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## **Institutional racism of law-enforcement authorities against Roma and Travellers**

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

Committee on Equality and Non-Discrimination

Rapporteur: Mr Jean-Pierre GRIN, Switzerland, Alliance of Liberals and Democrats for Europe

### *Summary*

Police brutality against Roma and Travellers, including inhuman and degrading treatment, torture, and excessive use of force and violence resulting in some cases in the victim's death, is still too common in Europe. Violence, ethnic profiling, harassment, marginalisation and provocation are part of daily life for too many Roma and Travellers and form part of their shared experience of law enforcement authorities.

In this report, Council of Europe member States are called to ensure that offences motivated by antigypsyism and anti-nomadism are covered by criminal law and that antidiscrimination legislation applies to law enforcement authorities. Effective remedies for victims of police violence and independent mechanisms with sufficient resources to effectively investigate complaints and punish offenders are needed. The composition of law enforcement authorities must reflect social diversity and their members must follow human rights training. Action of non-governmental organisations promoting the access of Roma and Travellers to justice must be supported.

Frameworks for dialogue and co-operation between law enforcement authorities and Roma and Travellers should be created, stereotypes and prejudice within the wider community overcome and the fight against antigypsyism and anti-nomadism strengthened by recognising these phenomena as forms of racism which must be sanctioned. National parliaments are invited to support the No Hate Parliamentary Alliance.

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1. Reference to committee: Doc. [15561](#), Reference 4667 of 10 October 2022.



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

1. Over the past several decades, the case law of the European Court of Human Rights as well as the monitoring work of the European Commission against Racism and Intolerance (ECRI) and of the Advisory Committee on the Framework Convention for the Protection of National Minorities (ETS No. 157) have brought to light serious breaches of human rights committed by members of the law enforcement authorities against Roma and Travellers throughout the member States of the Council of Europe.
2. Despite these repeated findings and the recommendations addressed to States to end the practices at issue and prevent similar cases from arising, police brutality is still too often committed against Roma and Travellers in Europe. It ranges from inhuman and degrading treatment to torture, from excessive use of force to violence resulting in some cases in the victim's death.
3. Violent raids and attacks against Roma villages and settlements and places where Travellers have halted continue to take place – sometimes committed by members of the law enforcement authorities themselves, sometimes by other members of the population without the law enforcement authorities intervening to protect the victims. Such violence, as well as ethnic profiling, harassment, marginalisation and provocation are part of daily life for too many Roma and Travellers on our continent and form part of their shared experience of law enforcement authorities.
4. Systematic stops of caravans and the criminalisation of begging or of the illegal occupation of land moreover punish persons who are already victims of discrimination and create conditions in which Roma and Travellers are brought into contact to a disproportionate degree with law enforcement authorities; at the same time, these measures increase their distrust of the authorities.
5. The Parliamentary Assembly deplores the fact that Roma and Travellers are thus very often subject to excessive surveillance, controls and even use of force by the members of law enforcement authorities, which violate their rights; yet the responses provided are often inadequate when these populations are victims of criminal offences, whether committed by public officials or by private individuals. All too often, when acts likely to constitute such offences are committed against Roma or Travellers, no effective investigation is carried out to help elucidate the facts, which is also a violation of their rights.
6. These human rights violations destroy the confidence of Roma and Travellers in law enforcement authorities, which should protect their safety and security as they do for all citizens. Discrimination in access to justice further worsens this situation and deprives the victims of abuse of adequate remedy.
7. This situation can be described as institutional racism, or systemic racism, of law enforcement authorities against Roma and Travellers. The Assembly underlines that these terms do not imply that every individual working within the institution in question is racist but refer to the discriminatory effects of the functioning of the institution as a whole, which are first and foremost the result of the policies and practices that it applies.
8. The Assembly deplores this situation and underlines that States have a duty to prevent and combat these serious human rights violations. It notes that to do so, it is essential to have a thorough understanding of the structural shortcomings at issue, in order to find effective responses.
9. In this context, the Assembly refers to its [Resolution 2364 \(2021\)](#) “Ethnic profiling in Europe: a matter of great concern” and its [Resolution 2413 \(2021\)](#) “Discrimination against Roma and Travellers in the field of housing”, which already examined some of these concerns and recommended that States take a series of measures in order to address them.
10. The Assembly also draws member States' attention to the recommendations set out by ECRI in this field, notably in the framework of its General Policy Recommendations No. 11 “Combating racism and racial discrimination in policing” and No. 13 “Combating antigypsyism and discrimination against Roma”. It further underlines that the priorities approved by the Committee of Ministers of the Council of Europe in its Strategic Action Plan for Roma and Traveller Inclusion (2020-2025) include combating antigypsyism and discrimination and supporting real and effective equality.

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2. Draft resolution adopted unanimously by the committee on 11 October 2023.

11. In the light of these considerations, the Assembly calls on Council of Europe member States,
  - 11.1. as concerns the legislative framework, to:
    - 11.1.1. ensure that criminal law provisions applicable to hate-motivated offences cover acts motivated by antigypsyism and anti-nomadism;
    - 11.1.2. ensure that national antidiscrimination legislation applies to the actions of the members of law enforcement authorities and that acts of discrimination committed against Roma and Travellers are duly punished by law;
    - 11.1.3. refrain from criminalising behaviour such as begging or the illegal occupation of land wherever other measures, notably administrative law measures, measures concerning the establishment of adequate halting sites or social policy measures would be better adapted to resolving the problems that lead to the behaviour in question;
  - 11.2. as concerns the fight against impunity and the obligation to conduct an effective investigation, to:
    - 11.2.1. offer rapid and effective remedies to victims of police violence, giving priority to simple, flexible and accessible procedures;
    - 11.2.2. create independent investigative mechanisms, free from any political pressure, with sufficient resources and powers to effectively investigate complaints against members of law enforcement authorities and to punish offenders;
    - 11.2.3. improve internal procedures for reporting misconduct within the law enforcement, in particular by adopting measures to protect whistle-blowers;
    - 11.2.4. protect victims against police intimidation, reprisals and harassment – all of which are encouraged by a sense of impunity – and provide for penalties for offenders that are commensurate with the seriousness of their actions and that are dissuasive;
    - 11.2.5. support the activities of non-governmental organisations working to promote the access of Roma and Travellers to justice;
  - 11.3. as regards preventing new, similar human rights violations, to:
    - 11.3.1. introduce recruitment procedures aimed at promoting that the composition of the law enforcement authorities reflects the diversity of the population;
    - 11.3.2. train all members of law enforcement authorities to apply methods that fully respect human rights in all circumstances; such training should also be provided at regular intervals;
  - 11.4. as concerns strengthening mutual trust between Roma and Travellers, on the one hand, and law enforcement authorities, on the other, to:
    - 11.4.1. give priority to policies and practices that avoid having recourse to law enforcement authorities;
    - 11.4.2. provide a sufficient number of halting sites and other stopping places adapted to the needs of Travellers, and prioritise recourse to trained mediators rather than law enforcement officers when it comes to the reception of Travellers;
    - 11.4.3. establish frameworks for dialogue and co-operation between law enforcement authorities and Roma and Travellers;
    - 11.4.4. provide full support to Roma and Travellers who are victims or witnesses of misconduct committed by members of law enforcement agencies.
12. The Assembly encourages member States to strengthen the fight against antigypsyism and anti-nomadism by recognising these phenomena as forms of racism that must be covered by criminal and civil law provisions prohibiting racism and racial discrimination, and working together with Roma and Travellers to overcome stereotypes and prejudice within the wider community, as well as mutual mistrust.
13. The Assembly encourages member States to actively promote education about and awareness of Roma and Traveller history and culture as an integral part of the fight against antigypsyism and anti-nomadism.
14. The Assembly further invites national parliaments to support the No Hate Parliamentary Alliance, its mandate and its functioning.

