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The situation of Roma in Europe and relevant activities of the Council of Europe

Report

Committee on Legal Affairs and Human Rights

Rapporteur: Mr József BERÉNYI, Slovak Republic

Summary

The Roma, estimated at between 10 and 12 million people, constitute the largest minority in Europe and are present in virtually all Council of Europe member states.

This minority has been suffering profound discrimination for centuries and, even today, is still frequently rejected by the rest of the population because of deep-seated prejudices. Moreover, in these times of economic crisis, this highly vulnerable minority presents an easy target and is used as a scapegoat.

It has to be recognised that the efforts undertaken to improve the situation of Roma have produced very limited results so far. The situation faced by Roma in terms of access to education, employment, health services and housing or in terms of social integration is still very often deplorable, not to say scandalous.

It is high time that a careful assessment was made of the reasons for the failure of efforts already undertaken or the success of certain projects, in particular by the judicious gathering of ethnic statistics. Determined, effective, co-ordinated and sustainable measures must be taken without delay.

Roma are also extremely under-represented in political bodies. Positive measures should be taken to remedy this situation and enhance the participation and representation of Roma in public and political life, including within the Parliamentary Assembly.



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A. Draft resolution

1. The Roma constitute the largest minority in Europe and are present in virtually all Council of Europe member states. All member states – without exception – have the moral and legal duty to make concrete and sustained efforts to improve the situation of Roma and to ensure the full respect of their fundamental rights.
2. The Parliamentary Assembly is shocked by recent outrages against Roma in several Council of Europe member states, reflecting an increasing trend in Europe towards anti-Gypsyism of the worst kind.
3. Taking advantage of the financial crisis, extremist groups capitalise on fears deriving from the equation made between Roma and criminals, choosing a scapegoat that presents an easy target, as Roma are among the most vulnerable groups of all.
4. This situation is reminiscent of the darkest hours in Europe's history. The Council of Europe was founded precisely to prevent those dark hours from repeating themselves. The European Court of Human Rights has regularly condemned states in which Roma have suffered from abuse or discrimination.
5. Besides the appalling rise of violence against Roma, the Assembly observes that the process of Roma integration has not reached its objectives over the last 20 years.
6. Assembly [Recommendation 1557 \(2002\)](#) on the legal situation of the Roma in Europe already stressed that the aims set out in its [Recommendation 1203 \(1993\)](#) on Gypsies in Europe had been achieved only to a limited extent. The Assembly now notes with great concern that the present situation is virtually unchanged, if not worse. This is a shamefully poor record considering the amount of paper – and money – dedicated to improving the situation of Roma at all levels.
7. The Roma people are still regularly victims of intolerance, discrimination and rejection based on deep-seated prejudices in many Council of Europe member states. The situation of Roma with regard to education, employment, housing and health care is far from satisfactory. The Assembly is convinced that effective and sustainable access to education and decent housing are the first decisive steps towards breaking the vicious circle of discrimination in which most of the Roma are locked.
8. The Assembly therefore urges all Council of Europe member states to face up to their responsibilities and to tackle the issue of the situation of Roma seriously and sustainably.
9. The Assembly notes that many member states have already adopted national strategies for improving the situation and the integration of Roma. This is a positive but insufficient step. Such action plans need adequate and long-term funding as well as efficient co-ordination. Last but not least, the implementation of such action plans must be ensured also at local and regional levels.
10. The Assembly stresses that many initiatives remain too isolated and too limited – therefore offering only partial responses. The Assembly calls on member states to adopt national policies based on an integrated approach. Relevant ministries and other players must act in a concerted way, as the problems faced by the Roma are inextricably linked.
11. The Assembly also notes that the concrete results of a wide range of measures – including the national action plans – cannot be properly evaluated because many governments refuse to collect statistics based on ethnicity. In these circumstances, it seems to be impossible to identify successful measures or to improve the less successful ones.
12. Both the Advisory Committee on the Framework Convention for the Protection of National Minorities and the European Commission against Racism and Intolerance (ECRI) consider that the collection of data based on ethnicity is a valuable tool for evaluating the impact of minority policies and monitoring discrimination. Such data should, in addition, be gender disaggregated.
13. The Assembly notes with concern that Roma remain extremely under-represented in elected bodies and that their participation in public and political life is limited. Considering that Roma representation and involvement are just as important as official action, the Assembly urges the Roma community to use every opportunity to be as active as possible.
14. Finally, the Assembly notes a new trend within member states to consider that the Roma issue falls under the responsibility of international and European organisations. Whilst convinced of the importance of the role of international organisations – and especially of the Council of Europe – in this field, the Assembly reiterates that the main responsibility lies with the member states. There should be no shirking of responsibility: education, employment, social inclusion, health services and housing are almost entirely national responsibilities.

15. Therefore, the Assembly urges member states to:

15.1. treat the Roma issue not only from the perspective of a socially disadvantaged group, but from the perspective of a national minority entitled to enjoy the rights enshrined in the Framework Convention for the Protection of National Minorities (ETS No. 157) and in the European Convention on Human Rights, as interpreted by the European Court of Human Rights;

15.2. adopt sustainable national action plans and strategies which foresee an integrated approach in conformity with Committee of Ministers Recommendation Rec(2008)5 on policies for Roma and/or Travellers in Europe;

15.3. ensure that each ministry and decentralised or local government institution has effectively functioning structures capable of implementing these plans and strategies and that they act in a concerted way;

15.4. put in place means of supervision of the way local authorities implement parts of national action plans and strategies that fall under their competence and to sanction any failure to do so;

15.5. enhance political participation and representation of Roma both at national and local level, *inter alia*, by providing Roma with the necessary identity documents, removing institutional discrimination and legal barriers and/or by allocating reserved seats to Roma representatives in parliament as well as in local and regional elected bodies;

15.6. collect reliable statistical data – including ethnic and gender-disaggregated data – with the necessary strict safeguards to avoid any abuse, in line with ECRI's recommendations and the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities, and to analyse these data carefully in order to assess the results and to enhance the effectiveness of the existing plans and programmes;

15.7. promote a positive image of diversity and address stereotypes and prejudices, including those linked to gender, using for instance the Dosta! campaign developed by the Council of Europe, and strongly condemn and effectively prosecute acts of anti-Gypsyism;

16. As regards education, the Assembly urges member states to:

16.1. fully implement Committee of Ministers Recommendations Nos R (2000) 4 on the education of Roma/Gypsy children in Europe and Rec(2009)4 on the education of Roma and Travellers in Europe;

16.2. dismantle segregated schooling by ensuring effective and non-segregated access of Roma to mainstream education and develop their pre-school enrolment;

16.3. train teachers adequately, increase the number of Roma teachers and enrol – as appropriate – Roma school mediators;

16.4. where appropriate – and where there is a demand within the Roma minority – assist them institutionally and legally to set up minority schools based on their own language and identity;

16.5. increase the number of Roma students in secondary schools and universities, where appropriate by allocating places for Roma;

16.6. undertake, in conjunction with civil society organisations, gender-sensitive studies on the situation of children from minority groups in the school system, by compiling statistics on their attendance, completion and drop-out rates, results achieved and progress made, as recommended in ECRI's General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education;

17. As regards housing, the Assembly urges member states to:

17.1. fully implement Committee of Ministers Recommendation Rec(2005)4 on improving the housing conditions of Roma and Travellers in Europe and seriously take into consideration the Opinion of the Committee of Experts on Roma and Travellers (MG-s-ROM), adopted in October 2009, on the housing situation of Roma and Travellers in Europe;

17.2. implement fully the Council of Europe's Commissioner for Human Rights 2009 recommendation on housing rights and ensure that Roma's living conditions meet the criteria of adequate housing;

17.3. unequivocally condemn all attacks on Roma living areas, settlements and camps and prosecute those responsible for them;

