cooperation between police and the anti-discrimination office and explore what legal possibilities there are to bring this case to justice.

CASE STUDY #4

Police officers who work in a large town, which attracts a large number of visitors each year, warn tourists who visit the city to watch out for Roma boys who are stealing property.

Especially, visitors with backpacks and/or carrying cameras and mobile phones are being warned of 'Roma thieves'.

QUESTIONS TO ANSWER WHEN DISCUSSING THE CASE

- Does this sound familiar to you? Have you ever experienced such behaviour by fellow police officers? Or have you yourself ever warned others of 'Roma thieves'?
- Do you see this as professional?
- Is this stigmatizing for a certain group of people?
- How else could you make visitors alert of taking care of their personal belongings?

ANNEXES



ANNEXES

- Sample police circular on preventing and combating racially motivated crimes
- Racially motivated incident/offence form
- Good practice relating to housing issues (unauthorised encampments)

..... Police

Office of the Chief of the Police Ref. no.

.....2019

Police Order on Investigating Racially Motivated Crimes

Racially motivated crime is also known as “hate” or “bias-motivated” crime. In this context, the term hate should not be understood in its everyday sense of the word but rather as an intense dislike bias against a person because of its particular characteristic (race, religion, disability, sexual orientation) prescribed by law.

Racially motivated crimes consist of two elements: a criminal offence committed with a bias motive.

The investigation and sanctioning of racially motivated crime should always take precedence over other forms of crime. This is because racially motivated crime constitutes a particular affront to human dignity and is particularly destructive of fundamental human rights.

In light of the inherent difficulties in identifying the existence of racial motivation behind the commission of an offence, it is highly recommended that certain rules should be laid down, defining cases in which the examination of whether racial motivation might have led to the commission of a criminal offence should be mandatory. This proposal however should not be interpreted as signifying that in all other cases, the review of a racial motive should be excluded from the wider investigation into the perpetrator’s motives. It is to be admitted that ascertaining and proving racial motivation will often be extremely difficult in practice. The obligation incumbent on the police to investigate possible racist overtones to a criminal offence is an obligation to use best endeavours and not an absolute one. In other words, the police must do what is reasonable in the circumstances with a view to collecting and securing the evidence, exploring all practical avenues of discovering the truth, without omitting to review evidence that may be indicative of racial motivation. The above considerations are equally applicable, if not even more so, in the context of disciplinary investigations against police officers.

Specifically, it is imperative that the potential existence of racial motivation are investigated in depth and that all relevant evidence of probative value are collected in the following circumstances:

A. When the alleged perpetrators are or are suspected to be members of extreme right-wing / extremist / racist groups.

As soon as you receive information or ascertain that the perpetrator of an alleged crime is a member of a racist / extreme group that espouses violence and extreme ideologies, you should classify the crime as a racially motivated one and investigate it accordingly. You should also examine whether the alleged racially motivated crime was an isolated occurrence or part of a wider pattern of crimes perpetrated against a particular vulnerable social group; the higher the number of such crimes, the higher the likelihood that these are orchestrated and racially motivated. You should also pay attention to the existence of tell-tale evidence left at the crime scene that the perpetrator belonged to such a group (e.g. the drawing of racist graffiti by the perpetrators). Last, be aware that members of such groups often boast of the offences they perpetrate in social media networks. To that end, social media monitoring might be required.

B. When the crime is committed during a social event / against property of particular importance to a vulnerable social group.

Racially motivated crimes are primarily symbolic crimes: in other words, by committing such a crime against a member of a social group, the perpetrator seeks to convey a message to the social group that its members are not wanted. The same principle applies in relation to crimes committed during social events (e.g. religious festivities) or against property of cultural / religious significance to a particular group (e.g. a synagogue). Such offences should be considered as racially motivated crimes and be investigated accordingly.

C. When the victims designate themselves as or are members of marginalised and vulnerable social groups (Roma and Travellers, immigrants, asylum seekers).

