

THE SITUATION OF ROMA IN AN ENLARGED EUROPEAN UNION

Employment & social affairs

Fundamental rights and anti-discrimination

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EXECUTIVE SUMMARY

BACKGROUND AND APPROACH

1. This study was commissioned by the Directorate General for Employment and Social Affairs of the European Commission. Its purpose has been to better understand the situation of Roma, Gypsy and Traveller¹ communities in the EU-25 and in what way existing and future EU and other policies might improve that situation. The research was commissioned in the context of enlargement, when Roma, Gypsy and Traveller communities became the largest ethnic minority within the EU, and of a failure of existing policies within both the EU-15 (the “old” Member States) and the new Member States to address adequately discrimination against these communities and to promote their social inclusion. As well as stressing the existing situation of Roma, Gypsy and Traveller communities across Europe, therefore, this report also makes a number of recommendations for EU institutions, Member State governments and civil society organisations, including Roma organisations.

2. The consortium carrying out the study has liaised with European Commission services throughout the course of the study. The work of the consortium has involved both the execution of a standardised piece of research in 11 Member States and 2004 candidate countries² and the desk study of existing materials, supported by visits to a limited number of countries and projects designed to address Roma issues.

3. Moreover, the European Commission financed a major conference on the Situation of Roma in an Enlarged EU in April 2004, held in Brussels and attended by some 140 Roma activists, Member State and candidate countries’ government and NGO representatives, and EU and other international organisation officials. Finally, a comprehensive

consultation with Roma organisations was undertaken by the European Roma Information Office (ERIO), a consortium member, and the opportunity was given to Member State governments to make contributions to the draft report.

FINDINGS

4. Following sections on the history of Roma in Europe and the policy context, the main body of the report investigates the situation of Roma in a number of sectoral fields relevant to social inclusion. It also examines a number of cross-cutting themes including social protection, documentation, gender and Traveller issues. The findings make reference to examples in Member States or candidate countries, but the research points to a common situation across all or most Member States and candidate countries and examples are used for illustrative purposes rather than to expose practices within individual countries.

EDUCATION

5. The Lisbon European Council has set a number of targets in relation to education and training for achievement by 2010, linked in particular to the generation of a knowledge-based society and the increase of EU employment rates. These are ambitious targets and their linkage to employment rather than to social justice has meant that there is currently little analysis of the impact of education policies on ethnic minority groups, and specifically on Roma. Although some Member States do monitor educational achievement by ethnic group, this is not yet common and achievement among Roma, Gypsy and Traveller communities is currently very low across the EU-25. This is due in large part to the segregation of Romani and majority population children, and the failure to provide ade-

¹ The term Traveller reflects the nomenclature adopted by various groups commonly thought of as being linked to Gypsy communities, whether or not they are or were nomadic. The term is used particularly in Ireland and the UK.

² Bulgaria, Czech Republic, France, Greece, Hungary, Ireland, Poland, Romania, Slovakia, Spain and the UK

quately for Traveller children. Where Roma children are included within mainstream schools, these are often poorly provided for, or become "ghettoised".

6. Member State lifelong learning strategies do not, in large part, identify the need for particular attention to the education of Roma, Gypsy and Traveller children, and although a number of European Social Fund (ESF) projects and the Community Action Programme in the field of education and vocational training (Socrates and Leonardo Da Vinci programmes) have addressed Roma issues, these have been, by their demand-driven nature, largely *ad-hoc* initiatives.

EMPLOYMENT

7. The EU Employment Strategy (EES) is the principal driver for the achievement of the employment goals set by the EU. Gender is specified as a priority issue within the strategy, but race and ethnicity have not received the same level of attention, despite evidence that racial and ethnic discrimination exist within the employment market, particularly in respect of Roma communities. The Race Directive³ and the Framework Employment Directive⁴ of 2000, which should by now have been transposed into law in all Member States, do, however, prohibit discrimination in the labour market (among other fields) on the grounds of race and ethnicity.

8. Few old Member States identify Roma, Gypsy and Traveller communities as targeted groups within National Action Plans on employment. This is despite the fact that unemployment rates among these groups continue to be as high as 80% in some new Member States. The European Union's EQUAL initiative, which tests new approaches to anti-discrimination and inclusiveness within the labour market, has financed around 45 projects in the first round, 2000-2004, where Roma communities were among the beneficiaries, but again, as these are demand driven, Roma issues have often not been addressed systematically. As employment is often the key to poverty eradication and further social inclusion, and as Roma unemployment remains high, national and EU programmes have yet to make

any widespread impact, even if examples of good practice do exist.

HOUSING

9. Housing is less developed as an area of EU policy and is ineligible for financing under the European Regional Development Fund (ERDF), although the EU Race Directive bans discrimination in housing provision on the basis of race or ethnicity. The Phare programme has provided financing for infrastructure initiatives in Central and Eastern Europe. Nevertheless, throughout Europe Roma, Gypsy and Travellers live in sub-standard accommodation characterised by a "ghettoisation", inadequate infrastructure and services, segregation from other settlements, a high incidence of disease and the threat of eviction. Provision for Travellers is often non-existent or inadequate.

10. Examples of good practice point to the need for Roma involvement at all stages of planning and execution, the need for desegregation and the linkage of housing and infrastructure initiatives to complementary programmes in the area of employment generation.

HEALTHCARE

11. Racial and ethnic discrimination in the provision of healthcare is explicitly prohibited in the EU Race Directive and the EU Directorate General of Public Health finances a modest Community Action Programme in the field of public health. It is also in the process of developing common health indicators and acknowledges that "socio-economic determinants, including minority and migrant populations"⁵ are important in contributing to health status. Poverty and poor levels of accommodation among Romani communities, allied to persistent discrimination in the provision of health services, have led to high levels of communicable disease such as tuberculosis and hepatitis, and there is strong evidence of reduced life expectancies among all Roma, Gypsies and Travellers. More needs to be done to generate reliable indicators of disease incidence and access to health care systems among minority groups, including Romani groups.

³ Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (published in OJ L180 of 19 July 2000).

⁴ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (published in OJ L303 of 2 December 2000).

⁵ See <<http://www.europa.eu.int/comm/health>> for more detail.

CROSS-CUTTING ISSUES

12. Social protection systems across Europe often allow Romani individuals to slip through the safety net, either deliberately or through neglect. There is evidence that discriminatory measures are applied to Romani applicants for social welfare support, while particular difficulties face Travellers. A common problem throughout Europe is the lack of appropriate documentation among Roma, Gypsies and Travellers, including, but not confined to, birth and marriage certificates, residence permits and identification documents. This has led to severe problems in accessing social services, and in some cases has even led to the phenomenon of statelessness. In respect of gender, many Romani women face double discrimination and correspondingly low levels of access to health, education and other services. Given the role of women in shaping the education of their children, this situation is particularly worrying.