- 17.4. take urgent measures to prevent further forced evictions of Roma camps and settlements and – in cases of unavoidable evictions – provide alternative housing and/or adequate compensation for expropriation;
18. As regards employment, the Assembly urges member states to:
- 18.1. fully implement Committee of Ministers Recommendation Rec(2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe;
- 18.2. develop employment policies for the Roma population by adopting comprehensive national employment programmes and monitoring their implementation at local level;
- 18.3. while so doing, readjust employment policies to the needs of the local Roma communities and the local markets;
- 18.4. build upon existing good practices such as the creation of “Roma employment mediators”, or the development of special internship programmes for Roma in the civil service in order to increase Roma representation within the state and local administration;
19. As regards health care, the Assembly urges member states to:
- 19.1. fully implement Committee of Ministers Recommendation Rec(2006)10 on better access to health care for Roma and Travellers in Europe;
- 19.2. enhance Roma access to health services, *inter alia* by building upon existing good practices such as campaigns to ensure immunisation for Roma children, training of Roma health mediators and the setting up of mobile health clinics;
- 19.3. banish and punish forced sterilisation and provide for compensation for all victims.
20. The Assembly also urges in particular the relevant authorities to take immediate action and to relocate as a matter of urgency the inhabitants of the lead-contaminated camp of Mitrovicë/Mitrovica (Kosovo).¹
21. In addition, the Assembly supports the strengthening and the development of the European Roma and Travellers Forum (ERTF) – a Europe-wide unique body – in order to enhance both the representation and the co-ordination of Roma at European level.
22. Furthermore, the Assembly strongly encourages the national delegations to the Assembly to include members of the Roma minority if they are represented in their parliament.
23. Roma are currently not represented at all in the Assembly. It therefore resolves to propose a co-operation agreement between the Assembly and the ERTF; on the basis of that agreement representatives of the ERTF would have regular contact with the relevant committees of the Assembly and could attend meetings of Assembly committees.
24. Finally, given the urgency of improving the situation of Roma in a wide range of areas, the Assembly decides to come back to this question in more depth in due course.

1. This reference should be understood in full compliance with United Nations Security Council Resolution 1244 (1999).

B. Draft recommendation

1. The Parliamentary Assembly, referring to its Resolution ... (2010) on the situation of Roma in Europe and the relevant activities of the Council of Europe, underlines that the situation of Roma is a general problem that affects every Council of Europe member state. It considers the issue to be crucial enough for the Council of Europe to increase its involvement in this field by reinforcing the visibility of its existing activities and so avoiding its *acquis* being diluted or misinterpreted.
2. The Council of Europe, which has been a pioneer in promoting the protection of the Roma, should renew its impetus in its long-standing commitment to ensure greater protection and social integration of the Roma.
3. While welcoming the fact that a thematic debate was held during the Spanish Chairmanship (November 2008-May 2009), the Assembly invites the Committee of Ministers to:
 - 3.1. keep the issue of the situation of Roma in Europe high on its agenda;
 - 3.2. allocate a structural post and a proper office for the Co-ordinator for Council of Europe activities on the Roma/Gypsies, to enable her/him to play her/his role as an adviser of the Secretary General, as well as to efficiently co-ordinate the Organisation's activities;
 - 3.3. set up a thematic co-ordinator within the Committee of Ministers, following the successful experience of the Thematic Co-ordinator on Children;
 - 3.4. enhance its co-operation in this respect with other international organisations, in particular in the framework of the Informal Contact Group of International Organisations and Institutions dealing with issues concerning Roma, Sinti and Travellers;
 - 3.5. enhance efforts aimed at the speedy ratification, by member states which have not yet done so, of the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages (ETS No. 148) and Protocol No. 12 to the European Convention on Human Rights.

C. Explanatory memorandum by Mr Berényi, rapporteur

1. Introduction

1. On 14 May 2007, I was appointed rapporteur by the Committee on Legal Affairs and Human Rights to prepare a report on the situation of Roma in Europe and relevant activities of the Council of Europe (Doc. 11206). This report has been prepared thoroughly following various complementary steps. Two hearings on this subject were organised before the Sub-Committee on Rights of Minorities: one at its meeting in Bratislava on 22 November 2007,² followed by a second on 26 June 2008.³ A further hearing was held before the plenary committee on 18 May 2009 in Targu Mures, more specifically on the situation of Roma in Romania.⁴ Furthermore, the rapporteur carried out fact-finding visits to Denmark (28-29 May 2008) and the Czech Republic (17-18 March 2009).

2. Despite a great deal of work at the international level, including particularly active efforts in the Council of Europe, the situation of the Roma is a general problem that affects every Council of Europe member state.

3. In my initial introductory memorandum, I already described extensively the relevant activities of the Council of Europe and underlined its pioneer role in improving the situation of the Roma. This document has since been declassified by the committee and is available on the Assembly's website.⁵ I consider the information therein as being an integral part of my report and will not repeat it here (though I will use it to underpin certain recommendations). The present second part of my work will examine specific aspects of the current situation of the Roma in Europe. Furthermore, since the Committee on Migration, Refugees and Population and the Committee on Equal Opportunities for Women and Men are both seized for opinion, I will not tackle issues falling within their competencies.

2. Definitions and figures

4. The terms "Roma" and "Travellers" are defined as follows in the appendix to Committee of Ministers Recommendation Rec(2008)5 on policies for Roma and/or Travellers in Europe: "The term 'Roma and/or Travellers' used in the present text refers to Roma, Sinti, Kale, Travellers, and related groups in Europe, and aims to cover the wide diversity of groups concerned, including groups which identify themselves as Gypsies."⁶ In this report, the term "Roma" covers both Roma and Travellers within the meaning of the above definition.

5. The Roma population is estimated at between 10 and 12 million people throughout Europe. In some member states, they make up close to 10% of the total population. The Roma constitute the largest minority in Europe and are present in virtually all Council of Europe member states.

6. It is also important to note that the Roma are Europe's largest minority without a compact territory and, unlike other national minorities, do not receive any support from a kin-state. In some countries, the Roma minority is not recognised as such even though it has been established there for several centuries.⁷

2. The minutes of the hearing have been declassified by the sub-committee; see AS/Jur/Min (2007) PV 02. Mr Dušan Čaplovič, Deputy Prime Minister of the Slovak Republic for Knowledge-Based Society, European Affairs, Human Rights and Minorities; Mr Henry Scicluna, Council of Europe Co-ordinator for activities concerning Roma and Travellers; Ms Savelina Danova/Roussinova, Senior Research and Policy Co-ordinator, European Roma Rights Centre; Mr Andrey Ivanov, Senior Human Development Advisor, UNDP Bratislava and Ms Slavomira Macakova, Executive Director of ETP Slovakia, Centre for Sustainable Development, as well as Ms Botocova, Plenipotentiary (of the Government of the Slovak Republic) for Roma Communities took part in this hearing.

3. With the participation of: Mr Michaël Guet, Head of Council of Europe Roma and Travellers Division; Mr Rudko Kawczynski, President of the European Roma and Travellers Forum (ERTF); Mr Régis Brillat, Executive Secretary of the European Committee of Social Rights, Council of Europe; Ms Sonia Parayre, secretariat of the European Charter for Regional or Minority Languages and Mr Thomas Hammarberg, Council of Europe Human Rights Commissioner.

4. With the participation of a number of experts (NGO representatives, as well as representatives of the Romanian authorities). See the full list of experts in the synopsis of the meeting, Synopsis AS/Jur No 2009/04. The minutes of the hearing are available at http://assembly.coe.int/CommitteeDocs/2009/20090626_ajdoc29%202009.pdf.

5. http://assembly.coe.int/CommitteeDocs/2008/20080903_ajdoc29_2008rev.pdf.

6. The text of this footnote applies only to the French version.

7. As in the case of Denmark, Italy or the Netherlands, for example.

3. An alarm signal

7. I have wondered how best to describe the seriousness of the situation in my report. I have decided to let the facts speak for themselves and to outline recent outrageous events and circumstances of which Roma people have been victims in a wide range of Council of Europe member states. These events – in which a number of basic human rights of Roma people are infringed – tell the story better than a long analysis.

8. It must be borne in mind that the following are only a handful of shocking examples, reflecting an increasingly widespread trend in Europe towards anti-Gypsyism of the worst kind.

9. Looking at these examples, it appears clearly that the process of Roma integration has not reached its objectives during the last 20 years. Integration has not reached a level which would prevent the Roma population from becoming an easy target for extremist and populist politicians.

