

# BRUTAL AND BIGOTED: POLICING ROMA IN THE EU



CHALLENGING DISCRIMINATION PROMOTING EQUALITY



Copyright: ©European Roma Rights Centre, May 2022

Please see [www.errc.org/permissions](http://www.errc.org/permissions) for more information about using, sharing, and citing this and other ERRC materials

Authors: **Bernard Rorke**

Cover Design: **Sophio Datishvili**

Layout: **Dzavit Berisha**

Cover photo: © **ERRC**

This report is published in English.

An overview of anti-Roma racism in law enforcement across 6 EU Member States: Bulgaria, Hungary, Ireland, Italy, Romania, and Slovakia.

**Address:** Avenue de Cortenbergh 71, 4th floor, 1000 Brussels, Belgium

**E-mail:** [office@errc.org](mailto:office@errc.org)

[www.errc.org](http://www.errc.org)

## **SUPPORT THE ERRC**

The European Roma Rights Centre is dependent upon the generosity of individual donors for its continued existence. Please join in enabling its future with a contribution. Gifts of all sizes are welcome and can be made via PAYPAL on the ERRC website ([www.errc.org](http://www.errc.org), click on the Donate button at the top right of the home page) or bank transfer to the ERRC account:

Bank account holder: **EUROPEAN ROMA RIGHTS CENTRE**

Bank name: **KBC BRUSSELS**

IBAN: **BE70 7360 5272 5325**

SWIFT code: **KREDBEBB**

# Table of Contents

<b>Introduction</b>	<b>5</b>
Precarious times, pandemic policing, and racial profiling	7
The 'European tradition': racist brutality, ethnic profiling, and sheer bloody murder	9
EU 2020 responses: frameworks and action plans to combat racism and promote Roma inclusion	13
<b>Bulgaria</b>	<b>17</b>
Overview of anti-Roma racism: 'concerns' about intolerance, hate speech, and violence	17
Roma rights, policing, and 'ethnicisation' of the COVID-19 pandemic	18
Policing: murder, ill-treatment, and Bulgaria's refusal to comply with ECtHR judgments	20
Policing Roma: stigmatisation, securitisation, and failure to protect	21
Policing Roma: twice as likely to be victims of cruel and inhumane treatment	24
<b>Hungary</b>	<b>27</b>
Overview of racism and discrimination against Roma	27
Policing: ethnic profiling, discriminatory fining practices, and everyday harassment	28
Under-policing, inaction, failure to protect, and police brutality	30
No strategy to eradicate ill-treatment by law enforcement or to investigate complaints	34
<b>Ireland</b>	<b>37</b>
Overview: Racism against Travellers and Roma	37
Policing: ethnic profiling, forced evictions, and 'Ireland's deeply ingrained racial divide'	39
Irish Network against Racism (INAR) and the future of policing	40
Irish Human Rights and Equality Commission (IHREC) submission: Garda HQ 'takes exception' to accusations of ethnic bias	42
International concerns, toxic attitudes, and missing legislation	45
<b>Italy</b>	<b>49</b>
Anti-Roma racism and international concerns	49
A short history of securitising Roma: mass ethnic profiling, pogroms, and persecution	50
Consistently systemic: police brutality and mistreatment of Roma	53
Failure to protect and a lack of accountability	56
What ought to be done	59
<b>Romania</b>	<b>61</b>
Overview of anti-Roma racism	61
The COVID-19 state of emergency and police violence against Roma	62
Institutional racism and police violence against Roma: Twenty years on, the Committees remain 'deeply concerned'	63
Racially aggravated hate crimes, anti-Roma pogroms, and a consistent failure to protect	65

## TABLE OF CONTENTS

What kind of justice? The brutality case files	68
<b>Slovakia</b>	<b>73</b>
Overview of racism and discrimination against Roma	73
Policing the pandemic	74
Policing Roma: a culture of impunity, racism, and ready recourse to violence	76
Police brutality case file: dodgy judgments, botched investigations, and failures to examine racist motives	78
<b>Conclusions</b>	<b>83</b>
Police violence: “accountability will be the rare exception rather than the norm”	83
Where recommendations and judgements go unheeded, anti-Roma racism goes unchecked	86
European values and basic demands for rights-compliant and non-racist policing	88

## Introduction

There is nothing new about police violence against Roma, and nothing new about official denials of racism within law enforcement when it comes to policing Roma. But what has transpired since states of emergency were declared with the onset of COVID-19 in 2020 is a heightened awareness of the precarity of Romani lives, and increased scrutiny concerning the brutality and bigotry that characterises policing of Roma and other racialised communities in the European Union.

The killing of Stanislav Tomáš in the Czech town of Teplice in June 2021<sup>1</sup> may yet become a defining moment in the long bloody history of police violence against Roma. Shocking video footage of the incident, which showed one police officer kneeling on the victim's neck for several minutes before he lost consciousness, went viral across social media. Czech police immediately rejected the notion that their actions in restraining Tomáš had anything to do with his death, and were quick to tweet that this incident is no 'Czech George Floyd'. Before the facts had been established, Czech Prime Minister Andrej Babiš saw fit to thank the police officers for their work and commented, *"this is sad, but a normal, respectable person would have a hard time getting into such a situation."*<sup>2</sup> This disparagement of the victim, the subsequent official obfuscation and political inaction, compounded by wider public indifference, suggests however that Europe's reckoning with racial justice might yet be a long way off.

On 23 October 2021, another killing by police provided a stark reminder that 'institutional racism' is no abstract construct, but a brutal reality that takes its toll in blood. In this incident seven Greek motorcycle police officers in pursuit of a stolen car opened fire on the three unarmed Romani occupants of the vehicle, killing 18-year-old Nikos Sabanis, and seriously wounding a 16-year-old. Between 30 and 40 shots are clearly audible in a video recording of the incident, and a radio conversation between the police operational centre and the attending officers shows that the officers were aware that the occupants of the vehicle were three Roma.

The police press release after the incident mentioned injuries to the seven police officers, that the deceased was 20 years-old and had a criminal record, and that the minor who was shot only had light injuries. These were all later proven to be false; no police officers were injured, the victim was 18 and had no criminal record, and the 16-year-old boy was seriously wounded.<sup>3</sup>

In an open letter to the Greek Prime Minister on the 27<sup>th</sup> October, the European Parliament Anti-Racism and Diversity Intergroup (ARDI) and the ERRC urged the authorities to investigate the possibility of racial motivation behind the disproportionate use of force; expressed concern at the national news coverage which triggered a wave of anti-Roma sentiment, with the prosecutor referring to Roma as a 'social menace'; and called for a swift response from the competent

1 ERRC News, 'Outrage grows following the death of 'The Romani George Floyd' in the Czech Republic: #Say-hisname Stanislav Tomáš', 24 June 2021. Available at: <http://www.errc.org/news/outrage-grows-following-the-death-of-the-romani-george-floyd-in-the-czech-republic>.

2 *Ibid.*

3 ERRC Press Release, *Open Letter on Greek Police Killing from ERRC and 14 MEPs of EU Parliament Anti-Racism & Diversity Intergroup*, 27 October 2021. Available at: <http://www.errc.org/press-releases/open-letter-on-greek-police-killing-from-errc-and-14-meps-of-eu-parliament-anti-racism--diversity-intergroup>.

authorities to declare that hate speech is unacceptable, and that there is no impunity for law enforcement concerning crimes against Roma or other ethnic minorities.<sup>4</sup>

The evidence gathered in this report on police violence against Roma in six EU Member States suggest that all too often there is impunity for law enforcement concerning crimes against Roma, and it demonstrates the extent to which anti-Roma racism is endemic and systemic within the ranks of officers paid to ‘protect and serve’. Beyond the blather about ‘bad apples’, the report demonstrates that law enforcement agencies are saturated with institutional discrimination – defined by Ambalavaner Sivanandan as that which “*covertly or overtly, resides in the policies, procedures, operations and culture of public or private institutions – reinforcing individual prejudices and being reinforced by them in turn.*”<sup>5</sup> The case files cited in this report comprise a catalogue of official lies and botched investigations, testimonies concerning incidents of excessive, arbitrary, and sometimes lethal violence against young and old, deliberate attempts to discredit and intimidate victims, and protracted struggles through the courts for remedy, where justice for Roma is often denied and always delayed.

“

Institutional racism is that which covertly or overtly, resides in the policies, procedures, operations and culture of public or private institutions – reinforcing individual prejudices and being reinforced by them in turn.

Ambalavaner Sivanandan  
Director of the Institute  
of Race Relations, London



4 ARDI & ERRC, *Open Letter to Prime Minister Kyriakos Mitsotakis*, Brussels, 27 October 2021. Available at: [http://www.errc.org/uploads/upload\\_en/file/5139\\_file1\\_open-letter-from-ardi-and-errc-to-greek-government-about-police-killing.pdf](http://www.errc.org/uploads/upload_en/file/5139_file1_open-letter-from-ardi-and-errc-to-greek-government-about-police-killing.pdf).

5 Gary Younge, Ambalavaner Sivanandan obituary, *The Guardian*, 7 February 2018. Available at: <https://www.theguardian.com/world/2018/feb/07/ambalavaner-sivanandan>.

## Precarious times, pandemic policing, and racial profiling

As quarantines, lockdowns, and emergency measures came into force across Europe in early 2020 to combat the deadly wave of COVID-19, cases of police brutality against Roma began mounting up. The reports received at the European Roma Rights Centre of extreme hardship, police violence, ethnic profiling, and hate speech against Roma since the pandemic hit Europe highlighted the need for extra vigilance to protect the human rights of racialised minorities when governments adopt emergency powers.

In May 2020, in response to a cluster of incidents, the Council of Europe's Commissioner for Human Rights, Dunja Mijatović, warned against excessive policing of Roma during the pandemic and, with particular reference to Bulgaria, she condemned the selective application of confinement measures on the basis of ethnicity.<sup>6</sup> That same month, a disturbing video surfaced on social media of Romanian police beating and abusing Roma as they lay face down in the dirt with their hands bound behind their backs. The screams of one victim were clearly audible as four officers set about him, two striking him all over his body and two others beating the soles of his bare feet. Just days before the Romanian video appeared, a police officer in Slovakia attacked Romani children from the quarantined Romani neighbourhood of Krompachy. The five Romani children, aged between seven and eleven, were beaten with a truncheon by the policeman, who threatened to shoot them.<sup>7</sup>

In a statement, UN experts warned that COVID-19 emergency declarations must not be used as a basis to target particular groups or minorities, function as a cover for repressive action, or be used to silence human rights defenders, and that state responses must be proportionate, necessary, and non-discriminatory. Executive overreach in a state of exception, and the tendency for extraordinary powers to become part of the ordinary, normal legal system, render the protection of rights *"increasingly fraught and difficult."*<sup>8</sup> The ERRC's report, *Roma Rights in the Time of Covid*, with its accounts of police brutality, suggested that for Roma the situation had become fraught, difficult, and downright dangerous.<sup>9</sup>

But in fact, the pandemic marked continuity with, rather than any departure from, established practice. For over two decades the ERRC has routinely received reports of police misconduct against Roma: testimonies of collusion between law enforcement and far-right paramilitaries; ethnic profiling and over-policing in one district, and under-policing by deliberate failures 'to serve and protect' in another when uniformed neo-Nazis groups come patrolling; mass violent raids by special units on Romani neighbourhoods; deaths and serious injuries resulting from beatings in custody or during arrest.

6 Council of Europe Commissioner for Human Rights, *Statement: Governments must ensure equal protection and care for Roma and Travellers during the COVID-19 crisis*, Strasbourg 7 May 2020. Available at: <https://www.coe.int/en/web/commissioner/-/governments-must-ensure-equal-protection-and-care-for-roma-and-travellers-during-the-covid-19-crisis>.

7 Bernard Rorke, 'Pandemic: Roma at receiving end of racist policing', *EU Observer*, 4 May 2020. Available at: <https://euobserver.com/coronavirus/148229>.

8 UN Office of the High Commissioner, *COVID-19: States should not abuse emergency measures to suppress human rights – UN experts*. Geneva 18 March 2020. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722&LangID=E>.

9 Bernard Rorke and Jonathan Lee, *Roma Rights in the Time of Covid*, ERRC, September 2020. Available at: [http://www.errc.org/uploads/upload\\_en/file/5265\\_file1\\_roma-rights-in-the-time-of-covid..pdf](http://www.errc.org/uploads/upload_en/file/5265_file1_roma-rights-in-the-time-of-covid..pdf).

## INTRODUCTION

The shocking extent of state violence against Roma can be seen in an open-source map of incidents of police brutality across Europe from the 1990s to the present day.<sup>10</sup> Created collaboratively by Romani activists, and contributed to and fact checked by the ERRC, this map reveals that police misconduct against Romani people in Europe is more often that not perpetrated by multiple officers at once, across multiple police forces, in just about every country in Europe. Just as shocking, if not surprising, is the collusion and complicity of institutions in their denial of racism; their indifference to the plight of targeted Romani communities, and the fate of victimised individuals; and the wilful cultivation of a climate of impunity among law enforcement agencies when it comes to policing Roma.

- Incidents of police harassment
- Brutality
- Disproportionate force
- Torture in custody
- Law enforcement actions resulting in the death of a person



The evidence amassed by the ERRC and others in this mapping of police violence, and the research contained in this report make one thing clear: unless justice can prevail without prejudice for Romani citizens of the European Union, all efforts to promote social inclusion will founder. Without access to justice and effective mechanisms to hold law enforcement agencies accountable for their racist violence, institutional discrimination will remain solidly intact across the Union. If the EU and its Member States continue to deny that police violence against Roma is systemic, and

<sup>10</sup> Inspired by efforts in the Black Lives Matter movement to record and hold police accountable for racist violence, Romani activists have made an open-source map of incidents of police misconduct against Roma and Travellers in Europe. Available at: <http://tiny.cc/policingroma>.

that racism is structurally embedded in the entire justice system, then the only certainty is that the European Commission's new improved framework for equality, inclusion, and participation will fail utterly in its stated ambition 'to put an end to the exclusion of Roma' by 2030.<sup>11</sup>

Events in June 2020 provided a timely reminder of what is at stake, as Europe capital cities witnessed a short but massive wave of Black Lives Matter solidarity protests following the killing of George Floyd by police officers in the USA. The European Parliament passed a resolution on 19 June, which "*strongly condemned the appalling death of George Floyd*" and called on the US authorities to address structural racism and inequalities. The resolution insisted that use of force by law enforcement authorities should always be lawful, proportionate, necessary, and the last resort; urged EU Member States to end racial and ethnic profiling in criminal law enforcement; and called on EU institutions and state authorities "*to officially acknowledge past injustices and crimes against humanity committed against black people, people of colour and Roma.*"<sup>12</sup>

## The 'European tradition': racist brutality, ethnic profiling, and sheer bloody murder

The Parliament's position contrasted starkly with the position taken by EU Commissioner Margaritis Schinas, responsible for 'promoting our European way of life'. The Commissioner insisted that we do not have "issues now in Europe that blatantly pertain to police brutality or issues of race transcending into our systems."<sup>13</sup> In an open letter response, ENAR and 150 other organisations protested that they were appalled at Schinas's 'blatant denial' of the existence of racist policing and structural discrimination against people of colour across Europe. Seemingly oblivious to all the evidence to the contrary, including that published by the EU's own Fundamental Rights Agency, the Commissioner added that because of the "*European tradition for protecting minorities, we have less issues than they have in the States*".<sup>14</sup>

The obdurate refusal to recognise the racism that is embedded in the European way of doing things is symptomatic of what Gary Younge described as "a selective amnesia about their own imperial legacy (which) leads ineluctably to a false sense of superiority around racism among many white Europeans toward the US." The level of understanding about race and racism among white Europeans, even those who would consider themselves sympathetic, cultured and informed, is woefully low according to Younge, who observed that while few European liberals will deny the existence of racism in their own countries, "*they insist on trying to force an admission that it 'is better here than there' – as though we should be happy with the racism we have.*"<sup>15</sup>

11 European Commission, *The new EU Roma strategic framework for equality, inclusion and participation (full package)*, Brussels, 7 October 2020. Available at: [https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package\\_en](https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en).

12 European Parliament, *Resolution of 19 June 2020 on the anti-racism protests following the death of George Floyd*. Available at: [https://www.europarl.europa.eu/doceo/document/TA-9-2020-0173\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2020-0173_EN.html).

13 Jacopo Barigazzi, "No doubt' Europe better than US on race issues, EU commissioner says", *Politico*, 10 June 2020. Available at: <https://www.politico.eu/article/margaritis-schinas-eu-better-than-us-on-race-issues/>.

14 Bernard Rorke, 'Racism in Europe: This is not the time for a whitewash', *Hope not Hate*, 25 June 2020. Available at: <https://hopenothe.org.uk/2020/06/25/racism-in-europe-this-is-not-the-time-for-a-whitewash/>.

15 Gary Younge, 'What Black America means to Europe', *The Guardian*, 11 June 2020. Available at: <https://www.theguardian.com/world/2020/jun/11/what-black-america-means-to-europe-protests-racism-george-floyd>.



Schinas's intervention concerning 'the European tradition' came as controversy reignited in France over the 2016 killing in police custody of the young black Frenchman **Adama Traoré**; and just days after a 14-year-old Romani boy sustained a fractured eye socket and four broken teeth in the course of being detained by French police. The boy, **Gabriel Djordjevic**, told reporters; "There were four of them. One of them put handcuffs on me and put his knees on my back. A woman [officer] held my feet while a bearded police officer kicked me in the face."

“

There were four of them. One of them put handcuffs on me and put his knees on my back. A woman [officer] held my feet while a bearded police officer kicked me in the face.

Gabriel Djordjevic

The release of an official report into the killing of Adama Traoré, which cleared the three arresting police officers, added to growing anger about racism and brutality by French police. In response to the mass protests, a spokesperson for President Macron denied France was a racist state and rejected any comparisons with the US. While no official data or ethnically disaggregated figures are kept on the number of people killed or brutalised by police or gendarmes, Amnesty International has long warned of "a pattern of *de facto impunity*" with regard to law enforcement officials in France. Campaign groups and media estimates<sup>16</sup> suggest there are between 10 and 15 deaths a year linked to the police in France.<sup>17</sup>

<sup>16</sup> Le Monde, *En France, le grand flou des violences policières*, 26 November 2014. Available at: [https://www.lemonde.fr/les-decodeurs/article/2014/11/26/en-france-le-grand-flou-des-violences-policieres\\_4529111\\_4355770.html](https://www.lemonde.fr/les-decodeurs/article/2014/11/26/en-france-le-grand-flou-des-violences-policieres_4529111_4355770.html).

<sup>17</sup> Iman Amrani and Angelique Chrisafis, 'Adama Traoré's death in police custody casts long shadow over French society', *The Guardian*, 17 February 2017. Available at: <https://www.theguardian.com/world/2017/feb/17/adama-traore-death-in-police-custody-casts-long-shadow-over-french-society>.

In contrast to the vocal denunciations of racism in America, those same European leaders were silent about the killing in March 2017 of French Traveller **Angelo Garand**, shot dead by police during a raid on his family home. In a pattern familiar to many black families in America, the state prosecutor asserted, without any supporting evidence, that a lethal response was justified because Garand posed a danger to the police and resisted arrest.<sup>18</sup>

Fin juin, après un report initial de juin à septembre, la Cour de Cassation a finalement rendu une notification indiquant une non-adhésion du pouvoir. Le collectif Justice pour Angelo a immédiatement déposé une décision devant l'administration, officialisant le non-faisabilité pour l'application de l'article L414 du Code de la Sécurité Intérieure sans autre forme de procès, cette modification de la loi qui élargissait le recours aux armes pour les forces de l'ordre (et donc la légitime défense) avait eu lieu un mois avant la mort d'Angelo sous les balles d'une arme locale du GIGN. Ce samedi, les proches et la famille d'Angelo Garand ont organisé une marche en sa mémoire. Avec cette annonce, c'est avec rage et amour que les centaines venus de partout ont marché pour Angelo, et pour toutes les autres.



# PROTESTS HELD AGAINST THE KILLING OF ANGELO GARAND IN FRANCE



Une semaine auparavant, nous marchions aux côtés de la famille Dieng qui a été assassinée, elle aussi, le 13 mai 2017. Le collectif Justice pour Angelo a organisé une marche en sa mémoire. Avec cette annonce, c'est avec rage et amour que les centaines venus de partout ont marché pour Angelo, et pour toutes les autres.

Le Marché de ce jour a pour point culminant le Palais de Justice de Paris où, comme de coutume, il y avait beaucoup de monde. Le collectif Justice pour Angelo a organisé une marche en sa mémoire. Avec cette annonce, c'est avec rage et amour que les centaines venus de partout ont marché pour Angelo, et pour toutes les autres.



Less than a month later, near the **Bulgarian village of Bohot**, police savagely beat and kicked a Romani father and son, who had gone to collect firewood. The son survived this ferocious assault; his father died at the scene. The authorities justified the police action by claiming that the men were found in possession of stolen pesticides and had resisted arrest.

18 ERRC News, *French Traveller Shot and Killed by Police: Can Macron “Turn the Page” on France’s Shame?* 5 May 2017. Available at: <http://www.errc.org/news/french-traveller-shot-and-killed-by-police-can-macron-turn-the-page-on-frances-shame>.

In October 2017, Romanian police shot dead a Romani man who was collecting firewood in a forest in Mureş County. According to an official statement, police and foresters were in pursuit of persons “identified as being of Roma ethnicity” who were stealing wood from the forest: “In attempting to apprehend them, police officers had to use their weapons. Under these circumstances a person was injured who subsequently died.”

These lethal incidents, which occurred within the space of a few months in 2017 against a wider backdrop of virulent antigypsyism, generated neither regret nor indignation from EU political leaders. Indeed, some political leaders, such as **Bulgarian Deputy Prime Minister Karakachanov**, doubled down on anti-Roma hate speech; in 2019, as violent mobs attacked Romani neighbourhoods and destroyed homes, Karakachanov added fuel to the fire by demanding a “complete solution to the Gypsy problem”.<sup>19</sup> All the while, Italy’s interior minister Matteo Salvini’s calls for a mass cleansing of Roma “street by street, piazza by piazza, neighbourhood by neighbourhood” were taken literally by members of neo-fascist gangs such as **CasaPound and Forza Nuova**.

## EU 2020 responses: frameworks and action plans to combat racism and promote Roma inclusion

As EU institutions scrambled to respond in a more adequate manner than EU Commissioner Margaritis Schinas to the wave of June 2020 racial justice protests across the Union’s capitals, EU chief Ursula von der Leyen announced that senior figures within the EU would hold a debate on racism, and stated: “We must listen to many of our citizens when they say that we’ve let racism happen for far too long... The Black Lives Matter protests that started in the US resonated with Europeans who are demanding justice and an end to racial inequality.” As to whether the EU institutions were best equipped to grapple with racism, ENAR had previously drawn attention to the abject failure of the European Union institutions to reflect the diversity of 21st Century Europe when it came to its own staff: “Zero data on racial diversity in the EU institutions; Zero specific measures to ensure racial diversity; Zero people of colour in senior management positions.”<sup>20</sup>

In reaction to von der Leyen’s announcement, Somali-British former MEP Magid Magid questioned why, after so many years, it took the death of a Black American for the Commissioner to feel the need, and described the idea of an urgent debate on racism by an all-white group of European Commissioners as ‘ridiculous’. Magid questioned whether this debate would amount to more than ‘performative politics’ stating: “Racism is a systemic issue and needs a systematic approach to defeat it.”<sup>21</sup>

In her **State of the Union Address on 16 September 2020**, President von der Leyen announced a new EU anti-racism Action Plan that set out a series of measures for the next five years.

19 ERRC News, *Bulgaria’s Litany Of Hate: Five Things Leading Politicians Said About Roma*, 19 May 2021. Available at: <http://www.errc.org/news/bulgarias-litany-of-hate-five-things-leading-politicians-said-about-roma>.

20 ENAR, *A Roadmap to Racial Diversity in EU Institutions by 2024*. Available at: <https://www.enar-eu.org/A-roadmap-to-racial-diversity-in-EU-institutions/>.

21 Luke Hurst, ‘All-white European Commission debate on racism ‘would be ridiculous’, says ex-MEP Magid Magid’, *Euronews*, 19 June 2020. Available at: <https://www.euronews.com/2020/06/19/all-white-european-commission-debate-on-racism-would-be-ridiculous-says-ex-mep-magid-magid>.

Helena Dalli, Commissioner for Equality, described the action plan as an acknowledgment “that racism is not only perpetrated by individuals but is also structural” and stressed the need to address racism at all levels of governance, including law enforcement, “to turn the tide”.

“

Racism is a systemic issue  
and needs a systematic  
approach to defeat it.

Somali-British former MEP Magid Magid

The Commission hinted that ‘if needed’ the EU legal framework could be further strengthened “in the areas not yet covered by non-discrimination legislation, such as law enforcement.” Under the heading ‘Fair policing and protection’, the document stated: “with support of EU Agencies, such as the Agency for Fundamental Rights (FRA) and the Agency for Law Enforcement Training (CEPOL), Member States are encouraged to step up efforts to prevent discriminatory attitudes by law enforcement authorities and to boost the credibility of law enforcement work against hate crimes.” On turning the tide to tackle racism and deliver fair policing, the Commission’s ‘*Stepping up Action factsheet*’ promised little more than training and sharing of best practices to prevent ‘discriminatory attitudes’ in law enforcement, and gathering of data on ‘police attitudes towards minorities’.<sup>22</sup>

In October 2020, the European Commission proposed its new strategic Roma framework aimed to step up action to address the ‘persistent failing’ on Roma inclusion, and the Commission called for Member States to show a “*strengthened commitment to tackle persistent discrimination*”. Billed as the first direct contribution to implementing the newer EU Action Plan against racism 2020-2025, the horizontal objectives included a renewed resolve to fight against direct and indirect discrimination, harassment, stereotyping, anti-Roma rhetoric, hate speech, hate crime, and violence

<sup>22</sup> European Commission, *EU anti-racism action plan 2020–2025. The Commission’s plan to step up action against racism and achieve a Union of Equality*, Brussels, 18 September 2020. Available at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025_en).

against Roma; and plans to develop and promote a comprehensive system of support for victims, and deliver targeted assistance to Romani victims of hate crimes and discrimination.

Such measures, if they translate into concrete components of national action plans, are both necessary and welcome, as is the belated recognition by the European Commission that anti-Roma racism is systemic and rooted in public institutions. However, when it comes to racist policing, apart from mention of “*enhancing the training strategies of law enforcement*”, and the evergreen insistence on the need for more ethnically disaggregated data, there is nothing in the new Framework strategy that even begins to deal with the impact on Romani communities of such profound injustice.<sup>23</sup>

Such pallid institutional responses cannot suffice; the European Commission, as Guardian of the Treaties, should not retreat behind the most restrictive interpretation of its competences, but rather step up to defend Article 2 when it comes to the rule of law and the rights of persons belonging to minorities.<sup>24</sup> While there is no doubt that the primary responsibility for non-racist policing lies with the competent authorities of individual member states, and within that terrain the dogged and determined struggle for justice will persist, action above and beyond current efforts is necessary at EU level, action that includes specific recognition that anti-Roma racism in law enforcement is systemic and not incidental.

Some measure of the depth of denial can be gauged from the comments made by Slovenian Minister of Foreign Affairs Anže Logar in the European Parliament on the 23 November 2021.

“

Excessive use of force by the police in the European Union is not a structural problem of the law enforcement system in the Member States and it must be trusted that the relevant authorities will investigate any individual misconduct.

Slovenian Minister of Foreign Affairs Anže Logar



Speaking on behalf of the Slovenian Presidency of the Council of the European Union, the minister closed a plenary debate on police brutality against Roma with remarks that completely contradicted the substance of the debate. Minister Logar stated:

*“Excessive use of force by the police in the European Union is not a structural problem of the law enforcement system in the Member States and it must be trusted that the relevant authorities will investigate any individual misconduct. As I pointed out at the outset,*

*we need to empower the Roma community and ensure that it enjoys legal certainty and the same fundamental rights as everyone else, and we need to work together on all three institutions. Empowerment also goes hand in hand with responsible citizenship, and here the Roma also bear an important part of their responsibility.”<sup>25</sup>*

23 European Commission, *The new EU Roma strategic framework for equality, inclusion and participation (full package)*, Brussels, 7 October 2020. Available at: [https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package\\_en](https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en).

24 Article 2 of the Treaty of the European Union states that the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. Available at: [https://lexpency.org/eu/TEU/ART\\_2/](https://lexpency.org/eu/TEU/ART_2/).

25 European Parliament Debates, *Condemning police violence against Romani people in the EU (debate)*, Tuesday 23 November 2021. Closing remarks (in Slovenian) by Minister Anže Logar, Slovenian Presidency of the Council of the European Union. Available at: [https://www.europarl.europa.eu/doceo/document/CRE-9-2021-11-23-ITM-009\\_EN.html](https://www.europarl.europa.eu/doceo/document/CRE-9-2021-11-23-ITM-009_EN.html).

## INTRODUCTION

The evidence in this report suggests that relevant authorities in Member States cannot be trusted, and that there is a clear need for EU oversight in this and other issues that directly relate to the rule of law in the Union.

