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ERRC Comments in Response to DG SANCOs Request for Input on Commission Communication “Solidarity in Health”

Background information

The European Roma Rights Centre (ERRC) is a public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. Since 1996, the approach of the ERRC has involved strategic litigation, international advocacy, research and policy development, and training of Romani activists. The ERRC has conducted extensive documentation of health matters pertaining to Roma in various European countries, initiated strategic litigation on health related matters, advocated for reductions in discrimination against Roma in equal access to health care in Europe and compensation for Roma who have been victims to extreme violations of the right to adequate health including coerced sterilisations, and conducted training programmes for young Romani activists on the health rights framework and advocacy.

A number of studies reveal a serious gap in health status between Roma and non-Roma in many European countries.¹ Disparities in health status between Roma and non-Roma are frequently explained in terms of economic inequalities such as overrepresentation of Roma in the lowest economic strata of the societies in which Roma live; overrepresentation of Roma in the categories of the uneducated or poorly-educated; and higher exposure to health-related risk factors such as poor living conditions. The poor health status of Roma is also sometimes explained as resulting from behavioural problems such as drinking, smoking, and poor diet; while these factors certainly contribute to poor health status, they are frequently given disproportionate weight due to stigma and themselves contribute to stigma.

In addition to the above explanations, available evidence indicates that racial discrimination against Roma in equal access to health care is prevalent in Europe and can include exclusion from health services and access to health services of inferior quality. The element of discrimination magnifies already existing inequities establishing separate and independent barriers for Roma to enjoy the right to the highest attainable standard of health.

Barriers experienced by Roma in accessing health care are also linked in some cases to the exclusion of Roma from public health insurance schemes. In a number of Member States (“MS”), laws have been amended or introduced which disproportionately exclude Roma from public health insurance schemes, rendering them without any form of health insurance at all and almost no opportunity for accessing even primary health care.² Romani women are affected particularly negatively. Exclusion of Roma from

¹ For more information, see the ERRC report, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, available at: <http://www.errc.org/cikk.php?cikk=2632>. Other reports on Roma health are available at: <http://www.romadecade.org/index.php?content=4&list=12>.

² See for example, collective complaints filed by the ERRC against Bulgaria under the Council of Europe’s European Social Charter: Complaint No 46/2007, ERRC v. Bulgaria at <http://www.errc.org/db/02/82/m00000282.pdf> and Complaint No 48/2008, ERRC v. Bulgaria at http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC48CaseDoc1_en.pdf.

citizenship and from access to a range of social services has also resulted in denial of access to the public provision of medical care.

Access of Roma to health care is also obstructed by the physical separation of Roma from the mainstream of social and economic life, in segregated communities where public services are restricted or entirely unavailable. In its most egregious forms, racial discrimination in the provision of health care manifests itself as denial of treatment of Romani patients by health care providers and/or in inappropriate and negligent treatment. Furthermore, reports of segregation of Roma in medical facilities, verbal abuse and degrading treatment reveal a pattern of substandard level of health care provided to Roma.

Actions to eliminate discrimination and to ensure equal treatment of Roma to health care are an obligation requiring immediate action by governments regardless of the economic strength of the State in question. Health status is a complex phenomenon, influenced by numerous factors, and these reasons for the poor health of Roma cannot be ignored. The EC should at minimum promote the provision of free primary care for all people requiring such, and access to essential medicines as defined by WHO free of charge for disadvantaged individuals.

European countries are being affected by the current global economic downturn. As European economies shrink there is a growing fear that Roma, as the most marginalised group in Europe, will disproportionately experience the negative effects in terms of the economic situation of the community as well as its overall human rights situation; this includes in the area of health. EU action to redress the unequal health situation of the Romani community is therefore all the more urgent.

EU Action: Data collection, policy development and coordination

EU-level action is indeed necessary to address the unequal health position of the Romani community in Europe. Health policy in Europe overwhelmingly fails to take into account the specific situation of Romani communities. This is clearly linked to the lack of adequate disaggregated data and to political will in the MS to develop health policy which adequately accounts for the needs of Roma and other disadvantaged groups. Health policy in Europe will continue to be ineffective in addressing the unequal health situation of Roma if it fails to take into account the prevalence of racism and discrimination against Roma in health care systems and fails to include special measures to address the particular barriers of this community in accessing health care. A strong overarching policy framework at the EU level, with supporting mechanisms for coordination and assessment, would work to ensure that the health position of Roma across the EU is adequately prioritised and acted upon by the MS.