CONCLUSIONS AND RECOMMENDATIONS

13. EU level. Given the failure of previous and existing policies to remove or significantly reduce discrimination against Roma, Gypsies and Travellers, and to promote their social inclusion, the EU must take the lead in targeting these groups within existing and new policies. It is recommended that the European Commission should establish a coordination structure on Roma issues to ensure the improved coherence and efficacy of its policies. In the event that the European Union accepts the proposal of the EU Network of Experts in Fundamental Human Rights to adopt a Roma Integration Directive, using Article 13 of the Amsterdam Treaty as a legal basis, then the coordination structure should be linked to the execution and promotion of the Directive. The European Commission should also seek to play a more active role within existing Roma initiatives launched by the Council of Europe, the OSCE and others, and investigate what role it can play in improving coordination among such bodies.

14. The EU should continue to provide guidance to Member States on the collection of data on aspects of race and ethnicity of relevance to social inclusion. The European Commission is financing research into data collection practices elsewhere in the world, has established a Working Group on ethnic data collection and will finance a conference on the issue at the end of 2004.

15. The European Commission should continue

its efforts to monitor the transposition of the Race Equality Directive and the Framework Employment Directive into Member State laws, and take action against any state not complying with this request within a reasonable time period.

16. The social inclusion of Roma should be a focus of policy of the EU, which should guide Member States in the specification of Roma, Gypsies and Travellers in national action plans covering social inclusion, lifelong learning and employment, and provide guidance on the definition of appropriate social inclusion indicators. Financing instruments, including the European Social Fund, the European Regional Development Fund and Community Action Programmes in public health, employment and social affairs, should give explicit recognition of the situation of Roma in their application guidelines. Guidelines should be presented in a way that encourages the involvement of Roma NGOs, and where appropriate a proportion of funding might be made available for the strengthening of Roma organisations wishing to participate in calls for proposals.

17. The EU should approach the improvement of the situation of Roma through both mainstreaming and specific measures and financial allocations, ensure that it involves Roma representatives in policy formulation and monitoring, strengthen its human rights monitoring and publicise the anti-Romani racism. Finally, it should recognise that the situation of Roma within the EU is related to their situation in neighbouring states, and that the EU financed external relations programmes in the applicant countries, the Western Balkans and the former Soviet Union address issues of discrimination and persecution against Roma.

18. Member state level. As not all Member States accept Roma, Gypsies and Travellers as distinct ethnic minorities, their recognition as such represents an essential first step to the removal of discrimination and the promotion of social inclusion. Moreover, anti-discrimination laws in Member States need to reflect the Race Equality Directive and the Framework Employment Directive, and full transposition is urgent. Vigilance is also required to ensure that Member States ratify Protocol 12 to the European Convention on Human Rights.

19. In collaboration with the relevant services of the European Commission, Member States need to develop methods of ethnic data collection in order to monitor the effects of their policies on ethnic minorities, and to take corrective action as required.

Member State national action plans need to explicitly recognise the situation of Roma where appropriate, and Member States need to proof all policies for their potential effects on ethnic minorities, and on Roma, Gypsies and Travellers in particular.

20. National Action Plans for social inclusion need to recognise explicitly the need for specific measures on Roma, Gypsies and Travellers, and to move away from targeting Roma through a fragmented collection of individual projects. Instead, Member States need to adopt an approach that, in a coherent manner, promotes the social inclusion of Roma within existing policies.

16. Finally, Member States can assist in the consistent and fair treatment of migrants by signing up to the conventions drawn up by the Council of Europe and the United Nations, compliance with which would improve the situation of Roma who are migrants.

17. Civil society level. Roma organisations have a role to play in advancing their own welfare by participating in societies to the extent they are able, and contributing to the removal of prejudices and stereotypes. They should consider participating in single-issue lobby groups, which might then recog-

nise more clearly the disadvantaged position of Roma, and should move towards the consolidation of differing views between various Roma, Gypsy and Traveller groups into a single, majority voice, with the objective of presenting policy-makers with clear and unambiguous proposals.

18. Roma, Gypsy and Traveller organisations should also involve themselves in efforts to promote ethnic monitoring as a means to identifying problems, arguing for targeted policies and programmes, monitoring action and evaluating impact. Once they are convinced that national or international authorities do not have any other, discriminatory, objective in collecting data, then they should also become involved in awareness raising among Roma as to the value of data collection on social inclusion measures by ethnic group.

19. Finally, existing European NGOs and their networks involved in human rights, anti-discrimination and social inclusion issues should consider the situation of Roma in an enlarged EU and act to include Roma representatives and members in their organisations, in order to ensure that the present degree of social exclusion and discrimination is brought to an end.

1. INTRODUCTION

1. The Directorate General for Employment and Social Affairs of the European Commission contracted the production of this report. The study was funded through the Community Action Programme to combat discrimination and social exclusion, was carried out over a period of 10 months, beginning in November 2003, and was based on extensive research in eleven countries. The execution of the study was also facilitated by the holding of a Conference on the situation of Roma in an enlarged EU in Brussels in April 2004, at which representatives of Roma organisations and other interested parties made valuable contributions to policy discussions. The main focus of the report is to identify and highlight the implications of enlargement for the European Union's policies on anti-discrimination and social inclusion in relation to Roma. Chapter 1 introduces the approach to study execution, Chapter 2 presents a brief history of Roma within Europe and Chapter 3 outlines the relevant policy frameworks within Europe. Chapter 4 details the situation of Roma in a number of key sectoral fields and Chapter 5 deals with the policy challenges that are raised by the situation of Roma in Europe. Conclusions and recommendations are presented in Chapter 6, and a bibliography provides for further reading. Four examples of good practice are presented in text boxes. whilst there are a number of promising new initiatives taking place at present, there are nevertheless a limited number of proven examples of good practice that may be confidently cited for replication.

2. The countries selected for particular study included a number of old Member States – i.e., the 15 Member States pre-May 2004 – as well as new Member States, which joined the European Union in

May 2004. Research was also carried out in Bulgaria and Romania, both applicants to join the EU in 2007. Targeted research was thus undertaken in Bulgaria, Czech Republic, France, Greece, Hungary, Ireland, Poland, Romania, Slovakia, Spain and the United Kingdom.⁶ It is acknowledged, however, that the issues raised in relation to the situation of Roma in these countries are, to a large extent, common to all Member States.

3. Research has examined and explored in particular the nature of discrimination against Roma, identified the factors militating against their social inclusion, and described policies and practices that demonstrate good and best practice. Researchers have identified and compiled existing data on the situation of Roma in sectoral fields of relevance to EU social inclusion policy, and sought to identify areas in which such data may be missing. The findings have attempted to assess the current situation in relation to the existing EU and domestic government policies on anti-discrimination and social inclusion, with appropriate policy recommendations.