3.1. Racially motivated violence/hate speech

10. Extremism is rising throughout Europe; the economic crisis has considerably worsened the situation. As European Union Commissioner for Equal Opportunities, Vladimir Spidla, has rightly pointed out “It seems that the Roma have become the target of organised racist violence – fed by political populism, hate speech and media hype. In some cases, Roma are being made scapegoats for wide societal problems”.⁸

11. Extremists accuse their countries’ police forces of failing to protect citizens from “Gypsy crime”. Several provocative marches have been organised by radical nationalist groups/parties in some Council of Europe member states (for example, Hungary and the Czech Republic) in areas inhabited by Roma.

12. The rapporteur was informed during his visit to Litvinov (Czech Republic) that such a march was organised there on 17 November 2008 by the Czech workers party (DS). A group of 500 neo-Nazis intended to march through Janov (an area mainly inhabited by Roma, which the rapporteur visited). The police managed to stop them, but the street fights lasted hours. Reportedly, the police discovered dozens of weapons in the extremists’ cars. In the following months, several marches of this kind took place in the Czech Republic. In its report published in September 2009, ECRI notes that “anti-Roma slogans have been used as part of election campaigns, especially at local level, and inflammatory statements against the Roma appear at times to have been rewarded by appointments to higher office”.⁹ During his visit, the authorities confirmed to the rapporteur that there is a qualitative shift on the part of extremism: its increasing professionalism (approach of the public, actions well organised from a media point of view). This is a very dangerous trend to which the Czech Government is trying to respond in an organised way, also by means of a media campaign. An anti-extremism platform – not only under the responsibility of the Ministry of the Interior and of the police but also of other relevant entities – has been put in place to ensure a co-ordinated response. As the rapporteur was told by a representative of the authorities, there is also a need to develop a tool to prevent systemic and overall infiltration of extremists in the police, in the army and in the prison administrations.

13. Besides anti-Roma marches, Roma are increasingly victims of brutal attacks in a number of member states.

14. In Bulgaria, in August 2007, a group of around 12 skinheads assaulted six Roma as they were returning to their homes in Fakulteta, a predominantly Roma neighbourhood of Sofia. Four people were injured and one of them required hospitalisation. The victims were interviewed by the Romani Baht Foundation, a Roma rights organisation, which said the victims had telephoned for help to the district police but the police had refused to send a patrol car.

15. In Croatia, it was reported that racist hate speech appeared online following the announcement that a Muslim Roma man had been chosen by viewers as the winner of the popular television show Big Brother. This was of a disturbingly violent nature and appeared online on a white supremacist forum.¹⁰

16. In the first half of 2009, violent racist attacks against Roma involving Molotov cocktails occurred in the Czech Republic. In April, Molotov cocktails were thrown into Robert Kudrik’s family home in the village of Vítkov. The fire completely destroyed their home and seriously injured the parents. Their 2-year-old daughter, Natálka, went into a coma with serious burns covering 80% of her body. Following this attack, the police arrested four men alleged to be the perpetrators, charged them with attempted murder, and took them into custody. In May 2009, arsonists attacked another Roma family in the village of Zdiby, near Prague, throwing

8. ERIO, E-News, 9 March 2009.

9. CRI(2009)30, adopted on 2 April 2009, published on 15 September 2009.

10. See article of 14 February 2006 by the Prague-based Dzeno Association (Dzeno).

two Molotov cocktails at their home. Czech television reported no injuries. The family succeeded in putting out the fire in time. The authorities assume that the fire was racially motivated. Several attacks resulting in injuries of Roma took place in 2008.

17. During the rapporteur's visit, the authorities underlined that the Ministry of the interior had achieved a lot in recent years, for instance through pilot projects such as hiring Roma police assistants in Ostrava (as well as in five other cities in the country). It has also recently become compulsory for the police to look into possible racial motives for each crime. In Litvinov, the rapporteur was told by the authorities that – for a long time now – there have been Roma policemen in the city.

18. In France, in the second half of 2009, a Roma camp was approached by state officials who stamped people on the hand or arm so that they could be “better tracked”.

19. On 24 July 2008, the United Nations Human Rights Committee found, in the case of *Andreas Kalamiotis v. Greece*, that the Government of Greece had violated Article 2, paragraph 3 (right to an effective remedy) together with Article 7 (prohibition of torture) of the International Covenant on Civil and Political Rights. The case concerned the lack of an effective investigation into allegations of police brutality against Andreas Kalamiotis, a Roma man, on 14 June 2001.

20. In February 2009, the Hungarian Prime Minister warned that verbal attacks on Roma, Jews and Gays were becoming an “everyday occurrence”.¹¹ According to media reports, since the beginning of 2008 there have been – in Hungary – at least 15 incidents of Roma houses being firebombed, and two Roma homes attacked with hand grenades. During this time, at least six people of Roma origin were murdered in these and other incidents, and others were seriously injured. In most of the cases, the police confirmed that the killings were racially motivated.¹²

21. On 23 February 2009, a Molotov cocktail was thrown at the house of the Csorba family. As Mr Csorba tried to escape the fire, carrying his son Robi and holding the hand of his 6-year-old daughter, he and his son were shot dead. On 22 April 2009, a 54-year-old Roma man, Kóka Jenő, was shot dead in front of his house in Tiszaalök. On 3 August 2009 the violence again reached a critical peak when a 45-year-old Roma woman, Maria Balogh, was shot dead and her 13-year-old daughter Ketrin seriously injured in an attack on their home. The police investigation established a link between these attacks.

22. On 11 May 2008, the Italian newspaper *La Repubblica* quoted Mr Roberto Maroni, Italy's Minister of the Interior, as saying that “All Roma camps will have to be dismantled right away, and the inhabitants will be either expelled or incarcerated”. The rhetoric fight against insecurity has led to obvious abuses in Italy. The authorities have, amongst other measures, fingerprinted the Roma, photographed Roma children, brutally evicted Roma from their camps and left unpunished numerous arson attacks on the sheds serving as their homes.

23. On 12 May 2008, three Italian boys set the entrance to a Roma camp in Ponticelli, Naples on fire after pouring petrol around it. A number of isolated shacks were also set on fire. On 13 May, a group of about 300 to 400 locals attacked one of the biggest Roma camps in the district, which was home to 48 Roma families. That night, another camp in Ponticelli was evacuated, and its inhabitants were moved to temporary shelter in a school. On 14 May, two clusters of shacks were burnt down before a cheering crowd of locals.¹³

24. Further reported incidents include the following: On 20 June 2008, a Roma missionary for the Pentecostal church was brutally assaulted by four policemen for having reported on television an assault on his 12-year-old daughter, two days earlier. On 29 June, a young Roma was beaten up and chased away from the city of Pesaro and another young Roma threatened with death in Fano; a Molotov cocktail was thrown at a Roma camp at Magliana, near Rome, on 23 July; a small Roma camp in Pisa was completely burnt down on 26 July, and the inhabitants lost all their belongings; on 28 July, a Molotov cocktail was thrown at a Roma camp of 20 vehicles inhabited by Italian Sinti in Tuscany; on 19 August, a small camp in Mestre was set on fire and, on 2 September, a camp near Padova inhabited by Italian Sinti was burnt down and two young people were burnt alive.

11. ERIO, E-News, 9 March 2009.

12. See “Select cases of violence against Roma in Hungary 2008-2009”, Human Rights First, August 2009, under <http://www.humanrightsfirst.org/pdf/FD-080609-cases-violence-against-roma-hungary-08-09.pdf>. More generally, the European Roma Rights Centre recorded 44 attacks against Roma and/or their property in Hungary between January 2008 and September 2009.

13. For further information on these attacks, see the Incident Report on the *Violent attacks against Roma in the Ponticelli district of Naples, Italy*, by the European Union Agency for Fundamental Rights (FRA), available at http://fra.europa.eu/fraWebsite/attachments/Incid-Report-Italy-08_en.pdf.

25. For more information, the rapporteur refers to the comprehensive reports of the Council of Europe Commissioner for Human Rights, who visited Italy several times following these worrying events.¹⁴ An important number of other serious incidents have taken place since 2004.¹⁵

26. In 2008, some municipalities in Romania, like Brasov, have built walls to separate the Roma from the non-Roma community. A similar wall was recently built in the district of Beja, Portugal.

27. On 10 September 2007, masked men broke into the home of a Roma family, the Lyalikovs, in Ordzhonikidze, Ingushetia (Russian Federation), and shot dead the father and two adult sons. Police told the media that the crime was motivated by “ethnic hatred”. Furthermore, on 10 November 2005 in the town of Iskitim, in Russia’s Novosibirsk region, two Roma houses were burned in apparent arson attacks. One Roma woman sustained severe injuries and her 7-year-old child died three days later as a result of the arson attack.