## B. Explanatory memorandum by Mr Jean-Pierre Grin, rapporteur

### 1. Introduction

1. This report deals with grave violations of human rights, including violent raids and other forms of police brutality committed against Roma and Travellers in Europe, as well as ethnic profiling. These harmful practices, as well as harassment, marginalisation and provocation are part of daily life for too many Roma and Travellers on our continent and form part of their shared experience of law enforcement authorities.

2. Other measures such as systematic stops of caravans and the criminalisation of begging or of the illegal occupation of land punish persons who are already victims of discrimination and create conditions in which Roma and Travellers are brought into contact to a disproportionate degree with law enforcement authorities; at the same time, these measures increase their distrust of the authorities.

3. Such blatant human rights violations destroy the confidence of Roma and Travellers in law enforcement authorities, which should protect their safety and security as they do for all citizens. Discrimination in access to justice further worsens this situation and deprives the victims of abuse of adequate remedy.

4. States have a duty to prevent and combat these human rights violations. The European Commission against Racism and Intolerance (ECRI) recently concluded, however, based on findings from its country monitoring work, that racism in police forces and racist behaviour in police interaction with members of the general public are an ongoing problem, and underlined that this phenomenon has negative effects not only on its individual victims but also on the relevant communities as a whole.<sup>3</sup>

5. With regard specifically to Roma and Travellers, both the judgments of the European Court of Human Rights and the monitoring work of ECRI and the Advisory Committee on the Framework Convention for the Protection of National Minorities (ETS No. 157) regularly bring to light human rights violations committed against them by members of law enforcement authorities across all Council of Europe member States. United Nations human rights bodies have also been finding violations of the rights of Roma and Travellers over many decades and addressing recommendations to States, urging them to take decisive measures to put an end to these forms of racism.

6. Despite these repeated findings and the recommendations addressed to States to end the practices at issue and prevent similar cases from arising, new and serious human rights violations continue to occur.

7. In referring the motion for a resolution, which is at the origin of my work, to the Committee on Equality and Non-Discrimination for report, the Parliamentary Assembly recognised the need to take effective measures to put an end to this intolerable situation.

8. I am honoured to have been appointed rapporteur by the committee at its meeting of 1 December 2022. During a visit to Strasbourg in January 2023, I was able to meet the Heads and some members of staff of the Secretariats of ECRI and the Framework Convention for the Protection of National Minorities, as well as of the Council of Europe's Roma and Travellers Team, who were able to present to me the main findings and lines of action of the bodies which they work for. I have also carried out documentary research in this context, and presented a detailed introductory memorandum to the committee on 24 March 2023. In addition, we held three exchanges of views in the committee as part of the preparation of this report: first, on 26 January 2023, with Ms Oana Taba, Principal project officer in the Roma and Travellers Team, Directorate General of Democracy and Human Dignity (DGII), Council of Europe; then on 24 March 2023, with Mr Bernard Rorke, Advocacy and Policy Manager, European Roma Rights Centre (ERRC), Brussels, and finally on 20 June 2023 with Ms Sarah Mann, Director, Friends, Families and Travellers, United Kingdom. I wish to thank these three speakers, as well as my interlocutors within the Secretariat of the Council of Europe, for their crucial contributions to my work. I also wish to thank the committee for their various contributions during our exchanges on the preparation of this report.

### 2. Terminology and overall approach taken in the report

9. As is the case in all Council of Europe documents on this subject, I would first like to underline that the terms "Roma and Travellers" are used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Organisation in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale,

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3. ECRI, [Annual report on ECRI's activities covering the period from 1 January to 31 December 2021](#), Council of Europe, Strasbourg, June 2022, paragraphs 11 and 13.

Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term “Gens du voyage”, as well as persons who identify themselves as Gypsies. This indication is explanatory, and not a definition of Roma and/or Travellers.

10. It is also important to clarify from the outset that while law enforcement authorities reflect society and therefore may, unfortunately, include racist persons within their ranks, the use of the term “institutional racism” in no way implies that every individual working within the institution in question is racist. On the contrary, this term refers primarily to the discriminatory effects of the functioning of the institution as a whole. These effects are first and foremost the result of the policies and practices applied by the institution concerned regardless of the personal convictions of its employees. This is why I wish to emphasise that speaking of institutional racism – or, as ECRI does, of systemic racism<sup>4</sup> – within law enforcement authorities in no way means that all officers are racist, and is not intended to stigmatise members of law enforcement authorities. Rather, this term allows for a better understanding of some structural shortcomings, in order to find effective responses.

11. I also consider it crucial to examine these issues holistically. Thus, a very first question is to understand in what circumstances Roma and Travellers come into contact with law enforcement authorities – for example, excessive checks, which are sources of fear and tension; criminalisation of begging, while at the same time insufficient measures are taken to fight poverty; targeting of Roma villages during the lockdowns put in place to fight the Covid-19 pandemic;<sup>5</sup> criminal proceedings or fines for illegal occupation of land, when municipalities have not respected their obligation to provide adequate halting sites, which however does not dispense Travellers of the obligation to announce their arrival and to respect municipal requirements.

12. These questions will be examined in more depth in the next chapters of my report. I wish however to emphasise from the outset that the criminalisation (or not) of certain behaviours and the allocation of resources to welfare or, on the contrary, to repressive measures, are not inevitable, but result from political choices. As parliamentarians, we must be conscious of this reality.

### **3. Police brutality and excessive use of force by members of law enforcement authorities**

13. The case law of the European Court of Human Rights reveals a staggering picture of the relations of law enforcement authorities with Roma and Travellers. It is true that the cases that reach Strasbourg are in principle those which raise the most human rights problems and that have not been able to be resolved at national level; it would of course be wrong to think that all contacts between law enforcement authorities and Roma and Travellers resemble these cases. At the same time, it is well known that only a small proportion of problematic cases reaches the Court.

14. From this point of view, the number of cases concerning the treatment of Roma and Travellers by law enforcement authorities and in which violations are found of the substantive and/or procedural limb of Articles 2 (right to life) and/or 3 (prohibition of torture) of the European Convention on Human Rights (ETS No. 5, “the Convention), and the sheer repetition of similar cases throughout the continent, are very worrying.

15. Despite these repeated findings, similar cases continue to occur.

16. I wish to draw attention, in this chapter, to the most worrying trends that emerge from the case law of the Court and other sources, as well as to more recent cases, which are currently being dealt with at national level.

#### **3.1. Torture and inhuman or degrading treatment**

17. Many States have been condemned by the European Court of Human Rights for cases of ill-treatment, even torture, of Roma and Travellers while the victims were in the hands of members of the law enforcement authorities. Bulgaria, Greece, Hungary, North Macedonia, Romania and the Slovak Republic are all concerned by at least two similar judgments, and in some cases many more.<sup>6</sup>

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4. ECRI (2020), [Statement on racist police abuse, including racial profiling, and systemic racism](#), adopted at its 82nd plenary meeting.