4. For the purposes of this report, the terms "Roma" and "Roma and other groups perceived as 'Gypsies'" include persons describing themselves as Roma, Gypsies, Travellers, Manouches, Sinti, as well as other terms. It is to be noted, however, that general use of the term Roma is in no way intended to downplay or ignore the great diversity within the many different Romani groups and related communities, nor is it intended to promote stereotypes. Diversity within the Romani communities is, as with all communities, complex and multi-dimensional and involves differences of language and dialect, history, culture, religion⁷ and social class, and edu-

⁶ Individual country researchers in the named countries have applied a standardised methodology, designed in consultation with the Commission, so as to ensure (i) maximum reliability, (ii) maximum insulation from arbitrary and/or subjective influence and (iii) maximum comparability across data pools. Researchers have also sought a high degree of consultation with government officials, experts and members of civil society.

⁷ Roma in Europe tend to belong either to one of the Christian churches or (predominantly in the southern Balkans) to be Muslim.

cational and occupational status. Some communities and individuals covered in this study are nomadic by culture, while others are sedentary.

5. This study uses the term "Roma" as the plural noun form, as well as to name the group as a whole, and "Romani" as the adjective, in line with emerging and converging uses. "Romani" is also used for the purposes of this report as the name of the Romani language. At a number of points in this study, the term "Roma" or "Romani" is used as shorthand for the broad umbrella of groups and individuals. In no way should this choice of terminology be taken as an endorsement of approaches aimed at homogenizing Roma and other groups perceived as "Gypsies" in Europe or at eliminating the rich diversity among Roma, Gypsies, Travellers and other groups perceived as "Gypsies".

6. The Romani language is spoken by millions of Europeans, making it one of the principal minority languages of Europe. Romani is an Indic language, closely related to modern Hindi, which developed in the European diaspora under the influence of a number of other languages, most notably Byzantine Greek. There are many dialects of Romani⁸ and although in the past there have been efforts to deny the legitimacy of Romani as a language, with some scholars classifying it as a form of jargon, there is now broad consensus among linguists as to the wealth and unity of the Romani language. In addition, some Romani groups speak other minority languages, some of which are particular to Roma and other groups perceived as "Gypsies". For example, a large number of Roma in Hungary are native speakers of Beash, an archaic form of Romanian. Many Travellers in the United Kingdom and Ireland speak Gammon, sometimes referred to as "Cant", a language with many Romani loanwords, but not thought to be a dialect of Romani itself. Other non-majority languages spoken by Roma in Europe include Jenisch and Kalo.

7. Although precise figures are unavailable, there are possibly over ten million Roma in Europe as a whole, a population many times the size of the total population of a number of European Union Member States. The best estimates⁹ of numbers of Roma in the 11 Member States and candidate countries studied for this report indicate a range of

between 2.7m and 5.6m. Around one and a half million Roma joined the European Union when the ten new Member States acceded to the Union in May 2004. Roma are the European Union's largest minority ethnic community.

8. Since the end of Communism in the former Soviet Union and the fall of COMECON, issues facing Roma have come to be viewed as among Europe's most pressing human rights and social inclusion priorities. During this period of enlargement of the European Union, the situation of Roma has repeatedly been stressed as an area in which the governments of new Member States must focus policy attention. It had been noted that the situation of Roma in many accession and candidate countries for the European Union raised issues under the so-called "Copenhagen Criteria", which set standards for countries wishing to join the EU. Among the Copenhagen Political Criteria is the requirement of "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for, and protection of, minorities".

9. However, numerous assessments of the situation of Roma in both new and old Member States clearly illustrate that members of these communities continue to experience marked discrimination and social exclusion, and to encounter difficulties in gaining unhindered and equal access to employment, education, social security, healthcare, housing, other public services and justice. The assessments also show that many Romani communities are uniquely exposed to the forces of social exclusion.

10. The further development of anti-discrimination and social inclusion policies at the EU level and in Member States will, therefore, now need to take account of the particular needs of this group. These developments will benefit from, and in a more fundamental way than hitherto need to build on, current structures, programmes and instruments, among which there are a number of examples of good practice in regard to the successful integration of Roma communities. There is considerable scope for the purposeful exchange of these experiences, which stem from work aimed at anti-discrimination and social inclusion, as described later in this report.

⁸ On the Romani language, see especially Matras, Yaron, *Romani: A Linguistic Introduction*, Cambridge: Cambridge University Press, 2002, as well as, Bakker, Peter and Hristo Kyuchukov (ed), *What is the Romani language?* Hatfield: University of Hertfordshire Press, Interface Collection, 2000.

⁹ Official and unofficial estimates are open to interpretation and dispute, and no consensus figures exist.

2. ROMA IN EUROPE: A BRIEF HISTORY

1. The current situation of Roma in Europe cannot be fully understood without an understanding of the history of the treatment of Roma in Europe. The history of Roma is not well documented, mainly due to the fact that Roma have left behind few written records related to their communal existence. Although the historical origins of Roma have at times been in dispute, it is now largely a matter of consensus – particularly on the strength of linguistic evidence – that the Romani people are descended from groups who left the Indian sub-continent towards the end of the first millennium C.E. Romani groups were noted in the European part of the Byzantine Empire by the eleventh century and probably entered Spain from North Africa at around the same time. Areas located in what is today southern Greece were noted as centres of Romani settlement in the fourteenth and fifteenth centuries and it is thought that Roma lived throughout the Balkans by that time.

2. Following a period of relative tolerance in the late Middle Ages, Roma were subjected to the first of a series of episodes of persecution in Europe. There is some consensus among historians that, prior to its long decline and the episodes of repression accompanying it, the Ottoman Empire was a more tolerant realm than Christian pre-Enlightenment Europe generally,¹⁰ and that this tolerance extended to Roma¹¹. The relatively higher numbers of Roma in areas of Europe today, which formerly comprised Ottoman possessions, would seem to bear out this contention, although Ottoman authorities as a matter of

policy discriminated against non-Muslims, and even within the Muslim community Roma appear to have been particularly discriminated against.¹²

3. Within the Ottoman Empire, Roma would seem to have fared worst in areas of the Empire considered relative backwaters, such as in areas today located in Romania, where local landowners and clergy enslaved Roma. Professor of Romani Studies Dr. Thomas Acton has commented of Romani history in Europe in the 16th and 17th centuries: "When Romani people from Eastern Europe meet Romani people from North-Western Europe today, it is the descendents of the survivors of slavery meeting the descendents of the survivors of genocide."

4. The Enlightenment brought with it a series of new approaches toward Roma. In the mid-18th century, the first in a series of efforts was undertaken attempting to compel Roma to conform to the norms of the wider society. It is unclear to what extent these early orders were even obeyed at a local level, but in the subsequent two centuries Roma have frequently been removed from their families by force and placed with non-Romani families, or placed in institutions, in an effort to rid them of what have been perceived as deviant traits, and to end the common existence of the ethnic group itself. The development of modern police practices brought with it the development of ideas of "Gypsy crime", and with it, comprehensive police registers of Roma.¹³

5. Roma were targeted for race-based persecu-

¹⁰ Comparative study of tolerance in Ottoman and Christian rule has been particularly extensively examined with respect to Jews. On this subject, see especially, Cohen, Mark R. *Under Crescent and Cross: The Jews in the Middle Ages*. Princeton: Princeton University Press, 1994.

