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## Roma migrants in Europe

### Report<sup>1</sup>

Committee on Migration, Refugees and Displaced Persons

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### Summary

The perception of Roma is guided by myths and misconceptions. Being a Roma and being a migrant commonly means for the wider public being a nomad and an irregular migrant. This is how Roma migrants are perceived.

The report deconstructs these prejudices by describing the reality: in Europe, less than 20% of Roma are nomadic; Roma have been part of European society for over seven hundred years and most Roma have the citizenship of their country of residence; the large majority of Roma who migrate have the right to do so.

The report deals with the reality faced by Roma migrants. They have to face a double discrimination, first for being Roma, then for being migrants. It focuses on several issues of concern to the Committee on Migration, Refugees and Displaced Persons, such as the recent expulsion policies in Council of Europe member States, the number of stateless Roma across Europe and the discrimination of Roma migrants in access to education, health care, employment and housing.

The committee concludes by proposing specific recommendations to be addressed to the Committee of Ministers to tackle these issues.

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1. Reference to committee: Reference 3722 of 8 October 2010.



**Contents**

**Page**

A. Draft recommendation .....	3
B. Explanatory memorandum by Ms Groth, rapporteur .....	5
1. Introduction .....	5
2. Exploding the myths and prejudices .....	5
2.1. Prejudice No. 1: Roma are all nomads .....	5
2.2. Prejudice No. 2: All Roma are from abroad .....	6
2.3. Prejudice No. 3: All Roma migration is illegal .....	7
3. Politicians, media and “security discourse” .....	8
4. The particular situation of Roma migrants in Europe .....	8
4.1. Discrimination issues .....	8
4.2. Statelessness .....	10
4.3. Examination of recent expulsion policies in member States .....	10
4.4. The European Union and Roma from the western Balkans .....	12
5. Conclusions .....	12

## A. Draft recommendation<sup>2</sup>

1. The Parliamentary Assembly is concerned that the Roma are amongst the most disadvantaged, discriminated, persecuted and victimised groups in Europe. This situation continues and even gets worse, as is noted in much research and highlighted by the Assembly in its [Resolution 1740 \(2010\)](#) on the situation of Roma in Europe and relevant activities of the Council of Europe, and in the Declaration on the rise of anti-Gypsyism and racist violence against Roma in Europe, adopted by the Committee of Ministers on 1 February 2012. The combination of being a Roma and a migrant takes disadvantage and discrimination to an even higher level as a result of this double stigmatisation.
2. This double stigmatisation can be heard and seen in public discussions, media reports and political discussion on Roma in Europe. It is based principally on three deep-rooted prejudices, namely: all Roma are nomads; they all come from abroad; and their migration is illegal.
3. As regards Roma being nomads, the reality is that in Europe less than 20% of Roma are nomadic. As regards Roma being from abroad, it can be noted that they have been part of European society for around 700 years and the large majority are citizens of their country of residence. Finally, as regards Roma migration being illegal, it is clear that most Roma migrate in the framework of their right to free movement under European Union law.
4. These prejudices, combined with the widespread tendency to make a generalised link between Roma and criminality, have contributed greatly to the plight of Roma in Europe. As a consequence, the Assembly would like to draw the attention of the Committee of Ministers to a number of issues which merit further attention, not only by member States but also by the Council of Europe:
  - 4.1. the overall negative depiction of Roma spread by certain media and politicians;
  - 4.2. the double discrimination Roma migrants face when it comes to access to education, health care, employment and housing;
  - 4.3. the recent, and ongoing, aggressive expulsion policies focused on Roma migrants in several Council of Europe member States, which may amount to *de facto* collective expulsions;
  - 4.4. the ongoing forced returns of Roma to Kosovo,<sup>3</sup> notwithstanding the recommendation of the Council of Europe Commissioner for Human Rights and the Assembly not to do so until the returns can be shown to be safe and sustainable;
  - 4.5. the precarious situation of stateless Roma in Council of Europe member States, mainly in eastern Europe, resulting from the break-up of the Soviet Union, Yugoslavia and Czechoslovakia, but also in western Europe, for instance in Italy or the Netherlands;
  - 4.6. the criminalisation of begging in certain Council of Europe member States and its impact on Roma, taking into account human rights and other concerns linked primarily to the European Convention of Human Rights (ETS No. 5), the revised European Social Charter (ETS No. 163) and other standards.
5. The Assembly therefore recommends that the Committee of Ministers instruct the relevant Council of Europe committees and bodies, such as the Ad hoc Committee of Experts on Roma Issues (CAHROM), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the European Committee on Crime Problems (CDPC), the Migration Coordination Division and the Steering Committee on Media and Information Society (CDMSI) to:
  - 5.1. analyse legislation and practices in member States aimed at criminalising begging and evaluate the impact of this on Roma and the implications under the European Convention on Human Rights, the revised European Social Charter and other Council of Europe standards;
  - 5.2. carry out an in-depth analysis, based on human rights standards, of the various measures taken by Council of Europe member States and the European Commission to stop asylum seekers from Western Balkan countries applying for asylum in EU countries;

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2. Draft recommendation adopted unanimously by the committee on 1 June 2012.