The EU already possesses extensive powers across sovereign borders to establish cooperation amongst the police and authorities competent for prevention, detection, and investigation of criminal offences in all member states, and it continues to expand the exercise of cross-border policing powers.<sup>26</sup> But what is missing is a tranche of complementary obligations to safeguard the rights of ethnic minority citizens across the Union from racist policing. The evidence in this report suggests it is time to remedy this deficit. As an immediate first step, the European Parliament should adopt a resolution to call on the Commission to extend the Race Equality Directive to protect citizens from racist misconduct by law enforcement, and to produce a binding Charter for Common Basic Standards that enshrines rights-compliant, non-discriminatory, and non-racist policing across the Union.



<sup>26</sup> Fair Trials, *MEPs fail to hold Europol to account*, FT Admin, 21 October 2021. Available at: <https://www.fairtrials.org/news/meps-fail-hold-europol-account>.

## Bulgaria

### Overview of anti-Roma racism: ‘concerns’ about intolerance, hate speech, and violence

In her 2020 report on her visit to Bulgaria, [Council of Europe Commissioner for Human Rights Dunja Mijatović](#) noted with alarm “*the rampant intolerance manifested towards minority groups in Bulgaria*”, and “*deplored the climate of hostility against Roma, in particular against those who had to leave their homes following rallies targeting their communities in several localities.*” Commissioner Mijatović observed the mainly hostile media coverage of minorities, who are often depicted as criminals or presented as posing a danger to moral values and national interests. Noting with ‘regret’ that some “*high-level officials have used their position as a platform to further fuel antagonism and intolerance in Bulgarian society*”, Commissioner Mijatović called for the authorities to react vigorously to incidents of hate speech, including those by high-level politicians, and for a “*political and cultural shift in the way minority groups are treated and portrayed in Bulgaria.*”<sup>27</sup>

For a number of years until the series of elections in 2021, former Prime Minister Borisov headed a coalition government that included openly racist ministers from the far-right Patriotic Front; ministers who have often advocated violence against Bulgaria’s Roma minority, and routinely engaged in racist hate speech with apparent impunity. Under Borisov’s watch there were mass attempts to storm Romani neighbourhoods by racist mobs acting at the behest of governing politicians such as [Bulgarian Deputy Prime Minister Karakachanov](#), who in 2019 described the Roma as having become “*exceptionally insolent*” and called for a “*complete solution to the Gypsy problem*”. In July 2020, the Sofia City Administrative Court upheld an earlier decision that Karakachanov’s statements did not constitute discrimination on the grounds of ‘ethnicity’.

“

Gypsies in Bulgaria have become exceptionally insolent. The tolerance of Bulgarian society has run out. The truth is that we need to undertake a complete program for a solution to the Gypsy problem.

Krasimir Karakachanov  
Deputy Minister of Bulgaria

In an open letter on 29 May 2017, nearly [400 Bulgarian human rights activists and intellectuals](#) denounced Borisov’s appointment of Patriotic Front henchman and then Deputy Prime Minister, Valeri Simeonov, a “pronounced supporter of fascist and neo-Nazi ideology” to lead Bulgaria’s council on integration. Simeonov notoriously described Roma as “*brazen, feral, human-like creatures*” and Romani women as having “*the instincts of stray bitches.*”<sup>28</sup> Simeonov

ogy” to lead Bulgaria’s council on integration. Simeonov notoriously described Roma as “*brazen, feral, human-like creatures*” and Romani women as having “*the instincts of stray bitches.*”<sup>28</sup> Simeonov

<sup>27</sup> Commissioner for Human Rights of the Council of Europe Dunja Mijatović, *Report following her visit to Bulgaria from 25 to 29 November 2019*. Strasbourg, 31 March 2020. Available at: <https://rm.coe.int/report-on-the-visit-to-bulgaria-from-25-to-29-november-2019-by-dunja-m/16809cde16>.

<sup>28</sup> *Romea.cz*, ‘Bernard Rorke: Bulgarian government sticks a middle finger at Europe and appoints a fascist to head integration unit’. 28 June 2017. Available at: <http://www.romea.cz/en/features-and-commentary/commentary/bulgarian-government-sticks-a-middle-finger-at-europe-and-appoints-a-fascist-to-head-integration-unit-2>.

was subsequently convicted for these comments made in the National Assembly, but two years later he was acquitted of hate speech charges by a three-member panel of Bulgaria's **Supreme Administrative Court**.

In 2015, Amnesty International warned that Bulgaria's failure to adequately investigate and prosecute hate crimes was fuelling fear, discrimination, and ultimately violence. Despite the existence of legislation to prosecute hate crimes linked to racism and xenophobia, Amnesty accused authorities of consistently failing to identify and adequately investigate them, leading to more discrimination and violence with the result that *"hundreds of people from minority groups have experienced hate crimes and many more have no confidence in the authorities to protect them."*<sup>29</sup>

In 2017, UNCERD expressed its concern about the continued marginalisation of Roma in all walks of life and the serious challenges they face in accessing basic services, along with its 'particular concerns' about: the prevalence of forced evictions disproportionately affecting Roma individuals, leading to homelessness; the persistence of de facto educational segregation, combined with limited access to mainstream education; and the persistence of negative stereotypes of and prejudice against Roma in the media and public life.<sup>30</sup>

In 2018, the UN Human Rights Committee expressed its concerns about reports of increased acts of hate speech and hate crimes, particularly against the Romani community, including racist, xenophobic, and intolerant speech on television, the media, and on the Internet, from persons at the highest levels of government and in election campaigns. The Committee was also concerned about:

- (a) the continuing allegations of high rates of abuse by law enforcement officials of persons upon arrest and in detention, as well as incidents of police abuse against persons of Roma origin through 'punitive raids';
- (b) inadequate statistics on ill-treatment and unlawful use of force; and
- (c) the lack of an independent oversight mechanism to investigate criminal conduct by law enforcement officials.<sup>31</sup>

## **Roma rights, policing and 'ethnicisation' of the COVID-19 pandemic**

From the very outset of the COVID-19 state of emergency, leading Bulgarian politicians, particularly those belonging to the far-right VMRO party which was a governing coalition partner, without a shred of evidence singled out Romani neighbourhoods as 'nests of contagion' to be quarantined. While general restrictions on movement were introduced and widely perceived as

<sup>29</sup> Amnesty International, 'Bulgaria must investigate and prosecute hate crimes to end climate of fear', *News*, 9 February 2015. Available at: <https://www.amnesty.org/en/latest/news/2015/02/bulgaria-must-investigate-and-prosecute-hate-crimes-end-climate-fear/>.

<sup>30</sup> UNCERD, *Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria*, 31 May 2017. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/BGR/CO/20-22&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/BGR/CO/20-22&Lang=En).

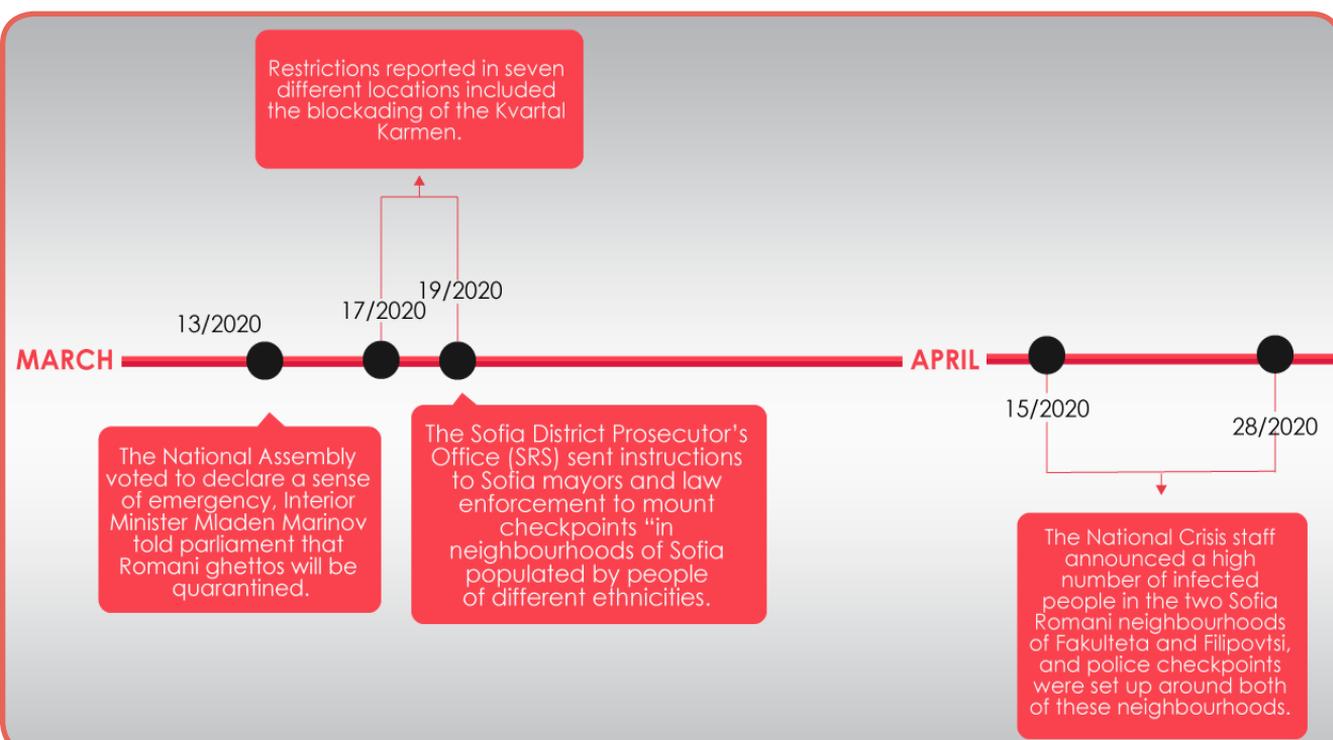
<sup>31</sup> UN Human Rights Committee, *Concluding observations on the fourth periodic report of Bulgaria*, 15 November 2018. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/BGR/CO/4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/BGR/CO/4&Lang=En).

## BRUTAL AND BIGOTED: POLICING ROMA IN THE EU

a necessary response to contain the spread of the virus, the police actions, quarantines, curfews, and blockading of Romani neighbourhoods marked an ‘ethnicisation of the pandemic’: the measures were deemed to be disproportionate, unrelated to actual infection rates, and later acknowledged to have been largely ineffective.

Below is a timeline of restrictions imposed by authorities and enforced by police that amounted to the most extensive and blatant exercise in ethnic profiling in recent times:

- **13 March 2020:** The National Assembly voted to declare a sense of emergency; Interior Minister Mladen Marinov told parliament that Romani ghettos will be quarantined if necessary, should people ‘lack self-awareness’; and that the Ministry will exercise its powers “to ensure compliance with quarantine”.
- **19 March 2020:** The Sofia District Prosecutor’s Office (SRS) sent instructions to Sofia mayors and law enforcement to mount checkpoints “in neighbourhoods of Sofia populated by people of different ethnicities, clearly demonstrating their unwillingness to comply with the restrictions.”
- **17-19 March 2020:** Restrictions reported in seven different locations included the blockading of the Kvartal Karmen, in Kazanlak. Exits to the wall which surrounds the neighbourhood were sealed, and the sole entry-exit point was manned 24-hrs a day by law enforcement to check documents, restrict movement, and ‘monitor compliance with the quarantine.’ Pass regimes were introduced, with police checkpoints mounted at the entrances and exits to the Shesti quarter in Nova Zagora and the Nadezhda quarter in Sliven. Increased police presence and checkpoints were also reported in Kvartal Rayna Knyagina; while in Yambol kvartal Lozenets, Stara Zagora, a ban on more than two people gathering in public spaces was introduced, as well as a neighbourhood curfew between 8pm and 4am.
- **15-28 April 2020:** The National Crisis staff announced a high number of infected people in the two Sofia Romani neighbourhoods of Fakulteta and Filipovtsi, and police checkpoints were set up around both of these neighbourhoods. Within one day it became



evident that this claim was false, with only 10 confirmed cases in Fakulteta and Filipovtsi, against a total of 486 cases in the territory of Sofia. The mayor said that she saw nothing discriminatory about these measures, which targeted only Romani neighbourhoods.<sup>32</sup>

These measures provoked domestic protest and international criticism. The over-securitised and ethnic-specific approach was harshest in Yambol, which was fully quarantined and blockaded for 14 days. On the morning of the 14th May, a helicopter sprayed nearly 3,000 litres of detergent to ‘disinfect’ the Romani neighbourhood. In a statement, issued on the 13th May, two UN Special Rapporteurs on racism and minority issues expressed deep concern “*at the discriminatory limitations imposed on Roma on an ethnic basis that are overtly supported by Bulgarian State officials as part of the broader measures to prevent the spread of COVID-19*”, condemned inflammatory rhetoric from the highest levels, and called on the government to condemn hate speech, swiftly and unequivocally, and warned that “*authorities should not exploit the pandemic to further exclude Roma and portray them as criminals and contagious.*” Concerning police actions, they stated:

*“The placement of checkpoints since mid-March at the entrance of the already segregated Roma areas in Nova Zagora, Kazanlak, Sliven, Yambol, and Sofia – allegedly implemented as part of efforts to curb the pandemic– is a violation of Roma’s right to equality and freedom of movement.”* The experts called for an end to the police operation codenamed ‘Respect’ that specifically targeted Roma as “*it violates the principles of non-discrimination and equality, and adopts an overly-securitised approach that may put at risk the right to health of Roma people.*” In their communication of concern to the Government of Bulgaria, the two Special Rapporteurs concluded:

*“Racial discrimination and racism within state institutions is a reality that Governments should not deny. The Bulgarian authorities must condemn this and any other conduct that targets Roma and other minorities on an ethnic or related basis.”*<sup>33</sup>

## **Policing: murder, ill-treatment, and Bulgaria’s refusal to comply with ECtHR judgments**

In its 2020 annual review of human rights, the Bulgarian Helsinki Committee described the year as another marked by police arbitrariness and violence that was inadequately investigated and the perpetrators not brought to justice.<sup>34</sup> In connection with systematic failures to implement ECtHR judgments related to police violence, noting that there had been no progress with introducing the crime of torture in criminal law, and no effective investigations concerning “*deaths, ill-treatment including torture or lack of timely medical assistance during arrest, in police detention or in penitentiary facilities*”, the Committee of Ministers of the Council of Europe adopted an

32 Bernard Rorke and Jonathan Lee, *Roma Rights in the Time of Covid*, September 2020. ERRC Brussels. pp. 9-11. Available at: [http://www.errc.org/uploads/upload\\_en/file/5265\\_file1\\_roma-rights-in-the-time-of-covid-.pdf](http://www.errc.org/uploads/upload_en/file/5265_file1_roma-rights-in-the-time-of-covid-.pdf).

33 UN High Commission for Human Rights, Bulgaria / COVID-19 response: “Stop hate speech and racial discrimination against the Roma minority” – UN experts Geneva, 13 May 2020. Available at: <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=25881&LangID=E>.

34 Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2020 (Summary)*, Sofia, 2021. Available at: <https://www.bghelsinki.org/web/files/reports/155/files/BHC-Human-Rights-in-Bulgaria-in-2020-en.pdf>.

interim resolution on the *Velikova* group against Bulgaria, as a final measure in response to the state's systematic refusal to comply with a number of ECtHR judgments.<sup>35</sup>

The Committee of Ministers invited the Bulgarian authorities to:

- strengthen free legal assistance; to ensure that a lawyer is available in good time to assist every person in police detention who requests it; and to introduce systematic video recording of the interrogations of suspects;
- improve the promptness, quality, and confidentiality of medical examinations and recording of injuries in police detention/penitentiary facilities and to introduce an automatic notification to the Prosecutor's Office of complaints of ill-treatment received by the police;
- establish a national system for compiling statistics on complaints, prosecutions, and disciplinary and criminal penalties related to ill-treatment;
- introduce judicial review of refusals to open investigations by the prosecution amend without further delay criminal law in order it to provide expressly for the offense of torture;
- entrust the preliminary inquiries and investigations of allegations of ill-treatment to prosecutors and investigating magistrates who do not have working relationships with the law enforcement agents whose actions have been challenged;
- amend the law so that it provides for the suspension of police officers officially accused in criminal proceedings of ill-treatment.

As the Bulgarian Helsinki Committee noted, none of the recommended measures had been put into law or practice by the end of 2020; and in the course of the year, the ECtHR handed down eleven judgments against Bulgaria under Article 2 (right to life) and Article 3 (prohibition of torture, inhuman and degrading treatment, or punishment) of the Convention.<sup>36</sup>

## Policing Roma: stigmatisation, securitisation, and failure to protect

In February 2019, Deputy Prime Minister Krassimir Karakachanov introduced his '*Concept for the Integration of the Unsocialised Gypsy (Roma) Ethnicity*', which argued against continued tolerance towards "*unlawful actions by individuals from the gypsy (Roma) population*". Karakachanov alleged that this 'tolerance', combined with inaction by the state and local authorities, has created "*a sense of impunity within a significant part of the gypsy (Roma) population*". VMRO's plans called for halting welfare payments if Roma refuse to work or send their children to school, or if they "*demonstrate an expensive lifestyle incongruous with their socially disadvantaged status*"; measures to eliminate 'lone mother' status for Romani women and to provide free abortions to Romani mothers with more than three children; the destruction of unauthorised Romani houses, and the total elimination of so-called ghettos by local authorities; and a crackdown

35 Council of Europe Committee of Ministers, 'Interim Resolution CM/ResDH(2020)198, Execution of the judgments of the European Court of Human Rights Velikova group against Bulgaria (*Adopted by the Committee of Ministers on 1 October 2020 at the 1383<sup>rd</sup> meeting of the Ministers' Deputies*)', 1 October 2020. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809fc599](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809fc599).

36 Bulgarian Helsinki Committee, 2021, pp. 8, 9.

on so-called ‘Roma crime’ in ghettos, with a specific focus on “ring leaders, phone scammers, prostitutes and beggars”.<sup>37</sup>

The Concept warned of concerning trends including an increase in the number of ‘Islamicised gypsies’, which combined with rising crime creates a real danger of radicalisation among individuals from the marginalised groups, which “in turn, can result in clear risks for the national security.” Ultimately, Karakachanov’s concept did not get through the legislature, and his VMRO party fell from power after dismal performances in the series of elections in 2021, failing even to cross the threshold to enter parliament.

But Karakachanov’s concept, with its stigmatisation of Roma as a threat to national security, its racist stereotyping, and incitement for more direct and radical interventions in Romani neighbourhoods, fully mainstreamed an extremist agenda and set the tone for 2019, which saw politicians, law enforcement, and far-right mobs coalesce in vigilante-style attacks which culminated in anti-Roma pogroms.

As the Helsinki Committee reported hundreds of people, including children, the elderly, and people with disabilities, were evicted from their homes following a series of racist attacks in different parts of the country. Expulsions of Romani people which occurred in the village of Voyvodinovo – described by the Helsinki Committee as the largest case of organised ethnic cleansing in recent years – and the town of Gabrovo, were accompanied by property damage, arson, and threats of violence. Not only did police officers fail to protect Romani families from harm and their houses and property from destruction, but they also engaged in acts of collective punishment:

*“On April 28, after an argument with a Bulgarian family, a large group of Roma were detained in the village of Kuklen and subsequently brutally beaten at a police station in Plodiv. According to the testimonies of the victims and witnesses, they were threatened with execution and beaten with fists and bats during their arrest and on their way to the police station. Immediately after being taken inside the detention facility they were handcuffed, beaten with batons, and insulted with racist insults. Some were forced to drink water from the floor with their hands tied. By the end of the year, no charges had been filed against the law enforcement officers who had exercised the violence.”<sup>38</sup>*

The Helsinki Committee also noted that the Prosecutor General who busied himself by “systematically undermining the prestige of the judiciary” in 2020, launched a crackdown against so-called “domestic crime”, with checks of “criminally active individuals” – two terms that are not part of the current legislative framework. Numerous high-profile, highly-publicised actions were carried out in cooperation between the Prosecutor’s Office and the Interior Ministry, targeting predominantly Romani neighbourhoods.<sup>39</sup>

In October 2020, anti-racist MEPs in Brussels protested against the use of EU funds to train Bulgarian police officers in radicalisation awareness targeting Romani neighbourhoods and called for an investigation by the Commission and a halt to EU funding for the Bulgarian Ministry

37 BIRN Sofia, ‘Bulgarian Nationalists’ Roma ‘Integration’ Plan Dismays Rights Advocates’, *Balkan Insight*, 8 February 2019. Available at: <https://balkaninsight.com/2019/02/08/bulgarian-nationalists-issue-controversial-roma-integration-plan-02-07-2019/>.

38 Bulgarian Helsinki Committee, *Human Rights in Bulgaria in 2019 (summary)*. Available at: <https://www.bghelsinki.org/web/files/reports/129/files/BHC-Human-Rights-in-Bulgaria-in-2019-en.pdf>.

39 Bulgarian Helsinki Committee, 2021, p.12.

of the Interior until it adopts policies and practice that are proactively anti-racist. In a letter to European Commission President von der Leyen, the MPs who head the European Parliament's Anti-Racism and Diversity Intergroup (ARDI) stated that *"Roma are not extremists or terrorists. Roma are the largest and the most discriminated against ethnic group in the EU and we need their rights to be respected"*.

The issue was first raised by the Citizens for Democracy and the Rule of Law Coalition, which demanded an explanation as to how, under the remit of the 'Good Governance' Operational Programme, €1.7 million from the European Social Fund (ESF) used was to train 480 police officers to detect the alleged 'radicalisation' of Romani people in Bulgaria. The coalition condemned the project for reinforcing anti-Roma racism and creating a new dangerous stereotype of Roma as posing a threat to the national security of Bulgaria.<sup>40</sup>

Another failure of law enforcement is the failure to protect victims of hate crime. As Amnesty International found, hate crimes are often investigated as other offences; most commonly as crimes motivated by hooliganism, with the discriminatory element frequently ignored. The research suggested that the Bulgarian authorities are not fulfilling their obligations and consistently fail to thoroughly investigate alleged discriminatory motives associated with crimes against Roma and other visible minorities, including LGBTIQ persons, migrants, refugees, and asylum seekers: *"The result is that these crimes are not recognized for what they are – crimes motivated by discrimination."*

Amnesty found that authorities opt for the 'hooliganism option' because the evidence required to substantiate hooliganism is simpler to obtain. All that is needed to establish that a crime is motivated by hooliganism is that it took place in a public space, in the presence of witnesses, and that the victims and perpetrators do not know each other.

In addition, the laws dealing with murder or assault aggravated by a racist or xenophobic motive were relatively new and *"officials lack experience and, in some instances, training on their practical implementation, including the steps required to uncover discriminatory motives during investigation."* As a result, Amnesty found that victims or witnesses were not systematically asked about their impressions of the motive for attacks, nor are many other types of potential indicators of hate crimes investigated as a matter of course.

Amnesty researchers found that police officers and prosecutors openly expressed biased views against minority groups, especially Roma, alleging that Romani adults will not work, Romani children will not go to school, and Romani communities were responsible for high crime rates, despite the lack of any official data to support such a claim. As one officer from Sofia Police Station 08, interviewed by Amnesty, put it: *"90% of robberies are committed by Roma people, don't you think this creates a reason for discriminating against them?"*

The prevalence of anti-Roma bias among police officers begs obvious questions about the conduct of investigations into crimes where Roma are the victims and, as Amnesty suggested, they may also further contribute to undermining the trust of Romani citizens in the authorities.<sup>41</sup>

40 ERRC News, *Racism in Bulgaria: MEPs call for EU funding to be blocked following Interior Ministry's 'Roma radicalization' police training*, 14 October 2020. Available at: <http://www.errc.org/news/racism-in-bulgaria-meps-call-for-eu-funding-to-be-blocked-following-interior-ministris-roma-radicalization-police-training>.

41 Amnesty International, *Missing the Point: Lack of Adequate Investigation of Hate Crimes in Bulgaria*. London, 2015, pp. 20, 21. Available at: <https://www.amnesty.org/en/wp-content/uploads/2021/05/EUR1500012015ENGLISH.pdf>.

## Policing Roma: twice as likely to be victims of cruel and inhumane treatment

According to research cited in the 2020 report, *Guilty by Default*, Roma in Bulgaria were twice as likely to be the victims of physical police violence than non-Roma, and those who self-identified as Roma accounted for more than 50% of new prisoners, as well as more than 50% of those serving prison sentences, despite making up only 10% of the population.<sup>42</sup> Findings showed that one third of the respondents (34%) reported physical mistreatment, either during apprehension or during detention at police stations. The survey also showed that minors are particularly affected by police mistreatment; 66.6% of all minors interviewed reported physical violence during apprehension. The share of Romani people (28.3%) who reported being victims of physical force at the hands of the police in 2016, was double the reported share of ethnic Bulgarians (14.5%).<sup>43</sup>

### ROMA IN BULGARIA ARE TWICE AS LIKELY TO BE THE VICTIMS OF PHYSICAL POLICE VIOLENCE THAN NON-ROMA



■ Roma make up only 10% of the population in Bulgaria



■ Those who self-identified as Roma accounted for more than 50% of new prisoners, as well as more than 50% of those serving prison sentences



Findings showed that one third of the respondents reported physical mistreatment, either during apprehension or during detention at police stations.



The share of Romani people (28.3%) who reported being victims of physical force at the hands of the police in 2016, was double the reported share of ethnic Bulgarians (14.5%).

It is clear that Roma are disproportionately represented within the criminal justice system in terms of being ethnically profiled, detained, and imprisoned, and all the available research would suggest that Roma are disproportionately at the receiving end of torture and ill-treatment during arrest and detention, and thus more likely to become victims of a virtually unchecked culture of violence within Bulgarian law enforcement. As such, the concluding

<sup>42</sup> Dilyana Angelova and Slavka Kukova, *Guilty by Default: Discrimination against Roma in the Criminal Justice System in Bulgaria*, Bulgarian Helsinki Committee, Sofia, 2020, p. 33. Available at: <https://www.bghelsinki.org/web/files/reports/138/files/2020-angelova-kukova-guilty-by-default-discrimination-against-roma-in-the-criminal-justice-system-in-bulgaria-EN.pdf>.

<sup>43</sup> *Ibid*, p.34.

observations and recommendations of the UN Committee against Torture (summarised below) are particularly pertinent for the protection of Roma in Bulgaria from systemic violence and structural discrimination by law enforcement.

In its 2018 concluding observations on Bulgaria, the UNCAT expressed concerns about the following three topics (and much more):

### **Excessive use of force and impunity for acts of torture and ill-treatment:**

- (a) The Committee was concerned at reports of excessive use of force by law enforcement including against women and juveniles upon arrest and in police detention units;
- (b) that every third person is subjected to physical abuse in police stations, which may be of such severity to amount to torture and may include beating, handcuffing to immovable objects, and the use of truncheons and electrical discharge weapons, and that the rate of physical abuse against persons belonging to the Roma community is allegedly double the rate used against Bulgarians;
- (c) Allegations that the police do not keep a registry on the use of force or auxiliary means against detained persons and that there is no recording of injuries;
- (d) That police officers are seldom prosecuted and punished and that those police officers who are found guilty of torture or ill-treatment of detained persons are punished with very lenient penalties.

### **Discrimination, violence and hate crimes against vulnerable groups:**

- (a) The Committee is concerned at reports about the marked increase since 2014 in the incidence of violence against minority groups such as Roma, Muslims and their places of worship, migrants, refugees and asylum seekers, Turks, Jews, persons of African descent, members of sexual minorities, as well as human rights activists defending them. The Committee is concerned at the low conviction rates of law enforcement officers prosecuted for this type of crime, mostly for inflicting light injury and who were subsequently sentenced to suspended sentences or fines.

### **Torture, coerced confessions and redress for victims of torture:**

- (a) UNCAT remains concerned that a comprehensive definition of torture incorporating all the elements of article 1 of the Convention has not been incorporated in the Criminal Code to date. It is also concerned that torture is not criminalized as a separate offence in law and that acts amounting to torture continue to be prosecuted under different articles of the Criminal Code.
- (b) The Committee remains concerned at the continued absence of legislation explicitly prohibiting the admissibility of evidence obtained as a result of torture and ill-treatment. It is further concerned that the courts do not examine the circumstances under which statements, including confessions have been obtained. It is also concerned at reports about a significant number of cases in which children testified that they had been coerced into making confessions for acts they did not commit.

- (c) Despite reported amendments to the Act on compensation for victims, the Committee was concerned that the State party has not awarded or provided any redress, including rehabilitation, to victims of torture or ill-treatment during the reporting period.

Among its exhaustive set of recommendations to address the Committee’s concerns about torture, routine brutality, complete impunity, and the regular flouting of fundamental legal standards by law enforcement, UNCAT urged the Bulgarian State to: *“take concrete steps to ensure that members of the Roma community and other vulnerable minorities and groups are not singled out and ensure that the excessive use of force against members of such communities by law enforcement officials is promptly and impartially investigated and the perpetrators prosecuted and punished; provide remedies and redress to victims afforded by the Convention, including for reparation and damage.”*<sup>44</sup>



<sup>44</sup> UN Committee against Torture, *Concluding observations on the sixth periodic report of Bulgaria*, 2018. Available at: [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BGR/CAT\\_C\\_BGR\\_CO\\_6\\_29664\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BGR/CAT_C_BGR_CO_6_29664_E.pdf).