¹¹ In 1604 for instance, a decree from Istanbul referring to both Christian and Muslim Roma ordered officers of the Empire not to "let (anyone) harass the race in question."

¹² On Roma in the Ottoman Empire generally, see Marushiakova, Elena and Popov, Vesselin. *The Gypsies in the Ottoman Empire*. Hatfield: University of Hertfordshire Press, 2001.

¹³ See for example Lucassen, Leo, *Zigeuner: Die Geschichte eines polizeilichen Ordnungsbegriffes in Deutschland 1700-1945*, Köln: Böhlau Verlag, 1996.



tion during the Hitler regime in Germany, 1933-1945, and in Nazi-occupied countries. In a number of countries, the Romani Holocaust – referred to by some as the "Porrajmos" – was implemented by both German authorities as well as by local officials. In some countries it was implemented by the armies of governments collaborating with the German-led effort to reshape the demography of Europe whilst in others the Romani Holocaust was implemented without German prompting. In a number of areas, such as on the territory of today's Czech Republic, most of the Romani community was killed during the war, either by being interned at German-run death camps, or by being incarcerated in domestically administered internment camps.

6. In the post-war period in Central and Eastern Europe, efforts to forcibly settle Roma, and to end what were seen as anti-social traits, were redoubled. The governments of Poland and Czechoslovakia, for example, undertook extensive efforts to end

nomadism among Roma, and to convert Roma to a homogenised "proletariat". Intense assimilation efforts under state socialism produced both some of the first generations of Roma in the elite, as well as further high numbers of Roma in state institutions, removed from their families. Its official discourse notwithstanding, post-war state socialism did not succeed in eradicating racism. Some governments undertook policies of coercive sterilisation of Romani women, and schooling in many countries became segregated.

7. The early post-World War II history of Roma in Western Europe appears remarkably similar to that in Central and Eastern Europe. In Norway, Sweden and Switzerland, for example, concerted efforts were undertaken to end the communal existence of Roma and related groups through measures including forced sterilisation of both men and women, as well as through the systemic removal of Romani children from families and their placement in state care. In

recent years, the Swedish and Swiss governments have undertaken and made public comprehensive studies of the issue, and Sweden has made available compensation for victims. The impact of these policies continues to be felt today, however, and Roma as a group still suffer extensive trauma as a result.

8. The post-1989 era in Europe has seen an outbreak of intense anti-Romani sentiment in both Eastern and Western Europe. In Eastern Europe, governments in some countries blamed Roma collectively for a breakdown in public order or for fears that a breakdown in public order was imminent. Systematic persecution of Roma took place in countries including Albania, Bulgaria, Germany, Hungary, Poland, Romania, Russia, Slovakia, Ukraine and Yugoslavia. Racist movements have also arisen and targeted Roma for attack. In some countries, such as in the Czech Republic and Slovakia, violence against Roma remains at alarming levels. In general, criminal justice authorities have reacted inadequately to the dramatic rise in racially motivated violent crime and public officials have failed, or been slow, to condemn anti-Romani violence.

9. In Western Europe, anti-Romani sentiment has frequently broken out following the arrival of Roma from Eastern Europe. Belgium, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Spain, Switzerland and the United Kingdom have all featured episodes of public panic, fuelled by alarmist media reports of "Gypsy invasions" and similar. These measures have frequently been followed by racially discriminatory measures by public authorities, often including collective expulsions.¹⁴

10. In 1999, the Romani community of Europe suffered the worst catastrophe it has endured since World War II when, following the end of NATO military action in the Federal Republic of Yugoslavia and the withdrawal of Yugoslav forces from Kosovo, ethnic Albanians undertook a campaign of ethnic cleansing against Roma and other persons perceived to be "Gypsies". Despite four years of UN administration in Kosovo, violence, including periodic grenade attacks and the regular destruction of property, has continued. Today, an estimated four fifths of the pre-bombing Romani population of

Kosovo (probably around 120,000 persons) is displaced within Kosovo and in rump Serbia and Montenegro, or is in exile in countries bordering Kosovo or in the West. Most live in extremely poor conditions, whilst their arrival in EU states has raised important issues surrounding asylum and immigration, dealt with later in this report.

11. In the face of a history of discrimination and persecution, and despite centuries in Europe without any visible autochthonous institutions, Roma have maintained a distinct identity. Communal solidarity is frequently affirmed and reinforced by close extended family bonds. Family celebrations feature prominently in social priorities. Cultural traditions are respected and adhered to diligently, and may include pollution taboos and, in some communities, autonomous systems of individual and community justice. Pollution taboos are traditional within many cultures but are also frequently associated with the development of strategies by marginalised groups to maintain identity against the forces of oppression and/or cultural assimilation. As Judith Okely says, "One way of remaining different is by pollution beliefs which both express and reinforce an ethnic boundary. The Gypsies' beliefs not only classify the Gorgio (*non-Roma*) as polluting, but also offer the means to retain an inner purity. If certain observances are maintained, the Gypsies can enter Gorgio territory unscathed".¹⁵

12. The Romani population in Europe today is estimated at around ten million people, although some observers put the figures even higher at twelve million. Precise demographic data is not, however, available due in large part to the stigma associated with the Romani identity and the reluctance of many Roma to identify themselves as such for official purposes, and the refusal of many governments to include Roma as a legitimate category for census purposes. Despite demographic uncertainties, there is little doubt that the total number of Roma in Europe is many times greater than the total population of a number of the Member States.

13. At present, anti-Romani sentiment is present in most, if not all, European societies and is extremely high in some countries. According to one recent

¹⁴ For example, Belgium has recently been found in violation of the European Convention of Human Rights in connection with the collective expulsion of a group of Slovak Roma and Italy settled out of court when a similar finding, related to the collective expulsion of a group of Bosnian Roma, appeared imminent.

¹⁵ Okely, Judith. *Changing Cultures—The Traveller Gypsies*, Cambridge University Press, Cambridge 1983, p.77.

survey, 79% of Czechs would not want Roma as neighbours.¹⁶ A poll conducted in 1992 by the Allensbach Demoscopic Institute indicated that 64% of Germans had an unfavourable opinion of Roma - a higher percentage than for any other racial, ethnic or religious group.¹⁷ A survey conducted in 1994 by the EMNID Institute indicated that some 68% of Germans did not wish to have Sinti and Roma as neighbours.¹⁸ Mr. Trevor Phillips, the Chair of the United

Kingdom's Commission for Racial Equality (CRE), recently stated, "As a Briton, I am ashamed of the way we treat Gypsies and Travellers. Things need to change and they need to change now".¹⁹

The treatment of Roma both in the European Union and beyond its current borders has become a litmus test of a humane society. The treatment of Roma is today among the most pressing political, social and human rights issues facing Europe.

