

In its 2007 assessment, the European Commission noted that although the Turkish legal framework includes a comprehensive set of safeguards against torture and ill-treatment, cases still occur, especially before detention starts: “The fight against impunity of human rights violations remains an area of concern. There is a lack of prompt, impartial and independent investigation into allegations of human rights violations by members of security forces. Furthermore, judicial proceedings into allegations of torture and ill-treatment are often delayed by the lack of efficient trial procedures or abuse of such procedures.”³⁸ There is no independent monitoring of places of detention by independent national bodies, pending the adoption of the Optional Protocol to the UN Convention against Torture. The US State Department also reported the in spite of the fact that the constitution and law prohibit such practices, members of the security forces continue to torture, beat, and otherwise abuse persons: “Courts investigated many allegations of abuse and torture by security forces during the year; however, they rarely convicted or punished offenders. When courts did convict offenders, punishment generally was minimal and sentences were often suspended. Authorities typically allowed officers accused of abuse to remain on duty and, in occasional cases, promoted them during their trials, which often took years.”³⁹ The use of statements obtained in the absence of legal counsel or which are not confirmed in front of a judge is prohibited by the Criminal Procedure Code. The European Commission reported that there are cases where lower Courts have not removed such evidence from the case file, although allegations of ill-treatment were made by the defendant.⁴⁰

Violence against Gypsies by police and non-state actors

On the 23 August 2006 while the ERRC/hCa/EDROM researchers were visiting the Kartal neighbourhood in Bursa, there was a police operation in a house in the neighbourhood, allegedly searching for narcotics. Roma being interviewed at the time in the local tea-house told researchers, “Gypsies are expected to be criminals as a matter-of-course. This kind of operation is frequent in the neighbourhood and discrimination can be harsh towards the ones who look more ‘Gypsy’”.

According to testimonies of Gypsy individuals interviewed by the ERRC/hCa/EDROM in different parts of the country, ill-treatment and arbitrary detention by police are not isolated occurrences. Roma are racially profiled by police as crime suspects and subjected to arbitrary stops and detention. In the Küçükbakkalköy neighbourhood of İstanbul, a 41-year-old man told the ERRC/hCa/EDROM that, “Police always accuse us [Gypsies] of being thieves and blame us for all kinds of crime, while the police co-operate with the real criminals. The police also attack

³⁸ European Commission; Turkey 2007 Progress Report, Brussels, 6.11.2007 SEC (2007) 1436.

³⁹ US Department of State; Country Reports on Human Rights Practices - 2007. 11 March 2008. Available at: <http://www.state.gov/g/drl/rls/hrrpt/2007/100589.htm>.

⁴⁰ European Commission; Turkey 2007 Progress Report, Brussels, 6.11.2007 SEC (2007) 1436.

us when we sell things in the streets, and they try to take away from us whatever we sell and talk to us in an offensive way”.⁴¹

The problem of police violence, however, has been difficult to document due to reluctance of victims and witnesses to testify. There is almost total non-reporting of police violence against Gypsies in Turkey, due to victims’ fear of reprisals. None of the victims of such actions interviewed in the course of this research had considered undertaking legal action against agents of the state. Challenging the state by pursuing legal redress for violations by police is predominantly seen to be a declaration of oppositional views that is inevitably equated with separatism. Most attempts to discuss these issues in the course of research resulted in an intervention from the wider group that suggests “We don’t need outsiders like you stirring up this country”⁴², and charges that the underlying research is aimed at undermining the state. As conflicts between Romani communities and Kurds in İstanbul in February 2006,⁴³ and in continuing situations in the southeast of the country demonstrate, there is a strong identification with the state against its ‘opponents’ amongst Turkish Gypsies. One Romani resident of Dolapdere, İstanbul, commented that he is committed to equality for everyone in the Republic except Kurds, as they do not want to be part of the Republic, whereas Roma were clearly both loyal and determinedly committed citizens.⁴⁴

In Kırklareli, Eastern Thrace, in September 2006 researchers spoke to Mr Z.K. who described the events of the 30 August, when a major police raid took place in the neighbourhood. Mr Z.K. estimated that between forty and fifty members of the police’s special squad (Özel Tim) had participated in the operation, together with motorcycle police, numerous police cars and busses. The reason for the raid was not known to Mr Z.K. but he assumed it was the result of a quarrel that had happened in the neighbourhood a short time previously. He claimed that this kind of operation happens two or three times a year. During these operations, the police used offensive language and abused the residents, which had sometimes resulted in physical scuffles and arrests.

In İstanbul’s Küçükbakkalköy district, scene of large-scale demolition operations, one Romani neighbourhood was subject to twenty-four hour closed-circuit camera surveillance. Police operations had been regular during the past few years. Researchers were told, “An operation usually starts at 5:30 AM or 6:00 AM and goes on until 9:00 PM or later. If you don’t have food at your home, you are hungry that day”. The police reportedly use dogs, armoured personnel

⁴¹ ERRC/hCa/EDROM interviews, İstanbul, September 2006.

⁴² This remark was made to researchers in Kuştepe, İstanbul, in January 2007, and frequently alluded to in many of the research missions.

⁴³ In April 2006, residents of İstanbul’s Dolapdere neighbourhood, the majority of whom are Romani, chased PKK (Kurdistan Worker’s Party) supporters with axes and knives when it became clear who exactly the group was representing. Around 200 PKK supporters had run towards the Dolapdere neighbourhood after police forces chased them away from İstanbul’s Taksim square. See Roma Daily News, 3 April 2006, available at: http://groups.yahoo.com/group/Roma_Daily_News/message/4713.

⁴⁴ ERRC/hCa/EDROM interview, İstanbul, January 2007.

carriers, and tear gas during these operations. Special Forces teams are always present. “They break the doors to get in, remove individuals from the house then beat them in the street before handcuffing them and searching the house for drugs and weapons. They mostly take all of the male residents into custody. Usually, people are not seriously injured but the police beat people with truncheons constantly. This violence is always accompanied by offensive language and abuse”, researchers were told. Because of the tear gas, one woman reportedly had had an asthma attack during one of these operations, but the police refused to believe her. She was accused of play-acting and beaten by the police.

A Dom Gypsy man, Y.K., in his late fifties, who identifies strongly with the surrounding community of Gypsies, all of whom use the self-appellation of Dom, testified to the ERRC/hCa/EDROM about an incident involving police violence and arbitrary detention which had taken place several years previously in Diyarbakır.⁴⁵ During the Ramazan period (the fasting month or “oruç” for Muslims), a night-time robbery of nine kilos of gold took place on the second day. The gold-makers were located in the neighbourhood around the Ulu Cami area of the old city, inside the Byzantine walls, in the complex of jewellery shops and ateliers there. Upon discovery of the theft, the police immediately surrounded the Hançepek mahalle, one of the bigger neighbourhoods where there is a sizeable Dom population, and rounded up all the Dom men for detention in the local police stations. All were later released after about seven or eight hours except Y.K., who was kept in detention for nine days without any explanation. During this period he was tortured by having freezing water from high-pressure hoses poured upon him for hours, beaten and hung by his wrists from the cell wall with his arms behind him. On the tenth day, after another interrogation by a police officer, Y.K. was “tossed into the street” where relatives were waiting for him. Y.K. was at no point offered counsel or legal representation, nor was a medical check carried out. Y.K. stated that the gold had been seized in İzmir, where it had been taken by the thieves who were members of an illegal organisation and not Dom.

Y.K. was unwilling to pursue legal action, fearing that such action would result in further retaliations. He believed that Dom are subject to prejudice and racism from the wider community and the state. A Kurdish coffee-shop owner, and friend to Y.K., who was present stated that the subject of the criminality of the Dom always came up, despite the obvious fact that most of the large-scale crime committed in Diyarbakır was related to the operation of illegal organisations and their financing through criminal activities. Police was reportedly aware of this but preferred to blame Dom in order to avoid confronting potentially armed guerrillas.

In İstanbul’s Kuştepe neighbourhood, the ERRC/hCa/EDROM documented a case of police violence and arbitrary detention of a young man which took place in July 2006.⁴⁶ The story was

⁴⁵ ERRC/hCa/EDROM interview, Diyarbakır, October 2006.

⁴⁶ ERRC/hCa/EDROM interview, İstanbul, 30 January 2007.

told to researchers by the young man's father, who did not let researchers speak directly to his son. The son was working at the time in a furniture shop, and the father feared that this would make the owner of the shop suspicious and his son could lose his job.