3. Any reference to Kosovo in this text, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council [Resolution 1244](#) and without prejudice to the status of Kosovo.

- 5.3. pay particular attention to establishing whether the Roma community is affected by and/or involved in trafficking in human beings, and examine whether the standards and measures contained in the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) are effectively implemented as regards Roma and whether any further specific measures are necessary, including action by the Council of Europe;
- 5.4. consider ways and means of addressing the problem of negative stereotyping and stigmatisation of Roma in the media and in political speech, with due respect for freedom of expression and freedom of the media.
6. Furthermore, the Assembly asks the Committee of Ministers to:
  - 6.1. urge member States to stop actions which amount to the collective expulsion of Roma and to reconsider their forced return policies of Roma to Kosovo, suspending forced returns until they can be shown to be safe and sustainable.
  - 6.2. ask member States to ensure that the special needs of Roma migrants are addressed when developing and implementing national strategies or policies that foster the social inclusion of the Roma;
  - 6.3. ask member States to take the necessary steps to naturalise stateless Roma and to sign, ratify and implement the Council of Europe Conventions on Nationality (ETS No. 166) and on Avoidance of Statelessness in relation to State Succession (CETS No. 200), as well as the United Nations 1954 Convention relating to the status of stateless persons and the 1961 Convention on the Reduction of Statelessness.
7. Finally, the Assembly informs the Committee of Ministers that it has decided to support the Dosta! campaign devised by the Council of Europe ("Go beyond prejudice, meet the Roma!") by providing its members with relevant

## B. Explanatory memorandum by Ms Groth, rapporteur

### 1. Introduction

1. Roma<sup>4</sup> migrants face difficult times: the discrimination and racism that they have always had to cope with continues and even increases. The report of the Eminent Persons<sup>5</sup> rightly claims that one of the main threats to social cohesion in Europe is the rising intolerance against migrants and others perceived as outsiders. Roma are mentioned as a salient example.

2. On the one hand, Roma are notoriously discriminated against, persecuted and victims of violence in Council of Europe member States.<sup>6</sup> On the other, migrants receive a great deal of negative publicity from politicians, decision makers and the media. As a consequence, Roma migrants are doubly stigmatised. As such, they deserve our specific attention.

3. Public debates and media reports on Roma are regularly based on a misconception of Roma migration, where all Roma are frequently depicted as illegal migrants and criminals; they are also often depicted as travellers, whereas the majority are sedentary. Roma migrants, who are often the target of public mistrust, have recently been forcibly expelled from several member States.

### 2. Exploding the myths and prejudices

4. An important obstacle in the struggle to improve the situation of Roma migrants in Europe is what seems to be deep-rooted and widespread prejudice among the European population vis-à-vis Roma.

#### 2.1. Prejudice No. 1: Roma are all nomads

5. When people think or speak about Roma, a perceived non-sedentary lifestyle is probably the first thing that springs to mind. It is true that this image might not always necessarily be negative, but it is certainly one which may be incorrect.

6. Only between 5% and 20% of Roma are nomads. According to available statistics, partly due to the disappearance of traditional trade and as a result of past programmes, carried out by the authorities in particular in eastern Europe to make Roma sedentary, today only an estimated 20% of the 10-12 million Roma in Europe lead an itinerant or semi-itinerant life<sup>7</sup> (for example, during the summer). Other sources claim that a mere 5% of Roma are non-sedentary.<sup>8</sup> Roma communities with nomadic traditions are still present in some member States, particularly in France, in the Benelux countries, and to a lesser extent in Greece, Italy, Norway and Romania. Specific nomadic communities who often share the same living conditions and discrimination patterns, such as Yenish in Switzerland and Travellers in Ireland and the United Kingdom, are also in the process of sedentarisation (up to 80% of Irish Travellers and Swiss Yenish are sedentarised). It is also important to add that not all nomads are Roma, as is for instance the case of the French "*Gens du voyage*", which is an administrative term used since the 1970s to refer both to Roma and other non-Roma groups with a nomadic way of life.<sup>9</sup> Some of these people or groups cross borders during seasonal travel, but also travel within their respective countries.

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4. The terms "Roma" and "Travellers" are defined as follows in the appendix to Committee of Ministers Recommendation CM/Rec(2008)5 on policies for Roma and/or Travellers in Europe: "[t]he term 'Roma' used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as 'Gypsies'".

5. Report on "Living together: combining diversity and freedom in 21st-century Europe", 2011, [www.coe.int/t/dc/files/source/20110511\\_Report\\_GEP\\_en.doc](http://www.coe.int/t/dc/files/source/20110511_Report_GEP_en.doc).

6. See, *inter alia*, Assembly reports on "The situation of Roma in Europe and relevant activities of the Council of Europe" (Doc. 12174), "Roma asylum seekers in Europe" (Doc. 12393) and "Recent rise in national security discourse in Europe: the case of Roma" (Doc. 12386). See also the Declaration of the Committee of Ministers on the Rise of Anti-Gypsyism and Racist Violence against Roma in Europe adopted on 1 February 2012; the 2008 study on recent migration of Roma in Europe published by the Council of Europe Commissioner for Human Rights and the OSCE High Commissioner on National Minorities (hereinafter "Migration of Roma in Europe") and the report of the EU Fundamental Rights Agency on "The situation of Roma EU citizens moving to and settling in other EU member States".

