

ROMA AND TRAVELLERS



DEPARTMENT FOR
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HUMAN RIGHTS

DG1

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ROMA AND TRAVELLERS

These summaries are made under the sole responsibility of the Department for the Execution of Judgments of the European Court and in no way bind the Committee of Ministers.

1. <i>ACCESS TO JUSTICE</i>	3
2. <i>RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE</i>	4
2.1 Forced sterilisation of Roma women	4
2.2 Protection from hate crime	4
2.3 Housing rights	5
3. <i>PROTECTION OF PROPERTY</i>	7
4. <i>RIGHT TO EDUCATION</i>	8
<i>INDEX OF CASES</i>	10

Roma and Travellers¹ in Europe have been facing widespread anti-Gypsyism, which entails widespread discrimination.² The European Court has underlined that as a result of their history, the Roma have become a specific type of disadvantaged and vulnerable minority, therefore requiring special protection. It has noted that the vulnerable position of Roma means that special consideration should be given to their needs and their different lifestyle, both in the relevant regulatory framework and in reaching decisions in particular cases. The Court has also observed that there could be said to be an emerging international consensus among the member States of the Council of Europe recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle, not only for the purpose of safeguarding the interests of the minorities themselves but to preserve a cultural diversity of value to the whole community.

The present factsheet provides examples of general and individual measures reported by States in the context of the execution of the European Court's judgments, concerning notably: access to justice, right to respect for private and family life, including issues related to forced sterilisation of Roma women, protection from hate crime and housing rights, protection of property and right to education.³

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

² See Committee of Ministers Recommendation [CM/Rec \(2017\)10](#) on improving access to justice for Roma and Travellers in Europe.

³ Issues concerning Roma and effective investigations into ill-treatment or death caused by security forces are covered in the [Thematic Factsheet on Effective Investigations](#), section 5, Investigating special motives of crime.

1. ACCESS TO JUSTICE

After the Court's judgment criticising the discriminatory refusal by a domestic court to suspend the applicant's imprisonment sentence, because of her Roma origin, the Prosecutor General requested the reopening of proceedings, in response to the Court's indication that reopening would be the most appropriate individual measure. In April 2011, the Supreme Court of Cassation (SCC) quashed the final judgment in the applicant's case, relying on Article 46 of the Convention. The SCC made a new assessment of the applicant's situation and amended her sentence, finding that she had met the conditions to have her three-year sentence suspended. It considered, *inter alia* that the previous domestic courts' rejection of the prosecutor's request for suspension of the sentence was a "blatant violation of the principles of equal treatment and prohibition of discrimination". The compensation awarded by the Court has been transferred to the applicant's account. The applicant also claimed compensation under the 1988 State Responsibility for Damage Act against the courts which delivered the impugned sentence. According to the authorities, the ensuing compensation proceedings provided adequate compensation to the applicant for the period of the prison sentence which has been effectively served.

BGR / Paraskeva Todorova
(37193/07)

Judgment final on
25/06/2010

Final Resolution
CM/ResDH(2016)156

The violations in this case originated in the authorities' refusal to allow eight Roma women to photocopy their own medical records which impeded them from effectively presenting their case before domestic courts. To prevent the recurrence of such violations, Section 25 of the Health Care Act 2004, in force as of 1 January 2005, expressly empowers patients or those authorised by them to make copies of medical records. On the basis of the new legislation, seven of the applicants were able to make photocopies of their files and the one whose medical records were lost could seek redress before the domestic courts for alleged negligent handling of her medical records.

SVK / K.H. and Others
(32881/04)

Judgment final on
06/11/2009

Final Resolution
CM/ResDH(2012)56

2. RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

2.1 Forced sterilisation of Roma women

These cases concern forced sterilisations of Roma women carried out between 1999 and 2002 in the absence of appropriate safeguards regarding the reproductive health of Roma women. In response to the findings of the Court based on the legislation in force at the material time,⁴ the authorities adopted Health Care Act 2004, which became operative on 1 January 2005. It governs in detail the provision of information to patients and their informed consent and its Section 40 spells out the prerequisites for sterilisation. These include a written request and written consent following prior information concerning, *inter alia* alternative methods of contraception, planned parenthood and the medical consequences of sterilisation. No sterilisation may be carried out until at least thirty days after informed consent has been given. A new Regulation was adopted in 2013 to ensure that the requirement of consent be uniformly understood by all health establishments and to standardise the conduct of health professionals.