Indeed, the Council of the European Union has mandated the European Commission to increase its efforts to improve the situation of Roma, with specific reference to health. Most recently, the conclusions of the December 2008 General Affairs Council of the EU specifically called on the Commission and the MS, in close cooperation, to:

10. on the basis of the conclusions of the report from the Commission, to take account of the situation of the Roma when designing and implementing policies to defend fundamental rights, combat poverty and discrimination and uphold gender equality, and ensure access to education, housing, health, employment, justice and culture, and where appropriate to identify specific actions for 2009 and 2010 to that end;

11. to make better use of the Structural Funds, the Pre-Accession Instrument and the European Neighbourhood and Partnership Instrument to promote the inclusion of the Roma, particularly in the fields of education, housing, health, employment and access to justice and to culture

The Council also called on the Commission specifically to:

12. before the end of the first half of 2010, to submit to it a report on progress made;

13. to continue and deepen the discussions and organise a further summit concerning Roma in cooperation with the three presidencies in office from 2010 (Spain, Belgium, Hungary);

14. to organise, initially, an exchange of good practice and experience between the Member States in the sphere of inclusion of the Roma, provide analytical support and stimulate cooperation between all parties concerned by Roma issues, including the organisations representing Roma, in the context of an integrated European platform.

In order to overcome the unequal health position of Roma in Europe, the EC must set common minimum targets and indicators to be tracked by the MS, and analysed at the EU level, that adequately account for the specific health situation of Roma in Europe. This necessarily means including targets and indicators with regard to overall health status as well as with regard to access to health care, including primary health care.

The EC should issue a policy statement advocating that the MS bring indicators for Roma and other disadvantaged groups up to the level of majority populations within the shortest time possible. The EC should align its targets and indicators for closing the health inequality gap with existing initiatives already taken up by the MS. With specific regard to Roma, in terms of both health status and access to health care generally, this should include efforts undertaken within the Decade of Roma Inclusion, which aims to eliminate discrimination and close the unacceptable gaps between Roma and the rest of society in several sectoral areas. Within the Decade, specific indicators are under development for assessing progress in achieving the above goal in several sectors, including health. European governments have also signed on the UN Millennium Development Goals, which includes a focus on health. DG SANCO should seek active participation in the development and assessment of targets and indicators within these processes.

Data collection is critically important in efforts to understand and eliminate disparities in health and health care between Roma and non-Roma. In the health sector, as in other sectors, most European governments are resistant to collecting and/or making publicly available data disaggregated by race or ethnicity. In light of the fact that there is almost no concrete data available on the health status of Roma in most European countries, it is difficult to analyse the impact of racial discrimination on Roma health and to design effective policy to improve overall health status.

The EC must set minimum standards for disaggregated data collection in the health sector across the Union, taking into account race and ethnicity, gender and age. Data analysis exploring the impact of the intersection of these factors on health status is necessary. Data collection must also address the impact of discrimination and multiple or intersectional discrimination in access to health care.

In 2008, the Fundamental Rights Agency (FRA) began the first and largest EU-wide survey to collect comparable data on the experiences of discrimination of select immigrant and minority groups in access to goods and services, including health. Romani respondents were targeted in eight EU countries. The initial findings of this survey are expected in the first half of 2009. The EC should consider the results of this survey in its policy-making on health inequalities and in setting a framework for similar comparative data collection across the EU. In addition, DG SANCO should cooperate with the FRA in developing and implementing a plan of action at the EU level to follow up on the results of the study.

As recognised in the Council Conclusions, EU action on health matters requires coordination with policy makers in other policy areas in order to achieve health equality for Roma in Europe through complex and effective measures. This would, at minimum, mean coordination of efforts with policy makers in the areas of regional development, social inclusion and non-discrimination, housing, employment and education, as well as social protection and assistance given the linkage in many national contexts in Europe of medical insurance and social allowances.