5. See also in this respect the report of our former colleague Petra Stienen (Netherlands, ALDE) entitled “Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination” ([Doc. 15129](#)), paragraph 20.

6. See *inter alia* the judgments in *Bekos and Koutropoulos v. Greece* (application no. 15250/02, judgment of 13 December 2005), *Petropoulou-Tsakiris v. Greece* (application no. 44803/04, judgment of 6 December 2007), *Borbála Kiss v. Hungary* (application no. 59214/11, judgment of 26 June 2012), *M.F. v. Hungary* (application no. 45855/12, judgment of 31 October 2017), *Kovács v. Hungary* (applications nos. 21314/15, 21316/15, 21317/15 et 21321/15,

18. The facts described are often shocking. Depending on the case, they involve the unjustified use of potentially lethal force (the use of firearms against unarmed persons); acts of brutality committed against persons in police custody, resulting in serious injuries requiring hospitalisation in some cases, or even death; other serious physical injuries; or violence committed against a person who has already been physically restrained and is not resisting. Such facts, when confirmed, represent a clear violation of the substantive limb of Article 3 of the European Convention on Human Rights (and sometimes also of its Article 2).

19. In the vast majority of these cases, the Court found a violation of the procedural limb of Article 3 of the Convention, owing to the failure of the authorities concerned to conduct an effective investigation into the allegations of ill-treatment. In some cases, the Court also emphasised that the failure of the national authorities to act and their reluctance to effectively investigate the applicant's allegations of ill-treatment were the main reasons why the Court was unable to determine whether or not there had been a violation of the prohibition of torture and inhuman and degrading treatment in its substantive limb. For example, in the case of *X. and Y. v. North Macedonia*, the public prosecutor waited two years before opening an investigation, which ultimately proved inadequate; this was the third case in which such violations had been found.<sup>7</sup> Yet it has been clearly established that such inaction on the part of the authorities is in breach of the Convention, as tolerating the contrary would render the prohibition of torture and inhuman or degrading treatment ineffective in practice and would amount to accepting impunity.<sup>8</sup>

20. In most of the cases mentioned above, the applicants also complained under Article 14 of the Convention (prohibition of discrimination), arguing for example that at the relevant time the members of the law enforcement authorities concerned had made racist statements with respect to them due to their prejudice against Roma and/or Travellers. Here too, the violations found by the Court mostly concern the procedural limb of Article 14 taken in conjunction with Article 3 of the Convention, and not its substantive limb. In other words, in most of these cases, the authorities had quite simply not conducted an effective investigation capable of establishing whether the facts at issue had been based on racist attitudes.

21. These patterns keep repeating themselves, over and over again. Since 2019, the Court has communicated several other cases, notably concerning Greece and the Slovak Republic, to the relevant national authorities, and new facts continue to be reported by the press.<sup>9</sup>

22. Since the start of 2023, several cases of police abuse of Roma have for example been reported in Türkiye. In late June, in Çerkezköy, police officers intervened during a Roma wedding, insulting and then beating those present with batons; some of the persons who were beaten had to have recourse to medical care. In another incident, in Hendek, several Roma were beaten with batons by police officers and security guards. Prior to these incidents, criminal proceedings for defamation and resisting arrest had been brought against two Roma who had lodged complaints against members of the law enforcement authorities for torture and acts of racist violence committed against them during their detention in May 2022 in the Istanbul area.<sup>10</sup>

23. Beyond these individual cases, which are already shocking in themselves, a very worrying overall picture emerges. To mention just one country for which figures are available, in Bulgaria, Roma are twice as likely to be victims of police brutality as non-Roma and constitute 50% of persons in detention although this minority only makes up 10% of the population. Moreover, two thirds of Roma minors questioned in the

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judgment of 29 January 2019), *Jašar v. «the former Yugoslav Republic of Macedonia»* (application no. 69908/01, judgment of 15 February 2007), *X. and Y. v. North Macedonia* (application no. 173/17, judgment of 5 November 2020), *Memedov v. North Macedonia* (application no. 31016/17, judgment of 24 June 2021), *Cobzaru v. Romania* (application no. 48254/99, judgment of 26 July 2007), *Stoica v. Romania* (application no. 42722/02, judgment of 4 March 2008), *Carabulea v. Romania* (application no. 45661/99, judgment of 13 July 2010), *Ciorcan and others v. Romania* (application no. 29414/09, judgment of 27 January 2015), *Boacă and others v. Romania* (application no. 40355/11, judgment of 12 January 2016), *Gheorghită and Alexe v. Romania* (application no. 32163/13, judgment of 31 May 2016), *Lingurar and others v. Romania* (application no. 5886/15, judgment of 16 October 2018), *A.P. v. Slovakia* (application no. 10465/17, judgment of 18 January 2020), *R.R. and R.D. v. Slovakia* (application no. 20649/18, judgment of 1 September 2020), *M.B. and others v. Slovakia* (application no. 45322/17, judgment of 1 avril 2021).

7. *X. and Y. v. North Macedonia* (application no. 173/17, judgment of 5 November 2020); ERRC (2020), "[European Court orders North Macedonia to pay compensation to Roma brutalised as teenagers](#)", Budapest, 9 November 2020.

8. See *Assenov and others v. Bulgaria* (application no. 24760/94, judgment of 28 October 1998).

9. *Panayotopoulos v. Greece* (application no. 44758/20, communicated on 18 March 2021), *Kováčová v. Slovakia* (application no. 31975/19, communicated on 11 June 2020), *T.K. and others v. Slovakia* (application no. 57085/18, communicated on 28 May 2019), *Bystrý v. Slovakia* (application no. 46293/22, communicated on 10 July 2023).

10. Rorke B. (2023), "[Roma in Turkey: more police brutality](#)", Budapest, ERRC, 5 July 2023; Lee J. (2023), "[Roma tortured by police face criminal charges before an Istanbul court after seeking justice against their abusers](#)", Budapest, ERRC, 16 January 2023.

framework of the study on police brutality published by the ERRC reported having suffered physical violence during their arrest.<sup>11</sup> Unfortunately, this appalling figure is fully consistent with the Court's case law, as in a striking number of its judgments, the violence was committed against minors.

24. As the ERRC has emphasised, commenting on a judgment condemning North Macedonia, here is every reason to believe the repetition of similar cases is the result of institutional racism – even though, unfortunately, the European Court of Human Rights only very rarely looks into this aspect of the cases it is called upon to examine.<sup>12</sup>

25. The persistence of police brutality against Roma and Travellers throughout Europe is all the more intolerable given that some of the judgments of the European Court of Human Rights concern very old facts, dating back to the middle of the 1990s. It is quite simply unacceptable that problems that have been identified for so long have not yet been resolved. Within each Council of Europe member State, we can and must do better.

### **3.2. Violence or ill-treatment having resulted in death**

26. The worst instances of police brutality are those which have resulted in the victim's death. As concerns Roma and Travellers, the European Court of Human Rights has been called upon to examine such events in several cases concerning, notably, Bulgaria (*Anguelova and Iliev v. Bulgaria*, application no. 55523/00, judgment of 26 July 2007; *Nachova and others v. Bulgaria*, applications nos. 43577/98 and 43579/98, judgment of 6 July 2005 (Grand Chamber), Romania, *Carabulea v. Romania* (application no. 45661/99, judgment of 13 July 2010), as well as France (*Guerdner and others v. France*, application no. 68780/10, judgment of 17 April 2014).