## Hungary

### Overview of racism and discrimination against Roma

In 2019, the UN Committee on the Elimination of Racial Discrimination (UNCERD) expressed its repeated concerns at the persistence of structural discrimination, segregation, and the extreme poverty faced by Roma in Hungary. The Committee urged the government to end all segregation in education; cease forced evictions and housing demolitions; prevent all ethnic profiling by law enforcement; ensure all Roma have full and unhindered access to healthcare without discrimination and harassment; and to take proportionate measures to end extreme poverty among Roma.

UNCERD expressed deep concern at the operation of organisations that promote and incite racial hatred, and “*the lack of information on the impact of any measures taken by the State party to prevent incitement to hatred generated by these organisations*”, and called on the government to ban such organisations.

‘Deep alarm’ was the chosen phrase, concerning the prevalence of hate speech targeting Roma, migrants, and other minorities. UNCERD called on the government to take immediate action to prevent racist hate crimes and protect vulnerable groups. The committee called on the government to stop racist hate speech and incitement to violence and to “*publicly condemn and distance itself, including in the media and on the internet, from racist hate speech by public figures, including politicians, and take measures to protect vulnerable affected groups.*”<sup>45</sup>



Being a Roma should not be primarily interpreted as a racial category, rather as a way of life led by a group of people who stand apart from the traditional values of majority society, and whose lifestyle is characterised by the avoidance of work and the disrespect of private property and the norms of living together.

Judge Erika Mucsi, Regional Court of Gyula

<sup>45</sup> Committee on the Elimination of Racial Discrimination, ‘Concluding observations on the combined eighteenth to twenty-fifth periodic reports of Hungary’, 10 May 2019. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/HUN/CERD\\_C\\_HUN\\_CO\\_18-25\\_34867\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/HUN/CERD_C_HUN_CO_18-25_34867_E.pdf).

With regards to the criminal justice system, the Committee recommended that the Hungarian state conduct training programmes for law enforcement officers, judges, prosecutors, lawyers, and State and public officials, including specialised trainings on the prevention of racial discrimination and the rights enshrined in the Convention. It requests that the State party provide detailed information in its next periodic report on such training programmes and the impact of such training on the situation of ethnic minorities.

ECRI expressed similar concerns that hate speech is not restricted to extremist parties and groups but occurs across the political spectrum. State officials and members of mainstream parties have been implicated, including a presiding judge in the Regional Court of Gyula who justified her refusal to dissolve an extremist paramilitary group for its intimidation of Romani communities in the following racist terms:

*“Being a Roma should not be primarily interpreted as a racial category, rather as a way of life led by a group of people who stand apart from the traditional values of majority society, and whose lifestyle is characterised by the avoidance of work and the disrespect of private property and the norms of living together”.*<sup>46</sup>

## **Policing: ethnic profiling, discriminatory fining practices, and everyday harassment**

Ethnic profiling and discriminatory fining practices by local police has become rife in segregated Romani neighbourhoods and impoverished small towns mainly in north-eastern Hungary. Reports dating back to 2007, found that local police were imposing fines on Roma for petty offences as a means of maintaining ‘public order’ and an undeclared policy of racial harassment. Typically, Roma were being repeatedly fined for pedestrian offences or while cycling, for lack of a bell, front light, or rear reflector on their bicycles. Many who were living in extreme poverty and could not afford to pay the fines were then sent to prison.

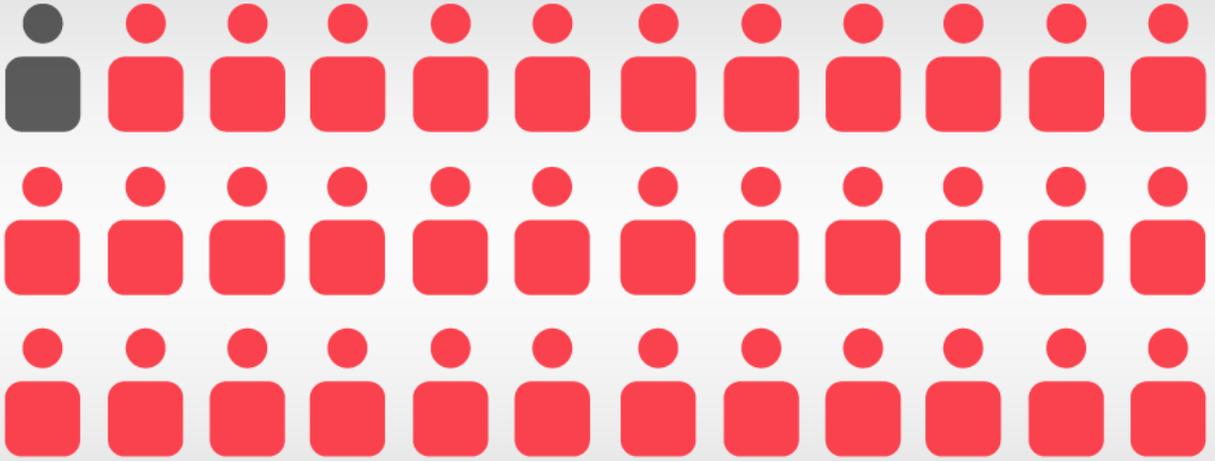
In 2011, the Equal Treatment Authority Office investigated 150 registered petty offense cases in the small town Rimóc in the North-East of Hungary where 25% of the population of 2000 is Roma. The investigation found that Roma accounted for 35 out of 36 cases of on-the-spot fines for the lack of mandatory bicycle accessories within a nine-month period. The fines ranged from HUF 3,000 to HUF 20,000 (€8 to €56) which caused undue hardship to people living in poverty. Investigations by the Independent Law Enforcement Complaints Board in the same area also confirmed that such fines were almost exclusively imposed against Romani residents.

In a 2014 study, the Roma Press Centre (Roma Sajtóközpont) analysed 140 petty offence procedures involving Roma in 50 villages, and found high rates of on-the-spot fines for an absurd range of infringements such as spitting, riding a bike with one hand, crossing the road at a non-designated crossing, and prohibited bathing.<sup>47</sup>

<sup>46</sup> ECRI Report on Hungary (fifth monitoring cycle), 9 June 2015. Available at: <https://rm.coe.int/fifth-report-on-hungary/16808b57e8>.

<sup>47</sup> Annie Kazarján and Eszter Kirs, *Discrimination Against Roma People In The Hungarian Criminal Justice System*, pp.18, 19. Hungarian Helsinki Committee. Coordinated by Fair Trials. 13 January 2021. Available at: [https://helsinki.hu/en/wp-content/uploads/sites/2/2021/03/Discrimination\\_against\\_Roma\\_people\\_in\\_the\\_Hungarian\\_criminal\\_justice\\_system.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2021/03/Discrimination_against_Roma_people_in_the_Hungarian_criminal_justice_system.pdf).

In 2011, the Equal Treatment Authority Office investigated **150 registered petty offense** cases in the small town Rimóc in the North-East of Hungary where **25% of the population of 2000 is Roma.**



Roma accounted for 35 out of 36 cases of on-the-spot fines for the lack of mandatory bicycle accessories within a nine-month period.

While some have attributed the dramatic diminution of such cases to the successful advocacy and litigation campaigns by civil organisations, Roma who were interviewed by Hungarian Helsinki Committee (HHC) researchers suggested that the lack of cases concerning stop and search and fines has more to do with the absence of local human rights NGOs and monitors in recent years to process such complaints. Other factors that discouraged Roma were the length of the complaint and judicial procedures, a lack of trust in the authorities, and an abiding sense of resignation. One lawyer told the researchers that his Romani clients tend not to complain about ethnic profiling, because *“they have gotten used to such discriminatory practices”*, and accept routine harassment by police as a regular feature of everyday life.

The HHC researchers found numerous examples of humiliating and discriminatory ethnic profiling of Roma by police. One of the Romani interviewees said that he had been stopped at least 50 times by officers, who neither introduced nor identified themselves and mostly refused to disclose the purpose of the checks. He has made four official complaints to the Independent Complaint Board and the Equal Treatment Authority about the stop and searches he was subjected to in the past two years.<sup>48</sup>

<sup>48</sup> *Ibid.* p. 20.

Another Romani interviewee related how he was stopped by police for crossing the road at a non-designated point, and when questioned he admitted responsibility for violating the rules on pedestrian crossings. While the police were booking him, the police took no action against a non-Romani couple who crossed the road at the same spot. He asked the police if they could just caution him instead of fining him as he had four young children and a very low income. They fined him 10,000 HUF (€28) and called him a ‘dumb Gypsy’.<sup>49</sup>

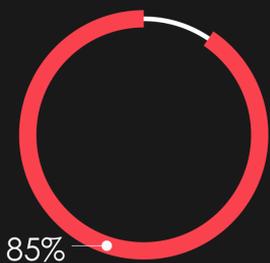
## Under-policing, inaction, failure to protect, and police brutality

Despite the intrusive and abusive practices of over-policing in the everyday lives of Roma, communities commonly feel unprotected by law enforcement officers, who have repeatedly failed to ensure public safety, a process referred to as the overpolicing-underpolicing paradox.

Research by the European Union Agency for Fundamental Rights (FRA) pointed to the link in Hungary between minorities’ lack of trust in the police (resulting, for example, from excessive police stops

of Roma and disrespectful treatment of them by police officers) and extensive under-reporting – 85% of Romani victims of serious harassment, assaults, or threats did not report these in-person crimes – and the reason most gave was that they were “not confident the police would be able to do anything.”<sup>50</sup>

85% of Romani victims of serious harassment, assaults or threats did not report these in-person crimes.



A decade later, Romani interviewees from the segregated neighbourhood in the eastern village of Tiszavasvári told HHC researchers that police frequently fail to act when they find out that the victim is Roma, telling them in the case of theft to steal back whatever has been stolen; or following a violent incident, to “take care of it themselves”, for one Roma less doesn’t matter. Romani interviewees from another village feared reporting someone for violence because not only would the police neglect to follow up on the complaint, but they would fail to protect them from revenge attacks afterwards.<sup>51</sup>

The police also fail to protect Roma from racially motivated hate crimes. On five occasions since October 2015, the European Court of Human Rights (ECtHR) found in favour of Romani applicants against the Hungarian state. On four occasions, Romani victims’ fundamental rights were violated due to the omissions of law-enforcement authorities in hate crime procedures, and the fifth case involved failure by the State to properly investigate police brutality against Roma.<sup>52</sup>

49 Ibid. p.21.

50 EU Agency for Fundamental Rights, *Data in Focus Report: Police Stops and Minorities*. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/1132-EU-MIDIS-police.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/1132-EU-MIDIS-police.pdf).

51 Kazarján and Kirs. 2021, p.13.

52 Andras L. Pap, Hate crimes, underpolicing, institutional discrimination: Hungarian cases, ECHR reflections, MTA Law Working Papers 2017. Hungarian Academy of Sciences Budapest ISSN 2064-4515. Available at: [http://real.mtak.hu/121483/1/2017\\_13\\_Pap.pdf](http://real.mtak.hu/121483/1/2017_13_Pap.pdf).

In the case of *Balázs v. Hungary*, where the applicant was the victim of a vicious racially-motivated assault in 2011, the Szeged Public Prosecutor ruled out a racist motive. This ruling was upheld on appeal by the Csongrád County Regional Public Prosecutor's Office, which argued that *"although it is likely that the action had racist motives, it cannot be proven sufficiently for establishing criminal responsibility – that is, unequivocally and beyond any doubt – that Mr E.D. ill-treated the applicant precisely because of his Roma origin. The racist motive cannot be established."*

The ERRC made a third-party intervention in this case, and two others which also concerned allegations of hate crimes against Roma and the failure of the Hungarian authorities to deal with them properly. In the other two cases, **R.B. v Hungary** involved harassment and threats made against a Romani woman by a paramilitary group; and **M.F. v Hungary** which involved ill-treatment of a Romani man in detention by police and security guards.<sup>53</sup>

The ERRC urged the Court explicitly to acknowledge the phenomenon of antigypsyism, as defined and recognised by other Council of Europe bodies. Citing its own reports, and evidence from the Council of Europe and FRA, ERRC stated that the problem of racist violence against Roma was recognised at European level as an expression of antigypsyism, and that the national bodies in Hungary responsible for protecting Roma against violence are institutionally racist, defined by MacPherson as; *"the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin"*.<sup>54</sup>

As evidence of this 'collective failure', the ERRC cited a thematic FRA report which noted that in Hungary *"police often overlook"* hate crimes, and possible explanations for this included *"the latent climate of intolerance and prejudice that also exists within the police force"* and the fact that *"proving hate crime is more complex, resource intensive and time consuming than proving other types of crime"*. FRA also concluded, after meeting with the Hungarian authorities, that *"recognising bias motivation requires special knowledge and training which police officers do not always have."*<sup>55</sup>

In the case of **Balázs v. Hungary**, on 20 October 2015 the Court awarded the applicant €10,000 in damages and ruled that the authorities' failure to identify the racist motive in the face of powerful hate crime indicators resulted from a manifestly unreasonable assessment of the circumstances of the case. This impaired the adequacy of the investigation to an extent that was irreconcilable with the State's obligation to conduct vigorous investigations and amounted to a violation of Article 14 read in conjunction with Article 3 of the Convention.<sup>56</sup>

In the case of **R.B. v. Hungary**, on 12 April 2016 the ECtHR awarded the applicant – who was threatened by an axe-wielding paramilitary and racially abused by his companions during far-right disturbances in Gyöngyöspata in 2011 – a total of €7,717 in damages, costs, and expenses, and

53 ERRC, *Balázs v Hungary and two other cases (Third-Party Intervention, 2015, 2016, 2017)*, 19 April 2016. Available at: [http://www.errc.org/uploads/upload\\_en/file/three-intervention-to-ecthr-v-hungary-19-january-2015.pdf](http://www.errc.org/uploads/upload_en/file/three-intervention-to-ecthr-v-hungary-19-january-2015.pdf).

54 Gov.UK, Independent report, *The Stephen Lawrence Inquiry: Report of an inquiry by Sir William Macpherson*. Published 24 February 1999. Available at: <https://www.gov.uk/government/publications/the-stephen-lawrence-inquiry>.

55 EU Agency for Fundamental Rights, *Racism, discrimination, intolerance and extremism: learning from experiences in Greece and Hungary*. pp. 37,38. Available at: [https://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3\\_en\\_1.pdf](https://fra.europa.eu/sites/default/files/fra-2013-thematic-situation-report-3_en_1.pdf).

56 European Court of Human Rights, *Case of Balázs v. Hungary (Application No. 15529/12)* Judgment Final. Strasbourg, 20 October 2015. Available at: [https://hudoc.echr.coe.int/fre/#{"itemid":\["001-158033"\]}](https://hudoc.echr.coe.int/fre/#{).

held by a 6-1 majority that there was a violation under Article 8 of the Convention on account of the inadequate investigations into the applicant's allegations of racially motivated abuse.<sup>57</sup>

As regards the complaint concerning the authorities' inaction during the rallies, the Court rejected the complaint as 'manifestly ill-founded'. The Court's reasoning is still hard to comprehend in light of what transpired in Gyöngyöspata between the 1<sup>st</sup> and the 16<sup>th</sup> March 2011, when uniformed far-right extremist groups created a climate of terror in the village, set up checkpoints around the Romani neighbourhood, conducted drunken 'patrols', and racially abused and threatened Romani residents, while the police stood idly by and neglected to intervene.<sup>58</sup>

In the case of **M.F. v. Hungary**, on 31 October 2017 the ECtHR awarded the Romani applicant €14,724 in damages, costs, and expenses, and ruled that the authorities had failed to take all possible steps to investigate whether or not discrimination may have played a role in the events, which constituted a violation of Article 14 of the Convention, taken together with Article 3 in its procedural aspect.

However, despite the applicant's testimony that he had been beaten and whipped on the soles of his feet over a four-hour period, as six police officers and two security guards coerced a confession from him, and was told by one that it would not matter if he died as that would mean "*one less Gypsy*", the Court did "*not consider that it has been established beyond reasonable doubt that racist attitudes played a role in the applicant's treatment by the police.*"<sup>59</sup>

In the case of **Kovács and others v. Hungary**, on 29 January 2019 the ECtHR awarded a total of €9,000 to each of the four Romani applicants, and €6,000 to the applicants jointly, in respect of costs and expenses, and unanimously found that the use of force by police was applied to an unjustified extent which resulted in injury to the applicants and amounted to degrading treatment and a violation of Article 3 of the Convention.

The four men were subjected to sustained and vicious beating and kicking by police officers during their arrest, during the ride to the police station, and at the station itself. They said they were racially abused by police throughout the ordeal.

According to the applicants' version of events, at the police station:

- the second applicant's trousers were pulled off and his testicles squeezed; he was repeatedly hit and kicked and his back was injured with a sharp object. While being assaulted by four or five officers, he was also insulted and told that he, a Roma, should die, or else move away from Sátoraljaújhely.
- The fourth applicant was handcuffed, and his handcuffs were attached to a leg of the table and his leg was then kicked so that he fell under the table, where he was repeatedly kicked or hit in the head. As a result of the beating, his wrist broke.

<sup>57</sup> European Court of Human Rights, *Case of R.B. v. Hungary* (Application no. 64602/12), Judgment Final. Strasbourg, 12 April 2016. Available at: <https://www.legal-tools.org/doc/343486/pdf/>.

<sup>58</sup> The Guardian, *Hungary's Roma clash with rightwing paramilitary group – video*. Source: Hungarian Civil Liberties Union. Available at: <https://www.theguardian.com/world/video/2012/jan/27/hungary-roma-rightwing-paramilitary-video>.

<sup>59</sup> European Court of Human Rights, *Case of M.F. v Hungary* (Application no. 45855/12), Judgment Final. Strasbourg, 31 October 2017. Available at: <https://hudoc.echr.coe.int/fre/#{22itemid%22:%22001-178178%22}}>.

- When the first applicant asked for a doctor, this was refused by the officers who said that he could have a doctor once he was dead. On release, the officers wanted him to sign a waiver stating he had not been assaulted; since he refused to do so, an officer signed the waiver for him. Intimidated, the other applicants signed the waiver.

The Court found that the State did not furnish “any convincing or credible arguments which would provide a basis to explain or justify the degree of force used during the operation”.

The applicants submitted that their ill-treatment by the police had been the result of racial discrimination, attested by the racist abuse they had to endure during the beatings, as well the failure of the authorities to address racist motivation in the ensuing investigations. The Court held that “the authorities in the investigation had paid due attention to the possibility of racial bias in the case”, that the racist insults referred to by the applicants were not supported by any evidence, and that the Independent Policing Complaint Board was unable to identify any appearance or element of racial discrimination. Therefore, the Court dismissed the claim of racial motivation as manifestly ill-founded.<sup>60</sup>

In the case of **Király and Dömötör v. Hungary**, on 17 January 2017 the ECtHR held, by 5 votes to 2, that there had been a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights, and that Hungary was to pay the applicants €7,500 each in respect of non-pecuniary damage, and €3,205 to Mr Király and €3,235 to Mr Dömötör for costs and expenses. The applicants alleged that the police had failed to protect them from racist abuse during a far-right demonstration and to properly investigate the incident. They alleged that the police had remained passive during the demonstration; that they had not dispersed the demonstration or taken any steps to identify which demonstrators had been engaging in violence against Roma.

The police had been informed through official sources that in addition to the members of Jobbik, nine far-right groups, known for their militant behaviour and anti-Roma and racist stance, would also be present at the demonstration in Devecser. In a series of hate speeches, far-right leaders called on demonstrators to sweep out the “rubbish” from the country, to revolt and to chase out the treasonous criminal group suppressing Hungarians, to use force to “stamp out this phenomenon that needs to be purged”, and to wage a racial war against a minority which was “genetically encoded” to behave in a criminal way.

Following the hate speeches, the demonstrators marched down Vásárhelyi Street (the Romani neighbourhood), chanting “Roma criminality”, “Roma, you will die”, and “We will burn your house down and you will die inside”, “We will come back when the police are gone”, and obscene insults. They also called on the police not to protect the Romani residents from the demonstrators and to let them out from their houses. Sporadically, quasi-military demonstrations of force occurred, involving military-style uniforms, formations, commands, and salutes. Some demonstrators covered their faces, dismantled the cordon, and were equipped with sticks and whips. Those leading the demonstration threw pieces of concrete, stones, and plastic bottles into the gardens, encouraged by the crowd following them.

The Court found that the authorities’ investigations into the incident had been limited. Namely, one of the investigations – concerning the speeches made during the demonstration – had not

<sup>60</sup> European Court of Human Rights, *Case of Kovács v. Hungary* (Applications nos. 21314/15, 21316/15, 21317/15 and 21321/15), Judgment Final, Strasbourg, 29 January 2019. Available at: [https://hudoc.echr.coe.int/eng#{“itemid”: “\[“001-18963”\]”}](https://hudoc.echr.coe.int/eng#{“itemid”: “[“001-18963”]”}).

taken into account the specific context of the abuse and another – concerning the offence of violence against a group – had been slow and limited to acts of physical violence; *“The investigations had not therefore established the true and complex nature of the events. The cumulative effect of these shortcomings had meant that an openly racist demonstration, with sporadic acts of violence, had remained virtually without legal consequences.”*

The Court held that the applicants’ psychological integrity had not been effectively protected against what had amounted to nothing less than organised intimidation of the Romani community, by means of a paramilitary parade, verbal threats, and speeches advocating a policy of racial segregation. The Court was concerned that this could be perceived by the public as the State’s legitimisation and/or tolerance of such behaviour, and held that there had been a violation of Article 8.<sup>61</sup>

As Pap points out, evidence from the Working Group Against Hate Crimes suggests that police failures to protect victims of hate crimes are hardly isolated occurrences. They rather serve to highlight the authorities’ systemic failure to carry out effective investigations into hate crimes in general. The systemic failures surface in four dimensions: (i) under-classification of hate crimes, (ii) failures to undertake law-enforcement action, (iii) failures to take investigative measures, and (iv) a failure to apply the crime of “incitement against a community”.<sup>62</sup>

## No strategy to eradicate ill-treatment by law enforcement or to investigate complaints

The persistent failure of the Hungarian state to adopt general measures suggested by the Committee of Ministers to address systemic failures in policing does not augur well for the Romani community in Hungary. The European Court of Human Rights found in multiple cases that Hungary had violated the right to life or the prohibition of torture when failing to carry out adequate and effective investigations into allegations of ill-treatment by police officers. The **Gubacsi v. Hungary group of cases** concerns ill-treatment (between 2000 and 2016) by law enforcement officers during the applicants’ arrest, transfer, and detention, and lack of effective investigations, including failure to investigate possible racist motives for ill-treatment, and violations of the right to life in the same context (substantial and/or procedural violations).<sup>63</sup>

In a recent communication by the HHC to the Council of Europe concerning the execution of this group of ECtHR judgments, the HHC asserted that the Hungarian Government’s Group Action Plan fails to address systemic deficiencies, and despite the recommendations of the Committee of Ministers, the Hungarian government has (i) failed to establish an independent medical examination body mandated to examine alleged victims of ill-treatment; (ii) failed to grant detainees the right to

61 European Court of Human Rights, *Case of Király and Dömötör v. Hungary* (Application No. 10851/13) Judgment Final. Strasbourg, 17 January 2017. Available at: [https://hudoc.echr.coe.int/eng#{"itemid":\["001-170391"\]}](https://hudoc.echr.coe.int/eng#{).

62 Andras L. Pap, Hate crimes, underpolicing, institutional discrimination: Hungarian cases, ECHR reflections, MTA Law Working Papers 2017. Hungarian Academy of Sciences Budapest ISSN 2064-4515. Available at: [http://real.mtak.hu/121483/1/2017\\_13\\_Pap.pdf](http://real.mtak.hu/121483/1/2017_13_Pap.pdf).

63 European Court of Human Rights, *Gubacsi v. Hungary: Committee of Ministers, Case Description and Status of Execution*. 2 December 2021. Available at: [https://hudoc.exec.coe.int/eng#{"EXECIdentifier":\["004-10515"\]}](https://hudoc.exec.coe.int/eng#{).

be examined by an independent medical expert; and (iii) failed to establish an independent medical examination body mandated to examine alleged victims of ill-treatment.<sup>64</sup>

HCC noted that the Group Action Plan contains no measures and fails to provide data related to the Committee of Ministers’ “grave concern both at the very low rates of indictment following complaints of ill-treatment by law enforcement officers and at the reportedly lenient sentences imposed by courts in these cases”. HCC noted that;

- between 2016 and 2020, only 3 to 5% of the procedures launched annually because of an alleged ill-treatment in official proceeding resulted in an indictment;
- and this ratio was 0% in four out of the last five years in procedures launched on the basis of an alleged coercive interrogation.
- By way of stark contrast, reports on ‘violence against an official person’ resulted in an indictment rate ranging from 60.9% to 71.3% in the same period.<sup>65</sup>

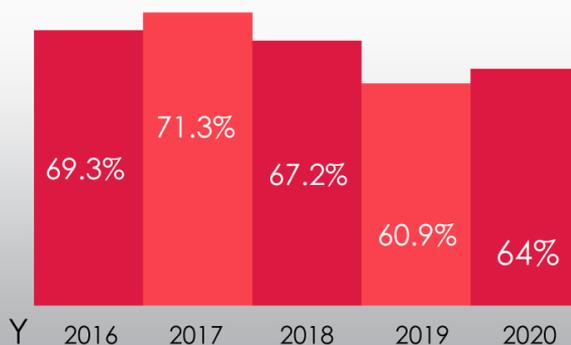
Ill-treatment in official proceeding



Coercive interrogation



Violence against an official person



Source: helsinki.hu

Neither has the government complied with the Committee of Ministers’ request to present “a comprehensive plan for the provision of adequate and systematic training” to all actors. The Group Action Plan fails to provide any meaningful information about the training of those low-ranking officers who come in direct daily contact with persons subjected to police measures, detainees, defendants,

64 Hungarian Helsinki Committee, *NGO communication with regard to the execution of the judgments of the European Court of Human Rights in the Gubacsi v. Hungary group of cases*. 15 October 2021. Available at: [https://helsinki.hu/wp-content/uploads/2021/10/HHC\\_Rule\\_9\\_Gubacsi\\_v\\_Hungary\\_15102021.pdf](https://helsinki.hu/wp-content/uploads/2021/10/HHC_Rule_9_Gubacsi_v_Hungary_15102021.pdf).

65 *Ibid.* p 8.

witnesses etc. And there is no information on how police training precisely addresses the prohibition of torture, coercive interrogation, and cruel, inhuman or degrading treatment, which makes it impossible to assess the adequacy of their training.

Impatience with the Hungarian authorities’ foot-dragging concerning police brutality and the manifest failures to justly process complaints of ill-treatment was clearly evident in the concluding remarks of the Deputies from the Committee of Ministers in December 2021. The Committee found it deeply concerning that, despite the long-standing nature of the issue, it was still not possible to discern an overall strategy envisaged by the Hungarian authorities “to ensure that ill-treatment by law-enforcement agents is eradicated and ill-treatment complaints are effectively investigated.” The Committee called for a “fundamentally renewed, swift and resolute approach of the Hungarian authorities”, and warned that in the event that no tangible progress is achieved by December 2022 it would appear appropriate for the Secretariat to be instructed to prepare a draft interim resolution for the Committee’s consideration.<sup>66</sup>

The Hungarian Helsinki Committee has warned of the wider ramifications of Hungary’s failure to implement judgments of the Strasbourg and Luxembourg courts, not to mention the authorities’ repeated disregarding of domestic judgments:

*“Implementation of domestic and international court judgments is one of the cornerstones of the rule of law. Without it, the systems will crumble. This is all the more so when state agencies are the ones that defy compliance with the judgments handed down by their own domestic courts, or when states start to tear up the fabric of international agreements by not complying with the judgments of international courts. Non-compliance with court judgments is not only a sign of and, at the same time, a factor contributing to the deterioration of the rule of law, but also leads to human rights violations that are left without remedy and that are possibly even recurring.”<sup>67</sup>*



<sup>66</sup> European Court of Human Rights, *Gubasi v. Hungary: Committee of Ministers, Concluding Remarks*. 2 December 2021. Available at: [https://hudoc.exec.coe.int/eng#{"EXECIdentifier":\["004-10515"\]}](https://hudoc.exec.coe.int/eng#{).

<sup>67</sup> Hungarian Helsinki Committee, *Non-execution of domestic and international court judgments in Hungary*, Research report summary, December 2021. Available at: [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HHC\\_Non-Execution\\_of\\_Court\\_Judgments\\_2021\\_summary.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HHC_Non-Execution_of_Court_Judgments_2021_summary.pdf).

## Ireland

### Overview: Racism against Travellers and Roma

There are an estimated 35,000 Irish Travellers living in Ireland; in the 2016 population census 30,987 persons identified themselves as Irish Travellers (0.7% of the usually resident population). Estimates of those who identify as Roma range between 4,000 and 5,000.

