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**Council of Europe Dialogue
with Roma and Traveller¹ Civil Society**

**7th Meeting, Strasbourg, 11-12 April 2019
Room G05, Agora Building**

**PROTECTING FAMILY LIFE
by securing housing and preventing evictions**

DRAFT CONCEPT PAPER

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control

Article 25 of the [Universal Declaration of Human Rights](#), adopted 10 December 1948 by the UN General Assembly

1. INTRODUCTION

Throughout the Council of Europe member states, Roma and Traveller communities continue to live in conditions of extreme poverty and social exclusion despite efforts to alleviate this condition. Together with education, employment and health care, housing² and eviction issues are some of the most pressing concerns identified in a number of reports of the Council of Europe monitoring bodies and the Human Rights Commissioner. These areas are all inter-related, as substandard living conditions impact on health, while having a legal residence with secure living conditions is a prerequisite to the recognition and fulfilment of other fundamental rights. Without an address, it is often impossible to register for public services and to participate in civic duties or engage in lawful income-generating activities. With regards to non-sedentary populations of Roma, Gypsies and Travellers, the lack of sites means that many individuals and families are statutorily homeless in countries such as the UK or France.

Insecure residence often leads to forced evictions, increased homelessness, loss of land tenure, inadequate alternative housing, lack of civil registration, and the inability of Roma and Traveller children

¹ The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand, Roma, Sinti/Manush, Kale/Calé, Kaale, Romanichals, Boyash/Rudari; and, on the other hand, groups such as Balkan Egyptians and Ashkali, Eastern groups (Dom, Lom and Abdal), Travellers, Yenish, and the populations designated under the administrative term "Gens du voyage", as well as persons who identify themselves as Gypsies, Bosha or Garachi. The present is an explanatory footnote, not a definition of Roma and/or Travellers.

² In the context of this document, the term 'housing' is used to refer to all types of formal and informal accommodation, including houses, apartments, caravans, encampments, group housing, informal types of housing, etc.

to attend school. The constant threat of eviction results in physical and psychological health problems, such as emotional trauma, as well as lasting social isolation affecting particularly people with vulnerabilities, such as older people, women or people with disabilities. Evictions always raise issues of human rights as families and communities are torn apart therefore jeopardising the right to family life. Evictions without rehousing opportunities perpetuate illegal settlements and the cycle of poverty. Evictions often stop access to health care and vaccination programmes, increasing the health risks for the entire society.

Resolving housing and accommodation issues helps break the vicious cycle of exclusion.

2. OBJECTIVES OF THE MEETING

The 7th meeting of the Council of Europe Dialogue with Roma and Traveller civil society will focus on the topic of **securing housing and/or accommodation rights and preventing forced evictions** with the aim of:

- **Prioritising and giving visibility** to the right to adequate housing and to adequate standard of living as a fundamental human right;
- **Highlighting** that the right to adequate housing is an inseparable condition for the enjoyment of many other human rights. Social, economic and cultural rights, health, education and work, cannot be fully exercised without a home,;
- **Understanding** that poor living conditions jeopardise family life changes embedding poverty and marginalisation;
- **Encouraging the** Roma and Traveller Civil Society to incorporate in their working agenda of the issues related to strengthening the rights claims of Roma and Travellers to housing and the eradication of forced evictions;
- **Encouraging** Roma and Traveller Civil Society to work collaborately with member State entities and equality and human rights bodies so that community members realise their rights;
- **Increasing** the capacity of Roma and Travellers Civil Society in safeguarding against forced evictions under national and international law;
- **Identifying** appropriate long-term efforts and tools that enable Roma and Traveller representation in local and national decision-making bodies with regards to housing access planning in an effort to avert spatial and residential segregation;
- **Identifying** best practices within the local infrastructure which promote a holistic approach to housing and accommodation, which also reduce barriers in related areas such as education, employment, access to healthcare and affordable basic amenities;
- **Improving** multi-sectoral stakeholder coordination in the area of housing, involving local authorities, housing cooperatives, and Roma and Traveller communities through civil society representation;
- **Promoting** the [Declaration against anti-Gypsyism](#) of the European Alliance of Cities and Regions for the Inclusion of Roma and Travellers and the [OPRE statement against evictions](#).