At both the EU and MS level, this should also include coordination with authorities responsible for justice, freedom and security issues due to expanding EU citizenship rights and the exercise by Roma and non-Roma of rights to freedom of movement and residence within the EU. In addition, enlargement

and neighbourhood policies are also implicated as many Roma reside in European countries outside the EU border and EU engagement with the respective governments on *acquis* matters should aim to ensure effective government efforts to achieve an equal health position for Roma.

DG SANCO should seek to play a leading role in the establishment and functioning of the Integrated European Roma Platform, pushing for a structured and proactive approach to EU coordination efforts on Roma issues. To that end, the ERRC and other organisations of the European Roma Policy Coalition (ERPC)³ invite DG SANCO representatives to discuss civil society expectations for an effective Platform.

At the current time, the EC (DG EMPL) is conducting a study⁴ on “Activities to improve the impact of policies, programmes and projects aimed at the social inclusion and non-discrimination of Roma people in the EU.” Within this study, policies, programmes and projects aimed at fostering the social inclusion of Roma will be studied, including in the area of health, and a series of recommendations for improving the impact of such programmes will be developed. DG SANCO should proactively seek cooperation and involvement in this study, and ensure that the results of the study are incorporated into its work to reduce the health inequalities of Roma in Europe.

In addition, as mandated in the December 2008 Council Conclusions a second EU Roma Summit will be organised under the Spanish Presidency in April 2010. At the first Summit, organised by the EC in September 2008, DG SANCO representatives were not visible and there was no focus at all on the disadvantaged health position of Roma. The second Summit is expected to be a defining moment in terms of EU commitment and action on Roma issues in Europe. DG SANCO must show its commitment to health equality for Roma by working with the Spanish Presidency in advance of the Summit to ensure that Roma health issues are on the agenda, and high-level representatives of DG SANCO must participate meaningfully in the Summit, utilising the opportunity it represents in order to reach out and develop relations with the European Romani community.

The EC should utilise in its own policy making and actively promote at the MS level the provisions contained in Council Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, which, at Article 3(1)(e), bans discrimination in access to social protection, including social security and healthcare.⁵ To that end, the EU health policy framework for reducing health inequalities should include the adoption and maintenance of positive action measures to compensate for disadvantages and ensure full equality, in line with Article 5 of the Directive.

Until the present, there has been virtually no input from Roma on EU health policy matters. The EU should actively recruit Romani representatives and organisations, paying attention to the equal inclusion of Romani women, to participate in EU health policy processes. In the short term, DG SANCO should invite Romani representatives and organisations to participate in the EU Expert Group on health inequalities and social determinants of health, which was established in 2006.

Other issues

Although not yet adequately documented, EU expansion embracing central European countries with significant Romani populations in 2004 and 2007 and the resultant freedom of mobility and residence within the Union can be seen to impact the level of health inequality of the Roma community. Some European governments can also already be seen to be linking the exercise of EU citizenship and mobility rights with health care provision. In particular, the Italian government is currently considering a legal decree making it possible for doctors to report undocumented migrants who seek medical

³ Information on the members of the Coalition, its policy positions and activities is available online at: <http://www.romapolicy.eu/>.

⁴ This study is being implemented by the ERRC, in consortium with the Roma Education Fund. Further information is available from the ERRC.

⁵ See: http://europa.eu/eur-lex/pri/en/oj/dat/2000/l_180/l_18020000719en00220026.pdf.

attention to the police and immigration services, whereas this was previously prohibited.⁶ Human rights groups and doctors' associations alike have publicly denounced the proposed measures as punitive action on the basis of citizenship or residency rights, which will have a deleterious impact on the health situation of immigrant groups in Italy. Various developments in Italy during the past two years indicate that this has been motivated by a strong anti-Romani government position and will negatively affect many Roma who have been long-term residents in Italy but unable to regularise their stay due to discriminatory immigration policy.

The EC should issue a policy statement affirming the obligation of health service providers to ensure care for all and to protect all individuals seeking care, regardless of their citizenship or residency status.

⁶ Legal Decree 733 has been approved by the Italian Senate and is now before the Chamber of Deputies of the Italian Parliament for adoption.