According to the father's testimony, C.B. was arrested by police officers and taken into custody for one night, in the Çağlayan area of İstanbul. C.B. was a flower-seller working on the urban highway that crosses the city, in Beşiktaş. He was walking between the cars that had halted in the traffic of the mid-evening rush hour, selling flowers to the motorists and passengers when a motor-cycle policeman challenged him using the megaphone on the bike. When C.B. tried to leave the scene the police officer drove his motorcycle into him. C.B. was then taken to the local health clinic in Beşiktaş where he was examined and pronounced fit by the clinicians to undergo interrogation by the arresting officer. He was taken to the police station and beaten by the police officer whilst in custody. His family was informed of his whereabouts at 1:00 AM; he was eventually released into his father's care 5:00 AM without charge, no explanation (other than he attempted to flee when challenged by a police officer and the police were searching for another street-peddler that they confused with him) and no official comment upon his injuries. C.B. was reportedly unable to walk for two weeks following his detention. The family did not pursue any complaint because of fears of further 'trouble' with the police.

Other cases of arbitrary detention and torture by police were reported by Gypsies in Erzincan, in the eastern Anatolian region of Turkey. In one instance, following a violent argument between shop-owners who refused to serve Roma and some of those being refused, three or four persons were wounded by fire arms. The police took several Gypsies into custody and kept them for ten days. One man testified that he was tortured with electricity.⁴⁷

A number of incidents involving violence against Gypsies by non-Gypsy individuals demonstrate that the discourse of racism and exclusion is common to all non-Gypsy communities in Turkey, and that Gypsy individuals are exposed to vulnerability regardless of the composition of the surrounding population. The most serious cases of abuse, involving murder and torture have been documented in south eastern Turkey and affected the communities in the areas of Van, Silvan, Kızıltepe and Diyarbakır. Women and children are particularly vulnerable to violence.

In Silvan, two shepherd boys were reportedly murdered in September 2006. According to the family, whom researchers visited in October 2006, the two brothers Velat (16-years-old) and Hakim (14-years-old) were killed on 23 September 2006.⁴⁸ They had been working for seven months as the shepherds of 280 cattle in the nearby Görmez village, when they were allegedly murdered only four days before their contract with the village's council of elders was due to finish. Velat called his brother Nevzat (in Silvan with the rest of the family at the time) on the

⁴⁷ ERRC/hCa/EDROM interview, Erzincan, October 2006.

⁴⁸ ERRC/hCa/EDROM interviews with the family of the deceased, Silvan, October 2006.

23 September 2006. This was the last news the family heard from them, and they believe the boys were killed immediately after. Following this conversation, the family had telephoned the boys, but did not receive an answer. On the following day, the family contacted the villagers in Görmez and were told the boys had run away to İstanbul. The family reported the two boys missing to the gendarmerie, however, the officers allegedly refused to investigate the case. On 27 September, the family themselves went to the village in order to search for the boys and Nevzat found the bodies of his two brothers at a nearby river. He told researchers that they appeared to have been dead for some days. The family's attempt to reconstruct the sequence of events suggested that the two boys had been captured on 25 September 2006, shortly after their phone conversation with their brother in Silvan. They believe the boys were kept in a stable where Velat was stabbed to death, and that Hakim had escaped, but eventually was caught, strangled and stabbed to death.

The family in Silvan again contacted the gendarmerie, who made an initial report of the incident but reportedly failed to show any further interest. The family believed that the murders were carried out by two persons in the village of Görmez and had been in contact with their respective fathers, in order to deal with this incident themselves. The latter had refused to respond to the family saying their sons had not committed the crime, adding that they would not discuss with 'Gypsies'. The villagers had also refused to pay the wages for the seven months the sons had worked for them, some 5,500 YTL (approximately 2,700 EUR). The family further implied that the villagers had 'connections' with the state and had received weapons.

The family told researchers that they had no means to force the villagers to address the incident, as the state had not "done anything". "In Turkey there are three types of people: Turks, Kurds and Gypsies; and we are strangers in between Kurds and Turks", said Nevzat, brother to the deceased boys. Without any resolution or restitution, the family were determined to take matters into their own hands (a situation still common in the south and eastern parts of Turkey).

Incidents of extreme violence recorded by researchers indicated that the primary source of inter-communal discrimination in these areas is between Kurds and Gypsy groups. The hostility of local Kurdish communities, compounded by wider societal prejudices, creates an atmosphere of total exclusion of Dom and Romani communities. A similar pattern appears to exist in the north east of Turkey where Laz communities are also overtly hostile to Lom groups in the region.

The abuse of Dom women who marry into Kurdish families but hide their identity was a common theme during the researchers' visits in the southern and eastern part of Turkey. In Van, a woman's husband started abusing her after finding out she was Dom (she had married into a Kurdish family), and the woman was forced to return to her father's house. Because of the 'dishonour' this brought upon the Dom family, her older brother took her back to the house of the husband, where she was subject to further abuse. Then on an unspecified day in 1997, during an incursion into the village by guerrillas and an ensuing gun-battle, the husband had

reportedly pushed his Dom wife into the street and shot her in the back, blaming her death on the PKK.⁴⁹

In another instance, a Dom Gypsy musician in Van told the story of his sister who had been married for some seven or eight years into a Kurdish family before her husband realised she was Dom. The woman was subjected to torture by her husband, who reportedly cut her breasts with scissors and made her pull carts. The woman's brother also mentioned that she had been "made to sleep with corpses" (though it wasn't clear what this meant). The woman had eventually killed her husband with the help of her brothers and son, and was arrested by the police for the crime. She was imprisoned for 5 years in İstanbul (as the case made it unsafe for her to serve her sentence in the region), and now lives there anonymously with her older son, working in a supermarket. Researchers were told they live in isolation, not revealing that they are Dom but passing as Kurds.

Incidents recorded in the northeast of the country also highlighted the discrimination of other communities against Gypsies in Turkish society. The small Black Sea town of Ardeşen, (also called "Artaşen" in Laz), is some forty-eight kilometres along the coast road from Rize towards the Georgian border. Despite government attempts to control flourishing home-made small arms production with the opening of an official manufacturing plant, fire-arms are widely available and tensions between the ethnic Laz community and the Lom Gypsies are coloured by these circumstances (researchers were told of the fear of gun attacks from the local Laz youth). The Lom Gypsies of the town are not engaged in the economic activities centred around tea growing or in the industrial manufacturing, but are reduced to day-labouring and part-time construction work, or unemployment.

Two years before the researcher's visit in September 2007, a young Lom man had set out with some Laz friends to visit his grandfather and take a large sum of money for the family to invest in land. On the road, the Laz boys (in their late teens) had turned on the young Lom and fatally beaten him before stealing the money and dumping him into the sea. When his body was washed up on the shore a day or two later, the police had arrested the young men who had accompanied him. The perpetrators were tried and received light sentences as they were underage. Since this incident, the Laz youth in the town had reportedly taken to openly abusing young Lom men and women and if any resistance is shown, they draw their pistols and threatened the individuals and their families, taunting them that they would have no justice even if they were to be killed.⁵⁰

In at least one instance, researchers documented a case of an attempted lynching of Turkish Gypsies in the city of Afyon, in the Aegean region of Turkey. On 29 April 2006, a crowd of

⁴⁹ ERRC/hCa/EDROM interview, Van, October 2006.

⁵⁰ ERRC/hCa/EDROM interviews, Ardeşen, September 2007.

angry non-Roma attacked a Gypsy family and burned several homes belonging to Gypsies. The crowd was reportedly instigated by the alleged abuse of female students by two Gypsy youth in a local school. Following a confrontation between the school director and the Gypsy youths at a local bazaar, a crowd gathered threatening to burn the Gypsy youths and their family alive. Despite intervention of local police, the crowd beat several Gypsies who were present, followed the two boys and their family to the house where they had hidden and set the house on fire. Several local officials tried to calm the crowd and bring the events under control. Reportedly, no one was arrested or brought to justice for the violent action against the Gypsies.

The incidence of police abuse and violence by non-state actors against Turkish Gypsies requires the urgent intervention by the Turkish authorities to ensure that members of Gypsy communities enjoy equal protection of the law. In addressing these problems, the Turkish state should take notice of the recommendations elaborated by international organisations and bodies.