7. See the Council of Europe Dosta! campaign, "Is this a stereotype? A tool for fighting stereotypes towards Roma".

8. European Roma Rights Centre, "Breaking the silence", 2011, page 9 with references.

9. See Council of Europe descriptive glossary of terms relating to Roma issues, [www.coe.int/portal/c/document\\_library/get\\_file?uuid=05511d8d-1dc9-4ce4-b36a-89fb37da5ff4&groupId=10227](http://www.coe.int/portal/c/document_library/get_file?uuid=05511d8d-1dc9-4ce4-b36a-89fb37da5ff4&groupId=10227).

7. The figures speak for themselves; the vast majority of Roma are not nomads. The travelling lifestyle of those who still are merits protection as a human right, as clearly stated by the European Court of Human Rights.<sup>10</sup>

**Why do a minority of Roma still travel?** The Roma who still travel, be it within the borders of their country or across borders, do so for at least one or several of the following four reasons: (1) to seek new life possibilities due to direct or indirect exclusion from the labour market, (2) to escape violence or the threat of violence, (3) to follow markets, agricultural seasons or to trade their merchandise, and (4) in order to keep contact with family that may, for the reasons given earlier, be spread out across Europe.

Some of these reasons are down to lifestyle choices, but others, in particular when talking about the migration of otherwise sedentary Roma, are caused by both “pull factors” similar to those affecting all migrants (job opportunities, perceived higher standard of living, etc.) but also “push factors” which are particular to the Roma. Recent, but in no way new, examples are the eviction of the Dale Farm inhabitants in the United Kingdom in 2011, the expulsion of Roma and *Gens du voyage* in France in the summer of 2010, the burning of Roma camps in Italy in Ponticelli, Naples, the violence against Roma in central Europe, in particular during late 2011 in Bulgaria, as reported, *inter alia*, by the European Roma Rights Centre, as well as the desolate economic situation for certain Roma in Romania, Bulgaria and Kosovo, paired with general discrimination and threats of violence.

## 2.2. Prejudice No. 2: All Roma are from abroad

8. We need to be clear: Roma have been part of European society for about seven hundred years. An overwhelming majority of Roma are citizens of the country in which they live. The fact that Roma may be perceived as foreigners is indicative of the widespread misunderstanding and prejudice that they are confronted with.

9. Every year, at least one country or another seems to be in the spotlight with regard to reactions against Roma migrants, whether this is by State authorities, individual politicians, the population as a whole or a combination of the above. The media is quick to sell the stories and it is not surprising that Roma are often perceived as foreigners by people who rarely come across them other than in migration-related headlines.

10. It is nearly impossible to obtain reliable statistical data on Roma migration, although some countries do provide estimates. In Austria, it is estimated that five sixths of the estimated 20 000 to 30 000 Roma are migrants, in Germany and Italy, up to 50% of the estimated 120 000 to 160 000 Roma are thought to be migrants. These countries are, however, the countries with the largest foreign-born or foreign-descendent Roma communities, percentage wise. But these are exceptions. Furthermore, one has to bear in mind that the representation of Roma in the population of these countries as a whole is small (0.3% in Austria, 0.12% in Germany and 0.23% in Italy).<sup>11</sup> In some countries, and in particular those where they represent a high percentage of the population, such as Bulgaria (over 10%) or Romania (over 8%), the large majority of Roma are citizens of their country of residence.

**Recent Roma migration:** A large number fled the wars in former Yugoslavia in the 90s, Kosovo in 1999 and 2004, and then in 2004, when 10 countries in central and eastern Europe became members of the European Union, many Roma moved west in search of a better life. They did this in the same way as many non-Roma from eastern Europe moved west in search of new opportunities. With the accession in 2007 of Romania and Bulgaria to the European Union, many Roma left these two countries. They went predominantly to countries where Roman languages are spoken, notably France, Italy and Spain. Russia is also a country of destination for Roma migration. Some countries are countries of departure, as well as arrival, for example the Czech Republic, from where many Roma migrate to the United Kingdom at the same time as being a country of destination for Roma from the neighbouring Slovak Republic and from Romania.

**Asylum:** The UNHCR reports that for the first half of 2011, Serbia was the third largest source of asylum seekers, with 10 300 applications lodged by Serbs during the first half of 2011. France, Germany and Belgium together accounted for two thirds of all asylum applications received from citizens of Serbia. Most of these asylum seekers are likely to be Roma. In 2008-10, numerous Roma left the Slovak Republic, the Czech Republic and Hungary as a result of violence against the Roma population. Due to the design of EU rules relating to asylum, Roma fleeing violence in an EU member State have not been granted refugee status in other EU member States and have therefore opted to go further, to Canada, where they have been granted asylum in large numbers.

