

WRITTEN COMMENTS

OF THE EUROPEAN ROMA RIGHTS CENTRE

Submission to the OSCE-ODIHR contact point for Roma and Sinti issues concerning the 4th status report on the implementation of the OSCE action plan (11 July 2023)

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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ANTIGYPSYISM / ANTI-ROMA RACISM

BULGARIA: Some measure of the extent of regress can be grasped by events in Bulgaria since the last status report. 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 on so-called ‘Roma crime’ in ghettos, with a specific focus on “*ring leaders, phone scammers, prostitutes and beggars*”.

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.

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HUNGARY: 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.*”

1 Bernard Rorke, *Brutal and Bigoted: Policing Roma in the EU*. ERRC, May 2022, p.22.

IRELAND: In 2019, ECRI noted 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.

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, 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 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.

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. 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. 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.

The 2018 report *Roma in Ireland – A National Needs Assessment*, 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. 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. Concerning discrimination, the survey found the following:

- 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.

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ITALY: The extent to which anti-Roma racism had become normalised in Italy was evident not just in the persistence of mass evictions and demolitions of Roma camps, but in the dehumanising language that accompanied threats of expulsion and banishment targeting Roma, from the highest level of political office, such as **Salvini's notorious call** in 2018 for a “*mass cleansing street by street, piazza by piazza, neighbourhood by neighbourhood.*” A couple of court cases reported in *ERRC News* are illustrative of the racist aggression faced by Roma:

- In Italy, five defendants are facing trial in the **Court of Latina** in the Lazio region, facing charges of spreading propaganda and incitement to commit racially-aggravated crimes against Roma. The case goes back to July 2020 when the accused posted calls on social media for the Campo di Castel Romano on the Pontina to be burned down and everybody there to be napped.
- in March 2021, the **Italian Supreme Court of Cassation** confirmed the sentences of four people, who were part of a mob that completely destroyed an informal camp near Turin, forcing the inhabitants to flee. This shocking mob violence was sparked by a completely false allegation of sexual assault. The Court confirming the first instance judgment as well as the opinion of the sentencing judge, Paola Trovati, that the hate crimes committed were “*the product of an ancestral and never subsided ethnic hatred towards Gypsies*” which led “*normal citizens*” to carry out “*acts of inhuman violence*”.

In January 2019, the European Committee of Social Rights (ECSR) criticised Italy's failures to address violations of the European Social Charter concerning its treatment of Romani communities, and warned that official tolerance for anti-Roma hate speech by politicians creates a climate of impunity that emboldens violent far-right extremists.

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.”

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.

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. 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.

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ROMANIA: 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.

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. One example cited was that of a local councillor in Mahmudia, Tulcea County who publicly stated that *“the best Gypsy is a dead Gypsy”*.

One illustrative case of how the justice system works against Roma was the 2019 case of a 25-year-old Romani mother Florica Moldovan, who attempted to board a minibus with two of her children. The driver, former policeman Marius Filip, refused to let her on the bus. When she protested, Filip jumped off the bus and proceeded to beat the mother with a mop in front of all the passengers. Video of the shocking and brutal assault of the woman with one child in her arms, went viral and sparked public outrage.

Yet, when it went to court, the ex-policeman received a suspended sentence; the Romani victim was found guilty of disturbing the peace and public order and was sentenced to pay a fine of 1,800 lei – failure to pay the fine would have resulted in a sentence of 180 days in prison. In addition, the young woman was forced to pay 800 lei in court costs. (for more details see ERRC News: <http://www.errc.org/news/romania-what-kind-of-justice-romani-woman-publicly-beaten-by-minibus-driver-gets-fined-for-disturbing-the-peace>).

Roma are still denied access to public spaces. The [Aqua Fun Swimming Pool in Sibiu](#), Romania was fined 10,000 lei (€2,030) by the [National Council for Combating Discrimination](#) for denying Romani children entrance to their pool because of their ethnicity. The Romani children brought a complaint to the Council with the support of the ERRC and [RomaJust](#). The incident took place on 22 July 2022. For more details see ERRC News: <http://www.errc.org/news/romani-children-win-discrimination-case-after-being-denied-entry-to-a-public-swimming-pool-in-romania>.

The ECRI 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.”*

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SLOVAKIA: In its 2020 Report on Slovakia, ECRI expressed 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.*”

In its latest report on Slovakia, the **UN Committee on the Elimination of Racial Discrimination** (CERD) once again drew attention to the prevalence of racial discrimination against Roma; noted that court proceedings in cases pertaining to racial discrimination remain excessively lengthy; and “*remains seriously concerned about persistent hate speech in the media and on the internet and about the use of racist political discourse among politicians against ethnic minorities, particularly Roma, and non-citizens.*”

The CERD report echoed many of the issues identified by the ERRC in its **submission** to the Committee, such as:

“the persistence of antigypsyism in Slovakia which is manifest in structural discrimination against Roma in every aspect of daily life; the persistence of racial segregation in schools; police violence and a culture of impunity among law enforcement; over-representation of Romani children in state care; lack of access to justice; and hate speech and hate crime targeting Roma.”