SVK / V.C., N.B. and I.G. and Others
(18968/07, 29518/10, 15966/04)

Judgments final on
08/02/2012, 12/09/2012,
29/04/2013

Final Resolution
CM/ResDH(2014)43

2.2 Protection from hate crime

The Court criticised the failure to protect a Roma Muslim from a series of apparently ethnically and religiously motivated attacks by his neighbours, mainly due to deficiencies in the investigation.

The Prosecutor's Office provided examples of new practices regarding the investigation of criminal complaints concerning the encouragement of violence or hatred on the basis of race, skin colour, religion, origin, or nationality as well as relevant case law of the Podgorica High-Court. Moreover, a series of targeted awareness-raising activities for the judicial and prosecution authorities took place, including a regional Conference on the prohibition of discrimination, organised by the Constitutional Court in 2017. The judgment was also used in training activities of the Centre for Training of the Judiciary and Public Prosecution.

The sum awarded by the Court for the non-pecuniary damage incurred was paid by the authorities. After the re-examination of the casefile, the public prosecutor established that a new investigation was not possible as criminal prosecution of the events in question had become time-barred prior to the European Court's judgment. In the meantime, the applicant had moved and settled in Belgium.

MON / **Alković**
(66895/10)

Judgment final on
05/03/2018

Final Resolution
CM/ResDH(2018)384

These cases stem from the racially motivated destruction between 1990-1993 of Roma homes in four localities in the Harghita, Giurgiu and Mureş counties. The violations relate, *inter alia* to improper living conditions, as well as to the general discriminatory attitude of the authorities

ROM / Moldovan and Others, Kalanyos and Others, **Tănase** and Others

⁴ “[...] The 1972 Sterilisation Regulation and the Health Care Act 1994 required patient’s consent prior to medical intervention. However, those provisions [...] did not provide appropriate safeguards. In particular, they allowed a situation to occur in which an intervention of a particularly serious nature was carried out without the applicant’s informed consent as defined in the Convention on Human Rights and Biomedicine, by which Slovakia was bound at the relevant time.” (§ 152, *V.C. v. Slovakia*, [18968/07](#)).

who chronically failed to address this issue. As of 2000, key steps were taken to prevent the repetition of such violations, including the Government Ordinance No 137/2000⁵ aimed at preventing and punishing all forms of discrimination and the creation of the National Council for Combating Discrimination (CNCD), in 2002, *inter alia* to promote national strategies⁶ for the implementation of anti-discrimination measures, including with regard to Roma. In response to the judgments, targeted action plans were adopted and implemented to improve or provide, where necessary, infrastructure, decent living conditions, for example, through the reconstruction of houses and/or the provision of social housing, or the creation, where needed, of medical centres, schools, kindergartens, cultural centres, as well as the acquisition of necessary equipment in the counties concerned. Actions have also been taken in the field of education and training of adult Roma, as well as encouraging their participation in the economic, social, educational, cultural and political life of the local community through the promotion of mutual assistance and community development projects. To prevent discrimination, stereotypes and interethnic conflicts, special education programmes were implemented in schools, as well as information programmes for the general public and legal training involving people from the Roma community.

(41138/98, 62954/00,
57884/00)

Judgments final on
30/11/2005, 26/07/2007,
26/08/2009

Final Resolution
CM/ResDH(2016)39

Final Resolution
CM/ResDH(2015)214

Final Resolution
CM/ResDH(2015)238

In response to the failure to effectively investigate an attack by private individuals on a Roma settlement, on 1 February 2014, "extremism" was introduced as an offence into the Act on Offence 1990. A new regulation on fighting extremism and fan violence was issued in 2014 by the Ministry of Interior, introducing specialised investigators for crimes of extremism and racially motivated crimes. Amendments to the Code of Criminal Procedure and to the Criminal Code entered into force on 1 January 2017 to enhance the efficiency of investigations concerning racially motivated crimes, the jurisdiction for such crimes being transferred from the District Courts to the Specialised Criminal Court. Also, awareness-raising activities and training for prosecutors and judges were organised.

SVK / *Koky and Others*
(13624/03)

Judgment final on
12/09/2012

Final Resolution
CM/ResDH(2017)86

The investigation into the attack concerning the applicant, which had been suspended in 2003, was pursued in 2012 without leading to the identification of a perpetrator. The investigation was further suspended under Article 228 of the Code of Criminal Procedure, as the established facts did not provide any material basis for pressing charges. Victims could claim civil liability under domestic legislation.