10. See *Connors v. the United Kingdom*, Application No. 66746/01, judgment of 27 May 2004, paragraphs 83-84.

11. “Migration of Roma in Europe”, p. 37.

### 2.3. Prejudice No. 3: All Roma migration is illegal

11. Public discourse and media reporting tend to make a generalised link between Roma and criminality, similar to the link often made between migrants and criminality. Most of the Roma migrants migrate in the framework of their right to free movement under EU law. Some of them are undocumented because they are stateless (see below).

12. Criminalisation of migration: there is no such thing as a legal or illegal migrant. Non-authorised residence, even when the person concerned refuses to abide by an expulsion order, should not in itself be considered a criminal act.<sup>12</sup>

13. The Council of Europe Commissioner for Human Rights has drawn attention to the tendency in Europe of criminalising irregular migration. In his 2008 viewpoint on criminalisation of migration, the Commissioner stated that “such a method of controlling international movement corrodes established international law principles; it also causes many human tragedies without achieving its purpose of genuine control”. For Roma migrants there is a stacking of criminal stereotypes: the first because they are migrants and the second because they are Roma.

14. In a 2010 issue paper on the criminalisation of migration in Europe,<sup>13</sup> the Commissioner points to a number of negative consequences, not only for the individuals concerned, but for groups of immigrants as a whole. As the Commissioner said, “[a]ll immigrants become tainted by suspicion” and likewise all Roma whether migrants or not become tainted in this way.

**Begging:** the general public have a tendency to link Roma migrants to begging. The issue of begging in general is highly sensitive and raises social, political and moral issues.

If begging is sanctioned, the enforcement of the rules must be in accordance with the rule of law and international human rights obligations. It is important to have legal safeguards, and these safeguards need to be appropriate for people who have few means for defending their rights. There are examples of problems with the implementation of anti-begging legislation and the way it has allegedly been applied to Roma in certain countries, including for instance in Switzerland, Luxembourg and Austria.

The European Parliament and European Union Council Directive 2004/38/EC on freedom of movement, as interpreted by the Court of Justice of the European Union, does not consider begging as a sufficient ground for expelling an individual. However, when exceeding the three-months period during which an EU citizen has the right to remain in another EU member State, the person in question must show that he or she has sufficient resources not to become dependent on the social safety net of the host country. So begging might be seen as proof of a lack of sufficient resources, thereby justifying expulsion.

(Sources: *Le Matin*, 6 November 2008, and *TSR Info*, 21 May 2008; Chachipe, [www.worx.lu/id\\_article/5039](http://www.worx.lu/id_article/5039) and *Der Standard*, 18 October 2011.)

**Trafficking:** A 2011 report of the European Roma Rights Centre and the NGO People in Need, “Breaking the silence”, claims that expulsion policies with regard to Roma migrants are contrary to the goal of preventing and reducing trafficking and instead increase the vulnerability of Roma to such practices. Trafficking in human beings does not explain Roma migration, which is due largely to structural poverty, marginalisation and discrimination. The report reveals that trafficking of Roma is indeed a concern, but that there is a near total absence of data and effective policy to prevent trafficking in Roma communities.

Due to their exposed situation in terms of exclusion, discrimination and poverty, Roma are disproportionately affected by trafficking. Research in 2010 indicated that Roma represent 50%-80% of trafficked persons in Bulgaria, up to 70% in parts of the Czech Republic, at least 40% in Hungary, around 50% in Romania and at least 60% in the Slovak Republic. Some 68% of the Roma trafficked persons interviewed in the research had been trafficked to another EU country, while 32% had been trafficked to another location within their own country. Some 20% of the trafficked persons interviewed were minors at the time they were trafficked.

Roma are trafficked for various purposes, including sexual exploitation, labour exploitation, domestic servitude, organ trafficking, illegal adoption and begging. Roma women and children were the most represented regardless of the purpose of trafficking. The vulnerability factors identified in the study are closely linked to those commonly associated with non-Roma trafficked persons, which, according to the report, shows that there is no unique “Roma vulnerability factor”, and no indication that trafficking is a “cultural practice” among Roma.

The Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) is looking at the extent to which Roma communities are affected by trafficking in human beings in the course of its evaluations on a country-by-country basis (see for instance GRETA’s report on Bulgaria (GRETA(2011)19).

12. See Assembly [Resolution 1509 \(2006\)](#).

13. “Criminalisation of migration in Europe: human rights implications”, issue paper commissioned and published by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, 4 February 2010, see also “Human rights of Roma and Travellers in Europe”, Council of Europe Commissioner for Human Rights, February 2012.

### 3. Politicians, media and “security discourse”

15. When speaking about prejudices, let me stress that the role of politicians and of the media<sup>14</sup> is decisive when it comes to improving the public perception of Roma and Roma migrants. A correct knowledge and understanding of the facts are crucial to combat prejudice against Roma in general and Roma migrants in particular. Too often in Council of Europe member States, public statements or media reporting use a dangerous rhetoric and make a generalising link between Roma, migrants and criminality, thereby deepening already existing misconceptions, stereotypes and prejudice about Roma migrants.