The cases below provide some illustrative examples of the persistence of institutional racism against Roma.

On 6 June 2023: The Ombudsperson of Slovakia, Robert Dobrovodský, issued a decision condemning Slovak police officers who brutalised and tortured a Romani family during a police raid in Milhost’ in 2019. The decision finds the officers’ actions to have been disproportionate, constituting humiliating and degrading treatment. For more details see ERRC News: <http://www.errc.org/press-releases/slovak-ombudsperson-recommends-disciplinary-action-for-police-who-tortured-roma-in-milhost>.

On 19 April 2023: The European Commission brought Slovakia to the European Court of Justice for violating the Race Equality Directive. Slovakia’s provision of segregated school education for Romani children violates their educational rights and condemns generations of children to racist and poor-quality schooling. The Commission first launched legal action against the country via an infringement procedure in 2015, which was followed up by a *reasoned opinion* in 2019. For more details see ERRC News: <http://www.errc.org/news/eu-advances-legal-action-against-slovakia-over-school-segregation-of-roma>.

In November 2021: Two linked investigations into police brutality against Roma were dismissed and thrown out by Slovak authorities. The cases involved severe beatings meted out by police officers to two Romani men and three women. 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. For more details see ERRC News: <http://www.errc.org/news/no-case-to-answer-slovak-authorities-dismiss-another-two-police-brutality-cases-against-roma>.

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ENVIRONMENTAL RACISM AGAINST ROMA

The recent report by Civil Rights Defenders, *Unnatural Disaster*, views rights abuses against Roma through the prism of environmental racism in a time of climate crisis: how across Europe's worst-off 'multiply disadvantaged' regions, entire communities of Roma subsist in deep poverty, many are forced to live in close proximity to landfills or toxic sites. They are often spatially segregated from the rest of society, living in so-called 'settlements', slum neighbourhoods, or improvised camps, and routinely denied equal access to clean water and sanitation, often cut off from affordable heating and electricity supplies.

The environmental racism faced by Roma across Europe, is also evident in forced displacement and mass evictions to make way for gentrification, tourism or corporate development projects. This is a deliberate structural form of exclusion that serves to banish Romani communities to sites beyond the pale, out of sight and out of mind, to desolate locations, devoid of infrastructure or public transport or services.

In its 2020 report, the European Environmental Bureau (EEB) found that unequal exposure to environmental burdens is one of many dimensions of antigypsyism, and that "*environmental racism against Roma communities is a structural and widespread problem in the countries researched in the EU and its immediate neighbourhood.*" Most of the 32 situations identified in the EEB mapping report *Pushed to the Wasteland* were cases of water and waste management and access to related infrastructure.

The CRD report provides summary accounts of a selection of strategic litigation cases between 2018 and 2022 which not only provides a snapshot of the persistence and forms of environmental racism against Roma and Travellers, but also one aspect of the resistance to this relentless and pitiless confluence of neo-liberal avarice and racial prejudice.

Instead of the prospect of livable or sustainable futures, Roma have been subjected to systemic policies that have segregated, displaced and impoverished communities, and endangered their lives by forcing them to subsist in toxic and polluted wastelands. As ENAR has made clear, for Roma and other racialised communities in Europe, climate catastrophe is not some future threat: "*Many European climate movements discuss taking action for future generations, but the climate crisis is unfolding here and now for many racialised communities.*"

REFERENCE

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ACCESS TO JUSTICE

Institutional racism is embedded in the criminal justice system and Roma pay the price. Romani defendants face discrimination from police, judges, prosecutors, and often their own lawyers. These four country reports, covering the Czech Republic, Slovakia, Serbia, and North Macedonia, reveal the extent to which pervasive and routine antigypsyism in state and society leads to racially-biased decisions and outcomes for Roma in the criminal justice system.

These reports complemented the 2020 research by Fair Trials covering the plight of Roma in the justice systems of Romania, Bulgaria, Hungary, and Spain. Fair Trials found that at every stage of criminal proceedings, from arrest until sentencing, Romani defendants are faced with discriminatory attitudes and biases that skew outcomes against them, so that “the very system that is meant to impart fair and equal justice is, in fact, doing the opposite.”