28. The United Nations Committee against Torture has considered the case of violence and racial abuse against a Roma man and, on 8 May 2009, issued a decision finding Serbia to have been in violation of a number of provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Mr Osmani was beaten and verbally abused by what were believed to be plain-clothed police officers, in the presence of uniformed officers during a forced eviction and demolition operation at the “Antena” settlement in New Belgrade, the home of some 107 Roma. During the incident Mr Osmani’s 4-year-old son was also hit.

29. In the Slovak Republic, in Kosice, in April 2009, six Roma children (aged between 11 and 16) became victims of police abuse. They were forced by police officers to undress, slap and kiss each other. The police officers filmed the scenes.

30. In its report published in September 2009, ECRI “notes with concern that there have been cases of anti-Gypsyism in Switzerland in recent years, especially through remarks made by local or national politicians, which have been repeated in the media”.¹⁶

31. In the regions of Chernigiv and Odessa in Ukraine, announcements were posted on the streets asking people to immediately call the police if they saw a Roma.

32. In June 2009, the Roma diaspora in South Belfast (United Kingdom) fell victim to violent racist attacks. Over 100 people were driven from their homes as a result of these incidents, which involved gangs smashing windows of houses and attacking cars.

3.2. Discrimination in the field of education

33. Everyone agrees that access to education is fundamental. However, Roma children remain excluded from quality education in many member states. They are either segregated into Roma-only classes, unjustly considered unfit for normal classes (and shunted into schools for disabled children) or – even worse – they cannot even attend school at all. Language and geographic isolation are further barriers Roma have to face in order to access education.

34. As long as Roma are limited in their access to school, their prospects of future employment will remain limited. As a consequence, it will remain extremely difficult for them to improve the community’s involvement in economic and political life, and therefore to improve its situation as a whole.

35. Access to quality education is a key element to help significantly improve the situation of Roma in Europe. Lack of proper education makes it difficult to have access to a proper job. It is the authorities’ responsibility to break this vicious circle, with the close co-operation of Roma minorities all over Europe.

36. The rapporteur welcomes in this context the noteworthy efforts of several states to enrol Roma children in schools or to dismantle segregated schooling (several good examples of which are mentioned below). In many member states, however, segregation of Roma children in schools is still a reality.

37. In the Czech Republic, Roma segregation in primary education remains a serious concern. Roma pupils are often assigned to special schools “designed for children and pupils aged 3 to 19 who are mentally and/or physically handicapped, with impaired hearing, vision and/or speech, with developmental disorders”.¹⁷ The Grand Chamber of the European Court of Human Rights has condemned the Czech Republic in the case

14. See [CommDH\(2008\)18](#) and [CommDH\(2009\)16](#).

15. For more information, read the very comprehensive article “The life and death of Roma and Sinti in Italy: a modern tragedy”, H. Scicluna, in *Roma Rights*, No. 2, 2008.

16. CRI(2009)32, adopted on 2 April 2009, published on 15 September 2009.

of *D.H. and Others v. the Czech Republic*, considering that there had been a violation of Article 14 in conjunction with Article 2 of Protocol No. 1 (right to education) because the applicants had been placed in special schools because of their Roma origin.¹⁸ This judgment is all the more important as the practice of special schools, which has been condemned for some years now, is very widespread. During the rapporteur's visit to the Czech Republic, the authorities underlined the role of pedagogic assistants, which is considered a success. Following the so-called "Gabal report" (conducted by an independent consultant) and the Court's ruling, the role of and the need for preparatory schools has been reassessed. The Ministry of Education is in favour of positive discrimination and affirmative action to enhance Roma access to education. However, pointing out the lack of ethnic data, the authorities were not able to tell the rapporteur whether the measures taken so far had proved successful. This is the reason why additional research was commissioned by the Ministry of Education on the education of Roma and their opportunities to be educated in mainstream schools. It is obvious that children from Roma origin should have access to pre-school/early care and this is the focus set by the Ministry of Education who would like to enhance the measures towards "socially vulnerable" children aged from 0 to 4 years. In addition, the authorities underlined their will to also tackle the issue from the point of view of the teachers. Teachers are not sufficiently familiar with the living conditions of "socially vulnerable" children (including Roma); the Ministry of Education therefore intends to promote better preparation of teachers during their university studies. The positive role of educational assistants of Roma origin has been highlighted.

38. It is of particular concern that the continuing existence of Roma-only classes, even in mainstream schools, was confirmed to the rapporteur. Another area of concern is that, at present, the legislation only allows "special schools" to receive financial support for "socially vulnerable" children. The Deputy Ministry of Education has assured the rapporteur that the authorities wish to amend the law so as to allow mainstream schools to receive this kind of financial support, too.

39. On the issue of the "special schools", NGO representatives consider that the 2004 reform (the new School Act 2004 – Law No. 561/2004) was merely cosmetic: the schools changed their names but remained the same.¹⁹ However, one big step has been taken: it is now possible to pass from "special" primary schools to "mainstream" secondary schools (although this will probably remain very difficult in practice).

40. In Bulgaria, too, enrolment rates of Roma children in schools are significantly lower than those of children from the rest of the population. Furthermore, segregated schools (with mostly Roma children) have poorer infrastructures and less resources and materials than the mainstream schools.²⁰ According to the 2001 census, 18.1% of the Roma were illiterate.

41. In Denmark, the practice of Roma-only classes in the city of Helsingør (where there is the biggest Roma community in the country – approximately 200 Roma families) was considered in 2004 unlawful under the Act for Public Schools. Although these classes have been closed down since 2005, NGO representatives report that in reality the segregation remains. In Helsingør, local authorities have decided to reduce financial allowances in cases where the children do not attend school. Following a decision of the city council, finding this practice unlawful, the law was amended to legalise the practice provided certain very narrow criteria are fulfilled. The teachers now receive training to be able to teach Danish as a second language. With the help of "morning-ladies" (consultants from the city council whose responsibility it is to pick up at home the children who do not appear at school), the local authorities hope to improve school attendance of Roma children. The local authorities have indicated to the rapporteur that there are so far no initiatives to preserve the Romani language.

42. ECRI, in its third report on France, highlighted concerns that some Roma children had been unable to enrol in schools in France.²¹ Indeed, the Commissioner for Human Rights, in his memorandum of November 2008 following his visit to France, reported that despite the schooling obligation and a growing request from French Travellers to send their children to school, certain municipalities continue to refuse to admit these children to primary schools, using excuses such as the short schooling period due to a nomadic lifestyle, an ongoing eviction procedure or the lack of space in the classrooms. In February 2007, the High Authority for the Struggle Against Discrimination and for Equality (HALDE) handed down a decision concerning a mayor who refused 14 French Traveller children access to school.²²

17. Czech Statistical Office (2005) *Statistical Yearbook of the Czech Republic 2004*, available at: www.czso.cz/eng/redakce.nsf/i/home (12-10-2005).

18. *D.H. and Others v. the Czech Republic* [Grand Chamber], Application No. 57325/00, 13 November 2007.

19. For more details, see CRI(2009)30, paragraph 73 and following.

20. *International Journal for Equity in Health*, 2009, 8:24, see www.equityhealthj.com.

21. ECRI, third report on France, CRI(2005)3, at paragraph 95.

43. In its report on Greece, published in September 2009, ECRI “notes with concern that Roma remain at a great disadvantage with regard to education. There are still cases of schools refusing to register Roma children ...”.²³

44. During the hearing before the committee in Targu Mures, some progress was reported by NGO representatives in the field of education in Romania, mostly thanks to 400 school mediators (Roma themselves) and Roma school inspectors. Places are also set aside for Roma in secondary schools and universities. A new programme called “Nursery education for all”, which should cover 8 000 children who do not currently attend nursery school, to prepare them for direct entry to primary school, was due to start in August 2009. Reportedly, the issues of discrimination in education and of school segregation are regularly on the agenda of the Ministry of Education. The ministry has adopted an order forbidding school segregation and a methodology aimed at preventing it in practice.