In 2019, ECRI noted<sup>68</sup> that, despite the significant symbolic effect of the **2017 recognition of Traveller ethnicity**, ‘the declaration has no legal effect’. Four years after recognition, Travellers are still 38 times more likely to report discrimination with regard to access to shops, public houses, and restaurants than other “white Irish” persons. One high profile case of discrimination against a person of Romani origin was settled in Dublin’s Circuit Court on 14 October 2020. Following an interaction with police at immigration in Dublin Airport in August 2017, **ERRC Board Chair, Professor Ethel Brooks**, represented by legal rights group FLAC, launched a case against An Garda Síochána. In the settlement agreement, read out before the court, An Garda Síochána acknowledged the distress and offence experienced by Professor Brooks, and that all persons should be treated with courtesy and respect regardless of background or ethnicity; agreed



Director Michael O’Flaherty noted Irish Travellers experienced “one of the worst levels of discrimination in the EU – 65% of respondents had experienced discrimination.”

<sup>68</sup> ECRI, *Fourth Report on Ireland*, Published 10 October 2018. Available at: <https://rm.coe.int/4th-op-ireland-en/168095000c>.

to make a financial contribution to Pavee Point Traveller and Roma Centre; and committed to train all police officers in relation to their responsibilities under the Equal Status Acts. Professor Brooks said she was shocked and shaken by the disparaging comments made to her by the Garda: *“It was something I never expected. Now I realise it’s indicative of the racism and discrimination that Travellers and Roma face every day in Ireland.”*

Speaking at the publication of the Irish results from a FRA survey of the lives and conditions of Travellers and Roma in six EU member states<sup>69</sup>, Director Michael O’Flaherty noted Irish Travellers experienced *“one of the worst levels of discrimination in the EU – 65% of respondents had experienced discrimination.”*

- The study also found<sup>70</sup> that rates of poverty in Ireland were the worst across the six member states surveyed, with 31% of Irish Traveller households, including 28% of those with children, were in acute poverty.
- Concerning education, the study found that 70% of Travellers aged 18-24 years finished lower secondary education (the junior second level cycle up to junior certificate), and are not in further education or training compared to 5% of young Irish people generally.
- Irish Travellers also had the lowest employment rates in the survey, with only 17% of Traveller women and 13% of Traveller men aged between 20 and 64 in paid employment.
- The FRA study also found that nearly one third of Irish Traveller parents reported that their children have been harassed or bullied in school due to their ethnicity.
- On ethnic profiling during police stops, 14% believe that the most recent stop was because they are a Traveller. This was the third highest rate compared to the other countries.
- Their trust in the police in Ireland is the second lowest compared to the other countries. Trust in the legal system was also the second lowest of all countries.

The 2018 report ‘Roma in Ireland – A National Needs Assessment’<sup>71</sup>, estimated the population of Roma in Ireland as between 4,000 and 5,000, and shows that there are now second and third generation Roma living in Ireland. 70% of respondents have been living in Ireland for five years or more, with 14% living in Ireland for 15 years or more. 63.3% of children in households were born in Ireland and 52.2% of children are Irish citizens.

The survey found that up to 20% of respondents are completely marginalised from services and supports, living in extreme poverty, in sub-standard overcrowded accommodation, sometimes with no bathroom, kitchen, or cooker. Researchers noted that many children living in these conditions of abject poverty, with rats, damp, and dodgy sewerage, are frequently malnourished and go to school hungry. Beyond this, 60% of respondents reported experiences of consistent poverty, including not always having enough fuel, food, or heat; 52% reported someone in the household has gone to bed hungry.

69 EU Agency for Fundamental Rights, *Roma and Travellers in 6 Countries Survey Report*, Published 23 September 2020. Available at: <https://fra.europa.eu/en/publication/2020/roma-travellers-survey>.

70 EU Agency for Fundamental Rights, *Travellers in Ireland: Key Results from the Roma and Travellers Survey 2019*, Published 2020. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-and-travellers-survey-country-sheet-ireland\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-and-travellers-survey-country-sheet-ireland_en.pdf).

71 Pavee Point Traveller and Roma Centre and Department of Justice and Equality, ‘Roma in Ireland – A National Needs Assessment’, 2018. Available at: <http://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>.

Emily Logan, chief commissioner with the Irish Human and Equality Commission, said the findings were “shameful” and described the poverty experienced by more than half of Ireland’s 5,000 Roma as “relentless” and that the daily struggle to survive made social inclusion “extremely difficult”<sup>72</sup>.

More than 80% of respondents experienced discrimination in a street or public setting, through verbal abuse and racist taunts, including being shouted at and told to ‘Go back to your own country’. 74% of respondents reported feeling discriminated against in shops, restaurants, pubs, and other social venues. They highlighted being denied entry to shops or being followed around by security staff while they shop, and 77.5% reported being stopped for ID checks by police.

The highest rates of perceived discrimination were reported in accessing accommodation (93%). In some cases, landlords said they do not accept Romani tenants, but in other cases people would simply be told that the accommodation was now taken. Service providers also reported witnessing direct discrimination with landlords refusing to accept Roma as tenants.<sup>73</sup>

For Irish Travellers the accommodation crisis remains dire, and ECRI found local authorities culpable for “totally avoidable situations” that leave many Travellers living in squalor and deprivation<sup>74</sup>. In its report, ECRI expressed regret that nothing has changed concerning the abject failure of local authorities to provide adequate and culturally-appropriate accommodation, and was “shocked” that €4.1 million of available funding was returned unspent.<sup>75</sup> The report found that prejudice and opposition from local residents translates into a lack of political will on the part of the local authorities, and that nine local authorities had not spent one cent on accommodation for Travellers.

## Policing: ethnic profiling, forced evictions, and ‘Ireland’s deeply ingrained racial divide’

Dr Sindy Joyce, the first Irish Traveller member of the Irish President’s Council of State, has described the **main dispute between Travellers and the state** over generations as relating to spatial allocation; *“The state’s failure to provide Travellers with the space for functionally operating transient sites, and the introduction of anti-nomadic legalisation, has created a pattern of evictions across the country.”*<sup>76</sup>

The role of the police in enforcing evictions has amplified the widespread distrust and feeling of police persecution, where, according to Dr. Joyce, the regular practice of *“deploying armed response units with an army of police officers at evictions creates trauma and conflict, where the police are not the protectors of the community but rather the enforcers.”*<sup>77</sup>

72 The Irish Times, *Roma children in Ireland ‘starving’ due to ‘relentless’ poverty*, 8 January 2018. Available at: <https://www.irishtimes.com/news/social-affairs/roma-children-in-ireland-starving-due-to-relentless-poverty-1.3360375>.

73 *Ibid*, p.52.

74 ECRI, *Report on Ireland (fifth monitoring cycle)*, Published 4 June 2019. Available at: <https://rm.coe.int/fifth-report-on-ireland/168094c575>.

75 *Ibid*, p.23.

76 ERRC News, *Policing Travellers: Ireland’s Deeply Ingrained Racial Divide*, 8 January 2020. Available at: <http://www.errc.org/news/policing-travellers-irelands-deeply-ingrained-racial-divide>.

77 *Ibid*.



Deploying armed response units with an army of police officers at evictions creates trauma and conflict, where the police are not the protectors of the community but rather the enforcers.

Dr. Sindy Joyce

The UN Committee on the Rights of the Child in its 2016 concluding observations, expressed concern with the “*criminalisation of nomadism ... combined with the inadequate provision of transient halting sites, resulting in forced evictions and the suppression of nomadism as a cultural practice*”, and called on the State party to ensure that the cultural practice of nomadism is not criminalised, and to ensure adequate safeguards against forced eviction.<sup>78</sup>

Dr Joyce further highlighted that Travellers are significantly over-represented in the Irish prison system. Traveller men are between five and eleven times more likely to be imprisoned than the general population, and Traveller women are between eighteen and twenty-two times more likely. Such a disproportionate overrepresentation would suggest systemic racial profiling.

According to Dr. Joyce:

*“The common stereotypical image of Travellers as ‘socially deviant’ informs policing policies. Simultaneously, the frequent racist descriptions and distortions of Traveller society legitimises the institutional and disciplinary control over us.”<sup>79</sup>*

## Irish Network against Racism (INAR) and the future of policing

In its 2018 Submission to the Commission on the Future of Policing in Ireland, INAR’s analysis provided strong evidence of “over-policing and under-protecting” of ethnic minority communities, and called for the introduction of hate crime legislation, a “*root-and-branch overhaul of all police practice in Ireland*”, and structural reform of An Garda Síochána to embed specialist expertise across the force with appropriate resourcing, and to establish anti-racism and human rights practice and culture as a pillar of Irish policing.<sup>80</sup>

<sup>78</sup> UN Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Ireland*, 1 March 2016. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%-2FPPRiCAqhKb7yhsvOufvUWRUJILHiLHKqpXZxUGOtzQF0l%2B37QzAKosbh7yc40d4j3lYnFaWf0Egu6j99RK6Y%2FTHjpped5r1H3f3KQIiFieFkoeAPALAwKpbZz>.

<sup>79</sup> ERRC News, *Policing Travellers: Ireland’s Deeply Ingrained Racial Divide*, 8 January 2020. Available at: <http://www.errc.org/news/policing-travellers-irelands-deeply-ingrained-racial-divide>.

<sup>80</sup> Irish Network Against Racism (then European Network Against Racism Ireland), *Submission to the Commission on the Future of Policing in Ireland*, February 2018. Available at: <https://inar.ie/wp-content/uploads/2019/11/ENAR-Ireland-Submission-to-CFPI-Feb-2018.pdf>.

Data from INAR's online racism incident monitoring instrument [iReport.ie](http://iReport.ie) shows that there are widespread and consistent failures in respect of standard policing practice in receiving and recording reports of crimes; failures to provide information to victims and collect evidence which undermine the effective policing of racist crimes.

[iReport.ie](http://iReport.ie) data shows that there has been evidence of explicit police surveillance of ethnic minority people, and direct threats to them. This is particularly the case in rural towns rather than cities, where hostile policing and racial profiling of Travellers continues at high levels; some 70% of Travellers surveyed have experienced discrimination from the Gardaí, and reports from Travellers to [iReport.ie](http://iReport.ie) have uncovered a high level of unreported incidents, and widespread fears of reports to NGOs prompting retaliation by Gardaí against individuals and the wider Traveller community.

Racial profiling, and what INAR terms as Garda susceptibility to “pervasive racist myths”<sup>81</sup>, were at the heart of a perfect media storm when, on 21 October 2013, the Health Service Executive (HSE) and Gardaí removed a seven-year-old blonde-haired Romani girl (Child T) from her family in Tallaght, the suspicion being that she had been abducted by the family, who protested their innocence and pleaded not to have their child taken away. According to the incident report from Sergeant A, he noted the presence of a young girl, about seven years of age, who had blonde hair and blue eyes and whom he said was “*strikingly different in appearance*” from the rest of her family.<sup>82</sup>

The next evening, 22 October 2013, Gardaí took a blonde, blue-eyed, two-year-old Romani boy (Child A) from his parents in Co Westmeath into foster care following an e-mail tip off from a member of the public titled ‘Suspected Child Abduction’.<sup>83</sup> In December 2013, the then Minister for Justice appointed Children’s Ombudsman Emily Logan to inquire into the removals.

On 1 July 2014, the Logan Report was published. It found that the international coverage of the ‘Maria’ case also played a part in influencing the removals. The ‘discovery’ of a blonde, blue-eyed girl found living with a Romani family in Greece prompted a media-fuelled moral panic about blonde children being kidnapped; a highly charged racist recycling of toxic myths about Gypsies stealing white children. The Logan report found that the Romani families had been targeted and the children removed as a result of ethnic profiling, but stopped short, stating it could find “*no evidence of institutional racism*” influencing the Garda decision making process.<sup>84</sup>

Further evidence of ethnic profiling arose following allegations that details of Traveller children (including a 16-day old infant) were recorded on the Garda PULSE (Police Using Leading Systems Effectively) database.<sup>85</sup> In a press statement on 27 March 2014, Pavee Point called for the immediate removal of children’s details from the system:

81 *Ibid*, p.7.

82 Thejournal.ie, *Timeline: Here's what happened to the Roma Child T in Tallaght*, 1 July 2014. Available at: <https://www.thejournal.ie/timeline-roma-child-t-tallaght-1548780-Jul2014/>.

83 Thejournal.ie, *Timeline: Here's what happened to the Roma Child A in Athlone*, 1 July 2014. Available at: <https://www.thejournal.ie/roma-child-a-westmeath-timeline-report-ombudsman-1548728-Jul2014/>.

84 Thejournal.ie, “*Ethnic profiling*” a factor in removal of Roma children, report finds, 1 July 2014. Available at: <https://www.thejournal.ie/report-roma-children-families-gardai-1548394-Jul2014/>.

85 Pavee Point, *Travellers recorded on the PULSE database*, 27 March 2014. Available at: <https://www.paveepoint.ie/travellers-recorded-on-the-pulse-database/>.

*‘We believe that recording Traveller and Roma children on the PULSE database in the absence of legitimate reasons is ethnic profiling. We want to know how endemic this practice is, whether it is ongoing and when the parents of recorded children will be notified. We demand an immediate end to illegitimate use of Traveller and Roma children’s data and details.’<sup>86</sup>*

In response to questions raised by members of parliament calling for confirmation on whether Traveller children or adults were assigned criminal intelligence PULSE numbers without having committed any crimes, the Justice Minister replied that all persons are subject to the same PULSE recording policy and procedures:

*‘I have also been assured by the Garda Commissioner that the Garda Síochána does not engage in ethnic profiling, and specifically that it does not engage in data gathering or data mining based upon discriminatory profiling in respect of race, colour, language, religion, nationality, national or ethnic origin, ethnicity or membership of the Traveller community.’<sup>87</sup>*

Official denials notwithstanding, international criticism of ethnic profiling by the Gardaí has grown in recent years with concerns expressed by UN bodies and the Council of Europe, and repeated calls for a legislative ban on ethnic profiling. INAR maintains that institutional racism is embedded, and can be detected, in discriminatory processes, attitudes, and behaviour within An Garda Síochána (the Irish Police force).<sup>88</sup> iReport.ie findings which, according to INAR, confirm institutional racism in law enforcement include:

- Refusal to collate and share data on racist hate crimes;
- Marginalisation of expertise and resources for supporting good police service to ethnic minorities, including lacking capacity, structurally and in personnel terms, to collaborate adequately with experts in statutory and other agencies including the NGO sector;
- Marginalisation of ethnic minority concerns, including the racial profiling of ethnic minority youth, the consequences of reporting hate crimes, the levels of fear of racist violence, and the regularity of victimisation of ethnic minorities.<sup>89</sup>

## **Irish Human Rights and Equality Commission (IHREC) submission: Garda HQ ‘takes exception’ to accusations of ethnic bias**

A comprehensive set of recommendations by the Irish Human Rights and Equality Commission (IHREC)<sup>90</sup> to Ireland’s first national action plan against racism has drawn fire from the police force’s command centre *Garda HQ*, according to media reports.<sup>91</sup>

<sup>86</sup> Pavee Point, *Press Release: Remove these Children from the Garda PULSE Database*, 27 March 2014. Available at: <https://www.paveepoint.ie/press-release-remove-these-children-from-the-garda-pulse-database/>.

<sup>87</sup> *Ibid.*

<sup>88</sup> Irish Network Against Racism (then European Network Against Racism Ireland), *Submission to the Commission on the Future of Policing in Ireland*, February 2018. Available at: <https://inar.ie/wp-content/uploads/2019/11/ENAR-Ireland-Submission-to-CFPI-Feb-2018.pdf>.

<sup>89</sup> *Ibid.*, p.9.

<sup>90</sup> Irish Human Rights and Equality Commission, *Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee*, August 2021. Available at: <https://www.ihrec.ie/app/uploads/2021/09/Developing-a-National-Action-Plan-Against-Racism-IHREC-Submission-to-the-Anti-Racism-Committee.pdf>.

<sup>91</sup> The Irish Examiner, *Government urged to ‘tackle’ Garda views on ethnic groups*, 6 September 2021. Available at: <https://www.irishexaminer.com/news/arid-40374035.html>.

In September 2021, the Commission, which has consistently highlighted the persistence of institutional racism and a culture of discrimination against Travellers, stated that negative attitudes among Gardaí to ethnic minorities and reports of racial profiling in stop and searches must be addressed. In its report, the IHREC said: *“There are negative attitudes amongst Garda members towards minority ethnic groups, as well as reports of racial profiling in the use of stop and search powers, including reports from young minority ethnic people.”*<sup>92</sup> While the Commission welcomed the foregrounding of human rights in policing reform initiatives, it highlighted the need for accelerated delivery on this agenda and a greater sense of urgency and responsiveness by An Garda Síochána to advancing human rights and equality.

According to the Irish Examiner, senior Garda sources took exception to such ‘blanket statements’ on racial profiling, and contended that since they compile no data on racial profiling there is no evidence to show whether or not it exists.<sup>93</sup> One source said:

*“These are blanket statements of discrimination and racial profiling by Gardaí, but there’s no evidence or data to back it up”.*

**Racial prejudice among Gardaí according to Garda research:** Evidence produced by the Garda’s own internal survey<sup>94</sup> on attitudes towards Travellers and other minorities published in



Before joining the Garda, 45% of ethnic liaison officers (ELOs) and 40% of frontline officers said they had a poor or very poor opinion, with the remainder indicating a neutral opinion or declining to answer.

**1** After joining the Garda, 32% of ELOs said they had a good opinion of Travellers.



**2** For frontline officers However, this figure remained at 0%.



**3** The proportion with a “very poor” opinion rose by 10%.



92 Irish Human Rights and Equality Commission, *Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee*, August 2021, p.67. Available at: <https://www.ihrec.ie/app/uploads/2021/09/Developing-a-National-Action-Plan-Against-Racism-IHREC-Submission-to-the-Anti-Racism-Committee.pdf>.

93 The Irish Examiner, *Government urged to ‘tackle’ Garda views on ethnic groups*, 6 September 2021. Available at: <https://www.irishexaminer.com/news/arid-40374035.html>.

94 The Irish Times, *Gardaí have negative view of Travellers, survey finds*, 20 August 2020. Available at: <https://www.irish-times.com/news/crime-and-law/garda%C3%AD-have-negative-view-of-travellers-survey-finds-1.4334274>.

2020 found clear evidence of racial prejudice among surveyed police officers. The study found that not a single frontline Garda had a favourable view of the Traveller community.

- Before joining the Garda, 0% of frontline officers and ethnic liaison officers (ELOs) had a good or very good opinion of Travellers.
- Before joining the Garda, 45% of ELOs and 40% of frontline officers said they had a poor or very poor opinion, with the remainder indicating a neutral opinion or declining to answer.
- After joining the Garda, 32% of ELOs said they had a good opinion of Travellers. However, this figure remained at 0% for frontline officers, while the proportion with a “very poor” opinion rose by 10%.

The study also quoted several Gardaí making negative comments about Roma and Traveller people. “*You’d spot them a mile off and they’re always up to no good*” one frontline Garda said of Roma. “*They’re always causing trouble for us*” said another about the Traveller community. Asked to rank ethnic minorities, excluding Travellers, in order of preference, frontline Gardaí placed the Romani community last out of six, below “Arabs” and “Blacks”.<sup>95</sup>

Asked to rank ethnic minorities, excluding Travellers, in order of preference, frontline Gardaí placed the Roma community **last out of six, below “Arabs” and “Blacks”**.

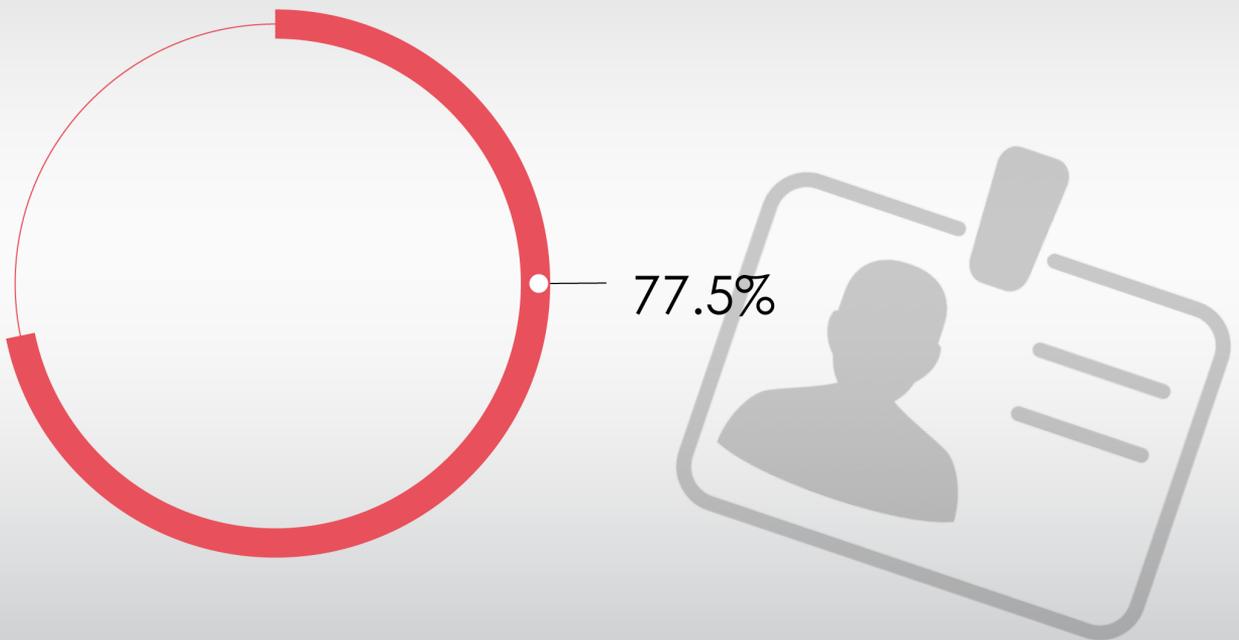


95 *Ibid.*

## International concerns, toxic attitudes and missing legislation

**ECRI concerns: accounts of police attitudes to minorities ranging from ‘indifferent’ to ‘toxic’:** IHREC’s assertions on policing are backed by ECRI’s 2019 Report on Ireland<sup>96</sup>, which expressed a number of concerns regarding police competence in combating racism and intolerance. Even if racial profiling is not part of the institutional norms of An Garda Síochána, ‘it may occur at an operational level’. According to Pavee Point’s 2018 report, Roma in Ireland<sup>97</sup>, 77.5% of Romani respondents reported having been stopped by police at least once for ID.

According to Pavee Point’s 2018 report, Roma in Ireland, **77.5%** of Roma respondents reported having been stopped by police at least once for ID.



ECRI expressed regret that racial profiling has not been defined and prohibited in law and reminded the Irish authorities of the negative effects of such practices “*generating a feeling of humiliation and*

<sup>96</sup> ECRI, *Report on Ireland (fifth monitoring cycle)*, Published 4 June 2019. Available at: <https://rm.coe.int/fifth-report-on-ireland/168094c575>.

<sup>97</sup> Pavee Point Traveller and Roma Centre and Department of Justice and Equality, ‘Roma in Ireland – A National Needs Assessment’, 2018. Available at: <http://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>.

*injustice among affected groups and resulting in stigmatisation and alienation*”; and being *“detrimental to overall security, as it erodes trust in the police and contributes to under-reporting of crime”*.<sup>98</sup>

A 2017 report by **Civic Nation**, which was cited by ECRI, revealed that 5 out of 6 victims of racist incidents said that they would not report to the police or other official body, and that the majority of victims characterised their encounter with the Gardaí as negative. Police have been found to misidentify racist incidents and to actively refuse to take statements from victims of racism. ECRI was also *“aware of different accounts of police attitudes to minorities ranging from indifferent to toxic.”*

**UNCERD: concerns about the high incidence of racial profiling and regrets that it is not legally proscribed:** The UN Committee on the Elimination of Racial Discrimination (CERD) in its 2019 concluding observations on Ireland<sup>99</sup> expressed concern about the reportedly high incidence of racial profiling by the Gardaí targeted at people of African descent, Travellers, and Roma, and the disproportionately high representation of these ethnic minority groups in the prison system. It was also concerned about *“the absence of legislation proscribing racial profiling, the absence of independent complaint mechanisms dealing with racial profiling and the lack of statistics on racial profiling.”*<sup>100</sup>

Among CERD’s recommendations to the Irish authorities were the following:

- Introduce legislation prohibiting racial profiling; and put in place an independent complaints mechanism to handle racial profiling;
- Review, in collaboration with communities mostly affected by racial profiling, policy, practices, and training of An Garda Síochána; and incorporate racial profiling issues into the training curriculum of police officers;
- Collect and regularly publish disaggregated data on racial profiling.

**IHREC: ‘Human rights and equality standards must be embedded in every aspect of policing’:** In the 90-page report, which includes 130 recommendations for State action to combat racism in education, media, politics, employment, and healthcare, IHREC noted the focus on policing in the European Action Plan Against Racism<sup>101</sup> and stressed the importance of this priority being reflected in Ireland’s action plan. The Commission called for accelerated delivery in policing reform, urged that the National Action Plan Against Racism includes measures to ensure human rights and equality standards are embedded in every aspect of policing, and recommended the following:

- Human rights and equality standards, intercultural awareness, and cultural competency should be central to the initial and continuous training of all members of An Garda Síochána.

<sup>98</sup> ECRI, *Report on Ireland (fifth monitoring cycle)*, Published 4 June 2019, p.19. Available at: <https://rm.coe.int/fifth-report-on-ireland/168094c575>.

<sup>99</sup> UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined fifth to ninth reports of Ireland*, 12 December 2019, CERD/C/IRL/CO/5-9. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT\\_CERD\\_COC\\_IRL\\_40806\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT_CERD_COC_IRL_40806_E.pdf).

<sup>100</sup> Ibid, p.3.

<sup>101</sup> European Commission, *EU anti-racism action plan 2020–2025. The Commission’s plan to step up action against racism and achieve a Union of Equality*, Brussels, 18 September 2020. Available at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-anti-racism-action-plan-2020-2025_en).

## BRUTAL AND BIGOTED: POLICING ROMA IN THE EU

- Targeted strategies are needed for the recruitment, retention, and advancement of a diverse police service which fully reflects the diversity of Irish society.
- Equality and human rights monitoring bodies advise that racial profiling should be clearly defined and prohibited by law and should be subject to an independent complaints mechanism, as well as oversight mechanisms both within and external to law enforcement bodies.
- Racial profiling should be clearly defined and prohibited by law and should be subject to an independent complaints mechanism, as well as oversight mechanisms both within and external to law enforcement bodies.
- Measures to address racial profiling should be designed, implemented, and monitored with the active participation of communities affected by racial profiling and discrimination.
- National Action Plan Against Racism should include a priority action on appropriate and adequate hate crime and hate speech training for the judiciary, prosecutors, and police investigators.
- An Garda Síochana and the Courts Service should record and publish accurate and reliable disaggregated data on hate crime on an annual basis in fulfilment of its commitment as an OSCE participating State.





**GARDA**

## Italy

### Anti-Roma racism and international concerns

In January 2019, *Lega* politicians from the Italian delegation to the Council of Europe reacted furiously to criticism from the European Committee of Social Rights (ECSR) over Italy's failures to address violations of the European Social Charter concerning its treatment of Romani communities.<sup>102</sup> The Committee repeated its request for "*clarification about the measures taken, particularly with regard to racist mis-leading propaganda against Roma and Sinti indirectly allowed or directly emanating from the authorities*".

The Committee warned that official tolerance for anti-Roma hate speech by politicians creates a climate of impunity that emboldens violent far-right extremists. The outraged *Lega* politicians described the Committee's findings as "scandalous and unacceptable" in accusing Italy of "of serious racist, xenophobic and anti-human behaviour".<sup>103</sup>

The Committee noted that despite its finding violations with regards to conditions in segregated Roma-only camps and the violence that often occurred during forced evictions, and despite numerous recommendations from international bodies and proposals submitted to Parliament over the subsequent 15 years,

*"no specific legislation for the protection from discrimination of these communities has been adopted ... Roma, Sinti and Caminanti remain socially and economically marginalised. Residents of segregated housing, in particular camps commonly referred to as "nomad camps", continue to live in deplorable conditions, in spite of court rulings confirming that assigning housing in prefabricated containers surrounded by fencing constitutes discrimination"*.

The Committee considered that the situation with regards to living conditions, social exclusion and marginalisation, and the persistence of forced evictions "has not been brought into conformity with the Charter."<sup>104</sup>

In February 2019, following concerning information about the situation of racism and related intolerance in Italy, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent a team to assess the "*reported sharp rise in acts of violence and racism against migrants, persons of African descent and Roma.*" In its meetings with Roma, the team heard numerous accounts regarding lack of security of tenure, forced evictions, lack of access to mainstream housing, segregation, undignified and dangerous conditions, and excessive social control and surveillance.

Romani interviewees expressed intense fear of forced evictions and family separations, exclusion from the private rental market, and lack of access to public transport and services due to the

<sup>102</sup> The term Roma will be used in this section to include Sinti and Caminanti groups who do not all identify as Roma but are perceived as such and face discrimination from the majority population.

<sup>103</sup> ERRC News, *Italy's Lega furious after Strasbourg drubbing over anti-Roma racism*, 28 January 2019. Available at: <http://www.errc.org/news/italys-lega-furious-after-strasbourg-drubbing-over-anti-roma-racism>.