Recommendations by international organisations and bodies concerning violence against Roma/Gypsies

Racially-motivated violence against Roma/Gypsies has been condemned by the international community and national governments urged to prevent, investigate and punish all acts of violence against members of these communities. In 1998, the European Commission against Racism and Intolerance of the Council of Europe issued its General Recommendation N° 3 on combating racism and intolerance against Roma/Gypsies, which calls on Council of Europe Member States to “take the appropriate measures to ensure that justice is fully and promptly done in cases concerning violations of the fundamental rights of Roma/Gypsies.”⁵¹ General Recommendation 27 of the CERD Committee calls on governments, amongst other things, “To ensure protection of the security and integrity of Roma, without any discrimination, by adopting measures for preventing racially motivated acts of violence against them; to ensure prompt action by the police, the prosecutors and the judiciary for investigating and punishing such acts; and to ensure that perpetrators, be they public officials or other persons, do not enjoy any degree of impunity.”⁵² The Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area also addresses specifically the issue of police abuse of Roma/Gypsies and recommends, among other things, that Participating States “should develop policies: (1) to improve relations between Roma and Sinti communities and the police, so as to prevent police abuse and violence against Roma and Sinti people; and (2) to improve trust and confidence in

⁵¹ European Commission against Racism and Intolerance, General Recommendation No 3, Combating racism and intolerance against Roma/Gypsies, Strasbourg, 6 March 1998. The full text of the recommendation is available at: http://www.coe.int/t/e/human_rights/ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N3/1-Recommendation_n%C2%B03.asp.

⁵² CERD, General Recommendation 27, “Discrimination against Roma”, paragraph 12.

the police among Roma and Sinti people.”⁵³ In 2006, the European Parliament resolution on the situation of Roma women in the European Union highlighted the vulnerability of Romani women to acts of violence and urged public authorities “to promptly investigate allegations of extreme human rights abuses against Romani women, swiftly punish perpetrators and provide adequate compensation to victims” as well as to “ensure that programmes are developed to provide services to Romani victims of domestic violence and exercise particular vigilance with respect to the trafficking of Romani women”.⁵⁴

Exclusion from employment

Domestic and international law provisions

The Turkish Constitution provides that “everyone has the right and duty to work”⁵⁵ and the state will “take the necessary measures to raise the standard of living of workers, and to protect workers and the unemployed in order to improve the general conditions of labour, to promote employment, to create suitable economic conditions for preventing unemployment and to secure labour peace.”⁵⁶ Concerning working conditions, the Constitution ensures that “no one shall be required to perform work unsuited to his age, sex, and capacity”,⁵⁷ that “minors, women and persons with physical or mental disabilities, shall enjoy special protection with regard to working conditions”⁵⁸ and that “all workers have the right to rest and leisure”.⁵⁹

The research showed that Roma are almost entirely excluded from permanent employment and social security. Employment is almost always temporary, non-registered, unskilled labour and is often carried out without any regard for health and safety considerations.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination states: “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights...the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just

⁵³ OSCE Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area, paragraph 28. Paragraphs 28-32 of the Action Plan relate to the issue of Roma/Gypsies and police.

⁵⁴ European Parliament resolution on the situation of Roma women in the European Union, P6_TA(2006)0244, paragraph 2. The full text of the resolution is available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0244+0+DOC+XML+V0//EN>.

⁵⁵ Article 49(1).

⁵⁶ Article 49(2).

⁵⁷ Article 50(1).

⁵⁸ Article 50(2).

⁵⁹ Article 50(3).

and favourable remuneration.”⁶⁰ The International Labour Organisation’s (ILO) Convention No 111 Concerning Discrimination in Respect of Employment and Occupation of 1958, requires State Parties to “Declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination in respect thereof.” The obligation to guarantee non-discrimination with respect to the enjoyment of this right is also contained in the International Covenant on Economic, Social and Cultural Rights, the European Social Charter the EU Race Equality and Employment Directives.

Discrimination against Gypsies in access to employment

Amongst some Gypsy communities in Turkey, the degree of structural unemployment is extremely high. In Diyarbakır amongst Dom Gypsies, for example, second and third generation unemployment is very common, and the number of young men with jobs is barely one percent of the approximately 14,000 Dom in the region. During interviews, researchers were told that Dom women were absent from the employment sector entirely.⁶¹

Employment in the majority of cases researched is insecure, lacking any social insurance or social benefits as part of the overall employment ‘package’, in common with much employment for all groups of people in Turkey. The majority of employment opportunities are in the low-skilled or unskilled sectors, and restricted to a number of what might be described as ‘ethnified niches’, or jobs consistently identified by the surrounding non-Gypsy communities as “Gypsy jobs” or “Gypsy business”, often with a pejorative association of underhandedness or shady dealings.

Gypsies face specific disadvantages and prejudices in employment related to their ethnicity, where access to jobs is denied on this basis, or only menial tasks are open to Gypsies outside of the limited range of ‘traditional’ occupations, frequently themselves seen as low-skilled. In Erzurum, eastern Anatolia, a man who presented himself as Özgün referred to discrimination against Gypsies: “The employers place a great importance on which area you live in. If you say you live in the Sanayi mahallesi, then you haven’t got a chance. Once I applied for a job with a wholesaler and he refused to give it to me after he found out where I lived.”⁶² In a similar vein, a respondent from the Akıncılar mahallesi in Adana, southeast Turkey, related how he got off the bus well before his stop in order to ‘hide’ where he lives and therefore his identity from those he works with.⁶³

In August 2006, in the Konak mahallesi in İzmir, a person called Necdet told researchers he felt his job applications were being turned down because he was Romani. He thought the reason for

⁶⁰ Article 5(i). Available at: <http://www2.ohchr.org/english/law/cerd.htm>

⁶¹ ERRC/hCa/EDROM interviews, Diyarbakır, October 2006.

⁶² ERRC/hCa/EDROM interview, Erzurum, October 2006.

⁶³ ERRC/hCa/EDROM interview, Adana, September 2006.

this was the negative images people have of Roma in Turkey. In Çorlu, Tekirdağ Province in Eastern Thrace, a Romani man named Yüksel told ERRC/hCa/EDROM that two years previously he had become the chief waiter in a restaurant employing between twenty or thirty persons. The other employees had complained to the owner, asking him “So what is this, a ‘gypsy’ is to lord it over us [...]” and eventually Yüksel quit his job because he could not work in this kind of environment. In the same town, a Romani woman testified that her daughter had applied for a job in a store but they did not employ her after learning about where she lived, as they automatically understood that she was a Gypsy. In order for her son to get a job in a factory, the family had to give a wrong address.

According to the testimony of a leader of the Romani community in Kırklareli, north western Turkey, in the autumn of 2004, he had had a meeting with the governor’s office in order to discuss the problems of employment for the Roma in the city. The head of the governor’s employment office called the Zorlu Linen factory and explained that he was calling on behalf of the vice-governor to a member of the board, who he had contacted. The loudspeaker of the telephone was activated, so that the Romani leader could follow the conversation. The representative of Zorlu Linen asked whether the people in search of work were Roma, and when the officer from the governor’s office affirmed this, the reply from the representative of Zorlu Linen was “I am sorry, but we have a board decision not to employ Roma.”⁶⁴

The same Romani leader told researchers about an employment-training scheme that had been organised between the Romani association, the Adult Education and Training Centre (Halk Eğitim Merkezi) and a local business in 2005. The idea of the scheme was to provide experience in the textile industry and the local business (Şampiyon Tekstil) employed thirty-five Roma at the factory for three months. After this period, during which the Roma received no payments or social security contributions, they were dismissed. The Halk Eğitim Merkezi had provided them with certificates for completing the training. The Romani association had taken the case up and in the following six-months had pursued it vigorously, but only part of the payments due to the Romani workers had been recovered through this action.

The problem of unemployment is also compounded by the length of time that unemployment lasts on average for Gypsies, when the periods can stretch to effectively mean almost permanent unemployment for large numbers of Gypsies, especially in areas where the economic infrastructure is also particularly weak. In the south eastern and eastern parts of Turkey for example, researchers were told by Mr Fehmi Kaya, 42-years-old and unemployed, that he had been trying to find job for some years, but no one wanted to give jobs to Dom Gypsies in Diyarbakır. He added that the way non-Gypsies treated him made him to feel like a dog.⁶⁵ In areas that are more stable economically, such as western Turkey and the Thrace region in

⁶⁴ ERRC/hCa/EDROM interview, Kırklareli, September 2006.

⁶⁵ ERRC/hCa/EDROM interview, Diyarbakır, October 2006.

particular, the incidence of unemployment in areas is dramatically different; the Aydoğdu mahallesi of Tekirdağ has a very high rate of unemployment amongst the adult male Gypsy population that contrasts strongly with the surrounding community, where economic growth is being driven by expansion in the building sector and tourism and there are a range of opportunities arising from this.