45. According to Amnesty International, Roma children in Slovakia are identified as students from “socially disadvantaged environments”, and as such are perceived as having special educational needs alongside “students with disabilities”. The Slovakian Government’s Policy on the Roma Minority does include a goal to differentiate Roma children from students with disabilities; however, the Education Act 2008 still fails to include this important distinction. This lack of a clear definition leaves school placement of Roma children susceptible to discrimination.²⁴

46. In Spain, incidents of vehement opposition to the inclusion of Roma children in schools by non-Roma parents have been reported.

3.3. Discrimination in the field of housing

47. In October 2009, the Fundamental Rights Agency of the European Union concludes that “it is clear ... that large numbers of Roma and Travellers in the EU do not enjoy equal treatment in this respect and are living in substandard conditions which fall far below even the minimum criteria of adequate housing”.²⁵ In its Status Report 2008, the OSCE notes that “the dire housing and living conditions of large numbers of Roma and Sintis remain an urgent problem” and is worried by an increase in the number of forced evictions and dismantling of settlements.²⁶ The Council of Europe Commissioner for Human Rights shares these views and, while recalling that Roma are among those facing major difficulties in this respect, he has issued a recommendation on housing rights.²⁷ In this context, he underlines that the right to housing is indeed of central importance to the effective enjoyment of most human rights and that housing rights must be implemented in full compliance with the principle of non-discrimination. In the aforementioned report, the Fundamental Rights Agency even considers that housing segregation is sometimes “the result of deliberate government policy”.

48. Lack of security of tenure (in conjunction with forced evictions), lack of permanent and transient halting sites, racism and discrimination are the most acute problems faced by Roma in the field of housing.

49. During his visit to the Czech Republic, the rapporteur visited the dormitory for the “inadaptable” (one can question the appropriateness of this word), U Bileho sloupu, in Litvinov. The rapporteur witnessed that the dormitory – more or less huts with very basic amenities – (probably one of many in the country) was not in a good state of repair. While regular heating and electricity problems have been reported (and confirmed by the authorities), the rapporteur is very surprised at the amount of rent, 3 600 kronas per adult (approximately €140) and 300 kronas per child. This seems very high compared to the average salary in the Czech Republic, with the obviously very limited resources of its inhabitants and, last but not least, with the state of repair of the dormitory. The rapporteur was informed by the government that 60 projects have been developed in order to fight against social exclusion of Roma, one of these foresees, for instance, the revitalisation of housing for Roma in Přerov. This is greatly needed.

22. CommDH(2008)34, Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008, paragraph 142.

23. CRI(2009)31, adopted on 2 April 2009, published on 15 September 2009.

24. “Roma Children Still Lose Out”, *Amnesty International*, June 2009, available at: <http://amnesty.org/en/library/asset/EUR72/004/2009/en/1015c34e-304f-473d-9a1e-9d2a1548c4da/eur720042009en.pdf>.

25. FRA, Housing conditions of Roma and Travellers in the European Union, Comparative Report, October 2009.

26. See Status Report 2008 “Implementation of the Action Plan on improving the situation of Roma and Sinti within the OSCE area”, OSCE/ODIHR.

27. CommDH(2009)5, 30 June 2009.

50. The rapporteur is also particularly concerned by a practice reported to him by the local authorities during his visit to Litvinov. According to them, the noticeable increase of Roma inhabitants in the city resulted from a practice by the housing agency in Prague, which consisted of paying off the debts of Roma families; in return, the families concerned accepted to leave their flats in Prague and move to smaller towns such as Litvinov, and especially Janov. Apparently, this would enable the housing agency to regain access to flats in certain areas of Prague for the purposes of rehabilitation, leading to higher rents.

51. In its third report on France, ECRI noted that there had been allegations of forced collective evictions of Roma families from their camps without any alternative accommodation being offered. They also noted their alarm at reports that these evictions had been violent, and followed by the immediate destruction of the property, with personal belongings left inside.²⁸ The Council of Europe Commissioner for Human Rights also noted that evictions are a particularly problematic issue, plunging families into a climate of fear, particularly as they are not usually subject to any prior negotiation, and the inhabitants do not receive any warning. The Commissioner for Human Rights also noted that most Roma groups in France live in squalid shanty towns, often without access to water or electricity. Rubbish was collected only sporadically, and sanitary conditions often deplorable. Some camps did not even have toilets.²⁹ However, the rapporteur is pleased to note that French law obliges local authorities to make equipped sites available to Roma.

52. In a letter of 19 December 2007 to Mr Prokopis Pavlopoulos, Greek Minister of the Interior, Public Administration and Decentralisation, Mr Thomas Hammarberg, Council of Europe Commissioner for Human Rights, voiced his concern about the situation in the Athens municipality of Votanikos, where a large number of Roma were facing imminent eviction. Also, while encouraging the Greek authorities to continue implementing the housing loan scheme for Roma, ECRI expressed concerns about the living conditions which “fall unacceptably below international standards” in the settlements of Aspropyrgos and Spata, near Athens.³⁰

53. Amnesty International reports that in Italy, in March 2009, the Roma people living under the Bacula overpass north of Milan were forcibly evicted by local authorities. According to local newspapers, 70 out of about 150 Roma people living there were dispersed without alternative accommodation.³¹ Frequent illegal police raids into Roma homes and camps, and several instances of high profile mass evictions/demolitions of Roma camps were reported in the first half of 2008.³²

54. Substandard housing conditions are common in Montenegro and large numbers of Roma live in makeshift or unofficial settlements, which often lack basic utilities and services. Eviction from illegal settlements, and sometimes legal residences, remains a serious problem.³³

55. In Serbia, around 250 Roma people, including small children and the elderly and infirm, were evicted from a temporary settlement in New Belgrade on 3 April 2009. Bulldozers accompanied by police officers arrived to clear the site early in the morning before the formal eviction notice was even presented to the community. At least 50 of the makeshift dwellings were torn apart while their former occupants could only watch. Temporary alternative accommodation, in the form of containers, was provided in another neighbourhood of Belgrade, but local residents attempted to set them on fire in order to prevent the Roma from moving in.³⁴

56. ECRI reports that in the United Kingdom Roma people who acquire sites of their own find it very difficult to obtain planning permission. As a result of the difficulties encountered in accessing housing that meets their needs, today a considerable part of the non-settled Roma population live in unauthorised camps, often situated in unsuitable locations with no access to basic services and facilities.³⁵

28. ECRI, third report on France, CRI (2005) 3, paragraph 96.

29. CommDH(2008)34, Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008, paragraph 158.

30. CRI(2009)31, adopted on 2 April 2009, published on 15 September 2009.

31. See <http://www.amnesty.org/en/news-and-updates/news/roma-forcibly-evicted-milan-settlement-20090331>.

32. Page 22, *Security a la Italiana*. Available at www.errc.org/cms/upload/media/04/28/m00000428.pdf.

33. CommDH(2008)25, report by the Commissioner for Human Rights on his visit to Montenegro (2-6 June 2008), paragraph 108.

34. www.amnesty.org/en/for-media/press-releases/serbia-roma-evictions-endanger-people%E2%80%99s-lives-0090408.

35. ECRI, third report on the United Kingdom, CRI(2005)27, paragraph 122.

3.4. Discrimination in access to employment

57. Lack of education and of qualifications are some of the reasons for the significantly higher rates of unemployment of Roma in comparison with the rest of the population. In this area, the rapporteur urges the member states to fully implement Committee of Ministers Recommendation Rec(2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe.

58. ECRI noted widespread discrimination against Roma in Denmark in the employment sector, finding that many of them were relegated to menial jobs.³⁶ In Helsingør, two social workers had been assigned by the labour market department to work specifically with Roma. Roma were always directed to them, notwithstanding the purpose of their enquiry. This measure – ostensibly aimed at providing better responses to the needs of the Roma – was not optional: it was compulsory for Roma to address themselves only to those two persons. This measure was therefore considered as discriminatory.

59. In Latvia, on 25 May 2006, the Jelgava City Court issued a finding of discrimination in access to employment in a civil case brought by the Latvian National Human Rights Office (LNHRO) on behalf of a Roma woman. At the end of 2005, the Roma woman approached the LNHRO after she applied for work at the Palso Company as a salesperson. The woman, who was sent for the interview by the Latvian employment bureau, claimed that her interviewer told her that she was not appropriate for the position, allegedly because of her accent when speaking Latvian, without even considering her qualifications. The Roma woman believed the interviewer's response to be the result of her ethnicity, so, failing to achieve a conciliatory agreement with Palso, the LNHRO filed the civil case, seeking compensation for moral damages. In its decision of 25 May, the Jelgava City Court ordered Palso to pay 1 000 Latvian lats (approximately €1 420) in damages to the Roma woman in question.