Vulnerable social groups figure disproportionately among the victims of racially motivated crimes. This in turn means that when the victim belongs (or claims to belong) to such a social group, you should immediately consider that the crime might have been racially motivated and pursue a line of inquiry in that direction.

D. When the victims or witnesses of an offence allege that the crime was racially motivated.

It is stressed that even if a victim or a witness does not consider that a crime was racially motivated, this should not prevent you from doing so at your own initiative. Nevertheless, should a victim maintain that the attack on him / her was racially motivated, then you should treat it as such, in order to demonstrate to the victim / witness that you take their statements into account (and thus ensuring their further cooperation) and in order to ensure that all alleged racially motivated crimes are investigated.

E. When the victims are not members of vulnerable social groups but there is evidence suggesting that they were perceived as such by the perpetrators or that the perpetrators singled them out because of their real or presumed association with members of such groups.

You should continue investigating alleged racially motivated crimes even if during the course of the investigation evidence arises that the perpetrator was mistaken as to the victim's ethnic identity. Such evidence cannot, on its own, subsequently render the offence of a non-racially motivated one; rather, it is important that you ascertain whether at the time of the commission of the offence, the perpetrator believed that his / her victim belonged to a vulnerable social group.

Similarly, you should always bear in mind that perpetrators of racially motivated crimes might target victims in full knowledge that they do not belong to a vulnerable group but just because they are or perceived to be associated with a person who actually or presumably belongs to a vulnerable group. This real or presumed association can take different forms; it can be a personal relationship, a friendship, or a marriage. Even this fact, namely that the perpetrator knew that his / her victim did not belong to a vulnerable group but was merely associated to a person belonging to that group, should not prevent you from classifying the crime committed against the person that does not belong to a vulnerable social group as a racially motivated one and investigating it accordingly.

F. When there are grounds to consider that the crime had a mixed motive (both a non-racial and a racial one).

A crime will be racially motivated even when the perpetrator was not motivated primarily or even exclusively by racial prejudice. As establishing the presence racial prejudice is dependent on subjective factors that cannot be easily ascertained, you should utilize all tools at your disposal with a view to ascertaining the existence of such prejudice. For example, the perpetrator's public espousal of racist ideologies or endorsement of racist statements / ideas constitutes a strong evidence of racial motivation the role of which in the commission of the crime should be examined.

G. When the crime is committed in the context of an activity (e.g. a demonstration organised by an extremist political party) that purposefully takes place close to a locality where members of a vulnerable social group are known to reside with a view to intimidate its members.

Such cases will place a particular burden on you in the exercise of your duties. This is because you will have to maintain a balance between managing the event in question but also ensuring the safety of the wider public. For example, based on your training and experience, you might decide not to ban the holding of a racist demonstration scheduled to take place in a Roma settlement for fear of provoking a violent reaction on the part of the demonstrators. Such a decision however does not absolve you from the obligation to monitor closely the conduct of the demonstrators and take measures against those who are acting in blatant breach of the law (e.g. those who commit or threaten to commit violence). This is because such events do not constitute demonstrations whereby the protestors seek to air their real or imaginary grievances.

Rather, their explicit purpose is to intimidate and psychologically harass the social group against which they are directed, whose members are often in no position to defend themselves and hence were in need of increased protection by the police. In such cases, a robust response by the police to racist incidents taking place in the context of such activities is necessary not only in order to sanction criminal acts and protect human rights but also in order to convey the clear message to society that racist phenomena shall not be tolerated.

H. When the crime was committed seemingly at random and no other motive (e.g. financial) appears plausible.

Precisely because racially motivated crime is a symbolic crime, it often appears not to have an easily discernible motive. Thus a Roma person is assaulted but his / her possessions are not stolen. It is precisely the absence of a "logical" motive that should alert you to the possibility that the crime might be a racially motivated one.