Roma and Traveller integration is a shared responsibility and all actors (member States, European institutions, international organisations and civil society) have a vital role to play. While recognising the **special responsibility of member States, the Council of Europe** has within its objectives the dialogue and consultation between the Council of Europe and Roma and Traveller civil society, including those working at grassroots level, on policies and practices relevant for the inclusion of Roma and Travellers, as identified in the Council of Europe [Thematic Action Plan on the Inclusion of Roma and Travellers \(2016-2019\)](#).

Civil society has the necessary network and knowledge about the situation of Roma and Travellers on the ground and can contribute to assist member States and the Council of Europe in meeting their commitments. The role of Roma and Traveller civil society is to provide support and be the bridge between Roma and Traveller communities and decision and policy making. As complementary actors, they can facilitate the directions of Council of Europe actions through constructive and mutual dialogue.

The 7th Dialogue Meeting will serve as a consultation platform in locating supportive measures for the purpose of identifying priority areas, key targets and effective strategies in enhancing and sustaining the rights of housing and/or accommodation which will be incorporated in the Council of Europe post 2019 Thematic Action Plan on the Inclusion of Roma and Travellers.

It will also serve as a policymaking forum for Roma and Traveller Civil Society and other stakeholders to improve their knowledge, exchange experiences and share best practices, plan future cooperation activities and identify possibilities for promoting housing and /or accommodation issues.

3. PARTICIPATION

Roma and Traveller experts from local civil society organisations and representatives of Roma and Traveller and women's organisations with expertise in safeguarding the right to housing and accommodation and in lobbying against forced evictions are encouraged to participate.

A call for participation has been launched. Participation is possible for 20 representatives of Roma and Traveller civil society and other key national and international organisations with expertise in safeguarding the right to housing and accommodation and in lobbying against forced evictions.

Interested candidates must complete an online Application Form **by 25 March 2019**, at 18:00 Central European Time.

The online application form is available [here](#).

Participants will be selected on the basis of their merits while securing a balance between Roma and Traveller civil society, both national and international, and other key stakeholders with expertise on the topic, Gender, age and geographical representation will also be taken into consideration.

Applicants should clearly state in their motivation letter their area of competence and expertise in the field and indicate in which way their expertise would contribute to reaching pertinent conclusions on the identified topic for the Dialogue meeting.

Candidates should be:

- in a position to use the outcomes of the meeting in their work;
- resident in one of the Council of Europe member States ;
- actively involved in Roma or Traveller housing and accommodation issues, particularly in the area of lobbying against forced evictions;
- available to attend the meeting for its full duration;
- able to express themselves fluently in at least one of the working languages of the Dialogue meeting (English, French, Romani).

4. BACKGROUND TO THE MEETING

In the Council of Europe space, various states ensure the right to housing in their constitutions, but many do not. Roma and Travellers often fall through the gaps of legal provisions and social policy measures regulating property and housing rights on the one hand and homelessness on the other. The existence of citizens on their state's territory cannot be banned, in other words, they cannot be expelled and they must be admitted to their country of citizenship³. Nor can stateless Roma, in practice because other states are under no obligation to admit them. Citizens - and stateless Roma - therefore have or should have the right to residence and the freedom of movement within their state. Non-citizens' rights can and are often limited. In states that are also members of the European Union (EU), the protection from homelessness and the right to housing of EU migrants is more extensive than other migrant groups'.

Council of Europe work on housing and evictions

In practice, forced evictions and expulsions which do not result in some sort of accommodation. question the right of Roma and Travellers to be, to peacefully exist in their country of (ex)citizenship to where they migrated fleeing persecution or lack of basic accommodation. The European Convention on Human Rights and Fundamental Freedoms (ECHR) does not provide a straightforward right to housing, but in line with the considerations above, it guarantees the right to life, to property, to residence and freedom of movement, as well as to private and family life, the prohibition of torture - without discrimination and recourse to an effective remedy⁴.