27. These cases notably concern the excessive use of force by members of the law enforcement authorities, resulting in death; in one case, the torture of the applicant by members of the law enforcement authorities, resulting in death; failure by the authorities to fulfil their obligation to conduct an effective investigation; and/or the lack of an effective investigation capable of determining whether racist attitudes played a role in these deaths.

28. Unfortunately, new cases raising similar questions continue to arise. Over the past 20 years, the ERRC has recorded, on a (non-exhaustive) interactive online map, dozens of deaths of Roma and Travellers that have occurred during their contacts with police in 14 countries (Albania, Bulgaria, Czech Republic, France, Greece, Hungary, Italy, North Macedonia, Portugal, Romania, Slovak Republic, Spain, Türkiye and Ukraine).<sup>13</sup> It is unfortunately impossible for me to mention each of these cases individually in the framework of this report. I do however wish to refer at least to some very recent cases, or cases which received significant media attention in the country concerned or even internationally.

29. On 30 March 2017, Angelo Garand, a man belonging to the community of *Gens du voyage*, was shot five times in the torso by gendarmes at his parents' home in Seur, France. He had not returned to prison (where he had been serving a sentence following a conviction for theft and driving without a licence) six months earlier following a period of leave. Charges against the two gendarmes involved were dropped, and his family's appeal to the Court of Cassation was rejected; his family members have announced their intention to appeal to the European Court of Human Rights.<sup>14</sup>

30. In June 2021, Stanislav Tomáš died in the Czech Republic, having been forcibly restrained by police officers at the time of his arrest. Several members of the Czech delegation to the Assembly stressed, in a letter dated 7 July 2022 addressed to the Chairperson of the Committee on Equality and Non-Discrimination, that the facts of the case did not reveal any racist element. Furthermore, the official investigation conducted by the General Inspectorate of Police Services concluded that the arrest had been carried out in accordance with the law and that no causal link between the use of force and the death had been established. The Prosecutor General's Office also found that various decisions not to open an investigation were in accordance with the law. However, a report by the Deputy Public Defender of Rights concluded that there had been violations of the principle of proportionality and of the duty to ensure that methods of restraint used were proportionate to

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11. Rorke B. (2022), "Brutal and Bigoted: Policing Roma in the EU", ERRC, Budapest, and presentation made during the exchange of views held on 24 March 2023.

12. *X. and Y. v. North Macedonia* (application no. 173/17, judgment of 5 November 2020); ERRC, "European Court orders North Macedonia to pay compensation to Roma brutalised as teenagers", Budapest, 9 November 2020.

13. ERRC, "Police Misconduct against Roma, Sinti and Travellers", interactive online map.

14. P.-S., "Pourquoi tout ça? La famille d'Angelo Garand réclame vérité et justice", *La Rotative*, 11 April 2017; Simbille L., "Angelo Garand, abattu par le GIGN: 'Que justice se fasse lors d'un procès public'", *Basta Média*, 9 June 2020.

the dangerousness of the restrained person's behaviour and pointed to shortcomings in the above-mentioned procedures. After the Constitutional Court rejected the case, the victim's family seized the European Court of Human Rights. Civil society emphasised that the above decisions were likely to undermine the confidence of Roma in the Czech Republic's judicial system.<sup>15</sup>

31. In October 2021, in Piraeus, Greek police officers killed an 18-year-old Roma youth and severely wounded a teenager during a car chase in which at least seven police officers fired dozens of shots. In a press release published the next day, the police stated that all the police officers involved had been injured, that the young man who had died was 20 years old and had a lengthy police record, and that the younger boy who had received a bullet wound had only suffered minor injuries. According to civil society, however, no police officers were injured, the deceased was 18 years old and did not have a police record, and the 16-year-old teenager had been seriously wounded. Subsequently, audio recordings revealed that the police officers involved had known that the occupants of the vehicle were Roma.<sup>16</sup> One year later, in December 2022, a Greek police officer shot in the head and killed a 16-year-old Roma youth, who the police alleged had taken 20€ worth of petrol without paying.<sup>17</sup>

32. On 11 May 2023, a Roma man was shot and killed by a police officer while standing on the balcony of a home in Konak, in the Izmir region. Fearing violence, his wife (from whom he was separated) had called the police when he went to her home; according to civil society, however, nothing seemed to justify the use of firearms in this case.<sup>18</sup>

33. On 7 August 2023, the mother and sister of a Roma man who died while in police custody in Arad, Romania, lodged a criminal complaint against Romanian police officers involved in the relevant events, alleging that the victim had been beaten to death.<sup>19</sup>

34. While it is important to bear in mind that each of these cases occurred in specific circumstances, only a detailed examination of which would enable a determination as to whether or not human rights violations were committed, I wish to underline the especially serious nature of these types of incidents, which continue to occur far too often throughout our continent. To avoid similar events occurring again, we must recognise that the problems at stake go far beyond apparently isolated cases and examine the systemic nature of such violence, as the European Court of Human Rights did in the above-mentioned case of *Lingurar and others v. Romania*.

### **3.3. Violent raids and attacks against Roma villages and settlements and places where Travellers have halted**

35. One of the serious problems reflected *inter alia* in the judgments of the European Court of Human Rights are violent raids carried out against Roma villages and settlements as well as places where Travellers have halted.<sup>20</sup> This question was examined as part of the work carried out for the Assembly by our former colleague František Kopřiva (Czech Republic, ALDE) in the context of a report, from the perspective of respect for the right to housing of Roma and Travellers; Mr Kopřiva had already drawn attention to several worrying cases that occurred in Bulgaria, Ireland and Ukraine in the past few years.<sup>21</sup>

36. As the Assembly has already underlined, where Roma do not have legal title to their homes or to the land on which they are built, they are highly vulnerable to forced evictions and to the demolition and destruction of their property. Likewise, in many States, insufficient halting sites are provided for Travellers wishing to maintain an itinerant lifestyle, forcing them to stop in unauthorised locations, whether on public or private property, and exposing them to being violently expelled and moved on – but with nowhere to go. Such

15. See also Ryšavý Z., “Czech Deputy Public Defender of Rights finds police officers made significant errors in the controversial arrest of Stanislav Tomas”, *romea.cz*, 13 December 2021; ERRC, “Czech Republic: Investigation closed into death of Romani man Stanislav Tomas, human rights activists move for justice”, Prague, Brussels, 21 March 2022; ERRC, “Roma rights activists take police killing of Stanislav Tomas to European Court”, Prague, Brussels, 10 August 2023.

16. Rafenberg M., “Grèce: colère après le décès d’un jeune Rom abattu par la police”, *Courrier des Balkans*, 14 December 2022; exchange of views with Bernard Rorke, 24 March 2023.

17. Rafenberg M., “Grèce: colère après le décès d’un jeune Rom abattu par la police”, op. cit.

18. Lee J., “Turkish police shoot and kill a Romani man in Izmir”, ERRC, 24 May 2023.

19. ERRC, «Criminal complaint filed against Romanian police who beat a man to death in Arad», Bruxelles, 17 August 2023.

20. See for example *Moldovan and Others v. Romania* (No. 2) (applications nos. 41138/98 and 64320/01, judgment of 12 July 2005), *Lingurar and others v. Romania* (application no. 5886/15, judgment of 16 October 2018), *Burlyya and Others v. Ukraine* (application no. 3289/10, judgment of 6 November 2018), *Hirtu and Others v. France* (application no. 24720/13, judgement of 14 May 2020).