2.3 Housing rights

The Court found a violation of the right to respect for home of 25 Travellers due to their eviction from their land, ordered by a 2005 ruling, for which proportionality had not been later appropriately examined by the domestic courts. After the Court's judgment on merits, in 2015, the Court of Cassation referred a similar case to the Court of Appeal of Versailles, for failure to examine the proportionality of such measures with regard to the right to private and family life and respect for home. This development in domestic case law was welcomed by the European Court in its judgment on just satisfaction. However, the case law of the Court of Cassation varies depending on whether the irregularly occupied land belongs to a private person - where a quasi-systematic proportionality of the interference regardless of the occupants is found - or to the

FRA / *Winterstein and Others*
(27013/07)

Judgments final on
17/01/2014, 28/07/2016,

Action plan

Status of execution: pending

⁵ The Regulation transposed Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁶ National Strategy 2007-2013 for the implementation of measures fighting discrimination.

public domain (in which case an examination of proportionality is always required). Measures were also taken to develop the provision of suitable housing for Travellers, notably by the 2017 Law on equality and citizenship, which enshrines the consideration of rented family sites. A new decree of December 2019 on permanent reception areas and family rental plots for Travellers provides, in particular, for publicity measures to inform them and the presence of representatives of their community in the plot allocation commissions.

3. PROTECTION OF PROPERTY

The Court found a violation due to the authorities' discriminatory refusal to recognise the validity of the Roma applicant's marriage aiming to establish the applicant's entitlement to survivor's pension, despite her husband's having paid social-security contributions for over nineteen years, their having lived together since 1971, having had six children, and having been granted "large-family" status. To counter similar future violations, the authorities adopted Law No. 40/2007, in force as of 1 January 2007, of which supplementary provision 3 recognises the right to a widower's pension (reversionary pension) in the case where the beneficiary would have led an uninterrupted life together, for a minimum of six years before the latter's decease. Moreover, a transitional legal provision was added to allow persons who had not been deemed eligible to a pension to apply for it within 12 months after the entry into force of the Law.

*ESP / Muñoz Díaz
(49151/07)*

*Judgment final on
08/03/2010*

*Final Resolution
CM/ResDH(201)265*

4. RIGHT TO EDUCATION

In response to the Court's finding discriminatory the placement of Roma children, due to their origin, in special schools for children with intellectual deficiencies, the authorities replaced, in 2005, the criticised special schools by a reduced educational programme for children with "mild mental disabilities". In September 2016, the Education Act was amended and abolished the reduced educational programme to allow children with special educational needs to be educated in mainstream schools, under an individualised educational plan and, where necessary, a less demanding curriculum. Education outside of mainstream classes became possible only with parental consent and only when integration into mainstream classes was not possible. Following this reform, the proportion of Roma primary school children in mainstream classes has gradually increased, while the proportion of Roma children educated under less demanding curriculum or under individualised plans was dropped in 2019. New review and monitoring bodies oversee the work of the school counselling centres which assess cognitive abilities and needs for support. The monitoring bodies are in turn subjected to review by the National Institute of Education at the request of the pupils concerned or their representatives, the school, the relevant public authority, or the Czech School Inspectorate (CSI). To ensure a successful start of primary education, all children aged five and over must attend a pre-school year, which may take place at home. The effects of the compulsory pre-school education, notably in socially disadvantaged areas, are to be evaluated within the project "Verification of the Impacts of the Introduction of the Compulsory Last Year of Pre-school Education". The applicants are beyond the age of compulsory schooling and no individual measures were necessary.

CZE / D.H. and Others
(57325/00)

Judgment final on
13/11/2007

Action plan

Status of execution: pending

In 2010, the Court criticised, *inter alia* the discriminatory and unjustified placement of Roma children in Roma-only classes based on their alleged inadequate command of the Croatian language. In response, the authorities abolished the "Roma-only" classes by amending, in 2010, the law governing primary and secondary education. The amendments provided for access to mainstream education for Roma children, who now follow the regular, full-scale curriculum in mixed classes. To ensure pre-school attendance of Roma children, a number of measures were taken including, *inter alia* the introduction of mandatory kindergarten and pre-school attendance for all children under the age of seven. Furthermore, measures were taken to help Roma children to attain an adequate level of command of the Croatian language, including the introduction of language testing on objective criteria, prior to enrolment in primary schools, which is applicable to all children who are not native Croatian speakers, irrespective of their ethnic affiliation. In 2011, the Ministry of Social Welfare and Family developed training activities to enhance the social services' capacity to address the problem of poor school attendance. Also, teaching assistance was reinforced in primary education. As of 2014, free textbooks and meals for children from families receiving social benefits are subsidised by the Ministry of Science and Education. Overall, in 2012, a National Strategy for Roma inclusion 2013-2020 was set up to raise the quality and efficiency of education of Roma children and increase the number of Roma children at all levels of education, in line with the CM Recommendation (2009)4 on the education of Roma and Travellers in Europe.

