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The Changing Face of Welfare

Sinan Gökçen

EXCLUSION from the labour market is one of the principal problems that Roma face in many European countries. Various studies conducted in Europe indicate that a great number of working-age Roma are unemployed. Discrimination, prejudice, and stereotypes are amongst the fundamental reasons which bar Roma from the labour market. Consequently, many Roma depend on social assistance to attain a minimum standard of living and, at times, some Roma need state support to survive. Deductively, it can be argued that Roma will be amongst the most affected by any change in the structure of social assistance schemes, as well as any ‘paradigm shift’ regarding the welfare state principles. Nowadays, the tendency to restructure social assistance mechanisms and inject more “market-friendly” features into them is gaining momentum in various European countries. The lack of equally vigorous measures to combat discrimination in access to the labour market as well as in access to social assistance schemes threatens to deepen the social exclusion of Roma and others in disadvantaged situations.

Social assistance schemes are one of the key instruments of the modern welfare state. The idea of redistributing resources to favour disadvantaged groups within society is regarded as a must in welfare so that there is social harmony and equality. In other words, welfare state policies aim at balancing the unfairness resulting from *laissez-faire* capitalism by transferring resources to the lower end of the income pyramid through various mechanisms and institutions. Therefore, the welfare state is an attempt to develop remedies for the stress created by capitalism without swerving radically from the capitalist system. As the remedial wand, the welfare state foresees an effective intervention of the public authority into the market mechanism.

One of the chief concerns of a welfare state is to integrate marginalised or disadvantaged groups into greater society. By doing so, the welfare state model strives to enact social justice, creating social equality within society on the one hand, and on the other hand increasing overall productivity and prosperity by recruiting excluded social groups into the labour and consumption market.

Historians trace the emergence of “welfare state” concept back to the introduction of social security measures by the German Empire’s first Chancellor, Mr Otto von Bismarck. Of course, when Bismarck initiated these reforms in 1884, his main objective was to maintain order and status in the newly emerged German nation-state by controlling the powerful industrial workers, thus strengthening the Reich’s muscle domestically, as well as internationally. However, Bismarck’s scheme, despite its shortcomings is considered a pioneering attempt to bring institutional responsibility to the state for the redistribution of income, a task until then mostly carried out by civil society such as charity foundations, personal initiatives or religious institutions. The traumas of the Second World War period redefined economic, political and social priorities in Europe. The post-war era is the period in which the modern welfare state gained impetus as a model to which to aspire within the capitalist system.

Today, in the so-called post-industrial era, European welfare state systems face serious challenges. Globalisation and global competition force adjustments in economic parameters leading to the erosion of cumulative taxes. The demographic picture is changing due to low birth rates and increasing life expectancy. Immigration and transnational ties and confusion regarding the concept of citizenship generate new sociological debates also related to the welfare

system, such as deciding who is ‘in’ and who is ‘out’. As a result, many European countries have undertaken structural changes and remodelled their welfare systems.

The Lisbon Process reflects these concerns and tries to provide strategies to counter them at the European Union level, aiming to reform the Member States’ welfare regimes. It targets higher employment rates, in tandem with higher productivity; with a particular emphasis on women and the elderly. However, the Lisbon Process does not include concrete references concerning the inclusion of other disadvantaged groups. Roma are amongst the forgotten parties. Furthermore, the Lisbon Process promotes a radical departure from traditional ‘passive’ welfare measures such as social assistance and introduces new mechanisms such as active labour market policies and flexible employment contracts. In this regard, the “burden of welfare” shifts from state to the individual. The Lisbon Strategy has been designed to strengthen competitiveness in the global arena. This is a justifiable concern; however, the end result should not prioritise market forces at the expense of basic security for individuals.

Active labour market policy (or activation policy) is one of the key components of the Lisbon Process. It intends to empower individuals through various opportunities to secure their inclusion in the labour market. While the idea sounds like a win-win situation for everyone, a closer look reveals its inherent flaws. These policies should

potentially benefit many Roma directly, since exclusion from the labour market is one of the primary problems that Roma face.

This issue of Roma Rights presents various articles on how the changing dynamics of the welfare state affect Roma. In her article, Tara Beardard presents the results of recent ERRC research indicating that, in many instances, activation measures fail to achieve their goal due to a lack of adequate mechanisms targeting discriminatory employers and the poor quality of the activation measures offered to Roma and Travellers.

In a similar vein, Erika Szyszczak examines the “right” to social security in the European Union and portrays two conflicting trends in this domain: “On the one hand access to a minimum level of social protection is recognised as a fundamental right, at the EU and the national constitutional level. On the other hand traditional social protection schemes are increasingly threatened by the modernisation agenda.” Finally, Larry Olomoofe explores the role of NGOs in enabling disadvantaged groups’ access to social services, analyses the challenges that NGOs face in this regard, and questions the relations between civil society organisations and public authorities.

We hope that this edition of the Roma Rights Quarterly triggers further discussion about the changing dynamics of social assistance and how this evolution will impact Roma and other disadvantaged groups.

Employment Activating Social Assistance Schemes Not Working for Roma and Travellers

Tara Bedard¹

IN RECENT YEARS, the social assistance schemes of many European countries have evolved significantly. Many have moved from social welfare oriented schemes to activation oriented schemes. This shift implies a move from merely providing social aid recipients with some level of income to offering social assistance recipients a minimum level of income as well as a wider range of options including training, education, subsidised employment, work placement, language-learning skills, etc., in order to empower them to return to the labour market and foster their social inclusion.

This shift is widely acknowledged to be positive and necessary in order to actually achieve the social inclusion of marginalised groups such as Roma and Travellers.² According to the European Anti-Poverty Network, the goal of activation measures is “social inclusion and professional mobility by empowering the claimants to improve their competencies and skills, physical and mental health, to establish social contacts, improve feeling of participation and citizenship”³ - essentially a move from strategies of help to those of self-help.

Importantly, “*additional service to further social inclusion is emphasised, not obligations*”. Activation is an investment in human, social, psychological and cultural resources. The aim of activation

is labour market integration but also social integration in a wider sense. The strategy is broad, taking the multi-complexity of problems into consideration and offering tailored intervention for individual needs and expectations. As such (social) activation can include excluded groups with the most serious problems, who are furthest away from the job market [...]”⁴ (emphasis added).

It goes without saying that this is an incredibly ambitious policy shift. At the same time, concerns have been noted about the manner in which activation schemes are implemented. People working in the field have questioned the extent to which employment activation social assistance schemes have decreased unemployment levels and the number of unemployed persons, and they have even posited that levels of social exclusion and poverty have increased. It is claimed that most people are activated (read: forced) to participate in activation measures and programmes without subsequently being able to secure employment. Responsibility for continued unemployment is then placed on the shoulders of the social assistance recipient who was provided with the “necessary” assistance, and the cycle of prejudice and social exclusion continues.

The impact of this shift on Roma and Travellers is cause for special concern when one considers the high levels of unemployment amongst Romani and Traveller communities in Europe

¹ Tara Bedard is the ERRC Projects Manager.

² There are various distinct ethnic groups in France that comprise the group commonly referred to as *Gens du Voyage* (Travellers); such groups include Travellers, Yenish, Gypsies, Roma, Sinti, Kale and Manouch, amongst others. The term Traveller is used in this article to refer to members of all aforementioned groups.

³ European Anti-Poverty Network. *Can Activation Schemes Work for Social Inclusion? EAPN Criteria for “Good” Activation*. November 2005. Available online at: http://eapn.horus.be/module/module_page/images/pdf/pdf_publication/EAPN%20Publications/position/Activationpaper_en.pdf.

⁴ *Ibid.*

and the resulting widespread reliance of such groups on social assistance schemes. It was to explore the way in which social assistance schemes work with respect to Roma and Travellers as well as the access of Roma and Travellers to social assistance generally that led the European Roma Rights Centre, in partnership with the Portuguese social research centre Númena Centro de Investigação em Ciências Sociais e Humanas, to undertake research in the Czech Republic, France and Portugal in 2006.⁵ A full-length report entitled “Social Inclusion Through Social Services: The Case of Roma and Travellers” containing the results of this research was published by the ERRC and Númena in March 2007 and presented at a conference in Lisbon.⁶ This article focuses on some of the results of this research in France and Portugal, where employment activation social assistance models have existed for several years.⁷

The Position of Roma and Travellers in France and Portugal

According to the French National Institute for Statistics and Economic Studies (INSEE), in 2005 the rate of employment in France was 69.15%, while the French government listed a national unemployment rate of 9.1% in its National Action Plan for Social Inclusion 2003-2005. The results of 2006 field research undertaken in Traveller communities around France indicated that the corresponding rates for the French Traveller community were 26.7% formal employment and 70.4% unemployment. Of those Travellers that indicated formal employment, 94% were engaged in part-time entrepreneurial work through small enterprises registered with the Chamber of Commerce. The level of unemployment dropped

to 38.8% once part-time informal employment activities were accounted for.

In Portugal, the employment rate was 68.1% in 2003, while unemployment was 6.3%, up from 5% in 2002. Field research results from 2006 indicate rates of 15.6% formal employment and 84.4% unemployment amongst Portuguese Roma. The level of unemployment dropped to 44.2% when taking into account part-time informal employment activities.

The Social Assistance Schemes of France and Portugal

France’s social income is called the Minimum Insertion Revenue (Revenu Minimum d’Insertion – “RMI”). In Portugal, the relevant social assistance scheme is called the Social Integration Income (Rendimento Social de Inserção – “RSI”). As the names of these programmes suggest, the RMI and RSI are intended to be conditional, temporary forms of income support for unemployed individuals who are not eligible for unemployment benefits, which should lead to labour market inclusion via associated activation measures offered to the recipient by the state.

Each programme specifies that RMI and RSI beneficiaries must enter and sign an Insertion Contract in which they undertake to search for employment through local unemployment offices, undergo training initiatives stipulated by social services, and possibly enter subsidised employment contracts, amongst other conditions. The progress of the recipient in achieving employment is to be checked at regular intervals (usually every three months), with the continued

⁵ *This work was supported by the European Commission and the core donors of the ERRC. The author coordinated the research towards and took the lead in drafting the report on which this article is based. The author and Larry Olomofe conducted the research towards the report in France. In Portugal, the research team included Monica Catarino-Ribeiro, José Falcão, Edite Rosário and Rahul Kumar.*

⁶ *The full report can be found in Czech, English, French and Portuguese on the ERRC website at: <http://www.errc.org/cikk.php?cikk=2737>. For copies of the report, contact the ERRC at: office@errc.org.*

⁷ *This type of social assistance model was only introduced in Czech Republic in January 2007 and research in this country therefore did not focus on this. However, various actors have expressed concern that the manner in which the Czech government introduced this shift, without any real adjustment measures, will lead to a situation similar to that experienced in Slovakia. For information on the move to activation assistance in Slovakia, see: <http://www.errc.org/cikk.php?cikk=2537>.*

THE RIGHT TO SOCIAL ASSISTANCE IN THE UN

The United Nations' Universal Declaration of Human Rights states:

Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 25: (1) 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.

The United Nations' International Covenant on Economic, Social and Cultural Rights states:

Article 9: The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

receipt of the minimum income support conditional upon a positive assessment by social service workers for those individuals who were unsuccessful in securing employment.

activation measures offered, the approach of social service workers to assisting recipients, the narrow focus of the measures implemented and the model of activation/inclusion measures implemented. The remainder of this article will discuss in detail the problems revealed by the research.

The Results of the Research

Both social assistance schemes are widely acknowledged to be important sources of income for Romani and Traveller communities in France and Portugal. Regarding access to social assistance, almost everyone interviewed in need of such received the relevant benefit; there were, however, problems noted with the administration of the benefits. Further, documentation undertaken by the ERRC and Númena during 2006 underscored a number of ways in which activation oriented measures are failing when it comes to achieving their overall goal of labour market activation by Romani and Traveller recipients.

The problems highlighted during discussions with social assistance recipients, social service workers, civil society organisations and government officials can be summarised in several categories. These related primarily to the quality of the

Inadequate Quality of Activation Measures

Cornerstone to employment activation social assistance schemes are the associated “benefits” offered to social assistance recipients which are intended to aid people in re-entering labour markets. Such benefits often take the form of education and training opportunities, subsidised work contracts or assistance in job seeking at state-run employment offices. In Portugal, another measure linked to RSI receipt is mandatory school attendance by the children of RSI recipients.⁸

Tellingly, none of the Romani and Traveller RMI/RSI recipients interviewed in the course of the study had ever achieved regular employment as a result of insertion measures linked to RMI/RSI. Nor had anyone been offered or entered into

⁸ *The utility, impact and fairness of such a measure has been the subject of debate; this, however, was not the subject of the research and is not explored in this article as such.*

subsidised work contracts financed by the French government in order to integrate RMI recipients into the labour market. In Portugal, several individuals had been offered traineeships within the RSI programme wherein they worked for several months with a firm, but none had been hired on as regular employees at the end of the traineeship. These individuals were extremely frustrated with the RSI process and felt that they would never secure employment given the current level of effort by the government to assist them.

One difficulty with activation policies where Roma and Travellers are concerned relates to the conclusion of the Insertion Contracts themselves. The associated measures that aim to foster labour market activation are specified in individual Insertion Contracts, yet even the completion of these contracts with Roma and Travellers appeared to be problematic in France and Portugal. For example, in France, only 54.7% of the Travellers interviewed had signed Insertion Contracts that they were aware of; 45.3% did not have or did not know if they had Insertion Contracts.⁹ In Portugal, many Romani RSI recipients reported experiencing long waits between applying for and being granted RSIs. Some individuals had had applications pending for up to a year, and several had received no response.

Where Roma and Travellers did have Insertion Contracts, most noted that social service workers had never actually asked or required them to undertake any of the insertion measures contained therein. In France, only 16.7% of the Traveller RMI recipients interviewed had been sent for any sort of training or education activity as a condition of their Insertion Contracts. Fifty-nine percent of the persons interviewed in France stated that they had never been sent for any training or

education initiative (of these individuals, it is interesting to note that 64% were women). An additional 24% stated that their Insertion Contracts did not specify any such measures because they had registered small enterprises with the Chamber of Commerce.¹⁰ None had been required to seek employment at local employment offices. In Portugal, many Romani RSI recipients indicated that they had not been required to undergo any form of training or seek employment through local employment offices.

Where insertion measures had been made available to RMI/RSI recipients, the quality of the measures provided Roma and Travellers by social services or employment officers were considered inadequate and unlikely to achieve their goal. In Portugal, there appeared to be institutional barriers for Roma in accessing most of the skills training offered: The criteria set for accessing most training opportunities included the completion of mandatory schooling, which many Roma have not. For almost all of the Roma and Travellers who had been offered any training initiatives, the training addressed only basic skills such as reading and writing.

The quality of this service was very low according to the interviewees, and most people were still illiterate though the training was long finished. Some French Travellers indicated that they appreciated the training offered but did not feel that the teachers had actually made efforts to teach the people (mostly Travellers and immigrants) that were in their classes.¹¹ Further training programmes aimed at developing specific skills required for employment had not been offered to any of the French respondents. Several Roma in Portugal had been provided computer skills

⁹ *This, however, did not necessarily mean that these people had not signed Insertion Contracts. The privatisation of social service administration had created a number of problems in this area that contributed to a low knowledge of social assistance processes and mechanisms. For a detailed discussion of this situation, see the article by Larry Olomoofe entitled "Très Difficile: Problematic of Civic Associations' Intervention in Human Rights Situations" on page 23 of this journal.*

¹⁰ *People with small enterprises registered at the Chamber of Commerce were able to engage in various employment activities, such as trading goods in markets, and were required to report earnings every three months. At this time, their monthly RMI payment for the coming period was adjusted to reflect their average earnings. This was called "differentiated RMI", insofar as the RMI was considered a form of income supplement for those working but not earning enough to support themselves or their families.*

¹¹ *For example, ERRC interview with Ms M., a Traveller woman from Aubervilliers. November 2006.*

training although none had secured employment subsequently; several others had been waiting for extended periods for such training.

Most of the Roma and Travellers interviewed expressed frustration and a feeling of humiliation with this process. For this reason, basic reading and writing courses are very likely to fail, and even if they become literate, few individuals will ever actually succeed in securing employment with such qualifications. Most of the respondents felt that the training courses they had attended had been a waste of their time, as they were in any case, still without employment. The shortcomings of the insertion measures inherent in employment activation social assistance processes are magnified as a result of further failures of this system, which are detailed in the rest of this article.

Flawed Approach of Social Services to Assisting Recipients

In order for employment activation social assistance policies to be successful, social and employment service and other government actors must approach their responsibilities in a constructive manner intended to actually assist social assistance recipients. However, empirical research indicated that, in most cases, social service workers and other government actors often approached their work in exactly the opposite manner. In Portugal, the approach encountered corresponded more to the workfare approach to social assistance of the United States, the aim of which is to reduce the costs of social assistance schemes by tightening the conditions of and controls over access to benefits. In France, the approach of social workers appeared to be that of ignorance; most Travellers were hardly present in the RMI process and no one appeared concerned by this.

In Portugal, most social service workers interviewed during research expressed the opinion that most Roma stay home all day and do nothing; most also considered RSI recipients to

be lazy. At the same time, paradoxically, most social service workers also believed that most Roma work illegally (i.e. while staying home all day) and make false claims for RSI. This belief was grounded in the fact that some Roma in Portugal earn money by selling goods in the street or through other visible informal activities, which fuelled the opinion of social workers that all Roma earn money in this manner. Almost all social service workers and all social security workers interviewed disparagingly referred to Roma who pick up their RSI payments in Mercedes. During interviews, social service workers spent a great deal of time focused on the need for tighter control over the allocation of RSI.

As a result, many social service workers, whose job was to assist RSI recipients through the insertion process and to help them re-enter the labour market, in fact spent a great deal of time making efforts to “discover” false claims to RSI with respect to Roma, while this appeared to be less of a concern with regard to non-Roma. This they accomplished through their subjective interpretation of “exterior signs of wealth”,¹² which social service workers are empowered to investigate and interpret during home visits that are part of the RSI process. Persons exhibiting “exterior signs of wealth” face their social benefits being cut off completely or reduced without notice.

The belief that Roma exploit the system corresponds to widely held prejudices in Portugal and results in discrimination at the institutional level in the RSI process. Until social service workers stop focusing on proving their belief in the illicit behaviour of Romani RSI recipients to be true and devoting time to this end, they will not be able to effectively assist those same individuals through a process intended to foster their insertion in the labour market.

The specifics of the insertion process in France were somewhat different, but the end result was the same. In France, the address of a caravan site is not sufficient for most purposes and Travellers choosing to live in caravans must register their

¹² *This is a broad category that is up to the individual interpretation of the social service worker. “Exterior signs of wealth” have included cars, televisions, radios, gold earrings and other family heirlooms that were most often received as gifts during wedding and other celebrations.*

THE RIGHT TO SOCIAL ASSISTANCE IN THE COUNCIL OF EUROPE

The Revised European Social Charter states:

Article 12: The Right to Social Security

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

1. to establish or maintain a system of social security;
2. to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;
3. to endeavour to raise progressively the system of social security to a higher level;
4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
 - a) equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;
 - b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

Article 13: The Right to Social and Medical Assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition; *continued on next page →*

domicile elsewhere, most often with an association, in order to access RMI benefits. In order to do so, these individuals must pay a fee¹³ that non-Travellers do not.

Representatives of associations and Travellers alike indicated that, once domiciled through an association, the association took over the administration of the RMI benefit on behalf of the individual. Effectively, this resulted in the complete removal of the Traveller concerned from the RMI process.

Insertion Contracts were sent from the Case of Family Allowances (CAF), which is responsible for

the RMI programme, to the relevant association that then arranged that the Travellers concerned signed the agreement. As noted above, many Travellers interviewed were not even aware if they had signed an Insertion Contract because everything was done through the association and they merely signed when and where told. Many were not offered any activation measures that would result in their inclusion in the labour market. Social service workers seemed content with this situation – i.e., one in which Travellers were not present in the system – and did not appear to make many efforts to meet with Traveller RMI recipients and ensure that the RMI process was working for them.

¹³ *This fee is paid to the association for the service provided because at the same time that the state approves such a system, it does not provide adequate funding to associations involved in the administration of social benefits.*

2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

Article 14 – The Right to Benefit from Social Welfare Services

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Article 30 – The Right to Protection against Poverty and Social Exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

1. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
2. to review these measures with a view to their adaptation if necessary.

Narrow Focus of the Measures Implemented

Another hindrance to the success of employment-oriented social assistance schemes for Roma and Travellers is that the measures formulated and implemented only focus on the people receiving social assistance; corresponding effective measures targeting employers do not exist.

The measures associated with the RMI and RSI benefit in France and Portugal do include subsidised work contracts aiming to provide incentives for employers to hire RMI and RSI recipients. RMI and RSI recipients may also frequent employment offices to receive assistance in searching for jobs. However, merely offering

such contracts and assisting with the job search process does not address widespread discrimination by employers against Roma and Travellers in gaining access to employment.

Employment office workers stated that employer reluctance contributed to their inability to place Roma in jobs advertised through their offices. Several went further to state that when considering applicants with similar qualifications, employers always choose the non-Romani candidate.

The RMI and RSI programmes of France and Portugal do not include any measures targeting employers aimed at reducing discrimination in (accessing) the labour market. Broader social policy in both countries is also lacking such measures.

This structural omission appears to institutionally support the premise that Romani and Traveller, and indeed all, social assistance recipients bear the sole responsibility for their unemployed status. It ignores the presence of and denies the impacts of discriminatory practices by employers.

Employers and other relevant actors are not forced to shoulder their share of the responsibility. Employers are offered the “option” to hire individuals receiving social assistance at subsidised prices but are not required to ensure a discrimination free hiring process or work environment. Nor are they held accountable for discriminatory hiring practices. It is not the responsibility, or even within the purview, of social service or employment office workers to ensure employers meet these basic criteria for employment activation of excluded and marginalised groups such as Roma and Travellers. Indeed, it does not appear to be any government actor’s responsibility to ensure that these basic conditions for labour market entry by marginalised and discriminated groups like Roma and Travellers are enforced. Whilst this has ramifications for all social assistance recipients, Roma and Travellers are very likely disproportionately impacted given the widespread racism and discrimination they experience across Europe.

Whose Model of Activation?

The final question surrounding employment activation social assistance schemes relates to the model of “social inclusion” and “employment” being promoted. As indicated above, the scope of the professional training offered within these schemes is quite limited and there is not much room for personal choice by the social assistance recipient. Most training offered is geared towards employment in an office setting, which may not be desirable for everyone. Nor do these options compliment the skill sets and other resources of many of the Romani and Traveller social assistance recipients interviewed.