16. In 2010, the Assembly adopted [Resolution 1760 \(2010\)](#) on the recent rise in national security discourse in Europe: the case of Roma.<sup>15</sup> The report stresses the importance of making clear distinctions in the political discourse between individuals who have committed crimes and entire groups of people, such as Roma or any other minority or migrant group. The report cites examples of statements made by political figures in Denmark, Italy and Sweden with regard to migrant Roma as a security threat. The place of Roma in the security discourse is also clearly illustrated by statements made by French politicians in connection with the 2010 expulsions from France and a number of statements by Italian officials over recent years.<sup>16</sup>

17. The European Committee against Racism and Intolerance (ECRI) is particularly concerned about the issue, and in its General Policy [Recommendation No. 13](#) on combating anti-Gypsyism and discrimination against Roma has recommended that the governments of member States combat, *inter alia*, anti-Gypsyism expressed in the media. The Committee of Ministers' 2012 Declaration on the Rise of Anti-Gypsyism and Racist Violence against Roma in Europe expresses “deep concern about the rise of anti-Gypsyism, anti-Roma rhetoric and violent attacks against Roma”.<sup>17</sup>

### 4. The particular situation of Roma migrants in Europe

18. I have decided to focus on four issues of particular concern: specific discrimination towards Roma migrants, the disproportionate number of stateless Roma, the recent expulsion policies of Roma migrants in certain Council of Europe member States and Roma migration from the Western Balkans into the European Union following visa liberalisations.

19. For the sake of keeping this memorandum concise, I have chosen not to describe the international legal framework for Roma migration; this was already done extensively in the aforementioned study on “Recent migration of Roma in Europe” published by the Council of Europe Commissioner for Human Rights and the OSCE High Commissioner on National Minorities.

#### 4.1. Discrimination issues

20. Roma in general and Roma migrants in particular are victims of direct and indirect racial discrimination in all social dimensions, including access to education, health care, employment and housing. To begin with, there are examples of disguised discrimination against Roma who were in the process of migrating and were prevented from entering a European country.<sup>18</sup> Furthermore, Roma from a certain country may be given protection as a national minority, whereas Roma who live in the same country as migrants or as stateless persons might not profit from the same protection.

21. Education: as emphasised in many studies, not least in the recent report of the Assembly on the situation of Roma in Europe, Roma are outrageously discriminated against when it comes to access to school. In several Council of Europe member States, Roma children 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 attend school at all”.<sup>19</sup> This quote from the Assembly report shows the gravity of the problem.

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14. “European media and anti-Gypsy stereotypes”, viewpoint of the Council of Europe Commissioner for Human Rights, published on 7 July 2011.

15. Assembly [Doc. 12386](#).

16. *Ibid.* and [Doc. 12714](#).

17. <https://wcd.coe.int/ViewDoc.jsp?id=1902151>.

18. The most prominent example is the case of Czech Roma wishing to migrate to the United Kingdom, but prevented by the UK authorities from doing so at the airport in Prague. This practice was later found to be discriminatory by the British courts. House of Lords, judgments – *Regina v. Immigration Officer at Prague Airport and another (Respondents) ex parte European Roma Rights Centre and others (Appellants)*, SESSION 2004-05, [2004] UKHL 55, on appeal from: [2003]EWCA Civ 666.

19. Assembly [Doc. 12174](#).

22. However, many Roma migrate with the hope of better access to education for their children. However, their hopes are not always fulfilled. Even if instruction is free and compulsory at least for children up to 16 years of age in most of the countries of destination, Roma children's school attendance remains low. According to information obtained from Médecins du Monde, many Roma drop out of school quickly, either because of expulsion or because of instability of housing and the need to keep moving. Other problems hindering access to education include the number of documents required to enrol a child at school, costs of schooling (canteen, transport, supplies) and the language barrier. In the case of France, Médecins du Monde underlines that the number of Roma migrants enrolled in primary schools is increasing, but that the situation remains problematic with regard to secondary school and even more problematic in general for Roma girls.

23. The situation of Roma who have emigrated to another country and consequently return to their country of origin, for example after having been expelled, deserves specific consideration. Access to education seems to be even more difficult than prior to departure with problems in providing documentation proving school attendance.

24. Health care: the situation differs depending on the status of the Roma migrant. If he or she is an irregular migrant or without papers, in general emergency health care will be available. Some countries go further in providing forms of secondary health care, but even in these countries the practical barriers of claiming the health care are often so great that the right is largely illusory. These barriers include lack of familiarity with the health care system, discrimination by private doctors, lack of documentation, fear of being brought to the attention of the authorities, including the police, location of hospitals and health clinics, etc.

25. The vaccination coverage of Roma migrants also raises concern, both for Roma and for society at large. Often, immunisation records are poor, if they exist at all, and efforts should be undertaken to ensure that information on past vaccinations is available. Finally, it should be mentioned that while EU Roma migrants migrating to another EU country should be covered by the European Health Insurance Card, many are not, due to their lack of health insurance in their country of origin.