¹⁶ See *Respekt*, c. 1, Ročník XV, 29.12.2003-4.1.2004

¹⁷ Seventeen percent had an unfavourable opinion of Muslims; of Indians, 14%; of guest workers, 12%; of dark-skinned persons, 8% and of Jews, 7%. Cited in G. Margalit, *Anti-Gypsyism in the Political Culture of the Federal Republic of Germany: A Parallel with Anti-Semitism?* Accessed on the web at <http://sicsa.huji.ac.il/9gilad.htm>.

¹⁸ Cited in D. Strauss, "Anti-Gypsyism in German Society and Literature" in Tebbutt, Susan, ed., *Sinti and Roma: Gypsies in German-Speaking Society and Literature*, New York: Berghahn Books, 1998, p. 89.

¹⁹ Traveller Times, Issue 19, Spring 2004, p.1.

3. THE EUROPEAN POLICY FRAMEWORK

EXPANDING ANTI-DISCRIMINATION NORMS IN EUROPE

1. Arguably the most fundamental change in the Union relating to combating discrimination and racism – including discrimination and racism against Roma – has been the adoption of a series of anti-discrimination directives, adopted pursuant to the revised Article 13 of the Treaty Establishing the European Community (TEC) after its Treaty of Amsterdam amendments.²⁰ Directives are binding on all pre-2004 EU Member States²¹ and transposition has also been required of new Member States and accession states. Particularly significant for Roma is Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" (the "Race Directive"). Although some EU Member States had already implemented legislation banning racial discrimination prior to the adoption of the Race Directive, many did not, and even those countries with traditions of combating racial discrimination through law, frequently had not

secured a ban on racial discrimination in all fields of relevance to EU social inclusion policy.

2. The Race Directive introduced legal standards throughout the Union aimed at ending differential treatment based on the arbitrary criteria of race or ethnicity. It provides details as to the scope and content of laws banning racial discrimination, and covers a wide range of areas where discrimination against Roma may take place - employment, training, education, social protection, access to goods and services, and housing. The Race Directive includes, among other provisions, bans on both "direct" and "indirect" discrimination,²² the requirement of legal remedies for victims of racial discrimination through "judicial and/or administrative procedures", for the enforcement of anti-discrimination obligations "available to all"²³ and the provision that in cases in which complainants "establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has

²⁰ The European Union adopted a number of legal measures which have significantly expanded the scope of anti-discrimination law in Europe, notably three Directives: (i) Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" ("Race Directive") (ii) Directive 2000/78/EC "establishing a general framework for equal treatment in employment and occupation" ("Employment Directive") and (iii) Directive 2002/73/EC "on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions". In addition to the Directives adopted under Article 13, a revised Article 29 of the TEC now gives police and judicial authorities heightened powers to co-operate on matters related to, among other things, "preventing and combating racism and xenophobia".

²¹ Where Member States have not transposed elements of similar directives in the past, the European Court of Justice has applied the provision at issue directly.

²² For the purposes of the EU Directive, "direct discrimination" is defined as having occurred "where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin" (EU Directive Art. 2(2)(a)), while "indirect discrimination" occurs "where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary" (EU Directive Art. 2(2)(b)). The full text of the European Union Race Directive is available on the Internet at: http://europa.eu.int/comm/employment_social/fundamental_rights/legis/legln_en.htm

²³ EU Race Directive Article 7(1).

²⁴ EU Race Directive Article 8.

been no breach of the principle of equal treatment".²⁴ The Race Directive also requires that domestic law impose effective, proportionate and dissuasive sanctions for violation of anti-discrimination norms. These should include "the payment of compensation to the victim".²⁵

3. Deadlines for transposition of the Race Directive into domestic law were set for 2003 for old Member States and the date of accession for new Member States, and a number of states have adopted comprehensive anti-discrimination laws in efforts to comply. Official assessments as to whether adopted laws fully comply with EU guidelines are not yet available and it may be some time before it is clear whether newly-adopted laws provide the comprehensive protections envisaged. It is nevertheless evident that the EU anti-discrimination directives, and in particular the Race Directive, constitute a quantum leap in protections available to individuals from the extreme harm of racial discrimination, and that these protections may be of profound relevance for Roma.

4. Separately, the Union has also adopted a Community Action Programme to combat discrimination (2000-2006), managed through the Directorate General for Employment and Social Affairs of the European Commission. The Programme is designed to support and complement the implementation of the Directives through the exchange of information and experience and the dissemination of best practice. The Programme promotes measures to combat discrimination based on racial or ethnic origin, religion or belief, disability, age or sexual orientation. The 2004 work programme of the Community Action Programme defined eight priority areas for the establishment of transnational actions. One priority was specifically targeted at Roma integration into education and employment, and has led to the selection of four Roma-specific transnational partnerships and actions for the preparatory phase in 2004, to be followed by a 2-year implementation period.

EU SOCIAL INCLUSION AND POLICY FRAMEWORKS

5. At the European Councils in Lisbon and Feira 2000, the decision was taken to modernise the European Social Model, based on the strategy to

become "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion".

6. At the heart of the Lisbon agenda, as approved, is the goal of "modernising the European Social Model by investing in people and building an active welfare state". This includes action in the fields of:

- Education and training for living and working in the knowledge society;
- More and better jobs for Europe: developing an active employment policy;²⁶
- Modernising social protection;
- Promoting social inclusion.

7. With regard to the latter, the heads of Member States convening at the Lisbon Council concluded:

"The number of people living below the poverty line and in social exclusion in the Union is unacceptable. ... Policies for combating social exclusion should be based on an open method of coordination combining national action plans and a Commission initiative for cooperation in this field to be presented by June 2000.

"In particular, the European Council invites the Council and the Commission to:

- promote a better understanding of social exclusion ... on the basis of commonly agreed indicators; the High Level Working Party on Social Protection will be involved in establishing these indicators;
- mainstream the promotion of inclusion in Member States' employment, education and training, health and housing policies, this being complemented at Community level by action under the Structural Funds within the present budgetary framework;
- develop priority actions addressed to specific target groups (for example minority groups, children, the elderly and the disabled), with Member States choosing amongst those actions according to their particular situations and reporting subsequently on their implementation."²⁷

8. The Lisbon Council also approved a new "open method of coordination" in the implementation of

²⁵ EU Race Directive Article 15.

²⁶ This includes the target of "raising the employment rate from an average of 61% today to as close as possible to 70% by 2010" and "increasing the number of women in employment from an average of 51% today to more than 60% by 2010."

²⁷ Presidency Conclusions, Lisbon European Council, 23 and 24 March 2000, pts. 32 and 33.

EU social inclusion and related goals. According to the Presidency Conclusions of the Lisbon Council this involved:

- fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms;
- establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing best practice;
- translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences;
- periodic monitoring, evaluation and peer review organised as mutual learning processes.²⁸

9. In 2004, the European Commission launched a Call for Proposals on "National Awareness Raising Actions on Social Inclusion", aimed particularly at those organisations with an active interest in promoting the implementation of National Action Plans against poverty and social exclusion, and Joint Inclusion Memoranda on social inclusion, including national and local authorities, and NGO's. The proposals accepted for financing are expected to start in the fourth quarter of 2004, and are expected to have an impact on public awareness of social inclusion issues.