21. Doc. 15393 and Resolution 2413 (2021) “Discrimination against Roma and Travellers in the field of housing”.

evictions are moreover frequently conducted under high and negative media scrutiny, which fuels antigypsyist and antinomadic stereotypes and sentiments. The failure to provide long-term solutions to these problems not only prolongs the human rights violations experienced by Roma and Travellers but also exacerbates tensions and sources of conflict within communities.<sup>22</sup> Such evictions are carried by law enforcement authorities and create additional situation of tense or even violent contacts between these actors and Roma and Travellers.

37. Sometimes violent racist attacks or even pogroms are perpetrated by fellow citizens against villages, settlements, halting sites, houses, dwellings, caravans and other places where Roma and Travellers live, without sufficient intervention by the law enforcement authorities to prevent or put an end to these attacks.

38. The Assembly has already strongly condemned such attacks, while also underlining that segregated living conditions aggravate the risks of such criminal actions, by making these areas easy targets for attack.<sup>23</sup>

### **3.4. The obligation to conduct an effective investigation**

39. The authorities' failure to conduct an effective investigation into allegations of offences committed by members of the law enforcement authorities against Roma and Travellers has frequently been pinpointed by the European Court of Human Rights (see above the violations of the procedural limb of Articles 2 and 3 of the European Convention on Human Rights, most often taken separately, but sometimes read in conjunction with Article 14).

40. The principles that must be respected in conducting such investigations can be summarised as follows: independence, relevance, diligence, transparency and participation of victims.

41. Failing to respect these principles deprives the victims of an effective remedy, means the authorities are not held accountable and undermines victims' trust in the criminal justice system.

42. These issues have often been examined by the ECRI in the framework of its country monitoring activities. In Ireland, for example, ECRI expressed concern about the lack of competence of police officers, who allegedly misinterpreted racist incidents committed against Travellers and expressly refused to record the statements of witnesses of such offences. In the case of the Slovak Republic, ECRI noted in 2020 that despite the high number of complaints concerning serious acts of violence committed by police officers against Roma, none of the subsequent investigations had resulted in criminal convictions or disciplinary sanctions.

43. In Hungary, the authorities' reluctance to implement the rulings of the European Court of Human Rights to put an end to ill-treatment by police and ensure any complaints were investigated has also attracted international criticism. As the Hungarian Helsinki Committee has emphasised, human rights violations left without remedies are at risk of recurring.

44. As regards Italy, the United Nations High Commissioner for Human Rights has noted that the Italian police have not put in place an investigation procedure for hate-motivated offences and that victims of such offences do not receive any particular support. Regarding the reporting of and follow-up given to such offences, difficulties in having access to a lawyer and the refusal to register and conduct investigations into these offences, except where the facts at issue are particularly serious, are also cause for concern.

45. As a result of this situation, there is a high level of mistrust among Roma and Travellers as to the capacity of the system to protect them in the same way as the rest of the population.

### **3.5. Impunity, a violation of human rights**

46. Tolerating persistent failures by the authorities to respect their obligation to conduct an effective investigation into allegations such as those described above would amount to accepting impunity for serious violations of the European Convention on Human Rights, which would clearly be unacceptable.<sup>24</sup>

47. The fact that police officers often act in groups is one of the factors that may foster the culture of impunity. This is what happened in the Slovak Republic when five young Roma boys were taken into police custody, stripped, beaten and forced to slap one another while being threatened by dogs. When it was

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22. Idem.

23. Idem.

24. See *Assenov and others v. Bulgaria* (application no. 24760/94, judgment of 28 October 1998).

brought to the European Court of Human Rights, this case gave rise to a series of findings of human rights violations – but, like all the cases previously mentioned, justice should have been delivered at domestic level.<sup>25</sup>

48. During the exchange of views of 24 March 2023, Mr Fourat Ben Chikha (Belgium, SOC) rightly asked how to break the omerta within police forces themselves and protect whistle-blowers. In fact, while the majority of police officers do their jobs without showing racism, it can be extremely difficult for them to speak up when they witness racist acts, as they risk retaliation or even having no option but to resign. This can act as a strong brake on the carrying out of an effective investigation and can contribute to a culture of impunity.

49. Replying to this question, Mr Bernard Rorke pointed out that the culture of silence within police forces was unfortunately not specific to any country. While civil society organisations kept on taking offenders to court, what was important was that those who have the power and the responsibility within the authorities concerned act. As Mr Rorke pointed out, this kind of work is never finished, but must be constant.

#### 4. Ethnic profiling and police stops

50. In its [Resolution 2364 \(2021\)](#) “Ethnic profiling in Europe: a matter of great concern”, the Assembly defined this practice as follows: “Ethnic or racial profiling occurs when people are stopped, checked or investigated without any reasonable or objective grounds, because of their colour, appearance or perceived nationality, ethnicity, origin or religion.”

51. This is not merely an abstract concept, but a practice that has negative consequences in daily life. For Travellers who lead an itinerant lifestyle, contact with law enforcement authorities is constant, from an early age, because trucks and caravans mark out Travellers as individuals who need to be stopped and checked. On a journey of a few hundred kilometres, a single caravan might be stopped up to 19 times.<sup>26</sup>

52. The Assembly underlined that ethnic profiling “can have a negative impact on both the people being stopped and on society at large”, that it “promotes a distorted view of, and stigmatises, parts of the population” and that it “can also reflect deeply rooted racism”. It also noted that, unfortunately, despite the fact that it is “discriminatory by nature and ... therefore illegal, [ethnic profiling] is a widespread ... phenomenon across Europe”.

53. According to the conclusions of survey published in 2021 by the European Union’s Fundamental Rights Agency, ethnic minorities, and notably Roma and Travellers, continue to suffer from the effects of ethnic profiling. Over the 12 months preceding the survey, 22% of persons who self-identified as belonging to an ethnic minority had been subjected to a police stop, versus 13% of people who did not self-identify in this way. In several countries, the proportion of Roma and/or Travellers who had been stopped by the police was much higher than that among the general population. This contrast was particularly striking in Croatia (33% compared with 19% respectively), Greece (33% and 18%), Hungary (22% and 10%) and Spain (32% and 4%), as well as the United Kingdom (10% of Gypsies and Travellers compared with 3% of the overall population) and the Netherlands (29% of Roma and 10% of the overall population).<sup>27</sup>

54. In 13 of the 15 countries in which data disaggregated by ethnic origin included distinct figures for Roma and Travellers, the proportion of individuals stopped when they were on foot was much higher among these groups than for the general population. The European Union Agency for Fundamental Rights underlined in this respect that police stops of individuals were often perceived in a far more negative light than stops of vehicles. Moreover, 34% of persons belonging to an ethnic minority who had experienced a police stop while they were on foot had also been searched, as compared with only 14% of the general population.<sup>28</sup>

55. In several countries, Roma and Travellers reported being treated with respect by the police far less often than the general population. This finding was especially striking in the Netherlands (3% of Roma or Travellers compared with 76% of the overall population), Portugal (10% compared with 92%) and Sweden (30% as against 84%). The level of confidence that people belonging to an ethnic minority may have in the police is however closely linked to their experience of police stops and their perception (or not) of such stops as a form of ethnic profiling. Amongst the various minorities covered in the framework of this survey, Roma

25. *M.B. and others v. Slovakia (no. 2)* (application no. 63962/19, judgment of 7 February 2023).