26. Employment: the study on migration of Roma in Europe notes that "many Roma who have moved from one EU Member State to another and successfully established themselves have done so through self-employment or service provision or in places where there is a higher degree of general tolerance for employment in the grey economy". However, in some countries, such as France, transitional measures restrict access to the labour market for nationals from Romania or Bulgaria. In many countries, Roma migrants end up working illegally in such areas as recycling, garbage collection, construction, metal collection, seasonal jobs (mainly in agriculture), cleaning and as street musicians, or begging.

27. Housing: the poor housing conditions of Roma and Roma migrants have been widely described, both in the media and in institutional reports. In Italy, France, Greece and elsewhere, Roma migrants mainly live in camps, sometimes authorised, mostly tolerated or illegal. These camps do not always have the necessary infrastructure both in terms of hygiene and security. Some Roma are able to live in rented accommodation, this is particularly the case in the United Kingdom.

28. According to information provided to me by Médecins du Monde, in France there is no national policy concerning housing for Roma migrants. Roma migrants can, in principle, reside in the specific areas designed to welcome Roma and *Gens du voyage*. However, a strong competition between national Roma and Roma migrants is reported, and the migrants generally lose out. Instead, they stay at places often without access to water and electricity in deplorable hygiene conditions.<sup>20</sup> Some good practices are developed at local level (for example in Nantes where non-governmental organisations (NGOs) are working with institutions to help families find apartments). In the Netherlands, where the majority of Roma are reported to live in houses, there is a specific problem concerning stateless Roma. Since they are not entitled to social services, they cannot obtain housing and most of them stay with relatives or friends. The result is overcrowding and complaints by neighbours. The housing conditions of Roma migrants in Italy have been repeatedly denounced by the Commissioner for Human Rights as being of "unacceptably low standards" as well as "completely inadequate and a serious health hazard".<sup>21</sup>

29. The European Committee of Social Rights has found, *inter alia*, violations of Article 19 of the revised European Social Charter (the right of migrant workers and their families to protection and assistance) on the ground of segregation and poor living conditions in camps and stopping places.<sup>22</sup> In this context, Committee of Ministers Recommendation Rec(2005)4 on improving the housing conditions of Roma and Travellers in Europe is highly relevant.

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20. See also CommDH(2008)34, 20 November 2008.

21. CommDH(2011)26, 7 September 2011.

## 4.2. Statelessness

30. Not being recognised by any State as a citizen brings problems of discrimination, access to housing, education, medical care and employment. It exacerbates the problems faced by persons who are already likely to be socially vulnerable. It is of great concern to me that stateless Roma are often not officially recognised as such by the authorities of their country of residence (who rather claim that they are of “unknown nationality”) and are therefore deprived of the protection and rights of stateless people.

31. In Europe, there are an estimated 680 000 stateless people of whom an unknown number are Roma. For different reasons, Roma have sometimes inherited their statelessness down through the generations due to lack of birth registration. This might be a result of a lack of awareness of the importance of civil registration, combined with practical obstacles for registering births and the fact that Roma women might opt to give birth at home.<sup>23</sup>

32. The break-up of the Soviet Union, former Yugoslavia and Czechoslovakia also caused a number of people to become stateless. Civil society reports that, in Russia, which is home to between 450 000 and over 1 million Roma, after the collapse of the Soviet Union, Roma were denied the possibility to exchange their Soviet passports for Russian passports.<sup>24</sup> Roma in the Czech Republic, Slovenia and “the former Yugoslav Republic of Macedonia” became stateless due to the introduction of new rules concerning naturalisation, although new legislation has improved the situation. Statelessness for Roma in Bosnia and Herzegovina, Montenegro or Kosovo is due more to displacement and destruction or disappearance of registers than the effects of new legislation.

33. There are also many stateless Roma in western Europe. Many Roma who came to Italy from the former Yugoslavia still live in Italy today without Italian or any other citizenship. Their descendants, who have lived in Italy all their lives, number around 15 000, and are *de facto* stateless.<sup>25</sup> Furthermore, Médecins du Monde estimates that there are over a thousand stateless Roma in the Netherlands, whose children born in the Netherlands inherit their statelessness.<sup>26</sup>

34. Several international texts aim to reduce and prevent statelessness, including the Council of Europe Conventions on Nationality and on the Avoidance of Statelessness in relation to State Succession (ETS No. 200), as well as the United Nations 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

35. The Zagreb Declaration of 27 October 2011, adopted by the Conference on the Provision of Civil Status Documentation and Registration in South Eastern Europe, pointed to a few tangible actions that could be taken to tackle statelessness, including co-ordinated activities between authorities and civil society, use of mobile teams for outreach and registration, awareness campaigns on the need for registration at birth, and explanation of procedures for those most concerned. At the end of the day, solving the issue of statelessness will be largely down to political will with the decision to facilitate the naturalisation of stateless persons.

## 4.3. Examination of recent expulsion policies in member States

36. Roma have always been moved on or pushed away over the centuries, but in recent years mobility has increased and the implementation of forced returns has been tightened. The following list of situations is not exhaustive but provides some examples of expulsion policies vis-à-vis Roma migrants in a few Council of Europe member States. The European Committee of Social Rights has on several occasions found a violation of the provisions of the revised European Social Charter on the grounds of *de facto* collective expulsions of Roma and Traveller migrants.

