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

Introductory memorandum

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A. Introduction

1. The rapporteur already had the opportunity to present an outline report to the members of the Sub-Committee on Rights of Minorities at its meeting in Bratislava on 22 November 2007, during which a hearing was devoted to the subject of the present report.

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

3. In this initial introductory memorandum, the rapporteur will merely outline the Council of Europe's work (and – to some extent – that of other international organisations). He will subsequently submit another document that will examine specific aspects of the current situation of the Roma in Europe. The consideration of these aspects will be backed up by information obtained during his visits to certain member states.

B. Definitions

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: *"The term 'Roma and/or Travellers' used in the present text refers to Roma, Sinti, Kale, Travellers, and related groups in Europe, and aims to cover the wide diversity of groups concerned, including groups which identify themselves as Gypsies"*.¹ In this report, the term "Roma" covers both Roma and Travellers in the meaning given to them in the above definition.

C. Figures

5. The Roma population is estimated at between 10 and 12 million people throughout Europe. In some member states, the percentage is even close to 10%.²

6. The Roma constitute the largest minority in Europe and are present in virtually all Council of Europe member states.

7. It is also important to note that the Roma are Europe's largest minority without a compact territory and, unlike other national minorities, do not receive any support from a kin-state. In some countries, the Roma minority is not recognised as such even though it has been established there for several centuries.³

8. The Roma people are still in many cases victims of intolerance, discrimination and rejection based on deep-seated prejudices in many Council of Europe member states. An upsurge of violent acts and physical assaults on Roma is even recorded in some member states. We are still hearing of unsatisfactory examples with regard to access to education, employment, housing and health care of the Roma minority.

D. The Council of Europe: a pioneer in promoting the protection of the Roma

9. The Council of Europe has been making efforts for a long time now to improve the situation of the Roma and has even played a pioneering role in this regard. "Council of Europe bodies were the first to voice concern about the situation of Roma/Gypsy communities and to propose practical measures for their improvement."⁴ Moreover, the Council of Europe Parliamentary Assembly⁵ was the first body to deal with this issue, which it did as early as 1969 and has done on many subsequent occasions⁶. "Deeply concerned"⁷ by the discrimination that it finds, the Assembly has not failed to draw the attention of the Committee of Ministers to the situation of the Roma.

¹ The text of this footnote only applies to the French version.

² See table in the appendix.

³ As in the case of Denmark, Italy or the Netherlands, for example.

⁴ Jean-Pierre Liégeois, Roma in Europe, Council of Europe Publishing, January 2007, p. 236.

⁵ At that time still the "Consultative" Assembly.

⁶ See, inter alia, [Recommendation 563 \(1969\)](#) on the situation of Gypsies and other travellers in Europe, [Recommendation 1203 \(1993\)](#) on Gypsies in Europe and [Recommendation 1557 \(2002\)](#) on the legal situation of Roma in Europe.

⁷ Rec. 563 (1969) mentioned above.

10. In 1975, the Committee of Ministers adopted its Resolution (75) 13 containing recommendations on the social situation of nomads in Europe. In 1981, the Standing Conference of Local and Regional Authorities of Europe (the precursor of today's Congress of Local and Regional Authorities) also dealt with this question⁸.

11. These texts show the genesis of the Council of Europe's ever-increasing commitment to ensuring greater protection and social integration of the Roma.

12. Thanks to the work of the Committee of Experts on Roma and Travellers (MG-S-ROM), which was set up in 1995, the Committee of Ministers has subsequently adopted specific thematic recommendations in such fields as education, employment, movement and encampment, housing, health and, quite recently, policies towards the Roma and Travellers⁹.

13. Many seminars have been held to deal with the various aspects of the situation of the Roma in Europe (especially in the fields of education¹⁰, access to employment¹¹ and the return of refugees and asylum-seekers¹², just to mention a few recent examples). For more details on the history of the Council of Europe's involvement in this area, the rapporteur recommends reading the work by Jean-Pierre Liégeois entitled "Roma in Europe"¹³, which has just been reprinted for the third time by Council of Europe Publishing.

14. The Council of Europe was once again in the forefront when, in December 2004, it became the first international organisation to sign a partnership agreement with the European Roma and Travellers Forum (ERTF)¹⁴. The creation of such a forum, which represents the Roma communities in Europe, was advocated by the Finnish President Ms Tarja Halonen in a speech she gave to the Council of Europe Parliamentary Assembly in 2001. According to her, the object was to "give the Roma a say".

E. The Council of Europe's steadfast and wide-ranging commitment in support of the Roma populations

15. At the Warsaw Summit in May 2005, the heads of state and government of the Council of Europe member states confirmed their "commitment to combat all kinds of exclusion and insecurity of the Roma communities in Europe and to promote their full and effective equality". In that context, they also decided to take measures to establish co-operation on the subject between the Council of Europe, the European Union and the Organisation for Security and Co-operation in Europe (OSCE).

⁸ See Resolution 125 (1981) on the role and responsibility of local and regional authorities in regard to the cultural and social problems of populations of nomadic origin.

⁹ Committee of Ministers Recommendation No. R(2000)4 on the education of Roma/Gypsy children in Europe (2000); Committee of Ministers Recommendation No. R(2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers (2001); Committee of Ministers Recommendation No. R(2004)14 on the movement and encampment of travellers in Europe (2004); European Roma and Travellers Forum (2004); Recommendation No. R(2005)4 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe (2005); Recommendation No. R(2006)10 on better access to health care for Roma and Travellers in Europe (2006); Recommendation No. R(2008)5 to member states on policies for Roma and/or Travellers in Europe. These texts are available in English, French, Romani and, in some cases, other languages at the website www.coe.int/romatravellers

¹⁰ Cf. the Bratislava conference under the Slovak Chairmanship organised by the Directorate General of Education, Culture and Heritage, Youth and Sport (DGIV) in April 2008.

¹¹ Cf. the symposium Against Discrimination and for the Employment of Travellers and Roma, organised by the Directorate General of Social Cohesion (DGIII) in November 2007.

¹² A conference was held in Belgrade in October 2007 under the Serbian Chairmanship by DG III together with the Parliamentary Assembly.

¹³ Op. cit., pp. 240 ff.

¹⁴ See the Forum's website www.ertf.org for more detailed information. As a result of this agreement, the ERTF receives financial assistance and help with regard to human resources and has priority access to the various Council of Europe bodies that deal with Roma and Travellers issues.

16. Joint programmes on the Roma in the Balkans (2000-2007) and Ukraine and Moldova (2008-2009) have been signed with the European Commission and implemented by the Council of Europe and have enabled several countries to adopt national Roma programmes and integration measures in various fields in co-operation with Roma representatives. Bodies representing these communities have been set up in this connection.

17.

Long-standing co-operation has been established between the Council of Europe Secretariat and the Contact Point on Roma and Sinti Issues of the Office for Democratic Institutions and Human Rights (ODIHR) (especially on such subjects as the development of national policies on Roma, the teaching of history and the Holocaust and issues relating to refugees, displaced persons and returnees of Roma origin in the Balkans and Kosovo in particular). Similar co-operation takes place with the European Union's Fundamental Rights Agency (FRA), especially on the subjects of health, Roma women and data collection. Tripartite COE/OSCE/EU conferences on Roma issues have been held in Warsaw (2005) and Bucharest (2006). For several years now, the Council of Europe Secretariat has had a co-operation programme with the UN High Commission for Refugees (UNHCR) in the Balkans (access to identity papers, refugees and displaced persons of Roma origin) and the Council of Europe also participates in the meetings of the international steering committee for the Decade of Roma Inclusion (2005-2015), which is an initiative of the World Bank and the Open Society Institute which includes Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Romania, Serbia, the Slovak Republic, "the former Yugoslav Republic of Macedonia" and since 2008, Albania, Bosnia and Herzegovina and Spain.