A recurring point common to many of the 2018 Roma Civil Monitor (RCM) country reports was that full transposition of the Race Equality Directive (RED) into domestic law has not translated into effective action against anti-Roma discrimination. The opinion of the RCM researchers is that, despite EU legislation, “there are no effective mechanisms to protect victims of police violence, little reliable information or data to give a precise account of the scale of the problem, and a low success rate in cases investigated”.

Many Romani respondents to the RCM research did not pursue justice for fear that things might turn out even worse for them, and their lack of trust was grounded in a perception that judges lacked sensitivity and harboured the same anti-Roma prejudices as the majority population. In addition to wariness concerning the quality and outcome of judicial processes, many Romani respondents were daunted by the length and complexity of legal proceedings, and the time lapse between the initial filing of a complaint and a tangible judicial outcome.

The research offers further evidence that Roma are more likely to be ethnically profiled and drawn into the criminal justice system than non-Roma. Once drawn in, Roma are less likely to receive adequate legal representation, and more likely to be held in pre-trial detention and to receive custodial sentences than their non-Roma counterparts.

The denial of access to justice for Roma undermines the prospect of institutions earning the trust of communities; the arbitrariness of a criminal justice system that is so blatantly weighted against Roma and other racialised minorities stands as a betrayal of democratic principles and constitutes a fundamental breach of Article 7 of the Universal Declaration of Human Rights.

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POLICE VIOLENCE

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.

In June 2021, the killing of Stanislav Tomáš in the Czech town of Teplice in June 2021, and the 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."* 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 not an 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.

Just over a year later, in **December 2022**, Greek police shot dead another Romani teenager: 16-year-old Kostas Fragoulis was gunned down by police as he fled a gas station in Thessaloniki, accused of failing to pay for €20 worth of petrol. He died from his wounds on 13 December. **Demonstrations and riots** broke out in a number of Greek cities, including Athens, where protestors who clashed with police chanted: "It wasn't the petrol, it wasn't the money, the cops shot because he was Roma."

In November 2022, four Italian police officers under investigation following a house raid, which left a 36-year-old Romani victim in a coma, faced charges of torture, giving false testimony and attempted murder. Hasib Omerovic, who has been deaf since birth, sustained serious injuries when he 'fell' nine metres from his bedroom window during an unauthorised police raid on his apartment on 25 July 2020.

These are just a few illustrative incidents, as much as 60% of ERRC's caseload involves police brutality against Roma, and the evidence gathered in the ERRC report *Brutal and Bigoted* on police violence against Roma in six EU Member States suggests 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. 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.

ERRC's concerns have been echoed by international bodies and agencies, as well as other human rights organisations. These concerns and observations also confirm the systemic nature of racist violence within law enforcement agencies, something which participating states are at pains to deny. Below are some examples covering the reporting period from 2018.

BULGARIA: 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.

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

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 their communication of concern to the Government of Bulgaria, two **UN 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.”

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 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.

According to the **Bulgarian Helsinki Committee**, 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.

Roma twice as likely to be victims of police violence: 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. 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 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 was double the reported share of ethnic Bulgarians (14.5%).²

ROMANIA: *There is nothing peculiar about police violence, which is a global phenomenon. 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.*

(UN Special Rapporteur UNHRC Special Rapporteur on extreme poverty and human rights Philip Alston)

In its 2019 Report on Romania, **ECRI** 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

² 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.

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.*

ECRI ventured that *“these repeated cases indicate a persistent problem in the country”*; and it considered the response of the authorities 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.”*

The case of **Lingurar v. Romania (16 April 2019)** was significant in that for the first time the **ECtHR** 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”*. 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.

SLOVAKIA: In Slovakia, during the Covid pandemic in 2020, the lockdown of Romani settlements raised serious human rights concerns and warnings from Amnesty International 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.”*

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.

One such incident took place on **29 April 2020 in Krompachy**: Four girls and a boy, aged between seven and eleven, from the quar- antined 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.”

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.”*

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.”*

In its December 2017 concluding observations, **UNCERD** 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.”*

The ERRC's police brutality case file on Slovakia is extensive, and the evidence is 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.

On **1 September 2020**, 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** that there were 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.

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CRISIS AND POST-CRISIS SITUATIONS

Turkey: Dom refugees from the war in Syria

Seven years after they fled the outbreak of war in Syria, with its massive carnage and unspeakable cruelties, an estimated 50,000 Dom refugees subsist in appalling conditions in Turkey without adequate shelter or sanitation, excluded and denied social supports extended to other refugees and asylum seekers, which leaves them exposed to hunger and disease, and especially vulnerable to exploitation, violence and abuse.