Certainly, many Roma and Travellers indicated that they were not really interested in the employment opportunities made available as a result of

the measures associated with their social assistance. This was particularly true in France, where such forms of employment would necessarily force Travellers to live in one place to “succeed” within the RMI scheme and result in their inability to live their chosen lifestyle. Similar sentiments were, however, expressed in Portugal, where Roma do not practise a travelling lifestyle.

Many people interviewed indicated that they would be interested in undergoing training and accreditation programmes associated with their traditional forms of employment, for example landscaping, but this was not an option under the current system. This form of training and accreditation would also be necessary in many cases as vocational trades are becoming increasingly regulated and persons without proper accreditation are not able to practice their trade legally, as is the case in France. One young man in Portugal was reportedly using his RSI benefit to pay for biblical studies to become a preacher until his social service worker threatened that his RSI would be cut if he did not attend a vocational training programme offered by a state-approved service provider. The young man (still unemployed at the time of research) was forced to abandon studies for his chosen profession; one that would likely have resulted in secure income.

The employment activation social assistance model must become more flexible and allow for personal choice and cultural adaptability in order to succeed for specific groups like Roma and Travellers.

The Final Result

The inherent problems of employment activation social assistance policy have resulted in exceedingly low achievement levels where Roma and Travellers are concerned. As demonstrated above, barriers to the effectiveness of employment activation social assistance schemes appear to be structural rather than merely the fault of the recipients as many people would suggest.

In both France and Portugal, Romani and Traveller individuals appear to be long-term dependent on

social assistance schemes as a result of persistent exclusion from labour markets, discrimination and now the failure of employment activation social assistance schemes. In France, information made available online by the National CAF indicates an average length of dependency on RMI of 4.02 years in France.¹⁴ According to the responses of the Travellers interviewed by the ERRC, the average length of reliance on RMI by Travellers was 10.4 years. In Portugal, most interviewees did not answer questions related to their length of reliance on RSI. Of the 7 individuals that provided this information, 4 had received RSI support for more than 4 years. The vast majority of the remaining individuals had been intermittently on and off RSI and therefore did not indicate a specific period of reliance. ERRC and Númena researchers noted that the de facto situation was one of long-term reliance on RSI as income.

In the French government's 2003-2005 National Action Plan for Social Inclusion, the government noted some progress in the re-entry of RMI recipients into the labour market; namely, a 20% increase in 2001 and 5.2% in 2002. ERRC/Númena research indicated a stark contrast with regard to Traveller RMI recipients. Of forty-two individuals that were receiving RMI, not a single one had re-entered (or entered) the labour market as a result of activation measures associated with their social assistance. In Portugal, none of the Roma interviewed during research had secured regular employment.

The Way Forward

If employment activation social assistance schemes are to become successful for Roma and Travellers

THE RIGHT TO SOCIAL ASSISTANCE IN THE EU

Charter of Fundamental Rights of the EU sets out;

Article 34: Social security and social assistance

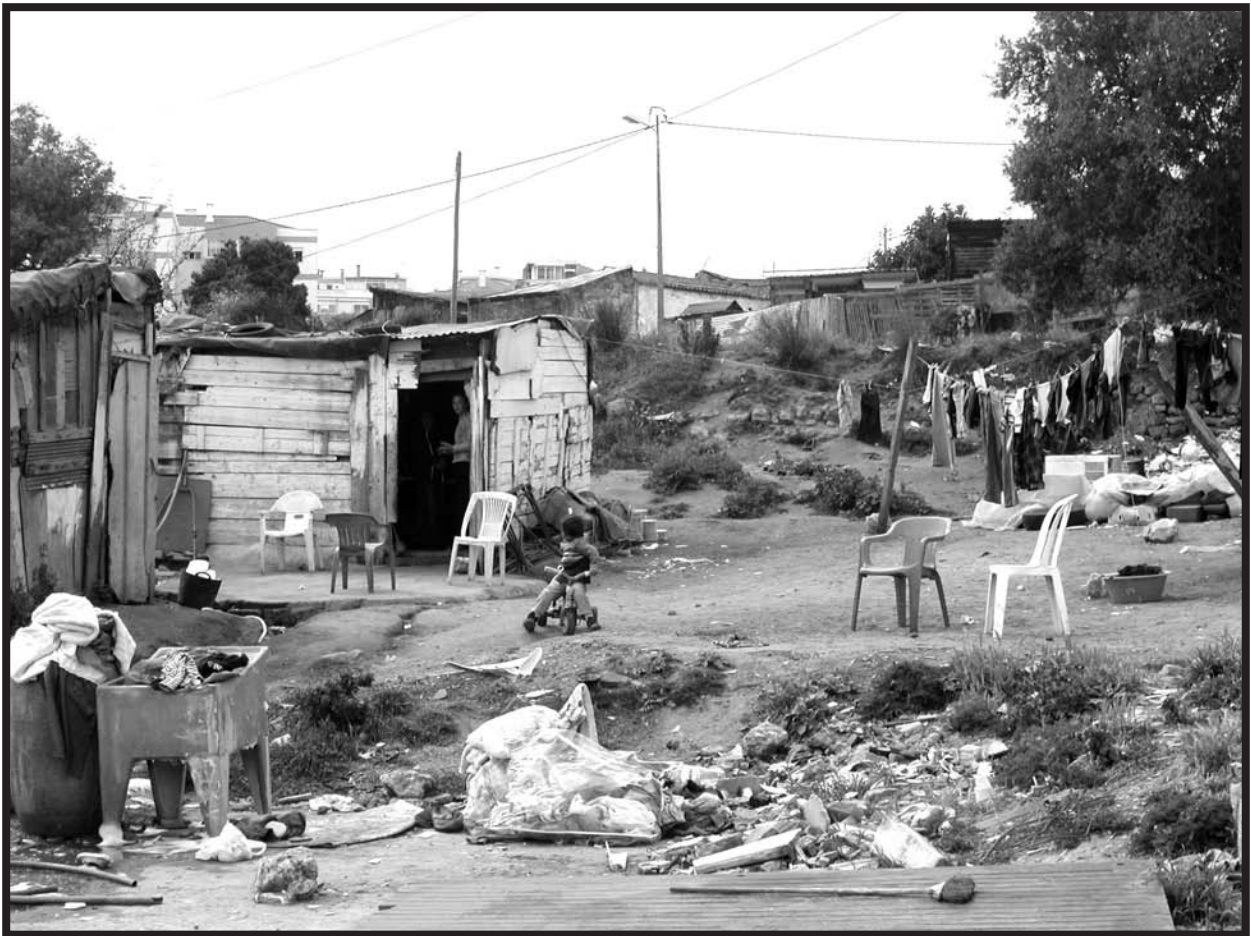
1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.

in Europe (to the extent possible given the current number of available jobs and the opportunities for growing labour markets), a major revision of the existing schemes is necessary, as is indicated above.

The quality and scope of activation measures associated with such social assistance schemes must be increased dramatically. In order to contribute effectively to their goal, associated measures must, at minimum:

- Be individualised, taking into account the specific characteristics, skills and needs of the person;
- Be relevant and flexible to the individual's wishes and skills;
- Be free of institutional barriers for marginalised groups;
- Be determined through partnership between social assistance recipients and social services at every stage; and

¹⁴ Figure estimated by the ERRC and calculated as the weighted average of duration of benefit, from the breakdown of all beneficiaries by the starting year of the benefit available at: [http://www.cnaf.fr/web/WebCnaf.nsf/090ba6646193ccc8c125684f005898f3/c513799a11eb71fcc1257192004ed4d5/\\$FILE/Fascicule%20PL%20AL%20et%20RMI%20au%2031%2012%202005.pdf](http://www.cnaf.fr/web/WebCnaf.nsf/090ba6646193ccc8c125684f005898f3/c513799a11eb71fcc1257192004ed4d5/$FILE/Fascicule%20PL%20AL%20et%20RMI%20au%2031%2012%202005.pdf).



Many Roma in Portugal live in conditions similar to those of the Vila Resende Romani settlement, outside Lisbon. A considerable increase in the effectiveness of social policy is of utmost urgency to foster real change for these communities.

PHOTO CREDIT: TARA BEDARD/ERRC

- Be monitored by social service workers who are fully aware of their roles and responsibilities in the process and held to those duties by strong management and structures.

They must also be amended to include an equal focus on the duties of other parties responsible for the social exclusion of Roma and Travellers and their absence from labour markets, including employers (public and private), government actors, and social and employment workers.

Activation measures must target these groups and also hold them responsible for creating an open and inclusive work environment. They must

address factors of discrimination and exclusion in society through:

- Empowering social and employment service workers to act in cases of discrimination by employers;
- Making mandatory anti-discrimination and diversity training for all employers (public and private);
- Designing and implementing strict standards for realising positive actions such as subsidised employment schemes and other positive measures to ensure Roma and Travellers also benefit from social services; and
- Enforcing anti-discrimination law standards.

Equal Rights for the Romani Population

Jean-Michel Belorgey¹

IN THREE DECISIONS, dated 8 December 2004, 7 December 2005 and 18 October 2006, the European Committee of Social Rights, the regulatory body for the Council of Europe's Social Charter, found that Greece, Italy and Bulgaria had failed to satisfy their commitments under articles 16 and/or 31 of the Charter regarding the housing of Roma, both their own and foreign nationals present in their countries.

In doing so, the Committee specifically rejected certain arguments presented by the states in their defence, relating to the lack of relevant statistics, the decentralised management of housing policies and the inability of Roma to meet the eligibility conditions for housing, which were the same for all applicants.

Unfortunately, domestic and international courts that hear cases concerning the rights of Roma and Travellers do not all show sufficient zeal in taking account, to the extent that is legally and ethically necessary, the relevant convention provisions concerning social rights, respect for human dignity and discrimination.

The case of *D.H. and others v. the Czech Republic* first came before the European Court of Human Rights in 2000 after a long period in the Czech courts, as is normally the case given the conditions governing applications to the Court. In February 2006, the Court reached the – to put it mildly – disappointing decision that placing

eighteen Romani children (in accordance with regular practice in many eastern European and Balkan countries) in special schools for children with learning difficulties, despite the fact that their intellectual capacity was quite normal, was undoubtedly inappropriate but was not the result of discrimination by the Czech authorities. It remains to be seen what will become of the application when it is considered in the Grand Chamber, and how the latter will apply Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and more specifically its case-law in such cases as *Thlimenos v. Greece* of 6 April 2000 and *Connors v. United Kingdom* of 27 May 2004,² according to which the principle of equal treatment requires persons in different situations to be treated differently, to the extent that this is necessary.

There can be hardly any doubt that selecting one particular type of school rather than another for the education of Romani, or Traveller, children on the basis of criteria designed for all children itself entails a discriminatory element, as is also demonstrated by the consequences of such an approach, namely, the concentration of such children in segregated forms of schooling.

But ostracising Roma is not confined to eastern Europe and the Balkans. And although pogroms are not such an established tradition in western and northern Europe as they are in Slovakia or Romania, we are well aware from experience in Béziers,

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² *According to which the vulnerable position of Roma and Travellers means that special consideration should be given to their needs and their lifestyle, including those living on the edge of the law.*

France, or at the Bobbin Mill Encampment in Pitlochry, Scotland, that all sorts of excuses, such as illegal presence in the country or unlawful settlement on a flood plain, are used to justify the refusal to offer Romani and similar children normal, or any, schooling. Other techniques are used to deny Roma access to housing, evict them or drive them away, such as increasing the parking charges on caravan sites, destroying the dwellings they occupy (since 2006, several hundred homes occupied by Roma have been destroyed in greater Istanbul and Bursa, on the Black Sea and in Turkey in general), restricting caravans to increasingly confined areas, attributing the rejection suffered by Roma and Travellers to their antisocial behaviour and, as in the case of French law,³ criminalising breaches of legislation that exclude such persons and are deliberately designed to provoke such breaches.

The Romani presence is pervasive in eastern Europe, where opposition to it has often taken violent forms, whereas western Europe has only ever experienced the backwash of Romani migration, though it has been no more successful in coming to terms with it. Yet between the two there is a certain obscure and obscene connivance. An example is the systematic rejection by the French Office for the Protection of Refugees and Stateless Persons of asylum applications from Roma, whether Christian or Muslim and whether from Serbia, Croatia or Kosovo, all areas ravaged by civil war and ethnic cleansing. In these conflicts, as under the Nazis, Roma have borne more than their share of such cleansing.

Two of the major issues facing contemporary society, those of social marginalisation or exclusion, and of migration to developed countries from the countries of the south, are the focus of a debate that is often marked by a variety of ideological or partisan differences.

The first issue involves, on the one hand, those who are naturally inclined to accept social differences and otherness and enter into dialogue with persons who embody another history and different values, or who have at least understood that there is practically no alternative if we wish to avoid new crusades or wars of religion and persecution, inquisitions and proscriptions of all kinds, and, on the other hand, those who feel justified in affirming the primacy and non-negotiability of their own values and the need for others either to accept them or resign themselves to leaving the country.

The second rift is between those who believe, with varying shades of refinement, in the existence of genetic, cultural and historical determinants linked to the collective history of a nation or ethnic or social group, and those who believe, again with varying shades of refinement, although this is not what they are generally noted for, in the autonomy of each human being, which is either innate or can be acquired, through the combined effects of individual will and external pressures or constraints. In the view of the latter group, human beings worthy of the name are capable of extricating themselves from fatalism, physical or mental fatigue, superstition and violence.

The dividing line in the second case is not necessarily the same as between the first set of differences. However, it also reflects, in the case of the second group, a form of ethnocentrism. It is also based on a sort of faith in the freedom of individuals and their capacity, linked to this freedom, to escape from the shackles of their collective or individual childhoods, as well as on a tendency to ascribe what seems to be a rejection of dominant values to these shackles and to accuse those who fail to follow the path offered to them of abnegation, laziness and a lack of character. This leads to

³ *In an article entitled, "L'hospitalité façonnée par le droit, la loi Besson sur l'accueil et l'habitat des gens du voyage," Anne Gotman offers a revealing account of the parliamentary debates that accompanied the vote on 5 July 2000 on the «Besson Act» on sites and accommodation for Travellers; see *Ville et hospitalité: les municipalités et leurs étrangers*, Editions de la Maison des sciences de l'homme, 2004. But at least the Besson Act represented a certain progress. The March 2003 Sarkozy Act and the 2006 Crime Prevention Act on the other hand were clearly backward steps, with up to six months' imprisonment, fines or seizure of the vehicle for illegal parking of caravans and the possibility of removing caravans from their stopping place without a court order. Under these circumstances, in all probability, France could be held to be in violation of the Charter.*

their disqualification and, in more than one case, to their being held hostage.

Is there only one form of rationality? Are there not, in reality, several which, with the aid of numerous tricks, accommodations and totalitarian urges, are in constant ebb and flow within each system of representation of the world? Given this, it would be vain to believe that the deviations and aberrations that are

thought, by those outside, to be reflected in certain forms of conduct or behaviour can be overcome by making a single system of rationality the yardstick by which to judge conduct based on another such system.⁴ Even the courts are occasionally aware of this, when they are able to free themselves from the demands of their environment and their own ways and customs. They alone can make the point with sufficient force. They must do so.

⁴ See Belorgey, Jean-Michel. "Manières de penser le social". In *La Revue administrative*, No. 34, July 2003.

Equal Access to Social Protection in the EU

Erika Szyszczak¹

ON ITS WEBSITE, the European Commission asserts that:

“Social protection systems are highly developed in the European Union. They protect people against the risks of inadequate incomes associated with unemployment, ill health and invalidity, parental responsibilities, old age or inadequate income following the loss of a spouse or parent. They also guarantee access to services that are essential for a life in dignity.”²

The organisation and financing of social protection systems is still regarded as being within the responsibility of the Member States. The European Court of Justice states, on a consistent basis:

“[...] it is not in dispute that Community law does not detract from the power of the Member States

to organise their social security systems, and that, in the absence of harmonisation at Community level, it is for the legislation of each Member State to determine the conditions in which social security benefits are granted [...]”³

Information on the main social protection schemes in each Member State of the European Union (EU) is compiled by the Mutual Information System on Social protection (MISSOC).⁴ Thus, in theory the EU has very limited competence to intervene in social protection issues and it is very difficult to envisage a time when social protection could be harmonised across the EU. One area, relating to legal migration by EU nationals within the EU and their ability to claim social protection in another Member State as an EU migrant worker, has been the subject of co-ordinating legislation at the EU level.⁵ However, the European Women’s

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² See: http://ec.europa.eu/employment_social/social_protection/index_en.htm.

³ European Court of Justice. Case C-372/04. *Watts v Bedford Primary Care Trust and Secretary of State for Health*. Judgment of 16 May 2006, paragraph 92. Available at: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en&newform=newform&alljur=alljur&jurcdj=jurcdj&jurtpi=jurtpi&jurtfp=jurtfp&alldocrec=alldocrec&docj=docj&docor=docor&docop=docop&docav=docav&docsom=docsom&docinf=docinf&alldocnorec=alldocnorec&docnoj=docnoj&docnoor=docnoor&typeord=ALLTYP&allcommjo=allcommjo&affint=affint&affclose=affclose&numaff=&ddatefs=&mdatefs=&ydatefs=&ddatefe=&mdatefe=&ydatefe=&nomusuel=Watts+&domaine=&mots=&resmax=100&Submit=Submit>.

⁴ See: http://ec.europa.eu/employment_social/social_protection/missoc_en.htm.

⁵ Normally, however, the right of citizens to move freely between the Member States and to reside in another Member State is contingent upon the migrant and her family having sufficient financial resources and sickness insurance. See Directive 2004/38/EC (on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States), Directive 2003/109/EC (concerning the status of third-country nationals who are long-term residents) and Case C-200/02 *Zhu and Chen*. European Court of Justice, judgment of 19 October 2005. Available at: <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en&newform=newform&alljur=alljur&jurcdj=jurcdj&jurtpi=jurtpi&jurtfp=jurtfp&alldocrec=alldocrec&docj=docj&docor=docor&docop=docop&docav=docav&docsom=docsom&docinf=docinf&alldocnorec=alldocnorec&docnoj=docnoj&docnoor=docnoor&typeord=ALLTYP&allcommjo=allcommjo&affint=affint&affclose=affclose&numaff=&ddatefs=&mdatefs=&ydatefs=&ddatefe=&mdatefe=&ydatefe=&nomusuel=Chen+&domaine=&mots=&resmax=100&Submit=Submit>.

Lobby refers to the observation made by the United Nations Population Fund/International Organization for Migration Expert Group Meeting in New York, in 2006, that:

“Equal numbers do not confer equality of treatment. Women have fewer opportunities than men for legal migration; many women become irregular migrants with concomitant lack of support and exposure to risk. Whether they migrate legally or not, alone or as members of a family unit, women are more vulnerable than men to violence and exploitation. Their needs for health care, including reproductive healthcare, and other services are less likely to be met. They have more limited opportunities than men for social integration and political participation.”⁶

The European Women’s Lobby has argued that the EU fails to integrate women’s perspectives in a comprehensive way in its activities on immigration and integration, particularly the fact that women often live their lives under situations of multiple discrimination. In the “Roadmap for Equality Between Men and Women”, adopted in March 2006, the Commission makes specific commitments to promote gender equality in migration and integration policies in order to ensure women’s rights and civic participation, to fully use women’s employment potential and to improve women’s access to education and lifelong learning. Two key actions are proposed: To monitor gender mainstreaming in the Framework for the Integration of Third Country Nationals in the EU⁷ and the follow-up Policy Plan on Legal Migration.⁸

The EU has also taken competence to enact legislation giving rights to equality in a limited area of State social security schemes.⁹ This Directive,

however, has many exclusions, particularly in relation to old-age and survivor’s benefits, where differences in pension provision may create inequalities and reduce women to living below the poverty level.

However, social protection is increasingly being Europeanised by a number of political processes. Firstly, opportunist litigants are questioning restrictive rules of the Member States which prevent a person who is a national of one Member State (often known as an “EU Citizen”) from going to another Member State to obtain medical treatment. These cases are sometimes known as “healthcare tourism” cases because the litigants use the free movement of services provisions to assert their right to take advantage of medical services in another Member State. People usually want to move to obtain treatment faster, or to take advantage of medical treatments which are not available in the home State. For example, in one British case, a woman decided to go to France and pay for a hip replacement operation rather than wait, in pain, for the British health service to provide the operation free of charge under the National Health Service. She then asked for reimbursement of the expenses involved. The European Court of Justice ruled that while a Member State is able to determine its own health care and social protection system, this right must be exercised in accordance with Community law and a Member State could not place obstacles to the right to free movement in order to obtain medical services abroad.

The EU recognises that the Member States need to be able to plan for their welfare and healthcare services and the Commission has encouraged the Member States to use the Open Method of Coordination (OMC) to iron out the problems which can result in too many patients travelling abroad

⁶ *European Women’s Lobby. Public Seminar and Workshops: Equal Rights, Equal Voices Migrant Women in the EU. Brussels, 19-21 January 2006. Available at: <http://www.womenlobby.org>.*

⁷ *Commission of the European Communities. 3 January 2006. A Roadmap for equality between women and men 2006-2010. Available at: http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2006/com2006_0092en01.pdf.*

⁸ *Commission of the European Communities. 21 December 2005. Policy Plan on Legal Migration. Available at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0669en01.pdf.*

⁹ *Council of the European Communities. Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31979L0007:EN:HTML>.*

for medical services. The OMC enables high-level groups of civil servants from the Member States to meet to agree some common guidelines on how to co-ordinate the different health care systems. Although the involvement of civil society is encouraged in these OMC processes the involvement of pressure groups, consumer groups and NGOs has been limited in this area. Thus, the particular issues raised by women and ethnic groups are not addressed fully, if at all.

Secondly, the EU has recognised that access to social protection is a fundamental right. The EU draws inspiration for a set of EU fundamental rights from the various constitutions of the Member States, international and regional obligations which are binding upon the Member States (for example the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter) and the case law of the European Courts.

The right to social protection is recognised in the 1948 Universal Declaration of Human Rights,¹⁰ the 1966 International Covenant on Economic, Social and Cultural Rights,¹¹ as well as various Resolutions of the United Nations.¹² The International Labor Organization has also

adopted three Conventions which address social protection issues. In Europe, the European Social Charter contains clauses which address the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to protection against poverty and social exclusion (Article 30), the right to housing (Article 31).