CRO / Oršuš and Others
(15766/03)

Judgment final on
16/03/2010

Final Resolution
CM/ResDH(2017)385

The applicants are over the age of 15, thus beyond the age of compulsory primary education. However, evening classes have been made available, should they wish to complete their primary education.

The Court found that the authorities had failed to provide schooling to Roma children during the 2004-2005 school year and that their placement, in 2005, in special preparatory classes, situated in an annex to the main school building, resulted in discrimination against them. In response, by ministerial decision No. 10781/D4/2008, a new ordinary primary school was established in Aspropyrgos - where the Roma community mainly resides - to receive both Roma and non-Roma pupils⁷. On a general level, in 2009 and 2010, circulars were issued, instructing school administrations on practices to facilitate school enrolment of Roma children. Also, a new education policy, inspired by the French model of *Zones d'éducation prioritaire* (ZEP), to eliminate discrimination against Roma children in national education, was introduced. These zones, including the Aspropyrgos area, aimed at reinforcing the inclusion by means of education of the socially most vulnerable groups, namely Roma, migrants, etc. Also, in 2011, the Ministry of Education launched *Dosta!* - the Council of Europe Awareness-raising campaign aiming at combating stereotypes and prejudice regarding Roma people. As of school year 2010-2011, two major Greek universities implemented the active admission of Roma children to the national education. Three educational centres for adults were also opened for Roma people above the age of fifteen. Furthermore, training activities within the European Training Programme for Roma Mediators (ROMED) were organised by the Council of Europe for school mediators and social workers to support Roma families. The authorities also provided special training courses on intercultural education for the schoolteachers. The Advisory Committee of the "Education for Roma Children" Programme, set up in early 2011 and composed of representatives from the Council of Europe, the European Commission, the OSCE/ODIHR and other major stakeholders, provides consultation, monitors, and evaluates the implementation and progress of the programme.

GRC / Sampanis and Others
(32526/05)

Judgment final on
05/09/2008

Final Resolution
CM/ResDH(2011)119

In these judgments, the Court criticised the discrimination of Roma children due to the authorities' practice of enrolling exclusively pupils of Roma origin in certain schools. In response, the Greek authorities informed that Roma children of school age at the time of the implementation of these judgments were enrolled in the various mixed public schools functioning in Aspropyrgos, Ano Liossia, Examilia, Chania, Amfisa, Megara and Sofades. The 12th elementary school in Aspropyrgos, criticised by the Court for enrolling exclusively pupils of Roma origin, was closed on 26 April 2014. In Sofades, the percentage of Roma pupils in public schools No 1 and No 2 increased. As to the Sofades school No 4, where all pupils are of Roma origin, the Greek authorities informed that this is due to the school's proximity to Roma settlements, but upon request of parents, these children can be transferred to other public schools, in accordance with a circular of November 2013, giving Roma pupils the right to be enrolled in a school or transferred to another school without providing proof of residence.

GRC / Sampani and Others
and Lavida and Others
(59608/09, 7973/10)

Judgments final on
29/04/2013, 30/08/2013

Final Resolution
CM/ResDH(2017)96

⁷ The issue of the functioning of the primary school in Aspropyrgos was examined by the Court, then by the Committee of Ministers in the context of *Sampani and Others* case.

INDEX OF CASES

<i>BGR / Paraskeva Todorova</i>	3	<i>MON / Alković</i>	4
<i>CRO / Oršuš and Others</i>	8	<i>ROM / Moldovan and Others, Kalanyos and Others,</i>	
<i>CZE / D.H. and Others</i>	8	<i>Tănase and Others</i>	5
<i>ESP / Muñoz Díaz</i>	7	<i>SVK / K.H. and Others</i>	3
<i>FRA / Winterstein and Others</i>	5	<i>SVK / Koky and Others</i>	5
<i>GRC / Sampani and Others and Lavidia and Others</i>	9	<i>SVK / V.C., N.B. and I.G. and Others</i>	4
<i>GRC / Sampanis and Others</i>	9		