The main sources of income for Dom refugees are begging, recycling scrap, or working in the fields and farms for a pittance. The Dom face discrimination from public authorities, local population and other Syrian refugees due to their ethnic roots and life-style, which compounds the myriad difficulties that come with being a war refugee in the first place.

Despite having taken no side in the Syrian conflict, the Dom community found themselves targeted by warring parties in Syria, expelled from their homes by radical jihadist groups who committed atrocities against them for not being 'Muslim enough', and on the other bombarded mercilessly by the regime in areas deemed to be opposition-held, such as Haydariye, a district in Aleppo where the Dom had lived for centuries, had to be completely evacuated.

Having sought refuge in Turkey, many of the Dom interviewees spoke of the harsh living conditions and the public hostility they face. Many aid workers were far from immune from such prejudices, and in interviews referred to the Dom as "Gypsies, Nawars, beggars, fighters, thieves". This might go some way to explaining why Dom find it so hard to access desperately needed services. In one interview an NGO worker said: "They are not refugees, they are Nawar (Gypsy), that is why we do not offer services to them".

The report recommendations include the following:

- Addressing the urgent need for basic services such as accommodation, food, education and health; permitting public institutions to collaborate with national and international non-governmental organizations to address the crisis facing Dom refugees, and ensuring access to medicines and primary and preventative health care.
- Registration of Dom families with the assurance that they would not be forcibly moved to camps, issuance of ID cards to enable access to screenings, vaccinations, disease prevention, and other essential services.
- Education and information workshops to address gender-related issues, reproductive health and the specific needs of women and girls
- Education support and schooling should be adapted to meet the needs of children from nomadic communities; and to engage Dom families in the education process to integrate refugee children in the education system; and to open child-friendly spaces for homework and additional support.

After the earthquake, 6 February 2023

Since February 6th earthquake in Eastern Turkey, emergency aid efforts in the affected regions have largely missed out marginalised **Romani**, **Domari**, and **Abdal** communities (commonly referred to as Gypsies). These groups often lived in the poorest housing and consequently have been amongst the worst affected, with entire neighbourhoods being destroyed and whole communities made homeless. While geography and racialised poverty have a part to play in this (with many communities being difficult to reach for aid efforts), these groups also must contend with outright discrimination from the authorities, from volunteers, and from members of the public. At the same time, cases of racism, discrimination, and hate crimes have exploded against those identified as 'Gypsies' in Turkey. Romani activists in the region have documented numerous forced evictions from emergency shelters, denial of access to accommodation, removals of families from houses of mourning, and denial of food and water to families who volunteers referred to as "dirty gypsies".

For more detail see: <http://www.errc.org/news/romani-domari-and-abdal-earthquake-victims-face-discrimination-and-hate-crimes-in-turkey>.

Three months after Turkey's catastrophic earthquake, the ERRC's partner organisation **Romani Godi**, visited some of the worst-hit areas and found that the desperate plight of Romani, Domari and Syrian victims continues to be aggravated by hostility and discrimination. In a follow-up review of conditions in six different locations, monitors found that Roma have been the targets of hate speech, and that many families continue to live in dire overcrowded conditions, without adequate shelter or access to clean water. Many victims who lack ID papers or land ownership documents have been denied basic aid from state agencies, and families are in dire financial straits due to bans on recycling and scrap collection since the quake.

Many of the Romani victims interviewed by ERRC monitors found that they still experienced discrimination and found it hard to access humanitarian aid and state support; and a widespread request from those interviewed was for psychological support in earthquake zones to deal with the trauma and deep anxiety they experienced.

In the **Yesilbaglar neighborhood**, ERRC monitors found about 50 Syrian refugees crowded into six tents, located in a polluted area, dangerously close to a busy motorway. The tents provide no shelter from rain, wind or snow, and the nearest source for clean water and sanitation is a mosque situated 400 meters away. Most children don't have socks or shoes, or adequate clothing to keep them warm in harsh weather. Treatment and medication for the sick and disabled has become even more problematic. Before the quake, they eked a living from collecting scrap and agricultural work; since then, they have suffered a severe loss in income. As non-citizens they could not benefit from the earthquake support and other state-provided humanitarian, and greatly depend on the little NGO assistance available for their survival.

For more detail see: <http://www.errc.org/news/racism-amidst-the-ruins-hostility-homelessness-and-trauma-three-months-after-turkeys-earthquake>.

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RECOMMENDATIONS

What is remarkable is the consistency with which recommendations are wilfully ignored by the authorities in many of the participating states with significant Romani populations, 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. The persistent fundamental human rights abuses by law enforcement across many states mean that while these recommendations may have lost their novelty, their urgency remains undiminished.

- 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. 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*.
- 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 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.²⁰⁷ 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, 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.