Several parts of the 1989 Community Charter on the Fundamental Social Rights of Workers establish the entitlement of all workers in the Community to social protection and an adequate level of social security benefits. Paragraph 2(e) establishes the right of migrant workers (who are nationals of an EU Member State) to equal treatment as regards access to work, working conditions and the social protection of the host State. Paragraph 10 establishes access to adequate benefits and income for all persons who are excluded from the labour market and who lack resources. The Charter, however, is not a legally binding document and does not give rise to rights which are legally enforceable before the national courts.

While these rights, contained in international documents, are important in that they create a consensus around which a constitutional approach to fundamental rights can be built, making them

¹⁰ *Article 22 of the Universal Declaration of Human Rights (UDHR) states, "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." Article 25 states, "(1) 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. (2) Motherhood and childhood are entitled to special care and assistance [...]."*

¹¹ *The International Covenant on Economic, Social and Cultural Rights states, at Article 9 "The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance." Article 10(2) further stipulates, "Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits." According to Article 11(1), "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."*

¹² *For example, United Nations Commission for Human Rights. Resolution 2001/28 "Adequate housing as a component of the right to an adequate standard of living," available at: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/b55ec111bb137c6cc1256a3b002da01a?Opendocument>; Resolution 2001/31 "Human rights and extreme poverty," available at: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/9333d1a23f1d812cc1256a3b002da40b?Opendocument>; and Resolution 2005/16; and "Human rights and extreme poverty," available at: http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-16.doc.*

non-negotiable rights, the substantive implementation and enforcement of these rights is difficult for individuals and NGOs. More specifically, they are general rights, and with the exception of maternity protection, do not address specific social risks experienced by women.

Currently, the right to social protection has become consolidated in Article 34 of the Charter of Fundamental Rights (CFR) of the European Union, in Chapter 4 of the Charter entitled “Solidarity.” It states:

“Social Security and Social Assistance

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.”

This “right” to social security is seen, at first sight, as a universal fundamental right to guarantee an adequate standard of living. Five specific risks are identified: Maternity, illness, industrial accidents, dependence or old-age and loss of employment. But this “right” is subject to Community law and national laws and practices and where the

relevant social services do not exist there is no obligation upon the State to create them. It thus quickly becomes an illusory right in terms of creating an enforceable obligation upon States. The right to a minimum income and the right to housing are not set out in Article 34 of the CFR, but can be deduced from the right to social and housing aid which must be respected and implemented in the context of the combating of social exclusion.

The Charter, then, does not have a binding legal status but it may be used as a teleological aid to interpret Community law.

Thirdly, since 1975 the EU has implemented a series of anti-poverty programmes to support studies, pilot projects and action programmes. These projects bring together networks of NGOs, the social partners, and central and local authorities. These programmes have resulted in Community soft law measures in the form of Resolutions and Recommendations.

Finally the EU has embarked upon a process of “modernising” social protection which is aimed reducing State involvement in pensions, addressing social inclusion, health care and long-term care and “making work pay,” which aims to ensure that social protection systems provide income security without discouraging employment.¹³ This is part of the Lisbon Process which has set a goal of making a decisive impact on the eradication of poverty in the EU by the year 2010 as part of the over-arching aim of making the European Union the most dynamic, competitive, knowledge-driven economy in the world by 2010.¹⁴

Thus, generally within the EU there are two countervailing tendencies. On the one hand, access to a minimum level of social protection is recognised as a fundamental right at the EU and the national constitutional level.¹⁵ On the other

¹³ European Commission. 22 December 2005. *A new framework for the open coordination of social protection and inclusion policies*. Available at: <http://europa.eu/scadplus/leg/en/cha/c10140.htm>.

¹⁴ European Commission. 12 February 2000. *Building an Inclusive Europe*. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0033:EN:NOT>.

¹⁵ *The majority of Member States with a written constitution recognise, to varying degrees, the right of access to social protection*. See: http://www.europarl.europa.eu/comparl/libe/elsj/charter/art34/default_en.htm.

hand, traditional social protection schemes are increasingly threatened by the modernisation agenda. Many public services in the EU are also threatened as they are liberalised and privatised.

The position of women's access to social protection is addressed in some areas of the modernisation and equality programme. But in others the gender specificity of women's relationship with social protection schemes is lost in the gender neutrality of the new rights and ideas which are emerging. This is despite the legal duty to mainstream gender issues through all EU policies.¹⁶ Yet the relationship women have to different sources of support (direct earnings, family earnings, state resources, public services), and how the various sources interrelate, determine women's living conditions since the way in which women combine different sources of support throughout their lives has a decisive influence on their ability to maintain economic independence.

A weakness of the structure of social protection schemes in Europe is the primary requirement of a consistent and continuous attachment to the paid labour market, earning minimum levels of wages and often satisfying qualifying periods in order to receive insurance-related social security benefits, with a lower level of safety-net benefits for people who do not qualify for the social insurance benefits. This immediately disadvantages women who may have lesser attachment to the paid labour market since their working lives are interrupted by maternity and family caring responsibilities and they may earn wages below the qualifying thresholds for insurance-related benefits. For many women migrants in the EU,

their immigration status may be irregular and they (and their employer) may not contribute to insurance-related social protection schemes as a result of this irregular status.

Women's relationship with social protection varies with their legal and economic status and at also with the different periods of their life cycle. There is evidence, for example, that in Europe there are wide variations in pension provision for older people: Denmark and Germany have a low poverty rate while the United Kingdom and the southern European states have higher poverty rates. Older women are more likely than older men to be living in poverty as a result of the domestic division of labour and lower earnings when in employment.¹⁷ On 8 February 2006, the Commission launched a consultation on improving the effectiveness of minimum income schemes in combating poverty and social exclusion, promising a Community initiative on minimum income schemes.¹⁸ In its response to this Consultation, the Platform of European Social NGOs point out that access to high quality services, such as social health, educational and transport services must be guaranteed as a core pillar of active inclusion policies at the EU level. This should include addressing discrimination and other obstacles to accessing services, ensuring the participation of users.¹⁹

In conclusion, the legal provisions addressing access to social assistance in the EU have a limited recognition of the particular issues affecting women, and Romani women in particular. While claims are made for mainstreaming gender issues and recognising multiple discrimination and diversity, Romani women still do benefit

¹⁶ Commission of European Communities. 3 January 2006. *A Roadmap for equality between women and men 2006-2010. Article 3(2)*. Available at: http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/com/2006/com2006_0092en01.pdf.

¹⁷ Eardley, J., J. Bradshaw and J. Ditch. September 2005. *Social Assistance in OECD Countries: Synthesis Report 46*. London, HMSO, 1996. *Closing Conference Report: Poor, Poorer, Poorest? A focus on the socio-economic situation of Older Migrant Women in Europe. The Netherlands, September 2005*. Available at: http://www.ageplus.nl/downloads/OlderMigrantwomenNLSept_2_rev.pdf.

¹⁸ Commission of European Communities. 8 February 2006. *Concerning a consultation on action at EU level to promote the active inclusion of the people furthest from the labour market*. Available at: http://ec.europa.eu/employment_social/social_inclusion/docs/com_2006_0044_f_acte_en.pdf.

¹⁹ Platform of European Social NGOs. *Achieving Effective Minimum Income and Active Inclusion Policies in the EU: What the European Union Can Contribute*. Available at: <http://www.socialplatform.org/module/FileLib/06-04SPResponseActiveInclusionFINALEN.pdf>.

from the realisation that many social protection schemes are based upon a model which does not address the specificity of the existence of Romani women in European society. The EU is engaged in various projects to address and integrate social exclusion/inclusion issues into the modern policies of the EU and many of these processes use the OMC as a means of involving civil society

and grassroots participation in consensus building. These projects create fora wherein Romani activists need to participate and raise the specificity of Romani needs in modernisation processes. Otherwise, it is all too easy for these processes to be determined at national/EU level without sufficient consideration of the actual needs of the people who require access to social protection.

Tres Difficile: Problematic of Civic Associations' Intervention in Human Rights Situations

Larry Olomoofe¹

IN THIS ARTICLE, I would like to explore the role played by civic-minded non-governmental organisations (NGOs) like the European Roma Rights Centre (ERRC) in cases of human rights abuses and abrogations instigated and/or compounded by the lack of governmental action. It is widely accepted that the differing forms of intervention by these organisations is necessary and indispensable. In many cases, without the role played by these various organisations, many people would go without the necessary assistance that they undoubtedly need. It is important to highlight the significant role these organisations play, but it is increasingly important to identify the problems that these organisations present in the pursuit of social justice, non-discrimination, equal rights, and access and opportunity for their different communities, constituencies, client-groups, etc. The genesis of this article lies in the many observations I made during a recent field research trip in and around Paris, France, in November 2006.²

During this time, I observed first hand, in an almost ethnographic sense, experiences and frustrations of those working for a number of civil organisations representing the interests of French Gens du Voyage (GDV) communities. My time in Paris helped to reinforce my perceptions of a sad development in civil society generally. Much of the work conducted by civil organisations is actually exacerbating the situation that many disadvantaged groups face. Far from solving

the problem, these organisations are inadvertently assisting the governments in containing the problems. Instead of conducting root and branch surgery to address the generation of certain social phenomena, governments simply “indicate” areas of interest and request applications for limited funds from interested parties and attempt to address fundamental social problems through poorly supported projects or initiatives. This created a sense of apathy amongst practitioners at all levels of action as they felt they were fighting a battle they were ill-prepared to deal with. In many cases, the shortfall between the needs of the client-group and the “services” provided led to insidious conflict amongst the various civil organisations that revolved around ethnicity, religious affiliation, political ideology, etc., replicating patterns of conflict in this sphere that characterise civil NGOs across Europe and worldwide. Perversely, and this is my main concern, the disadvantaged groups that rely upon the services that these organisations provide see them and not the government as the main reason why they have partial or in some cases, no access to social services and/or representation in cases of social iniquity.³

The palpable sense of hopelessness that many of these people felt stem from the fact that governmental agencies provided little or no assistance to them in the task of addressing issues that were legally the responsibility of the government. This highlights the inherent problématique of the involvement of civil organisations in profound

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² These observations formed part of a general view that I had been developing over the past few years through my work in the sphere of Roma rights. It can be said that the observations collected in France finally confirmed my thought-processes and compelled me to articulate the various levels of introspection that I had been conducting.

³ Again, this view is based upon a number of discussions I have had with members of disadvantaged groups across Europe over the years. The fact that my opinion crystallises around experiences gleaned in France is simply coincidental here and not suggesting that this phenomenon is particular to France.



French highway sign directing Travellers to a halting site in the south of France. Travellers living on these sites experience barriers in accessing social services.

PHOTO CREDIT: TARA BEDARD/ERRC

social issues pursuing social justice. Due to their admirable commitment to their communities and constituencies, civil organisations are now recognised as the sector that is supposed to contend with these matters. Therefore, various government agencies simply abdicate their own responsibility to address social phenomena such as segregated education and housing, and discriminatory practices in social services, healthcare, employment, etc. This is a highly contentious point to assert, but one that is valid nonetheless. Governments often talk of partnerships between the state sector and the civil sector. These “partnerships” are valuable normative fields within which to work, but they are simply not viable due to the restricted role played by state agencies. I contend that state actors feel that their role is simply to provide the bureaucratic/institutional framework – policy

development and implementation, limited funds, processes of accountability – for civil organisations to conduct their activities, and do little or nothing else. Therefore, the perception has been allowed to develop that civil organisations are the correct and appropriate institutions to conduct some of the work they do and not governmental state agencies. I have seen this in other spheres of human rights activities through my work with refugees and asylum-seekers in the Central and Eastern Europe (CEE) region, as well as through the experiences of ethnic and other minority groups in Europe and the USA. The perception has reified into a “natural state of affairs” and suggestions otherwise would seem unnatural, or in the very least, counter-ethical. Well, if it is “unnatural” to critique the role of civic-minded NGOs then we need to question the current state of affairs.

I am hoping that there are collective intakes of breath at this provocative assertion here and am willing to substantiate this point in any public forum or format. Fear of reprisals by government funding agencies effectively nuzzle critiques, complaints and concerns from these civil agencies, since many of them depend on funding from governments, or, in the very least, permission from the state in order to do the work they do. I intend to provide this critique here and present constructive insights. In order to substantiate my point, I will provide in-depth information below on the situation regarding social services in France gleaned from research information and experiences I gathered during my spell there in November 2006. This, I feel, will provide useful contextualisation of the contours of my argument for the reader.

I spent a fortnight in Paris and its surrounding suburbs conducting research on the social services sector in France and the impact of the French National Action Plan on Social Inclusion (NAP) on French GDV communities. The material gathered reveals that the administration and distribution of social assistance benefits for GDV recipients in France is overwhelmingly undertaken by third party agents such as various GDV associations and a number of local social work NGOs. Virtually every recipient of the Minimum Revenue of Insertion (RMI) that we interviewed during research was ignorant of exactly what they were entitled to under the broad range of social assistance offered by the state and how much their total benefit package was. In part, this was due to the specific nature of the situation in France where GDV communities continue to move from place to place and therefore tend not to have fixed, permanent addresses which are a prerequisite for receiving social assistance from the state. They were therefore dependant upon the aforementioned various networks of GDV associations and social work NGOs to receive their social assistance benefits. Also, due to the high levels of illiteracy among the GDV recipients of RMI, there was little knowledge of the benefits to which they were entitled and a reluctance to talk about the RMI since they had only rudimentary knowledge of the programme (aside from the fact that they were entitled to Universal Health Insurance (CMU) and the RMI from the age of 25). Consequently, the researchers found

it difficult to gather specific information from recipients of the RMI and other state social benefits among the GDV communities because of this apparent limited knowledge as well as a discernible lack of desire to speak about the programme without “authorisation” from the relevant association or NGO official.

The intervention of third parties in the disbursement of state benefits is encouraged by the French Ministry for Social Affairs, Labour and Solidarity (DGAS) due to the fact that French GDV communities have a particular problem with registration (domiciliation) and are encouraged to register with the relevant GDV association or social work NGO and subsequently use the address of the organisation as their fixed permanent address. Therefore, all matters related to the administration and receipt of the RMI benefit are conducted through the association/NGO and the money is subsequently sent to the offices of the relevant organisation. This creates a dependency amongst the GDV recipients on these organisations since their only source of regular income is dependent upon the capacities and intervention of these organisations and issues related to the continued receipt of the RMI is highly dependent upon the efficiencies of the organisation. A broad outline of the process is delineated below.

State

The Direction Generale of the Ministry for Social Affairs, Labour and Solidarity devises policy to be adopted in the administration and disbursement of the social benefits and has a department that is concerned specifically with the disbursement of social assistance for GDV communities in France. This department is split into three areas of concern:

1. Finance
2. Emergencies and housing
3. Access to law (Programme National Assistance)

Each department is supervised by an official and conducts in-depth research and analysis on the social situation of GDV in France, focusing on the issues of housing, healthcare, and

discrimination. Although the offices are separated into specific spheres of activity, there is close interaction and discussion amongst them since the separation is purely pragmatic and is a more efficient way to conduct the business of the Ministry. Results are then pooled and policy drafted based upon the information garnered from the various analyses conducted by the Ministry indicating what measures and strategies should be implemented to address the needs of GDV.

Policies are subsequently implemented at a local and regional level through the Case of Family Allowances Offices (CAF), which are supervised by local municipal governments (Conseil Generale). Due to decentralisation in the French state apparatus, these local offices exercise their right to discretion and “outsource” the administration of various state benefits to associations and NGOs connected to GDV communities indicated above. For instance, in the Paris suburb of Seine and Marne, this process is overseen by a committee of elected local members where the president is the most important municipal member. The programme there was overseen by Mr Jerome Bacholle who provided ERRC researchers useful insights into the administrative process related to the social assistance programme in the region.⁴ The municipal offices focussed upon the issues of housing, healthcare, education and access to law (obviously premised upon the Ministry’s Direction Generale) and programmes were implemented through the local CAF office. The local CAF office subsequently “outsourced” the administration of the programme to various associations and NGOs and they in turn implemented the policy on the ground amongst GDV communities.

Alarming, representatives at the regional CAF offices who were interviewed did not have any knowledge of the existence of the NAP. When ERRC researchers showed them the document, they asked “what is this?”⁵ In response, ERRC researchers told them that the document was the NAP

and that it was supposed to be the basis of government policies and actions aimed at integrating French GDV communities, and other socially excluded groups, into society. They then stressed that whilst they did not know the NAP themselves, the relevant people, i.e., their senior officers, did know. The “relevant people” were the policy makers in the Ministry for Social Affairs, Labour and Solidarity, and it was they who drafted specific policy, giving consideration to the provisions of the NAP. The role of CAF offices in this process was reportedly to implement the provisions of the Ministry, meaning that CAF officers seldom participate in the formulation of policy that they are implementing.

This indicated a rigid hierarchy where officials were simply concerned with executing their tasks within a specific realm and did not participate in other areas, even if they felt that they should be involved. Therefore, the people that implement government policies at ground level do not have any direct or active role in the development of policies related to GDV in France. This restrictive interstitial delineation presents a number of concerns that need to be addressed immediately by the French government. These are:

1. Limited knowledge of the French National Action Plan in the social assistance framework;
2. Heavily hierarchical process where officers closer to the recipients at the implementation level have limited or no opportunities for critical, analytical discussions with policy makers. Also, these same officers will have little intimate knowledge of policies they are implementing and therefore have little analytical scope regarding the “successes” of relevant policies; and
3. Current processes encourage the development of particular cliques that further exacerbate the cleavages that currently exists amongst GDV groups and their various representatives (please see section below for more detail on this).

⁴ Mr Bacholle was the “Charge de Mission” in Seine and Marne and his task was to focus upon the department’s scheme to build up “designated sites,” collaborating with nominated GDV associations in an effort to discern the best way to “insert” local GDV communities into society.

⁵ This somewhat troubling question was asked during an interview with two local CAF workers conducted in November 2006.

Implementing policies purely along technical grounds does not allow for a proper understanding of what the policy is attempting to achieve. Therefore, limitations of the perceived “successes” of government action in this field such as the current practice of outsourcing tasks to GDV associations and social work NGOs will not be placed in the proper context which allows for critical analysis of the results of such a practice. Because of this, it is fair to conclude that the policies are reduced to containing the matter instead of addressing, tackling and solving the fundamental causal factors behind the continual marginalisation of GDV in France. Since the people closest to the issue at the implementation level have no room to respond to the needs of the client group as they see/encounter them at ground level, this neutralises the overall effectiveness of the NAP since the process as it currently stands does not allow for a more robust and reflexive implementation of the NAP. Therefore, we can conclude that the true nature of the effectiveness of the NAP in France is mitigated at the very least by the overly bureaucratic and hierarchical process, and at the very worst, negated altogether.

GDV associations and social worker NGOs

These organisations play a crucial role in the access to state benefits for GDV communities in France. Fundamentally, they represent the hard edge of state policy related to the provision of social assistance since they operate at the interface level of the issue. They are the ones who meet with GDV clients, administer their particular claims, inform them of their entitlements under the various government programmes, and subsequently expedite and disburse payments. In effect, they perform the day-to-day duties of the government as well as pursue the interests of their GDV clients. These organisations tend to operate as “special interest groups,” working in the sole pursuit and benefit of GDV communities. In mentioning this, however, there is a fundamental difference in the composition of the two forms of representation highlighted here and this is outlined below.

1. GDV associations

These organisations tend to deal with the overall administration of social assistance payments. Due to the fact that many GDV recipients of the RMI do not have fixed addresses (a prerequisite for eligibility to receive the RMI), they register the address of the relevant association with which they are affiliated as their official address, and these organisations subsequently deal with the administration, receipt and disbursement of monies on behalf of their members. Although the associations are not paid any extra monies for the services they provide by the local governments, in some cases, they do charge a nominal fee to their members that cover salaries and other related expenses of expediting the process/payment of the RMI. ERRC researchers found that generally, these associations pursued the interests of their clients through the advancement of a political agenda that focussed upon the registration of caravans as “permanent homes,” monitoring forced evictions of families from sites, and seizures of caravans by the local gendarmerie, registration of “traditional” GDV businesses at the Chamber of Commerce, and the pursuit of registered, designated sites for parking of caravans within municipalities. Therefore, the administration of social assistance initiative represented only a part of the activities of these organisations’ modus operandi.

Placed within this broader political context, the task of expediting the RMI, for instance, can be an overwhelming and, in some of the cases observed during ERRC research, it was obvious that some of these organisations simply did not have the capacity to expedite the RMI process for their members as comprehensively as they should have. Therefore, some people were unaware of their full social assistance entitlement because their representatives (the association) were unaware of the full range of benefits provided by the state. Typically, GDV RMI recipients interviewed by the researchers received the basic RMI payment and healthcare insurance. Other benefits to which they were entitled in many of the cases were either not received, unheard of, or in other instances, partially received. This revealed a serious flaw in the process since it indicated that full enjoyment of the French government’s benefits programme by members of the GDV community was contingent upon the expertise of

the relevant representative association's staff and full understanding of the somewhat opaque state benefits programme.⁶ This places an unfair burden of responsibility on the various GDV associations since many of them also suffer from the limited educational skills that characterises French GDV communities. Additionally, since administration of the RMI represents only one of the tasks of the organisation, the staff spread their limited time and resources very thinly and therefore are prone to oversee the other benefits that their clients are eligible for. In some cases, this issue is addressed through the collaboration of a more informed organisation that provide assistance to these GDV associations, but this is done in an ad hoc, arbitrary and partial fashion.⁷

The profiles of these representative GDV associations ranged from being faith based (Christian), mainly Catholic, Protestant, and Evangelist, to more conventional forms of NGO activity-led association. This axiomatic line of distinction is the main cause for the fissures that can be seen amongst the French GDV community since there was a discernible difference in the material existence of GDV members belonging to Evangelical associations. This was accompanied by a palpable wariness and mistrust of outsiders and, in some instances, outright hostility as evinced by one particular woman who shouted at ERRC researchers, asking them to leave immediately.⁸ It is fair to conclude through the

observations of the researchers that there was some resentment on the part of members of the various GDV associations, especially by those members of associations that were not Evangelist. This, in part, was due to the aforementioned visible differences in the material wealth and conditions of GDV members of the various Evangelist associations in comparison to those who were not, and the deep suspicion that this was due to preferential treatment or other more dubious reasons being shown toward these Evangelist associations.⁹ This "problem" was acknowledged by state officials (national and local) as well as other professionals working in the sphere, but there is little or no political will to address this issue and this underlying tension still prevails.