HUMAN RIGHTS MONITORING

10. It is evident that the situation of Roma in some countries approaches a human rights emergency. The EU lacks an effective human rights enforcement body, and the vacuum so created leaves many individuals dangerously exposed to abuse. The recent decision by the European Parliament to reject the measure of post-accession monitoring with respect to Slovakia highlights the need to redouble efforts in this area.²⁹ The EU should explore expanding the powers of one or more bodies in order to ensure effective compliance with common human rights standards, such as those included in the EU Charter on Fundamental Rights. Revisiting the man-

date of the European Union Monitoring Centre on Racism and Xenophobia (EUMC), soon to be converted into the EU Human Rights Agency, with a view to expanding its powers beyond monitoring, would be one possible mode for strengthening EU human rights enforcement. Preparatory action in the form of a Call for Proposals for the support of new Member State NGOs promoting democracy and human rights will be launched by the Directorate General for Justice and Home Affairs in mid-October 2004. It will be the first time that the EC has a financial instrument addressing human rights within the European Union.

EUROPEAN EMPLOYMENT STRATEGY

11. The European Employment Strategy (EES) was launched at the Luxembourg Jobs Summit in 1997. An interim evaluation in 2002 identified a number of issues and challenges for the Strategy, and recommended that it be better aligned with the 2000 Lisbon European Council goals of sustained economic development. The original EES goal of reaching an overall 70% employment rate by 2010 was refined to bring in intermediate targets of 67% overall employment by 2005, including 57% employment for women, and 50% for older workers by 2010. The intermediate goals will, however, almost certainly not be met and those for 2010 look optimistic at present.

12. The EES is monitored through a set of annual National Action Plans and an annual Joint Employment Report, whilst the European Council issues Employment Guidelines and, separately, Recommendations to Member States on an annual basis. The 2004 Guidelines point out the need for all Member States to take action to "attract more people into the labour market" and to "invest more and more effectively in human capital". Clearly, although the situation of Roma is not identified in the EES as a specific challenge, the numbers of Roma, Gypsies and Travellers in Europe, and their very low formal employment rate (see Chapter 4), mandate that, if EES targets are to be met, particu-

²⁸ Presidency Conclusions, Lisbon European Council, 23 and 24 March 2000, pt. 37.

²⁹ See European Parliament, "Report on the comprehensive monitoring report of the European Commission on the state of preparedness for EU membership of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (COM(2003) 675 - C5-0532/2003 - 2003/2201(INI))", A5-0111/2004. In debating the final version of the report, the European Parliament was asked to consider, among other proposals, a Green Group proposal to undertake post-accession monitoring in Slovakia, as a result of serious human rights concerns with respect to Roma in that country. The proposal was voted down.

lar attention should be given to their integration into labour markets.

13. The 2004 Proposal for Recommendations, for the approval of the European Council, do, indeed, specifically raise the issue of Roma within the labour market, making the following recommendations to the Czech Republic and to Slovakia:

Czech Republic: "More efforts are needed to integrate the most vulnerable groups in the labour market. This is particularly needed in regions other than Prague and for the Roma population."

Slovakia: "The new priority given to integrating the Roma population needs to be rapidly translated into action."

14. It may be argued, however, that such recommendations should apply to many or most Member States, where unemployment rates among Roma, Gypsies and Travellers are also high, but where the issue has not been as publicly prominent as in the Czech Republic and Slovakia.

EU STRUCTURAL FUNDS

15. Two components of the EU Structural Funds are directly relevant to Roma populations: the European Regional Development Fund (ERDF) and the European Social Fund (ESF). The ERDF is the principal instrument of regional policy, is managed by the Directorate General for Regional Policy and disbursed €26.2bn during 2003. Member State governments provide counterpart funding. The Objective 1 funding window supports the development of the least favoured regions, that is those with a regional GDP of less than 75% of the EU average, whilst the Objective 2 funding window supports the conversion of regions facing structural difficulties, often due to the decline of a key industry. The ERDF Urban Fund is able to fund urban regeneration in cooperation with national or local authorities, and although it cannot currently finance housing itself, it can support national expenditure on housing through matching support to complementary infrastructure.

16. The ERDF is not, however, a pure infrastructure fund as sometimes imagined. In fact, infra-

structure accounts for just 28% of expenditure compared to 30% for human resource development and 42% for aid to productive sectors. The Fund may therefore finance a number of activities of interest to Romani populations, including basic infrastructure for Romani settlements, social inclusion measures and lifelong learning facilities.

17. The Cohesion Fund is a complementary instrument designed for Member States whose GDP is less than 90% of the EU average, and although it has previously covered just Greece, Ireland, Portugal and Spain it will in the 2007-2013 period cover all 10 new Member States as well as Greece and Portugal, and will finance multi-annual programmes in the fields of transport and the environment. The Instrument for Structural Policies for Pre-Accession (ISPA) was utilised in the 10 new Member States during the accession period, largely to improve transport networks and facilities.

18. The European Social Fund finances activities aimed at improving involvement in the labour market, including streams on women's participation, lifelong learning, social inclusion, labour adaptability and an active labour market. The Fund has already been used to finance activities of relevance to Roma, Gypsies and Travellers, including the National Programme for the Spanish Roma Community (ACCEDER), which inter alia established 47 specialist employment offices, serving 17,000 Roma and resulting in the work placement of 10,000, and supported 3,600 Roma through employment related training programmes. The ESF provided €31.5m of the €45m programme cost (see also Text Box 1).

19. The EQUAL Community Initiative is financed by the ESF and seeks to test new approaches to fighting discrimination and inequalities in the employment market, to disseminate good practice and to ensure subsequent mainstreaming. A number of projects aimed at the inclusion of minority ethnic communities in the workplace have been financed through "development partnerships", including a number aimed specifically at Romani communities and a number that benefited Romani communities among others.³⁰

20. Planning for the 2007-2013 round of funding for the ERDF, the ESF and the Cohesion Fund is currently taking place. It is anticipated that a total of

³⁰ For example, the German project "Roma und Sinti durch Selbstorganisation zu Beschäftigung und Existenzsicherung" and the Spanish "Consortio Palencia Social para el Desarrollo Local de Palencia", both having budgets of €2m or more. The first is geared directly to Romani populations, whilst the second was aimed at disadvantaged women, including Romani women.

€336.3bn will be available in total for the EU-25, in addition to counterpart funding provided by national governments. This sum could make a very significant difference to the situation of Roma, Gypsies and Travellers in Europe as long as Member States place a priority on this issue and commit adequate counterpart funds.

OTHER EU POLICIES AND PROGRAMMES

21. Other Directorates General of the European Commission currently have less ability to finance measures that could directly or indirectly tackle the effects of racism. Nevertheless, the Directorate General for Public Health and Consumer Protection does set a health strategy for the EU, which has the scope to include elements relating to the health of excluded communities, including the Roma community. The 2004 work programme of the 2003-2008 Community Action Programme in public health does recognise the possibility of using funds to carry out work in the field of "health determinants", including socio-economic determinants encompassing "minority and migrant populations". This aspect comprises a very small part of the 60m annual budget for the co-financing of health sector initiatives, however, and programme outputs are as yet unclear.