The Convention has been interpreted as providing protection from forced evictions from (il)legally occupied land or housing, as well as from expulsion from a member state if that would run contrary to the right to (family) life or the prohibition of torture (*V.M. and Others v Belgium*)⁵. The Convention prohibits collective expulsions of aliens (*Čonka v Belgium*)⁶. In other words, if broadly interpreted, it can ensure the right to exist, primarily understood as basic accommodation of communities, families and individuals. Protocol 12 prohibits discrimination in various fields, covering housing as well, but it has been ratified by only some member States.

In the Human Rights context, the European Court of Human Rights (ECtHR) has provided protection from forced eviction of Travellers from caravan sites that had originally been legally occupied (*Connors v the UK*) or whose legal occupation was rendered impossible by local authorities (*Winterstein et autres c France*). It has also provided protection from the eviction of a long-standing Roma community from land they had occupied for decades prior to sweeping changes in property structures in a state party

³ Article 3 Protocol 4 ECHR: prohibition of expulsion of nationals.

⁴ Article 2 the right to life, Article 3 prohibition of torture, Article 8 right to respect for private and family life, Article 13 (invokable only in conjunction with other Convention rights) the right to remedy, 14 (evocable only in conjunction with other Convention rights) prohibition of discrimination based on, among others, race, colour, language, religion, national or social origin, association with a national minority, property, birth or other status, Article 1 Protocol 1 protection of property, Article 2 Protocol 4 freedom of movement (including residence).

⁵ *V.M. and Others v Belgium*, judgment of 7 July 2015, pending appeal. The case concerns the reception conditions of a family of Serbian nationals of Roma origin seeking asylum in Belgium. Following an order to leave the country, their appeal could not stay the execution. The applicants were left without basic means of subsistence and were obliged to return to their country of origin, where their severely disabled child died.

⁶ *Conka v Belgium*, judgment of 5 February 2002. As the ERRC reported: "The applicants, Slovakian nationals of Romani origin, sought political asylum in Belgium on the ground that they were victims of repeated violent assaults by skinheads in Slovakia. Belgian police sent a notice to the applicants and other Slovakian Romani families requiring their presence at the police station to "enable the files concerning their applications for asylum to be completed." There the applicants were served with a new order to leave Belgium, take to a holding centre, and five days later placed on a flight to Slovakia." Available at <http://www.errc.org/article/conka-v-belgium/3860>. Article 4 Protocol 4 ECHR: prohibition of collective expulsion of aliens.

(Yordanova and Others v Bulgaria)⁷ The issue of mob violence resulting in demolishing Roma housing has been dealt with by the ECtHR in *Moldovan and others v. Romania* (Nos. 1 and 2), *Kalanyos and others v. Romania*, *Gergely v. Romania* and *Tănase and others v. Romania*⁸.

Travellers are particularly affected by discriminatory patterns in the allocation of planning permission in cases where they purchase private land for the purposes of parking caravans, in access to campsites, hotels and/or other temporary accommodation. The lack of camping sites for Travellers makes it particularly difficult for them to have access to adequate housing in accordance with their itinerant or semi-itinerant lifestyle. In some cases, camping sites for Traveller accommodation have inferior forms of protection of security of tenure than standard housing, an issue which was addressed by the ECtHR in the case of *Connors v. the United Kingdom*⁹. In this case, the Court found that the eviction of the applicant and his family had not been accompanied by the requisite procedural safeguards.

Since the Yordanova case, the ECtHR has in a handful of cases imposed interim measures on state parties in order to stop the execution of forced evictions. Interim measures can be asked prior to the exhaustion of effective domestic remedies as well as in cases no effective domestic remedies exist. Domestic remedies are certainly not effective if they cannot stop the execution of evictions or expulsions. An important characteristic of the cases challenging forced evictions and expulsions is that they have been instituted by groups of individuals or communities. This is possible, even though in general the ECHR mechanism is triggered by individual complaints. The Commissioner of Human Rights of the Council of Europe has a mandate to intervene in cases pending before the ECtHR, but his intervention has not yet been sought in cases of evictions and expulsions.