A number of practical issues were highlighted as problematic for GDV RMI recipients. The main issue was that of domiciliation which in turn led to issues related to the registration of RMI recipients with the relevant local municipal authorities. French GDV communities have a unique identity card called the "Carte d'circulation" (the circulation card) which is renewable with the appropriate local municipal offices. This card indicates that the holder is a Traveller and is likely to move from region to region. If they do move, they are required to register themselves at the local municipal offices so that they can continue to receive their RMI payments. This is done via the association so there is little disruption to the recipient. ERRC researchers

⁶ *In some instances, when asked by researchers about government social assistance programmes, respondents provided erroneous answers or had no knowledge of the relevant benefit and had to be informed by the researchers what the correct policy was, as was previously explained to them by the government officials.*

⁷ *An example of this is the collaboration between the Association des familles des Gens du Voyage d'Ile de France, Aubervilliers, Seine-Saint-Denis and the local social worker NGO ADEPT, who provide a joint service for members of the association. The association puts its members into direct contact with the social workers at ADEPT and it is they who expedite the social assistance claims for the GDV recipients. Due to their thorough knowledge of the process, the social workers can point their clients towards the full range of benefits as well as inform them of the technical and administrative obligations they have under the various programmes.*

⁸ *The woman in question was a member of an association that was located on a permanent site with good facilities in the Paris suburb of Mitry-Mory, Seine-et-Marne. During the incident which took place on 24 November 2006, she shouted at the researchers and said, "We do not need any help! We have everything we need here." The researchers tried to reason with her before talking to a male resident of the site who requested that they inform the government that he needed some educational programmes/resources to learn to read and write properly so that he could conduct his business properly. The researchers took note of this, thanked him for his time and promptly left.*

⁹ *Although this deep suspicion was widely held, there was no clear evidence of why these opinions were held and no evidence offered apart from anecdotal information based upon experience of perceived differential treatment by officials in similar cases to theirs where members of the evangelist association were successful in claims for loans for caravans, registration of sites, etc, where they had not been.*

found that the period of “re-registering” ranged from three months to twelve months depending on which municipal office was overseeing the process. This meant that recipients needed to ensure that they complied with this technicality in order to continue to receive their RMI payments. Failure to do so would result in their RMI being suspended or stopped altogether. There were some cases where registration was not necessary since the association would take care of the matter for their clients. Despite acknowledgement amongst GDV communities that were interviewed of the technical sense of the policy, they felt it was an imposition on them since it was an impractical measure which could/would mean that they would have to travel back to the authority where they had originally registered in order to prevent any disruption to their RMI payments which was the only consistent form of income they had. Many of the respondents requested that the procedure be reviewed since it was a type of discrimination against them and a hidden form of monitoring of their movements by the authorities, a view shared by many of the social workers that worked with these communities.

2. Social worker NGOs

During field research, ERRC researchers were provided useful information by representatives of the many social workers NGOs working with French GDV communities. Ostensibly, this sector of the social assistance process was the most informed group and shared many useful insights with the researchers. They displayed a broader and fuller understanding of the process and were able to provide experiential material that helped provide the contextual framework in which phenomena related to social assistance and the NAP could be interpreted and analysed. An example of this is the social work NGO ADEPT based in Aubervilliers, a suburb of Paris. This organisation represented the interests of a number of GDV social assistance recipients and performed a vital role in the receipt of social funds and resources. In many cases, without their intervention, a number of their clients would

not have been able to fully expedite the process of collecting social funds at all. Employees of this organisation displayed a significantly high level of knowledge and expertise of the French social assistance programme and, based on this, were able to provide comprehensive knowledge and services to their clients. A number of their clients who were interviewed during research mentioned that they had received “terrific assistance” from ADEPT and without them, many benefits that they were receiving would not be possible.

This last point taken from my experiences in France outlined above, sadly, and this is my main point, indicated that French government did not provide ADEPT (and others in the field) the requisite resources that they needed to offer full and comprehensive service and that they had to rely on their own industry and expertise in order to perform their necessary tasks and duties. I contend that if they are to do their jobs properly in what is a thoroughly desperate sphere, then the government should provide more support for them and not simply provide them with the “Direction Generale” and then subsequently wash their hands of the problem.¹⁰ Although the government’s argument of decentralisation is a powerful explanation for *not* imposing things on local municipal governments, it is a weak rationale explicating the current state of affairs where French citizens are not receiving certain “benefits” due to the lack of local governmental action or political will. I am particularly worried about this since it creates a chasm between national and local governments which is inevitably filled by the actions and the efforts of civil associations, and when the system fails, as it inevitably does and will, the finger of blame is always pointed at these same civil organisations, the worthy interlocutors who are only trying to help. This is the inherent peril of the current situation facing civil organisations. Increasingly, and perversely, they too are coming under the suspicion of simply trying to preserve the status quo, containing the many problems and “creating” a system of dependency whereby their clients never really solve whatever social problems they face and

¹⁰ *By this, I am alluding to the provision of adequate financial and structural/programmatic resources that should include training and professional development programmes in order for organisations like ADEPT to be able to do their jobs properly. The government should conduct regular training workshops for everyone working in this field and ensure that the local municipal governments insist on this knowledge before anyone takes up the role of representing the interests of French GDVs.*

therefore depend on the intervention of these civil organisations to ameliorate their situation for them.

I have presented a comprehensive account of my experiences in France to highlight a point. Civil associations are in need of more support from governments in order to perform the work they undertake, in many cases on behalf or instead of governments. They are helping governments fulfil their obligations to the citizenry. They are trying to help desperate people who, without their intervention, would be even more desperate than they already are. They are also helping to ensure that social justice is achieved and respected in societies across the globe, eradicating inequalities and holding

state governmental apparatus and agents accountable. Their cause and efforts are noble and should be supported by concerted efforts from governments. Radical action is needed by state governments. By this, I mean that states need to evaluate their roles in these situations and provide these civil organisations with the required assistance in order to properly address the social phenomena mentioned here. Failure to do so will further erode public confidence and will show the true nature of these “partnerships” between state governments and civil organisations I elucidated above. Recognition of this fact cannot come quickly enough, and if human/civil rights activists and practitioners are to continue playing a meaningful role, the sooner the better.



SNAPSHOTS FROM AROUND EUROPE

News Roundup: Snapshots From Around Europe

The pages that follow include Roma rights news and recent developments in the following topics:

- Controversy surrounding the eviction of Romani communities in the **Czech Republic** and **Slovakia**;
- Issues of racial segregation, discrimination and ill treatment of Romani children in the public education system in **Czech Republic**, **Hungary**, and **Serbia**;
- Cases and judicial decisions related to racially motivated police violence in **Hungary** and **Romania**;
- Neglect and discrimination of Roma by health care officials in **Bulgaria** and **Moldova**;
- Courts and hospitals address the forced sterilisation of Romani women in **Czech Republic** and **Slovakia**;
- Anti-Romani speech by government officials in **Czech Republic**;
- Parliament passes law containing a right to legal housing in **France**;
- Appeals court upholds ruling in **Italian** case involving politicians;
- Hate speech in the **Russian** media;
- ECRI review of **Portugal**;
- Health status of Gypsies and Travellers reviewed in the **United Kingdom**; and
- Roma communities demand access to legal housing and utilities in **Italy** and **Switzerland**.

BULGARIA

◆ **Romani Baby Dies in Bulgaria When Ambulance Does Not Show Up**

On 16 October 2006, a 4-month-old Romanian baby died in Sofia's Fakulteta Romani neighbourhood after ambulance workers failed to show up despite

repeated calls to the emergency aid service by the baby's parents, according to the Romani Baht Foundation. The cause of death is unknown. According to Romani Baht, the examining prosecutor originally decided not to treat the matter as a criminal case. However, following an intervention

by Romani Baht, the examining prosecutor reportedly re-considered his opinion and decided to treat the matter as a criminal case. As of early 2007, a legal procedure was open before the Sofia Regional Prosecutor's Office. (Romani Baht Foundation)

CZECH REPUBLIC

◆ **Czech Politicians Make Statements against Roma and Equal Opportunities**

According to the Prague Daily Monitor of 2 April 2007, Czech Prime Minister Mirek Topolánek attacked equal opportunities for disadvantaged groups including women, the elderly and ethnic minorities during a speech at the launch of the European Year of Equal Opportunities for All. During his speech, Prime Minister Topolánek reportedly stated, "No well-meant effort to make equal that cannot be equal, no positive discrimination will guarantee the equality of opportunities. Positive discrimination sounds about the same as a pleasant beating." Although Prime Minister Topolánek's comments targeted mainly women, other groups such as the elderly, students, as well as ethnic minorities were part of his vision. Prime Minister Topolánek also attacked multiculturalism, saying that money spent by the state, "must go to the assimilation of individuals, not in support of the chimera of multiculturalism." On 11 April, the ERRC, the European Network Against Racism (ENAR) and the Czech Romani organisation Romodrom sent an open letter to Mr Vladimír

Špidla, European Commissioner for Employment, Social Affairs and Equal Opportunities, to express their concern about the remarks made by the Czech Prime Minister Topolánek on equal opportunities. At the time of publication, there had been no response to this letter.

Prime Minister Topolánek's statements followed closely on the heels of explicitly anti-Romani statements by Czech Deputy Prime Minister Jiri Cuneš. In response to a question about whether non-Roma could receive the same state subsidies received by Roma, on 30 March, Deputy Prime Minister Cuneš was quoted in the Czech tabloid Blesk as having stated that people would "have to get a good suntan somewhere, start trouble and light fires on town squares" to get politicians to feel sorry for them. On the same day, Radio Prague reported that 16 Romani organisations called on Prime Minister Topolánek to distance himself from the statement. On 11 April, Radio Prague reported that Romani organisations protested against the statements outside the Office of the Government, calling for the resignation of Deputy Prime Minister Cuneš. Fourteen

Romani organisations and 100 individuals also filed a criminal complaint against Deputy Prime Minister Cuneš in connection with his statements, according to a 16 April report by Prague Daily Monitor. (ERRC, Prague Daily Monitor, Radio Prague)

◆ **Continuing Problems for Roma from Vsetin, Czech Republic**

On 12 December 2006, Radio Prague reported that the head of the Czech Senate Committee on Human Rights, Senator Josef Pavlata, stated that the Vsetin town hall infringed human rights standards when, in October 2006, it moved several Romani families out of Vsetin to a number of areas in the Jeseník region, including Vidnavy, Stare Cervene Vody and Vlicice. At the time, the then-mayor of Vsetin, Jiri Cuneš, ordered the eviction of several hundred Romani families, reportedly "rent-defaulters", from their homes to container-like homes on the town outskirts. Additional Romani families were moved away from Vsetin and settled elsewhere in decrepit houses that they are now forced

to pay for over the next two decades, according to reports from the non-governmental organisation ROMEA (for background information see www.errc.org/cikk.php?cikk=2770). Senator Pavlata's comments, however, contradict those of the Senate Committee. After visiting the container homes in Vsetin, where most of the families were relocated, the Committee reportedly concluded that the city had not infringed the human rights of the families concerned.

Following the forced eviction of the Romani families from Vsetin, Mr Cucek became the Deputy Prime Minister of Czech Republic. Although Deputy Prime Minister Cunek's actions have been widely criticised, including by the chairman of the Christian Democrat (KDU-CSL) political party, of which he is a member, Deputy Prime Minister Cunek has refused to admit that his actions were anything other than proper. Deputy Prime Minister Cunek also faces corruption charges in connection with the dealings surrounding the Vsetin evictions, and calls have been made for him to resign his post, which he has refused to do, according to Radio Prague.

As of early May 2007, most of the Romani families were still living in the container homes provided at the time of their eviction, according to the non-governmental organisation Life Together. Life Together also reported that the houses the families were forced to purchase were in sub-standard conditions. In addition to their poor housing conditions, these families also faced a series of administrative problems, as they were still registered in Vsetin

(several hundred kilometres from where they were forced to move). Because of their registration, the families must return to Vsetin to collect social allowances, to utilise employment offices and to see doctors; all services linked to residence registration. Life Together informed the ERRC that the families did not want to register in their current location because they do not want to stay there. The families were reportedly in discussions with a Czech attorney about their options at the time of publication. (Life Together, Radio Prague, ROMEA)

◆ Update on Forced Sterilisations Issues in Czech Republic

According to a report by Radio Prague, the Group of Women Harmed by Sterilisation demanded that a fund be established to compensate women sterilised without their consent. The group also called for an apology for the harm they have suffered. The women have asked that such compensatory measures be made available also to women sterilised but whose claims would exceed the statute of limitations under Czech law, according to a document prepared by the Group.

In related news, in January 2007, the Vitkovice hospital in northern Moravia apologised to Ms Helena Ferencikova, a 24-year-old Romani woman, who had sued the hospital for performing an unwanted sterilisation procedure on her six years ago, according to a Prague Daily Monitor report of 13 March 2007. The hospital's apology followed a January ruling by the High Court in

Olomouc ordering the hospital to apologise to Ms Ferencikova. According to the report, the Court did not recognise her right to financial compensation as her case fell outside the statute of limitations. (Prague Daily Monitor, Radio Prague)

◆ Europe's Highest Human Rights Court Set to Rule on Landmark Segregation Case

In January 2007, the European Court of Human Rights heard oral arguments in the case *D.H. and Others v. the Czech Republic*, a segregation case launched 8 years ago by the ERRC on behalf of 18 Romani children who were forced to attend racially segregated schools in the Czech Republic.

The Grand Chamber of the European Court will rule on the case, which raises issues concerning Article 14 of the European Convention of Human Rights' prohibition against discrimination. The case is the first of its kind at the European level to challenge the practice of education discrimination in central and southeastern Europe whereby Romani children are routinely placed in schools for the mentally disabled, irrespective of their actual intellectual abilities.

In a previous ruling in February 2006, the Court's Second Section ruled that while the Romani children had suffered from a pattern of adverse treatment, the applicants had failed to prove the Czech government's intent to discriminate. A decision in the case was expected during the summer of 2007. (ERRC)

FRANCE

◆ **Right to Housing Law Passed in France**

On 22 February 2007, the French Parliament passed a law on the right to legal housing, making France the second European country to guarantee the right to housing after Scotland, according

to the online journal *lemoniteur-expert.com* of 6 March. France's Prime Minister, Mr Dominique de Villepin, reportedly said in January he wanted the right to become legally enforceable by 2008. The law would apply in all situations, including the most difficult, such as with the homeless, working

poor and single women with children. The right to housing issue was brought to the forefront with a campaign by Les Enfants de Don Quichotte (The Children of Don Quixote) which erected a tent city for the homeless spring up in the heart of Paris in late 2006. (*lemoniteur-expert.com*)

HUNGARY

◆ **Segregated Schooling Updates in Hungary**

According to report of the Roma Press Center (RSK) a 10 January 2007, non-Romani students that have been commuting to the foundation school established in the Hungarian town of Jaszladany will apparently stop commuting to the foundation school and attend the local municipally-run school. RSK reported that the municipal school currently hosts 376 students while the foundational school has 205 students, approximately 70 of whom commute daily.

In 2001, the municipal government established the foun-

dation school in order to segregate Romani students, who could not afford tuition fees of the private school (for background information, see: <http://www.errc.org/cikk.php?cikk=1300&archiv=1>). RSK reported that Romani students currently account for only 10 percent of the foundational school population while they make up over 90 percent of the municipal school student body.

In other news, according to RSK, the first three of numerous lawsuits on the wrongful classification of Romani students as mentally disabled began in January 2007. European MEP Viktoria Mohacsi, together with the

non-governmental organisations Romani Civil Rights Foundation and Amalipe, instigated the lawsuits, which claim that the schools implicated wrongfully identified Romani children as mentally disabled and placed them in schools for disabled children.

According to RSK, Ms Mohacsi is asking that the number of Romani children classified as mentally disabled be reduced, estimating that over 20 percent of Romani children are classified as mentally disabled: almost 10 times more than what experts reportedly say the proportion of mentally disabled children within the general population should be. (Roma Press Center)

ITALY

◆ **Italian Appeals Court Upholds Decision against Racist Political Party**

According to information provided to the ERRC by the Italian organisation OsservAzione, on 30 January 2007 an appeals court in Italy confirmed the finding of the Civil and Penal Court of Verona in a case against members of the Lega

Nord, a far-right Italian political party, involving six Italian Sinti and the non-governmental organisation Opera Nomadi. The court however, reversed the finding of the lower instance court, striking instigation to racial hatred from the guilty finding.

The 2004 ruling by the Civil and Penal Court of Verona found

Lega Nord members guilty of incitement to commit discriminatory acts on the basis of race or ethnicity under Law 205/93 "Legge Mancino". The Lega Nord members were originally sentenced to two months in jail and were barred from participating in administrative and political elections, both suspended, and were ordered to pay trial and legal fees for the plaintiffs.

The case was filed in 2001 by the non-governmental organisations Osservatorio Veronese sulle Discriminazioni and Cesar K. following a

racist public campaign to expel Roma and Sinti from Verona conducted by the Lega Nord entitled “For the Security of the Citizens – Expel the

Gypsies from our Home”. It is expected that the appeals court decision will be appealed to the higher level court. (OsservAzione)

KOSOVO

◆ Romani Return to the Mitrovica Mahalla Marred with Problems

A number of Roma, Ashkalia and Egyptian (RAE) families who were displaced in Serbia and a small part of the those who were in 2006 relocated to Osterode camp, started to return to South Mitrovica where a joint UN/non-governmental organisation project is placing camp residents in newly constructed homes, according to a press release by the United Nations Interim Administration Mission in Kosovo (UNMIK) of 30 March 2007. Since 1999, approximately 700 RAE originally from Roma mahala in South Mitrovica who fled to North Mitrovica to escape violence have been living in IDP camps subject to lead poisoning and dire living conditions.

According to UNMIK, the move is part of a multi-pronged effort by the provisional government of Kosovo, the Organization for Security and Co-operation in Europe (OSCE), the UN Development Program (UNDP), and UNMIK, with funding from the Norwegian Foreign Ministry, the Swedish International Development Agency and the European Agency for Reconstruction, amongst others. The programme was launched in response to scandals surrounding lead poisoning in several camps for IDPs in and around Mitrovica.

The programme aims to resettle 102 families, or more than 500 RAE, in the new homes by the end of the summer 2007. At the time of the UNMIK press release, 24 flats and 54 houses were completed, and another 24 flats under construction. The Scandinavian organisations Norwegian Church Aid and Danish Refugee Council undertook the construction of the new homes. However, according to a report in the Pristina newspaper Koha Ditore of 5 March, 36 houses for 57 families had been completed.

On 24 April, the ERRC travelled to Mitrovica to examine progress in the return of Roma, Ashkalia and Egyptians from the IDP camps to the new homes, constructed on the territory of the former Roma mahala. Discussions with local RAE representatives, camp residents and an examination of the new homes revealed a different situation and indicated serious concerns with the “Return to the Roma Mahalla” project.

Residents of the Osterode IDP camp complained to the ERRC that since December 2006, humanitarian food aid had been cut for residents of that camp. In addition, doctors who had regularly checked the health status of children in the camp had also stopped coming since January 2007. At the same time as services are being cut in the camps,

Mr Skender Gusani, a representative of the residents of the former Romani mahala and himself a resident of one of the IDP camps implicated in the lead poisoning scandal, informed ERRC staff members that the process of moving camp residents to the newly built houses was extremely problematic. Mr Gusani’s primary concern related to the fact that while 57 families had moved into the new flats and houses, only 13 of those families had been living in the IDP camps in Northern Mitrovica. The majority of the families given housing in the new buildings were reportedly Romani, Ashkalia and Egyptian returnees from Serbia, Montenegro, Croatia, other parts of Kosovo, and elsewhere.

Indeed, the first house in the reconstruction area the ERRC approached was inhabited by a family who had returned from Montenegro, to live in their new home. Under such circumstances, the success of the response of the international community involved in the “Return to the Roma Mahalla” project, intended to move Roma, Ashkalia and Egyptians away from the hazardous living conditions in the camps, is questionable. Mr Gusani informed the ERRC that the reason for this absurd situation stemmed from the fact that the Steering Group established to make decisions related to the allocation of the new



New housing in the Mitrovica Romani Mahalla, built by Norwegian Church Aid and Danish Refugee Council with international funding. The quality of the houses built and civil planning of the area leave much to be desired.

PHOTO CREDIT: TARA BEDARD/ERRC

flats and houses was comprised entirely of UNMIK, UNHRC, OSCE and Mitrovica Municipality representatives, with not a single member of the RAE community. According to Mr Gusani, he had requested to sit on the Steering Group but was told that he could participate as an observer only. One day before the ERRC visit, on behalf of his organisation, Association for Protecting Roma Rights, Mr. Gusani sent an open letter to all relevant actors, describing the problems and highlighting mistakes in the assignment of housing and lack of response from UNMIK authorities.

Mr Gusani also voiced discontent to the ERRC on behalf of the Roma, Ashkalia and Egyptian community with the fact that ownership of the new houses was not being passed to the occupants. Property rights were given to the occupants in the form of 99-year leases. Mr Gusani expressed great frustration with this given that houses were intended for those Roma, Ashkalia and Egyptians who had legally owned their houses in the mahala before the war.

In addition to the obvious problems in the return process, the ERRC noted that the condi-

tion of the houses built under the supervision of Danish Refugee Council (DRC) were of very poor quality. The houses built with large red bricks, were, though families had already moved in, not finished on the outside, leaving the houses in an apparent condition on non-completion. The red bricks were themselves both the outer and inner walls, with no form of insulation included in the construction; the interior walls had merely been painted white. At the same time, there was no heating system installed in the houses. The houses were heated by electric heaters purchased by the occupants. Almost all of the

homes were constructed on multiple levels, and one house visited by the ERRC had stairs on the outside of the structure which the occupants had to use to move between their sleeping area and their living, eating and sanitary area. Given the winter weather in Kosovo, such conditions are highly inadequate.

Planning of the area was done in a haphazard manner. Some houses had been built within one metre of each other, while others were without any neighbouring structure for around 100 metres. Rubble and dust had not been covered with grass or stone and in the windy weather on the day of the ERRC visit, dust and dirt

filled the air making it impossible to be outside in the area.