22. The Directorate General of Education and Culture has previously taken a particular interest in Roma issues, having issued a number of documents on the subject, including the 1989 Resolution "On School Provision for Gypsy and Traveller Children", but has yet to effect significant change within Roma education through such documents or through its Socrates II and Leonardo da Vinci Community Action Programmes. A limited number of specific projects aimed at the establishment of trans-national partnerships have produced successful outcomes by way of developing and demonstrating good practice, developing innovative approaches that have informed mainstream policy, provision and practice, and publishing many influential research reports/books and teaching materials. One such project led to the development of Parent Held Educational Records for nomadic Gypsy and Traveller pupils, which has subsequently been adopted as policy by the Department for Education and Skills (DfES) in England.

EU ENLARGEMENT AND THE RISE OF ROMA AS AN AREA OF EU POLICY CONCERN

23. The May 2004 enlargement of the EU brings

important benefits to both old and new Member States, but also poses significant challenges. Specifically, the situation of Roma within new Member States was, and remains, a cause for concern, given the evidence of racism and discrimination in employment, education and health care provision, failures of the criminal justice systems in cases concerning Roma and episodes of violence against Roma. Apart from fundamental humanitarian and human rights concerns, the situation in many new Member States prior to accession pointed to the possibility of failure to comply with the political criteria for EU membership, as stated in the Copenhagen Criteria, agreed at the 1993 Copenhagen European Council. This states that Member States should "be a stable democracy, respecting human rights, the rule of law and the protection of minorities." Failure to comply with the criteria would have jeopardised enlargement at significant political cost.

24. In order to ensure movement towards the criteria, the Commission submitted annual Regular Reports toward Accession to the European Council from 1998 to 2003. These reports did underline the importance of dealing with human rights issues concerning Roma,³¹ and supported national Roma projects through the Phare programme. A second impetus for addressing the situation of Roma in Central and Eastern Europe was the flight of Roma to Western Europe to claim asylum from persecution. This movement provided a political imperative in existing Member States to press for improvements in the situation of Roma in Central and Eastern Europe, and for measures to "combat asylum abuse".³²

25. From 2001 to 2003 the Phare programme contributed 77m to Roma projects in the then accession and candidate states, covering a range of infrastructure, public awareness and sector-specific projects.³³ Welcome though this contribution was, however, the scale of the problem, and fact that many of the interventions were project specific, means that many more resources need to be committed over a long period of time in order to make a real impact.

- Phare programmes clearly demonstrated that existing policies and practices in Central and Eastern Europe were failing Roma. The overall lack of vision and direction means there was no clear underpinning policy direction or commitment.
- As an outcome of EU and other external pressure, issues facing Roma have moved to a position of higher priority. At the same time it has also

become much more political and partisan, and the operational environment surrounding policy making for Roma integration remains fragile.

- In current systems there is a lack of capacity, understanding and professional expertise to deal effectively with the complex and multi-dimensional nature of the problem. There is a vast gap between the policy level, including proportionality, and operational reality.

27. Research undertaken for this study indicates that in a number of areas these conclusions are relevant for Roma policy in many if not all of the Member States.

OTHER EUROPEAN LEGAL AND POLICY FRAMEWORKS

28. In 2000, the Council of Europe opened for signature a new Protocol 12 to the European Convention on Human Rights. Once in effect – after it has been ratified by ten Council of Europe Member States – Protocol 12 will provide a comprehensive ban on discrimination in the exercise of any right secured by law. Protocol 12 significantly expands the protections available to individuals under the European Convention on Human Rights. To date, however, only one European Union Member State (Cyprus) has ratified Protocol 12.³⁴

29. The Council of Europe's European Social Charter, recently expanded to form the Revised European Social Charter, in principle provides the basis for significant protections of social and economic rights. The inclusion of a collective complaints mechanism now makes available procedures through which violations of the Charter can be

redressed. This mechanism too, however, is under-ratified and, with several noteworthy exceptions, even those states which have ratified the Revised Charter have not accepted all of its provisions.

30. There are a number of policy initiatives of relevance to Roma currently being undertaken by other international organisations. These include the Council of Europe, OSCE, UNDP, and the World Bank. The existing links and joint initiatives between the European Union and other actors should therefore be built upon. An example of a working initiative between international policy-making and donor agencies is the project "Roma under the Stability Pact", which the Commission is funding under the European Initiative for Human Rights, and where it is in cooperation with the Council of Europe and the OSCE. Although limited in scope, and in practical results to date, the initiative has contributed to a higher visibility of Roma issues on the agendas of some governments, donors and inter-governmental organisations. Increased co-operation between donors would have the benefit of pooling of resources, and has the potential of increasing policy coherence. The European Commission takes part in several donor initiatives aimed at co-ordinating the activities related to the improvement of the Roma situation at the European level. The Commission is represented by several DGs at the Informal Contact Group of International Organisation on Roma and Sinti, co-organised by the OSCE, and the EU Presidency also takes an active part within the Steering Committee of the Roma Inclusion Decade (2005 - 2015) political initiative.

³¹ Six Council of Europe Member States in total have ratified Protocol 12: Bosnia and Herzegovina, Croatia, Cyprus, Georgia, San Marino, and Serbia and Montenegro.

³² For example, the 2000 Regular Report pointed out in its summary that "Roma continue to face widespread discrimination. ...In most countries ... measures and programmes have now been adopted, supported by Phare funding." In the country-specific Annex, the report noted for the Czech Republic, for example, that "significant efforts have been made...but further progress is needed", whilst in Romania "...the continued high levels of discrimination are a serious concern ...and progress has been limited to programmes aimed at improving access to education."

³³ Phrase taken from a July 2002 letter from the UK Prime Minister to the Czech Prime Minister and reproduced in Sobotka, Eva, (2003), "Romani Migration in the 1990s: Perspectives on Dynamic, Interpretation and Policy", in *Romani Studies*, Vol. 13 Issue 2, pp.79-122.

³⁴ Including €16.3m for Hungary, €19.5m for Slovakia and €10.6m for Romania. See www.europa.eu.int/comm/enlargement/docs/pdf/brochure_Roma_May_2002.

4. ROMA IN KEY SECTORAL FIELDS

1. The scarce reliable data that does exist points to very dramatic gaps between the situation of Roma and non-Roma throughout Europe in fields relevant to EU social inclusion policy. This section of the report summarises concerns with respect to the situation of Roma in a number of sectoral fields, including education, employment, housing, health care and social assistance. It also notes issues related to gender, nomadism, and the disparate impact of environmental harm.