Signature / Stamp

RACIALLY MOTIVATED INCIDENT/OFFENCE FORM

Ref. no.:

Police officer investigating the incident:

Date and time of incident:

Area / location of the incident:

A. Racially motivated incident:

Short summary of incident:

Suspect(s) known (Y/N):

If Y provide names:

Material (e.g., leaflets found on the scene, graffiti etc.) seized / collected (Y/N):

Short summary of type and nature of material (if applicable – copy to be attached to present form):

Form of racial motivation / basis of discrimination

Your assessment:

The victim(s) (if applicable) assessment:

- | | |
|---|--------------------------|
| <input type="checkbox"/> Race / ethnicity / national origin | <input type="checkbox"/> |
| <input type="checkbox"/> Religion. | <input type="checkbox"/> |
| <input type="checkbox"/> Sexual orientation | <input type="checkbox"/> |
| <input type="checkbox"/> Disability (physical or mental) | <input type="checkbox"/> |
| <input type="checkbox"/> Sex | <input type="checkbox"/> |
| <input type="checkbox"/> Hate speech | <input type="checkbox"/> |
| <input type="checkbox"/> Other..... | <input type="checkbox"/> |
| <input type="checkbox"/> Incident not racially motivated | <input type="checkbox"/> |

Contact details of the victim(s):

If victim refused to provide contact details, state the reasons:

- Victim(s) does not consider the incident racially motivated / amounts to an offence
- Victim(s) is concerned about any potential repercussions
- Victim(s) considers it cannot afford to pursue the matter further
- Other:.....

Further action undertaken by the investigating police officer:

- Victim(s) provided with the contact details of the liaison / community outreach police officer
- Victim(s) provided with the contact details of local NGO working on racially motivated issues
- Victim(s) provided with the contact details of the local legal clinic / bar association

INCIDENT REPORT TO BE FILED IN ELECTRONIC DATABASE UPON RETURN TO THE POLICE STATION

Racially motivated offence (to be completed if the incident amounts to an ex officio indictable offence or if the victim has filed a criminal complaint):

Suspect(s) arrested (Y/N):

Penal Code Article (more than one may be applicable):

Number of Victims (if applicable):

- 1.
- 2.
- 3.
- 4.

Location of incident

- Residential
- Business
- Government / public building
- Place of worship
- Public establishment (bar etc.)
- Other private area
- Other public area

Mention any particular characteristics of the location of the incident (e.g. Roma and Travellers settlement, area or bar known to be frequented by LGBTIQ individuals, etc.):

Form of racial motivation / basis of discrimination

Your assessment:

- Race / ethnicity / national origin
- Religion.
- Sexual orientation
- Disability (physical or mental)
- Sex
- Hate speech
- Other.....
- Incident not racially motivated

Evidentiary material (e.g., leaflets found on the scene, graffiti etc.) seized / collected (Y/N):

Short summary of type and nature of material (if applicable – copy to be attached to present form):

Contact details of the victim(s):

Further action undertaken by the police officer:

- Victim(s) provided with contact details of local NGO working on racially motivated issues
- Victim(s) provided with contact details of the local legal clinic / Bar Association
- Victim(s) referred to counseling/psychological support services

COPY OF THE RACIALLY MOTIVATED OFFENCE REPORT TO BE ATTACHED TO THE CASE FILE TO THE PROSECUTORS OFFICE
Association of Chief Police Officers (ACPO)
ACPO Guidance on Unauthorized Encampments, 2011, Reviewed in June 2012

The document is available in English [here](#)

Note: the objective of the Guidance, drafted following consultation with Gypsy and Traveller associations, is to assist in the development of normal community relations between Roma and Travellers and settled communities, by “balancing the human rights of the Roma and Travellers with those of landowners and wider public”. It acknowledges that, due to the lack of an adequate number of lawful sites, tensions between these groups will continue to arise. Nevertheless, what is particularly striking about the Guidance is its insistence that a graduated approach should be adopted in relation to unauthorized encampments and that the police should not immediately resort to forced eviction measures unless they are strictly necessary.