Further information on the situation of Roma, Ashkalia and Egyptians in Kosovo is available at: <http://www.errc.org/cikk.php?cikk=2511>. (Association for Protecting Roma Rights, ERRC, Koha Ditore, UNMIK)

MOLDOVA

◆ Moldovan Romani Organisation Complains About Discrimination by Local Doctor

In March 2007, the Chisinau-based Union of Young Roma, "Tarna Rom", sent a letter to Mr Ion Ababii, Moldova's Minister for Health and Social Protection, expressing concern about discrimination against Roma by medical personnel in the country. The letter followed derogatory remarks by Dr Constantin Ciobanu of Emergency Service Calarasi, who said, "A sodomite son of a bitch Gypsy from Ursari solicits more information." Dr Ciobanu's statement was reportedly made to Tarna Rom during a telephone interview, in which Tarna Rom asked why the local ambulance does not go to the Romani neighbourhood in Usari. Dr Ciobanu said that ambulance goes out only in serious

situations, reportedly because of a lack of fuel and financing, but that the ambulance does not go to the Romani neighbourhood. As of the end of May, there had been no response to the letter. (Tarna Rom)

◆ Roma Refused Service in Bar in Moldova

According to information received by the ERRC from the Moldovan Romani organisation Tarna Rom, 6 Roma were refused entrance to a bar called Paradis in the town of Riscani on 15 May 2007. The 6 Roma - A.B., A.B., M.B., N.B., E.P. and V.F. - attempted to enter the bar at 5:12 PM on the day in question. According to Tarna Rom, after 5 minutes a waitress named Iuliu approached the group and informed them that she could not serve them. When asked why she

could not serve them, the waitress responded that her boss did not allow Roma to be served in his establishment. The discriminatory decision of the bar owner was reportedly made following a fight between several Roma and non-Roma, which the Roma refused service on the day in question were not involved in. A bartender reportedly confirmed the decision of the owner.

Tarna Rom informed the ERRC that it had sent the team of Roma to Paradis after having received complaints that the bar did not serve Roma. The Tarna Rom team was accompanied by a journalist from the Balti-based news agency Deca-Press, who witnessed the bar staff refuse to serve the group. As of 22 May, Tarna Rom was considering filing a legal complaint against the owner of Paradis. (Tarna Rom)

PORTUGAL

◆ ECRI Releases Third Report on Roma in Portugal

On 13 February 2007, the European Commission against Racism and Intolerance (ECRI)

made public its third report on Portugal, which, amongst other human rights concerns, highlighted the persistent social exclusion of Romani communities in the country.

In its report, ECRI contended that substandard living conditions persist in many Romani neighbourhoods and that many Roma are arbitrarily evicted from their homes by local governments

agencies. In their report, the ECRI recommended that Portuguese authorities investigate the housing situation of Roma and urged them to address discrimination that perpetuates the poor living conditions of Portuguese Roma.

ECRI also highlighted that Portuguese Roma face exclusion when it comes to employment, noting that many Roma earn a living through informal trading. Roma employed in this sector are losing income earning ability as a result of strong competition from large scale shopping chains, according to ECRI, and they are also subjected to excessive surveillance by authorities and undue hostility at vending sites. ECRI also expressed concern in its report that vocational training initiatives for young Roma provided by NGOs have been largely unsuccessful due to persist racist attitudes by employers. ECRI

encouraged the Portuguese government to continue to combat anti-Romani attitudes, to continue training programmes for Roma and to enforce penalties against racist employers.

With regard to education, ECRI noted the alarmingly poor access of Romani children to public education and a very high school drop-out rate amongst Romani children, which is encouraged by ethnic Portuguese parents who protest against their children being placed in the same classroom as Romani students. ECRI recommended that Portuguese authorities continue efforts to increase school attendance by Roma.

ECRI also reported with regret that instances of racism by members of local populations and local authority representatives continue. In its report, ECRI urged Portuguese author-

ities to make clear that racist or anti-Romani statements or conduct will not be tolerated.

ECRI noted with regret reports by local civil society organisations that no real progress had been made on these issues and that many acts of anti-Gypsyism are ignored by local authorities. ECRI asserted that fact that Portugal had not established an all-encompassing national strategy to combat racism is unacceptable and encouraged the Portuguese government to increase the number of positive action initiatives to facilitate Romani inclusion. The full text of ECRI's report is available on the Internet at: http://www.coe.int/t/e/human_rights/ecri/1%2Decri/2%2Dcountry%2Dby%2Dcountry_approach/Portugal/Portugal_eng_CBC_3.asp#TopOfPage. (ERRC)

ROMANIA

◆ Romani Organisation Claims Police Management of Ethnic Conflict Inadequate in Romania

In its September – December 2006 newsletter, the Romanian Romani organisation Romani CRISS reported that investigation into reports of police abuse during a September clash between Roma and police in the Alpina Romani community indicated that the three police officers involved managed

the event “inadequately”. During the event, police reportedly shot 22 local Roma with rubber bullets and hit or otherwise injured another 15.

According to Romani CRISS, in December the General Police Inspectorate approved the preliminary investigation of Chief Commissar Ujica Valerica, Commissar Moldovan Alexandru and Deputy Commissar Gora Petru, the officers responsible for the

management of the situation in Reghin in September. The General Police Inspectorate reportedly concluded that the cases of excessive use of force were exceptional and did not characterise the professional conduct of Romanian police officers.

Romani CRISS hired two lawyers to represent the Romani victims in a case currently pending before the Targu Mures High Court of Law. (Romani CRISS)

RUSSIA

◆ Anti-Romani Sentiment Rife in Russian Media

As part of its ongoing work to combat hate speech against Roma in the Russian Federation, the ERRC sent a letter to the head of a Russian media

outlet “regions.ru” expressing its concern over the outlet’s portrayal of Roma in its publication. In its letter to Mr Pavel Gorshkov, executive director of regions.ru, the ERRC expressed its concern about the regular linkage of Roma with crime in the titles and content

of news articles published on the Internet portal, which incite anti-Romani sentiment in Russia. The ERRC urged Mr Gorshkov and to review regions.ru’s editorial policy and cease publishing reports that promote hatred and intolerance of Roma. (ERRC)

SERBIA

◆ Serbian School Authorities Ignore Ongoing Abuse of Romani Boy

According to a report by the Association of Roma Students, a Muslim Romani student at Novi Sad’s Secondary Mechanical School was attacked in November 2006 by non-Romani students, because of his ethnicity and religious beliefs. The incident reportedly took place dur-

ing a break when the non-Romani students abused the boy by taking off his clothes and underwear to “check if he was Muslim.” The Association of Roma Students reported that the boy did not return to school for some time and that his health has deteriorated, allegedly causing the school administration to tell his parents to pull him out of school. This was not apparently the first time that the boy, a

Kosovo Romani IDP, had been abused at school. The school administration, however, continued to ignore the problem, according to the Association of Roma Students. The Association of Roma Students and the Italian Consortium of Solidarity (ICS) publicly condemned these actions and urged the administration to protect Romani children from further abuses. (Association of Roma Students)

SLOVAKIA

◆ Report Highlights Factors Behind Forced Eviction of Roma

A report jointly released by the Milan Simecka Foundation, Centre on Housing Rights and Evictions (COHRE) and ERRC in January 2007 revealed that Roma in Slovakia are being forcibly evicted from their homes and forced to live in segregated areas. According to the report,

the reasons are varied. Authorities, for example, no longer require a court order for an eviction and their obligation to provide alternative housing has been greatly diminished in Slovakia. Other factors include reforms to the social assistance program in 2004 that make it more difficult for Roma in particular to regularly pay their rent and utility costs; resistance of local authorities to use programmes to help Roma

get out of debt; and the practice of excessive billing of Romani tenants for services such as water and energy.

The report was launched at a roundtable discussion with representatives from civil society and the Ministry of Construction and Regional Development, the Ministry for Labour, Family and Social Affairs, the Ministry of Justice, the Ministry

of Foreign Affairs, the Association of Local Municipalities and the Slovak National Centre for Human Rights, amongst others. The participants discussed the principal factors that emerged from the report's review of concrete cases, including:

- Amendments to the Civil Code of 2001, which weakened the legal position of tenants in municipal housing. A court order is no longer required for an eviction and the obligations on local authorities to provide alternative housing have been significantly reduced.
- The radical reforms to the social assistance system in 2004, which included a fundamental revision of housing allowances and the rights of the unemployed, weakening the ability of indigent tenants, particularly Roma, to regularly pay their rent and utility costs.
- Historical long-term negligence of the problem of non-paying of rents and utilities

and the resistance of local authorities to using mechanisms to assist Roma in paying back debts, e.g., through the institution of the special receiver.

- The unfair practice of excessive billing of Roma tenants for utilities, such as water and energy.
- Municipalities moving Roma from housing in central locations, often on false pretences such as building safety, and placing them in newly built but segregated and very low quality buildings on the outskirts of towns or allocating them poor housing bought in small towns. This practice applies even to regularly rent paying Roma who have clear rights under Slovak law to alternative housing of an equal standard.

Speakers from international organisations expressed concern that these factors violate human rights, such as rights to housing, social security, respect for the home and equality, contained

in international treaties to which Slovakia is a party. (ERRC)

◆ **Slovak Constitutional Court Finds Government Investigation on Forced Sterilisations Inadequate**

In December 2006, the Slovak Constitutional Court ruled that the government's investigation into the forced sterilisation of Romani women was ineffective and that its conclusions were not based on adequate clarification of facts, according a press release by the Center of Civil and Human Rights (Poradna). In its ruling, the Constitutional Court requested the Slovak Government establish a special commission to investigate the more than 30-year-old practice, ensuring that Slovak civil society and Romani communities participate fully in the investigation process. The Court's decision stemmed from a complaint initiated by Poradna on behalf of 3 forcibly sterilised Romani women. (Poradna)

SWITZERLAND

◆ **Swiss Travellers Demand Protection from Discrimination**

Travellers in Switzerland are demanding that the government protect them from widespread discrimination that they continue to suffer, according to a 3 February 2007 report by the Swissinfo news agency. Accord-

ing to the report, Travellers, with support from the Swiss Federal Commission against Racism, asked the government to follow through on its promises to create new campsites and parking areas. Travellers are often forced to occupy land illegally in Switzerland due to a lack of proper camping facilities and transit areas. The Swissinfo news

agency reported that, according to an October 2006 government report, there is a shortfall of 29 campsites and 38 transit areas for Travellers. An interior ministerial body that works to improve the lives of Travellers called on the government to implement an action plan to stop discrimination against Travellers in the country. (Swissinfo)

TURKEY

◆ Romani Baby Died Following Destruction of Family Home in Turkey

In November 2006, Zeynep Acbuken, the 5-month-old child of Sultan Eser, an 18-year-old Romani woman from Istanbul, died following the destruction of the family's home. According to a statement by Ms Eser made public on 1 December by

the Accessible Life Association, her family was forced to live in a tent after local authorities demolished their home in Istanbul. Ms Eser stated that the baby had developed difficulties breathing and coughed all the time. She took the baby to the local medical clinic where the doctors gave her some medication. However, Ms Eser awoke one morning to find that her baby

was not breathing, and she was unable to find anyone to take her to a hospital. When she returned to her tent, Ms Eser stated that she watched her baby die. According to Ms Eser, municipal authorities had been going to her tent everyday since the baby's death, trying to take the family's tent away. (Accessible Life Association)

UNITED KINGDOM

◆ Researchers Review Health and Health-Related Beliefs of Gypsies and Travellers in England

Two articles published by the Journal of Epidemiology and Community Health in late 2006 outline the findings of a group of researchers who examined the health status of the Gypsy and Traveller community in England. The sample group of 293 participants, all Gypsies and Travellers of UK or Irish origin, were for comparative purposes matched with non-Gypsy subjects from a range of socio-economic and ethnic backgrounds.

The study found that members of the Gypsy and Traveller groups suffered from poor health and long-term illnesses, or disabilities, which "limit their daily activities" more so than other groups. In light of their findings, the researchers manifested their expectation of an ethnically sensitive policy response addressing the health-related needs of the Gypsy and Traveller minority. The authors stressed that a "multi-agency awareness" and collaborative effort is necessary to improve the health of the group as a whole.

A parallel study also explored the health-related beliefs of the

Gypsy and Traveller community through the analysis of 27 interviews. The researchers discovered that an overwhelming amount of the interviewees shared low expectations for their own health. They also shared a fatalistic, but fearful attitude towards death. They especially feared a diagnosis of cancer. Researchers proposed that a combination of "lack of knowledge, low expectations, and fear" caused members of the Gypsy and Traveller communities to avoid medical treatment, making early, life-saving diagnosis less likely. (Journal of Epidemiology and Community Health)

Supporting Education for Romani Children in Bijeljina, Bosnia

Meredoc McMinn and Danijela Colakovic¹

IN 2005, the United Nations reported that there are 115 million children across the world, the majority of whom are girls, that do not receive primary education. The education of children is a requirement and a right. It is needed for their personal development and for them to support themselves and their families in modern society. The fact that the United Nations' second Millennium Development Goal is to ensure that all children receive primary education by 2015 is testimony to the importance of education.

This paper focuses on one specific group of children, those from the Romani ethnic minority group in Bosnia and Herzegovina (BiH), and explores a programme that was established to support the access of Romani children to primary education. It is a model that the authors believe could be used to support the integration of any excluded group of children into an education system.

Prior to the military conflicts in the countries of the former Yugoslavia in the 1990s, there was a problem of Romani children not receiving education, and the situation arguably became worse after the conflicts. In BiH, many Romani children do not attend school. In 2001, international organisations (IOs) including the United Nations High Commission for Refugees (UNHCR) and the non-governmental organisation Suedost set up a programme to deal with this issue in the north-eastern BiH town of Bijeljina.

This paper discusses the reasons found for many Romani children not attending school in the Bijeljina area, the programme set up to support the

school attendance of Romani children, and a brief analysis of the somewhat interventionist approach of the programme.

Factors preventing school attendance

One general barrier which prevented Romani children from attending school was systemic discrimination against Roma, which is endemic in the Balkan countries and BiH, including in institutions within the education system. Governments and societies in the Balkan region have been slow to accept multi-culturalism and as such there has been long-standing discrimination against ethnic minority groups, such as Roma. Government and education authorities generally did not proactively support the Romani community in sending its children to school. The situation worsened following the 1992-1996 conflict in BiH, which entrenched ethnic divisions. Although there have been policy level initiatives to support the education of Roma, by 2006 they had not yet resulted in a sufficiently notable increase in the number of Romani children attending school.

It was also a problem that the Romani community did not sufficiently support its children in attending school. This is partly because the community is disempowered. As well, some Roma seemed to perceive their community as being outside broader societal institutions, such as schools. During discussions with the IOs, some Romani parents said that they did not think that education was important. However, in public meetings regarding the education of Romani children a

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number of Romani parents were in attendance, which indicated that many parents did want their children to attend school but that they required support to do so. A number of parents complained that they could not afford to send their children to school and provide the necessary clothing, scholastic materials and lunches, etc.

There were also cases of Romani families in which the children worked and were thus prevented from attending school. Larger social problems such as these are beyond the scope of education programmes but also need to be dealt with in order to improve the access of Roma to education. Importantly, most Romani children indicated that they did want to attend school, but some did not feel confident enough to do so.

It thus seemed that to support adequately the education of Roma there were two important goals: First, to change the perceptions of stakeholders – including education authorities and the Romani community – so that they worked to ensure that all Romani children attend school and, in doing so, overcome discriminatory attitudes on the basis of ethnicity; and second, to provide a practical means to support the access of Romani children to schools, and in doing so develop the capacities and preparedness of the children and, thus, their confidence.

Programme to support school attendance

The approach of the IOs was fairly proactive and took parallel approaches. One was to press regional and local education authorities to ensure education for all children under the age of 15, in accordance with BiH law. As much as was possible, IO representatives worked to relate to local education authorities as partners in the process and held regular meetings with municipal authorities to further develop cooperation. This approach was somewhat successful as municipal officials who were essentially supportive became more focused and those who were unsupportive or sceptical later began to take ownership of the process.

The other approach of the IOs was to go to the Romani community and discuss with parents and community leaders, again as partners in the process, about enrolling their children in school. Bijeljina had an estimated Romani population of 6,000 before the conflict, and at the time the programme was starting, up to 2,500 had so far returned. Of this number, not more than 500 were of primary school age (6 to 15).² Public meetings were arranged with Romani parents to discuss enrolling their children in school. Municipal-level representatives from the department of education were invited to these meetings in order to show support for the education of Romani children. During these meetings, a number of parents pledged to send their children to school.

Given that the Romani community had limited experience with the local education system, there were concerns by all parties – including school authorities, parents and children – regarding the children attending school. Concerns were specifically raised as to the compatibility of the children with the regular school system and the ability of the schools to absorb them, including the social reception of the Romani children by staff and other students. Thus, in 2002 the IOs operating in Bijeljina decided to set-up a summer school to prepare the children, socially and academically, to enter school. The idea was adapted from a programme implemented in Brčko, BiH, in 2001 supported by the United Nations Development Program. The programme had been successful in preparing approximately 20 Romani children for school and included a summer school and tutoring during the school year.

The Bijeljina summer school aimed to improve the academic skills of the children to prepare them for the regular school environment and generally to build their confidence. The children were familiarised with a classroom environment and teaching was provided in reading, writing and mathematics. Local school teachers were hired, which ensured that the children would be familiar with some of the teachers when they began school and enabled the teachers to form a positive attitude towards the children in order to ease their

² Number estimated by the authors based on their own research and data collection in 2003.



Preparatory classes for Romani children organised by the German NGO Suedost Europa Kultur in Bijeljina, Bosnia and Herzegovina. In the summer of 2003, 50 Romani children attended the programme at the Jovan Ducic primary school.

PHOTO CREDIT: SUEDEST EUROPA KULTUR

integration into the schools. Additionally, literate adult Roma were hired as teaching assistants in order to provide assistance in the classroom and to act as role models for the children.

In order to ensure that the Romani children continued to attend school once they had begun, it was crucial that the municipal authorities and Romani parents became more supportive of the education of the Romani children. Three times that summer, meetings were held with the IOs, teachers and parents to discuss the children's education and especially their enrolment in school in September. This dialogue also enabled parents and teachers to bridge the social gap between the institutions and the community. The teachers explained to the parents that it was the parents' responsibility to make sure that their children attended school regularly and were prepared to encourage the children to do their school work.

As well, discussions during the meetings about the children's ongoing success in the summer school improved the attitudes of the community and education authorities towards the education of Romani children.

The cost of the summer school programme was relatively low. Classroom use was free, the teachers were paid somewhat more than their regular wage and some school materials were provided. A small lunch was also provided because some of the children were not properly nourished. This was necessary for their concentration, and it also encouraged them to attend. Twice that summer, recreation days were organised and the children were transported to a nearby farm to participate in outdoor games. The recreation days enabled the children to broaden their horizons as many had never before been out of the town or participated in organised sports.

Challenges to programme implementation

There was some opposition to Romani children attending local schools by some school authorities. Some schools did not want to provide classrooms for the summer school but were eventually pressed to do so by the government. One school director also complained that as a consequence of eventually enrolling Romani children in the school, non-Romani parents would not enrol their children because these parents were concerned, amongst other issues, that the quality of education offered in the school would deteriorate. A couple teachers complained about the behaviour of Romani children, referring to negative stereotypes. During these discussions, IO representatives always asserted the law that education is mandatory for all children under 15.

There were various other issues that had to be dealt with in order to ensure school attendance by the Romani children. A number of the concerned Romani children did not have birth registration, which school authorities require for school enrolment. However, the regional education inspector stated that the law stipulating that children must attend school supersedes this requirement, that birth registration is not a prerequisite for school enrolment, that it was sufficient for parents to simply bring their children to the local school in order to enrol them, and that birth registration could be done at a later date. Municipal officials also attended the summer meetings with Romani parents and informed them how to register their children for school. The IOs also pressed municipal authorities to make birth registration more accessible and arranged for local lawyers to assist local Roma in registering their children for school.

It was also necessary to ensure that children were educated in a fully integrated environment. There was some concern about municipal and education authorities trying to segregate Romani children in the school system. One way in which they attempted this was by pressing to designate a separate school for the Romani children to attend. This was countered by the IOs insistence that the children attend the school in their own residential area. However, as there were two neighbourhoods in which most Romani families lived, it

resulted in the children primarily attending the schools in these neighbourhoods.

Support during the school year

Ensuring that the children remained in school during the year was another challenge. One of the primary problems encountered by the Romani children was that a number of those children entering the first grade were older (sometimes 12 or 13) than the regular age for entering the first grade (6 or 7). It was not considered feasible for these children to be placed in the first or second grade because they would not fit into an environment with much younger classmates. However, these children could not join the grade appropriate for their age group because they would not be able to do the schoolwork.

Consequently, as a temporary – and the only feasible – solution, a separate class was set-up within the school for those children above the age of 10. An arrangement was made with the school authorities for testing when the children reach 15 in order to provide them with a primary school certificate because in BiH there is no legal obligation for them to remain in school or for the school to retain them after the age of 15.

Suedost arranged a comprehensive programme to continue to support the children's education during the school year and also to support the development of the Romani community. This programme addressed 6 areas: 1. Assisting families in registering the birth of their children; 2. Assisting families in registering their children in school and liaising with local schools; 3. Providing extra tutorial classes for the Romani children in their communities; 4. Holding workshops on subjects such as Romani culture, children's rights and non-violent communication; 5. Provision of necessary school materials; and 6. Holding regular meetings with Romani parents.

Despite all of these efforts, some children did drop-out of school. Suedost noted several factors that contributed to this, including widespread poverty, the participation of children in securing family income, discrimination and the lack

of self-confidence. Additionally, some Romani families migrated during the year, sometimes abroad, making the children's school attendance sporadic meaning that they could not be noted to have completed the school year. It should also be noted that although there were improvements at record keeping related to the school registration of Romani children, municipal and academic records were still not complete and thus there were difficulties in determining the exact number of children enrolled in school.

There was also a practise amongst some Romani families of children marrying young, and this contributed to school drop out for the children concerned. Notably, however, figures show that the drop-out rate for girls was not worse than it was for boys. Nonetheless, there was somewhat of a problem with gender discrimination, with more boys being enrolled than girls, due to the attitude of some Roma which do not recognise a female's academic and career potential. However, this attitude is also prevalent in larger BiH society and the IOs attempted to counter this by insisting with guardians – mothers, fathers and grandparents – that they send all of their children to school.

Although in the earlier project in Brčko money was given to the parents to ensure they sent their children to school, this was not repeated in the project in Bijeljina. Instead, textbooks and some school materials were provided. Other items which supported the children's education were provided to the families during the summer school and school year, such as the occasional provision of shoes and clothes, in accordance with the project funds. The reasons for not giving money were that the provision of funds to the parents would set an incorrect precedent, it would make the project prohibitively expensive, and it was considered paramount that the obligation for children to attend school be de-linked from any incentive.