The standards established by the ECtHR are not commensurate to those adopted by other international bodies, but through interim measures, the Court can provide effective protection from homelessness. It remains to be seen whether beyond a right to a roof over one's head the Court will be willing to raise the standards or shape a right to housing in the future. In any case, in relation to forced evictions and expulsions, the ECtHR can and does regularly provide effective remedies which can be looked upon regularly.

Soft law, such as recommendations and opinions can also be sought under various other Council of Europe mechanisms. For instance, the Parliamentary Assembly of the Council of Europe can ask questions regarding certain incidents in member States and it can issue reports relating to evictions and expulsions. It has taken political action against evictions and expulsions¹⁰. Monitoring bodies, such as ECRI, the Advisory Committee of the FCNM and the Commissioner of Human Rights may issue general and country- specific recommendations. ECRI issued General Policy Recommendation No. 16 on Safeguarding Irregularly Present Migrants from Discrimination. The Commissioner for Human Rights of the Council of Europe has identified the broad issues that may come before courts in Europe in relation to the housing of Roma as follows: (i) discrimination in access to housing, (ii) discrimination in housing policy and practice, (iii) segregation in informal settlements and excluded localities, (iv) substandard housing

⁷ *Yordanova and Others v Bulgaria*, judgment of 24 April 2012. *Winterstein and Others v France*, judgment of 17 October 2013. For more information, see: Factsheet – Roma and Travelers Available at http://www.echr.coe.int/Documents/FS_Roma_ENG.pdf

⁸ The information has been taken from Romanita Iordache's Report on Measures taken under the RED 2013, available at http://www.non-discrimination.net/search/apachesolr_search/Romania?page=2&filters=

⁹ *Connors v. the United Kingdom*, Application No. 66746/01, Judgment of 27 May 2004.

¹⁰ See, for instance Roma migrants in Europe Recommendation 2003 (2012), Roma migrants in Europe Reply to recommendation (Doc. 13162) (2013), Roma migrants in Europe, Report by Mr Ferenc KALMÁR, Doc. 12982 (2013), Roma migrants in Europe, Report by Ms Annette GROTH Doc. 12950 (2012)

conditions, (v) security of tenure and forced evictions, (vi) enjoyment of the right to adequate housing by Travellers, and (vii) homelessness¹¹.

The Committee of Ministers, in its 2005 Recommendation on improving the housing conditions of Roma and Travellers in Europe, noted that states parties “*should undertake a systematic review of their housing legislation, policies and practices and remove all provisions or administrative practices that result in direct or indirect discrimination against Roma, regardless of whether this results from action or inaction on the part of state or non-state actors.*” It further stressed that “In order to combat the creation of ghettos and segregation of Roma from the majority society, member states should prevent, prohibit and, when needed, reverse any nationwide, regional, or local policies or initiatives aimed at ensuring that Roma settle or resettle in inappropriate sites and hazardous areas, or aimed at relegating them to such areas on account of their ethnicity.”¹²

Pursuant to collective complaints that registered regional NGOs submitted, the European Committee of Social Rights has found various member states liable for violating the housing rights of Roma and Travellers¹³.

Within the ESC and the ECSR standards, the collective complaint’s procedure is only possible to use if the national framework allows it, where there had been ratification, but also when the civil society has the capacity to engage, to take charge of these procedures which are often very long and demanding of resources. In this context, the contributing and effective role of equality bodies and human rights institutions in partnership with civil society in this area is stressed.

¹¹ Human rights of Roma and Travellers in Europe, Council of Europe, 2012, pp. 137-156.

¹² Committee of Ministers, Recommendation Rec(2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe.

¹³ The number of complaints is rather high, including those launched by the European Roma and Travellers’ Forum as well as the European Roma Rights Center, available at <http://hudoc.esc.coe.int/eng#>.

5. THE INTERNATIONAL FRAMEWORK: LAW AND POLICY

The right to adequate housing is multi-faceted requiring a diverse range of measures from policy-based initiatives, financial commitment through to legal support. It is vital in the exercise of all other human rights; therefore the right to housing is both an independent right and 'enabling' right.