<sup>104</sup> Council of Europe, European Committee of Social Rights, *Follow-up to Decisions on the Merits of Collective Complaints Findings*, Strasbourg, December 2018, pp.109-119. Available at: <https://rm.coe.int/findings-2018-on-collective-complaints/168091f0c7>.

remote location of the camps. In Naples, families stressed that a practice of ‘induced evictions’ *“whereby they are forced to leave their homes or risk criminal proceedings (after receiving a notice to clean up by a certain date or risk criminal responsibility) – was even worse, as no responsibility is attributed to the State.”* The report concluded that structural discrimination and pervasive antigypsyism remain serious problems, exacerbating the socioeconomic marginalisation and political exclusion of Roma and significantly hindering their access to basic services.<sup>105</sup>

In a similar vein, in 2017 the UN Human Rights Committee (UNHRC) expressed its concern about reports of persistent stigmatisation, stereotyping, and racist discourse against Roma, exacerbated by the media and public officials at the local level. The UNHRC drew particular attention to the absence of legal remedies provided to Romani individuals whose rights were violated by the implementation of a nomad emergency decree from May 2008 to November 2011; the continuing practice of forced evictions of Roma; the construction of new segregated Roma-only camps; and the imposition of restrictive security measures on segregated camps.

The UNHRC called on the government to halt any plans for new segregated camps, repeal all security measures targeting Roma camp residents and their visitors that severely restrict their rights to privacy and to movement, and to expedite pending legislation to recognise the Roma, Sinti, and Caminanti communities as a national minority.<sup>106</sup>

## A short history of securitising Roma: mass ethnic profiling, pogroms, and persecution

**Berlusconi’s ‘Emergenza Nomadi’ 2008-2011:** The brutal murder of an Italian woman in November 2007 by a Romanian citizen of Romani origin was the catalyst for a series of repressive measures that amounted to a vicious form of collective punishment: violent mob attacks on Romani camps and a steep rise in antigypsyism, fomented by sensationalist press reporting and incendiary hate speech by right-wing politicians. The declaration of a state of emergency effectively defined the presence of Roma as one of “serious social alarm”, endangering public order and security.<sup>107</sup> The day after the murder, the Italian Council of Ministers adopted an emergency decree for the expulsion of citizens of other European Union countries “for imperative reasons of public safety” defined as *“behaviour that compromises the protection of human dignity or fundamental human rights or of public safety.”*

- 31 May 2008: The Italian Government proclaimed a one-year state of emergency, allowing extraordinary powers to state and local officials, de facto going so far as to equate the presence of Roma with natural calamities, catastrophes, or other events that, due to their

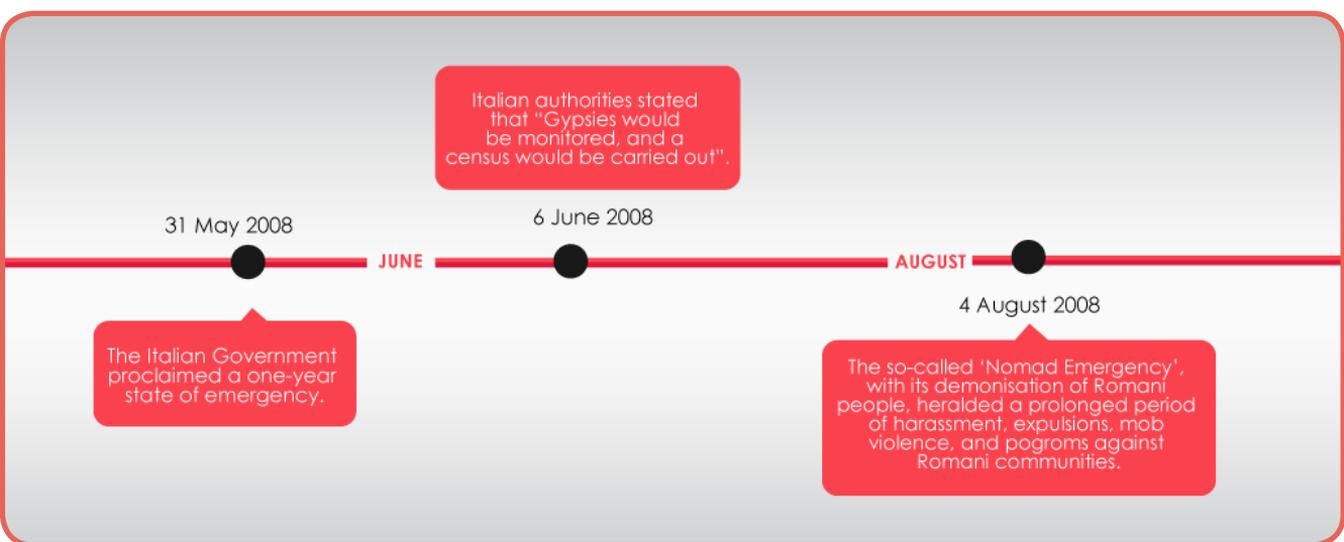
<sup>105</sup> Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination 28 January – 1 February 2019*. Available at: <https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf>.

<sup>106</sup> UN Human Rights Committee, *Concluding observations on the sixth periodic report of Italy*, adopted 23 March 2017. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ITA/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ITA/CO/6&Lang=En).

<sup>107</sup> In the context of national emergencies and ‘foreign’ threats to public security, it should be noted that in a country with a population of 59.55 million, an estimated 150,000 Roma and Sinti live in Italy, roughly half of whom are Italian citizens and a quarter of whom are from EU countries, in particular Romania.

intensity and extension, must be tackled with extraordinary means and powers, as envisaged by legislation in the field of emergency civil protection.

- 6 June 2008: Italian authorities stated that “Gypsies would be monitored, and a census would be carried out” and that “Gypsies would also be fingerprinted and photographed and this would allow the authorities to identify them.” On the back of round-ups and racialised hysteria, the fingerprinting of children in the absence of informed parental consent prompted widespread international condemnation, and analogies with anti-Jewish laws under Mussolini.
- 4 August 2008: The Italian government declared an emergency situation and intent to deploy 3000 soldiers on the streets of Rome, Milan, Naples, Bologna, Verona, and Palermo, supposedly to combat crime. The so-called ‘Nomad Emergency’, with its demonisation of Romani people, heralded a prolonged period of harassment, expulsions, mob violence, and pogroms against Romani communities. Lasting from 2008-2011, it served only to exacerbate communal tensions, legitimise human rights abuses, and inflict irreparable damage to any prospects for social inclusion.<sup>108</sup>



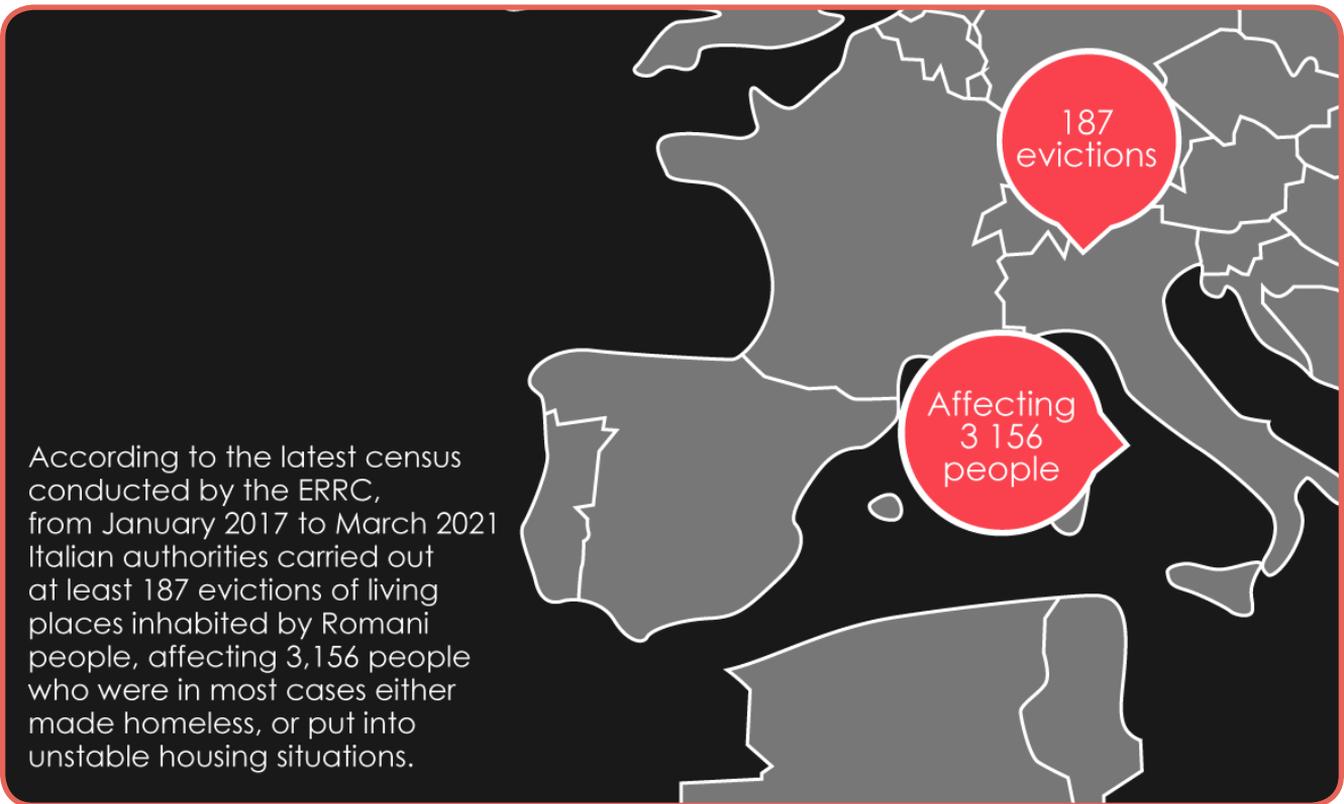
When the Northern League interior minister Roberto Maroni announced plans to fingerprint **Romani children** in June 2008, the move was widely condemned across the political spectrum as racist, unacceptable, and discriminatory. The European Roma Rights Centre challenged the State of Emergency decree before the Italian courts, and on 4 November 2011 the Council of State ruled that the emergency decree was unfounded, unmotivated, and unlawful. In May 2013, Italy’s **Cassation Court** rejected the government’s appeal and upheld this ruling.<sup>109</sup>

**No respite for Roma in the aftermath of the ‘Emergenza Nomadi’:** The end of the emergency and the fall of Berlusconi brought little respite for Roma. In January 2016, the Council of Europe Commissioner for Human Rights, Nils Muižnieks, expressed his regret at the continuation of ‘past

<sup>108</sup> Bernard Rorke, ‘Smells like Fascism: Italy’s Emergenza Nomadi, Pogroms and Persecution’, *Roma Rights Review*, Winter 2019, pp. 31-36. Available at: [http://www.errc.org/uploads/upload\\_en/file/5195\\_file1\\_errc-newsletter-1-2019.pdf](http://www.errc.org/uploads/upload_en/file/5195_file1_errc-newsletter-1-2019.pdf).

<sup>109</sup> ERRC Press Release, *End of the Road for Italy’s illegal State of Emergency*, 2 May 2013. Available at: <http://www.errc.org/cikk.php?cikk=4137>.

policies’ associated with the Nomad Emergency, his deep concern about the living conditions endured by Roma in camps, and called on the authorities to halt forced evictions, end homelessness, and close Roma-only camps and segregated emergency facilities “by offering genuinely integrated ordinary housing alternatives to the families concerned.” Far from meeting their commitment to reduce and overcome the “system of camps”, and despite a 2015 ruling from the Court of Rome that Roma-only camp accommodation maintained by municipalities violates the Racial Equality Directive, Italian authorities continued to approve the construction of new segregated Roma-only camps and shelters for Roma. As for forced evictions, according to the **latest census conducted by the ERRC**, from January 2017 to March 2021 Italian authorities carried out at least 187 evictions of living places inhabited by Romani people, affecting 3,156 people who were in most cases either made homeless, or put into unstable housing situations.<sup>110</sup> As for the paramilitary policing and hate speech from top politicians that were such defining features



of the state of exception, the damage done to the public sphere outlasted the ‘emergency’. A new wave of politically driven anti-Roma hatred, scapegoating, and collective punishment, orchestrated by Interior Minister Matteo Salvini in 2018, showed how Roma were still suffering the consequences of Berlusconi’s illegal antics. When Salvini declared his intent to carry out a Roma census, followed by mass expulsions of those who don’t belong, he told a television interviewer that “irregular foreigners will be deported via agreements with other countries, but Italian Roma unfortunately we have to keep them at home.”<sup>111</sup>

110 ERRC News, *After almost a decade of la Barbuta, what next for Roma?*, 27 October 2021. Available at: <http://www.errc.org/news/after-almost-a-decade-of-la-barbuta-what-next-for-roma>.

111 ERRC News, *Smells like Fascism: antigypsyism in Italy and the scourge that is Salvini*, 22 June 2018. Available at: <http://www.errc.org/news/smells-like-fascism-antigypsyism-in-italy-and-the-scurge-that-is-salvini>.

On 26 July 2018, Italian police launched a dawn raid and mass eviction of the River Village camp outside Rome, in defiance of the European Court of Human Rights. In a gloating tweet, Salvini declared; *“Legalità, ordine e rispetto prima di tutto!”* (Legality, order and respect before all). His racist demagoguery, complete with calls for an ethnic census and cleansing of Roma “piazza by piazza” evinced great hatred, leaving little room for respect and legality. The number of racially motivated attacks tripled between 2017 and 2018, when his far-right *Leega* became coalition partners in government.<sup>112</sup>

## Consistently systemic: police brutality and mistreatment of Roma

Against such a political backdrop, one of state-sanctioned scapegoating and state-sponsored persecution of Roma, it is hardly surprising that policing – as the frontline coercive apparatus bearing down on Romani communities – has routinely derogated from international human rights standards. But mistreatment of Roma by law enforcement was well-established as standard practice and long preceded the 2008 Nomad Emergency. In 1998, ECRI identified in the case of Italy; *“the need for a prompt and adequate response on the part of the judicial authorities in cases of violent manifestations of racism and xenophobia, especially by law enforcement officers”*.

Concerns were expressed about reports of ill-treatment by police towards immigrants and other non-EU detainees, and that the authorities react slowly to such reports and *“that penalties imposed are minimal and often suspended.”*<sup>113</sup> In 1997, the United Nations Special Rapporteur on Torture, Nigel S. Rodley, noted that *“racial prejudice seemed to be a factor”* in the use of physical violence by the police, and that *“physical ill-treatment was allegedly accompanied in many cases by insults, particularly racial insults when the persons concerned were immigrants or Gypsies.”*<sup>114</sup>

In its April 1999 submission to UNCAT detailing police abuses, the ERRC reported that Roma faced ill-treatment upon arrest or in detention, and were frequently subjected to unlawful dawn raids by armed police, which included ransacking homes and the use of excessive force. The ERRC also reported that police robbery of jewellery and money from Roma, accompanied by the threat of physical violence, was pervasive: *“The police routinely refuse to provide written documentation of confiscated items, which are almost never returned to their owners.”* Other forms of police misconduct included strip searches of Romani women by male police officers, and arbitrary destruction of identification documents. Such abuses occurred with impunity, and the ERRC reported that it knew of no case *“in which police officers have been disciplined or prosecuted for these offences.”*<sup>115</sup>

In November 2000, the ERRC published the report *‘Camp land: Racial Segregation of Roma in Italy’*, which warned of a crisis in the making, and named Italy as the only country in Europe to boast

112 Bernard Rorke, ‘Smells like Fascism: Italy’s *Emergenza Nomadi*, Pogroms and Persecution’, *Roma Rights Review*, Winter 2019, pp. 31-36. Available at: [http://www.errc.org/uploads/upload\\_en/file/5195\\_file1\\_errc-newsletter-1-2019.pdf](http://www.errc.org/uploads/upload_en/file/5195_file1_errc-newsletter-1-2019.pdf).

113 ECRI, *ECRI’s country-by-country approach: Report on Italy*, 15 June 1998, CRI(98)48, pp. 5,8. Available at: <https://www.refworld.org/docid/51bee4a14.html>.

114 ERRC, *Camp land: Racial Segregation of Roma in Italy*, 5 October 2000. Available at: <http://www.errc.org/reports-and-submissions/campland-racial-segregation-of-roma-in-italy>.

115 ERRC, Submission to UN CAT on Italy and Macedonia (April 1999): *Cases of Relevance to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Italy and Macedonia*. Available at: <http://www.errc.org/cikk.php?cikk=3750>.

a systematic, publicly organised and sponsored network of ghettos aimed at depriving Roma of participation or even contact with Italian life.<sup>116</sup>

In response to the Nomad Emergency, a coalition of human rights organisations, including the ERRC, conducted a field visit to Italy in 2008 and interviewed some 100 Romani individuals living in formal and informal camps concerning rights violations, police brutality, and the impact of the Emergency on their lives.<sup>117</sup> Most of the Roma interviewed during the course of documentation reported an increased level of police violence and abuse, with those engaged in informal economic activities being targeted for beatings. As one resident of Rome's Camp Salviati put it; *"Police brutality has increased in the last months. The climate has changed. Police feel more at ease to be more violent."*

Interviewees claimed that police officers conducted frequent arbitrary raids on their camps and homes, without warrants and in the middle of the night. Many expressed the opinion that the manner of these raids, with demolitions of family dwellings, destruction of property, intimidatory behaviour, and physical violence, showed that the police believed they could mistreat

**INTERVIEWEES REPORTED THAT AMONG THE PHRASES MOST FAVOURED BY POLICE WERE: "DIRTY GYPSIES!", "ZINGARI DEL CAZZO! "ZINGARI DI MERDA! (GYPSIES OF SHIT)", "SEI UN PEZZO DI MERDA! (YOU ARE A PIECE OF SHIT)", "YOU STINK!", "YOU LIVE LIKE RATS!"**

Roma "as they please without any fear of repercussion". The researchers were also struck by the relentless racist abuse Roma faced in their interactions with Italian police officers. Interviewees reported that among the phrases most favoured by police

were: "Dirty Gypsies!", "Zingari del Cazzo! "Zingari di Merda! (Gypsies of Shit)", "Sei un pezzo di merda! (You are a piece of shit)", "You stink!", "You live like rats!" Most non-Italian Roma who testified to the Coalition stated that police persistently tell them to "Go back to your own country!"<sup>118</sup>

In 2011, Human Rights Watch (HRW) published its report on racist violence in Italy, documenting the state's failure to take effective measures against hate crimes. In its press release, HRW stated that; *"Roma, the most vilified minority in Italy today, are especially at risk of harassment and mistreatment during camp evictions and in police or Carabinieri custody. With serious allegations of abuse by law enforcement personnel left un-investigated, and virtual impunity for mob violence against Roma camps, many Roma have little or no faith in public institutions."*<sup>119</sup>

<sup>116</sup> Laws adopted in the late 1980s for the "protection of nomadic cultures" paved the way for the construction of segregated camps. Italian authorities asserted that the desires of Roma and Sinti to live in flats or houses was 'inauthentic' and despatched them to "camps for nomads". For more detail see: ERRC, *Camp land: Racial Segregation of Roma in Italy*, 5 October 2000. Available at: <http://www.errc.org/reports-and-submissions/campland-racial-segregation-of-roma-in-italy>

<sup>117</sup> Between 23 and 30 May 2008, a coalition of organisations including the Open Society Institute, the Center on Housing Rights and Evictions, the European Roma Rights Centre (ERRC), Romani Criss, and the Roma Civic Alliance in Romania undertook first-hand human rights documentation in Italy. The Coalition conducted interviews with approximately 100 Romani individuals living in formal and informal Romani camps in Rome, Naples, Florence, Brescia, Milan, and Torino.

<sup>118</sup> ERRC, CORE, OSI, Romani Criss, Roma Civic Alliance in Romania, *Security a la Italiana: Fingerprinting, Extreme Violence and Harassment of Roma in Italy*, 11 September 2008, pp. 21-25. Available at: [http://www.errc.org/uploads/upload\\_en/file/m00000428.pdf](http://www.errc.org/uploads/upload_en/file/m00000428.pdf).

<sup>119</sup> Human Rights Watch Italy, *News Release, Italy: Act Swiftly to End Racist Violence*, 21 March 2011. Available at: <https://www.hrw.org/news/2011/03/21/italy-act-swiftly-end-racist-violence>.

All of the Roma interviewed told HRW researchers that they routinely suffered verbal abuse, harassment, and humiliation at the hands of private citizens as well as law enforcement personnel, during forced evictions, camp raids, on the street, and at the time of an arrest. Venetù Halilovic, a Romani resident of the Ciampino camp outside Rome, explained;

*“If a policeman stops you and sees that you’re Roma, he insults you. Mean stuff, calling you a thief. The police stop Roma kids on the street, and pretty soon the slaps are flying. Not all Roma are saints but there are many peaceable Roma, you know. The police should be the first to protect the most vulnerable, instead they do everything to humiliate us, and they have all the power. There’s a lot of mistreatment when they do identification operations in the camps. They tear everything down, but that’s home for a Roma, even if it is a shack.”*

HRW interviews, including with individuals who reported physical abuse, confirmed the view of NGOs representing or working with Roma that Roma are extremely reluctant to report discrimination or abuse of any type. The primary reason was a lack of trust in public institutions by an intimidated and fearful community: *“These are very fragile individuals, vulnerable to blackmail, they don’t denounce. Many don’t have papers and they’re scared. And none of us wants to make them report [abuse or discrimination] because we’re not able to protect them,”* said Dijana Pavlovic, vice-president of *Federazione Rom e Sinti Insieme*, *“the sense of terror is so instilled that they don’t trust anyone.”*<sup>120</sup>



If a policeman stops you and sees that you're Roma, he insults you. Mean stuff, calling you a thief. The police stop Roma kids on the street, and pretty soon the slaps are flying. Not all Roma are saints but there are many peaceable Roma, you know. The police should be the first to protect the most vulnerable, instead they do everything to humiliate us, and they have all the power. There's a lot of mistreatment when they do identification operations in the camps. They tear everything down, but that's home for a Roma, even if it is a shack.

Venetù Halilovic, a Romani resident of the Ciampino camp outside Rome

<sup>120</sup> Human Rights Watch, *Everyday Intolerance, Racist and Xenophobic Violence in Italy, Section V. Violence against Roma and Sinti*, 21 March 2011. Available at: <https://www.hrw.org/report/2011/03/21/everyday-intolerance/racist-and-xenophobic-violence-italy>.

## Failure to protect and a lack of accountability

In a report submitted to the UN Human Rights Committee (UNHRC) in 2017, the ERRC monitored 14 cases of violence against Roma in 2014 and 2015. The following is a sample of the violent incidents in this two-year period, where law enforcement either directly participated in the assaults, or stood by and failed to protect Roma from mob attacks.<sup>121</sup>

- On 11 March 2014, local police and Carabinieri failed to intervene to prevent a violent attack on an informal Romani camp at via Santa Maria del Riposo in Naples which left at least one resident hospitalised, and forced others to flee for their safety. Eventually, after midnight, officers moved to disperse the mob. The following morning, despite the presence of police officers, the mob reassembled and resumed their attacks on the remaining families.<sup>122</sup>
- In April 2014, in Latina, four Romani minors were beaten up by a group of 15 attackers which included police officers. According to the complaint submitted by one of the victims, the victims stopped off in a bar on their way back to the camp, where they were immediately accused by patrons of wanting to rob the slot machines, and the police were called. When the police arrived, they invited all those present to beat up the four boys.<sup>123</sup>
- On 14 July 2015, the Turin Criminal Court convicted six people for a mob arson attack on an informal camp known as ‘La Continassa’, which completely destroyed the homes and property of 46 Roma. The court recognised that the attack was racially motivated and found that authorities failed to protect the victims from the attack. Not only did the police underestimate the dangers facing the camp residents, but the small number of officers present actually emboldened the mob to engage in extreme racist violence. No procedures were initiated against the officers responsible for the failure to protect this vulnerable community.<sup>124</sup>
- On 29 September 2015, three police officers in Turin raided Lungo Stura Lazio informal camp to evict a Romani family who had just returned from Romania and occupied a shack. One family member who tried to resist the eviction was pepper-sprayed, handcuffed, and forced to the ground by police officers, while another officer drew his gun and pointed it at onlookers. There was no investigation into the disproportionate force used by police, but the Romani person who resisted was charged and found guilty of assault and causing injury to three police officers.

The ERRC uncovered further evidence of institutional racism in its monitoring of a case in June 2013, where police in Liguria distributed pre-printed complaint templates for theft, which included a tick-box labelled “Gypsies” offering theft victims the opportunity to identify Roma as the culprits. No other ethnicity was included in the form. Following complaints by the ERRC and *Associazione 21 Luglio*, it emerged that the same theft complaint forms were being used in

<sup>121</sup> ERRC, *Parallel Report concerning Italy for Consideration by the Human Rights Committee at its 119th session (6-29 March 2017)*. Available at: [http://www.errc.org/uploads/upload\\_en/file/italy-iccpr-8-february-2017.pdf](http://www.errc.org/uploads/upload_en/file/italy-iccpr-8-february-2017.pdf).

<sup>122</sup> ERRC Press Release, *ERRC and its partner asked protection for Roma in Naples*, 14 March 2014. Available at: <http://www.errc.org/cikk.php?cikk=4255>.

<sup>123</sup> Il Fatto quotidiano.it, *Latina, minorenni rom denuncia: “In ginocchio e pestati da polizia e residenti”*, 6 May 2014. Available at: <https://www.ilfattoquotidiano.it/2014/05/06/latina-minorenni-rom-denuncia-pestati-in-quattro-da-polizia-e-residenti/975655/>.

<sup>124</sup> ERRC, *Historic criminal conviction for a violent assault to a Roma camp in Italy*, 17 July 2015. Available at: <http://www.errc.org/press-releases/historic-criminal-conviction-for-a-violent-assault-to-a-roma-camp-in-italy>.

every Carabinieri station throughout Italy, and subsequent pressure led to the removal of the box marked “Gypsies” from the theft complaint forms.<sup>125</sup>

**Failure to investigate complaints about police abuse:** In addition to law enforcement failing to protect Roma from racially-motivated acts of violence by state and non-state actors, there is the systemic failure to diligently investigate and, where appropriate, prosecute ill-treatment by law enforcement officials. In its monitoring and reporting, HRW found that the victims did not file official complaints, *“and did not want Human Rights Watch to pursue the matter with the relevant authorities. In all of these cases, the precarious situation of the victims—either undocumented migrants or Roma living in makeshift camps—mitigated against reporting the alleged abuse.”*

European Court of Human Rights jurisprudence has established the following guiding principles for investigating law enforcement abuse: independence, adequacy, promptness, transparency, and victim involvement – guiding principles which don’t seem to hold water in 21<sup>st</sup> century Italy. As HRW pointed out, this failure *“not only denies the victims of abuse their right to an effective remedy, it also leads to a lack of accountability and undermines trust in both law enforcement institutions and the justice system.”*<sup>126</sup>

ECRI has long noted that the absence of an independent body to investigate complaints about police abuse in a prompt and thorough manner hinders accountability and redress for victims. In its 5<sup>th</sup> report, ECRI reiterated its recommendation to the Italian authorities to establish a body independent of the police and the prosecution service to investigate allegations of human rights violations by the police, including, inter alia, all allegations of racial discrimination or racially motivated misconduct.<sup>127</sup>

**Failure to investigate racially motivated hate crimes:** In its 2019 report of the mission to Italy, the OHCHR noted that the Italian police use no particular procedure when dealing with hate crimes and offer no special support to the victims of these offences. Only certain police stations in large cities which have special sections for “vulnerable victims” such as women and children have started, through those sections, to deal with hate crimes as well. Likewise, there appears to be no official contact person responsible for questions of “racism and discrimination” in the public prosecutor’s office in each jurisdiction, although such reference people do exist for other offences, such as violence against women and abuse of minors.

The team also identified a number of concerns related to the recording and follow-up of hate crimes. Access to lawyers is sometimes impeded and interpreters are not always available, and victims informed the OHCHR team that police sometimes refused to record and investigate complaints of racist hate crimes unless they were of very grave nature (e.g. shootings). According to UNCERD General recommendation no. 31, *“complaints should be recorded immediately, investigations pursued without delay and in an effective, independent and impartial manner”* and that *“any refusal by a police official to accept a complaint involving an act of racism should lead to disciplinary or penal sanctions”*.<sup>128</sup>

<sup>125</sup> ERRC, *Theft Victims in Italy asked to tick ‘Gypsy’ Box – NGOs Win Change*, 8 August 2013. Available at: <http://www.errc.org/cikk.php?cikk=4181>.

<sup>126</sup> Human Rights Watch, *Everyday Intolerance, Racist and Xenophobic Violence in Italy, Section V. Violence against Roma and Sinti*, 21 March 2011. Available at: <https://www.hrw.org/report/2011/03/21/everyday-intolerance/racist-and-xenophobic-violence-italy>.

<sup>127</sup> Council of Europe, *ECRI Report on Italy (fifth monitoring cycle)*, Adopted 18 March 2016, Strasbourg. Available at: <https://rm.coe.int/fifth-report-on-italy/16808b5837>.