Programme evaluation

The process of having Romani children attend both summer school and regular school

in September had somewhat of a cumulative effect. The more children that attended the summer school and enrolled in school for the regular school year and parents that supported their children to attend both, the more children that wanted to participate, and the easier it was to convince sceptical families to send their children to school. The intention was that as more Romani children were enrolled in school, it would soon become normal practice for education authorities to accommodate Romani children in schools and for Romani families to send their children to school. The specific goal was to encourage all parents to enrol their children at the age required by law, between 6 and 7, so that they entered the first grade with other children. However, it was found that although the process did develop some momentum of its own, it was still necessary to regularly meet the Romani community to encourage them to send their children to school.

Since the first summer school in Bijeljina in 2002, Suedost, with increased cooperation from the local education authorities, has operated a summer school each summer and continued to provide support throughout the year. The table below provides figures broken down by gender for the number of children enrolled from the previous year, the number enrolled following attendance at the summer school and the number of children completing the school year. The enrolment figures show the success of the programme: That of the summer school in assisting children to enrol in school, and that of the support provided and arrangements made during the school year to enable the children to complete the year and enrol again the following year.

Suedost has indicated that the programme's limits are the same as those that originally obstructed Romani children from accessing education – insufficient government support, discrimination, some Romani cultural practices and poverty among the Romani community. It must also be noted that this project has been implemented in the difficult post-conflict political environment of BiH. However, many of these constraints are beyond the scope of a local education programme, and this being the case it can be claimed that the programme is a success.

The enrolment of Romani children in schools in Bijeljina, BiH

Academic Year	Number of children enrolled from previous year		Number of children enrolled after attending the summer school		Number of children that dropped out during the year		Number of children that completed the year	
							G- 12	B- 15
2002-2003	2 *		G-16	Total-46	G- 4	Total-19	G- 12	Total-27
			B-30		B-15		B- 15	
2003-2004	G-12	Total-27	G-19	Total-53	G- 6	Total-17	G- 25	Total-63
	B-15		B-34		B-11		B- 38	
2004-2005	G-25	Total-63	G-7	Total-22	G-10	Total-26	G- 22	Total-59
	B-38		B-15		B-16		B- 37	
2005-2006	G-22	Total-59	G-15	Total-23	G-14	Total-17	G-23	Total-65
	B-37		B-8		B-3		B-42	
2006-2007	G-27	Total-73 **	G-8	Total-18	G-	Total-	G-	Total-
	B-46		B-10		B-		B-	

Figures provided by Suedost's Bijeljina office, except:

* Estimated and not included in subsequent figures.

** Number enrolled from previous year includes those who had not completed.

However, the approach taken in the programme was in contrast to the position of some IOs that advocated for a less interventionist approach and claimed that it was more appropriate to support what the Romani community set as their priority, and not necessarily specifically education for Romani children. The main concern raised over such interventions being too direct was that they would not produce sustainable results and that instead a broader programme dealing with the entire Romani community was required to ensure that children continued to attend school in the long term.

This argument highlights an important caveat to the success of the programme; although although initial enrolment after the summer school was high, approximately 40% of the children dropped out during the year, though this percentage dropped to 25% for the years from 2003 to 2006 (see table above). However, given the limited resources available and the pressing need for children to enrol in school as soon as

possible (because with each passing year more children lost the chance for education), it was decided that the somewhat limited benefits of the more interventionist approach were preferable to not having any programme and/or one that could not deliver short term results.

Additionally, the more interventionist approach was taken because education is a legal right and children are de facto not able to advocate for their own education. Therefore, in order to protect the rights of children it might be necessary to support education above other interests of the community. Without a fairly robust and somewhat interventionist approach, the programme would not likely have overcome the factors that had so far prevented Romani children from attending school. Moreover, to accept the perception of a portion of larger society, and some Roma, that education is not necessarily a priority for Roma, perpetuates the belief that Roma do not have the same basic rights as other groups. Thus, in order for Roma to support both their broader community rights as



In the summer of 2006, 45 Romani children attended Suedost's preparatory classes at the Knez Ivo od Semberije primary school, where they were provided, amongst other things, language training.

PHOTO CREDIT: SUEDOST EUROPA KULTUR

well as their individual rights, it must be ensured that Romani children attend school.

In February 2004, the 'Action Plan on the Educational Needs of Roma and Other National Minorities in Bosnia and Herzegovina' was adopted by BiH education ministers and promoted by the Organization for Security and Co-operation in Europe (OSCE), which is mandated to support education in BiH. The plan brings government resources to the issue, and,

"[...] proposes concrete measures to address the social and economic barriers BiH's largest minority, the Roma, often face by calling on authorities to provide financial assistance for textbooks and transport as well as to raise awareness among Roma parents and communities about the importance of schooling. The Action Plan also proposes steps to ensure that the language and culture of all national minorities is respected within BiH schools and that Ministries incorporate aspects of the culture, history and literature of national minorities into the existing curricula."³

However, it must be noted that, thus far, the increase in the number of Romani children enrolled

in school has largely been the result of locally implemented programmes, such as the one in Bijeljina. The summer school project was also replicated by the OSCE in a few select towns in the summer of 2003. Thus, it is argued that effective local level programme design and implementation should continue until policy changes are able to notably increase enrolment.

There were also other broader, positive outcomes associated with the project. Dialogue was initiated between the Romani community and the government. As a result, the former became more assertive of their rights and the latter became more supportive of Romani education (for instance providing in-school meals for Romani children), although greater dialogue and proactive involvement is still required from both parties. The success of the programme also shows that if communities and institutions are treated as partners and assisted to succeed, then they will often contribute effectively. The programme's results also indicate that seemingly entrenched divisions, such as those along ethnic lines, can be overcome as efforts are made to achieve greater shared values, such as the right of all children to education.

³ OSCE Mission to Bosnia and Herzegovina. 20 July 2005. All Children have access to quality education. Available at: <http://oscebih.org/education/access.asp?d=2>.

European Social Charter Housing Rights Victory for Roma

IN A LANDMARK DECISION ISSUED by European Committee of Social Rights, Bulgaria was found in violation of the European Social Charter in the field of housing. The ruling, made public on 30 March 2007, established that Bulgaria systematically denies Roma access to adequate housing. The European Roma Rights Centre brought the complaint against Bulgaria in April 2005 under Articles 16 and E of the European Social Charter, and the petition was declared admissible by the Committee in October 2005.

Article 16 (The right of the family to social, legal, and economic protection) states, “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

Article E (non-discrimination) states, “The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

In its complaint, the ERRC alleged that Bulgaria discriminates against Roma in the field of housing resulting in racially segregated housing of Roma in the country, substandard housing conditions with inadequate infrastructure, lack of legal security of tenure, and forced evictions.

In its responses, the Bulgarian government requested that the complaint be determined unfounded. The government considered that non-Roma also

live in difficult housing circumstances, thereby rendering claims of discriminatory practices and policies groundless, and disputed the ERRC’s claim that legislation in the field of housing is discriminatory against Roma. The Bulgarian government requested that the Committee acknowledge the on-going legislative and practical measures implemented by the government for the integration of vulnerable population groups, including Roma, with respect to housing.

As outlined in its decision, the Committee considered that the ERRC’s complaint raised two specific issues:

- the inadequate housing situation of Romani families and the lack of proper amenities; and
- the lack of legal security of tenure and the forced eviction of Romani families from sites or dwellings which they unlawfully occupied.

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Related to the inadequate housing situation of Romani families and the lack of proper amenities, the Committee found the following:

“The Committee considers that *the effective enjoyment of certain fundamental rights requires a positive intervention by the state: the state must take the legal and practical measures which are necessary and adequate to the goal of the effective protection of the right in question* (emphasis added). States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards to the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources (*mutatis mutandis* most recently European Court of Human Rights, *Ilascu and others v. Moldova and Russia*, judgment of 8 July 2004,

§ 332). Nonetheless, “when the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allows it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources” (Autism-Europe v. France, Complaint N° 13/2002, decision on the merits of 4 November 2003, § 53).

The Committee finds that the inadequate housing situation of Roma families as alleged by the complainant and recognised by the Government, demonstrated that legal and practical measures were necessary to redress such situation.



Government programmes to improve the housing situation of Roma in Bulgaria have proven extremely ineffective. The European Committee of Social Rights found that positive interventions by the state are necessary for real improvement in this area.

PHOTO CREDIT: ERRC

As regards the adequacy of the measures taken by the Government, the Committee firstly considers that the national authorities are better placed to evaluate the needs of their country (*mutatis mutandis* European Court of Human Rights, Hatton and others v. the United Kingdom, judgment of 2 October 2001, Appl. No. 36022/97, § 96), and that it is not the task of the Committee to substitute itself in determining the policy best adapted to the situation. Nonetheless, as stated in the Autism-Europe decision (Autism-Europe v. France, Complaint N° 13/2002, decision on the merits of 4 November 2003, § 53), the measures

taken must meet the following three criteria: (i) a reasonable timeframe, (ii) a measurable progress and (iii) a financing consistent with the maximum use of available resources.

The Committee has examined all the information submitted by the parties and, in particular, taking into account the “National Programme for improvement of the living conditions of Roma in the Republic of Bulgaria for the period 2005-2015”, summarized in the Government response of 19 July 2006. It finds that the measures foreseen by this above-mentioned programme could result in meeting the three above-mentioned criteria. However, it considers that the Government did not provide enough evidence that the various programmes and action plans concerning Roma adopted so far are being effectively implemented. In particular, it observes that the National Programme mentioned above is the last one of a series which date back to 1999 (the Framework Programme for Equal integration of the Roma in the Bulgarian Society) and which has been subsequently embedded in the 2005 National Action Plan on the Decade (NAPD). *Notwithstanding the clear political will expressed by the Government to improve the housing situation of Roma families, all these programmes and their implementing measures have not yet yielded the expected results* (emphasis added).

Moreover, the Committee observes that in its response of 19 July 2006 the Government admits that, for the time being, the situation is not in compliance with Article 16 of the Revised Charter and that it hopes this will change in a reasonable period of time, proof of which there are timetables and schedules. Although the Committee recognises that the effective implementation of the right to housing may require time, it also finds that given the urgency of the housing situation of Roma families a time frame of six years (1999-2005) should had been enough to realise significant improvements.

The Committee recalls that Article E enshrines the prohibition of discrimination and establishes

an obligation to ensure that, in the absence of objective and reasonable justifications (see paragraph E, Part V of the Appendix), any individual or groups with particular characteristics benefit in practice from the rights in the Charter. In the present case this reasoning applies to Roma families. Moreover, as the Committee stated in the Autism-Europe decision (Autism-Europe v. France, Complaint N° 13/2002, decision on the merits of 4 November 2003, § 52), “Article E not only prohibits direct discrimination but also all forms of indirect discrimination. Such indirect discrimination may arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all”.

The Committee recalls that in its decision on the right to housing of Roma in Italy it held that “equal treatment implies that Italy should take measures appropriate to Roma’s particular circumstances to safeguard their right to housing and prevent them, as a vulnerable group, from becoming homeless” (ERRC v. Italy, Complaint No. 27/2005, decision on the merits of 7 December 2005, § 21). It further developed the state’s positive obligation with respect to access to social housing where it found Italy in violation of the Charter because of “its failure to take into consideration the different situation of Roma or to introduce measures specifically aimed at improving their housing conditions, including the possibility for an effective access to social housing” (ERRC v. Italy, Complaint No. 27/2005, decision on the merits of 7 December 2005, § 46).

In all its submissions the Government emphasised that Bulgarian legislation provides adequate safeguards for the prevention of discrimination. However, *the Committee finds that in the case of Roma families, the simple guarantee of equal treatment as the means of protection against any discrimination does not suffice. As recalled above, the Committee considers that Article E imposes an obligation of taking into due consideration the relevant differences and acting accordingly. This means that for the integration of an ethnic minority as Roma*

into mainstream society measures of positive action are needed (emphasis added).

The Committee therefore holds that the situation concerning the inadequate housing of Roma families and the lack of proper amenities constitutes a violation of Article 16 taken together with Article E.”

Related to lack of legal security of tenure and the forced eviction of Roma families from sites or dwellings unlawfully occupied by them, the Committee found:

“The Committee recalls that “illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However the criteria of illegal occupation must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons concerned” (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 51).

It also recalls that “States Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available (see Conclusions 2003, Article 31§2, France, p. 225, Italy, p. 345, Slovenia, p. 557, and Sweden, p. 653). The law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided” (ERRC v. Italy, Complaint No. 27/2005, decision on the merits of 7 December 2005, § 41).

Furthermore, *the Committee observes that a person or a group of persons, who cannot effectively benefit from the rights provided by the legislation, may be obliged to adopt reprehensible behaviour in order to satisfy their needs. However, this circumstance can neither be held to justify any sanction or measure towards these persons, nor be held*

to continue depriving them of benefiting from their rights (emphasis added).

The Committee finds that the legislation allowing, inter alia, the legalisation of illegal constructions did exist (2001 Territorial Planning Law), but that it set conditions too stringent to be useful in redressing the particularly urgent situation of the housing of Roma families (respect of constructions' safety and hygiene rules, official documents attesting property, residence in the district for more than five years), a situation which is also recognised by the Government. Moreover, the Committee considers that it follows from the fact that illegal Roma settlements have been existing for many years and that, though not uniform, provision of public services, such as electricity, was ensured and inhabitants charged for it, that state authorities acknowledged and tolerated de facto the actions of Roma (mutatis mutandis European Court of Human Rights, *Oneryildiz v. Turkey* of 30 November 2004, § 105 and §§127-128). Accordingly, *though state authorities enjoy a wide margin of appreciation as to the taking of measures concerning town planning, they must strike the balance between the general interest and the fundamental rights of the individuals, in the particular case the right to housing and its corollary of not making individual[s] becom[e] homeless* (emphasis added).

The Committee finds that the current legislation on the legalisation of dwellings affects Roma families in a disproportionate manner. By strictly applying the rules on legalisation to Roma, whose situation also differs as a consequence of the state non-intervention over a certain period (regarding property documents, or the respect of construction safety and hygiene rules), Bulgaria has discriminated against Roma families by failing to take due consideration of the specificity of their living conditions.

As regards eviction, which is the consequence of the non-legalisation of dwellings, the Committee finds that while it is true that legislation

exists and it includes judicial redress, it does not address properly the specific situation of Roma families, with the exception of the suspended eviction of the Vazrazhdane (Sofia). In particular the Committee observes that though in certain cases the Roma evicted were provided with alternative accommodation or compensation, these measures, on the one hand, did not concern all families involved because of the conditions set by the law; and on the other hand, accommodation was either substandard or of a temporary nature (vans, barracks or municipal dwellings whose rent was too expensive for low income families such as Roma). The Committee recalls that it is the responsibility of the state to ensure that evictions, when carried out, respect the dignity of the persons concerned even when they are illegal occupants, and that alternative accommodation or other compensatory measures are available. By failing to take into account that Roma families run a higher risk of eviction as a consequence of the precariousness of their tenancy, Bulgaria has discriminated against them.

The Committee holds that the situation constitutes a violation of Article 16 in combination with Article E because Roma families are disproportionately affected by the legislation limiting the possibility of legalising illegal dwellings; and the evictions carried out did not satisfy the conditions required by the Charter, in particular that of ensuring persons evicted are not rendered homeless.

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This decision is an important step towards rectification of the disadvantaged situation faced by Roma in regards to housing and accommodation. By acknowledging that Bulgaria's policies were in specific violation of Articles 16 and E of the European Social Charter, the Committee's decision paves the way for improved access to universal human rights as set out in the European Social Charter.

The full text of the Committee's decision is available on the Internet at: http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/list_of_collective_complaints/MeritsRC31_en.pdf.

“What Happens to Us Now?”¹

Tara Bedard and Larry Olomoofe

DURING 2004 and 2005, the European Roma Rights Centre (ERRC) conducted a host of training workshops for Romani, Sinti and Traveller activists, lawyers and other parties involved in, or seeking to become involved in, activism to combat discrimination against Roma, Sinti and Travellers in Europe. The European Commission financed many of these initiatives under the auspices of the Community Action Programme to Combat Discrimination 2001-2006. It is intended that this article provide an assessment of the results of these initiatives and comment more generally on the results of the Community Action Programme and its follow-up.

Through these projects, the ERRC and its partners were able to undertake capacity building initiatives in many European countries, including Czech Republic, Slovakia, Ireland, Italy, Hungary, Bulgaria, Poland, Germany, Sweden, etc. The aim of the training workshops was to build the capacity of Romani, Sinti and Traveller and other activists and lawyers to fight against discrimination through:

- Using strategic litigation as a tool to combat discrimination;
- Conducting human rights monitoring and documentation;
- Engaging in effective advocacy campaigns (from the grassroots to national and international levels); and
- Building successful media strategies and campaigns.

The training courses offered by the ERRC and its partners ranged from one to several days, and often brought the same participants together

multiple times in order to develop capacities in a number of areas.

With the hindsight of several months since the close of these projects, and the close of the Community Action Programme itself, the initial results of these great efforts are becoming apparent and (at least, initial) lessons can be drawn.

Results in the short-term

The Spring 2007 issue of the European Commission newsletter *Equal Rights in Practice* outlines the Commission's take on the outcomes of the Community Action Programme. The Commission notes, at page 3 of the newsletter, that “the Community Action Programme can be considered a success.” It is stated that the training initiatives financed within the Community Action Programme “played a vial role in developing the understanding and capacity of individuals and organisations” and were important from the perspective of sharing experiences and raising awareness.

Bearing this in mind, results that can be seen to date from the ERRC experience show a more ambivalent picture. To provide a truthful account, there were a number of issues that arose during the implementation of the training programmes that detracted from the overall success of the programmes.

There were amongst the participants some individuals who were apparently present only for the vacation. The transnational focus of the Community Action Programme and the projects funded therein brought participants to interesting destinations that, for some, seemed to be far more attractive than the training opportunities on offer.

¹ Quote from a presentation by training participant Rose Marie Maughan at the closing conference of a training project by the ERRC, the Irish Traveller Movement and the Milan Simecka Foundation.

The capacity building component was, for the most part, lost on such individuals, though financial and human resources had already been spent.

Also, many of the training workshops implemented were conducted in English. Translation into other languages was provided at some events, but English was the working language and translation was not always available. Using English as the working language at events bringing together people from several countries inevitably means that a great deal of the individuals who would have been interested in such training were not able to participate.

Language differences amongst participants also slowed down the speed of advancement through topics within the trainings, and group work was very difficult. In order to avoid country-based segregation and provide integration and networking within the transnational events, working groups with representatives of various countries were assigned. However, it was noted by several participants that this decision was detrimental to their learning opportunity with regard to skills and information.

On the other hand, of the training programmes in which the ERRC participated as the lead or co-organiser, the feedback received from participants was overwhelmingly positive. Many of the Roma, Sinti and Travellers that participated in the various training workshops were very enthusiastic about the anti-discrimination law framework of which they learned, the issues they tackled and the skills they developed. For some, the training events organised by the ERRC and its partners offered the first opportunity for many individuals to consider the issues and skills addressed in a structured and rigorous environment.

The participants of the training programmes organised also benefited from the opportunity to share their experiences with others from their own country and from across Europe. Irish Traveller participants in one project, for instance, were unaware of the similarities of their own human rights situation compared to Roma and Sinti across Europe. People who participated in

the events were also able to learn from each other and from the work being done in other countries, and were able to consider ways in which that work could be adapted to their own situation.

Anti-discrimination advocacy actions undertaken by certain participants in their own right during the course of these projects became increasingly creative and effective. For example, David Tiser from Czech Republic in particular was engaged in creative direct action advocacy efforts which attracted significant media attention to Roma rights issues in Czech Republic. Especially for those participants who came together a number of times over the course of two years, ideas for actions and organisations were hatched, nurtured and planned. This includes plans, for instance by Stanislav Daniel, a participant from Slovakia, to replicate the training undertaken in Romani communities at the grassroots level and in local languages, to further increase awareness about rights and the number of people fighting against discrimination.

The training and capacitation projects run by the ERRC and its partners during the past several years introduced individuals from socially disadvantaged backgrounds to new people, ideas, countries and experiences. Relationships were developed and joint actions planned. The workshops organised by the ERRC and its partners and funded by the European Commission created a desire to do more to combat discrimination against Roma, Sinti and Travellers, and also created expectations amongst the participants of trainings that they would be supported in such.

Sustainability

Already in the short run, it can be seen that the training programmes implemented, despite some shortcomings, have created momentum in terms of anti-discrimination advocacy by members of the Romani, Sinti and Traveller communities and their representatives. The big question we now face is this: Will this momentum be sustained?

Now that the participants of the many training programmes conducted by organisations like the

ERRC have been “capacitated” to engage in actions to effectively combat discrimination, who will support them? Are the same institutions that provided support to the many capacitation projects ready to take the next step and begin supporting the project beneficiaries? It is the opinion of the authors that the follow-up to the big capacitation push in 2001-2006 will fall far short of the expectations raised amongst Roma and other persons coming from the grassroots or local level.

From the very shortest of perspectives, we provide here a brief synopsis of the closing conference for one of the capacitation projects in which the ERRC was involved as an illustration of supporting institutions’ interest in the results of this effort.

This conference was co-hosted by the ERRC and its partners in Dublin in November 2006. During brainstorming and planning sessions between the project partners and the training participants, it was decided that the closing conference would, rather than merely present project outcomes, be a platform for the participants to utilise their new advocacy skills and lobby for (financial and other forms of) support for their future work. Along this line, representatives of the European Commission, national funding schemes and government bodies working on discrimination issues were invited to attend. The participants set out, with guidance and feedback from the project partners to devise plans of action for the next year, with goals and activities, and realistic assessments of what support they would need. On the day of the closing conference, none of the invited European Commission representatives were present, and government and

funding representatives from only one of 5 representative countries came.

With such displays of disinterest in the results of the capacitation programmes promoted and supported over the past several years, what is to be expected by way of supporting the future actions of the programmes’ beneficiaries? The question posed by Rose Marie Maughan, a training participant in Dublin, seems very urgent: “What happens to us now?”

Many of the individuals that participated in the trainings organised by the ERRC and its partners are involved in work at the grassroots or local levels. They work within small organisations which generally aim to improve the situation of Roma locally. These organisations do not have the institutional framework to qualify for, or the capacity to administer, European Commission funded work in its present form. The funding available from many other funding institutions is also out of the reach of such small organisations. And there do not seem to be any moves by the European Commission or other big funding institutions to make their support more accessible to people working at this level, though they have promoted the capacitation of these actors.

It is the fear of the ERRC that, as a result of this lack of accessibility, in the medium to long term the apparent successes of the past years’ efforts will be lost. The connections made will be dropped because there are no resources to sustain them and the individuals capacitated will lose interest in struggling without resources and turn to other activities.