18. A few years ago, the OSCE and the Council of Europe took the initiative of organising informal co-ordination meetings between international organisations/institutions on Roma issues. These meetings take place in Brussels under each presidency of the European Union.

a. Bodies within the Council of Europe

19. Over the years, a body has been established within the Council of Europe to deal with the Roma issue.

20. Since 1994, a division of the Directorate General of Social Cohesion (DG III) is specifically dedicated to handling matters relating to the Roma and Travellers¹⁵.

21. The Council of Europe Co-ordinator for Activities Concerning Roma and Travellers, an office created in 1994, is responsible for:

- co-ordinating the Council of Europe's activities with regard to Roma and Travellers¹⁶;
- co-operating with other international bodies working on Roma and Travellers issues;
- liaising in particular with the OSCE-ODIHR and the European Commission;
- establishing relations with Roma associations;
- advising the Secretary General on policies and problems concerning Roma and Travellers.

22. During the preparation of his report, the rapporteur established co-operation with the co-ordinator, both directly and through the Secretariat, with a view to identifying examples of good practice as well as any gaps or shortcomings regarding co-operation/co-ordination.

23. In 1995, the Committee of Ministers set up a Group of Experts on Roma and Travellers in Central and Eastern Europe (MG-S-ROM)¹⁷.

24. Under its terms of reference, the MG-S-ROM advises the Committee of Ministers through the European Committee on Migration (CDMG) on matters relating to Roma, Gypsies and Travellers. It also plays the role of a "catalyst" for other Council of Europe sectors. Its task is to foster and stimulate activities in progress and even encourage new initiatives. It can also carry out specific studies or other activities in accordance with decisions of the Committee of Ministers or the CDMG. Finally, its function

¹⁵ The Division was originally called "Migration and Roma". A "Roma and Travellers Division" separate from the Migration Division was set up in 2002 under the "Migration and Roma Department".

¹⁶ The Co-ordinator organises interdepartmental meetings twice a year at the Council of Europe to address topical issues relating to Roma and Travellers and discuss the priorities of all concerned.

¹⁷ The MG-S-ROM was re-named "Group of Specialists on Roma, Gypsies and Travellers" in 2002 before becoming the "Committee of Experts on Roma and Travellers" in 2006.

is to co-ordinate activities relating to Roma, Gypsies and Travellers, in consultation with the Co-ordinator and the Roma and Travellers Division.

25. In September 1996, the Committee of Ministers launched a Project on Roma, Gypsies and Travellers in Central and Eastern Europe¹⁸ and opened a special budget account for this purpose. In 1998, the scope of the project was extended so as to include all the Council of Europe member states.

26. The project operates on the basis of voluntary contributions from Council of Europe member states and the programme of co-operation and assistance with member states. Voluntary contributions have so far been regularly received from Finland. Voluntary contributions have also been received in the past from the Netherlands, the United Kingdom and Slovakia, and lately from Norway and Sweden. *Open Society Institute* (OSI) sponsors Council of Europe traineeships for young Roma¹⁹.

27. With regard to education, the Directorate General of Education, Culture and Heritage, Youth and Sport (DG V) runs several initiatives, including the "Education of Roma children" project, the Roma cultural route and the Curriculum in Romani project.

28. The Council of Europe's "Dosta!" awareness-raising campaign²⁰, which aims at bringing non-Roma citizens closer to the Roma by breaking down the barriers of prejudice and stereotypes, is currently under way. This campaign, originally included in a joint Council of Europe/European Commission programme entitled "Equal rights and treatment for Roma in South Eastern Europe", covered Albania, Bosnia and Herzegovina, Montenegro, the Republic of Serbia and "the former Yugoslav Republic of Macedonia" for the period 2006-2007.

29. It has just been prolonged and extended to Moldova and Ukraine for the period 2008-March 2009 in the context of a new joint Council of Europe/European Commission programme.

30. Contacts have also been established with Croatia, the Czech Republic, Romania, Latvia and Slovenia with a view to launching the campaign in those countries, while Italy and Romania have just officially announced the future launch of the campaign in 2008. Other member states will be invited shortly to join in the campaign.

31. Finally, although the Council of Europe's Commissioner for Human Rights is not specifically concerned with Roma issues, he pays particular attention to the situation of the Roma in Europe.

32. He has, on the one hand, drawn up a thematic report on the human rights situation of the Roma, Sinti and Travellers in Europe²¹, in which he deals with the issues of discrimination, housing, education, access to employment, access to health care, racial violence, and displaced persons and asylum-seekers. On the basis of this report, he has set out a number of specific recommendations in these areas. In 2008 the Commissioner moreover took the initiative of periodically organising information meetings with the other Council of Europe sectors to take stock of these questions.

33. He also regularly assesses the situation of the Roma in each country that he visits and makes recommendations aimed at eliminating the discrimination they face.

34. The Council of Europe has thus developed a complex structure in an effort to co-ordinate the measures taken. This structure is supplemented and backed up by a considerable body of legal provisions.

¹⁸ Subsequently given the new title of "Project on Roma and Travellers".

¹⁹ Some twenty young Roma have thus been able to spend a period of work experience at the Council of Europe. In addition, the Dutch NGO FORUM and the Finnish Government have financed courses for their young Roma or Sinti.

²⁰ "Dosta" means "That's enough" in Romani.

²¹ See CommDH(2006)1; 15.02.2006.

b. Relevant Council of Europe legal instruments, rules and mechanisms

35. The rapporteur has decided to describe these provisions from the most to the least binding (and not according to their specific emphasis on the Roma).

i. Relevant general provisions

- The European Convention on Human Rights (ETS No. 005, hereafter “the ECHR”) and Protocol No 12 (ETS No. 177)

36. In Article 14, the ECHR prohibits discrimination with regard to the enjoyment of the rights and freedoms set forth in the Convention on any ground such as “sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”. In practice, many of these elements are pretexts for daily discrimination against members of the Roma minority.

37. Protocol No. 12 to the ECHR provides for a general ban on discrimination. Its scope is wider than that of Article 14 of the Convention and it guarantees that no one may be the subject of any form of discrimination by any public authority, no matter for what reason. The rapporteur urges the many member states that have neither signed nor ratified this protocol to do so without delay.

38. It emerges from the case law of the European Court of Human Rights (“the Court”) that “the vulnerable position of Roma/Gypsies means that special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases”²². The Court has held that “as a result of their turbulent history and constant uprooting the Roma have become a specific type of disadvantaged and vulnerable minority”²³.

39. To date, the Court has decided around twenty cases concerning members of the Roma minority²⁴ and has found in several of them that they have been subjected to direct discrimination²⁵.

Article 8 of the ECHR – Roma lifestyle / housing

40. The Court considers that “there is (...) a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the Gypsy way of life”²⁶.

41. Some Roma²⁷ have a tradition of living an itinerant life in caravans.

42. The Court has decided several cases relating to the question of accommodation for Roma²⁸. In the Chapman case²⁹, for example, it was not convinced that Article 8 of the ECHR could be interpreted as implying for the United Kingdom, as for all States Parties, the obligation to place an appropriate number of properly equipped sites at the Gypsy community’s disposal and concluded that there had been no violation of that article. As stated in the Buckley v. the United Kingdom judgment, the Court considered that “Article 8 does not necessarily go so far as to allow individuals’ preferences as to their place of residence to override the general interest”³⁰. However, it held that there had been a violation of Article 8 in the Connors v. the United Kingdom case as “the situation (...), for which the authorities

²² See *D.H. and Others v. the Czech Republic* [GC], application no. 57325/00, 13.11.2007, § 181; see also, inter alia, *Chapman v. United Kingdom* [GC], application no. 27238/95, § 96.