### 4.3.1. France

37. In summer 2010, events took place in France that drew international attention to the expulsion policies affecting Roma migrants.<sup>27</sup> French authorities had, however, already begun to repatriate Romanians and Bulgarians who were widely assumed to be Roma. In 2008, 9 178 Romanians (around 90%) and Bulgarians were expelled from France. Some 11 000 Romanians and Bulgarians were removed from France in 2009

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22. [www.coe.int/t/dghl/monitoring/socialcharter/theme%20factsheets/RomaRightsFactsheet\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/theme%20factsheets/RomaRightsFactsheet_en.pdf).

23. See the 2003 study “Breaking the barriers – Romani women and access to public health care”, published by the Council of Europe and the European Monitoring Centre on Racism and Xenophobia.

24. Refugee International, “Nationality rights for all. A progress report and global survey on statelessness”, 2009, p. 48.

25. <https://wcd.coe.int/ViewDoc.jsp?id=1826921>.

26. Médecins du Monde, “Statelessness drives to desperation – The situation of stateless Roma in the Netherlands”.

(while in the same period a total of 580 citizens were removed from all the other EU countries combined). In 2010, 13 241 Romanians or Bulgarians were expelled from France. There are no official statistics but evidence suggests that the vast majority of Romanians and Bulgarians removed from France were Roma.

38. In April 2011, the French Council of State ruled that an August 2010 circular had unlawfully discriminated against Roma, because “the objective ... of protecting the right to property and preventing threats to public health, security and tranquillity did not authorise [the interior minister] to implement ... a policy of evictions of illegal camps designating especially some of their occupants by virtue of their ethnic origins”.<sup>28</sup>

39. In July 2011, Human Rights Watch concluded that the French expulsion programme had continued without interruption since autumn 2010, with a further 4 700 expulsions in the first three months of 2011.<sup>29</sup> In June 2011, new legislation was adopted to facilitate expulsions, including for repeated short-term stays in France, and with regard to begging and land occupation.<sup>30</sup>

40. When proceeding to return migrants from Romania and Bulgaria, French authorities have also been applying a policy referred to as “humanitarian returns”, which aim to speed up expulsions. Under these returns, a person agrees to leave the country in return for compensation of €300 for an adult and €100 for a child. A great majority of the Bulgarian and Romanian Roma – 84% of those returned during 2010 – opted for this solution which has been criticised as a means of circumventing legal protection mechanisms. In 2008, 10 191 EU citizens left France under this regime, 9 178 of whom were Romanians (around 90%) and Bulgarians (around 10%). The downside of “humanitarian returns” for the French authorities is that, relying on EU law, the deportees can come back, theoretically the very same day that they are deported.

41. According to the Commissioner for Human Rights, repatriation operations have sometimes included intimidation, improper police operations, forced evictions and confiscation of identity papers until returnees have reached their country of origin.<sup>31</sup>

42. French courts have overruled several cases of expulsion. For example, on 27 August 2010, the Administrative Court of Lille quashed a decision concerning the expulsion of a Romanian.<sup>32</sup> The practice has, however, varied considerably between different courts in France,<sup>33</sup> and it should be said that the vulnerability of those concerned and the lack of safeguards mean that few cases are likely to reach the courts.

#### 4.3.2. Italy

43. There are approximately 150 000 Roma and Sinti living in Italy, half of whom are Italian citizens. It is estimated that 20%-25% are from other EU States (primarily Romania), with the rest being from non-EU States, or persons who are stateless (mostly from the former Yugoslavia).

44. As of the end of December 2007, it had been reported that more than 1 000 people had been expelled from Italy and at least 1 000 Roma homes in Rome alone had been destroyed and the inhabitants evicted. A number of legislative acts have since been adopted to facilitate expulsions, including of EU nationals, and appear to be aimed particularly at Roma from Romania.

45. The European Committee of Social Rights has expressed particular concerns about these expulsions finding that “the contested ‘security measures’ are evidenced by the fact that the so-called ‘emergenza roma’ offers a collective basis to proceed in identical abstract terms to these collective expulsions”.<sup>34</sup> The committee held that the situation of expulsion of Roma was in breach of the revised European Social Charter. On 16 November 2011, the Council of State annulled the 2008 Decree “emergenza roma” and all acts and decisions done in virtue of that decree.

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27. For a detailed description and analysis of the events and the political discourse that followed, see Carl Ekström, “Dog days for Roma and *Gens du voyage* in France”, *Romani E Journal*, January 2011. See also Human Rights Watch, “France: one year on, new abuses against Roma”, published on the website of Human Rights Watch on 28 September 2011.

28. Council of State press release, “Campements illicites de Roms”, 7 April 2011.

29. Human Rights Watch briefing paper to the EU Commission of July 2011 entitled “France’s compliance with the European Free Movement Directive and the removal of ethnic Roma EU citizens”.