60. According to ECRI, Roma suffer in the United Kingdom from discrimination in recruitment and from harassment in the workplace. Roma people are also disadvantaged in the labour market, linked with the lack of a permanent address, especially as concerns the setting up of private businesses.³⁷

61. Examples of good practices have emerged over recent years. Among others, in Bulgaria, "Roma employment mediators" have been established and trained, while "Job fairs" – aimed at promoting access to the labour market for Roma – have been established in Romania. Ireland's Special Employment Initiatives for Travellers, launched by the National Training and Employment Authority (FAS) in 2005-2006, as well as the establishment of "Traveller Interagency Groups", in charge of the promotion of local co-ordination of competent agencies and Traveller representatives, or the resolution adopted in 2008 by the Government of the Czech Republic to promote the Agency for Social Inclusion of Roma and the Dobra project – which reportedly enabled the reduction of Roma unemployment in the city of Janov (from 900 to 500) – are examples of best practices worth highlighting. It has been underlined that one of the key ideas of the Agency for Social Inclusion of Roma is to build upon local partnerships, better placed to assess the needs and implement the programmes at local level. The rapporteur also notes with interest the establishment – in five Labour Offices in the Czech Republic so far – of "ethnic friendly" certificates for employers who submit to an audit of their rules and procedures. The "Travellers Internship Programme" in the civil service in Ireland is also a particularly interesting initiative.

62. To be successful, projects and measures aimed at integrating Roma in the labour market need to take into account the needs and the difficulties of the Roma population – not only due to often long-term unemployment but also due to cultural diversity and lifestyle – as well as the specificities of the local labour market in the area where they live.

3.5. Discrimination in health care

63. As stated by the OSCE in its Status Report 2008, "the average lifespan of Roma is lower than the majority population by around ten years". This demonstrates the obvious inequality between Roma and the rest of the population in terms of access to health services and preventive health care. Once again, the question of access to health care is interlinked with other problems Roma are facing (lack of education, poverty, social exclusion, etc.). Furthermore, Roma who live in segregated areas and ghettos (many of which lack basic amenities like running water, electricity and sanitation) are facing much greater difficulties in accessing health services than those living in cities among the majority population. A recent study has shown that geographical isolation and language barriers also play an important role in the lack of access to health

36. ECRI, third report on Denmark, adopted on 16 December 2005, made public on 16 May 2006 (CRI(2006)18).

37. ECRI, third report on the United Kingdom, CRI(2005)27, paragraph 126.

services and of understanding of health reforms by Roma.³⁸ According to this study, poverty emerged as the most important barrier for Roma to access health services (because of the cost of public transport to reach the nearest health facility and because of the prohibitive cost of drugs).

64. The European Committee of Social Rights in 2008 found a violation of the European Charter on Social Rights by Bulgaria due to a failure to provide adequate medical assistance (Article 13.1). In its decision in *ERRC v. Bulgaria*, the committee found that Bulgaria had failed to protect the health of its Roma population in particular. They held that “there is sufficient evidence which shows that Roma communities do not live in healthy environments. This situation can in part be attributed to the failure of prevention policies by the State, for instance the lack of protective measures to guarantee clean water in Roma neighbourhoods, as well as the inadequacy of measures to ensure public health standards in housing in such neighbourhoods”. Specific examples of discrimination presented to the committee, including the refusal to send emergency aid ambulances to Roma districts, the segregation of Roma women in maternity wards or the use of racially offensive language by doctors, were accepted as reinforcement of “the committee’s overall conclusion that Roma in Bulgaria do not benefit from appropriate responses to their general and specific health care needs”.³⁹

65. However, Bulgaria has adopted a health strategy for ethnic minorities, and some progress is tangible in this regard, such as measures to ensure vaccinations for Roma children as well as provisions for special care for children and mothers. Furthermore, between 2003 and 2007, up to 113 Roma health mediators were trained and certified and mobile health clinics were set up.

66. The intolerable lead contamination in Mitrovicë/Mitrovica (Kosovo) is considered to be “one of the biggest medical crises in the region”.⁴⁰ The Roma living there have been exposed to lead contamination since 1999. This situation requires immediate action from the authorities to relocate the camp’s inhabitants to stop further aggravation of their already critical health situation.

67. The issue of forced sterilisation – which was reported to the rapporteur during his visit to the Czech Republic – raises great concern and will be dealt with thoroughly in the opinion of the Committee on Equal Opportunities between Women and Men.

4. Governmental actions or lack thereof

4.1. Action plans and policy strategies

68. Many governments have become more and more aware of the need to develop and adopt national strategies for improving the situation of the Roma. This is a positive change which has to be welcomed. I will refer specifically to the three cases studied more thoroughly in the framework of the preparation of this report: Denmark, the Czech Republic and Romania.

69. In the Czech Republic, the government has adopted a very comprehensive Decade of Roma Inclusion 2005-2015 National Action Plan. However, much to the rapporteur’s surprise, his interlocutors from the different ministries did not seem very familiar with this document and no one was even able to mention any concrete positive result based on this action plan.

70. In Denmark, an action plan on combating discrimination is in place since 2003 (an updated action plan will be prepared in the near future). The authorities have recognised, however, that there is a need for additional resources in order to really co-ordinate the action and initiatives taken in the different ministries.

71. In Romania, the actions and initiatives to improve the situation of Roma fall within the framework of a ten-year Government Strategy for the Improvement of the Situation of Roma (adopted in 2001 and amended in 2006). During the hearing before the committee in Targu Mures, no one complained about the strategy as such (even considered by the speakers to be – “on paper” – the best one could expect) but there were many complaints about its insufficient implementation. The speakers agreed that the impact of this strategy still needed to be addressed, while underlining difficulties in measuring its impact. Roma and NGO representatives, while welcoming the setting up of the National Agency for Roma, complained about its chronic lack of funding and staff. Also, according to information gathered during the said hearing, a ten-year

38. “Access to health care for Roma children in Central and Eastern Europe: findings from a qualitative study in Bulgaria”, B. Rechel, C. M. Blackburn, N. J. Spencer and B. Rechel, in *International Journal for Equity in Health*, 8:24, 30 June 2009.

39. *ERRC v. Bulgaria*, European Committee of Social Rights, 3 December 2008, Complaint No. 46/2007, paragraphs 47 and 50, judgment available at www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC46Merits_en.pdf.

40. See the report of the OSCE Mission in Kosovo, February 2009, www.osce.org/documents/mik/2009/02/36378_en.pdf

Education, Housing and Employment Plan for Roma has been pending before parliament since 2007 and the implementation of existing decrees is reportedly hampered by the failure of labour inspectors to pass on data about segregation.

72. It is noticeable that, while framework programmes are in place, there is still a lot to do as regards the financial and institutional aspects in order to ensure the implementation of the national plans and policies. Also, as stated in the OSCE 2008 status report, “too often ..., the implementation process suffers from lack of political will at the national level, and from failure to implement policies at local level”.

73. During his visit to the Czech Republic, the rapporteur heard complaints from Roma and NGO representatives, pointing out the lack of continuity and strategy of certain projects. Projects developed on an ad hoc basis have little chance of reaching their goal and the lack of continuity in the funding – often causing several months of interruption in the payment of subsidies – endangers their success.

74. Many initiatives remain too isolated and too limited (both time-wise and geographically) – therefore offering only partial responses – to be effective. National policies which foresee an integrated approach stand a better chance of ensuring an effective and sustainable impact.

75. Accordingly, it would be important to ensure that each ministry and decentralised or local government institution have effectively functioning structures capable of developing, implementing and monitoring social inclusion measures that give sufficient recognition to Roma issues. It is crucial that relevant ministries act in a concerted way, as the problems faced by Roma in the different fields indicated above are inextricably linked with one another.

4.2. Avoiding responsibility due to lack of ethnic statistics – lack of reliable evaluation mechanisms

76. Unfortunately, whilst a number of states have introduced national plans for Roma integration, these seem to be, in numerous instances, merely illusory. During my fact-finding visits to Denmark and the Czech Republic, I systematically raised the question of whether these national plans had brought any positive, concrete results. To this, I received a single reply: “perhaps, but we cannot assess the results because we are not allowed to gather statistics based on ethnicity”.