²³ *D.H. and Others v. the Czech Republic*, § 182.

²⁴ It is interesting to note in this context the important role played by the annual lawyer training sessions organised for the last 13 years by the Secretariat of DG III in partnership with the European Court of Human Rights and the European Roma Rights Centre (ERRC) in Budapest. These courses, which are specifically aimed at training lawyers with regard to the needs of the Roma, have resulted in a large number of applications to the Court.

²⁵ See http://www.coe.int/t/dg3/romatravellers/jurisprudence/default_en.asp. Around fifty cases are currently pending.

²⁶ See *Chapman v. the United Kingdom*, § 96 and, inter alia, *Connors v. the United Kingdom*, application no 66746/01, 27.04.2004, § 85.

²⁷ A very small minority in Europe, mainly restricted to France, Benelux, Switzerland, Ireland and the United Kingdom.

²⁸ See the case of *Chapman* [GC], mentioned above; *Beard v. the United Kingdom* [GC], application no. 24882/94; *Coster v. the United Kingdom* [GC], application no. 24876/94; *Jane Smith .v the United Kingdom* [GC], application no. 25154/94 and *Lee v. the United Kingdom* [GC], application no 25289/94: in all these cases, the Court did not find any violation of the ECHR (but it should be noted that it concluded by 10 votes to 7 that there had been no violation of Article 8).

²⁹ Mentioned above (footnote 21).

³⁰ *Buckley v. the United Kingdom*, application no. 20348/92, 25.09.1996, § 81.

*must take some responsibility, places considerable obstacles in the way of gypsies pursuing an actively nomadic lifestyle while at the same time excluding from procedural protection those who decide to take up a more settled lifestyle*³¹.

Article 3 of the ECHR – Ill-treatment/ police abuse

43. On 4 March 2008, the Court concluded in *Stoica v. Romania* that there had been a violation of Article 3 and Article 14 in conjunction with Article 3 of the ECHR³². In that case, it held that the respondent government had not proved that the incident between the applicant – a Rom – and police officers was other than racially motivated, and the evidence indicated that the police officers' behaviour was clearly racially motivated. In the *Cobzaru v. Romania* case, the Court reached similar conclusions³³.

44. On 12 July 2005, the Court held that “discrimination based on race can of itself amount to degrading treatment within the meaning of Article 3 of the Convention” and considered as an aggravating factor “remarks concerning the applicants' honesty and way of life made by some authorities dealing with the applicants' grievances” (the applicants were Romanian nationals of Roma origin)³⁴. Here too, the Court concluded unanimously that Romania had violated Articles 8 and 3 of the ECHR.

45. It is a cause for concern that these cases reveal the Romanian authorities' confirmed and repeated failure to redress cases of violence directed against Roma and to remedy the discrimination. It is also worrying that the Court has observed in several cases that the prosecutors made tendentious remarks in relation to the applicant's Roma origin throughout the investigation.

46. On 13 December 2005, the Court held in the case of *Bekos and Koutropoulos v. Greece* that there had been a violation of Articles 3 and 14 of the ECHR because the authorities had not looked into whether the incident might have been racially motivated³⁵. In that case, the applicants, both Greek nationals of Roma origin, alleged they had been victims of racially motivated police violence. While the Court did not reach the conclusion that there had been a substantive violation of Article 14 in conjunction with Article 3, it did reiterate that the authorities had an obligation to take all possible measures to discover whether discriminatory behaviour might or might not have played a role in events and ruled that Article 14 in conjunction with Article 3 had been violated from a procedural point of view. On the other hand, in the *Šečić v. Croatia* case it unanimously held that there had been a violation of Article 14 in conjunction with Article 3 as it considered it unacceptable that the police, who knew that the incident in question had very probably been motivated by racial hatred, had allowed the inquiry to last more than seven years without taking any serious steps to identify or prosecute the perpetrators³⁶.

47. As the Court has stated in its case law, “racial violence is a particular affront to human dignity and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction.”³⁷ It makes it clear that “when investigating violent incidents and, in particular, deaths at the hands of State agents, State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events”³⁸. It is essential that allegations of police violence against members of the Roma community, and because of their membership of that community, are promptly subjected to effective and objective investigations (which are devoid of any racial prejudice on the part of the police and judiciary).

³¹ *Connors v. the United Kingdom*, application no. 66746/01, 27.05.2004, § 94.

³² *Stoica v. Romania*, application no. 42722/02, 04.03.2008.

³³ In that case, the Court held that there had been a violation of Article 3 and of Article 14 owing to the Romanian authorities' failure to look into the possible existence of a racial motive for the maltreatment suffered by the applicant and because of their attitude during the investigations; *Cobzaru v. Romania*, application no. 48254/99, 26.07.2007.

³⁴ *Moldovan and Others v. Romania*, applications nos. 41138/98 and 64320/01, 12.07.2005, § 111.

³⁵ *Bekos and Koutropoulos v. Greece*, application no. 15250/02, 13.12.2005.

³⁶ *Šečić v. Croatia*, application no. 40116/02, 31.05.2007.

³⁷ *Nachova and Others v Bulgaria* [GC], applications nos. 43577/98 and 43579/98, § 145, 06.07.2005.

³⁸ *Ibid.*, § 160.

48. There has been a change in the Court's case law with regard to violations of Article 3 committed against members of the Roma minority. While the Court held in the first cases brought before it that there had been violations of this article, it hesitated to rule that the violence had been the result of discrimination. The Court has subsequently found on several occasions that there was a violation of Article 3 in conjunction with Article 14. Discrimination and racial motives were no doubt probably involved in the earlier cases, but the Court did not go so far in its conclusions.

Article 2 – Right to life / police abuse

49. In *Anguelova v. Bulgaria* (2002), the Court examined the case of the death of the applicant's son (of Roma origin) after he had been questioned by the police. While the Court unanimously held that there had been a violation of Articles 2, 3, 5 and 13 of the ECHR, it concluded by 6 votes to 1 that there had been no violation of Article 14. Although it believed that the applicant's complaints were no doubt based on serious arguments, it was "unable [...] to reach the conclusion that proof beyond reasonable doubt (had) been established"³⁹. The rapporteur notes with interest the partly dissenting opinion of judge Bonello, who stated: "I consider it particularly disturbing that the Court, in over fifty years of pertinacious judicial scrutiny, has not, to date, found one single instance of violation of the right to life (Article 2) or the right not to be subjected to torture or to other degrading or inhuman treatment or punishment (Article 3) induced by the race, colour or place of origin of the victim". Before that, the Court had had to hear two other cases involving the death or brutal treatment of Roma by Bulgarian police officers⁴⁰. The Court's above-mentioned judgments of 2007 and 2008 relating to Article 3 suggest, with hindsight, that judge Bonello was right: the Court finally established that there had been racially motivated violations of Article 3. The possibility that individuals have died as a result of police violence motivated by ethnic prejudice cannot be excluded – the contrary is unfortunately more likely – and the Court might reach this conclusion in future cases.

50. The Court has moreover already taken a step in that direction in the case of *Natchova v. Bulgaria* by unanimously finding a procedural violation of Article 14 of the Convention in conjunction with Article 2. The authorities did not carry out a satisfactory investigation to determine whether there were possible racist motives behind the events leading to the death of two Roma⁴¹.