Amongst Gypsy women, discrimination in access to employment was also common as testified to researchers in the Çinçin Bağları mahallesi in Ankara and in Bodrum. S.D., a 25-year-old woman, had started working in a patisserie shop in Ankara, in June 2006. She began having problems when a non-Gypsy colleague started complaining about her to the owner of the business, compounded with constant verbal abuse and insults from them. They made the comment about her being a 'Gypsy' and therefore 'naturally' incapable of doing anything right. As a result, she felt she had to give up and leave the job. Also, at her previous job, while working as a waitress, she was sent to work in the kitchen where customers could not see her because of their negative reactions, and eventually she was sacked after a short time.⁶⁶

In Bodrum, in the south western Aegean Region of the country, researchers talked to a Romani woman who, like her colleagues, migrated from İstanbul because she could not find work there. The woman testified that she had witnessed some local Turkish girls yelling agitatedly because they thought the *hamam* (Turkish bath) women attendants were from Sulukule (i.e. they were Gypsies), which they had seen and heard about on the television and did not like.⁶⁷ The woman had reportedly assured them, "No, no we are not from there; we are from Fatih [the most religious area of the city]."

The limitations in employment might also be broadly said to include the military and discrimination in recruitment is present in this sector as in all other ones. During military service for young men (and Turkish Gypsies are very positive about this, arguing that it is one of the distinctions that makes them 'loyal' citizens), the most frequent experience is that of being allocated to the band, according to many interviewees. This was viewed as a benefit by many, who suggested that in this way, wider prejudices against them as Gypsies were limited and there was a degree of solidarity from being with other Rom, Dom and Lom. The kind of training that was given was also seen as valuable, as during their military service many Gypsy musicians had learned to read music formally. However, beyond the duty served by these soldiers for their 18-month terms, entry to the armed services is limited in terms of a career.

The leader of the Romani organisation in Kırklareli, in Eastern Thrace, had applied to the Turkish navy school and passed the written, oral and physical exams. He was subsequently rejected without any explanation. When he called the General Command in Ankara he was told

⁶⁶ ERRC/hCa/EDROM interview, Ankara, October 2006.

⁶⁷ ERRC/hCa/EDROM interview, Bodrum, October 2006.

that he did not “meet the necessary conditions”. When he asked for more details he was told that he should stop asking more questions in order not to cause himself trouble. The man wanted to take up this case legally, but his application to do so was rejected by five different courts: first the local court, then a higher court, then the military court, then Ankara's 10th administrative court and, finally, the Council of State (Danıştay). After his failure with the Turkish legal system, the man considered taking the case to the European Court of Human Rights. He felt that Romani people are excluded “even though we are not terrorists”. He believed discrimination is of a general character, and also prevents them from getting jobs.⁶⁸

Another significant factor in the question of unemployment is the extent to which the real levels are ‘hidden’ by seasonal, partial or occasional employment. The seasonal employment that occurs in the agricultural sector in Thrace and much of western Turkey offers very temporary incomes to large numbers of Gypsies in these areas, or who migrate from other areas such as the east and south eastern regions. Fruit and vegetable picking, and other cash crops are a mainstay form of income for many groups in Turkey, and especially numbers of Gypsies who rely upon this for the substantial part of their annual income. The daily rates of those labouring in the fields is extremely low; around a third of a New Turkish Lira is common amongst the onion pickers in western Anatolia, working in very poor conditions and dealing with loads of many kilos. Most harvesting work is similarly poorly paid for Gypsies (although this is not uncommon with other groups who are also paid as little, especially Kurds).

‘Gypsy’ employment is concentrated in certain occupational niches as suggested above, and these can be outlined in the following ways:

Service sector: Street shoe-cleaners, porters, scrap collectors, basket-sellers, bath attendants, flower-sellers (dominated by women who control both the wholesale and retail markets), peddlers (especially of small goods for brides-to-be in eastern Turkey and frequently Alevi), garbage collectors and recyclers (in urban centres and frequently groups that have previously had another occupation, such as the bear-leaders of İstanbul who turned to recycling when this was banned in 1995), fortune-tellers (especially in tourist centres such as İzmir, where Gypsy women from Çanakkale dominate the market, dealing in both flower-selling and fortune-telling), traders with other Roma communities (selling fabrics and clothing to the Kalé from Scandinavia, for example, though the extent of trading networks has as yet been under-researched), horse traders, carriage drivers (especially in the tourist areas such as the Marmara Islands -- Heybeliada, Büyükada, Kınalıada and others -- İzmir, the Aegean and Mediterranean resorts) and carters (in Kırklareli, Eastern Thrace, for example).

⁶⁸ ERRC/hCa/EDROM interview, Kırklareli, September 2006.

Agricultural sector: Agricultural day-labourers in fruit and vegetable picking, cotton picking and mushroom picking (the community in Gaziosmanpaşa collect for the restaurants in İstanbul, for example).

Craft production: Basket weaving/making, knife making, metal work and ironmongery (including foundry work), 'traditional' dentistry (amongst Dom), silver jewellery making (amongst some of the Dom), sieve making, fence making and *zurna* making (servicing the musicians who play)

Entertainment sector: Musicianship and dancing (the latter amongst particular groups or professionals only such as those from Sulukule in İstanbul), puppeteers (Karagöz), story-tellers and epic poets (amongst Dom from Diyarbakır).

Industrial sector: Miners, industrial labourers in a variety of manufacturing and production processes (usually 'piece-work' as in filling matchboxes or making thermostats for irons, when the cost of mechanically producing these is greater than paying the labour costs) and clothing manufacturing.

This is not an exhaustive list, but gives the main occupational descriptions provided by respondents. In almost all of the above categories, the work is described as insecure, partial, seasonal or without any of the social insurance and tax contributions that attend other employment amongst the majority population. The list does not include the many Gypsies who rely upon, and are increasingly forced to rely upon, begging as a result of widening disparities between income groups in Turkey. Nor does it describe the 'hidden' economy of importing goods (cigarettes, alcohol) illegally that Gypsies are part of (although this is usually organised by other groups that use the Gypsies as lowly intermediaries). The question of involvement in criminal activities has also been raised and it was affirmed that small scale dealing in hashish and marijuana is widespread in some communities, though it was emphasised never 'hard' drugs, like other groups. The question of the extent to which Gypsies were or are involved in the sex trade also occurred on some occasions and was discussed frankly by respondents in İstanbul and Mersin, who admitted that these things had taken place at one time in the community, but with changing social and especially religious attitudes, it no longer happened.

The situation for those caught in cycles of structural unemployment, social exclusion and marginalisation for generations meant that, for some people, resorting to petty theft was a necessary measure. The Cono community of Mersin, southern Turkey, were clear that if they had any opportunity to access 'normal' employment and education they would cease to be involved in petty crime, but they had no choice as they had been 'branded' thieves for many decades and this had become a self-fulfilling prophecy for the group. Despite this reputation as 'hereditary' criminals, the Cono were profound in their Alevi beliefs and adhered to the tenets of Alevism as far as they were able. Marginalised even by other Gypsy groups in the area, they

nevertheless spoke remnants of Romanes amongst themselves and articulated their own identity as Gypsies.⁶⁹

Recommendations by international organisations and bodies concerning access of Roma/Gypsies to employment

Endemic discrimination against Roma/Gypsies in employment and their exclusion from the labour market has prompted international concern and calls on national governments to remedy the situation. The 2000 Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area details recommendations to Participating States, including promotion of qualified Roma and Sinti in public employment and the development of vocational training programmes, etc.⁷⁰ The Committee of Ministers of the Council of Europe dedicated a specific recommendation, Rec (2001)17, on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe.⁷¹ The 2005 Resolution of the European Parliament also urged Member States and candidate countries “to take concrete measures to improve the access of Roma to labour markets with the aim of securing better long-term employment”.⁷² In 2006, European Parliament on the situation of Roma women in the European Union calls specific attention to the very high unemployment rates among Romani women and urges governments to address the serious barriers posed by direct discrimination in hiring procedures.⁷³

Barriers to equal access to education and training

Domestic and international law provisions

Article 42 of the Turkish Constitution guarantees “no one shall be deprived of the right of learning and education”. Article 4 of the National Education Fundamental Act⁷⁴ ensures, “educational institutions are open to all, with no distinction of language, race, sex and religion” and “no privilege shall be granted to any individual, family, group or class in education.”

⁶⁹ ERRC/hCa/EDROM interview, Mersin, May 2007.