SECTION 4 – WORKING WITH OTHER AGENCIES

4.1 Forces should consider working with local authorities to agree Joint Agency Protocols for the management of unauthorized encampments. Forces should also consider establishing a liaison officer to work with local authorities on the implementation of joint protocols. This should be progressed within local Community Safety Partnership (CSP) forums in England and Wales or through the Local Strategic Framework.

4.2 Lead role for decision-making should rest with the local authority and the use of police powers should not normally be considered as a first response.

SECTION 5 – USE OF POLICE POWERS

5.1. The lead role in the management of Unauthorised Encampments will be with Local Authorities. Forces should consider becoming involved in bringing about the prompt and lawful removal of unauthorised encampments, including the use of police powers under Section 61 or 62 of the Criminal Justice & Public Order Act 1994 where:

i) Local amenities are deprived to communities or significant impact on the environment This could include, for example, forming an encampment on any part of a recreation ground, public park, school field, village green, or depriving the public use of car parks. The fact that other sections of the community are being deprived of the amenities must be evident before action is taken.

[...]

iv) There is a danger to life.

An example of this might be an encampment adjacent to a motorway, where there could be a danger of children or animals straying onto the carriageway.

[...]

5.2 The mere presence of an encampment without any aggravating factors should not normally create an expectation that police will use eviction powers. This should be communicated to the public, landowners, local authorities, and other agencies. If a decision is made to use police powers to evict then the rationale for the decision should be clearly set out and recorded. As stated above, a suggested eviction rationale record is set out at Appendix D.

[...]

Police forces should:

1. Include Roma and Travellers in mainstream neighbourhood policing strategies, to promote race equality and good race relations.
2. Target individual Roma and Travellers suspected of anti-social behaviour and crime on public, private and unauthorised sites, and not whole communities, and work with people from these groups and local authorities to develop preventive measures.

3. Treat Roma and Travellers, both when they are victims and suspects, as members of the local community, and in ways that strengthen their trust and confidence in the force.
4. Provide training for all relevant officers on Roma and Travellers' service needs, so that officers are able to do their jobs more effectively, and promote good relations between all groups in the community they serve.
5. Review formal and informal procedures for policing unauthorised encampments, to identify and eliminate potentially discriminatory practices, and ensure that the procedures promote race equality and good race relations.
6. Review the way guidance is put into practice, to make sure organisations and individuals take a consistent approach, resources are used effectively and strategically, all procedures are formalised, and training needs are identified.

Roma and Traveller communities suffer from widespread and persisting discrimination and anti-Gypsyism – recognised as a specific form of racism fuelled by prejudice and stereotypes – and they are the victims of various other forms of discrimination, including harassment, hate speech and hate crimes in many Council of Europe Member States. Discrimination remains the most widespread form of human rights violation in Europe today and one which disproportionately affects Roma and Traveller communities.

The Roma and Travellers Team of the Council of Europe is committed to combating discrimination and anti-Gypsyism through a consistent and comprehensive approach, which includes legal and policy responses, standard setting, inter-governmental co-operation, support to Member States, training, etc.

Police officers are at the forefront of the justice system, as they are among the first to come in contact with the victims of hate speech, harassment, racially motivated crimes and other forms of human rights violations and therefore they are pivotal to Roma and Traveller communities securing adequate and rightful access to justice.

The Toolkit for Police Officers should primarily be used to inform police officers of the relevant core values and standards required when policing Roma and Traveller communities, but it can also be useful to other law enforcement officials and those interested in the topic.

The Toolkit provides information about the situation of Roma and Traveller communities in Europe and how Council of Europe standards can be applied to police and Roma and Travellers. Relevant case-law of the European Court of Human Rights is also included, with the aim of supporting police officers to better understand, investigate and prosecute human rights violations. Finally, the Toolkit can be used as an awareness raising and educational tool as it includes proposals for training events and information sessions with/for police officers, and other law enforcement officials.

ENG

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The Council of Europe is the continent's leading human rights organisation. It includes 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