Article 2 of Protocol No. 1 – Right to education

51. With regard to education, the Court held in a Grand Chamber judgment in the case of *D.H. and Others v. the Czech Republic* that there had been a violation of Article 14 in conjunction with Article 2 of Protocol No. 1 (right to education) because the applicants had been placed in special schools owing to their Roma origin⁴². This judgment is all the more important as the practice of special schools, which has been condemned for some years now, is very widespread.

52. The Court came to the same conclusion on 5 June 2008 in the case of *Sampanis and Others v. Greece* owing to the non-enrolment of Roma children in school, then their enrolment in special classes⁴³. Conversely, on 17 July 2008 the Court unanimously found that Croatia had not violated Article 2 of Protocol No. 1 (taken separately and in combination with Article 14 of the Convention) in that the applicants had been placed in classes set aside for Roma during their primary education⁴⁴. In the instant case, the Court held that the differences in treatment complained of by the applicants were founded on their language abilities (insufficient command of Croatian) and that the authorities had acted creditably in dealing with these awkward problems by implementing specific educational programmes that met a special need.

³⁹ *Anguelova v. Bulgaria*, application no. 38361/97, 13.06.2002, § 168.

⁴⁰ See the judgments in *Assenov and others v. Bulgaria*, case no. 90/1997/874/1086, 28.10.1998, and *Velikova v. Bulgaria*, application no. 41488/98, 18.05.2000.

⁴¹ *Nachova and Others v. Bulgaria* [GC], applications nos. 43577/98 and 43579/98, 06.07.2005.

⁴² *D.H. and Others v. the Czech Republic* [GC], application no. 57325/00, 13.11.2007.

⁴³ *Sampanis and Others v. Greece*, application no. 32526/05, 05.06.2008.

⁴⁴ *Oršuš and Others v. Croatia*, application no. 15766/03, 17.07.2008.

- **The European Social Charter**

53. The European Committee of Social Rights ("the Committee"), which is responsible for assessing the conformity of national law and practice with the European Social Charter ("the Charter"), assesses the situation of the Roma both in the framework of the reporting system and in the context of the collective complaints procedure.

54. **In the framework of the reporting system**, the Committee has found the situation in certain States⁴⁵ not to be in conformity with the Charter as regards Roma on the following grounds:

- Insufficient legal protection: Roma families often suffer discrimination in the fields of economic and social protection which follows from the fact that their legal status is not ensured due to lack of identity documents and/or birth certificates.
- Discrimination in practice: Roma families who are entitled to economic and social protection suffer from discriminatory behaviour in practice as regards access to social services, family benefits and to housing (such as unsatisfactory housing accommodation, segregation, dwelling size, area with no infrastructure).
- Roma children have been found to suffer discrimination and not to be entitled to an effective right to education (they do not have access to education or they are segregated in separate special schools).

55. In its 2006 Conclusions, the Committee made a general statement regarding Article 16, which guarantees the rights of families, saying that *it will examine the means used by States to ensure the social, legal and economic protection of the various types of families, including in particular Roma families. States can choose the means freely, provided that they do not jeopardise the effective protection of Roma families.*

56. In its 2006 Conclusions, the Committee also addressed a general question to all States Parties asking them to provide in their next reports "*comprehensive information on any measures introduced to take account of the fact that certain groups of the population, such as nomads, are particularly vulnerable and to secure for them the effective enjoyment of the rights enshrined in the Charter.*"

57. **Under the collective complaints procedure** there have so far been eight complaints dealing with Roma rights: six were lodged by the European Roma Rights Centre (ERRC), one by the International Helsinki Federation and one by Interights. Most complaints invoked a breach of the right of the family to social, legal and economic protection (Article 16) referring particularly within this Article to the right to housing (also directly guaranteed by Article 31). However, recent complaints have also pleaded the violation of other rights, i.e.: the right to health (Article 11), the right to social and medical assistance (Article 13), the right of migrant workers and their families to protection and assistance (Article 19), the right to protection against poverty and social exclusion (Article 30), all read alone or in conjunction with the non-discrimination provision.

58. The first three complaints concerning Roma and which have been decided upon, related to housing.

59. The first, **CC 15/2003**, was against Greece and resulted in a finding of a violation.⁴⁶ The Greek Government announced a number of measures to remedy the situation, but having re-examined the situation in 2006 under the reporting procedure, the Committee concluded that the violations have still not been rectified in a satisfactory manner. Recently another complaint has been lodged against Greece, CC 49/2008, to denounce the continued discrimination in access to housing.

⁴⁵ see 2006 Conclusions

<http://www.coe.int/t/e/human%5Frightrights/esc/3%5Freporting%5Fprocedure/2%5Frecent%5Fconclusions/2%5FBy%5FYear/>

⁴⁶ The Committee concluded by 8 votes to 2:

- that the insufficiency of permanent dwellings constitutes a violation of Article 16 of the European Social Charter;
- that the lack of temporary stopping facilities constitutes a violation of Article 16 of the European Social Charter;
- that the forced eviction and other sanctions of Roma constitutes a violation of Article 16 of the European Social Charter.

60. The second, **CC 27/2004**, was against Italy and also resulted in a finding of a violation.⁴⁷ The Italian Government announced a number of measures to remedy the situation, but having re-examined the situation in 2007 under the reporting procedure, the Committee concluded that the violations have still not been rectified in a satisfactory manner.

61. The third complaint, **CC 31/2005**, was against Bulgaria and also resulted in a finding of a violation.⁴⁸ Since this decision, the Committee has not yet re-examined the specific situation addressed by the complaint under the reporting procedure. This examination will take place in 2011.

62. Another complaint was lodged against Bulgaria, **CC 44/2007**. It was declared admissible but was then struck off the list of complaints in March 2008 due to the winding up of the complainant organisation (the Helsinki International Federation). This complaint concerned the right to social and medical assistance (Article 13§1) alone or in conjunction with non discrimination (Article E).

63. The other 4 other complaints are still pending.

– Two are against Bulgaria:

CC 48/2008, which resumed complaint CC 44/2007, relates to the right to social and medical assistance (Article 13§1) alone or in conjunction with non discrimination (Article E). It is alleged that Bulgarian legislation as from 1 January 2008 will no longer ensure the right to adequate social assistance to unemployed persons without adequate resources and that this will notably affect Roma and women.

CC 46/2007 relates to the right to health (Article 11) as well as the right to social and medical assistance (Article 13§1) alone or in conjunction with non discrimination (Article E). It is alleged that legislation excludes a large number of Roma persons from health insurance coverage, that government policies do not adequately address the specific health risks affecting Romani communities, and that there is widespread discriminatory practices on the part of health care practitioners against Roma in the provision of health services.

– As mentioned above, one is against Greece:

CC 49/2008 and relates to the same issues – forced evictions, lack of suitable alternative housing and discrimination in access to housing (Article 16) – as the first complaint against Greece.

– The last complaint registered by the Committee is against France:

CC 51/2008 and relates the right of the family to social, legal and economic protection (Article 16), the right of migrant workers and their families to protection and assistance (Article 19), the right to protection against poverty and social exclusion (Article 30) and the right to housing (Article 31), read alone or in conjunction with non-discrimination (Article E), on the grounds that Travellers in France are victims of injustice with regard to access to housing, inter alia social exclusion, forced eviction as well as residential segregation, substandard housing conditions and lack of security. It is also alleged that France has failed to take measures to address the deplorable living conditions of Romani migrants from other Council of Europe member states.