Litigating Discrimination in Access to Social Services

Andi Dobrushki¹

THE PROVISION of social services and access thereto by Roma throughout Europe is tainted by discrimination. After the post-communist changes that swept Eastern Europe in early 1990s, discrimination and violence were blatant and the intent to harm members of Romani communities was very obvious. Nowadays, many of the sources of discrimination are subtle, yet they result in practices that have an overarching effect on Romani communities and seriously impair their right to live in dignity, free of discrimination.

Such treatment directly contradicts a number of international human rights instruments that clearly prohibit any discrimination in access to social assistance based on grounds such as race, ethnic or social origin, or colour. For instance, in becoming party to the International Covenant on Economic, Social and Cultural Rights, States commit to “recognise the right of everyone to social security, including social insurance” (Article 9), and undertake to do so “[...] without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (Article 2(2)).

Similarly, in becoming party to the International Convention on the Elimination of All Forms of Racial Discrimination, States undertake to “[...] guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law”, particularly with respect to a list of rights including the right to social security and social services (Article 5 (e)(iv)). At the European level, the Revised Social Charter also requires States to guarantee the right to social assistance (Part I, Article 13), the

right to housing (Part I, Article 31), and the right of the family to social, legal and economic protection, which includes provision of family housing (Part II, Article 16) without discrimination on any ground, including *inter alia* race, national extraction or social origin, association with a national minority, birth or other status.

The ERRC is involved in strategic litigation cases highlighting various aspects of the right to social services for Roma around Europe. Below are a few cases in which authorities in different European countries have infringed the right of Roma to social services.

Access to family pension (Croatia)

This is a case of denial of family pension to a Romani woman in Zagreb, Croatia.

The Croatian Institute for Pension Insurance refused to grant a family pension to Ms Sadija Husic, a Romani woman, following the death of her husband Dervis in November 2000. According Croatian Pension Insurance Act, Ms Husic and her mentally disabled daughter Amira both have the right to receive a family pension because Mr Husic worked for more than five years.

Mr Husic reported having worked as a registered employee of his own business from 1 January 1994 until 9 November 2000, when he died, and paid all the necessary insurance contributions. However, following Ms Husic’s request for the family pension, on 2 June 2006 the Croatian Institute for Pension Insurance issued a decision stating that Mr Husic had worked only from 1 January 1994 through 30 November 1998 – 4 years and

¹ Andi Dobrushki is ERRC Senior Staff Attorney.

11 months in total, just short of the required five years – and that Ms Husic is therefore not entitled to receive the family pension.

Local attorney Alenka Vlahinic gathered evidence from the Croatian Financial Agency that Mr Husic's firm was active until at least April 1999 and paid all the required contributions and that Mr Husic himself was registered and paid all contributions in the same period. Mr Husic therefore worked long enough that his family is entitled to a family pension. Ms Vlahinic is of the opinion that the decision of the Croatian Institute for Pension Insurance is a result of discrimination against Ms Husic because all of the proper and necessary documentation had been submitted for a positive decision. In Ms Vlahinic's opinion, the Croatian Institute for Pension Insurance decided against Ms Husic because she is illiterate, and therefore they assumed that she did not know her rights or understand her late husband's firm and its business.

At the end of June 2006, the ERRC, in cooperation with local attorney Alenka Vlahinic, appealed the decision of the Croatian Institute for Pension Insurance. The ERRC and Ms Vlahinic also filed a claim for the family pension on behalf of Ms Husic's daughter Amira in accordance with her right.

Constitutional court complaint against discriminatory conditions for accessing social housing in Zagreb (Croatia)

This case involves an abstract complaint to the Croatian Constitutional Court and, as such, no clients are represented.

In accordance with Article 51 of the Law on the Lease of Apartments, the City of Zagreb is authorised to regulate the lease of apartments belonging to the city through a system of city by-laws. An analysis of the relevant by-law (By-law on lease of the apartments, adopted on 9 February 1998) by the ERRC indicated that the criteria for accessing social housing included therein would have discriminatory effect with respect to Roma.

Concretely, Article 2 of Section 1 of the by-law requires that applicants have 10 years of uninterrupted legal, registered residence in Zagreb prior to submitting their application. Article 13 of the same by-law pertains to the living status priority list, which suggests that a person who has an "established" or "settled" lifestyle increases her/his chances of acquiring points, which form the basis of decision making pertaining to social housing. In reality, this means that persons without a registered residence receive no points and that those persons with more secure forms of tenure receive more points. It is noteworthy that legally registered tenants and/or persons living with their family receive points while those people most in need of social housing – those with insecure forms of housing or no housing at all – receive no points, which renders them almost entirely unable to obtain social housing.

In addition, tenders for the distribution of social housing are to be announced at 5-year intervals. The by-law does not address the question of what to do with those people in need of social housing in the interim period. These people are left without state support and may face homelessness. Such persons would also be in a highly disadvantageous position when applying for social housing when the time arrives.

In response to these provisions, the ERRC, together with local attorney Mr Kresimir Lipovscek, submitted an abstract constitutional complaint, challenging the constitutionality of the regulation and claiming violation of Croatia's international human rights obligations. The complaint is currently pending before the Croatian Constitutional Court.

Forced eviction and the right to adequate housing (Romania)

This case involves the forced eviction of Romani families and their subsequent placement in highly substandard housing by Romanian government representatives.

In October 2006, about 20 Romani families were evicted from a building on Alunisului

Street in Tulcea. Most of the evicted families were provided alternative housing in a location away from the city in an industrial port with unsafe conditions. The remaining families were made homeless by the eviction for two months until they were provided with mobile housing units, which were placed on a garbage dump (background details can be found at: <http://www.errc.org/cikk.php?cikk=2645>).

The ERRC undertook and supported several legal actions in this case, including:

- Preparatory requests for information, based on the Romanian Freedom of Information Act, filed with local courts to secure evidence for subsequent litigation;
- Commencing legal proceedings to secure a court order compelling local authorities to improve living conditions in the derelict buildings in which the evicted Roma were re-housed; and
- Two requests for damages and a complaint based on the Romanian Anti-discrimination Act are currently being prepared for submission.

Decision to provide social housing revoked on discriminatory grounds (Slovakia)

This case concerns actions to ensure the practical implementation of a discrimination finding by a UN treaty monitoring body in a case related to social housing in Slovakia.

On 20 March 2002, councillors of the Dobsina municipality approved a plan to construct low-cost housing for the Romani inhabitants of the town. About 1,800 Roma live in Dobsina, many in appalling conditions without drinking water, raw sewage removal or drainage, and in very poor quality huts. The Dobsina chairman of the Real Slovak National Party, a far-right political party, together with four other nationalists, organised a petition to stop the housing plan as they did not want any more Roma living in Dobsina. They presented this petition to the municipal council, which proceeded to vote to cancel the earlier decision to build social housing and agreed to a resolution that included an explicit

reference to the racist petition. After Slovak courts refused to investigate the legality of these actions, several local Roma, with assistance from the ERRC and the League of Human Rights Advocates, filed a claim before the UN Committee on the Elimination of Racial Discrimination (CERD).

In the case *L.R. v Slovak Republic*, the CERD found in March 2005 that the Dobsina municipality's decision to revoke the resolution to provide social housing to Roma amounted to discriminatory conduct. The Slovak government was recommended to provide an effective remedy and the Committee noted that "the State party should take measures to ensure that the petitioners are placed in the same position that they were in upon adoption of the first resolution by the municipal council."

To date, the municipality has not taken any actions in this regard and a new case has been filed against the municipality to force them to take the necessary actions. Representatives of the ERRC, the Milan Simecka Foundation and the Slovak League of Human Rights Advocates (LHRA) filed a complaint against the Municipality of Dobsina and the Slovak government under Slovakia's Anti-Discrimination Act for violation of housing rights enshrined in the act, asking for the court to give effect to the CERD decision.

Access to maternal allowances (Russia)

This case involves the refusal to grant social allowances for newborn babies to a Romani woman in Volzhskiy, Russia.

Ms Z.I. gave birth to her daughter on 12 November 2005 and applied to the Directorate of Social Aid of the town of Volzhskiy to receive the social allowance for the newborn. After her initial application, Ms Z.I. had to go to the Directorate several times because each time the officials asked her to produce new documents, including her husband's death certificate (who died in July 2000 in Ukraine). Ms Z.I. did not have a Russian passport when she gave birth, but possessed only a certificate proving her identity, also mentioning her husband's name, I.K.

During her visits to the Directorate, the officials assured Ms Z.I., in the presence of witnesses, that she would receive the allowance as soon as she submitted all required documents. She was also assured that the several months required for her husband's death certificate to arrive from Ukraine would not affect her application for the social allowance. In September 2006, when she finally received and submitted the death certificate from Ukraine, Ms Z.I. was informed that she would receive a written response from the higher authority, the Regional Directorate for Social Aid.

On 1 November 2006, the Regional Directorate rejected Ms Z.I.'s request for the social allowance, citing the expiry of the application deadline as the reason for denying her request.

The ERRC has received information that Russian officials often refuse Roma (mainly Romani women) access to social benefits, relying on perceived illiteracy and defenselessness.

Ms Z.I. feels that the social workers did not provide her with proper guidance or give her proper information about the process. The ERRC, together with a local lawyer, have submitted a complaint to the local court, asking that the Regional Directorate pay Ms Z.I. her social allowance. At a hearing in February 2007, the Volzhskiy Municipal Court transferred the case to a lay juror. Since that date, the hearing has been postponed several times because representatives of the Regional Directorate for Social Aid failed to show up.

European Court of Human Rights Delivers Justice to Romani Victims after Seventeen Years

Constantin Cojocariu¹

ON 26 APRIL 2007, the European Court of Human Rights delivered judgments in two cases concerning anti-Romani pogroms that took place in Romania at the beginning of the 1990s. The Romanian Government acknowledged responsibility for breaches of a number of articles of the European Convention on Human Rights, committed to paying considerable amounts of money as damages and costs to the applicants, and undertook to implement measures aimed at improving living conditions and interethnic relations in the aggrieved communities. These judgments emphasise the failure of the Romanian judicial system to provide adequate redress to the victims of widespread ethnically-motivated violence that took place in Romania at the beginning of the 1990s. The European Roma Rights Centre (ERRC) and Liga Pro Europa (LPE) assisted the applicants during domestic and international proceedings.

In *Gergely v. Romania*, the first of the two judgments, Ms Iren Gergely, a Romani woman, complained about violent incidents that took place on 11 August 1990 in the village of Casinu Nou, in Harghita County. On that day, a few hundred non-Romani villagers, incensed by rumours that their Romani neighbours were stealing their crops, gathered in front of the village church and decided to chase the entire Romani community out of town. Subsequently, they set fire to or otherwise destroyed several Romani houses

and threatened to lynch the Roma who happened to be in their way. As a result of the aggression, about 150 Roma were made homeless.

The second judgment, *Kalanyos and Others v. Romania*, concerned similar incidents which took place in Plăieșii de Sus, a village situated close to Casinu Nou. This time, an altercation between a non-Romani night guard and four Romani men was at the origin of the attack on the local Romani community. In retaliation, a crowd of non-Roma assaulted two entirely different Romani men shortly afterwards. Both men died subsequently because of the injuries sustained. Three days later, on 9 June 1991, non-Romani villagers surrounded the Romani quarter, cut the electrical wires leading to it, knocked down the telephone poles connecting the village to the outside world and systematically set on fire all 28 Romani houses, completely destroying them. The Romani villagers, who had been informed about their neighbours' intentions, found shelter in a stable outside the village where they lived in extreme conditions for about a year, until they were allowed to return to the village.

In both cases, local authorities condoned or actively participated in the attacks. Official investigations into the incidents were superficial, failing to assign responsibility to the guilty individuals or provide relief to the victims. None of the victims ever received full compensation for the losses incurred.²

¹ Constantin Cojocariu is an ERRC Staff Attorney. Mr Cojocariu has been responsible for matters pertaining to the cases highlighted in this article for the past 2 years.

² For a detailed summary of the applications filed before the European Court of Human Rights, see Plese, Branimir. ERRC files against Romania. Available at: <http://www.errc.org/cikk.php?cikk=609&archiv=1>. For a factual description of the whole incident at issue see also: European Roma Rights Centre, *Sudden Rage at Dawn – Violence Against Roma in Romania, September 1996*, p.18; Helsinki Rights Watch, *Destroying Ethnic Identity: The Persecution of Gypsies in Romania*, New York: Human Rights Watch, 199, pp. 66-73; HRW/Helsinki, *Lynch Law: Violence Against Roma in Romania*, Vol. 6, No. 17, November 1994, pp. 16-17.



Romani families slept on the street after they were evicted in Tulcea, Romania.

PHOTO CREDIT: CONSTANTIN COJOCARIO/ERRC.

In a rarely used procedure, the European Court of Human Rights struck the two cases out of its list of cases on the basis of unilateral statements made by the Romanian Government that contain a series of admissions and undertakings. Thus, the Romanian Government admitted that its agents were responsible for breaches of Article 3 (prohibition of torture), Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention. The Government stated that it “regret [ted] the failure of the criminal investigation to clarify fully the circumstances which led to the destruction of the applicants’ home and possessions, which left them living in improper conditions, rendered difficult their possibility of filing a civil action for damages, as well

as the exercise of their right to respect for home, private and family life.” Furthermore, the Government expressed regret for the fact “that remedies for the enforcement of rights in the Convention generally lacked at the time when the applicants were seeking justice in domestic courts, and that certain remarks were made by some authorities as to the applicant’s Roma origin.”

In addition, the Government undertook to implement a series of measures aimed at improving interethnic relations as well as living conditions in the two communities, including:

- Ensuring the eradication of racial discrimination within the Romanian judicial system;
- Enhancing educational programmes for preventing and fighting discrimination against

Roma within the school curricula in the Plăieșii de Jos³ community, Harghita County;

- Designing programmes for public information and for removing the stereotypes, prejudices and practices towards the Romani community in Harghita public institutions responsible for the Plăieșii de Jos community;
- Supporting positive changes in the public opinion of the Plăieșii de Jos community concerning Roma, on the basis of tolerance and the principle of social solidarity;
- Stimulating Romani participation in the economic, social, educational, cultural and political

life of the local community in Harghita County, by promoting mutual assistance and community development projects;

- Implementing programmes to rehabilitate housing and the environment in the community, in particular by earmarking sufficient financial resources for the compensation; and
- Identifying, preventing and actively solving conflicts likely to generate family, community or inter-ethnic violence.

Finally, the Government committed to paying damages totalling 133,000 EUR to the four applicants in the two cases.



Location chosen by local authorities in Tulcea, Romania, for resettling Romani families after forcibly evicting them from their previous homes. The area, in an industrial zone, is very polluted.

PHOTO CREDIT: CONSTANTIN COJOCARIO/ERRC

³ *Plăieșii de Jos is the commune in which Plăieșii de Sus and Casinu Nou are located.*



Container-type housing to which Romani families were relocated after sleeping on the street for several months. These houses were placed on a former garbage dump, superficially covered over with a thin layer of dirt, Tulcea, Romania.

PHOTO CREDIT: CONSTANTIN COJOCARIO/ERRC

These judgments by the European Court of Human Rights deliver some reparation to four of the many victims of the pogroms in Casinu Nou and Plăieșii de Sus. Furthermore, these judgments confirm and strengthen the findings of the Court in a similar case, *Moldovan and Others v. Romania*, issued two years ago, which contained a damning indictment of the failure of the Romanian Government to adequately investigate another anti-Romani pogrom that took place in 1991. Indeed, official investigations of an estimated thirty anti-Romani pogroms that took place in post-communist Romania, which resulted in several Romani deaths, destruction of Romani properties and displacement of entire Romani communities, were largely cosmetic endeavours. They failed utterly to elucidate the circumstances of the attacks, bring the perpetrators to justice or

provide redress to the victims. Moreover, due to the prevailing climate of impunity in which such lax law enforcement results, racially-motivated attacks against Roma continue to occur with alarming frequency to the present day.

The Romanian government is now under an obligation to proceed swiftly to comply with the judgments and, in this context, to reopen the criminal files concerning the two above-mentioned two pogroms and compensate the rest of the Romani victims not included in the original applications filed with the European Court of Human Rights.

The Romanian Government should also open the files concerning all pogroms of the 1990s with a view to bringing all those responsible to justice, so that a dark chapter of Romania's recent history may be finally closed.

Strasbourg Court Finds Violation of Article 3 in the First Macedonian Roma Torture Case

Anita Danka¹

IN A JUDGMENT ANNOUNCED on 15 February 2007, the European Court of Human Rights ruled that Macedonia violated Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), in connection with the ill-treatment by the police of Mr Pejrusan Jasar, a Macedonian national of Romani ethnic origin.

The Facts of the Case

On 16 April 1998, Mr Jasar, a Romani man from Stip, Macedonia, was in a local bar where gambling took place. Another patron, after losing, complained that the dice were fixed, drew a firearm and fired several gunshots. Several police officers were called to the bar. Mr Jasar, who happened to be in the bar at the time, maintains that police officers grabbed him by his hair and forcibly placed him in a police van. During his detention in police custody, he was kicked in the head, punched and beaten with a truncheon by a police officer. The medical report issued immediately after Mr Jasar was released the next morning stated that he had sustained numerous injuries to his head, hand and back. In May 1998, Mr Jasar, represented by local attorney Mr Jordan Madzunarov, in cooperation with the European Roma Rights Centre (ERRC), filed a criminal complaint with the public prosecutor against an unidentified police officer. More than eight years later, no steps were taken to investigate the complaint. At the same time, Mr Jasar also began civil proceedings for damages against the State, which were dismissed in October 1999.

The Arguments

Having exhausted available domestic remedies, the ERRC and Mr Madzunarov filed a claim on behalf of Mr Jasar against Macedonia on 1 February 2001 with the European Court of Human Rights. The applicant complained under Article 3 of the Convention that he had been subjected to acts of police brutality amounting to torture, inhuman and/or degrading treatment. Mr Jasar also argued that the prosecuting authority's failure to carry out any official investigation capable of leading to the identification and punishment of the police officers responsible for the ill-treatment constituted a procedural violation of Article 3. Finally, Mr Jasar argued that he did not have access to an effective remedy with respect to the prosecuting authority's failure to investigate his allegations of ill-treatment, in violation of Article 13 of the Convention, read in conjunction with Article 3.

The Decision

In its ruling, the Court recalled that where an individual makes a credible assertion that he has suffered treatment infringing Article 3 at the hands of the police or other agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires that there be an effective official investigation. Such an investigation should be capable of leading to the identification and punishment of those responsible.

The European Court emphasised that, "it is particularly striking that the public prosecutor did

¹ Anita Danka is an ERRC Staff Attorney. Ms Danka represented this case on behalf of the ERRC since February 2005.

not undertake any investigative measures after receiving the criminal complaint.” The Court also noted that “the national authorities took no steps to identify who was present when the applicant was apprehended or when his injuries were received, nor is there any indication that any witnesses, police officers concerned or the doctor, who had examined the applicant, were questioned about the applicant’s injuries. Furthermore, the public prosecutor took no steps to find any evidence confirming or contradicting the account given by the applicant as to the alleged ill-treatment [...]. In addition, the inactivity of the prosecutor prevented the applicant from taking over the investigation as a subsidiary complainant and denied him access to the subsequent proceedings before the court.”

Having regard to the lack of any investigation into the allegations made by Mr Jasar that he had been ill-treated by the police while in custody, the Court held that Macedonia violated Article 3 of the Convention and awarded non-pecuniary damages to the victim.²

The problem of ill-treatment by law enforcement agencies and their subsequent impunity continues to prevail in Macedonia. As recently as November 2006, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stressed that if said state of affairs persists despite previous repeated CPT recommendations, the CPT would be obliged to consider making a public statement in accordance with Article 10 (2) of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

In its report, the CPT asserted:

“The integrity of the system of accountability for law enforcement officials in cases of alleged ill-treatment in ‘the former Yugoslav

Republic of Macedonia’ has been a principal focus of the CPT’s attention – as well as a major source of concern – since the October 2001 visit. Repeated examinations of the issue by visiting delegations have clearly established that, even when detained persons do indicate to an investigating judge and/or a prosecutor that they have been ill-treated, there is no guarantee that any effective investigation will be set into motion. Further, as regards internal accountability procedures, the Committee concluded that there was considerable room for improvement in the manner in which police complaints were investigated. The CPT therefore made a number of recommendations aimed at combating impunity, and called upon the national authorities to implement them.

The written responses given by the national authorities concerning the issue of impunity have thus far been inadequate. It is evident that no effective follow-up action has been taken in respect of most of the specific cases set out in previous reports where the Committee had found that there had been a failure to carry out an effective investigation; at best, there have been certain acknowledgements that the situation is highly problematic.³

The European Roma Rights Centre has itself documented numerous cases in Macedonia in which police have arbitrarily arrested Roma, subjected Romani detainees to physical abuse, obtained statements under threat and denied access to legal counsel. Notwithstanding the frequency of reported police abuse, investigations are rare and the ERRC is unaware of a single case in which disciplinary or criminal sanctions have been imposed.⁴

This ruling is the first against Macedonia confirming abusive police action against Roma in the country and the lack of proper follow-up to

² *The full decision can be found at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=jasar&sessionid=10084627&skin=hudoc-en>.*

³ *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Report to the Government of the Former Yugoslav Republic of Macedonia on its country visit from 12 to 19 July 2004, CPT/Inf (2006) 36, par.17. The full report can be found at: <http://www.cpt.coe.int/documents/mkd/2006-36-inf-eng.pdf>.*

⁴ *Between August 2005 to December 2006, the ERRC together with its local partner (National Roma Centrum) jointly undertook monitoring of the human rights situation of Roma in ten locations in*

complaints by the state investigatory authorities. In order to prevent further violations and to comply with the international human rights commitments of the State, the Macedonian government must take all measures within its power to ensure that acts such as the one in April 1998 do not occur in the future.

This entails thorough legislative reforms ensuring that allegations of ill-treatment by the police trigger prompt and effective investigations, capable of leading to the identification and punishment of the perpetrators and the adoption of policies to avoid similar breaches.

Macedonia, with the aim of documenting cases of violence – including racially motivated violence – by state and non-state actors against Roma, as well as of documenting cases of discrimination and establishing patterns of human rights abuse experienced by Roma.