<sup>128</sup> Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination 28 January – 1 February 2019*, p.14. Available at: <https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf>.

**Failure to establish a National Human Rights Institution (NHRI):** Despite consistent recommendations from UN human rights mechanisms to establish a NHRI that complies with the Paris Principles, the OHCHR mission found that Italy still lacks an NHRI, despite having accepted recommendations to establish an NHRI at the second cycle of its Universal Periodic Review in 2014. In the absence of a NHRI, the Ufficio Nazionale Antidiscriminazioni Razziali (UNAR) functions as an equality body, but ECRI's assessment, in its 2016 Report, was that UNAR did not comply with the principle of independence of national bodies specialised in the fight against racism and racial discrimination, and the powers provided for by law were incomplete.

ECRI reiterated its recommendation to the Italian authorities to ensure that UNAR's full independence is secured both in law and in fact; to extend its powers to cover more forms of discrimination; to grant it the right to bring legal proceedings; and to provide for all the human and financial resources necessary to fulfil its mission.<sup>129</sup> Three years later in its 2019 conclusions, ECRI found that UNAR still did not comply with the principle of independence and that its powers provided for by law were incomplete:

*“the absence of a clear legislative framework has an impact on the effectiveness of UNAR’s action. UNAR is still not able to bring legal proceedings; moreover, its structure is still under the responsibility of the Department for Equal Opportunities of the Presidency of the Council of Ministers. Consequently, this body does not comply with the principle of the independence of national bodies specialised in the fight against racism and intolerance.”<sup>130</sup>*

The OHCHR team learned that this lack of independence impedes UNAR's ability to operate effectively as an equality body, and received information indicating that this may contribute to underreporting of human rights violations, discourage engagement with victims and civil society, and endanger trust and cooperation depending on political developments.<sup>131</sup>

The Observatory for Security against Acts of Discrimination (OSCAD) was established in 2010 to improve the actions of the police in preventing and combatting hate crimes. It is part of the Ministry of Interior's Department of Public Security, Central Directorate of Criminal Police, and is operated by the police and Carabinieri; and for this very reason civil society representatives raised doubts about OSCAD's effectiveness, impartiality, and ability to act as an intermediary. The OHCHR team reported that victims also expressed mistrust that OSCAD would follow up effectively on complaints against police officers, *“given that it is staffed by police officers and placed within the same department of the Ministry of the Interior.”<sup>132</sup>*

<sup>129</sup> Council of Europe, *ECRI Report on Italy (fifth monitoring cycle)*, Adopted 18 March 2016, Strasbourg. Available at: <https://rm.coe.int/fifth-report-on-italy/16808b5837>.

<sup>130</sup> Council of Europe, *ECRI conclusions on the implementation of the recommendations in respect of Italy subject to interim follow-up*. Adopted 3 April 2019. Available at: <https://rm.coe.int/interim-follow-up-conclusions-on-italy-5th-monitoring-cycle-/168094ce16>.

<sup>131</sup> Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination 28 January – 1 February 2019*. Available at: <https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf>.

<sup>132</sup> Council of Europe, *ECRI conclusions on the implementation of the recommendations in respect of Italy subject to interim follow-up*. Adopted 3 April 2019. Available at: <https://rm.coe.int/interim-follow-up-conclusions-on-italy-5th-monitoring-cycle-/168094ce16>.

## What ought to be done

Addressing the structural and institutional anti-Roma racism that disfigures the public and private spheres in Italian life requires comprehensive policy interventions. Such interventions require political will along the lines envisaged by the European Commission in its new EU Roma strategic framework for equality, inclusion and participation, billed as the first direct contribution to implementing the newer EU Action Plan against racism 2020-2025.<sup>133</sup> Countering police racism alone will not suffice to meet the goals of the EU inclusion agenda, but considering the egregious nature of the human rights abuses, the vilification, and coercive targeting of Romani people in Italy by law enforcement, it would make for a good start. When it comes to law enforcement, the authorities have, for decades, remained impervious to recommendations and concerns expressed by UN human rights mechanisms and Council of Europe committees. As a minimum ‘good start’, and in order to align its practices with commitments under international law, state authorities in Italy should take the following actions excerpted from UNCAT’s Concluding Observations in 2017:

- Adopt effective internal policies and standard operating procedures for law enforcement officers that clearly define and prohibit racial and bias-based profiling. These should include clear guidelines for stops, identity checks and searches that include a reasonable suspicion standard; monitoring mechanisms to regularly assess profiling practices; and human rights-compliant collection of disaggregated data on identity checks, searches, complaints, investigations, prosecutions and convictions.
- Ensure that prompt, impartial, and effective investigations are undertaken into all allegations relating to the excessive use of force by police and other law enforcement officers and ensure that the perpetrators are prosecuted and the victims are adequately compensated;
- Clarify the regulation on the use of force by the police and other law enforcement agencies, and ensure that members of the police and other law enforcement officers can be effectively identified at all times when carrying out their functions;
- Provide detailed information on the number of complaints, investigations, prosecutions, convictions, and sentences handed down in cases of police brutality and excessive use of force;
- Take effective measures to ensure that all detainees are afforded, in practice, all fundamental safeguards from the very outset of their deprivation of liberty, in conformity with international standards, including the right to access to a lawyer, particularly during the investigation and interrogation stages, the right to have the assistance of an interpreter if necessary, and the right to promptly inform a relative or any other person of their choice of their arrest.<sup>134</sup>

<sup>133</sup> European Commission, *The new EU Roma strategic framework for equality, inclusion and participation (full package)*, Brussels, 7 October 2020. Available at: [https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package\\_en](https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en).

<sup>134</sup> UN Committee Against Torture (CAT), *Concluding observations on the fifth and sixth combined periodic reports of Italy*, 21 November 2017, CAT/C/ITA/CO/5-6. Available at: <https://www.refworld.org/docid/5a291e034.html>.



## Romania

### Overview of anti-Roma racism

In his end-of-mission statement on Romania, UN Special Rapporteur Philip Alston was struck by the deep ‘state of denial’ among officials about both the extent of poverty in the country and of the systemic and deep-rooted discrimination against the extremely poor, especially the Roma. While Romania ranks at, or near, the very bottom on almost all measures of poverty and social exclusion within the European Union, available statistics “*make clear that most Roma are worse off than the rest of the population in almost every aspect of life.*”<sup>135</sup>

In 2017, the UN Human Rights Committee reiterated its concern about anti-Roma racism, and called on Romania to intensify its efforts to address systemic discrimination against the Romani population and to ensure that local authorities are held accountable for actions taken contrary to anti-discrimination legislation. The Committee stated that Romanian authorities should ensure that the law provides adequate safeguards against forced evictions; reinforces efforts to implement measures to promote the inclusion of Roma children in mainstream schooling; implements measures to promote the equal access of Roma to health services; and establishes a comprehensive data collection system to assess the scale of discrimination against Roma and other minorities.<sup>136</sup>

In terms of racial discrimination, in its 2019 Report on Romania ECRI noted “*with great concern the persistent and high incidence of anti-Gypsyism, resulting in Roma constantly enduring hatred and insults in public life. Roma people are often portrayed as ‘thieves, liars, lazy’ and systematically linked with criminality, which reinforces bias and increases their social exclusion.*”

ECRI noted that, as anti-Roma rhetoric has generated voter traction in local elections, the use of hate speech, including by mainstream political parties, has become commonplace and as an example cited one local councillor in Mahmudia who publicly stated that “*the best Gypsy is a dead Gypsy*”.<sup>137</sup>

**“The best Gypsy is a dead Gypsy”.  
Local Councillor In Mahmudia, Tulcea County**

The report also noted with concern that Roma continue to be the targets of racially-motivated violence and subjected to disproportionate force by law enforcement, and drew attention to the fact that since 2015 “*the European Court of Human Rights (ECtHR) delivered over 20 judgments condemning Romania for cases of police violence and the failure of the authorities to effectively investigate inhuman and degrading treatment by police, including racially motivated ill-treatment.*”<sup>138</sup>

<sup>135</sup> UNHR Office of the High Commissioner, ‘End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights’, Bucharest, 11 November 2015. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16737&LangID=E>.

<sup>136</sup> UN Human Rights Committee, *Concluding observations on the fifth periodic report of Romania*, 11 December 2017. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsgirNvmVdWih6EAP3cRxa2fvnByGzSLQiYaENfauBq7AHQ3e7Quu1cEM8SvLkTQrT1X%2BhjuSrAluCpVoy77EM%2BaW50vvRddgzjRWx024eS>.

<sup>137</sup> Council of Europe, *ECRI Report on Romania (fifth monitoring cycle)*, 2019, p.14 Available at: <https://rm.coe.int/fifth-report-on-romania/168094c9e5>.

<sup>138</sup> *Ibid*, p.22.

## The COVID-19 state of emergency and police violence against Roma

The outbreak of the pandemic witnessed a surge in anti-Roma hostility, as media commentators amplified racist tropes about ‘Gypsy violence’ and ‘Gypsy crime’ when covering incidents involving Roma and law enforcement, to turn essentially localised incidents into a full-blown safety and public health emergency. As academic expert Margareta Matache noted: *“The predictable result has been an outpouring over Romanian social media of hate-filled calls for anti-Roma violence, in some cases laced with approving references to Roma extermination during the Holocaust.”*<sup>139</sup>

In April 2020, the Minister of the Interior set the tone – one of naked aggression – when he announced the deployment of 1500 police and gendarmes in areas where ‘violent episodes’ had been reported; he stated that: *“the additional resource will be directed in the areas with heightened risk of criminality, communities with people who have recently returned [from abroad], and are known for criminal activities.”* In response to allegations of police brutality by Roma in targeted neighbourhoods, Traian Berbeceanu, chief of the Cabinet of the Minister of the Interior, told reporters that law enforcement officers will be “intransigent with thugs”, will do whatever is necessary to restore public order, and stated that “violence must be met with violence”.<sup>140</sup>



Subsequently, the ERRC recorded a number of violent attacks on Romani communities, which included disproportionate use of force, tear-gassing women and children, inhumane and degrading treatment of detained persons, and police attempts to prevent NGOs delivering humanitarian aid. It must be stressed that pandemic police violence marked a continuity

with, rather than any departure from, normal practice. Below is a sample of five such incidents of police violence against Roma during April 2020, more details and more incidents can be found in the ERRC report ‘Roma Rights in the Time of Covid’.<sup>141</sup>

<sup>139</sup> Margareta Matache et al., ‘The shameful resurgence of violent scapegoating in a time of crisis’, *Open Democracy*, 5 May 2020. Available at: <https://www.opendemocracy.net/en/can-europe-make-it/shameful-resurgence-violent-scapegoating-time-crisis/>.

<sup>140</sup> DIGI24 HD, *Traian Berbeceanu warns that law enforcement officers will be “intransigent with thugs”: “I think that violence must be answered with violence!”*. 21 April 2020. Available at: <https://www.digi24.ro/stiri/actualitate/traian-berbeceanu-avertizeaza-ca-oamenii-legii-vor-fi-intransigenti-cu-derbedeii-cred-ca-la-violenta-trebuie-raspuns-cu-violenta-1295072>.

<sup>141</sup> Bernard Rorke and Jonathan Lee, *Roma Rights in the Time of Covid*, ERRC, September 2020. Available at: [http://www.errc.org/uploads/upload\\_en/file/5265\\_file1\\_roma-rights-in-the-time-of-covid..pdf](http://www.errc.org/uploads/upload_en/file/5265_file1_roma-rights-in-the-time-of-covid..pdf).

**18 April – Bolintin de Vale, Giurgiu:** A video surfaced on social media of Romanian police beating and abusing Roma as they lay face down in the dirt with their hands bound behind their backs. The screams of one victim were clearly audible, as four officers set about him, two striking him all over his body, and two others beating the soles of his bare feet. The victims – eight Romani men and one 13-year-old boy – were beaten for about 30 minutes and threatened with repercussions if they made any complaints. One police officer can be heard using racial slurs and threatening the person filming the incident. The wife of one victim called an ambulance, and when it arrived, the police handcuffed her.

**19 April – Hunedoara, Bucharest:** In the Micro 6 block, several people (both Roma and ethnic Romanians) said that they were beaten by the police as “revenge” following a previous confrontation. Publicly available footage shows a man being beaten by Special Forces inside a block of flats on the stairwell, and a 14-year-old child is violently abused near the block. Police entered many homes without a warrant, and used tear gas indoors, including against women and minors. Two men were beaten by Special Forces when they wanted to file a complaint against these abuses.

**19 April – Balotești:** Police and gendarmerie forcefully arrested several Romani men for barbecuing and breaking quarantine. Police were called to a block of flats in Balotești where a group of Roma were having a barbecue, dancing, and listening to music. Video evidence shows the police response was extreme and disproportionate to the situation, including one incident of an officer kneeling a handcuffed detainee. The Ministry of Interior claim that the Roma were uncooperative with police officers and refused to identify themselves when requested. They did not comment on the disproportionate use of punitive violence shown in the video on unarmed people in custody.

**19 April – Rahova, Bucharest:** A person known publicly as Spartacus posted a video on his Facebook page with a bruised and swollen face apologising to the police for an earlier incident. How he sustained these injuries was not clear, nor was it clear how he could make such a post, given he was in pre-trial detention. It is alleged that this was a forced apology on video intended to humiliate Spartacus. In addition, several people, including minor children from the Rahova neighbourhood, complained that they were beaten by the police who allegedly entered the wrong address (looking for Spartacus) and later left apologising for the confusion.

**30 April – Zabrauti Community, Ferentari, Bucharest:** Municipal police and gendarmerie entered the Zabrauti community in several cars in pursuit of a group of young Roma who were gathered at the entrance to a block of flats. The police sprayed tear gas in hallways and homes, forcing people to flee outdoors, and in the course of the incident a firearm was drawn.<sup>142</sup>

## **Institutional racism and police violence against Roma: Twenty years on, the Committees remain ‘deeply concerned’**

The concerns raised and the recommendations made by international bodies over degrading and violent mistreatment, the use of torture and lethal force by police, as well as ethnic profiling and institutional racism against Roma in Romania have remained consistent, and consistently unaddressed, by ‘the State party’ for over twenty years.

<sup>142</sup> *Ibid.*, pp. 35-39.

ECRI's first two reports on Romania, in 1999 and 2001, make for salutary reading, for not only do they reveal how deeply embedded anti-Roma racism has remained in the institutional culture of a police force resistant to reform, but also the durability and pervasiveness of a climate of impunity and unaccountability among officers when it comes to policing Roma.

In 1999, the ECRI report mentioned the failure to address the abuses committed against Roma both by members of the police forces and by individuals, and stressed the need to systematically initiate effective criminal proceedings specifying racism as an aggravating circumstance. ECRI also insisted upon the importance of police training *“since violent acts are publicly committed against members of various minority groups, particularly Roma/Gypsies, which could have the effect of implying official approval of racist acts and attitudes.”*<sup>143</sup>

In 2001, ECRI expressed concern at the *“tendency to blame the Roma/Gypsy community for its own problems and for the problems of society as a whole, and to perceive this community as a risk for and even a threat to society against which repressive measures should be taken.”* Concerning police violence, ECRI ‘deplored in particular’ that cases of police violence against Roma – such as unauthorised mass night-time raids on Romani communities – including the use of firearms, continued to occur, and have led to serious and sometimes lethal injuries. ECRI stressed the need for immediate action to prevent organised actions on the part of the police such as raids or indiscriminate arrests in which innocent people are treated as criminals.

ECRI further expressed concern that such abuses are not thoroughly investigated and usually dismissed, and drew attention to its general policy recommendation No 1 – which has, over two decades, become a staple of all subsequent sets of recommendations – calling for the setting up of an independent investigatory mechanism to look into reports of police abuses and with power to take action where necessary.<sup>144</sup>

Eighteen years later, ECRI's observations, concerns, and recommendations are virtually unchanged when it comes to racism in Romania. In its 2019 report, the response of the authorities was deemed to be less than ‘fully adequate’ in dealing with the numerous alleged cases of racial discrimination, racial profiling, and police misconduct against Roma. The Commission noted that there was still no independent body entrusted with the investigation of such cases, and reiterated its recommendation that the authorities define and prohibit racial profiling by law, *“and provide for a body which is independent of the police and prosecution authorities entrusted with the investigation of alleged cases of racial discrimination and misconduct by the police.”*<sup>145</sup>

In its 2015 Concluding Observations on Romania, the UN Committee against Torture (UNCAT) expressed its serious concern at: (a) The persistence of reports of racist hate crimes against Roma; (b) The vulnerability of Romani suspects who are ‘administratively conveyed’ to police stations, by law enforcement officials, with increased risks of ill-treatment and torture; (c) The reported excessive use of force by law enforcement officials against Roma.

143 Council of Europe, ECRI, *First report on Romania*. Adopted on 13 March 1999. Available at: <https://rm.coe.int/first-report-on-romania/16808b5b62>.

144 Council of Europe, ECRI, *Second Report on Romania*. Adopted on 22 June 2001. Available at: <https://rm.coe.int/second-report-on-romania/16808b5b8d>.

145 Council of Europe, ECRI, *Report on Romania (fifth monitoring cycle)*, 2019, p.14 Available at: <https://rm.coe.int/fifth-report-on-romania/168094c9e5>.

The Committee also concluded that the Romanian authorities should provide information on the number of cases of police violence that have been investigated, the number of perpetrators prosecuted, and the penalties applied to those found guilty, and for the government to reiterate its commitment to zero tolerance of the use of violence and torture against persons deprived of their liberty.<sup>146</sup>

In 2016, in a letter to the Romanian Prime Minister, the Council of Europe High Commissioner for Human Rights, Nils Muižnieks, urged Romania once again to ensure that all incidents of ill-treatment, especially those with a racial bias, by law enforcement officials are firmly condemned, adequately investigated, and sanctioned. Citing recent judgments and pending cases with the ECtHR, the Commissioner stated it was clear that *“further efforts to eradicate institutional racism against Roma still need to be made.”*<sup>147</sup>

In his 2016 end-of-mission statement, UN Special Rapporteur Philip Alston was also *“deeply concerned by allegations of police abuse, especially against Roma”*, and was unconvinced by confident reassurances from senior police representatives and Ministry of Interior officials that such abuses do not occur and that, in exceptional cases of abuse, the responsible police officers are properly disciplined or punished. The Special Rapporteur spoke to many Romani victims of violence who said that filing a complaint would be both burdensome and futile, and cited NGOs who reported that of 3,034 complaints submitted to the Prosecutor alleging police abuse, only four cases led to police officers being convicted. The Rapporteur observed a worst-case combination of persistent credible allegations, a lack of the most basic procedures to deter abuse, and a broken and ineffectual complaints system (that yields a successful prosecution rate of 0.13% of all complaints):

*“There is nothing peculiar about police violence, which is a universal problem. What is peculiar about the Romanian situation is that the rules that currently apply could be seen as a charter for harassment. The system includes characteristics that make abuse easy and ensure that accountability will be the rare exception rather than the norm.”*<sup>148</sup>

## Racially aggravated hate crimes, anti-Roma pogroms, and a consistent failure to protect

Across the EU, racist policing means that Roma are routinely subjected to human rights abuses. It is this lived experience that corrodes any semblance of trust Roma might have in the capacity of law enforcement to ‘serve and protect’ without prejudice. Nowhere is this more apparent in Romania. The failure of police officers to adequately investigate and prosecute hate crimes

<sup>146</sup> The European Roma Rights Centre, Romani CRISS and APADOR-CH, *Memorandum on the implementation of the judgments in the group of cases Barbu Anghelescu (no. 46430/99) concerning police brutality in Romania*, 2016. Available at: [http://www.errc.org/uploads/upload\\_en/file/joint-submission-to-the-council-of-europe-on-implementation-of-police-brutality-judgments-in-romania-june-2%20016.pdf](http://www.errc.org/uploads/upload_en/file/joint-submission-to-the-council-of-europe-on-implementation-of-police-brutality-judgments-in-romania-june-2%20016.pdf).

<sup>147</sup> Council of Europe Commissioner for Human Rights, Nils Muižnieks, *Letter to Mr Dacian CIOLOS Prime Minister of Romania*, Strasbourg, 23 June 2016. Available at: <https://rm.coe.int/16806db685>.

<sup>148</sup> UNHR Office of the High Commission, ‘End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights’, Bucharest, 11 November 2015. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16737&LangID=E>.

## ROMANIA

against Roma is by no means confined to Romania, but what is unique is the recent memory of massive communal violence and official collusion in the anti-Roma pogroms of the 1990s. What sets Romania apart from its neighbours was the extent to which police officers and authorities connived with mobs and actively participated in acts of extreme violence against Roma; atrocities which resulted in killings, setting homes alight, and sometimes culminated in the expulsion of entire communities. A sense of just how perilous the situation was for Roma in Romania can be garnered from a 1994 Human Rights Watch (HRW) report:

*“Mob violence reveals a type of lynch law that is often supported by the local government. The local authorities are, in some cases, active participants in the violence, but more frequently are involved in creating the climate of extrajudicial abuse of Roma, and are active participants in the obstruction of justice after the crimes have been committed. This jeopardises the safety of Roma in Romania and has set a dangerous precedent for the rule of law”.*

As for the role of the police, HRW found substantial evidence *“that local law enforcement officials are often participants in mob attacks against Roma, either by offering encouragement as such violence occurs or by remaining silent and failing to perform their duties. The evidence also indicates that this complicity is often tolerated*



*and protected by the national government, which downplays the violence and, through its prosecutorial and justice system, erects a protective shield around the perpetrators of violence, thereby denying Roma any opportunity for an adequate remedy for their suffering and loss.*"<sup>149</sup>

In April 2017, in a chilling echo of the early 1990s, a mob of ethnic Hungarians descended on the Romani neighbourhood in Gheorgheni, after local media identified two Romani children as the culprits in a theft. According to a **journalist** who was later expelled from the area, Romani families were dragged from their homes in five locations and then beaten by the mob before their houses were set alight. Afterwards, the mayor **Zoltán Nagy** expressed his regret at the 'unpleasant' situation brought about by what he termed as Romani aggression, and described the theft which triggered the attack as 'the last straw'.<sup>150</sup>

Such incidents are rarer these days, but police officers' aptitude for dispensing racist violence, and their failure to protect Romani victims, and to identify, investigate, and prosecute racist hate crimes remain as consistent as ever. As far as recording hate crimes, according to FRA, although *"the Romanian Police records all criminal offenses in a dedicated database and the investigative police officers have a duty to highlight all aggravating circumstances when registering criminal files"*; inexplicably there are no designated procedures for recording hate crimes: *"consequently, criminal offenses committed with a bias motivation cannot be identified through the system."*<sup>151</sup>

In its concluding observations in 2017, the UNHRC called on Romania to strengthen measures to prevent racially motivated attacks against the Romani population and to ensure that the alleged attacks are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to adequate compensation.<sup>152</sup>

**"Criminal action is almost never taken and the provisions on racist motivation as an aggravating circumstance are also rarely applied."  
ECRI Report on Romania 2019**

In its 2019 report on Romania, ECRI also noted that there is no coherent and systematic data collection on hate speech and hate-motivated violence, but the evidence has consistently shown that victims encounter difficulties in reporting and, in many cases, the police, public prosecutors, and criminal judges are reluctant to record and acknowledge hate crime. Despite two decades of recommendations, *"criminal action is almost never taken and the provisions on racist motivation as an aggravating circumstance are also rarely applied."*

In its 2019 report on Romania, ECRI also noted that there is no coherent and systematic data collection on hate speech and hate-motivated violence, but the evidence has consistently shown that victims encounter difficulties in reporting and, in many cases, the police, public prosecutors, and criminal judges are reluctant to record and acknowledge hate crime. Despite two decades of recommendations, *"criminal action is almost never taken and the provisions on racist motivation as an aggravating circumstance are also rarely applied."*

<sup>149</sup> Human Rights Watch Romania, *Lynch Law: violence against Roma in Romania*, November 1994, Vol. 6, No. 17. Available at: <https://www.hrw.org/reports/pdfs/r/romania/romania94n.pdf>.

<sup>150</sup> Bernard Rorke, 'Eyes Wide Shut: Collective punishment of Roma in 21st-century Europe', *Open Democracy*, 24 January 2020. Available at: <https://www.opendemocracy.net/en/can-europe-make-it/eyes-wide-shut-collective-punishment-roma-twenty-first-century-europe/?fbclid=IwAR2PHMbXLGcjmoxd4M7cMWISICnkBZmPkaWfkFJiZ8xrjzbZkCje1oZZFc>.

<sup>151</sup> European Union Fundamental Rights Agency, *Hate crime recording and data collection practice across the EU*, 2018, p. 78. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-hate-crime-recording\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf).

<sup>152</sup> UN Human Rights Committee, *Concluding observations on the fifth periodic report of Romania*, 11 December 2017. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsgrNvmVtWih6EAP3cRxa2fvnByGzSLQiYaENfauBq7AHQ3e7Quu1cEM8SvLkTQrT1X%2BhjuSrAluCPVoy77EM%2BaW80vvRddgzjRWx024eS>.

Noting Romania's combination of high levels of underreporting and low rates of prosecution, compounded by the paltry level of knowledge and expertise among law enforcement and the judiciary in recognising hate crime, ECRI reiterated the crucial importance of effective investigation and prosecution as well as deterrent sanctioning of perpetrators, and referred to the case law of the ECtHR which has consistently held that Article 14 of the European Convention on Human Rights imposes a positive duty on state authorities to render visible the bias motivation of a crime.<sup>153</sup>

Furthermore, as FRA has noted, EU Member States are obliged under Article 22 of the Victims' Rights Directive *"to provide a timely and individual assessment of victims' protection needs to identify whether a victim's vulnerability requires taking special measures to avoid secondary or repeat victimisation, intimidation or retaliation."* FRA warned of the 'multi-layered and mutually reinforcing' ramifications of hate crimes remaining unidentified, unrecorded, and ultimately invisible; if law enforcement and policymakers underestimate or deny the scale and nature of the problem, *"measures to prevent and curtail it, and to support victims, may fall short. Individuals left without redress – as well as their loved ones and even communities as a whole – will feel little faith in a system that fails to adequately address their plight, further discouraging reporting."*<sup>154</sup> If this observation holds true for every Member State in the EU, it reads like a massive understatement in the case of Romania, where Roma are left virtually unprotected against violent hate crime in a state that is officially in denial concerning the extent of structural racism and institutional discrimination against its largest and most visible racialised minority.

## What kind of justice? The brutality case files

Some commentators prefer to dwell on unconscious bias and unwitting prejudice when confronted with institutional discrimination. All too often, the standard recourse to racial awareness and diversity training for law enforcement surfaces as the preferred remedy to address *"the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin."*<sup>155</sup> In the case of police brutality against Roma, the bias at play is very conscious and the prejudice brought to bear is willed and very far from unwitting. As for concrete remedy for victims of police violence, as Special Rapporteur Alston observed, what distinguishes the Romanian system is that it *"includes characteristics that make abuse easy and ensure that accountability will be the rare exception rather than the norm."*<sup>156</sup>

And justice, by way of accountability, is pointedly denied by being wilfully delayed. Some indication of the State's attitude to external criticism and concerns over police torture, ill-treatment, and excessive use of force against Roma can be garnered from UNCAT's thanking the State party

<sup>153</sup> Council of Europe, *ECRI Report on Romania (fifth monitoring cycle)*, 2019, p.14. Available at: <https://rm.coe.int/fifth-report-on-romania/168094c9e5>.

<sup>154</sup> European Union Fundamental Rights Agency, *Hate crime recording and data collection practice across the EU*, 2018, p.3. Available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2018-hate-crime-recording\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-hate-crime-recording_en.pdf).

<sup>155</sup> The Guardian, *Macpherson report: what was it and what impact did it have?* 2019. Available at: <https://www.theguardian.com/uk-news/2019/feb/22/macpherson-report-what-was-it-and-what-impact-did-it-have>.

<sup>156</sup> UNHR Office of the High Commission, 'End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights', Bucharest, 11 November 2015. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16737&LangID=E>.

for its report, but acidly regretting “*that the report was submitted with a delay of 18 years.*”<sup>157</sup> It therefore comes as no surprise that International recommendations concerning the timeliness of remedies, and the need for prompt and thorough investigations into accusations of police brutality have long fallen on stony ground and simply gone unheeded in the 21<sup>st</sup> century. In pursuit of justice, survivors of police brutality, when they have duly exhausted all domestic remedies, are forced to take their case against the state to the Strasbourg court.

As mentioned earlier, ECRI drew attention to the fact that since 2015 the ECtHR has delivered over 20 judgments condemning Romania for cases of police violence and the failure of the authorities to effectively investigate inhuman and degrading treatment by police, including racially motivated ill-treatment; and in its considered opinion, ECRI ventured that “*these repeated cases indicate a persistent problem in the country*”.<sup>158</sup> Below are two especially significant cases, the first serves as an graphic illustration not just of the extremity and scale of police violence against Roma, but of the rottenness that permeates the entire criminal justice system in Romania; and the significance of the second case lies in the ECtHR’s belated acknowledgment that anti-Roma racism is embedded in the institutions, and that illegal racial profiling goes unchecked.