⁴⁷ The Committee concluded:

- Unanimously that the insufficiency and inadequacy of camping sites constitute a violation of Article 31§1 of the European Social Charter taken together with Article E;
- Unanimously that forced eviction and other sanctions constitute a violation of Article 31§2 of the European Social Charter taken together with Article E;
- Unanimously that the lack of permanent dwellings constitutes a violation of Articles 31§1 and 31§3 of the European Social Charter taken together with Article E.

⁴⁸ The Committee concluded by 9 votes to 1:

- that the situation concerning the inadequate housing of Roma families and the lack of proper amenities constitutes a violation of Article 16 of the Revised Charter taken together with Article E;
- that the lack of legal security of tenure and the non-respect of the conditions accompanying eviction of Roma families from dwellings unlawfully occupied by them constitute a violation of Article 16 of the Revised Charter taken together with Article E.

- ***The Framework Convention for the Protection of National Minorities (ETS No. 157)***

64. As was clearly emphasised in the report by our colleague Boris Cilevičs, the Framework Convention – the very first legally binding instrument devoted to the protection of national minorities – provides an “*irreplaceable frame of reference*” and is an “*indispensable*” instrument⁴⁹.

65. Since the Framework Convention does not provide a definition of the term “national minority”, several member states made reservations or interpretative declarations⁵⁰ at the time of their signature or ratification. By this expedient, some states decided expressly to include the Roma minority in the scope of the Convention. To date, Germany (but only for its own nationals)⁵¹, Slovenia, Sweden and “the former Yugoslav Republic of Macedonia” have done so. By contrast, Denmark, Italy and the Netherlands have excluded the Roma minority and Sinti from the scope of the Framework Convention.

66. Although most States Parties have made no reservation or interpretative declaration, they mostly include the Roma in the scope of the Framework Convention in line with their domestic legislation and/or their general policy towards minorities⁵². However, some states consider that the instrument does not apply to the Roma living in their territory even though they did not make a reservation or declaration at the time of their signature or ratification⁵³. Some states also limit the scope of the Framework Convention on the basis of their domestic legislation or its interpretation by the courts. One example that can be mentioned here is that of the United Kingdom: the Advisory Committee established that the *Gypsies and Travellers* in Scotland do not formally fall within the scope of the Framework Convention (while those living in England or Wales do)⁵⁴.

67. Some states have limited the scope of the Framework Convention to their own nationals. This is particularly important in the context of the many Roma migrations: in the host countries that have adopted this restrictive interpretation, Roma refugees and Roma of immigrant origin do not fall within the scope of the Framework Convention, although the authorities do not always strictly apply this distinction in practice.

68. The only provision that applies to all persons, even non-nationals, living in the territory of a State Party to the Framework Convention is Article 6, which provides that:

“The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.”

⁴⁹ See report by the Parliamentary Assembly’s Committee on Legal Affairs and Human Rights on ratification of the Framework Convention for the Protection of National Minorities by the member states of the Council of Europe ([Doc. 10961](#)), 12.06.2006, Rapporteur: Mr Boris Cilevičs.

⁵⁰ See

<http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CV=1&NA=&PO=999&CN=999&VL=1&CM=9&CL=ENG>

⁵¹ See the declaration contained in a letter dated 11.05.1995 from the Permanent Representative of Germany to the Secretary General on the occasion of the signature that day (Or. Ger./Engl.) and renewed in the instrument of ratification, deposited on 10.09.1997 Or. Ger./Engl.):

“The Framework Convention contains no definition of the notion of national minorities. It is therefore up to the individual Contracting Parties to determine the groups to which it shall apply after ratification. National Minorities in the Federal Republic of Germany are the Danes of German citizenship and the members of the Sorbian people with German citizenship. The Framework Convention will also be applied to members of the ethnic groups traditionally resident in Germany, the Frisians of German citizenship and the Sinti and Roma of German citizenship.”

⁵² Among other countries, Italy protects them even though the Law of 1999 excludes them from its scope, contrary to some regional laws; Albania protects them under its general policy on this issue (no law).

⁵³ Including Cyprus; Portugal and Azerbaijan (the latter made a declaration, but it does not relate to the personal scope of the Framework Convention).

⁵⁴ See the Advisory Committee’s opinion (2nd cycle), Article 3,

http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_monitoring/2_monitoring_mechanism/4_opinions_of_the_advisory_committee/1_country_specific_opinions/2_second_cycle/PDF_2nd_OP_UK_en.pdf

69. In its opinions on the States Parties, the Advisory Committee on the Framework Convention for the Protection of National Minorities (the “Advisory Committee”) systematically examines the situation of the Roma and, mainly with reference to the aforementioned Article 6, has also done so in the case of the few states which believe the Roma cannot enjoy the protection of the Framework Convention⁵⁵.

70. The Advisory Committee, which remarks that “*the equal access of Roma children to good quality education and their integration in the societies is a persistent problem in many States Parties to the Framework Convention*”,⁵⁶ gives particular attention to the Roma minority in the **field of education**. This is stated, for example, in its opinion on Slovakia or Sweden⁵⁷. It closely examines the question of segregation in schools and notes that this often happens in the case of Roma⁵⁸. So-called “special” classes are particularly singled out for criticism as the Advisory Committee remarks that they “*are sometimes meant for mentally disabled pupils but have often been used disproportionately for Roma children due to an erroneously generalised perception of their inability to follow instruction in the ‘regular’ school system*”⁵⁹. The committee has condemned these practices on several occasions.

71. The Advisory Committee also mentions some examples of good practices, including the introduction of Roma ombudsmen and school inspectors and the reservation of places for Roma students in higher education in Romania⁶⁰.

72. In the context of its examination of the **effective participation** of persons belonging to national minorities in cultural, social and economic life and public affairs, the Advisory Committee recommends the development and implementation of comprehensive and long-term strategies to encourage the effective integration of Roma into socioeconomic life⁶¹. It also wants more attention to be paid to the Roma as they are strongly under-represented in public administration⁶².

73. These concerns, among others, are voiced in the recommendations adopted by the Committee of Ministers on the basis of the Advisory Committee’s opinions.

⁵⁵ See in this connection the Advisory Committee’s second opinion on Denmark, especially with regard to Article 3; ACFC/INF/OP/II(2004)005, 11.05.2005 at [http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_\(monitoring\)/2_monitoring_mechanism/4_opinions_of_the_advisory_committee/1_country_specific_opinions/2_second_cycle/PDF_2nd_OP_Denmark_en.pdf](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_(monitoring)/2_monitoring_mechanism/4_opinions_of_the_advisory_committee/1_country_specific_opinions/2_second_cycle/PDF_2nd_OP_Denmark_en.pdf)

⁵⁶ See the Advisory Committee’s Commentary on Education, ACFC/25DOC(2006)002, 02.03.2006, p. 21.

⁵⁷ See the Advisory Committee’s second opinion on the Czech Republic. ACFC/INF/OP/II(2005)002, 26.10.2005; Advisory Committee’s opinion on Slovakia, ACFC/INF/OP/I(2001)001, paragraph 40. On the importance of preschool education, the Advisory Committee states in that opinion that “*the education system (must reflect) and also fully (take) into account the language and culture of the minority concerned*” and adds: “*Such an approach would also help to increase mutual understanding between Roma parents and schools. In this connection, experiences gained by minorities at pre-school level are often of central importance. the proportion of Roma children attending kindergartens has dropped drastically in recent years in Slovakia, the Advisory Committee welcomes the initiatives aimed at improving opportunities for Roma in kindergartens and expresses the hope that they will have a positive impact on the relevant practice at local level.*” Moreover, the explanatory report to the Framework Convention explicitly deals with this question in the part devoted to Article 14(2) (see below).

⁵⁸ See the Advisory Committee’s Commentary on Education, p. 17.

⁵⁹ Ibid.