Right to housing under international and European law

References to the right to housing in the international instruments have appeared since 1948 when this right was stipulated in the Universal Declaration of Human Rights¹⁴. Moreover the right to housing has been also reaffirmed in a number of international human rights documents:

- the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹⁵ that calls upon States Parties to take all necessary steps to ensure the fulfilment of the right to adequate housing;
- the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)¹⁶;
- the Convention on the Rights of the Child (CRC)¹⁷;
- the Convention relating to the Status of Refugees¹⁸ which also reference the right to housing;
- 1995 Framework Convention for the Protection of National Minorities (ETS No. 157);
- 1961 European Social Charter (ETS No. 35) (Article 16); its additional Protocol of 1988 (ETS No. 128) (Article 4); its additional Protocol of 1995 providing for a system of collective complaints, and the Revised European Social Charter of 1996 (ETS No. 163) (Article 31);
- the Convention on the Rights of Persons with Disabilities (Article 9 and 28);
- the Racial Equality Directive 2000/43/EC.

5.1 The impact of the legal instruments

Despite the availability of legal instruments to combat the housing situation for Roma and Travellers, only a very low number of complaints alleging discrimination in the field of housing have reached Equality Bodies and/or Ombudsperson offices.

Evidence in 2016, from the FRA's European Union Minorities and Discrimination Survey (EU-MIDIS) indicates that in the nine EU Member States where Roma were surveyed, one in four (26 per cent) Roma had been discriminated against in access to housing in the last 12 months. Only 12 per cent chose to report such incidents to the relevant bodies. Most believed nothing would be achieved from doing so. Respondents were also asked about their awareness of legislation that prohibits discrimination in relation to ethnicity when renting or buying a flat. 36 per cent of the respondents surveyed know that there are law prohibiting discrimination based on skin colour, ethnic origin or religion, while about one third (35 per cent) say that there is no such law, and 27 per cent do not know whether such legislation exists. The results differ considerably across countries, with the lowest awareness levels in Portugal. This lack of rights awareness suggests that the message about the right not to be discriminated against is not reaching some of the most vulnerable minorities in Europe. It becomes obvious that in the human rights

¹⁴ According to Article 25.1, 'Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing [...]' UN General Assembly (1948), available at: <http://www.un.org/en/documents/udhr/> (16.7.2009).

¹⁵ UN General Assembly (1966), Article 11(1), available at: <http://www2.ohchr.org/english/law/cescr.htm> (16.7.2009).

¹⁶ UN General Assembly (1981), Article 14.2 (h), available at: <http://www2.ohchr.org/english/law/cedaw.htm> (16.7.2009).

¹⁷ UN General Assembly (1990), Article 27.3, available at: <http://www2.ohchr.org/english/law/crc.htm> (16.7.2009).

¹⁸ UN General Assembly (1951), Article 21, available at <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf> (16.7.2009).

approach, the right holders are not fully aware of their rights. The issue then is how to strengthen the capacity of rights holders to claim their rights.

The severe deterioration of Roma and Travellers living standards calls for attention from **a rights based approach** as efforts to improve the social inclusion and economic integration of Roma and Traveller need further reinforcement by all key stakeholders. This includes Member states whose duty is to deliver public policies in accordance with the hard and soft laws of the EU and wider international treaties, equality bodies and human rights institutions as rights defenders and civil society.

5.2 The role of the equality bodies

Almost all EU Member States have by now established equality bodies that can receive discrimination complaints¹⁹, although the scope of their mandate varies. For example, they may have a mandate to award compensation directly, e.g. without recourse to a court; or to impose fines or to issue an opinion or a recommendation. Some equality bodies are empowered to launch judicial proceedings before a court or a quasi-judicial body examining cases of discrimination, either in their own right and/or on behalf of the applicants, in order to obtain a binding ruling on a finding of discrimination. **Equality bodies as human rights defenders should also strengthen their capacity to fulfil their obligations toward the rights holders.**

The OPRE²⁰ Joint **statement** on evictions was a shared initiative between the Office of the United Nations High Commissioner for Human Rights (OHCHR), the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and OPRE Platform partners in an attempt to condemn the illegal evictions of Roma and Travellers in Europe. Signatories strongly condemn forced evictions without due process and provisions of adequate alternative housing. Such evictions violate international human rights obligations.