77. This is also, for example, the case in Germany where the authorities regularly refer to the decision of the Federal Constitutional Court banning the collection of ethnic data to explain the lack of any official data on the situation of the Sinti and Roma minority.⁴¹ In France, the proclaimed unitary character of the republic does not accommodate the notion of a “minority”, and accordingly no ethnic data collection is authorised.⁴² In Denmark, the rapporteur was also informed that, because of a long-standing principle, no specific data or statistics based on ethnicity are collected. These are just three examples indicative of the trend across many Council of Europe states. However, the rapporteur is convinced that many governments do indeed collect such information, even if it is not made public.

78. Such data based on ethnic statistics are of utmost importance in order to assess the results of national and local policies aimed at better integration of Roma. As pointed out in the OSCE Status Report 2008: “The failure to keep good statistical data that is carefully analysed over time makes it difficult to see whether there has been any change and to show where problems are most acute and therefore where resources should be prioritized.”

79. In order to enable governments to assess the situation in relation to Roma people, I feel it is necessary and pertinent to reopen the debate surrounding the collection and use of ethnic statistics. In this context, it is worth noting the position of both the Advisory Committee on the Framework Convention for the Protection of National Minorities and ECRI.

80. The Advisory Committee stated that: “Comprehensive data and statistics are crucial to evaluate the impact of recruitment, promotion and other related practices on minority participation in public services. They are instrumental to devise adequate legislative and policy measures to address the shortcomings identified. The collection of data on the situation of national minorities should be made in accordance with international standards of personal data protection, as well as the right for persons belonging to a national minority freely to

41. See, for example, the report submitted by the German Government to the Advisory Committee on Implementation of the Framework Convention on National Minorities, 1999.

42. See generally, EU Accession Monitoring Program, **Minority Protection Volume II: The Situation of Muslims in France**, Budapest: Open Society Institute, 2002, available at www.eumap.org.

choose to be treated or not to be treated as such. Representatives of the national minorities concerned should be involved in the entire process of data collection and the methods of collection of such data should be designed in close co-operation with them.”⁴³

81. Moreover, ECRI is “of the opinion that the collection of ethnic data is a beneficial instrument for shaping sound policies against racism and racial discrimination and for promoting equal opportunities. This data can provide baseline information on the situation of minority groups, which will then form the basis for social policies and later help in evaluating their progress. Collecting ethnic data helps to monitor discrimination and the implementation of anti-discrimination policies that have been put in place by governments. It also serves to assess whether these policies are effective, so that any necessary changes and adjustments may be made”.⁴⁴

82. There is, therefore, strong support for the collection and use of ethnic statistics. However, this position is not a universal one. Concerns about the evil ways in which ethnic statistics have been historically abused, and the often simplistic categorisation of people that it involves flourish in some states. One also has to be aware that many Roma are themselves reluctant to identify themselves as such in censuses or surveys, due to a long history of discrimination precisely based on their ethnic origin. Such concerns have to be duly taken into account.

83. Still, I would strongly advocate collecting relevant ethnic statistics as the only means of enhancing the effectiveness of programmes put in place by the authorities. As was very rightly pointed out by Vera Egenberger:⁴⁵ “How can policies be properly targeted when governments do not even know how big the Roma communities in their countries are? How can educational strategies be helpful when school authorities do not know how many students of Roma origin are finishing primary schools and under which circumstances they leave school at an early stage? How can programmes for the integration of Roma in the labour market be successful if employers do not know the ethnic composition of their work force?”. These questions apply to all chapters of the various national action plans promoting a better integration of Roma.

84. Whilst the collection of ethnic data must – and already is – accompanied by strict safeguards in order to avoid any misuse, it is indeed allowed under international law. Sensitive personal data can only be collected with the explicit (freely given and well-informed) consent of the person concerned.⁴⁶

4.3. The “excuse-shield” of European (if not European Union) responsibility

85. More and more, decision makers and representatives of national authorities pass on to the European level the responsibility of the problems encountered by the Roma community.

86. Whilst it is true that the Roma minority is probably the only minority that is represented on the territory of all member states, that does not mean that it becomes the entire responsibility of international organisations.

87. During the hearing before the committee in Targu Mures, some members – considering that the solution was to be found at European level – advocated the setting up of a European agency for Roma. Others, on the contrary, considered it an evasion of national responsibility for the well-being of their own citizens.

88. The rapporteur is convinced that, while an important number of actions are rightly already undertaken (and financed) at European level (Council of Europe, OSCE, European Union), the main responsibility lies with the member states. The rapporteur would not advocate the setting up of a European agency for Roma, but for more and better co-ordination between the (Roma and non-Roma) actors both at national and local level. At European level, the role of the European Roma and Travellers Forum (ERTF) can and should be developed further.⁴⁷

43. ACFC/31DOC(2008)001, Advisory Committee on the Framework Convention for the Protection of National Minorities, Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs (2008), paragraph 127.

44. “Ethnic” statistics and data protection in the Council of Europe countries – Study Report (2007), by Patrick Simon, Foreword and [CRI\(2008\)26](#); see also Survey on Ethnic Data Collection – Risk or Opportunity? ERIO.

45. Executive Director of the ERRC, see her article “Demystifying the collection of ethnic data and the child protection system”, *Roma Rights*, quarterly journal of the ERRC, No. 4, 2007.

46. EU Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data (24 October 1995), also relevant in this respect: Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

47. See http://assembly.coe.int/CommitteeDocs/2008/20080903_ajdoc29_2008rev.pdf.

5. The true need for an enhanced representation and participation of Roma people in public and political life

89. In its Status Report 2008, the OSCE notes that visible progress has been made in this area “with many states setting up administrative structures to represent Roma in local and national government”. However, Roma remain by far under-represented in elected bodies (often not represented at all). Only very few Roma have been elected as members of national parliaments of Council of Europe member states, even though they represent between 7% and 10% of the entire population in some of them.

90. According to estimates, only some 10 members of national parliaments⁴⁸ and around 20 mayors are Roma. These figures – encompassing all Council of Europe member states – are extremely low and reflect the need to enhance political participation and representation of Roma. In this context, the rapporteur draws attention to the judgment in the case of *Sejdic and Finci v. Bosnia and Herzegovina*⁴⁹ in which the European Court of Human Rights has found the provisions of the Constitution of Bosnia and Herzegovina prohibiting a Roma and a Jew from standing for election to the House of Peoples of the Parliamentary Assembly and for the State Presidency to be in violation of the European Convention on Human Rights.

91. At European level, there is currently one member of the European Parliament of Roma origin. None is present in the Parliamentary Assembly⁵⁰ or in the Congress of Local and Regional Authorities of the Council of Europe. This is obviously both a bad record and a bad example. Of course, our composition reflects that of national parliaments, but we shall think of ways and means of enhancing representation and participation of Roma within our own structures. This would be a strong signal.

92. Article 15 of the Framework Convention for the Protection of National Minorities requires states parties to create the necessary conditions for “effective participation” in all areas of life, in particular in those affecting the minority. The Advisory Committee on the Framework Convention has prepared a commentary on Article 15 of the Framework Convention in which it explains how the enjoyment of this right should be realised.⁵¹ Article I.2.4 on equality and national minorities of the Code of Good Practice in Electoral Matters, adopted by the Venice Commission, states, *inter alia*, that “constituency delimitations and quorum regulations must not be such as to form an obstacle to the presence of persons belonging to minorities in the elected body” and that measures taken to ensure their minimum representation (e.g. reserved seats, waiving of the quorum) do not infringe the principle of equality.⁵²

93. Several legal and practical obstacles limiting the political participation and representation of Roma have been identified. Amongst them: the lack of will of some Roma communities to form political parties (or their small size) although the legislation authorises it; the unclear legal status of many Roma (lack of identity documents or of proof of residence); poverty/isolation; illiteracy/lack of education; mistrust in state institutions and in political parties; prejudice from non-Roma; institutional discrimination and legal barriers (such as a high number of signatures required for the registration of a political party).

94. At national level, a fundamental effort has to be undertaken to provide the members of the Roma population with identity documents, especially refugees and IDPs. As long as they do not have such documents, they will not be able to take part in the electoral process.