⁶⁰ Ibid, p. 23.

⁶¹ See the Advisory Committee’s Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, ACFC/31DOC(2008)001, 05.05.2008, p. 5.

⁶² Ibid, p. 8.

- ***The European Charter for Regional or Minority Languages (ETS No 148)***⁶³

74. In most cases, owing to its “non-territorial” character, Romani, the language of the Roma, is covered by the protection of Article 7(5) of the European Charter for Regional or Minority Languages (“the Charter”)⁶⁴.

75. Although Article 7 of the Charter is general in nature, it is increasingly regarded as a set of key provisions by the Committee of Experts responsible for carrying out the monitoring provided for by the Charter. Accordingly, Article 7(5) gives “non-territorial” languages access to broad protection.

76. Some States Parties have decided to include the Romani language within the scope of Part II of the Charter⁶⁵. In other cases (Germany with respect to the Land of Hesse, Slovakia, Montenegro and Serbia), this language is protected by Part III of the Charter.

77. Although the Committee of Experts on the Charter encouraged the States Parties in its first assessment reports to take measures to protect the Romani language, its recommendations were quite vague. Since then, however, it has developed a much more proactive and clearly defined position especially following a public hearing with the European Roma and Travellers Forum (ERTF) in October 2005.

78. For example, it has identified four specific areas of considerable importance for the Romani language: the relationship between language policies and both the economic and the social situation, standardisation and the awareness of the majority population. The rapporteur notes that the members of the European Roma and Travellers Forum are loath to use the term “standardisation” and prefer to replace it with “codification”⁶⁶.

79. The Committee of Experts recommends that the States Parties draw up a co-ordinated policy for the Romani language (including its legal recognition, a structured policy via a specific body and state funding).

80. In the field of education, the Committee of Experts recommends that the States Parties significantly develop the capacities for teaching the Romani language, especially in primary schools, and deplores educational segregation. In order to facilitate the teaching of the Romani language, it encourages the States Parties to support the efforts to standardise this language (especially its written form).

81. Finally, the Committee of Experts encourages the States Parties to take positive measures to improve the general attitude to the Roma culture and language. Such measures should be taken in particular in the education and media fields.

82. The Committee of Experts emphasises that the improvements in the areas identified will only be possible if there is genuine co-operation between the authorities and the representatives of the Romani speakers.

- ***European Commission against Racism and Intolerance (ECRI)***

83. On the basis of its Statute and both through its specific and general instruments, the European Commission against Racism and Intolerance (ECRI) has examined in detail, and on many occasions, the specific situation of Roma in Europe today with regard to the racism and discrimination from which they suffer.

⁶³ For more information, see document MIN-LANG (2005) 19 at

http://www.coe.int/t/dg4/education/minlang/publications/ReportERTFHearing_en.pdf.

⁶⁴ “5. The Parties undertake to apply, *mutatis mutandis*, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the traditions and characteristics, of the groups which use the languages concerned.” Croatia has made a reservation excluding the Romani language from the scope of Article 7(5) of the Charter.

⁶⁵ Austria (only the province of Burgenland), the Czech Republic, Finland, Hungary, the Netherlands, Norway, Romania, Slovenia and Sweden.

⁶⁶ MIN-LANG (2005) 19, mentioned above, p. 2.

84. The European Commission against Racism and Intolerance (ECRI) has adopted two particularly relevant instruments: General Policy Recommendation No. 3 on combating racism and intolerance against Roma/Gypsies⁶⁷ and General Policy Recommendation No. 10 on combating racism and racial discrimination at school⁶⁸. ECRI General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination is also relevant in so far as it provides guidelines on the legal aspects of combating racism and racial discrimination, including racist and discriminatory acts against Roma⁶⁹.

85. In its 2007 annual report, ECRI stresses that “*Roma and Travellers throughout Europe are the victims of **anti-Gypsyism**, which takes the form of racist remarks, discrimination and sometimes violence against Roma and Travellers. This trend, far from being reversed, has recently become more pronounced with the adoption by some member States of measures facilitating the expulsion of members of these communities and with the tone of public debate on the adoption of such measures. Sustained, intensified efforts must be made to combat the particular forms of exclusion and segregation to which Roma and Travellers are subjected, in particular in schools.*”⁷⁰

86. In its monitoring reports on the situation in the member states⁷¹, ECRI raises the question of the problems with racism and racial discrimination affecting Roma in all countries where they live, and recommends that the member states adopt national strategies to combat these phenomena and improve the position of Roma communities⁷². ECRI stresses the need for the member states to adopt a multidisciplinary approach in this regard⁷³.

87. According to ECRI, the authorities of the member states should in particular take measures to:

- combat all forms of racism and racial discrimination against Roma;
- increase the involvement of Roma in public and political life;
- fight against the discrimination sometimes inflicted on Roma by the local authorities (both the administrative authorities and the police);
- put an end to the educational segregation of which Roma children are victims and improve their access to education;
- improve the situation of the Roma with regard to accommodation and avoid the forced evictions of Roma;
- facilitate Roma access to personal documents;
- improve Roma access to health care and vaccination programmes;
- improve Roma access to employment;
- foster the culture and language of Roma communities.

88. ECRI’s above-mentioned general and specific policy recommendations provide numerous examples of concrete measures that can be taken in this connection.

89. On 20 June 2008, ECRI expressed its deep concern over the recent events affecting Roma and many immigrants in Italy by adopting a statement on the subject⁷⁴.

⁶⁷ http://www.coe.int/t/e/human_rights/ecri/1-ecri/3-general_themes/1-policy_recommendations/recommendation_n3/Rec03en.pdf

⁶⁸ http://www.coe.int/t/f/droits_de_l%27homme/ecri/1-ecri/3-th%E8mes_g%E9n%E9raux/1-recommandations_de_politique_g%E9n%E9rale/recommandation_n10/fr-recommandation%20nr%2010%20-%20version%20A4.pdf

⁶⁹ http://www.coe.int/t/e/human_rights/ecri/1-ecri/3-general_themes/1-policy_recommendations/recommendation_n10/eng-recommendation%20nr%2010.pdf

⁷⁰ http://www.coe.int/t/e/human_rights/ecri/1-ECRI/1-Presentation_of_ECRI/4-Annual_Report_2007/Annual_Report_2007.asp#TopOfPage

⁷¹ All monitoring reports can be accessed on the ECRI website: www.coe.int/ecri

⁷² In this connection, see for example the 3rd ECRI reports on “the former Yugoslav Republic of Macedonia” (CRI(2005)4) and the one on Poland (CRI(2005)25).

⁷³ See 3rd ECRI report on Poland (CRI(2005)25).

⁷⁴ http://www.coe.int/t/e/human_rights/ecri/1-ECRI/5-Current_events/53-eng_20_06_2008.asp#TopOfPage

ii. Specific norms and recommendations

90. The Committee of Ministers has adopted numerous recommendations on the Roma⁷⁵. Recently, on 20 February 2008, the Committee of Ministers adopted Recommendation CM/Rec(2008)5 on policies for Roma and/or Travellers in Europe, acknowledging in its preamble “the existence of anti-Gypsyism as a specific form of racism and intolerance”⁷⁶. The Committee of Ministers recommends that member states

“– adopt, in accordance with the principles and provisions set out in the appendix to this recommendation, a coherent, comprehensive and adequately resourced national and regional strategy with short- and long-term action plans, targets and indicators for implementing policies that address legal and/or social discrimination against Roma and/or Travellers and enforce the principle of equality;
– monitor and publish regular evaluation reports on the state of the implementation and impact of strategies and policies to improve the situation of Roma and/or Travellers;
– bring this recommendation to the attention of and ensure the support of the relevant national and local or regional, self-governing public bodies, Roma and/or Traveller communities and the broader population in their respective countries through the appropriate channels, including the media.”