⁷⁰ See paragraphs 48-52 of the OSCE Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area.

⁷¹ Council of Europe, Committee of Ministers, Recommendation Rec (2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe. The full text of the resolution is available at: <https://wcd.coe.int/ViewDoc.jsp?id=241681&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>.

⁷² European Parliament resolution on the situation of the Roma in the European Union, P6_TA (2005)0151, paragraph 14.

⁷³ European Parliament resolution on the situation of Roma women in the European Union, P6_TA (2006)0244.

⁷⁴ No. 1739.

At the same time, Romani children suffer multiple forms of discrimination in their right to education. Although “primary education is compulsory for all citizens of both sexes and is free of charge in state schools,”⁷⁵ real access to school of those Romani children, who cannot even afford the costs of proper clothing, books, pens etc. is denied. The allocation of financial support for families is often denied to Romani families despite the obvious need.

There are a number of international legal instruments binding on Turkey that provide for the right to education without discrimination on the grounds of, *inter alia*, race and ethnicity. Articles 2 and 13 of the International Covenant on Economic, Social and Cultural Rights guarantee the right of everyone to education without discrimination. The Committee on Economic, Social and Cultural Rights commentary to Article 13 of the ICESCR indicates that one of the components of the right to education is that education be “accessible to all, especially the most vulnerable groups, in law and in fact, without discrimination.” Furthermore, while many components of the right to education (like all rights in the ICESCR) are subject to progressive realisation, the prohibition against discrimination requires full and immediate application.⁷⁶

Article 5(e)(v) of International Convention on the Elimination of All Forms of Racial Discrimination obliges States Parties to prohibit and eliminate discrimination and to guarantee equality before the law in the enjoyment of the right to education. Article 2, in conjunction with Articles 28 and 29, of the Convention on the Rights of the Child guarantees non-discrimination in the enjoyment of the right to education. Article 2 of Additional Protocol 1 in conjunction with Article 14 of the European Convention on Human Rights bans discrimination in education.

Exclusion of Gypsy children from equal participation in education

Gypsy children are marginalised in the education system as a result of poverty and prejudice. Patterns of overt and subtle discrimination stand in the way of their access to equal education opportunities. Low teacher expectations, low attendance and attainment, early drop-out, low parental levels of basic education and poor resources to support the child's learning are all present to varying degrees in Turkey, even within the same schools.

Most children in the Sulukule's Neslişah and Hatice Sultan neighbourhoods go to school, but only for one or two years. The reason that children do not attend for longer is due to the economic situation of parents, who cannot afford to send their child to school because they cannot afford to buy the requisite books, uniforms, shoes, pens and stationery, or provide lunch

⁷⁵ Article 42(5) of the Constitution.

⁷⁶ Committee on Economic, Social and Cultural Rights. The right to education (Art.13): 08/12/99. E/C.12/1999/10, CESCR General comment 13, para. 31, at: [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.1999.10,+CESCR+General+comment+13.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.1999.10,+CESCR+General+comment+13.En?OpenDocument).

money and other expenses such as contributions to the school funds that are frequently expected from parents. In 2006, reportedly for the first time, the state provided some basic text books for the children; however, parents received no support for food, clothing, or the other expenses. A further disadvantage that the Romani children have, as compared to their wealthier peers, is that they are not able to access extra tuition after school. This is not free; it costs around 40 YTL (approximately 21 EUR) per month for each 2 - 3 hours of extra help each day, and none of the Romani families interviewed could afford this expense. The highest level of education that children in the community reach is high school, and the men interviewed from the community estimated that perhaps 1 out of 1,000 children actually attain that level of schooling.⁷⁷

The situation regarding access to education for Romani children is dominated by the socioeconomic concerns of their families, that combines with the factor of ethnicity in a complex matrix of social exclusion. A number of Romani parents have experienced difficulties in registering their children in schools in the Sulukule neighbourhood in İstanbul, on the basis that they are from the particular quarter associated with negative prejudices about the people therein. It is also the case that anyone from this area (and a number of other areas in İstanbul and across the country) faces the same unwillingness to register their children, regardless of their ethnicity, as the 'mahalle' in question have poor reputation -- the common denominator being that all areas have large populations and anyone from them is considered to be 'Gypsy' regardless of their actual ethnicity. The parents said that children are frequently turned away from several schools before they are actually accepted at any one: "First they tell us to go to one school, then another school, and then when they can't send us anywhere else, they accept our children." In general, children are in mixed classes with both Romani and non-Romani children. However, within the classrooms, Romani children reportedly often sit in separate rows from non-Romani children. In another instance, following evictions in Küçükbakkalköy, İstanbul, children were denied schooling because they were no longer considered residents after their housing had been demolished.

Separation of Romani from non-Romani children within the classroom was reported to the ERRC/hCa/EDROM in many areas of Turkey. In Kağıthane, in İstanbul, parents have reportedly complained about the separation of their children in the classroom to both school principals and teachers but didn't get any reaction.⁷⁸ In Küçükbakkalköy, İstanbul, researchers spoke to an 8-year-old girl about her experience at school. She stated that she was always seated in the last row, farthest away from the teacher. The girl admitted she sometimes had hearing difficulties and that it was hard to concentrate when sitting at the back of the classroom. The girl also told researchers that once she had actually dared to ask the teacher if she could sit in the first row closest to the white board and the teacher replied: "Just this once."⁷⁹

⁷⁷ ERRC/hCa/EDROM interviews, İstanbul, July-August 2006.

⁷⁸ ERRC/hCa/EDROM interviews, İstanbul, September 2006.

⁷⁹ ERRC/hCa/EDROM interviews, İstanbul, October 2006.

S.K. from the Aladağ mahallesi, Bartın, northern Turkey, has four children. She told researchers that one of the most important problems Gypsies face is constant rejection by the two neighbourhood primary schools, each insisting that the other school to take the children. This resulted in children being admitted to school late in the school year and consequently missing classes and falling behind.⁸⁰

Other problems arise when Turkish parents remove their children from schools where there are a large number of Gypsy children effectively creating separate schooling and ensuring the education authority puts little in the way of resources or highly motivated teachers in these schools, continuing the cycle of poor educational achievement for Gypsy children. In Aydın, Germencik mahallesi, researchers interviewing members of the İzmir Roma Association were told that non-Romani students had transferred from the local school to other schools in the area, and that many of the teachers had resigned when the Romani children were enrolled in the school the previous year.⁸¹

A 32-year-old woman in Ankara's Ulucanlar mahallesi, who is married with three children, told researchers that Romani children go to the same school as non-Romani children in the neighbourhood. The school's head teacher is reportedly hostile towards the Romani children, beating them, verbally insulting them and negatively commenting on their clothing. Because of his attitude, non-Romani children also reportedly avoided Romani children, barring them from their games and behaving negatively towards them.⁸²

In İzmir's Tepecik mahallesi, a man named Ahmet talked about the teachers who are working in the neighbourhood schools. They were generally indifferent in terms of the quality of education they gave to children reportedly and, although he had had a conversation about this with the head teacher of the school, there had been no improvement. Ahmet suggested that because it is a Romani neighbourhood, they did not receive an acceptable level of education which resulted in children dropping out of school.⁸³

Gypsy parents themselves have responded to the education system with varying attitudes; some participate in the school management (such as in Dolapdere and Edirne examples), whilst others see little point in motivating their children to attend or achieve. Drop-out rates, especially for girls and young women are high, in common with many other groups in Turkey and similar to patterns for Gypsy education elsewhere in Europe. Education as a means to social inclusion and improvement is recognised widely to be the most important issue facing Romani and Dom communities. However, low expectations are also very much present in the Gypsy communities themselves and aspirations match this in their perceptions of what is possible.

⁸⁰ ERRC/hCa/EDROM interviews, Bartın, September 2006.

⁸¹ ERRC/hCa/EDROM interviews, İzmir, October 2006.

⁸² ERRC/hCa/EDROM interviews, Ankara, August 2006.

⁸³ ERRC/hCa/EDROM interviews, İzmir, August 2006.