26. P. S., “Nara Ritz: ‘Nos caravanes nous signalent comme des individus à contrôler’”, *La Rotative*, 26 April 2017.

27. Fundamental Rights Agency of the European Union (2021), “Your rights matter: Police stops, Fundamental Rights Survey”, Luxembourg, Publications Office, pp. 7-9.

28. *Ibid.*, pp. 7, 10-11 and 14-15.

and Travellers had the lowest levels of trust, reaching only 4.7 (on a scale of 0 to 10) amongst persons who had not been stopped over the five years preceding the survey and dropping to the deplorable score of 2.8 amongst those who had been stopped in a context of ethnic profiling.<sup>29</sup>

56. I can but echo in this context the clear position already taken by the Assembly, according to which “[the] attitude of police officers towards the population, and the methods they use to carry out their tasks [of protecting the population and contributing to peaceful coexistence], are of utmost importance in ensuring the public’s trust and overall support”.<sup>30</sup> Police officers must not only be exemplary but also be held accountable for their actions. For beyond the human rights at stake in each specific contact between citizens and members of the law enforcement authorities, the level of trust in these authorities that may be felt by persons belonging to minorities, and in particular Roma and Travellers, has a strong influence on their willingness to turn to these institutions when they are victims of criminal offences themselves (see also below, Access to justice).

## 5. Criminalisation of begging and homelessness

57. Certain political choices may result in a proliferation of tense or even conflictual situations in which law enforcement authorities come into contact with Roma and Travellers – in particular those persons among these minorities who live in poverty – while sparing the rest of the population. This is especially the case when the relevant authorities choose to criminalise behaviour or situations that mostly occur due to the marginalisation, social exclusion or disadvantaged socio-economic situation still experienced by too many Roma and Travellers, instead of addressing the root causes of such behaviour and situations.

### 5.1. Begging

58. In my country, Switzerland, Article 11A of Geneva Criminal Law Act prohibits begging in public places, and establishes penalties of a fine or deprivation of liberty if the fine is not paid. The European Court of Human Rights has found that the application of this provision to a Roma woman, who was convicted and fined 500 CHF and subsequently detained for five days due to her failure to pay the fine constituted a violation of Article 8 of the Convention. The Court considered that the penalty imposed was proportionate neither to the aim of combating organised crime nor to that of protecting the rights of passers-by, residents and shop-owners. Moreover, bearing in mind that the applicant most probably did not have other means of subsistence and therefore had no choice but to beg in order to survive, this penalty had infringed her human dignity and impaired the very essence of the rights protected by Article 8 of the Convention.<sup>31</sup>

59. The measures taken by the Swiss authorities to execute this judgment are currently being examined by the Committee of Ministers of the Council of Europe, and it is not my role to replace this process.

60. I do however wish to draw States’ attention to the fact that nothing obliges them to treat begging as a criminal offence. Indeed, as the European Court of Human Rights emphasised in the above-cited judgment, when States or local authorities regulate begging, they mostly prohibit only its aggressive or intrusive forms, and simply focus on protecting public order through simple administrative measures.<sup>32</sup>

61. In this respect I can only agree with the analysis of the former United Nations Special Rapporteur on extreme poverty and human rights. As she underlined as far back as 2011, criminal or regulatory measures that make begging unlawful have a disproportionate impact on persons who live in poverty without sufficient support and assistance from the State, as these persons have no other option than to beg in order to stay alive. They also contribute to the perpetuation of discriminatory societal attitudes towards the poorest and most vulnerable persons, instead of combating these attitudes. Moreover, by giving law enforcement officials wide discretion in applying the law while increasing the vulnerability of persons living in poverty to harassment and violence, criminalising begging violates the principles of equality and non-discrimination.<sup>33</sup>

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29. *Ibid.*, pp. 24 and 27.

30. [Resolution 2364 \(2021\)](#) “Ethnic profiling in Europe: a matter of great concern”.

31. *Lăcătuș v. Switzerland* (application no. 14065/15, judgment of 19 January 2021). Following an instruction issued by the public prosecutor of the canton of Geneva, the provision at stake in this judgment is no longer applied (see the Action report presented to the Committee of Ministers by the Swiss authorities, document DH-DD(2023)908).

32. *Lăcătuș v. Switzerland*, *op. cit.*, paragraphs 104-105.

33. Special Rapporteur on extreme poverty and human rights (2011), Report transmitted by the Secretary General to the United Nations General Assembly, 4 August 2011, A/66/265, paragraphs 30-32, cited in Council of Europe Commissioner for Human Rights (2015), Report following his visit to Norway from 19 to 23 January 2015, CommDH(2015)9, paragraph 62.

62. The question could be asked in the following terms: rather than mobilising the entire criminal justice system (members of law enforcement authorities, prosecutors, criminal courts) against individuals living in extreme poverty, and thus further marginalising these persons, might it not be wiser to devote more resources to ensuring their social inclusion?

## **5.2. Homelessness**

63. I have mentioned above violence committed against Roma and Travellers by members of the law enforcement authorities in the context of forced evictions, as well as cases where these authorities failed to protect their villages or settlements against violent attacks by other citizens.

64. However, I would also like to draw attention here to the negative impact of certain other policies and practices put in place in the field of access to housing, and the consequence of which is to regularly expose Roma and Travellers to tense contacts with the law enforcement authorities. Indeed, as the Assembly has already pointed, in many countries, insufficient halting sites are provided for Travellers who wish to maintain an itinerant lifestyle. This forces them to stop in unauthorised locations and exposes them to criminal prosecution, with nowhere to go.<sup>34</sup> The problems are of course more acute when such stops are prohibited under the criminal law.

65. By way of example, and as was explained to us by Ms Sarah Mann, during the exchange of views held on 20 June 2023, around one third of the Gypsy and Traveller community in the United Kingdom, that is 100 000 people, live in caravans. Within this group, around 25 000 people have nowhere to stop, due to a chronic national shortage of lands and halting sites for Gypsy and Travellers sites and stopping places and a lack of will among local authorities to identify land for these. The national government is failing to hold local authorities to account on this matter, and discrimination within the planning system means that applications by Gypsies and Travellers to build private or family sites are routinely rejected at local level. This created a vicious circle in which the authorities' failure to respect the right to housing of Gypsies and Travellers exposes the persons concerned to negative or even violent contacts with law enforcement authorities, and to legal proceedings. Persons in this situation often become the focus of policing as well as of certain political and media rhetoric, which exacerbates prejudice among the population, as the general public ends up having the impression that all Gypsies and Travellers are in this situation.

66. Amendments made to the Criminal Justice and Public Order Act in 2022 have worsened this situation by conferring new powers to confiscate the vehicle (namely the home) of a family stopping on land without permission, to imprison the lead family member for up to three months and to impose a fine of up to 2 500 GBP.<sup>35</sup> In other words, the 25 000 people living in caravans in the UK, with nowhere to stop are, in essence, liable to prosecution because the housing policies implemented by local and national authorities have left them homeless.