91. It is stated in the appendix to the Recommendation that:

“A national and/or regional strategy should aim at ensuring equality and integration of Roma and/or Travellers in social, economic and political life, promoting community empowerment and capacity building, increasing awareness and understanding of Roma and/or Traveller culture and lifestyle among the rest of society, and ensuring respect for Roma and/or Traveller identity and effective protection from direct and indirect discrimination and segregation and from racism.”

92. The Parliamentary Assembly has also dealt with the situation of the Roma on various occasions⁷⁷. The rapporteur intends to give special consideration to Recommendation 1557 (2002) on the legal situation of Roma in Europe and the implementation of the recommendations it contains.

93. In 1995, the Congress of Local and Regional Authorities adopted a recommendation Rec11(1995) on “Towards a tolerant Europe: the contribution of Roma (Gypsies)”. The rapporteur is of the opinion that the Congress should deal with this question once again as there is reluctance at the local and regional level to implement policies in support of Roma.

iii. Relevant main provisions originating from other organisations

– The EU Council Directive of 29 June 2000 (2000/43/EC) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁷⁵ Committee of Ministers Recommendation No. R(2000)4 on the education of Roma/Gypsy children in Europe (2000); Committee of Ministers Recommendation No. R(2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers (2001); Committee of Ministers Recommendation No. R(2004)14 on the movement and encampment of travellers in Europe (2004); the European Roma and Travellers Forum (2004); Recommendation No. R(2005)4 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe (2005); Recommendation No. R(2006)10 on better access to health care for Roma and Travellers in Europe (2006); Committee of Ministers Recommendation No. R(2008)5 on policies for Roma and/or Travellers in Europe. These texts are available in English, French, Romani and, in some cases, other languages at the website www.coe.int/romatravellers

⁷⁶ [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2008\)5&Language=1anEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2008)5&Language=1anEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

⁷⁷ See Recommendations 563(1969), 1203(1993) and 1557(2002) and Resolutions 125(1981), 249(1993); 16(1995) and 44(1997). See also §§ 9-14, in which the Assembly’s pioneering role in this area is described.

- The Guiding Principles for improving the situation of the Roma adopted by the European Union (COCEN Group) at the Tampere Summit in December 1999.
- The European Parliament’s resolution on the situation of Roma in the European Union, adopted on 28 April 2005, European Parliament’s resolution on the situation of women in the European Union, adopted on 1 June 2006 and European Parliament’s resolution of 31 January 2008 on a European strategy on the Roma people.
- The 2003 Action Plan of the Organisation for Security and Co-operation in Europe (OSCE) aimed at improving the situation of Roma and Sinti within the OSCE area.

F. Co-ordination: typical example in the area of educating Roma children

94. On 3 February 2000, the Committee of Ministers adopted Recommendation No. R(2000)4 of the Committee of Ministers on the education of Roma/Gypsy children in Europe. The guiding principles of an education policy for Roma/Gypsy children in Europe are set out in an appendix to this recommendation. According to one of these guiding principles, *“emphasis should be put on the need to better co-ordinate the international, national, regional and local levels in order to avoid dispersion of efforts and to promote synergies”*.

95. The project has developed around three areas of co-operation: 1) inter-sectoral within the Council of Europe and inter-institutional with the other organisations; 2) through the organisation of seminars and exchange of views and experience; 3) via the development of structural projects.

96. The project is based on the observation that *“pooling, comparing and contrasting different experiences and findings, through various co-operative activities, was a necessary and appropriate means of addressing the problems identified. While one-off initiatives, involving a great deal of effort but divorced from the general approach and from structural projects, might sometimes succeed in certain respects, there had been much duplication and, in many cases, mistakes had been repeated unnecessarily”*.⁷⁸

97. The judgment of the Grand Chamber in *D.H. and Others v. The Czech Republic*⁷⁹ and the Court judgment *Sampanis and Others v. Greece* could be considered an example of the practical success of efforts to bring about effective co-ordination between the Council of Europe’s various bodies and instruments on the Roma education issue.

98. In that judgment, the Court refers both to the reports of the Advisory Committee on the Framework Convention and those of ECRI or the Commissioner for Human Rights. Although the Court recognises the Czech Republic authorities’ desire to find a solution for children with special educational needs, it *“shares the disquiet of the other Council of Europe institutions who have expressed concerns about the more basic curriculum followed in these schools and, in particular, the segregation the system causes”*.⁸⁰

G. Preliminary conclusions

99. While the Council of Europe’s Commissioner for Human Rights concluded in 2007 in one of his “viewpoints” that it is time to take a serious interest in the fundamental rights of the Roma⁸¹, the rapporteur would point out that the Council of Europe has done this for a long time and developed a set of fairly important instruments and legal provisions.

100. The rapporteur is convinced that such co-ordination of activities to improve the situation of the Roma in all areas is necessary to guarantee their effectiveness. However, the rapporteur wishes to note from the outset that co-ordination at the level of the international organisations can on no account be an attempt to compensate for the possible lack of commitment on the part of member states. All the co-ordination in the world will not replace the political will to have things changed. Co-ordination can at the very most optimise the outcome of a genuine political will but not be a substitute for it.

⁷⁸ Jean-Pierre Liégeois, Roma in Europe, Council of Europe Publications, January 2007, p. 243.

⁷⁹ Mentioned above, i.a. § 192 and 200

⁸⁰ Ibid, § 198.

⁸¹ See the Commissioner’s Viewpoint of 02.04.07;

http://www.coe.int/t/commissioner/Viewpoints/070402_en.asp

101. On the other hand, the rapporteur thinks it is possible to stress at the outset that greater co-ordination in the actual representation of Roma by Roma themselves would also be very helpful for the defence of their rights.

102. It is important to point out that the basis of the Organisation's work is respect for human rights, and the Council of Europe should ensure that all activities relating to the protection of the Roma send out a strong and coherent message on human dignity.