A Lom Gypsy woman named Leyla in Şavşat, in the Black Sea region, felt that Lom were discriminated against at school and many other public institutions. She gave an example of her daughter's experience. In the sixth grade her daughter could neither read nor write and, according to her mother, she suffered from some learning disability, possibly dyslexia. Leyla had been unable to persuade the school to investigate this and her daughter was reprimanded by her teacher who told her: "Go home and let your parents teach you".⁸⁴ In the same town, a Lom Gypsy man named Fehamettin told the researchers that some years earlier his daughter was the highest achieving student at her school. In spite of this, the school administration had tried to prevent her from giving the annual student speech at the diploma ceremony, instead awarding this honour to a local doctor's daughter because Fehamettin's daughter was "Posha" and "not decent enough". The family protested and, in the end, their daughter was allowed to give the speech after all. In the area, the children at school were divided into A, B and C classes, where the children of 'respected' families attended class A, whereas the "Posha" children were all grouped into class C.⁸⁵

The question of mother-tongue education is often perceived by European Roma and activists to be a crucial issue, yet Gypsies in Turkey do not, in general, share this view. Competence in English is seen to be far more important and achievable as a means to international communication between Gypsy communities, in all but the most politicised of groups. The state system does not allow for this possibility within the curriculum outside of the recognised minorities and long-established acceptance of English-language education. Minority language education however, could possibly be delivered as part of the work of community organisations or perhaps even adult education. On occasion, requests have been made for this (individuals in the communities in Ayazpaşa, Saray and Dolapdere for example), whilst other communities have adopted a more organic approach and asked for materials to assist their own learning from other Roma elsewhere in Europe, so the growing competence in various forms of Romanes will be a consideration in the future. Domari is much more widely spoken amongst Dom in the eastern parts of Turkey, and it is a part of the cultural transmission for these communities that may come to influence other groups in time. It is not, however, part of the initiatives that have come into place in Turkey recently, recognising a greater cultural diversity in the Republic, and there is no reflection of the Dom or Domari language and culture anywhere in the national curriculum. Clearly the inclusion of information about Gypsies in any positive way in the teaching materials or subjects delivered through the curriculum is seen as violating the principles of Kemalism that so stringently delineate the framework in which all children are educated, and in this, the dominant ideological model of the nation and state as exclusively "Turkish" continues.

⁸⁴ ERRC/hCa/EDROM interviews, Şavşat, August 2007.

⁸⁵ ERRC/hCa/EDROM interviews, Şavşat, August 2007.

In the religious education sector that exists in Turkey (imam hatip schools), there is discrimination too. This sector is seen by many parents as the only alternative to the expense of sending their children to state schools, but prejudice can operate amongst the school instructors and local religious leaders in ways that can forestall access. A young man from Kağıthane in İstanbul, named Aykut, wanted to attend a private Koran school, after a representative from the school entered the neighbourhood in order to recruit young people. Aykut went to the school in order to register, but he was told that they do not accept Gypsies.⁸⁶

In the course of the research, ERRC/hCa/EDROM encountered some positive initiatives, although limited in scope. For example, there are programmes for ‘catch-up’ education in operation in Edirne, at the Cumhuriyet İlköğretim School, which although not directly aimed at Romani students attracts them in the majority by virtue of their preponderance in the student body. Edirne Education Authority (MEB) also pioneered a number of initiatives for socially disadvantaged children in partnership with the British Council and the Ministry for National Education during 2005 and 2006. The impact of these upon Romani communities in the city has reportedly been very positive as they are over-represented in such categories. Hüviyet Bekir İlköğretim School in Dolapdere, İstanbul, has a high percentage of Romani students and has also been keen to address their needs, again as pupils suffering significant disadvantages. Both these schools and others have children’s orchestras made up of Romani children and in Van, for example, there are numbers of Dom working in schools to teach music and folk dancing, as part of the curriculum (though not as ‘Romani’ or ‘Gypsy’ dance). The activities of various local authority culture departments support young Gypsy dance troupes and music groups (in Tekirdağ and elsewhere in the eastern part of the country, for example), as an aspect of Turkish folk culture, and the National Culture Ministry gives support and funding to the Kakava activities held in Edirne each year, together with the governor’s office and the local council.

Within the broad spectrum of education, there are some very dedicated and committed teachers and education professionals who are concerned to address some of these issues as best they can, often through extra hours and hard work without incentive or financial reward. These people are all non-Gypsy, and it was not possible to find one example of a qualified teacher who is from a Romani or other Gypsy background, outside of those musicians or dance instructors operating in schools and adult education. The lack of role models is clearly as significant as the absence of Romani history, language and culture from the curriculum in inspiring Gypsy children.

Recommendations by international organisations and bodies concerning access of Roma/Gypsies to equal education and training

General Recommendation 27 of the Committee on the Elimination of Racial Discrimination devotes a special chapter to measures in the field of education and calls on governments to

⁸⁶ ERRC/hCa/EDROM interviews, İstanbul, September 2006.

support the inclusion of Roma/Gypsies in the education system and curb racial segregation and discrimination in the education system.⁸⁷ In 2000, the Council of Europe Committee of Ministers adopted a specific recommendation No R (2000) 4 on the education of Roma/Gypsy children in Europe.⁸⁸ The Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area notes, “Education is a prerequisite to the participation of Roma and Sinti people in the political, social and economic life of their respective countries on a footing of equality with others” and urges governments to undertake “strong immediate measures in this field.”⁸⁹ The two resolutions of the European Parliament on the situation of Roma in the European Union (2005) and on the situation of Roma women in the European Union (2006) call on Member States to ensure that all Roma have access to mainstream education and that Romani women and girls, in particular, have access on equal terms to quality education.⁹⁰

Barriers to access to health care

Domestic and international law provisions

The right to health is recognised in numerous international instruments. Article 25(1) of the Universal Declaration of Human Rights affirms, “Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services.” Article 12(1) of International Covenant on Economic, Social and Cultural Rights provides that the states parties recognise “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” Additionally, the right to health is recognised, *inter alia*, in Article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, Articles 11(1)(f) and 12 of Convention on the Elimination of All Forms of Discrimination against Women and Article 24 of Convention on the Rights of the Child. In its General Comment No. 14 on “the right to the highest attainable standard of health”, the Committee on Economic, Social and Cultural Rights states, “Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity [...] the right to health is closely related to and dependent upon the realization of other human rights.” The CESCR also makes clear that the drafting history and the express wording of Article 12(2) of the ICESCR “acknowledge that the right to health embraces a wide range of socio-economic factors that promote conditions in

⁸⁷ Committee on the Elimination of Racial Discrimination, General Recommendation 27, Discrimination against Roma, para. 17 – 26.

⁸⁸ The full text of the recommendation is available at:

http://www.coe.int/T/DG3/RomaTravellers/documentation/recommendations/receducation20004_en.asp.

⁸⁹ Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area, chapter V.

⁹⁰ European Parliament Resolution on the situation of the Roma in the European Union, P6_TA (2005)0151, paragraph 15; European Parliament resolution on the situation of Roma women in the European Union, P6_TA (2006)0244, paragraph 4.

which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.” Thus individuals’ right to health is not limited to timely and appropriate health care, but also extends to the provision to the extent possible and without discrimination of the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions.⁹¹

Barriers to access to health care

The perceptions with respect to access to medical services of equal standard among numerous Gypsies interviewed in the course of the research reveal endemic prejudice and discrimination in the provision of those services to Romani persons. In at least one instance documented during the research, a Romani man had reportedly died as a result of failure to access medical care. On 6 May 2006, at around 1:00 AM, Y.X., who was shot in the leg, was brought to the state hospital in the town of Çerkezköy. The general surgeon on duty was called, but he reportedly refused to come and take care of the patient. Witnesses claimed that the doctor made racist remarks concerning the Romani man’s ethnic origin while refusing to treat him. There was no other surgeon at the hospital to operate on Y.X. so in the end he was transferred to another hospital in a nearby town. However, Y.X. died on the way to the hospital due to the blood loss. A criminal complaint was filed on behalf of the deceased’s wife against the doctor claiming discriminatory treatment. However, in later stages of the case, the witnesses withdrew their statements, which were crucial to substantiate the racist motivation in the refusal to provide care.⁹²

Problems encountered by persons recognised as belonging to Gypsy communities by medical personnel range from accessing emergency services to discriminatory and differential treatment for Gypsy patients.

According to Roma interviewed in İzmir and Manisa, medical staff in public hospitals subject Romani patients to differential treatment based on their perceived physical differences.⁹³ For example, a 40-year-old Romani woman named Saniye from the Tepecik mahallesi in İzmir attended a public hospital regularly in order to receive treatment for her legs. She stated that whenever she went to the hospital to see the doctor, she felt the negative attitude of the staff, including her doctor. They spoke to her differently and kept her waiting more than other patients. “It is not just my being Roma that makes me different, he [the doctor] speaks with a

⁹¹ See CESCR, General Comment 14, “the right to the highest attainable standard of health”, (twenty-second session, 2000), U.N. doc. E/C.12/2000/4. Available at: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En?OpenDocument).