In the case of **Ciorcan and others v. Romania**, on 27 January 2015 the Court awarded €42,000 jointly to seven of the applicants, and €7,500 to each of the 20 other applicants in damages as a result of a violent intervention by special forces officers in 2006, when they threw several tear gas grenades to disperse a crowd which included women and children, and then opened fire with live ammunition as the people fled in panic. More than twenty-five Roma were reportedly injured and/or shot. Some of them were issued medical certificates confirming their injuries, which were considered to need between eight and forty-five days of medical treatment. A decade after the armed assault by special forces, the ECtHR reached its final judgment:

1. *Alleged failure of the authorities to protect the right to life:* In the case of Ms. Ciorcan, who suffered multiple life-threatening injuries, and who was neither armed nor violent in any way at the time of the shooting, the Court considered that it was not sufficiently established that the attack on the police was so extremely violent as to justify shooting at random with live ammunition and risking her life. The Court concluded that there has been a violation of Article 2 of the Convention under its substantial limb.
2. *Alleged lack of an effective investigation:* The Court observed that there were striking omissions in the conduct of the investigation: the domestic authorities failed to identify which policemen fired their guns, in particular which officer shot Ms Ciorcan and whether she was shot with a rubber or metal bullet; the investigation concerning Ms Ciorcan was terminated on the grounds that she had been injured as a result of a random shooting and that the police officers, who only used non-lethal weapons, had had no intention of killing her; the investigation did not address the issue of the planning and control of the operation. In particular they did not investigate whether the presence of the special forces officers at the place of the incident was necessary and in accordance with the law. The Court concluded that the investigation fell short of being ‘thorough’ and that there was a violation of Article 2 of the Convention in that regard.

<sup>157</sup> UN Committee against Torture, *Concluding observations on the second periodic report of Romania*, 5 June 2015. Available at: <https://digitallibrary.un.org/record/815802?ln=en>.

<sup>158</sup> Council of Europe, *ECRI Report on Romania (fifth monitoring cycle)*, 2019. Available at: <https://rm.coe.int/fifth-report-on-romania/168094c9e5>.

3. *Alleged violation of Article 3 of the Convention:* The Court noted that the investigative domestic authorities ‘decided to give more weight’ to the statements of the police officers who declared that they had acted in self-defence; failed to clarify contradictory police statements; neglected to identify the police officers who used their firearms and did not gather sufficient documentary evidence. The Court reasoned that because of the authorities failure to clarify the facts of the case, it could not conclude “beyond reasonable doubt” that the police officers intentionally shot the applicants without being provoked, and could not make any assessment as to whether the authorities could be held accountable for the applicants’ injuries. The Court therefore found no violation of Article 3 of the Convention under its substantive limb.

However, the Court noted that the absence of evidence in support of the applicants’ allegations of ill-treatment stemmed to a large extent from the Government’s disregard of their procedural obligations under Article 3 of the Convention and found that there had been a violation of the procedural limb of Article 3.

4. *Alleged violation of Article 14 of the Convention:* The applicants complained that the police operation involving the intervention of special forces officers to serve a summons which could have been delivered by post, as well as the subsequent unnecessary and excessive use of firearms, was due to the fact that they are of Romani origin. They further argued the domestic authorities had failed to investigate their allegations of racist motives behind their ill-treatment. The Court observed that while the authorities deployed grossly excessive force in order to serve summonses to persons not known as dangerous or armed, for the investigation of a minor crime, the Court stated that “*it not been established beyond reasonable doubt that racist attitudes played a role in Ms Ciorcan’s and the applicants’ treatment by the State agents.*”

On the other hand, “*seen against the background of the many published accounts of the existence in Romania of general prejudice and hostility against Roma and of continuing incidents of police abuse against members of this community*” the authorities failed in their duty under Article 14 of the Convention to take all possible steps to investigate whether or not discrimination may have played a role in the events. The Court ruled that there has been a violation of Article 14 of the Convention taken in conjunction with Articles 2 and 3 of the Convention in their *procedural aspect*.<sup>159</sup>

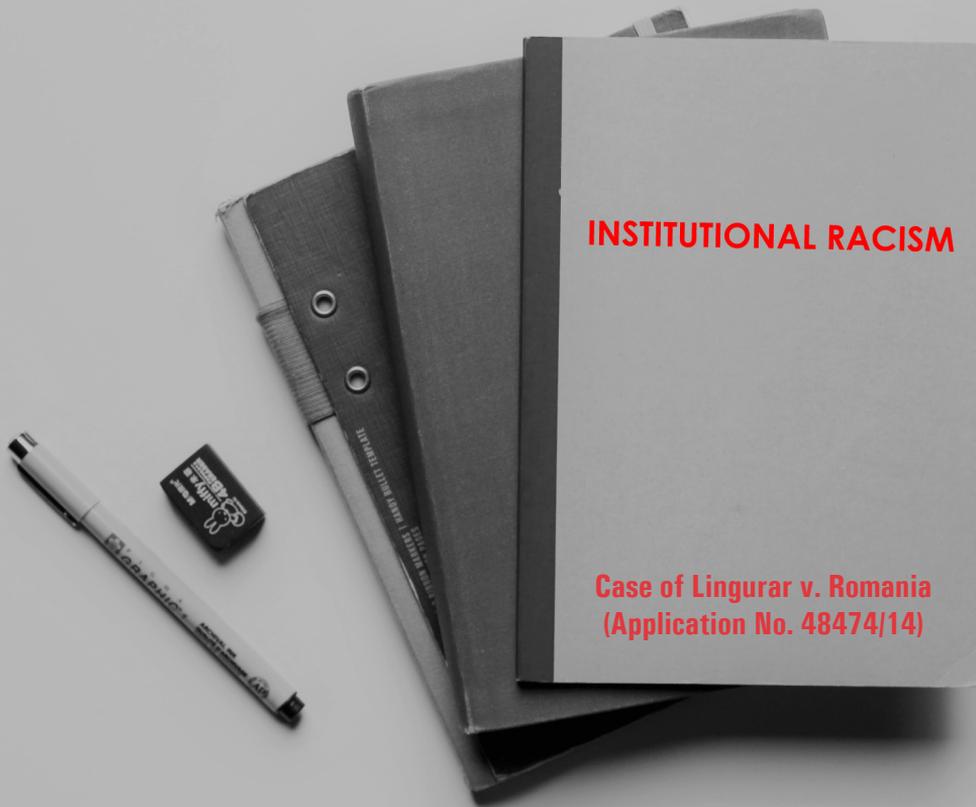
Despite finding only ‘procedural violations’ with regard to the racist motivation behind what the Court described as the deployment of ‘grossly excessive force’, that led to the mass shooting by police of Romani residents in a Romani neighbourhood – it remains difficult to fully comprehend how in this incident the applicants’ claim of racial bias failed to meet the Court’s adopted standard of proof “beyond reasonable doubt” – the language used by the Court is noteworthy and does stand as an indictment of anti-Roma racism in Romanian society in general and policing in particular:

*“Racial violence is a particular affront to human dignity and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction... The Court further reiterates that when investigating violent incidents, State authorities have an additional duty to take all reasonable steps to unmask any racist motives and to establish whether or not ethnic hatred or prejudice may have played a*

<sup>159</sup> European Court of Human Rights, *Case of Ciorcan and Others v. Romania*, Applications nos. 29414/09 and 44841/09 Judgment 27 January 2015. Available at: <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22:%5B%22001-150648%22%5D%7D>.

*role in the events. Treating racially-induced violence and brutality on an equal footing with cases that have no racist overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights.”<sup>160</sup>*

The case of **Lingurar v. Romania** (16 April 2019) was significant in that for the first time the Court used the term “institutionalised racism” and referred to “ethnic profiling”. In line with the ERRC’s third party intervention, the Court stated that; “Roma communities are often confronted with institutionalised racism and are prone to excessive use of force by the law-enforcement authorities”. The Court also used the term “ethnic profiling” for the first time in its case law, noting that “the domestic courts did not censure what seems to be a discriminatory use of ethnic profiling by the authorities”.<sup>161</sup> Following a violent police raid on their home, where the applicants were dragged from their beds and severely beaten, the Court awarded each of the applicants €11,700 in respect of non-pecuniary damage, and €2,251 to cover costs.



1. *Alleged ill-treatment:* The Court noted that the applicants, who were unarmed and not sought by the police for any violent crimes, received a visit from 85 armed law-enforcement officers and were left with injuries that needed medical care. The Court stated that there was no evidence to corroborate the authorities’ hypothesis that the injuries sustained by two of the applicants

<sup>160</sup> *Ibid.*

<sup>161</sup> ERRC, *Lingurar v Romania (Third Party Intervention, 2019)*, 07 May 2019. Available at: <http://www.errc.org/cikk.php?cikk=4437>.

had been self-inflicted, nor any convincing case that the force deployed by the officers was proportionate. Accordingly, the Court found there had been a breach of Article 3 of the Convention under its *substantive* limb.

2. *Alleged racial motives for the organisation of the police raid:* The Court noted that in the police intervention plan, drafted prior to the police raid of 15 December 2011, the authorities identified the ethnic composition of the targeted community and referred to the alleged anti-social behaviour of ethnic Roma and the alleged high criminality among Roma. Investigators explained the applicants' alleged aggressiveness by their ethnic traits, or by habits 'specific to Roma'. The prosecutor considered that the raid had been rendered necessary by the criminal behaviour of the Roma. The Court considered that the manner in which the authorities justified and executed the police raid was discriminatory; that the applicants were targeted because they were Roma and because the authorities perceived the Roma community as anti-social and criminal. The Court found that there had been a violation of Article 14 of the Convention taken in conjunction with Article 3 of the Convention under its *substantive* limb.
3. *Alleged lack of an effective investigation:* in the Court's opinion the fact that stereotypes about 'Roma behaviour' featured in the official assessment of the situation, coupled with 'the modalities of the intervention', should have prompted the authorities to take all possible steps to investigate whether or not discrimination may have played a role in the events. However, the applicants' allegations of discrimination against and criminalisation of the Romani community were summarily dismissed by the domestic authorities and courts. The Court found that there had been a violation of Article 14 of the Convention taken in conjunction with Article 3 of the Convention in its procedural aspect.

After years of rejecting complaints of racial bias by Romani applicants against law enforcement as 'manifestly ill-founded', and finding only 'procedural violations', the finding by the Court of breaches of Article 3 of the Convention under its *substantive* limb in this particular case is remarkable. The Court observed that the authorities extended to the whole community the criminal behaviour of a few of their members on the sole ground of their common ethnic origin, and went way beyond simple expressions of concern about ethnic discrimination to assert "*concretely that the decisions to organise the police raid and to use force against the applicants were made on considerations based on the applicants' ethnic origin. The authorities automatically connected ethnicity to criminal behaviour, thus their ethnic profiling of the applicants was discriminatory.*"<sup>162</sup>

The damningly forthright language that defined anti-Roma discrimination in Romania as institutionalised racism effectively delineated the workings of a system that 'makes abuse easy' and rarely holds any police officer to account for their routines of racist brutality. The Court's findings of 'substantive violations' marked an unprecedented rebuke to the entire criminal justice system in Romania for its stubborn and structurally embedded denial of justice for its Romani minority.

<sup>162</sup> European Court of Human Rights, *Case of Lingurar v. Romania* (Application no. 48474/14). Judgment, Strasbourg, 16 April 2019. Available at: <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22:%5B%22001-192466%22%5D%7D>.

## Slovakia

### Overview of racism and discrimination against Roma

In its 2020 Report on Slovakia, ECRI noted some positive developments such as the adoption of an action plan against racism, and the declared intent by the police commissioner of the Kosice region to end large-scale police operations in Romani neighbourhoods. However, there was concern at the escalation in hate speech against Roma and other minorities in traditional and online media, with very little hate content being removed from the internet. ECRI noted that *“a great many hate crimes go unreported to the authorities, partly because victims do not trust the police, a sufficiently broad definition of the notion of hate crime is lacking, and investigations are not thorough enough.”*<sup>163</sup>

**“A great many hate crimes go unreported to the authorities, partly because victims do not trust the police, a sufficiently broad definition of the notion of hate crime is lacking, and investigations are not thorough enough.”**  
**ECRI Report on Slovakia 2020**

As for ‘positive developments’, the news in November 2021 that two linked investigations into police brutality against Roma were dismissed and thrown out by Slovak authorities suggested that it’s simply business as usual for Slovak prosecutors and police officers. The cases involved severe beatings meted out by police officers to two Romani men and three women. In the first decision, concerning the assault on the two men, the case was referred to as ‘an incident of slapping’ by the investigator, and reduced to a disciplinary misdemeanour. Concerning the beating of the women, proceedings were closed on the grounds that the victims allegedly could not identify the perpetrators, despite the fact that the women picked out their attackers in identification line-ups. The ERRC’s lawyer has filed two constitutional complaints on behalf of both the male and female victims.<sup>164</sup> Such developments serve to add to the pervasive perception that notions of access to justice for Roma remain as illusory as ever.

As recent research by the ERRC shows, the problem runs deeper than discrete incidents of police brutality. Institutional racism is embedded in the entire criminal justice system – a system ridden with **corruption** and scandal – and too often it is Roma who pay the price. This is not about a few bad apples, it is rather the case that the system is rotten to the core: law enforcement in Slovakia is institutionally racist, antigypsyism is clearly evident in the ways Romani communities are policed, and there is a culture of impunity within law enforcement when it comes to mistreatment of Roma.<sup>165</sup>

<sup>163</sup> For details of the cases see ERRC News, ‘No case to answer: Slovak authorities dismiss another two police brutality cases against Roma.’ 24 November 2021. Available at: <http://www.errc.org/news/no-case-to-answer-slovak-authorities-dismiss-another-two-police-brutality-cases-against-roma>.

<sup>164</sup> ECRI, *Report on the Slovak Republic (sixth monitoring cycle)*. Published on 8 December 2020, pp 32-34. Available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

<sup>165</sup> Bernard Rorke, *Justice Denied: Roma in the Criminal Justice System. A summary of findings from reports in Czech Republic, Slovakia, Serbia and North Macedonia*. ERRC, 2022. Available at: [http://www.errc.org/uploads/upload\\_en/file/5357\\_file1\\_justice-denied-roma-in-the-criminal-justice-system.pdf](http://www.errc.org/uploads/upload_en/file/5357_file1_justice-denied-roma-in-the-criminal-justice-system.pdf).

## Policing the pandemic

The acute vulnerability of impoverished and rights-deprived Romani communities, which is a direct consequence of structural racism, was exacerbated by hate speech blaming Roma for the spread of the virus. As the ERRC report on policing showed, anti-Roma racism – which manifested itself in violence, intimidation, and inflammatory rhetoric – was a feature of the policy response to the first wave of COVID-19 in many states. A significant number of actions taken by law enforcement in ‘policing the pandemic’ in countries such as Bulgaria, Romania, and Slovakia clearly violated the principles of non-discrimination and equality, and constituted cruel and inhumane behaviour.<sup>166</sup>

The danger for marginalised Romani communities was highlighted by Marija Pejčinović Burić, Council of Europe Secretary General, who expressed concern at government measures *“that could result in further compromising the human rights of Roma and hampering their equitable access to the provision of basic public services, most importantly health care, sanitation and even fresh water”*.<sup>167</sup> In Slovakia, the lockdown



<sup>166</sup> Bernard Rorke and Jonathan Lee, *Roma Rights in the Time of Covid*, September 2020. ERRC Brussels. Available at: [http://www.errc.org/uploads/upload\\_en/file/5265\\_file1\\_roma-rights-in-the-time-of-covid..pdf](http://www.errc.org/uploads/upload_en/file/5265_file1_roma-rights-in-the-time-of-covid..pdf).

<sup>167</sup> EU External Action, *International Roma Day: Future challenges and persisting problems in the time of COVID-19*, 8 April 2020. Available at: [https://www.eeas.europa.eu/eeas/international-roma-day-future-challenges-and-persisting-problems-time-covid-19\\_en](https://www.eeas.europa.eu/eeas/international-roma-day-future-challenges-and-persisting-problems-time-covid-19_en).

of Romani settlements raised serious human rights concerns and warnings from Amnesty and other organisations, that measures targeting entire communities, without evidence that they present a danger for public health, *“are likely to be arbitrary and disproportionate, and may constitute discrimination.”*<sup>168</sup>

The warnings proved to be prescient and hate speech on social media targeted Roma, with mayors and their supporters castigating the alleged misbehaviour of “socially unadaptable people” in Romani settlements, calling for complete lockdowns of Romani neighbourhoods, and the adoption of punitive ‘special measures’ to prevent mass outbreaks of the virus. The ERRC reported numerous incidents of policing that violated the principles of non-discrimination and targeted Roma. Two incidents were particularly noteworthy:

**9 April – Eastern Spis region:** Five locations in the eastern Spis region were suddenly locked down: Bystrany, Zehra, and three separate settlements in Krompachy. Home to a total of 6,200 Romani people, they were quarantined as 31 Roma had tested positive for COVID-19. As reported in Balkan Insight: *“By morning the villagers found themselves surrounded by the white and green police tape, police officers, and Slovak army soldiers.”*<sup>169</sup>

Human rights observers were concerned at the arbitrary nature of the action, and the use of soldiers, helicopters, and other military equipment in the lockdown. Ombudswoman Patakyová stressed that one of the most controversial issues remained the fact that, despite authorities previously stating that they would only impose lockdowns where the percentage of infected people was higher than 10%, they had imposed lockdowns on Romani communities where the number of infected people was way below the 10% threshold.<sup>170</sup>

**29 April – Krompachy:** Four girls and a boy, aged between seven and eleven, from the quarantined Romani settlement of Krompachy, were beaten with a truncheon by the officer for playing outside the zone. In tears, one of the girls told a reporter: *“We went for wood and the cop began to chase us and shouted at us that if we didn’t stop, he would shoot us. We stopped and he took us into a tunnel and beat us there.”* According to the report in Romea.cz, military physicians treated the children for their injuries.

In response the Ombudswoman stated that *“Any disproportionate methods used by police or excessive use of force deserves to be condemned. I consider it unacceptable that violence be committed against children. Moreover, it is unacceptable for police to use force against children. Not even the pandemic can be a reason to use disproportionate policing methods.”*<sup>171</sup>

168 Amnesty International, *Slovakia: Roma must not be further stigmatised during COVID-19*, 8 April 2020. Available at: <https://www.amnesty.org/en/documents/eur72/2110/2020/en/>.

169 Balkan Insight, *COVID-19 LOCKDOWN OF ROMA VILLAGES CREATES UNEASE IN SLOVAKIA*, 9 June 2020. Available at: <https://balkaninsight.com/2020/06/09/covid-19-lockdown-of-roma-villages-creates-unease-in-slovakia/>.

170 Miroslava German Sirotnikova, ‘COVID-19 Lockdown of Roma Villages Creates Unease in Slovakia’, *Balkan Insight*, 9 June 2020. Available at: <https://balkaninsight.com/2020/06/09/covid-19-lockdown-of-roma-villages-creates-unease-in-slovakia/>.

171 Bernard Rorke and Jonathan Lee, *Roma Rights in the Time of Covid*, September 2020. ERRC Brussels. Available at: [http://www.errc.org/uploads/upload\\_en/file/5265\\_file1\\_roma-rights-in-the-time-of-covid.pdf](http://www.errc.org/uploads/upload_en/file/5265_file1_roma-rights-in-the-time-of-covid.pdf).

## Policing Roma: a culture of impunity, racism, and ready recourse to violence

The escalation of anti-Roma racism and police brutality that occurred during the COVID-19 state of emergency marked a continuation of, rather than a departure from, normal practice. Romani communities have long been profiled and subjected to disproportionate policing. In 2015, Council of Europe Commissioner for Human Rights Nils Muižnieks expressed his ‘serious concern’ with the “*persistent manifestations of anti-Gypsyism and hate speech, and instances of excessive use of force by the police during raids in Roma settlements.*” He stated that the authorities seriously underestimate the incidence and implications of racist hate crime, including racially motivated police violence, affecting Roma. Muižnieks called for “*more and resolute efforts to condemn, effectively investigate and sanction such crimes,*” and urged Slovakia to protect the human rights of Roma “*in line with the Council of Europe standards.*” In this context he called for the creation of an “*independent and effective complaints mechanism covering all law enforcement bodies to fight racially motivated police violence, and establish accountability for all human rights violations.*”<sup>172</sup>

In 2017, the ERRC produced a report titled ‘*Ethnic profiling in Slovakia – Prejudiced policing of Roma neighbourhoods*’. The report found that “*according to the analysis of the 200 proposed locations for increased policing, a police unit is 40 times more likely to be appointed to a Roma community than a non-Roma community in Slovakia. Many municipalities with a high Romani population do not experience high crime rates but are nevertheless included in the list of 200 locations for increased policing.*”<sup>173</sup> In 2018, the ERRC initiated legal action against the **Slovak Ministry of Interior** over discriminatory policing, including ethnic profiling and Roma-targeted police raids.



A police unit is **40 times more likely** to be appointed to a Roma community than a non-Roma community in Slovakia.

Reports from the Council of Europe and the UN both highlighted the systemic nature of anti-Roma racism within law enforcement, and both bodies felt it necessary to call on the authorities to ensure

172 Council of Europe, *Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his Visit to the Slovak Republic from 15 to 19 June 2015*. Strasbourg, 13 October 2015. Available at: <https://www.refworld.org/docid/5633601d4.html>.

173 ERRC, *Ethnic profiling in Slovakia – Prejudiced policing of Roma neighbourhoods*, 2017. Available at: [http://www.errc.org/uploads/upload\\_en/file/Ethnic%20Profiling%20in%20Slovakia%20ERRC%20.pdf](http://www.errc.org/uploads/upload_en/file/Ethnic%20Profiling%20in%20Slovakia%20ERRC%20.pdf).

that victims of police brutality do not face retaliation or reprisals from police for reporting such cases. **ECRI: serious acts of violence, failed investigations, and threats of retaliation against Roma**

In its **2020 report on Slovakia**, ECRI noted that despite *“the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma”*, none of the subsequent investigations of police interventions between 2013 and 2020 resulted in a conviction or disciplinary sanction against officers involved. In addition, ECRI noted that *“the intervention of the police and army during the Covid 19 pandemic caused a lot of fears of stigmatisation among the Roma.”*

Owing to failings in the investigation procedures, ECRI noted that *“it is obviously difficult for courts to determine whether and to what extent there was police brutality. Some observers have pointed out that these shortcomings are chiefly due to the lack of independence of the Ministry of the Interior Inspectorate in charge of these investigations.”*<sup>174</sup>

Victims of alleged abuse and violence by the police are reluctant to lodge complaints with institutions that cooperate closely and on a daily basis with the police. Such is the mistrust engendered by the workings of the internal investigation system, that ECRI encouraged the prosecution service to be especially attentive *“to any retaliatory action by members of the police services or their superiors, including through complaints against alleged victims or witnesses of disputed police actions for slander and false testimony.”*<sup>175</sup>

**UNCERD: persistent structural discrimination, excessive force, and ill-treatment of Roma by police**

In its **December 2017 concluding observations**, UN CERD regretted the lack of concrete information from the Slovak authorities about the adoption and implementation of special measures to combat the persistent structural discrimination against Roma. The Committee expressed particular concern at the numerous reports of excessive use of force and ill-treatment, including verbal and physical abuse by law enforcement officers against ethnic minorities, in particular Roma, and that the majority of these reports are not duly investigated. The Committee was also concerned that *“raids in Roma settlements are often carried out without arrest or search warrants and in many cases members of the Roma minority, including children and elderly persons have been injured.”*

**“Raids in Roma settlements are often carried out without arrest or search warrants and in many cases members of the Roma minority, including children and elderly persons have been injured.”**

**UN Committee on the Elimination of Racial Discrimination, 2017.**

The Committee also noted with ‘deep regret’ that the Slovak government had ignored its previous recommendation to establish an independent monitoring mechanism to investigate crimes involving police officers. It called on the authorities to ensure that victims of police brutality have access to effective remedies and compensation, and *“do not face retaliation or reprisals for reporting such cases.”*<sup>176</sup>

<sup>174</sup> *Ibid.*

<sup>175</sup> ECRI, *Report on the Slovak Republic (sixth monitoring cycle)*. Published on 8 December 2020, pp 32-34. Available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

<sup>176</sup> UN CERD, *Concluding observations on the combined eleventh and twelfth periodic reports of Slovakia*, 8 December 2017. Available at: [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/SVK/CERD\\_C\\_SVK\\_CO\\_11-12\\_29703\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/SVK/CERD_C_SVK_CO_11-12_29703_E.pdf).

## Police brutality case file: dodgy judgments, botched investigations, and failures to examine racist motives

In 2015, the UN Committee Against Torture (UNCAT) expressed concern at reports alleging excessive use of force by law enforcement officials, which may amount to ill-treatment or torture, and at the low number of complaints, prosecutions, and convictions in such cases. The Committee was further concerned that investigations into allegations of ill-treatment by police officers are carried out by the Control and Inspection Service Department of the Ministry of the Interior, which is a department within the same structure employing the alleged perpetrators. The Committee singled out two cases of particular concern; the failure to press charges against police officers who participated in the notoriously violent 2013 raid on the Romani settlement of Moldava nad Bodvou (see below), and the first instance acquittal of all 10 policemen who physically abused and inflicted degrading treatment on six Romani juveniles in the city of Košice on 21 March 2009.<sup>177</sup>

The acquittal of the police officers charged with abusing Romani children at a police station was particularly scandalous because the officers who forced the children to undress, to slap each other, and threatened them with dogs, filmed their torture and humiliation of the children. The film went viral on YouTube with Košice police station being dubbed in some media as Slovakia's Abu Ghraib. The acquittal was also a scandal: the judge did not allow the video material to be used as evidence and threw out the case because *“The evidence is not sufficient to find the defendants guilty, nor to express a conclusion beyond the shadow of a doubt that the crime took place as the prosecutor alleges.”*<sup>178</sup>

On 11 December 2020, human rights NGO Poradňa reported that the Regional Court in Kosice dismissed an appeal against the acquittals, effectively confirming a decision of the District Court in December 2019. The lawyer representing the boys stated that the failure of the courts to decide fairly and within a reasonable time was a failure of justice, and that after 12 years the victims have taken their case to the Strasbourg Court.<sup>179</sup>

The police brutality case file on Slovakia is extensive, just a handful of cases are included in this section by way of illustration that police brutality against Roma is routine and systemic; that police officers operate within a subculture of racist impunity, as evidenced by the low number of complaints, prosecutions, and convictions; and that investigations into allegations of excessive use of force against Roma are neither impartial nor effective, with cases dragging on for years in a notoriously inefficient and tainted judicial system.

In the case of **Lakatošová and Lakatoš v. Slovakia**, on 11 December 2018 the European Court of Human Rights (ECtHR) found in favour of the applicants who were represented by the ERRC and awarded them €50,000 in respect of non-pecuniary damage. More than six years after

<sup>177</sup> UN Committee Against Torture (UNCAT), *Concluding observations on the third periodic report of Slovakia*, 8 September 2015. Available at: <https://digitallibrary.un.org/record/815798?ln=en>.

<sup>178</sup> Bernard Rorke, ‘Slovakia: Roma exclusion and the dark side of democracy’, *Open Democracy*, 29 April 2016. Available at: <https://www.opendemocracy.net/en/can-europe-make-it/slovakia-roma-exclusion-and-dark-side-of-democracy/>.

<sup>179</sup> Center for Civil and Human Rights (Poradňa), ‘The police officers accused of abusing Roma boys at a police station in Košice are innocent...’ Košice, 11 December 2020. Available at: <https://poradna-prava.sk/en/news/the-police-officers-accused-of-abusing-roma-boys-at-a-police-station-in-kosice-are-innocent-it-was-confirmed-today-by-the-appeal-court-which-dismissed-the-appeal-of-the-prosecutor-against-the-acqui/>.

the applicants survived a massacre by an off-duty policeman, the Court found that the Slovak authorities had violated Article 14 of the Convention taken with Article 2 for their failure to investigate the possible racist motives behind the shooting and to prosecute the murderer accordingly.

The facts of the case are that on 16 June 2012, an off-duty municipal police officer, Mr. J, took an illegally purchased gun with two full magazines and some extra ammunition and drove in his private car to the town of Hurbanovo, where around a thousand Romani people live. He stopped in front of one house and, without saying a word, shot at a Romani family who were in the yard. He stopped shooting when the cartridge of the gun was empty. Three members of the applicants' family were shot dead, and both applicants were seriously wounded.

As regards motivation, in his third interview after his arrest Mr J. stated that he had been thinking about how to deal with the Roma in Hurbanovo, how to resolve the public-order issue in the town, and how when he *“was loading the gun with bullets I might have been thinking also about a radical solution.”*<sup>180</sup>

The assailant was found guilty of murder and sentenced to nine years imprisonment. The sentence was exceptionally reduced *“owing to Mr J.’s diminished soundness of mind”*. His gun was forfeited and protective psychological treatment in an institution was ordered for him, together with protective supervision amounting to three years. The prosecutor made no mention of racist motivation.