Upcoming Priorities for the ERRC Under New Leadership

MY NAME IS Vera Egenberger and I am the newly appointed Executive Director of the European Roma Rights Centre. I was assigned this post after 15 years of professional involvement in non-discrimination and anti-racism work at both national and international levels, as well as intensive involvement in grassroots work. My strong conviction to see equal rights implemented for ALL has driven me in my professional and voluntary work since entering this field. Prior to joining the ERRC, I headed the European Network against Racism (ENAR) for 6 years and worked for the Office for Democratic Institutions and Human Rights (ODIHR), the Human Rights Institute of the Organization for Security and Co-operation in Europe, based in Warsaw. In both of these assignments, I had the opportunity to learn about the situation of Roma, not only in the EU but also in the south-eastern European region and elsewhere. I am delighted to work with the dedicated team of Romani and non-Romani staff members of the ERRC.

Despite its internal changes, the ERRC will continue to focus on the central challenges of Roma in the coming period. The ERRC will continue its role in documenting and analysing discrimination and violent forms of racism against Roma. The precarious housing situation of many Roma living in Eastern and Western Europe will continue to be a major focus of the ERRC's work in the coming period. Women's rights and children's rights will also increasingly dominate the

ERRC's agenda. The ERRC will also persist in pressing for equal access to education as well as education de-segregation for Romani children across Europe; especially in light of the effects of such on employment opportunities later in life. The vicious circle of unemployment, poverty and social exclusion is difficult to break. However, I am convinced there is a way to do it.

While the Romani movement and organisations working on Romani issues see sheer failure on the part of some governments and decision-makers to acknowledge the extensive problems in the Romani community, other countries have announced plans and strategies indicating political will to tackle the extensive exclusion of Roma in society. Such political will might be driven by outside pressure to comply with EU standards or the interest of attracting international donors in this area. While the political will of governments to work on Romani issues is a necessary starting point for real change,

this change has not yet happened and still seems to be far away. It appears that there is no shortage of initiatives undertaken. However, an analysis of, for example, the implementation of The Decade on Roma Inclusion does not indicate much room for optimism. The Decade has 8 years left, but if progress towards successfully achieving the Decade's goals is not stepped up significantly, I am afraid that the Decade and similar policies will remain a dead letter.

Fundamental measures such as Positive Action and Statutory Duties by and for public and private



bodies, the strict implementation of equal treatment standards through anti-discrimination legislation and the immediate and clear prosecution of incitement to hatred of Roma in public discourse are required. Mechanisms to effectively monitor the will of governments, announced over the past years to comply with the EU *acquis communautaire*, for example, and actions towards defined goals – such as the reduction of unemployment of Romani people, integrated education for Romani children and acceptable housing standards, to mention just a few – must be created. Verifiable benchmarks and an evaluation system are urgently needed to measure progress, including (possible) lack of progress in meeting objectives. The ERRC will remain a watchdog in the field of Roma rights and will not hesitate to draw international attention to discrepancies between the words and deeds of governments.

I am well aware that change needs time but if Romani and non-Romani human rights activists and representatives of the Romani movement find constructive ways of joining forces, I see a good chance for achieving change. Both stakeholders have their respective role to play in voicing the concerns of Romani communities towards local or national decision makers or towards intergovernmental structures and their international human rights mechanisms. I have learnt over the past 15 years that there is sufficient work (and probably even more than that) to do for all of us. We can choose to approach this work in an isolated fashion. However, I prefer that Romani and non-Romani organisations working on Romani issues bring their outstanding expertise and strengths together to achieve

real change in the lives of Roma across Europe. I am therefore proactively seeking dialogue and cooperation with Romani organisations.

The ERRC has, at times, been criticised for not having sufficient Romani staff members. This criticism is justified and requires a smoothly functioning recruitment policy at the ERRC. It is one of my objectives to increase the number of Romani staff members at the ERRC through positive measures. To achieve this, I need the support of the Romani community. Whenever the ERRC recruits for new positions, Romani individuals should apply; people should spread the word or advertise job announcements in magazines they publish to ensure Romani candidates are informed about vacancies in the organisation.

As an organisation, the ERRC will do its part to meet the goals outlined above. The ERRC has earned an excellent reputation for producing quality research and groundbreaking court cases in its first decade. I aim to build upon this and we will develop a strategic plan for the coming years that will allow the ERRC to continue shaping relevant policies in Europe for the benefit of Roma. This will lead to annual work programmes covering current hot spots such as discrimination against Roma in access to education, employment, health care and justice, women's rights and others. I aim to establish clear policy and performance objectives and to assess them at regular intervals. Only in doing so can the ERRC collect neutral evidence that the money and efforts we invested have fostered real improvement in the human rights situation of the Romani community in Europe.

Šuvdipe pe rig(ekskluzija) e Rromengi katar astaripe butjarimaske thanesko

EUROPAKO RROMANO CENTRO (ERRC) trada avri po februari 2007-to beršesko o raporto pala astaripe butjarimaske thanesko e rromango. O raporto sikavel rezultatura katar rodipa ande pandž thema pala astaripe butjarimaske thanesko e rromengo: Bulgaria, Čehikani Republika, Hungaria, Romani thaj Slovakia. Maj palal andar o raporto šaj užes dikhel pes kaj kerel pes bari diskriminacia mamuj (kontra) e Rroma ande sa pandž thema kaj sasa kerdino rodipe. Ande kava lil šaj dikhel pes so si maj interesanto thaj maj vasno andar kava rodipe savo o ERRC kerda.

Maj vasne dikhipa andar o raporto

Ande relacia pala diskriminacia e džuvljangi šaj phenel pes kaj butivar von našti astaren šerutne pozicie (thana) numaj godolese (vaš odi) kajsi džuvlja. Kana vakarel pes pala e Rroma maj baro problemo te astaren butjarimasko than si lengi nacia. Ande post-komunistikane thema ande Centralo thaj Easto Europa kaj si baro bi-butjaripe e rromengo kava problemo si šuvdino pe rig thaj akharel pes rromani butji. Kerel pes bari diferenca maškar Rroma thaj e gadže ande relacia pala astaripe butjarimaske thanesko.

- Rodipa save kerda o ERRC po 2005-to berš ande Bulgaria, Čehikani Republika, Hungaria, Romani thaj Slovakia, sikaven kaj butjarimaski diskriminacia mamuj Rroma si bari šaipe te astarel pes butji si but cikno. Ande but kazura e manuša save den butji phenen putardes e rromenge kaj našti astaren butji numaj godolese kaj si Rroma.
- ERRC-esko rodipe savo intjarel ande peste vakaripa (intrvju) 402 rromenca save si ande butjarimaske berša ande 2005-to thaj 2006-to berš sikavel kaj 64% rromengo save si ande

butjarimaske berša dikhle (xatjarde pe peste) diskriminacia kana kamle te astaren butjaripe. Kana si pučinde “sar tu džanes kaj godo sasa diskriminacia numaj vašodi (godolese) kaj san Rrom?”, 49% phende kaj godo sasa lenge putardes phendino katar e manuša save den butjarimasko than vaj katar e manuša save keren buti ande kompania pal 5% phende kaj e manuša katar butjarimasko ofiso phende lenge kava.

- Ande maj but kazura e Rroma či astarde butjarimasko than vašodi (godolese) kaj užes šaj dikhel pes pe lende (pe lengi mortji) kaj si Rroma. Pe but thana kaj rodel pes butjarimasko than si baro šaipe te e rromenge save roden butjarimasko than te avel putardes phendino kaj našti keren buti numaj vašodi (godolese) kaj si Rroma.
- Varesave kompanie ande opre sikadine pandž thema kaj si kerdino rodipe keren totalo bilači (ekskluziaki) politika ande relacia pala astaripe butjarimaske thanesko e rromengo. Sar rezultato gasave politikako e Rroma save roden butjarimasko than si cirdine avri katar aplikaciako proceso pala rodipe butjarimaske thanesko maj palal vi kaj naj len edukacia, kvalifikacia pala varesavo butjarimasko than.
- Pe varesave thana evidencija kaj si kerdini diskriminacia mamuj e Rroma šaj dikhel pes vi pe krisura ande centralo thaj Easto Europa.
- Kovle forme e diskriminaciake cirden palal e edukuime rromen katar šaipe te alosaren. Kvalifikuime Rroma dikhen kaj lenge šaipe te astaren lačno butjarimasko than numaj godolese kaj si Rroma.
- Si bari evidencija (šaj užes dikhel pes) kaj kerel pes baro rasizmo asnde butjarimaske ofisoske strukture ande Centralo thaj Easto (čači rig) Europa. But bilače gindipa kodolengo save keren buti ande sa-themeske (publike) institucie thaj save ande kodola institucie trubun te žutin

e rromenge save kamen te astaren butjarimasko than putaren jekh baro pučipe šaj von vaj na keren profesionalo buti pe gasave thana.

- Pharipa pala diskriminacia mamuj Rroma save astarde butjarimaske thana thaj save butjaren naj kade but šuvdine ande raportura sar skrinil pes (ramol pes) pala diskriminaciaki praksa savi opril (či del) e rromenge te astaren butjarimaske thana. Numaj diskriminacia ando butjaripe našti dikhel pes kade lokhes thaj vaš odi či keren pes but raportura pala kava problemo. Aver pharipe si vi kaj e manuša či troman te vakaren pala kava vaš odi kaj gindin kaj ka avel len problemura (vaj len vaj lenge amaleni) pe butjarimasko than.
- Na-egalutnipe ando astaripe butjarimaske thanesko thaj ando butjaripe si baro problemo pala e Rroma. Bari difenca kerel pes mašakar gadže thaj e Rroma vi kana e direktora ande kompanie (fabrike) den na-egalutne kondicie e rromenge thaj e gadženge pala varesavi butji. Maj baro na-egalutnipe kerel pes ande relacia pala pokinipe pala varesavi buti. Maj but deso opaš raportura save vakaren pala varesavi forma naegalutnipaski phenen kaj e Rroma astaren maj cikni pokin pala varesavi buti deso e gadže. Pe aver rig e direktora či den e rromenge šaipe te butjaren maj but časura thaj kade te astaren maj bare love.
- Ande pandž thema ande save o ERRC kerda piro rodipe e evidencia (evidence) sikavel kaj naj egalutnipe ando astaripe butjarimaske thanesko maškar kadale thema. Kadale themen si egalutni legislacia numaj e governura či kerde lače aktivitetura po drom te den zor e manušenge save den butjarimaske thana (vi private vi publike) te keren implementacia egalutni šaimaski politika.
- Butjarimaski diskriminacia mamuj Rroma či dikhel pes sar šerutno problemo katar maj vasne manuša po butjarimasko marketo. Sar konsekvencia, egalutni šaimaski politika ande centralo thaj easto Europa či dživdinel (či trail) thaj vaš odi e aktivitetura save keren pes po drom te phagaven problema e rromenge pala astaripe butjarimaske thanesko či den lače rezultatura.
- Baro na-butjaripe e rromengo save si ande butjarimaske berša sikavel pes publiko sar problemo butjarimaske marketosko thaj maj dur phenel pes kaj e Rroma našti astaren buti vi kaj si len cikni edukacia thaj kaj naj len džanglipe pala varesavi buti. Aver faktori savo kerel pharipe e rromenge te astaren buti sar phenen e manuša po butjarimasko (labour) marketo si vi kaj but Rroma save si ande butjarimaske berša xasardile thaj djele ande aver thema ande vrama kana, ande opre sikadine thema, (kaj sasa komunistikano režimo) kerda pes ekonmikano thaj industriako nevljaripe.
- Šaj phenel pes kaj opre sikadine faktora keren problemo pala astaripe butjarimaske thanesko thaj šuven pe rig e rromen katar butji vaj si vi aver dimenzia problemoski thaj voj si diskriminacia. E diskriminacia si maj baro problemo e rromengo te astaren butjarimasko than thaj maj palal voj opril aksesos e rromengo pe butjarimasko (labour) marketo.
- Ande thema kaj kerel pes egalutni politika voj maj but lel sama pala individualo dinipe zorako te keren pes anti-diskriminaciake norme. Kadale strategija si vi limitura vaš odi kaj kava si ande relacia pala individualcura ilegale diskriminaciako thaj či pučharel maj buxle naegalitetoske problemura thaj maj palal našti sastarel e situacia ande maj buxle grupe e manušengo save si ande bilači pozicia. Proaktivno startegija si maj lači vi vaš odi kaj del šaipe publike thaj private organurenge te arakhel thaj te phagavel naegaliteto savo trail/dživdinel.
- Publiko sektori, jekh katar maj bare sektora save den butjarimaske thana, specialo governo, ministeriumura, či sikaven evidencia pala proaktivno strategija savi ka del garancia egaliteto e šaipasko pala astaripe butjarimaske thanesko. Naj ni evidencia kaski ares si te dikhelpes sode e Governoske ministeriumura keren aktivitetura po drom te dikhel pes si e butjarimaski praksa slobodo katar direkto vaj indirekto diskriminacia thaj maj palal si ande relacia Europake Uniake butjarimaske thaj rasake direktivenca. Varekana, varesave governura den e edukuime rromen specialo pozicia ande varesavo ministeriumo te lel sama pala gasave problemura.
- Private thaj publike kompanie či keren vareso but po drom te den egalutne šaipe thaj politika e rromenge. Vi e multi-nacionale kompanie

andar Europa thaj USA, kaj o zakono rodel lendar te dikhen thaj te len sama pala butjarimaske egalutnimaske šaipaske politike, si lošale kaj garaven palal na egalutnipe mašakar butjarimaske šaipa. Trujal 70% butjarne manušengo savenca si kerdino intervju phende kaj kerel pes egalutni politika maškar Rroma thaj gadže vaj khonik našti dikhel uži eksplanacia sar kerel pes procedura. kade ni jekh kompania našti del informacia sar von dikhen (keren monitoring) sarsavi si etnikani kompozicia pala e butjarne ande kodi kompania. Maj baro kotor lender (katar e kompanie) phenede kaj von či keren gasave dikhpa vaš odi kaj si kodo ilegalno (oprime sit e kerel pes).

- Bautjarimaski (labour) marketoski politika thaj aktivitetura save egzistirin ando regiono naj kerdine kade te žutin e rromenge saven naj butjarimasko than te astaren butjarimasko than tehe (thara). Publike butjarimaske programura si kerdine kade te lokharen thaj tre

žutin e rromenge specialo ande Bulgaria thaj Slovakia. Evidencia katar rodipa (research) thaj godo so džanel pes po lokalo levelo sikavel kaj baro numbri, šaj avel 90% katar sa participantura ande publike butjarimaske programura save lie than ando rodipe si Rroma.

- Nabutjaripe e rromengo ka ačhel jekh baro problemo sa dži kaj ni arakhel pes drom thaj startegia savi maj užes šaj arakhel solucia thaj phagavel problemo. Kate naj lokho drom vaj magia savi šaj pala jekh djes te phagavel o problemo, kava ka avelo lungo proceso savo trubul pakiv, investicie save ka buxljaren thaj den zor (stimulacia) te arakhen pes butjarimaske thana vi pala e Rroma.

E romen sajekh ka avel problemo te astaren butjarimaske thana, e romen ka avel problemo te arakhen than po butjarimasko (labour) marketo thaj maj palal e romen ka avel baro problemo te astaren lače butjarimaske thana.

December 2006: Published the Country Report on the situation of Roma in Ukraine, “Proceedings Discontinued: The Inertia of Roma Rights Change in Ukraine”. The report reflects the outcomes of comprehensive research spanning 3 years conducted by the ERRC in Ukraine. The report is available in English and Ukrainian.

February 2007: Published “The Glass Box: Exclusion of Roma From Employment”, a report presenting the results of groundbreaking factual research in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia, as well as legal and policy research from various contexts. This study was supported by the European Commission and ERRC core donors.

February 2007: Published “The Impact of Legislation and Policies on School Segregation of Romani Children”, a study presenting anti-discrimination law and government measures in the field of school segregation in Bulgaria, Czech Republic, Hungary, Romania and Slovakia. This study was supported by the European Commission and ERRC core donors.

March 2007: Published the comprehensive report “Social Inclusion Through Social Services: The Case of Roma and Travellers”, jointly with partner Númena Centro de Investigação em Ciências Sociais e Humanas. The study presents an impact assessment of government policy in the field of social services on Roma and Travellers in Czech Republic, France, and Portugal, and is available in English, Czech, French, and Portuguese. This study was supported by the European Commission and ERRC core donors.

Conferences, Meetings, Seminars, and Campaigning

12 January 2007: Participated in the Northern Ireland Council for Ethnic Minorities (NICEM) Annual Human Rights and Equality Conference: Belfast, Northern Ireland, UK.

20-21 January: Organised a training workshop on human rights for Romani organisations: Izmir, Turkey.

26 January: Gave a presentation at the seminar “Institutional care of children from the point of international law” organised by Life Together: Ostrava, Czech Republic.

26 January: Organised a roundtable discussion on coercive sterilisation focusing on the implementation of the Committee on the Elimination of Discrimination Against Women

(CEDAW) recommendations in the *A.S. v. Hungary* case: Budapest, Hungary.

1 February: Presented materials on the *A.S. v. Hungary* case at a roundtable meeting organised by the ASTRA Network on Reproductive Rights: Budapest, Hungary.

6 February: Hosted a meeting of an expert working group on child protection issues in Hungary: Budapest, Hungary.

8 February: Participated at a consultation for NGOs by the Hungarian Minister of Foreign Affairs: Budapest, Hungary.

21 February 2007: Organised a strategy meeting for Romani women’s NGOs, Serbian

NGOs, academics, local government officials and international organisations to discuss the May 2007 CEDAW review of Serbia: Belgrade, Serbia.

- 22-23 February:** Participated in a seminar on positive action organised by the European Commission against Racism and Intolerance (ECRI): Strasbourg, France.
- 24-27 February:** Held meetings with partners concerning Roma rights matters in Russia: Moscow, Russia.
- 26 February:** Hosted a meeting of an expert working group on child protection issues in Hungary: Budapest, Hungary.
- 26 February:** Presented research results in the areas of employment and education for Roma in Bulgaria, Czech Republic, Hungary, Romania and Slovakia at the European Commission in cooperation with the International Helsinki Federation for Human Rights and the European Roma Information Office: Brussels, Belgium.
- 5-6 March:** Gave a presentation and participated as a panellist at the 5th session of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action, organised by the Anti-Discrimination Unit of the UN High Commissioner for Human Rights: Geneva, Switzerland.
- 9-10 March:** Presented information at a public presentation of the project “Roma Rights in Turkey” implemented by the European Roma Rights Centre, Helsinki Citizens’ Assembly and EDROM: Istanbul, Turkey.
- 15 March:** Participated in the Coalition Europe working group meeting, “From Hate Crimes to Human Rights” in the House of Commons, London, UK.
- 16 March:** Participated in the OSCE ODIHR expert meeting, “Hate Crime Prevention and Response Resource Guide and Training Design: Civil Society Expert Meeting” at the French Institute: London, UK.
- 19 March:** Hosted, jointly with partner Númena Centro de Investigação em Ciências Sociais e Humanas, a dissemination conference for the report “Social Inclusion Through Social Services: The Case of Roma and Travellers”, with the support of the European Commission: Lisbon, Portugal.
- 21 March:** Delivered a speech on Romani children’s access to education at the conference “Equal Opportunities for All in Education and Employment”, jointly organised by the Ministry for Rights and Equal Opportunities and the European Training Foundation: Rome, Italy.
- 21-23 March:** Gave a lecture on prejudice and stereotypes as the basis of human rights violations against Romani women at the conference “For Equal Opportunities”, organised by University of Granada in cooperation with the Gitano-Andaluz Socio-Cultural Centre of the Provincial Delegation for Equality: Granada, Spain.
- 24 March:** Presented materials and information at a Roma Rights awareness raising seminar for civil society organisations, organised by partners ERRC and HCa: Ankara, Turkey.
- 28-29 March:** Presented a statement on issues affecting the health of Romani women focusing on the sexual and reproductive rights of Romani women at the conference “Sharing best practices and tools in addressing the sexual and reproductive health and rights of Roma”, organised by the International Planned Parenthood Federation, Bratislava, Slovakia.
- 29 March:** Held an open day at the ERRC office for meetings of the ERRC’s new Executive Director and civil society organisations, Budapest, Hungary.
- 2-3 April:** Delivered a presentation at and participated in the international conference, “Education Reform to Support Roma Inclusion”, organised by the Roma Education Fund, Budapest, Hungary.
- 6 April:** Convened a meeting of an expert working group on child protection issues: Budapest, Hungary.
- 12 April:** Presented information to a visiting group of students from the CET Academic Programmes of the Central European and Jewish Studies Program (Prague): Budapest, Hungary.

- 14 April:** Made a presentation on “Litigating Housing Rights, ERRC’s Experience in Europe” at the conference “Advocating Housing Rights: NGOs in Turkey and in Europe” organised by the Bilgi University NGO Training and Research Center: Istanbul, Turkey.
- 19 April:** Made a presentation and gave a lecture at the Freedom House New Generation Programme to a group of visiting activists and lawyers from North Africa (MENA), at the Freedom House office: Budapest, Hungary.
- 19 April:** Participated in a discussion of the working document “Integration of Minorities – Roma”, prepared by the European Economic and Social Committee: Brussels, Belgium.
- 22-25 April:** Travelled to Kosovo to attend a signing ceremony hosted by the British Office for the project “Minority Rights Anti-Discrimination Advocacy in Kosovo”, to be undertaken by the ERRC and the Roma and Ashkaelia Documentation Centre, and documented housing rights concerns in Mitrovica: Pristina and Mitrovica, Kosovo.
- 23-24 April:** Participated in the conference “Equal Opportunities for All: What Role for Positive Action?”, organised by the European Commission: Rome, Italy.
- 24 April:** Delivered a presentation at the launch of Capacity Global report “Environmental Justice & Discrimination in Europe”: London, UK.
- 25 April:** Participated in a seminar for members of the Social Platform on the quality of social and health services: Brussels, Belgium.
- 2-4 May:** Gave an oral presentation of an ERRC parallel report on Hungary at the United Nations Committee on Economic, Social and Cultural Rights review of Hungary, in collaboration with the Centre on Housing Rights and Evictions (COHRE): Geneva, Switzerland.
- 4 May:** Attended a meeting of the Group of Women Harmed by Sterilisation: Ostrava, Czech Republic.
- 10 May:** Made a presentation to a visiting group of students from the Dutch United Nations Students Association (DUNSA): Budapest, Hungary.

EUROPEAN ROMA RIGHTS CENTRE

The *European Roma Rights Centre (ERRC)* is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. The approach of the *ERRC* involves, in particular, strategic litigation, international advocacy, research and policy development, and training of Romani activists. The *ERRC* is a cooperating member of the *International Helsinki Federation for Human Rights* and has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

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The *ERRC* was founded by Mr Ferenc Kószeg.

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