⁹² Case description provided to ERRC/hCa/EDROM by the legal representative of the deceased person’s wife.

⁹³ ERRC/hCa/EDROM interviews, August 2006.

different [negative] tone” she told researchers. In İzmir’s İkiçeşmelik mahallesi, a Romani man named Hasan, who was undergoing treatment for cancer, asserted that doctors and nurses at hospital did not treat him in a polite manner; he felt his Romani origin was the main reason for that.

In Kırklareli, Eastern Thrace, a respondent told researchers that they [Gypsies] “[...] are usually subjected to discrimination and are excluded in the hospitals on the basis of their ‘unhygienic’ conditions and their Romani accents [distinctive in the dropping of the letter ‘h’ at the beginning of words, in Thrace].”⁹⁴ In the Aladağ mahallesi, Bartın, one of the elderly women in the neighbourhood stated that people deliberately avoided them in the hospitals. She suggested, “No matter how cleanly we dress up, staff there do not give us the same service, and other patients will try to move to another chair if we sit next to them while waiting; we have a bad reputation no matter what we do.”⁹⁵ In Şavşat, in the Black Sea Region, researchers were told that in hospitals discrimination against Lom was common. Reportedly, if hospital staff knew patients were “Posha”, then they were made to wait longer than necessary, even if it was an emergency: “If they don’t know you are “Posha” then you get much better service”, according to a Lom Gypsy man named Fehamettin.⁹⁶

ERRC/hCa/EDROM also received allegations from Roma that ambulances refuse to attend incidents in Gypsy neighbourhoods. In Kırklareli, while an interviewee explaining how the fire brigade had failed to react to their call to arrive and stop a recent fire near the Yayla mahallesi, another Romani man from the neighbourhood, named Adnan, joined in the discussion and emphasised that the ambulance did not come to the neighbourhood and in the case of an emergency, they would have to carry the patient covered with blankets by horse carriage to the local hospital.⁹⁷

In at least one instance, the separation of Romani women in maternity wards was reported. A Romani woman from the Aydoğdu mahallesi Tekirdağ in Thrace stated that a year before she had been taken to a separate room for ‘Gypsy’ women in the local hospital.

In Çorlu, Thrace, a Romani member of the Hıdırağa Mahallesi Sosyal Yardımlaşma ve Güzelleştirme Derneği (Social Support and Beautification Association) named Mehmet told researchers about discriminatory treatment experienced in the local hospital during treatment after a fire at their son’s house. His daughter-in-law had been badly burned in the fire and he and his wife were visiting her at the hospital, when a security guard stopped them and refused them entrance to the hospital. Mehmet told researchers that the security guard had seized his wife by the hair and declared that he knew how to treat them. When Mehmet had attempted to

⁹⁴ ERRC/hCa/EDROM interviews, Kırklareli, September 2006.

⁹⁵ ERRC/hCa/EDROM interviews, Bartın, September 2006.

⁹⁶ ERRC/hCa/EDROM interviews, Şavşat, August 2007.

⁹⁷ ERRC/hCa/EDROM interviews, Kırklareli, September 2006.

wrestle his wife from the grasp of the security guard, a fight reportedly broke out and they were taken to the local police station after the hospital administration filed a complaint against them. At the police station, Mehmet insisted on filing a counter-complaint against the security guard and the hospital administration, but the police persuaded both parties to drop these complaints.

Although data about the health status of persons belonging to Gypsy communities does not exist, it is reasonable to assume that, with the effects of poverty and substandard housing, poor health conditions are very high amongst Gypsy communities. In one instance, doctors at an İstanbul hospital which serves Romani communities of Tophane, Dolapdere, Tarlabası and Kuştepe, informed the ERRC/hCa/EDROM that the incidence of chronic respiratory illness is particularly high amongst Gypsy women who constitute approximately one-third of the patient group at that particular hospital.⁹⁸

Recommendations by international organisations and bodies concerning access of Roma/Gypsies to health care

General Recommendation 27 of the UN Committee on the Elimination of Racial Discrimination urges national governments to “ensure Roma equal access to health care and social security services and to eliminate any discriminatory practices against them in this field”.⁹⁹ The Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area also elaborates a number of recommendations in the area of health care and calls on governments to “ensure that Roma and Sinti people have access to health care services on a non-discriminatory basis” and to “promote awareness about the specific needs of the Roma and Sinti population amongst health care personnel”.¹⁰⁰ In 2006, the Council of Europe Committee of Ministers adopted a specific recommendation Rec(2006)10 on better access to health care for Roma and Travellers in Europe, which deals issues such as effective access to health care, housing and health, children and health, sexual and reproductive health.¹⁰¹ The 2005 resolution of the European Parliament on the situation of Roma in the European Union calls on governments “to ensure equal access to health care and social security services for all” and “to end all discriminatory practices” in these fields.¹⁰² The situation of Romani women in health care is highlighted in the 2006 resolution of the European Parliament on the situation of Roma women in the European Union which urges governments to develop and implement policies to ensure

⁹⁸ ERRC/hCa/EDROM interview with Dr Mustafa Özinal, Taksim Hospital, İstanbul, January 2007.

⁹⁹ Committee on the Elimination of Racial Discrimination, General Recommendation 27, Discrimination against Roma, para. 33.

¹⁰⁰ OSCE Action Plan on Improving the Situation of Roma and Sinti in the OSCE Area, para. 58-63.

¹⁰¹ The full text of the recommendation is available at:

<https://wcd.coe.int/ViewDoc.jsp?id=1019695&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>.

¹⁰² European Parliament Resolution on the situation of the Roma in the European Union, P6_TA (2005)0151, para. 17.

that women even in the most excluded communities have full access to primary, emergency and preventive health care.¹⁰³

Hate speech

Litigation against anti-Romani speech and incitement to racial hatred

In 2006, the Turkist Pro-Society Budun Association (Türkçü Toplumcu Budun Derneği), an ultra-nationalist organisation, opened a stand in İzmir from which it distributed leaflets, which stated the following: “Dear Turkish women and men! Make another child for Turkishness, because you are being marginalised compared to the betrayers, pickpockets, drug dealers, who are spreading. We are the Turkist Pro-Society Budun People who can give the deserved reply to the Kurdish and Gypsy gangs and bigots.” The Police dismantled the stand; however, the Association went on with the campaign from their internet site. The Contemporary Jurists’ Association (Çağdaş Hukukçular Derneği), a national non-governmental organisation of lawyers, filed a lawsuit against the head of the Budun Association, claiming violation of Article 216 of the Criminal Code which prohibits incitement to racial hatred and enmity. In January 2008, the Attorney General issued an indictment act against the Association for incitement to racial hatred, among others. In March 2008, the ERRC and the hCa were granted the right to join the proceedings against the Budun Association. This is the first time that Article 216 is invoked in connection with hate speech against Gypsies.

Domestic and international law provisions

Article 20 of the International Covenant on Civil and Political Rights states, “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.” Article 4(a) of ICERD requires that States Parties “shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin.”

Freedom of expression is an essential human right. However, it is not an absolute right. Based on Article 10(2) of the European Convention on Human Rights, the exercise of this right “may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or

¹⁰³ European Parliament resolution on the situation of Roma women in the European Union, P6_TA (2006)0244, para. 10.

public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Racism, xenophobia and intolerance have been spreading on the internet in Turkey. The Human Rights Agenda Association reported in June 2005 on this problem calling special attention to the activities of four racist organisations and their websites: “National Movement” (Ulusal Hareket), the Fascist Party of Turkey (Türkiye Faşist Partisi), Hüseyin Nihal Atsız and the Idealist Movement.¹⁰⁴ In 2001, the Council of Europe adopted the Convention on Cyber-crime and in 2003 the Additional Protocol to the Convention on Cyber-crime Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed through Computer Systems. However, Turkey has so far failed to ratify these conventions.

¹⁰⁴ Human Rights Agenda Association. Crimes of Discrimination, Racism and Hatred in Turkey, p. 9, at: www.rightsagenda.org.

Conclusions

The social stigma of being a Gypsy in Turkey plays a destructive role in the lives of numerous individuals and poses major barriers for them in accessing the rights and benefits guaranteed by the Turkish state. Many Gypsies in Turkey are caught in a cycle of exclusion which often starts at birth with lack of registration and personal documentation; continues with children's marginalisation in the education system; and afterwards with the inescapable poverty trap in an adulthood disrupted by lack of secure housing, jobs, health care and often lack of security against physical violence.