67. I note with interest that according to Friends, Families and Travellers, some police forces opposed the introduction of this legislation (viewed as disproportionate), and that so far, it has not been used much. However, some local police forces are allegedly under pressure from local authorities to enforce it. Moreover, while the government has recently made available funds to refurbish existing sites – which is welcome – such refurbishments do nothing to resolve the lack of stopping sites. As a direct consequence of this situation, Gypsies and Travellers face criminal prosecution although they are in no way responsible for the lack of stopping sites and have no means of improving the situation.

## **6. Roma and Travellers as victims of criminal offences**

68. While ethnic profiling and the criminalisation of begging and homelessness lead to excessive police intervention against or surveillance of Roma and Travellers, conversely, police responses are often inadequate when persons belonging to these communities are the victims of criminal offences.

69. As Ms Mann pointed out during the exchange of views held on 20 June 2023, in the United Kingdom, Gypsies and Travellers are less likely to be taken seriously or seen as victims of racism or discrimination when they are victims of crime. On the one hand, race and hate incidents against Gypsies, Roma and Travellers are common, but such offences are under-reported due to low levels of confidence in police forces.

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34. [Resolution 2413 \(2021\)](#), op. cit.

35. Amendments introduced by the Police, Crime, Sentencing and Courts Act 2022.

On the other hand, it is often difficult to find evidence of how criminal offences against this population are dealt with as police officers do not record the ethnic origin of victims of crimes and do not always know how to handle such offences.

70. The Advisory Committee on the Framework Convention for the Protection of National Minorities made similar findings in a recent opinion on Norway. Roma and Romani/Tatar persons continue to be victims of discrimination in Norway due to their itinerant lifestyle and report high levels of hostility and violence against them. They are hesitant to report hate-motivated offences to the police, due to a lack of confidence in them, and report that the police often drop proceedings in such cases due to insufficient evidence.<sup>36</sup>

71. The Advisory Committee has made similar findings of reluctance of Roma and Travellers to report hate-motivated offences committed against them, and insufficient responses by law enforcement authorities when such offences are reported, in recent opinions on North Macedonia, the Slovak Republic, Croatia and Bulgaria.<sup>37</sup>

72. We must take effective measures to put an end to this unbalanced and discriminatory situation, in which, on the one hand, Roma and Travellers are over-policed, and on the other, criminal offences committed against persons belonging to these minorities are under-policed.

## 7. Access to justice

73. Roma and Travellers who are victims of police ill-treatment and other violations of their rights also face multiple forms of discrimination in access to justice as well as prejudice and negative attitudes towards them that exist among professionals working in the judicial system. This situation aggravates the already high level of mistrust that exists towards the criminal justice system, but also more broadly the justice system as a whole, among Roma and Travellers.

74. In its Recommendation CM/Rec(2017)10 to member States on improving access to justice for Roma and Travellers in Europe, the Committee of Ministers of the Council of Europe already recommended taking a very detailed series of measures in this field, calling on States to facilitate the equal access of Roma and Travellers to legal aid or other legal services, free or paid, to quasi-judicial methods of conflict resolution, and to courts, and to ensure vis-à-vis Roma and Travellers the effectiveness of judicial remedies, while taking full account of the forms of intersectional discrimination that may come into play in this field.

75. Other practical means of action also exist to overcome this situation. We had the opportunity to look at one of these – the series of JUSTROM programmes co-financed by the European Union and the Council of Europe and implemented by the latter between 2016 and 2022 – during the exchange of views held with Ms Oana Taba on 26 January 2023.

76. This programme had the specific objective of promoting Roma women's access to justice. Beyond the lack of confidence in the justice system, the programme aimed to overcome the main obstacles to Roma women's access to justice, namely the lack of information about mechanisms of redress and legal aid schemes, illiteracy, language barriers, and, sometimes, perceptions of associated costs.

77. I note with interest that, based on three pillars – the empowerment of Roma women, enhancement of professional resources and increased synergies and partnerships – the programme, which ended in 2022, was of direct benefit to over 10 000 Roma women in four countries (Bulgaria, Greece, Italy and Romania) during the period when it was implemented. It enabled hundreds of cases in the fields of discrimination and civil law as well as gender-based violence to be brought before justice, while raising Roma women's awareness of how to report discrimination and empowering them to use existing mechanisms and seek legal aid. Importantly, it will also have a positive impact in the longer term too, because it led to the development of tools that may continue to be used in future, as well as to the establishment of new NGOs in Greece and Romania.

78. I also note with interest that the programme was not limited to strengthening legal aid lawyers' capacities in the field of antidiscrimination, but that it also helped train legal professionals in order to overcome negative attitudes towards Roma women.

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36. Fifth opinion of the Advisory Committee on Norway, adopted on 2 February 2022, paragraph 144.

37. Fifth opinion on North Macedonia, adopted on 18 May 2022; Fifth opinion on the Slovak Republic, adopted on 2 February 2022; fifth opinion on Croatia, adopted on 1 February 2021; fourth opinion on Bulgaria, adopted on 26 May 2020.

79. On the latter point, we discussed during the hearing on 26 January 2023 the lack of trust in institutions as an obstacle to Roma women's access to justice, specifically in the field of combating violence against women and domestic violence. Ms Taba noted that Roma women who have experienced gender-based violence often have even lower levels of trust in the police and judicial system. Far too often, police still tell Roma women who have come to report these kinds of offences that such practices are just part of their culture and that the police do not deal with them.

80. This example clearly shows that the onus to overcome problems must not be placed only on the most marginalised groups: the empowerment of Roma women – and more broadly that of all Roma and Travellers in their contacts with the judicial system – must go hand in hand with training to overcome negative attitudes within law enforcement authorities and the judicial system. The last point is crucial as if prejudices existing within the judicial system are not broken down, efforts to promote Roma and Travellers' access to this system will have no effect, no matter how considerable such efforts may be.

## **8. The persistence of marginalisation, antigypsyism and anti-nomadism**

81. As the Assembly recently observed,<sup>38</sup> antigypsyism and anti-nomadism are frequently at the heart of grave violations of the human rights of Roma and Travellers. Still too often, the authorities use the prevalence of these phenomena amongst the general population as an excuse for taking no action to remedy violations of Roma and Travellers' rights. This perpetuates the marginalisation of these groups and fuels the vicious cycle of tense relations with law enforcement authorities.

82. In parallel, the media and social networks fuel hatred, and some political leaders normalise inflammatory language. These actors often use images of Roma and Travellers living in inadequate conditions to further fuel racist sentiments amongst the population, and it is often difficult to have online hate speech taken down.

83. The failure to provide long-term solutions to these problems also increases tensions and sources of conflict within our societies. To put it another way, in the words of our colleague Fourat Ben Chikha during the hearing of 24 March 2023, if Roma and Travellers were less marginalised, they would be attacked less often by the police.

84. As our former colleague František Kopřiva stressed it in another context, “inertia, indifference, inaction, neglect, resistance or outright hostility, whether amongst the general public or within authorities themselves, are all expressions of antigypsyism and anti-nomadism”.<sup>39</sup> Just as in the field of housing, which was the subject of his report, overcoming these sentiments and the direct or indirect harms that they cause is crucial to successfully tackling the institutional racism against Roma and Travellers that persists within law enforcement authorities. I fully share the view of Mr Kopřiva – which also corresponds to longstanding positions of ECRI, the Advisory Committee on the Framework Convention for the Protection of National Minorities and other international bodies – that combating antigypsyism and anti-nomadism must form an integral part of all strategies designed to overcome discrimination against Roma and Travellers, including where it is committed by members of law enforcement authorities.