95. Several states have established consultation mechanisms, such as minority councils, in which the Roma minority is represented, some of them have established Roma councils (like, *inter alia*, in Finland and in Serbia). The Czech Republic has established inter-ministerial commissions for Roma affairs. In Helsingør (Denmark), an integration council aiming at the co-ordination of the whole integration process has been established at local level. Roma (and other minorities) can elect their representatives. But despite efforts by the local authorities to encourage the creation of an association representing Roma, this initiative failed.

96. In Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Greece, Hungary, Romania, Serbia, the Slovak Republic, “the former Yugoslav Republic of Macedonia”, as well as Kosovo, there exist one or more “ethnic” political parties or parties specifically defending the interests of Roma. The existence of such

48. Roma are reportedly currently represented in the parliaments of Bulgaria, Croatia, Hungary, Romania, Serbia, “the former Yugoslav Republic of Macedonia”, and Kosovo.

49. *Sejdic and Finci v. Bosnia and Herzegovina*, Applications Nos. 27996/06 and 34836/06, 22 December 2009.

50. The only Roma MP in the Parliamentary Assembly was Juan de Dios Ramírez-Heredia, a Socialist Spanish MP from 1983 to 1986. He was also the first member of the European Parliament of Roma (Kalé) origin between 1994 and 1999.

51. See also in this respect the “Lund recommendations on the effective participation of national minorities in public life”, Foundation on Inter-Ethnic Relations, 1999.

52. Code of Good Practices in Electoral Matters; CDL-AD(2002)23rev., adopted by the Venice Commission on 18 and 19 October 2002.

parties does not of course prevent Roma from participating in mainstream political parties. There is evidence that they do; but Roma candidates on the lists of mainstream parties are usually not placed on the lists in an electable position.

97. There are undeniable improvements, but one fundamental point remains: it is obvious that the level of education of Roma has to be enhanced to enable them to participate more actively and effectively in public and political life. Roma representation and involvement are every bit as important as official action to improve the situation of Roma.

6. Conclusions

98. In Italy, Roma campsites have been burnt down; in Hungary; Roma have been killed in an attack on their home; in Slovakia, Roma children have been sadistically ill-treated and humiliated by members of the security forces; in Serbia, entire Roma families have been made homeless following summary evictions; in the Czech Republic, members of a Roma family have been seriously injured in a house set on fire by Molotov cocktails, etc.

99. Taking advantage of the financial crisis, extremist groups capitalise on fears deriving from the equation made between Roma and criminals, choosing a scapegoat that presents an easy target, as the Roma are among the most vulnerable groups of all.

100. The inflammatory views expressed by such extremists in several member states have led to aggressive manifestations of hostility, posing a genuine threat to members of the Roma community. One cannot tolerate that criminal acts committed by certain individuals are used to discredit the Roma community as a whole.

101. The excessively passive stance of the authorities and the tacit consent of part of the population when faced with this intolerable situation are reminiscent of the darkest hours in Europe's history. The Council of Europe was born out of a categorical desire to prevent those dark hours from repeating themselves. Ever since, the European Court of Human Rights has regularly condemned states in which Roma have suffered from abuse or discrimination.

102. Member states must shoulder their responsibilities and do everything they can to extinguish this dangerous flare-up of anti-Gypsyism as promptly as possible.

103. So far, a lot has been undertaken at different levels to improve the situation of Roma. However, these actions remain merely on paper since, at this stage, the results of positive measures are still unclear, because there are no indicators of their efficacy. Too much theory without practical evaluation tends to make one lose touch with reality.

104. Effective and sustainable access to education and proper housing are the first necessary steps to be undertaken to break the vicious circle of discrimination in which most of the Roma are locked.

105. Furthermore, the representation of Roma in state institutions, as well as their active and co-ordinated participation in the decision-making process, are also key elements in the defence and in the implementation of their rights, and for the successful integration of their community. We should all urge the Roma community to be as active as possible.

106. Reserved seats in parliament are a helpful measure. Positive measures are one part of the answer to get rid of discrimination. There are positive instances where local authorities are taking an active role, but far too few. Local and regional authorities have a key role to play.

107. The current situation of Roma in Europe gives rise to great concern, not least because of the enormous gulf between the situation of the Roma and that of most other minorities. It is always hard to break out of poverty, and harder still when one suffers discrimination.

108. The member states, the Council of Europe and the Roma themselves still have a long way to go before the situation of the Roma is improved sustainably. The draft resolution and the draft recommendation are drawn from both the present explanatory memorandum and the introductory memorandum of 3 September 2008.⁵³

53. http://assembly.coe.int/CommitteeDocs/2008/20080903_ajdoc29_2008rev.pdf.

Reporting committee: Committee on Legal Affairs and Human Rights

Reference to committee: [Doc. 11206](#) and Reference 3340 of 20 April 2007

Draft resolution and draft recommendation adopted by the committee on 26 January 2010, respectively with five votes against and two abstentions and unanimously

Members of the committee: Mr Christos **Pourgourides** (Chairperson), Mr Christopher **Chope**, Mr Christoph **Strässer**, Mr Serhiy **Holovaty** (Vice-Chairpersons), Ms Marieluise Beck, Ms Marie-Louise **Bemelmans-Videc**, Mr Petru Călian, Mr Erol Aslan **Cebeci**, Ms Ingrida **Circene**, Ms Ann Clwyd (alternate: Mr John **Prescott**), Mr Agustín **Conde Bajén**, Mr Telmo Correia, Mr Joe Costello, Mr Arcadio **Díaz Tejera**, Ms Lydie Err, Mr Renato Farina, Mr Valeriy **Fedorov**, Mr Joseph Fenech Adami, Ms Mirjana **Ferić-Vac**, Mr György **Frunda**, Mr Jean-Charles **Gardetto**, Mr József Gedei, Ms Svetlana Goryacheva, Mr Neven Gosović, Ms Carina **Hägg**, Mr Holger Haibach (alternate: Ms Anette **Hübinger**), Ms Gultakin **Hajibayli**, Mr Johannes **Hübner**, Mr Michel **Hunault**, Mr Rafael Huseynov, Mr Shpetim Idrizi, Mr Aliosman **Imamov**, Mr Želiko Ivanji, Ms Kateřina **Jacques**, Mr Mogens Jensen, Mr András **Kelemen**, Ms Kateřina **Konečná**, Mr Franz Eduard **Kühnel**, Ms Darja Lavtižar-Bebler, Mr Pietro Marcenaro, Ms Milica Marković, Mr Dick Marty, Ms Ermira Mehmeti Devaja, Ms Chiora Taktakishvili (alternate: Mr Akaki **Minashvili**), Mr Philippe Monfils, Mr Felix **Müri**, Mr Philippe Nachbar (alternate: Mr Yves **Pozzo di Borgo**), Mr Adrian Năstase, Ms Anna **Ntalara**, Ms Steinunn Valdís Óskarsdóttir, Mr Valery Parfenov, Mr Peter Pelegrini (alternate: Mr József **Berényi**), Ms Marietta **de Pourbaix-Lundin**, Mr Valeriy Pysarenko, Mr Janusz Rachoń, Ms Mailis Reps (alternate: Mr Aleksei **Lotman**), Ms Marie-Line Reynaud, Mr François Rochebloine, Mr Paul **Rowen**, Mr Armen Rustamyan, Mr Kimmo **Sasi**, Ms Marina **Schuster**, Mr Yanaki **Stoilov**, Mr Fiorenzo **Stolfi**, Lord John **Tomlinson**, Mr Tuğrul **Türkeş**, Ms Özlem **Türköne**, Mr Viktor Tykhonov (alternate: Mr Ivan **Popescu**), Mr Øyvind **Vaksdal**, Mr Giuseppe Valentino, Mr Hugo Vandenberghe, Mr Egidijus **Vareikis**, Mr Miltiadis **Varvitsiotis**, Mr Luigi **Vitali**, Mr Klaas **de Vries**, Ms Nataša **Vučković**, Mr Dimitry **Vyatkin**, Mr Marek Wikiński, Ms Renate Wohlwend, Mr Jordi **Xuclà i Costa**

NB: The names of the members who took part in the meeting are printed in **bold**

Secretariat of the committee: Mr Drzemczewski, Mr Schirmer, Ms Szklanna, Ms Heurtin