30. Law No. 2011-672 on Immigration, Integration and Nationality, enacted on 17 June 2011.

31. CommDH(2008)34, 20 November 2008, paragraph 149.

32. The Lille court’s grounds were that the circumstances invoked, the irregularity of the camp, could not as such be seen as a threat to public order since they did not threaten any fundamental interest of society; Decision No. 1005246 delivered by the Administrative Court of Lille on 27 August 2010.

33. Human Rights Watch briefing paper to the European Commission of July 2011, op. cit.

34. [www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC58Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC58Merits_en.pdf), paragraph 157.

#### 4.3.3. Germany

46. In its report on Roma asylum seekers in Europe, the Assembly drew attention to the plight of Roma asylum seekers from Kosovo, many of whom have been living in Germany since 1999 or 2004 with children born and raised in Germany. There are three main concerns regarding their forced repatriation to Kosovo: the uprooting of the children, the lack of prospects for returning Roma to Kosovo and the risk of being exposed to discrimination and violence by the majority population.

47. By mid-2009, almost 14 400 persons originating from Kosovo entered the category of those to be returned. Among them, about 9 800 Roma, 1 700 Ashkali and 173 Egyptians. At the end of 2009, the Commissioner for Human Rights called upon the German Chancellor to suspend all returns of Roma to Kosovo because of the lack of capacity for their reintegration in Kosovo and the difficulties they would face. However, returns, including forced returns, have been carried out since and continue. At the beginning of 2011, about 10 200 persons due to be returned to Kosovo still lived in Germany, including 7 000 Roma.

48. Experts claim that many of those returned are vulnerable people; they have lived in Germany for well over ten years, and have little or no perspective of reintegrating in Kosovo. Among them, many children were born in Germany and neither speak nor understand the languages spoken in Kosovo. Support projects (URA projects) have been put in place to accompany the reintegration of Roma in Kosovo. However, they are reported to be insufficient, time limited and inadequate, and do not provide long-term solutions.

49. In Germany, there are possibilities to allow Roma from Kosovo to legalise their stay under certain conditions under the so-called long-stayer regulation. These conditions will, however, often be difficult for many of the Roma from Kosovo to fulfil. Refugee and migration experts have welcomed the regulation but continue to recommend a more comprehensive solution for this issue.

#### 4.4. The European Union and Roma from the western Balkans

50. In December 2009, EU visa requirements for the entry of third-country nationals were eased with regard to the western Balkans. The result was an increase in the number of asylum applications from persons from this region. For example, in 2010, Sweden received 7 900 applications from persons coming from Serbia, while Germany and France received 6 500 and 5 800 asylum applications respectively. In 2011, the numbers were lower, but almost all decisions were negative.<sup>35</sup>

51. The European Union then introduced a “safeguard” in the visa liberalisation regime to allow for the reintroduction of visas in an emergency. Pressure was also exerted by the European Commission and member States on western Balkan countries to stop asylum seekers from making use of the visa waiver. This primarily affects persons of Roma origin, since they are the ones most likely to apply (unsuccessfully) for asylum in the European Union. In this respect, it should be noted that the European Union and its member States claim that most of the asylum seekers – 80% – are Roma.<sup>36</sup>

52. Further consequences have also been noted by the Council of Europe Commissioner for Human Rights and NGOs. In the first place, the exit controls of western Balkan countries are being conducted on the basis of ethnic profiling, primarily targeting persons of Roma origin. Secondly, western Balkan countries have introduced penalties on returned failed asylum seekers, including the temporary confiscation of their passports, and, thirdly, western Balkan countries have been asked by the European Commission to strengthen exit controls, including the verification of whether the exiting person complies with entry conditions under the Schengen Borders Code.

53. These different restrictions all raise human rights concerns, in particular as regards the right to leave a country and because of the way the restrictions lead to the profiling and effective targeting of Roma.

### 5. Conclusions

54. It is oversimplistic to portray the “Roma question” as an issue of immigration and public security. Roma migrants are caught in limbo: they are discriminated against in their countries of origin and the countries of destination do what they can to prevent them from arriving. Furthermore, political leaders in the countries of origin speak of Roma emigration as harmful to the country, but when Roma do leave, their countries are not necessarily very keen on them coming back.

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35. “Commission Staff Working Paper on post-visa liberalisation monitoring for the western Balkan countries in accordance with the Commission statement of 8 November 2010”, SEC(2011)695 final, pp. 22-24.

36. *Ibid.*, p. 15.

55. The challenge is to bring about a change in attitudes in the sense that Roma migrants should be perceived as what they are: ordinary people who are trying to get on with their lives, often under difficult conditions, and to get rid of the deep-rooted prejudice among the general population about Roma being nomadic, “from abroad” and having an irregular status.

56. On the whole, States have a justifiable interest in managing migration, and to see to it that the asylum system is not abused. “Migration management” must, however, take place in compliance with the relevant rules, which is currently not always the case.

57. Roma face discrimination across Europe. Sometimes this discrimination is such that it forces them to move to find a better life. Sometimes the discrimination and persecution is so great that they have no other choice than to seek asylum. In dealing with these Roma migrants and asylum seekers, we need to keep in mind their vulnerability and not focus on the prejudices and stereotyping that are all too prevalent.