## **9. Good practices and possible solutions**

85. My report is not intended only to shed light on human rights violations, but also to identify effective courses of action to prevent them and to redress them when they occur. I have already drawn attention to one very promising programme that served to improve Roma women's access to justice in the countries where it was implemented, and which could provide inspiration in other countries. In this chapter, I would like to mention briefly some other potentially useful lines of action.

### **9.1. Collection of reliable data**

86. In the first place, the collection of reliable data that enables the extent of the problem to be understood is a sensitive but important line of action. This forms part of the Assembly's regular recommendations when it comes to combating discrimination.

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38. [Resolution 2413 \(2021\)](#), op. cit.

39. See [Doc. 15393](#), op. cit., paragraph 61.

87. Concerning ethnic profiling specifically, in its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, ECRI recommended that States carry out research on racial profiling and monitor police activities in order to identify racial profiling practices, including by collecting data broken down by grounds such as national or ethnic origin, language, religion and nationality in respect of relevant police activities. Such data could include, for example, identity checks, vehicle inspections, personal searches, searches of homes and other premises and police raids.

88. This recommendation is part of the broader need for data to monitor the situation of minorities and the forms of direct and identify possible patterns of indirect discrimination that they may face. Collecting such data with regard to police activities and the criminal justice system fosters accountability within these authorities and provides a common foundation of knowledge for policy making. As is the case for all sensitive personal data, such data must be collected with due respect to the principles of confidentiality, informed consent and of voluntary self-identification of persons as belonging to a particular group.

## **9.2. Dialogue and confidence-building measures**

89. Measures to (re)build trust between Roma and Travellers, on the one hand, and law enforcement authorities, on the other, are also crucial, as are measures to overcome the phenomenon of under-reporting of criminal offences committed against these persons.

90. Maintaining public order must never be based solely on repressive measures; relations between the police and the rest of the population, including Roma and Travellers, must be based first and foremost on mutual trust. This starts with the recognition of potential problems. In Ireland, the authorities' willingness to take on board the conclusions of a report of the Ombudsperson into potential racism within law enforcement authorities, to recognise failings and to follow up on the recommendations is considered positive.

91. Dialogue is also essential, notably between Roma and Travellers, on the one hand, and police, on the other. Daily realities experienced by police officers must not be forgotten, bearing in mind that a high proportion of police officers come into contact with Roma and Traveller communities only in the framework of policing activities and repression. Similarly, we must not ignore the feelings of those targeted by ethnic profiling and excessive checks, practices which fuel mistrust and are likely to lead to strained relations or even violent confrontations. Moreover, when class prejudice (against marginalised people) is combined with antigypsyism and/or anti-nomadism, the road to (re)building trust can be a long one.

92. Some positive initiatives have been taken. In the United Kingdom, for example, an association of police officers from the Gypsy, Roma and Traveller communities has been set up with the support of senior police officers, with the aim of tackling these problems. Cities such as Derby and Sheffield, where Roma arrivals are more recent, have specialist liaison officers. In other countries, efforts are being made to recruit more Roma and Travellers into the police force.

93. Mediators can also be appointed to establish dialogue where uniforms are likely to create barriers and inflame tensions. In the canton of Vaud in Switzerland, for example, in the past, policemen and policewomen were generally the first people Travellers had to deal with when they arrived in a village or town. Today, the presence of mediators makes it possible to establish a relationship of trust from the outset and avoid many sources of conflict.

94. Stops negotiated in advance on specific plots of land can also prevent tensions. For example, in Yverdon, still in the canton of Vaud, a Yenish group was able to settle on municipal farmland for several weeks in the spring of 2023, at the suggestion of the town council.<sup>40</sup>

95. Broader mediation programmes are also being set up by local authorities in some countries, and can play an important role in strengthening mutual trust. During the exchange of views on 24 March 2023, Mr Rorke underlined certain points that must however be respected if these initiatives are to bear fruit. For example, mediators must be properly remunerated, qualified and not be silenced as soon as they make a disturbing statement. Their role must be seen as temporary, and local authorities must not use them as an alibi for not resolving long-term problems.

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40. Lapiere F., "Gens du voyage: Yverdon accueille des Yéniches pour une étude avec l'EPFL", 24 heures, 25 April 2023.

### **9.3. Independent mechanism tasked with handling complaints against members of the law enforcement authorities**

96. Beyond these efforts, independent and effective mechanisms for reporting police abuse must also be in place, and must be able to command the confidence of Roma and Travellers. The establishment of a body independent of the police and the public prosecutor's office, responsible for investigating allegations of racial discrimination and racially motivated misconduct by the police, is thus an integral part of the measures recommended by ECRI in its above-mentioned General Policy Recommendation No. 11.

### **9.4. Training**

97. It goes without saying that it will not be possible to combat racism in policing without involving the police in this effort. Training, designed on the basis of existing efficient models, should be put in place.

98. I take note nonetheless of Mr Rorke's warning in this regard, that an individual "therapeutic" approach will not be enough to overcome institutional racism, as no amount of training can prevent individuals from being racist. Members of the police force must however be trained to exercise their prerogatives and duties with full respect for all human rights. This training should be compulsory for all those who exercise a public function and have means of coercion at their disposal.

99. People from racialised communities must also benefit from training or awareness-raising campaigns, so that they can defend their rights and have the means to have them respected. The JUSTROM programme mentioned above is a very interesting example of this type of initiative.

### **9.5. Knowledge of the history and culture of Roma and Travellers**

100. Finally, as part of the fight against the antigypsyism and anti-nomadism that exist more generally in our societies, teaching the history and raising awareness of the culture of Roma and Travellers are areas for action that should not be neglected.

## **10. Conclusions**

101. Institutional racism of law enforcement authorities towards Roma and Travellers can be summed up, in its simplest form, as a terrible discriminatory imbalance: on the one hand, Roma and Travellers are very often subject to excessive surveillance, controls and use of force by members of law enforcement authorities, which violate their rights; on the other hand, when these populations are victims of criminal offences (whether committed by persons holding public authority or by private individuals), the responses provided are very often inadequate.

102. The case law of the European Court of Human Rights in this regard confirms that this situation can lead to serious human rights violations – in particular the right to life, the prohibition of torture, and the prohibition of discrimination. All too often, when acts likely to constitute such offences are committed against Roma or Travellers, no effective investigation is carried out to elucidate the facts, leaving the victims without recourse or remedy, which is also a violation of their rights.

103. We will only be able to combat these problems effectively if we recognise that racism against Roma and Travellers goes far beyond isolated cases of police brutality. Indeed, antigypsyism and anti-nomadism are evident in the way in which Roma and Travellers are policed and in the culture of impunity that still too often prevails for such practices.

104. Other policies – such as the criminalisation of begging or homelessness – as well as racial profiling have the effect of aggravating this situation, by increasing the situations in which Roma and Travellers, especially members of these communities who live marginalised and/or in poverty, come into contact with law enforcement authorities.

105. Council of Europe member States must redouble their efforts to prevent these human rights violations, and to respond appropriately when they occur. They must hold all perpetrators to account and dismantle the institutional systems and cultures and the prevailing climate of antigypsyism and anti-nomadism that allow these practices to continue. They must also learn from and build on the good practices developed and implemented in some States.