The statement highlights the long-term negative implications of eviction that can result in physical and psychological problems, including emotional trauma and lasting social isolation, which particularly affects elderly people, women, children, and people with disabilities.

5.3 Implementation at national level: Member states approach to housing

Efforts to improve equal treatment and foster social inclusion need to actively combat residential segregation. Some housing projects targeting Roma and Travellers maintain or deepen the isolation and segregation of these communities. Segregation can severely limit the access to education, employment and health care for many Roma and Travellers. Segregated or insecure settlements mean inadequate or interrupted access to schooling; living in segregated sites means fewer opportunities to hear about work or to use public transport to get to work, and there is evidence that having an address in a certain Roma area means that job applications are outright rejected. Inadequate standards of housing lead to poor health and higher incidences of diseases, and segregated sites mean more difficult access to medical facilities. There is also evidence that segregation makes Roma and Travellers more susceptible to violent attacks.

¹⁹ A list of equality bodies is available at: <http://ec.europa.eu/social/main.jsp?catId=616&langId=en>

²⁰ The establishment of the **OPRE** platform is the result of the joint conference of the Council of Europe, the European Network of Equality Bodies (Equinet), the European Network of National Human Rights Institutions (ENNHRI) and the European Union Agency for Fundamental Rights (FRA), which took place in October 2013 in Vienna. The conference set the scene for closer cooperation among national bodies and between national and international bodies. It was agreed to establish such platforms for collaboration on pressing topics such as asylum and migration, Roma integration, combating hate crime, and advancing social and economic equality

Many of the Council of Europe member states have recognised the need for the adoption of Roma-specific initiatives for the residential inclusion of Roma. However, still failed to improve the housing situation of Roma and Travellers commensurably with the funds that have been expended and the expectations they nurtured. The reasons are *a) that these initiatives are often not based on adequate, ethnically disaggregated data, and are without timetables or benchmarks for assessment and b) the reluctance of some regional and local authorities, which are often the bodies responsible for local housing policies, to implement effectively the national housing policies*. Many local and regional authorities treat Roma and Travellers as ‘unwelcome guests’, a reaction prompted by the prevailing prejudice of sections of local communities. Furthermore, even when state authorities have the power to put pressure on local authorities to implement housing policies for Roma and Travellers, there is little evidence that they are willing to do this.

Member States must take action to prevent Roma and Travellers from becoming homeless, in particular by ensuring access to social housing and by setting up procedures to limit the risk of evictions.

5.4 The role of Roma and Traveller civil society

In a rights-based approach, the realisation of rights is a shared responsibility. Roma and Traveller civil society who represents Roma and Travellers can articulate grassroots level needs and assist them in the interpretation of these experiences into policy decisions.

Roma and Traveller civil society can help facilitate access to the basic rights outlined in international and domestic legal instruments. Thus, when governments face challenges in meeting the needs of the population, Roma and Traveller civil society can safeguard Roma and Traveller rights. As advocates and experts they are able to reflect and transmit their experiences directly to international bodies and policy makers through a designated channel which makes civil society’s voice and insights more salient. As complementary actors, they can facilitate the directions of the Council of Europe actions through constructive and mutual dialogue. Moreover collaboration between the state, civil society and where relevant, private entities, can lead to a more stable and effective provision of social services and promotion of greater social inclusion.

Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe reiterates the heightened need for mutual efforts in promoting common standards in the field of human rights and fundamental freedoms particularly in times of shrinking democratic space.

The findings of the European Commission’s Report on the evaluation of the EU Framework for National Roma Integration Strategies up to 2020 (**COM(2018)0785**) underlined the shortcoming of housing policies and initiatives in putting an end to the exclusion of Roma.

To this effect, the [European Parliament resolution](#) of 12 February 2019 on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against anti-Gypsyism from January 2019 recommended to involve Roma representatives and NGOs to enable the meaningful implementation of the housing policies and hence strengthen ownership.