APPENDIX

Roma population in Council of Europe member states

| European states | Official number (last census) | Estimate figures (source in footnotes) | Average estimate | % of total population ⁸² | Seats at the Forum ⁸³ |
|------------------------|----------------------------------|---|------------------|--|-------------------------------------|
| Albania | 1.261 ⁸⁴ | 80.000 to 150.000 | 115.000 | 3.59% | 1 (+1) |
| Andorra | | | None | 0.00% | 0 |
| Armenia | No data available | 100 to 300 | 200 | 0.00% | (1) |
| Austria | No data available | 20.000 to 30.000 | 25.000 | 0.30% | 1 |
| Azerbaijan | No data available | about 2.000 | 2.000 | 0.02% | (1) |
| Belarus | No data available | 10.000 to 70.000 | 40.000 | 0.41% | 1 |
| Belgium | No data available | 20.000 to 40.000 ⁸⁵ | 30.000 | 0.28% | 1 |
| Bosnia and Herzegovina | 8.864 (1991) | 40.000 to 60.000 | 50.000 | 1.31% | 1 |
| Bulgaria | 370.908 (2001) | 700.000 to 800.000 | 750.000 | 9.74% | 3 |
| Croatia | 9.463 (2001) | 30.000 to 40.000 | 35.000 | 0.79% | 1 |
| Cyprus | No data available | 1.000 to 1.500 | 1.250 | 0.12% | (1) |
| Czech Republic | 11.718 (2001) | 150.000 to 300.000 | 225.000 | 2.18% | 2 |
| Denmark | No data available | 1.000 to 10.000 | 5.500 | 0.10% | 1 |
| Estonia | 542 (2000) | 1.000 to 1.500 | 1.250 | 0.09% | (1) |
| Finland | No data available | 9.000 to 12.000 | 10.500 | 0.19% | 1 |
| France | No data available ⁸⁶ | 300.000 to 500.000 | 400.000 | 0.64% | 2 (+1) |
| Georgia | 1.744 (1989) | 2.000 to 2.500 | 2.250 | 0.05% | (1) |
| Germany | No data available | 70.000 to 140.000 | 105.000 | 0.12% | 2 |
| Greece | No data available | 180.000 to 350.000 | 265.000 | 2.36% | (2) |
| Hungary | 190.046 (2001) | 400.000 to 800.000 | 700.000 | 6.93% | 3 |
| Iceland | | | None | 0.00% | 0 |
| Ireland | 22.435 (2006) ⁸⁷ | 32.000 to 39.000 ⁸⁸ | 35.500 | 0.80% | 1 |
| Italy | No data available | 120.000 to 160.000 ⁸⁹ | 140.000 | 0.23% | 2 |
| Latvia | 8,205 (2000) | 8.000 to 20.000 | 14.000 | 0.60% | 1 |
| Liechtenstein | | | None | 0.00% | 0 |
| Lithuania | 2.571 (2001) | 3.000 to 4.000 | 3.500 | 0.10% | 1 |
| Luxembourg | No Roma/Travellers | 100 to 500 | 300 | 0.06% | (1) |
| Malta | | | None | 0.00% | 0 |
| Moldova | 12.280 (2004) | 15.000 to 200.000 | 107.500 | 2.68% | 2 |
| Monaco | | | None | 0.00% | 0 |
| Montenegro | 2.601 (2003) | 13.500 to 25.000 ⁹⁰ | 19.250 | 3.20% | (1) |
| Netherlands | No data available | 30.000 to 46.000 ⁹¹ | 38.000 | 0.23% | 1 |
| Norway | No data available | 2.500 to 11.000 ⁹² | 6.750 | 0.14% | (1) |
| Poland | 12,731(2002) ⁹³ | 15.000 to 60.000 | 37.500 | 0.09% | 1 |
| Portugal | No data available | 40.000 to 100.000 | 70.000 | 0.65% | 1 |
| Romania | 535.140 (2002) | 1.200.000 to 2.500.000 | 1.850.000 | 8.56% | 4 |
| Russian Federation | 182.617 (2002) | 450.000 to 1.200.000 | 725.000 | 0.51% | 2 (+1) |
| San Marino | | | None | 0.00% | 0 |
| Serbia | 108.193 (2002) ⁹⁴ | 400.000 to 800.000 | 600.000 | 6.31% | 2 (+1) |
| Slovak Republic | 89.920 (2001) ⁹⁵ | 380.000 to 600.000 | 490.000 | 9.07% | 3 |
| Slovenia | 3.246 (2002) ⁹⁶ | 7.000 to 10.000 | 8.500 | 0.42% | 1 |
| Spain | No data available | 650.000 to 800.000 | 725.000 | 1.60% | 3 |

⁸² Source for total population: 2007 World Population data sheet of the 2007 Population Reference Bureau

⁸³ European Roma and Travellers Forum (ERTF) based in Strasbourg. In parenthesis, seats not yet occupied.

⁸⁴ Roma and Vlachs together.

⁸⁵ See the various sources for the distribution of the number per group (Roma, Sinti, Travellers). These estimates include from 10.000 to 20.000 Roma migrants.

⁸⁶ In 2002, the French Ministry of Defense reported 156,282 circulation documents (source: ERRC report November 2005).

⁸⁷ Irish Travellers only (24.000 in 2002 census).

⁸⁸ 30.000 to 36.000 Irish Travellers + 2.000 to 3.000 Roma.

⁸⁹ 60.000 to 90.000 Italian Roma and Sinti + 45.000 to 70.000 Roma born outside Italy or born in Italy from immigrant parents, namely ex-Yugoslavia and Romania.

⁹⁰ The largest estimated figure includes about 5.000 displaced Roma and Egyptians from Kosovo.

⁹¹ Include 7.000 to 16.000 Roma and Sinti + 23.000 to 30.000 autochthonous Travellers.

⁹² Include 2.000 to 3.000 Roma/Travellers + 300 to 400 Roma/Gypsies (official source).

⁹³ During the same census, the number of persons who declared themselves as Romani speakers was 15.657.

⁹⁴ Excluding Kosovo. In addition, there are about 100.000 to 120.000 IDPS from Kosovo.

⁹⁵ During the same census, the number of persons who declared themselves as Romani speakers was 99.448.

⁹⁶ During the same census, the number of persons who declared themselves as Romani speakers was 3.834.

| European states | Official number (last census) | Estimate figures (source in footnotes) | Average estimate | % of total population ⁸² | Seats at the Forum ⁸³ |
|---|-------------------------------|--|-------------------|-------------------------------------|----------------------------------|
| Sweden | No data available | 35.000 to 50.000 ⁹⁷ | 42.500 | 0.46% | 1 |
| Switzerland | No data available | 25.000 to 35.000 ⁹⁸ | 30.000 | 0.40% | 1 |
| "The Former Yugoslav Republic of Macedonia" | 53.879 (2002) | 135.500 to 260.000 | 197.750 | 9.88% | 2 |
| Turkey | 4.656 (1945) ⁹⁹ | 500.000 to 5.000.000 | 2.750.000 | 3.71% | 2 (+2) |
| Ukraine | 47.600 (2001) | 50.000 to 400.000 | 225.000 | 0.48% | 1 (+1) |
| United Kingdom | 4.096 (2001) ¹⁰⁰ | 200.000 to 300.000 | 250.000 | 0.40% | 2 |
| "UNMIK-Kosovo" | 45.745 (1991) ¹⁰¹ | 25.000 to 50.000 | 37.500 | 2.34% | 1 |
| Total estimates | | 6.152.700 to 15.980.300 | 11.166.500 | 1.35% | 55 (72) |
| TOTAL¹⁰² number of seats for national delegations (for a total estimate of 11.166.500) including seats occupied by 7 international Roma organisations (3 seats each)¹⁰³: | | | | 76 to 93 | |

⁹⁷ Roma and Travellers together.

⁹⁸ Swiss Travellers are mainly of Yenish origin. 2.500 to 3.000 of them (including Sinti) pursue a nomadic or semi-nomadic lifestyle.

⁹⁹ During that census, 4.463 persons identified *kiptice* (Romani) as their mother tongue and 183 as their second language.

¹⁰⁰ 2.219 Travellers of Irish Heritage and Gypsies in England and Wales + 167 in Scotland + 1.710 in Northern Ireland. According to the latest figures from the Office of the Deputy Prime Minister (ODPM) there are about 15.000 caravans travelling in the UK.

¹⁰¹ Out of an estimate of 130.000 to 151.126 Roma, Ashkali and Egyptians (RAE) living in Kosovo in 1991 – source Gypsies of Kosovo <http://www.kosovo.net/gypsies.html>), 90.000 to 100.000 RAE fled Kosovo during the conflict; 40.000 to 50.000 of them to ex-Yugoslavia.

¹⁰² According to the Partnership Agreement, the total estimated number of seats was initially 75.

¹⁰³ Centre Missionary Evangelic Roma International (CMERI), European Movement for Women and Young Roma Network (EMW-YRN), Forum of European Roma Young People (FERYP) Gypsies and Travellers International Evangelical Fellowship (GATIEF), International Romani Union (IRU), International Romani Women's Network (IRWN), Roman National Congress (RNC).