The problems experienced by Turkish Gypsies are often attributed to poverty and tend to be dissolved in general discussions on poverty affecting many other communities. Poverty among some Gypsy communities in Turkey is indeed extreme, and is handed down from generation to generation. However, as the findings of the research elaborated in this chapter indicate, poverty is one factor in a complex of issues facing Turkish Gypsies, all of which are driven by high levels of anti-Gypsy prejudice, unchallenged – and at times promoted – by Turkish authorities.

There is a growing need for reliable research data for the Gypsies of Turkey in a similar sense that this exists for other central and south-east European countries, EU Member States (both older and more recent) or those seeking membership, upon which effective policy development can take place. To date, the kind of information available has been primarily ethnographic and anthropological, restricted in its impact beyond the academic research community. Social and economic determinants have been little addressed and evidence of the effects of discrimination and marginalisation and the degree to which these impact Gypsy communities remain largely anecdotal. Demographic information is lacking and the geographical location of groups in an urban or rural setting is restricted to one or two exceptions. Effective use of research has the potential to improve public policy, enhance public services and contribute to the quality of public debate. Further, knowledge of this research should enable government, civil society and advocacy organisations to make better decisions about how and where they allocate resources and improve services to address inequalities and the effects of prejudice and marginalisation.

The Government of Turkey should consider adopting and implementing a complexity of measures to address the situation of Turkish Gypsies. As a member of the United Nations and the Council of Europe, a Participating State of the Organization for Security and Co-operation in Europe and a candidate for EU accession, the Turkish state should take account of the policies and initiatives developed by these international institutions to improve the situation of Roma. The Government of Turkey should also explore possibilities for cooperating with governments in Central and Southeast Europe in the framework of the Decade of Roma Inclusion 2005-2015, an initiative launched by the Open Society Institute and the World Bank with the purpose of bridging the gap between Roma and non-Roma in education, employment, health care and housing.¹⁰⁵

¹⁰⁵ For more information on the Decade of Roma Inclusion, see <http://www.romadecade.org/>.

Recommendations

In addition to measures needed to bring Turkish legislation in compliance with international standards for the protection of human rights, including protection against racial and other forms of discrimination, as discussed in Chapter 3 of this report, the government of Turkey should also undertake immediate action to curb ongoing human rights violations perpetrated against Gypsies in Turkey. Furthermore, the Government should implement measures to ensure that individuals belonging to Gypsy communities can access fundamental rights, including social and economic rights, on equal basis with other citizens of the Republic. In particular, the Government of Turkey should:

Cease immediately the demolition of Gypsy neighbourhoods until effective protections of the right to adequate housing are guaranteed to the affected communities, in line with international human rights standards. The government should use all appropriate means to protect and promote the right to housing of individuals belonging to Gypsy communities and guarantee protection against forced evictions, including that:

- Evictions do not result in individuals being rendered homeless or vulnerable to other human rights abuses;
- Evictions only proceed where there is a justifiable reason for doing so, in accordance with international human rights law;
- Security of tenure is guaranteed to Romani occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions;
- Evictions conducted for discriminatory reasons or carried out in a discriminatory fashion are prohibited;
- Due process in accordance with international standards is guaranteed in relation to any forced eviction, including (i) opportunity for genuine consultation; (ii) adequate and reasonable notice; (iii) full disclosure of information concerning the eviction, including purpose for which land or housing will be used; (iv) presence of government officials during eviction; (v) proper identification of those carrying out eviction; (vi) evictions do not proceed in bad weather; (viii) provision of legal remedies; adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of illegal forced evictions; and (ix) provision of legal aid where possible for those seeking redress in courts;
- Adequate alternative housing, resettlement or access to productive land is made available to those affected by evictions that are unable to provide for themselves.

In view of the intensity of urban regeneration projects in the last several years with the resultant destruction of housing, usually belonging to socially vulnerable individuals, the government should consider establishing an institution (Housing Ombudsman or similar) with powers to carry out independent review and assessment of the impact of urban regeneration projects on housing rights.

Discontinue practices of arbitrary arrest and detention of Turkish Gypsies and bring to justice officials responsible for violation of Turkish and international law. The practice of arresting and detaining Gypsies, on the basis of racist stereotypes that exist amongst the law enforcement officers, violates the right to equality before the law and numerous other provisions of human rights law which are binding on the Turkish state. The government is obliged to ensure that no one is detained except in accordance with established procedures and for reasons established by national and international law and standards, and should adopt effective measures to prevent, identify and punish manifestations of racial bias in the law enforcement system. Furthermore, the government should develop and implement training programs aimed at challenging racial bias amongst law enforcement and justice officials.

Finally, the government should take appropriate measures to ensure that persons who may have been victims of ill-treatment by law enforcement officials are not intimidated or otherwise dissuaded from lodging a formal complaint.

Grant amnesty to Turkish Gypsies who are denied access to full citizenship due to lack of personal documentation. The lack of personal documents disadvantages Turkish Gypsies significantly. Ensuring the provision of such documents to all members of the community would facilitate access to full and participative citizenship for those not currently in possession of such. Those Roma/Gypsies who originated outside the Turkish Republic at some point in the past but who have no identity papers should be granted the necessary documentation that would legitimate their official position as members of Turkish Gypsy communities among which they live and work.

Develop targeted policy programmes at national and local levels to deal with the social exclusion of Turkish Gypsies. Such programmes should at a minimum include the following objectives:

In education: To ensure maximum enrolment of Gypsy children at school age; to reduce and prevent school dropout; to prevent discriminatory practices against Gypsy children at school such as the segregation and school harassment of Gypsy children; to provide academic and social support for Gypsy children from vulnerable families.

In health care: To improve sanitary conditions in Gypsy neighbourhoods; to facilitate acquisition of the green card by socially vulnerable Gypsies allowing free access to medical services; to train health care providers and prevent discriminatory practices; to design health promotion programmes for individuals at risk of social exclusion;

In employment: To increase employability of Gypsy adults through literacy training and skills enhancement programmes; to ensure that young Gypsy persons have access to and participate in professional qualification programmes; to support income-generating activities of Gypsy

families; to counteract discrimination against Gypsies by awareness-raising campaigns on the rights of job-seekers to equal access to the labour market.

In housing: To ensure some form of security of tenure for Gypsy families and to facilitate access to basic amenities and facilities needed to live a human life for families living in extremely substandard housing.

Monitor access to fundamental rights of persons belonging to Gypsy communities. Authorities in Turkey should conduct systematic monitoring of the access of Gypsies to justice, and the effective realisation of fundamental human rights, including economic and social rights. A mechanism should be established for collecting and publishing data disaggregated by ethnicity in sectoral fields of relevance to the realisation of fundamental economic and social rights.

Carry out public information campaigns on human rights and remedies available to victims of human rights abuse, including such public information campaigns addressed to the Gypsy communities.



Diyarbakır Hançepek neighborhood, April 2007

The research team with Doms from Doğubayazıt in Ağrı, August 2007



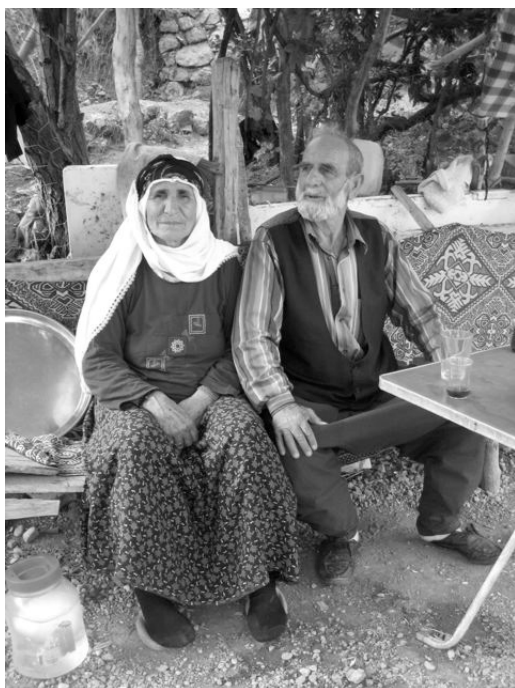
Gipsy children in Mardin, October 2006



Gipsy children in Mardin, October 2006



A wedding ceremony in Mardin, October 2006



Lom husband and wife, in Artvin, Yusufeli Kınalıçam village, August 2007



Alevi Doms in Ağrı, August 2007



Roma tents in Kars, August 2007



Diyarbakır Silvan, December 2006



Diyarbakır Silvan, December 2006



Kars, August 2007