The applicants were unable to appeal against the sentence. With the ERRC’s support, they complained first to Slovakia’s Constitutional Court and, when that appeal was dismissed, the ERRC represented the applicants before the European Court of Human Rights. In its ruling, the Court reiterated that treating racially induced violence and brutality on an equal footing with cases that have no racist overtones *“would be to turn a blind eye to the specific nature of acts which are particularly destructive of fundamental rights.”* Finding in favour of the applicants, the ECtHR wrote that:

*“the prosecuting authorities failed to examine a possible racist motive in the face of powerful racist indicators and in particular failed to give any reasons whatsoever whether the attack of 16 June 2012 had or had not been motivated by racial hatred. In the absence of any reaction by the courts to the limited scope of the investigation and prosecution, the adequacy of the action taken by the authorities dealing with the investigation and prosecution in this case was impaired to an extent that is irreconcilable with the State’s obligation in this field to conduct vigorous investigations, having regard to the need to continuously reassert society’s condemnation of racism in order to maintain the confidence of minorities in the ability of the authorities to protect them from the threat of racist violence.”*<sup>181</sup>

A full seven years after Slovak police violently stormed a Romani settlement in **Moldava nad Bodvou**, the European Court of Human Rights ruled in the case of **R.R. and R.D. v. Slovakia** on 1 September 2020 that there was substantive and procedural violations of Article 3, and a violation of Article 14 in conjunction with Article 3 of the Convention, on account of the lack of investigation into the alleged discrimination in the planning of the police operation. The Court awarded each of the applicants €20,000 in damages and €6,501 costs jointly.<sup>182</sup>

<sup>180</sup> European Court of Human Rights, Case *Lakatošová and Lakatoš v. Slovakia* (Application no. 655/16). Final Judgment, Strasbourg, 11 December 2018. Available at: <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22:%5B%22001-188265%22%5D%7D>.

<sup>181</sup> ERRC, Case: *Lakatošová and Lakatoš v. Slovakia* (2018). Available at: <http://www.errc.org/cikk.php?cikk=4570>.

<sup>182</sup> European Court of Human Rights, *Case of R.R. and R.D. v. Slovakia* (Application No. 20649/18), Final Judgment, Strasbourg 1 September 2020, Available at: <https://hudoc.echr.coe.int/fre?i=001-204154>.

However, the Court “*in the light of all the material in its possession*” was unaccountably unable to conclude that “*any racist attitudes played a role in the execution of that operation*”, and with regard to the applicants’ claim of biased assessment of the evidence and racially biased language in decisions concluding the investigation, the Court failed “*to discern any racial element in the alleged punitive character of the police response to the assault on them.*” In a critical reaction to the mainly procedural pre-occupations of the ECtHR concerning the raid by 60 heavily-armed officers, which left several people injured and in need of medical attention and caused widespread damage to property and belongings, ERRC Director of Operations Marek Balaz stated that:

*“The real story is one of a completely botched internal investigation of the raid; scapegoating of the victims by prominent politicians; deliberate obstruction of the Ombudsperson’s investigation; blocking victim testimonies at the parliament; and finally adding insult to grievous injury, by charging some of the victims with perjury. These are some of the essential ingredients of a case where the combination of corruption, lies and racist malice beggar belief.”<sup>183</sup>*

On 16 August 2013 the Ombudsman submitted an ‘Extraordinary report by the Ombudsman on facts indicating serious violations of basic rights and freedoms by the actions of certain organs’ for debate in Parliament. As the ERRC reported, both Parliament and Government refused to examine the Ombudsperson’s report or hear her personal intervention. Instead, the Prime Minister and the Minister of Foreign Affairs charged her with breaking the existing law, and the Ministry of Interior reacted by labelling her “*a liar, who unfortunately politicises the issue.*”<sup>184</sup>

On 1 April 2016, Slovak Interior Ministry investigators stopped prosecutions in all cases against police officers and announced that there was no torture, no illegal entry into homes, and no



inappropriate coercion during the raid. The earlier decision by the prosecutor to shut down the investigation into police brutality prompted protests from the ERRC in a case which was described by the Ombudswoman as “*shameful for Slovakia.*”

From the outset, the Moldava police raid attracted much inter-

national condemnation, and the foot-dragging, irregularities and delays in the subsequent investigation were widely criticised. The prosecution only started half a year after the raid took

<sup>183</sup> Marek Balaz, ‘Bittersweet legal victory for Roma in Strasbourg court – seven years after brutal police raid’, *ERRC News*, 2 September 2020. Available at: <http://www.errc.org/news/bittersweet-legal-victory-for-roma-in-strasbourg-court---seven-years-after-brutal-police-raid>.

<sup>184</sup> Bernard Rörke, ‘Slovakia: Roma exclusion and the dark side of democracy’, *Open Democracy*, 29 April 2016. Available at: <https://www.opendemocracy.net/en/can-europe-make-it/slovakia-roma-exclusion-and-dark-side-of-democracy/>.

place, and then it took another year and a half for the investigator to gather all testimonies and evidence before publishing the decision. At one point, in an attempt to discredit the plaintiffs, the investigator requested an expert inquiry into the mental conditions of the victims. In an absurd twist the victims were then charged with perjury. Irregularities in their testimonies attributed to their “Roma mentality” which, according to a psychological expert and the investigating officer, is characterised by “low trustworthiness, a propensity to lie and emotional instability”.

In the case of **A.P. v. Slovakia**, on 28 May 2020 the ECtHR found in favour of the Romani applicant and awarded him €5,000 in respect of non-pecuniary damage, and €4,500 in respect of costs and expenses. The applicant, then a 15-year-old boy, had been punched in the face repeatedly by officers during his arrest, while in the police car, and at the police station. He alleged that he had been ill-treated and subjected to disproportionate use of force by municipal police officers and that the authorities had failed to conduct an effective investigation into the matter, in breach of the requirements of Article 3 of the Convention. The Court held unanimously, that there had been a violation of Article 3 of the Convention in its substantive and procedural limbs.<sup>185</sup>

In common with other judgments concerning police abuse of Roma in Slovakia, the Court rejected the applicant’s claims that racism was a factor in the abuse and the subsequent investigation as “manifestly ill-founded”. In an important joint dissenting opinion, Judges Keller and Serghides cautioned against setting an excessively high threshold for the Court to address the merits of complaints under Article 14, especially those brought by applicants belonging to groups subject to discrimination.

The judges asserted that the Court should not shy away from the substance of allegations of racial discrimination, an “*invidious kind of discrimination [which has] perilous consequences*”; and in the context of racial discrimination against Roma, the Grand Chamber had called for “*special vigilance and a vigorous reaction*” on the part of domestic authorities. Confronted with the degrading treatment of a Romani boy by police against a background of racial tension, the judges were of the opinion that the “*Court ought to have demonstrated similar attentiveness by examining the merits of the complaint under Article 14.*”<sup>186</sup>

More cases of police brutality against Roma in Slovakia are pending in the ECtHR, and what is more disturbing than the Court’s repeated ‘shying away’ from the substance of allegations of racial discrimination is the frequency with which Roma must resort to Strasbourg for the simple reason that they have exhausted all domestic remedies in their quest for justice. It is also deeply concerning that repeated recommendations by international bodies such as the UN Committee Against Torture simply go unheeded. In 2015 UNCAT called on Slovakia to:

- Carry out prompt, impartial, thorough, and effective investigations into all allegations of excessive use of force, including torture and ill-treatment, by law enforcement officials, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed;

<sup>185</sup> European Court of Human Rights, Case *A.P. v. Slovakia* (Application no. 10465/17). Final Judgment, Strasbourg, 28 May 2020. Available at: <https://hudoc.echr.coe.int/eng?i=001-200556>.

<sup>186</sup> European Court of Human Rights, Case *A.P. v. Slovakia* (Application no. 10465/17). Joint Partly Dissenting Opinion of Judges Keller and Serghides, Strasbourg, 28 May 2020. Available at: <https://hudoc.echr.coe.int/eng?i=001-200556>.

- Prosecute persons suspected of having committed torture or ill-treatment and, if they are found guilty, ensure that they receive sentences that are commensurate with the gravity of their acts and that the victims are afforded appropriate redress;
- Ensure that offences motivated by discrimination constitute an aggravating circumstance in criminal prosecution;
- Establish an independent monitoring and oversight mechanism that complies with the requirement of institutional independence in order to avoid conflict of interest in the investigation of complaints by peers.<sup>187</sup>

As cases of police brutality against Roma continue to stack up, and subsequent investigations routinely dismiss allegations of ill-treatment out of hand, while authorities steadfastly deny discriminatory motivation, racist police officers feel emboldened and accountable to no-one in their use of arbitrary and excessive force against Roma. The very fact that, despite EU Frameworks for Roma inclusion and all the attendant kerfuffle, ECRI found it necessary in its 2020 report to ‘encourage’ Slovak prosecution services to be alert to “*retaliatory action by members of the police services or their superiors*” against victims, should be a cause for alarm.<sup>188</sup> The findings of international bodies point to systemic rot of a kind that should not be tolerated in an EU Member State, and confirm that the oft-referred to mistrust of Romani communities in national institutions cannot be attributed to some purported ‘cultural predisposition’, but is rather grounded in considered and rational assessment, based on lived experience at the receiving end of the coercive apparatus of the state.



<sup>187</sup> UN Committee Against Torture (UNCAT), *Concluding observations on the third periodic report of Slovakia*, 8 September 2015. Available at: <https://digitallibrary.un.org/record/815798?ln=en>.

<sup>188</sup> ECRI, *Report on the Slovak Republic (sixth monitoring cycle)*. Published on 8 December 2020, pp 32-34. Available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

## Conclusion

The evidence in this report leaves little doubt that issues around access to justice and anti-Roma racism run deeper than discrete incidents of police brutality. It is rather the case that law-enforcement agencies are institutionally racist; that antigypsyism is clearly evident in the ways Romani communities are policed; and that there is official tolerance at the highest levels of a culture of impunity within law enforcement when it comes to mistreatment of Roma. As other recent research conducted by the ERRC and Fair Trials across eight European countries confirms, “*Romani communities are not only heavily targeted, but even harassed and provoked by the police.*”<sup>189</sup>

Beyond police brutality, these previous reports provided compelling evidence that the entire criminal justice system is infected with discriminatory attitudes:

*“The result is that Roma experience racial bias at every stage of criminal proceedings, which leads to skewed decisions and unjust outcomes ... the very system that is meant to impart fair and equal justice is, in fact, doing the opposite. This abject failure of the criminal justice system is rooted in antigypsyism.”*<sup>190</sup>

The sheer volume of complaints, cases, and evidence of police misconduct collected by the ERRC over recent years lends further credence to the conclusion from this report, covering six EU Member States, that right across Europe anti-Roma racism and discrimination is systemic within many law enforcement agencies, where a culture of impunity emboldens police officers to give full reign to their racist prejudices and engage in arbitrary, and sometimes lethal violence against Roma.

### **Police violence: “accountability will be the rare exception rather than the norm”**

In the introduction, the assertion that the killing of Stanislav Tomáš in the **Czech town of Teplice** in June 2021 might yet become a defining moment in the long bloody history of police violence against Roma, came with the caveat that this moment may be a long time coming. The disparagement of the victim, the subsequent official obfuscation and political inaction, compounded by wider public indifference, suggested that Europe’s reckoning with racial justice could still be a long way off. The decision by the authorities on 21 March 2022 to close the investigation into the death Stanislav Tomáš was expected and duly condemned by human rights NGOs. They described the investigation as flawed, and undermined from the outset by political interference, which “*raised major doubts as to whether the investigation would be independent and thorough.*”<sup>191</sup>

189 Bernard Rorke, *Justice Denied: Roma in the Criminal Justice System*, European Roma Rights Centre, December 2021. Available at: [http://www.errc.org/uploads/upload\\_en/file/5357\\_file1\\_justice-denied-roma-in-the-criminal-justice-system.pdf](http://www.errc.org/uploads/upload_en/file/5357_file1_justice-denied-roma-in-the-criminal-justice-system.pdf).

190 Fair Trials, *Uncovering anti-Roma discrimination in criminal justice systems in Europe*, p.6. London, December 2020. Available at: [https://www.fairtrials.org/sites/default/files/publication\\_pdf/FT-Roma\\_report-final.pdf](https://www.fairtrials.org/sites/default/files/publication_pdf/FT-Roma_report-final.pdf).

191 ERRC Press Release, *Czech Republic: Investigation closed into death of Romani man Stanislav Tomáš, Human rights activists move for justice*. 21 March 2022. Available at: <http://www.errc.org/press-releases/czech-republic-investigation-closed-into-death-of-romani-man-stanislav-tomas-human-rights-activists-move-for-justice>.

## CONCLUSIONS

Major doubts were raised earlier by Deputy Public Defender of Rights Monika Šimůnková, whose report was deeply critical of the actions of the arresting police officers. The police waited for three minutes before they called an ambulance; they neglected to monitor Mr Tomáš' physical state during the arrest and failed to ascertain in a timely fashion that the victim had stopped displaying signs of life; and they failed to remove his handcuffs and to immediately resuscitate him when he collapsed. Ms. Šimůnková also found grave fault with the internal investigation conducted by the Ústecký Regional Police Directorate, which “*absolutely ignored the absence of testimony*” from the paramedic crew on the scene, whose accounts contradicted police assertions that Stanislav Tomáš did not collapse until he was inside the ambulance.<sup>192</sup>



The ERRC and the Forum for Human Rights (FORUM) subsequently issued a request with the Prosecutor General's Office to initiate an “oversight” procedure, and announced they would bring the case before the Constitutional Court, and if necessary, to the European Court of Human Rights. What is disturbing is that this travesty of justice is not some aberration, but rather par for the course when it comes to policing and access to justice for Roma in the European Union. In each of the six countries in this report, the evidence demonstrates the extent to which anti-Roma racism is endemic and systemic within the ranks of officers paid to ‘protect and serve’, and there exists a culture of impunity within law enforcement when it comes to violence, torture, and degrading treatment of Roma.

<sup>192</sup> Public Defender Šimůnková quoted one paramedic's testimony which irrefutably contradicts the police account: “(The patient's) hands were cuffed behind his back. The officers were pinning him to the ground just by one arm so that he wouldn't run away. When I approached the patient, I ascertained that he was lying on his abdomen, making no noise, and I checked his carotid artery, but no pulse could be felt. At that moment the patient's circulatory system had stopped, i.e., he was not breathing. Subsequently I insisted he immediately be placed on a stretcher and put into the ambulance.” See Bernard Rorke, ‘Public Defender finds Czech Police at Fault in the Death of Romani Man Stanislav Tomáš’, *ERRC News*, 14 December 2021. Available at: <http://www.errc.org/news/public-defender-finds-czech-police-at-fault-in-the-death-of-romani-man-stanislav-tomas>.

Roma in Bulgaria were twice as likely to be the victims of physical police violence than non-Roma, and account for 50% of those in prison, despite making up only 10% of the population. Research findings showed that 66.6% of all minors interviewed reported physical violence during apprehension, and that the share of Romani people (28.3%) who reported being victims of physical force at the hands of the police in 2016 was double the reported share of ethnic Bulgarians (14.5%).<sup>193</sup>

As for Romania, in 2016 UN Special Rapporteur Philip Alston expressed deep concern over allegations of police abuse against Roma, and observed a worst-case combination of persistent credible allegations, a lack of the most basic procedures to deter abuse, and a broken and ineffectual complaints system:

*“There is nothing peculiar about police violence, which is a universal problem. What is peculiar about the Romanian situation is that the rules that currently apply could be seen as a charter for harassment. The system includes characteristics that make abuse easy and ensure that accountability will be the rare exception rather than the norm.”<sup>194</sup>*

“

There is nothing peculiar about police violence, which is a universal problem. What is peculiar about the Romanian situation is that the rules that currently apply could be seen as a charter for harassment. The system includes characteristics that make abuse easy and ensure that accountability will be the rare exception rather than the norm.

Philip Alston

UN Special Rapporteur



<sup>193</sup> Dilyana Angelova and Slavka Kukova, *Guilty by Default: Discrimination against Roma in the Criminal Justice System in Bulgaria*, Bulgarian Helsinki Committee, Sofia, 2020, p. 33. Available at: <https://www.bghelsinki.org/web/files/reports/138/files/2020-angelova-kukova-guilty-by-default-discrimination-against-roma-in-the-criminal-justice-system-in-bulgaria-EN.pdf>.

<sup>194</sup> UNHR Office of the High Commission, ‘End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights’, Bucharest, 11 November 2015. Available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16737&LangID=E>.

## CONCLUSIONS

In 2019, ECRI noted that the ECtHR has delivered over 20 judgments since 2014, condemning Romania for cases of police violence and the failure of the authorities to effectively investigate inhuman and degrading treatment by police, including racially motivated ill-treatment. In its considered opinion, ECRI ventured that “*these repeated cases indicate a persistent problem in the country*”.<sup>195</sup>

Concerning police violence against Roma in Slovakia, ECRI noted in 2020 that despite “*the substantial number of complaints relating to serious acts of violence committed by members of the police services against Roma*”, none of the subsequent investigations of police interventions between 2013 and 2020 resulted in a conviction or disciplinary sanction against officers involved.<sup>196</sup> The police brutality case file on Slovakia is extensive, and this report includes just a handful of illustrative cases which leave no doubt that police brutality against Roma in Slovakia is routine and systemic; that police officers operate within a subculture of racist impunity, as evidenced by the low number of complaints, prosecutions, and convictions; and that investigations into allegations of excessive use of force against Roma are neither impartial nor effective, with cases dragging on for years in a notoriously inefficient and tainted judicial system.

## Where recommendations and judgements go unheeded, anti-Roma racism goes unchecked

A common failure across all six countries surveyed is the failure to protect Roma, and the failure of police forces to adequately investigate racially motivated hate crimes. In 2019, the OHCHR noted that the Italian police use no particular procedure when dealing with hate crimes and offer no special support to the victims of these offences. Concerns related to the recording and follow-up of hate crimes, included impeded access to lawyers and refusals by police to record and investigate complaints of racist hate crimes, unless they were very grave incidents.<sup>197</sup> In Ireland, ECRI expressed concerns regarding police competence in combating racism and intolerance, and reported that police have been found to misidentify racist incidents and to actively refuse to take statements from victims of racism. ECRI noted high levels of mistrust of the police and “*different accounts of police attitudes to minorities ranging from indifferent to toxic*.” In Hungary, evidence from the Working Group Against Hate Crimes highlighted four dimensions of what it identified as systemic failures to carry out effective investigations: (i) under-classification of hate crimes; (ii) failures to undertake law-enforcement action; (iii) failures to take investigative measures; and (iv) a failure to apply the crime of “incitement against a community”.<sup>198</sup>

<sup>195</sup> Council of Europe, *ECRI Report on Romania (fifth monitoring cycle)*, 2019. Available at: <https://rm.coe.int/fifth-report-on-romania/168094c9e5>.

<sup>196</sup> ECRI, *Report on the Slovak Republic (sixth monitoring cycle)* 8 December 2020. Available at: <https://rm.coe.int/ecri-6th-report-on-the-slovak-republic/1680a0a088>.

<sup>197</sup> Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination 28 January – 1 February 2019*, p.14. Available at: <https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf>.

<sup>198</sup> Andras L. Pap, *Hate crimes, underpolicing, institutional discrimination: Hungarian cases, ECHR reflections*, MTA Law Working Papers 2017. Hungarian Academy of Sciences Budapest ISSN 2064-4515. Available at: [http://real.mtak.hu/121483/1/2017\\_13\\_Pap.pdf](http://real.mtak.hu/121483/1/2017_13_Pap.pdf).

UNCERD General recommendation no. 31 states that “*complaints should be recorded immediately, investigations pursued without delay and in an effective, independent and impartial manner*” and that “*any refusal by a police official to accept a complaint involving an act of racism should lead to disciplinary or penal sanctions.*”<sup>199</sup> When it comes to Roma as victims of hate crime, there is little evidence of police interventions that are effective or impartial. When it comes to investigating abuse of Roma by law enforcement, the European Court of Human Rights jurisprudence has established the following guiding principles: independence, adequacy, promptness, transparency, and victim involvement – guiding principles which don’t seem to hold water in 21<sup>st</sup> century Europe. As HRW pointed out in the case of Italy, this failure “*not only denies the victims of abuse their right to an effective remedy, it also leads to a lack of accountability and undermines trust in both law enforcement institutions and the justice system.*”<sup>200</sup>

What is remarkable is the consistency with which recommendations are wilfully ignored by the authorities in so many countries, and the stubborn fact that when it comes to racism and police brutality against Roma, the official institutional response remains one of outright denial and stonewalling across Europe. Each country section in the report includes recommendations specific to the jurisdiction, formulated by either UN committees, Council of Europe bodies, or human rights organisations and legal experts. In many cases the recommendations have remained unchanged over more than two decades, as ‘urgent concerns’ have remained unaddressed.

ECRI’s first two reports on Romania, in 1999 and 2001, make for salutary reading, for not only do they reveal how deeply embedded anti-Roma racism has remained in the institutional culture of a police force resistant to reform, but also the durability and pervasiveness of a climate of impunity and unaccountability among officers when it comes to policing Roma. These initial ECRI reports warned that the failures to prosecute and prevent police and public violence against Roma, and to specify racism as an aggravating circumstance “*could have the effect of implying official approval of racist acts and attitudes.*”<sup>201</sup> Concerning police violence against Roma, ECRI ‘deplored in particular’ the recurrence of unauthorised mass night-time raids on Romani communities by heavily armed special units, which resulted in serious and sometimes lethal injuries. ECRI further expressed concern that such abuses were not thoroughly investigated and usually dismissed, and drew attention to its general policy recommendation No 1 – which has, over two decades, become a staple of all subsequent sets of recommendations – calling for the setting up of an independent investigatory mechanism to look into reports of police abuses and with power to take action where necessary.<sup>202</sup>

Eighteen years later, ECRI’s observations, concerns, and recommendations were virtually unchanged; the authorities’ response to cases of alleged cases of racial discrimination, racial profiling, and police misconduct against Roma, was deemed to be less than ‘fully adequate’; ECRI

199 Office of the United Nations High Commissioner for Human Rights, *Report of mission to Italy on racial discrimination, with a focus on incitement to racial hatred and discrimination 28 January – 1 February 2019*, p.14. Available at: <https://www.ohchr.org/Documents/Countries/IT/ItalyMissionReport.pdf>.

200 Human Rights Watch, *Everyday Intolerance, Racist and Xenophobic Violence in Italy, Section V. Violence against Roma and Sinti*, 21 March 2011. Available at: <https://www.hrw.org/report/2011/03/21/everyday-intolerance/racist-and-xenophobic-violence-italy>.

201 Council of Europe, ECRI, *First report on Romania*. Adopted on 13 March 1999. Available at: <https://rm.coe.int/first-report-on-romania/16808b5b62>.

202 Council of Europe, ECRI, *Second Report on Romania*. Adopted on 22 June 2001. Available at: <https://rm.coe.int/second-report-on-romania/16808b5b8d>.

reiterated its recommendation that the authorities define and prohibit racial profiling by law, and once again called for the establishment of a body “*which is independent of the police and prosecution authorities entrusted with the investigation of alleged cases of racial discrimination and misconduct by the police.*”<sup>203</sup>

The Hungarian authorities’ unwillingness to implement ECtHR rulings “*to ensure that ill-treatment by law-enforcement agents is eradicated and ill-treatment complaints are effectively investigated*”, has attracted international criticism, and a warning from the Hungarian Helsinki Committee that Hungary’s failure to implement international rulings and its repeated disregarding of domestic judgments undermines one of the cornerstones of the rule of law: “*Non-compliance with court judgments is not only a sign of and, at the same time, a factor contributing to the deterioration of the rule of law, but also leads to human rights violations that are left without remedy and that are possibly even recurring.*”<sup>204</sup>

## European values and basic demands for rights-compliant and non-racist policing

It is clear that resolute action would be needed to purge police forces of their institutional racism, to render law enforcement agencies publicly accountable, and to ensure that Roma and Europe’s other racialised communities have access to justice in the 21<sup>st</sup> century European Union. Neither is there any secret concerning what needs to be done; scores of recommendations have been made and duly disregarded over the last two decades. Official denial from national authorities and constant deflection by EU institutions has stymied any serious attempts to root out systemic racism within Europe’s police forces. What is lacking is a semblance of political will to do the right thing.

This report aims to break the silence over racist policing, and what follows is not a set of recommendations to be duly ignored; it is a demand that state authorities abide by their declared commitments to the principles of justice and equal protection before the law, and that EU Member States abide by their treaty commitments under Article 2 of the Treaty on European Union, which states that the EU is “*founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.*”<sup>205</sup>

- Governments must provide prompt and effective remedies for victims of discrimination in law and in practice. Procedures for the initiation of complaints should be simple and flexible and expeditiously handled. Dissemination of information concerning the availability of remedies, including recourse procedures, should be widespread, and victims should be provided with legal assistance to pursue remedies.
- Complaints should be handled by independent mechanisms, with sufficient powers and resources to investigate allegations comprehensively and effectively, and to sanction offenders.

203 Council of Europe, ECRI, *Report on Romania (fifth monitoring cycle)*, 2019, p.14. Available at: <https://rm.coe.int/fifth-report-on-romania/168094c9e5>.

204 Hungarian Helsinki Committee, *Non-execution of domestic and international court judgments in Hungary*, Research report summary, December 2021. Available at: [https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HHIC\\_Non-Execution\\_of\\_Court\\_Judgments\\_2021\\_summary.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2022/01/HHIC_Non-Execution_of_Court_Judgments_2021_summary.pdf).

205 Consolidated Version of the Treaty on European Union, 26 October 2012. Available at: [https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF).



Such mechanisms must be easily accessible to all complainants, irrespective of their financial means, and they should not have prohibitively high evidentiary thresholds for initiating investigations. Sanctions against offenders must match the severity of their actions and be designed to prevent similar incidences by the individual in the future. States should place the police under a statutory obligation to promote equality and prevent racial discrimination in carrying out their functions; and victims who register complaints must be protected from intimidation and reprisal actions by police officers.

- With regards to ethnic profiling, the language contained in the EU Action Plan Against Racism concerning ‘the common and legitimate use of profiling’ is such that the recommendation to Member States is quite ambiguous, and open to being interpreted as ‘just carry on with business as usual’. A more forthright message should be sent to governments that is more than ‘warning against racial profiling’, and draws on ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, that *racial profiling constitutes a specific form of racial discrimination and must be expressly prohibited by law*.<sup>206</sup>
- Beyond the routine recommendations concerning disaggregated data there is the question of to what end and useful purpose, for the gathering of data cannot be an end in itself. Information on the ethnicity of those involved in the criminal justice system must be collected in accordance with human rights principles and protected against abuse through data protection and privacy guarantees. Such information must not be abused to further stigmatise minorities, but rather used to identify and eliminate stereotyping or racial profiling by law enforcement officers. Data showing the discriminatory effect of criminal justice policies and practices should trigger remedial action.
- Resources dedicated to ‘enhancing the training strategies of law enforcement’ could be better diverted to support Romani communities to advocate for the elimination of racialised policing, to hold the police to account, and to educate and empower members of the community to exercise their rights, and to protect themselves from discriminatory treatment. Instead of showering resources on dubious ‘unconscious bias’ training, police officers should

206 ECRI, *General Policy Recommendation N° 11 on Combating Racism and Racial Discrimination in Policing*. Adopted 29 June 2007. Available at: <https://rm.coe.int/ecri-general-policy-recommendation-no-11-on-combating-racism-and-racia/16808b5adf>.

be schooled on their obligations under national and international law to discharge their responsibilities in a non-racist and human rights compliant fashion, to ensure these officers become fully aware of the consequences and penalties for failure to do so. It is necessary that training should be reinforced by the incorporation of international human rights standards into the working rules, regulations, and procedures of the entire criminal justice system.

- The EU should produce a binding Charter for Common Basic Standards that enshrines rights-compliant, non-discriminatory and non-racist policing across the Union; and the Race Equality Directive should be extended to protect citizens from racist misconduct by law enforcement. The Commission, as Guardian of the Treaties, should not retreat behind the most restrictive interpretation of its competences, but rather step up to defend Article 2 when it comes to the rule of law and the rights of persons belonging to minorities.<sup>207</sup> Article 87 of the Treaty on the Functioning of the European Union (TFEU) gives the Union the power to establish cooperation amongst the police and authorities competent for prevention, detection and investigation of criminal offences in all member states, including police, customs, and other specialised law enforcement services. While the EU continues to expand the exercise of cross-border policing powers<sup>208</sup>, there are no complementary requirements to ensure non-racist policing, and no basic standards to safeguard the rights of ethnic minority citizens across the Union. This deficit must be remedied.

The Treaty holds that member states share a *“society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”*. When it comes to policing Roma in the European Union, the Treaty is broken, for tolerance, justice, and solidarity are thin on the ground. To fix what is broken, states must, at a minimum, meet the above demands. At the ERRC we can promise just one thing for persistent offenders; the ERRC will exhaust all legal remedies at our disposal to hold to account governments, law enforcement agencies, and police officers who commit racist crimes or acts of discrimination against Roma.

<sup>207</sup> Article 2 of the Treaty of the European Union states that the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities. Available at: [https://lexpency.org/eu/TEU/ART\\_2/](https://lexpency.org/eu/TEU/ART_2/).

<sup>208</sup> Fair Trials, *MEPs fail to hold Europol to account*, FT Admin, 21 October 2021, Available at: <https://www.fairtrials.org/news/meps-fail-hold-europol-account>.