EDUCATION

2. The Lisbon European Council has set five European benchmarks for the improvement of education and training systems in Europe up to 2010:

- i) An EU average rate of no more than 10% early school leavers should be achieved;
- ii) The total number of graduates in mathematics, science and technology in the European Union should increase by at least 15% while at the same time the level of gender imbalance should decrease;
- iii) At least 85% of 22 year olds in the European Union should have completed upper secondary education;
- iv) The percentage of 15 year-old low achievers in reading literacy should have decreased by at least 20% compared to the year 2000;
- v) The European Union average level of participation in Lifelong Learning should be at least 12.5% of the adult working age population (25-64 age group).³⁵

3. There is a very real threat that the nature of EU

Lisbon priorities in the field of education, combined with a failure to date to identify racial segregation and other forms of ethnicity-based exclusion as a threat to the realisation of the Lisbon goals, may be resulting in actions that worsen the situation of Roma, as well as others located on the margins of educational systems in Europe. In the first place, indicator systems developed to track implementation of the Lisbon agenda fail to register disparate impacts on Roma and other ethnic groups.³⁶ This vacuum may encourage policy-makers to disregard negative, race-specific outcomes as they strive to implement the very ambitious Lisbon agenda in the field of education. Secondly, the high number of Lisbon education indicators focussing on matters associated with elite education, such as the four indicators related to "mobility", again combined with an absence of educational indicators tracking racial segregation, racial exclusion, and other socially corrosive outcomes, can serve to undermine the Lisbon agenda and undercut the ability of policy-makers to achieve targets.

4. The situation of Roma in the key area of primary education is very worrying. ERRC research conducted on the situation of Roma in the Czech school system in the school year 1998-1999 documented extreme levels of racial segregation in Czech schools.³⁷ Intensive research was carried out in the Czech city of Ostrava. This revealed that, during the 1998-1999 school year:

- More than half of the student body of so-called "remedial special schools" for the mentally disabled were Romani;

³⁵ Commission of the European Communities, "Commission Staff Working Paper: Progress Towards the Common Objectives in Education and Training: Indicators and Benchmarks", Brussels, 21.1.2004, SEC(2004) 73.

³⁶ The 29 "Indicators for Monitoring Performance and Progress of Education and Training Systems in Europe" can be found in Commission of the European Communities, "Commission Staff Working Paper: Progress Towards the Common Objectives in Education and Training: Indicators and Benchmarks", Brussels, 21.1.2004, SEC (2004) 73.

³⁷ See European Roma Rights Center, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, Budapest, 1999.

- More than half of the population of Romani children of the age of mandatory school attendance in Ostrava were being schooled in remedial special schools;
- Any given Romani child was more than 27 times more likely than a non-Romani child to be schooled in a remedial special school.

5. The Czech government has estimated that, in the country as a whole, approximately 75% of Romani children of primary school age were being schooled in remedial special schools. ERRRC research in Ostrava and other Czech localities also found that where Romani children attended normal primary schools, they were overwhelmingly concentrated in a handful of schools widely regarded locally as inferior "ghetto" schools. Follow-up research in 2003 indicated that since the initial research was undertaken, those government policies aiming at addressing the situation of Roma in the school system had had little impact in reducing high levels of racial segregation.

6. Issues are similar in Slovakia. Due to the dearth of accurate data concerning the situation of Roma in the Slovak school system, the ERRRC conducted intensive field research in a number of school districts in Slovakia in Autumn 2002, aimed at producing a more accurate description of the educational situation of Romani children. This research revealed that during the 2002/2003 school year, more than half the students of many Slovak schools for the mentally disabled, now renamed "special schools", were Romani, and in some such special schools, *every single pupil was Romani*.

7. Romani children also face serious problems of racial segregation in schooling in Hungary. Hungary's Joint Inclusion Memorandum ("JIM"), signed by the European Commission and the Hungarian government on December 18, 2003, importantly acknowledges the problem of racial segregation in schooling, stating that "There are approximately 700 schools in which Roma children are segregated in education (studying in separate classes)."³⁸

8. The Hungarian Ministry of Education has, moreover, recently adopted modest measures aimed at

desegregating the Hungarian education system. The statutory integration grant described in the JIM forms part of the process that has been initiated by the Ministry of Education to desegregate schools:

"A statutory integration grant financed by the State is being introduced (2003/2004 academic year) to promote the integration of disadvantaged children, especially Roma. In the case of settlements where the majority of the students in a school are socially disadvantaged, as a result of poverty, ethnic background, disability or any other cause, the integration grant encourages social integration by attracting better-off children who currently attend schools in other settlements."³⁹

9. In Bulgaria, there are also very serious problems of racial segregation in schooling as a result in particular of the placement of Romani children in substandard schools located in or near Romani quarters. These schools are traditionally known as "Gypsy schools" and generally offer substandard education in materially impoverished surroundings. Here, although the government has committed itself to desegregating the school system, desegregation action to date has been primarily driven by Romani NGOs in some municipalities.⁴⁰ An NGO-led project in the town of Vidin has dispersed Romani children from one substandard ghetto school to a number of mainstream primary schools of significantly better quality. The project is noteworthy for the extensive levels of consultation with all stakeholders.

10. Other forms of segregated schooling have also been noted in Western Europe. The 2000 Second Report on Germany by the Council of Europe's European Commission against Racism and Intolerance (ECRI) recommends that the governments should investigate the over-representation of minority children in "special schools for under-achievers" and "corresponding under-representation in intermediate and grammar schools."⁴¹ Research conducted in 2003 by the European Union Monitoring and Advocacy Program (EUMAP) of the Open Society Institute, indicated that only

³⁸ JIM Hungary p. 12.

³⁹ JIM Hungary p. 31.

⁴⁰ On the efficacy of NGO-led desegregation in Bulgaria, see Kanev, Dr. Krassimir, "The First Steps: An Evaluation of the Non-governmental Desegregation Projects in Six Bulgarian Cities: An External Evaluation Report to the Open Society Institute", Budapest: Open Society Institute, 2003.

⁴¹ ECRI Report, p. 11.

half of Roma and Sinti children in Germany attend school at all and of those who do attend, a high number – reportedly up to 80% in some areas – attend “special schools”.⁴²

11. In Spain, many state schools, especially those in areas with large Romani populations, have in recent years become “ghettoised”. In the last ten years, some schools have moved from having around 30-40% Roma students to having more than 80%. José Cabanes,⁴³ a sociologist and expert on education, describes this process in the following terms:

- i) When a high number of Romani children enter a given school some non-Romani families remove their children from that school;
- ii) A large concentration of students from low socio-economic levels and illiterate families makes schools lower their standards, so that some non-Romani families take their children to schools that have “more possibilities”;
- iii) The fact that families concerned about their children’s education leave those schools makes those schools’ standards even lower, and the fact that teaching staff changes constantly aggravates this situation. Consequently, the remaining families whose children had remained in those schools and are concerned about the situation of the educational institution remove their children, including some Romani families who are worried about their children’s future.

12. This situation has led to the closure of some schools. In some cases, two schools have closed down consecutively within a few years, and the strong tendency to concentrate Roma children in only a few schools is evident from the data collected in Madrid:

“There are 150 primary state schools in Madrid, five of which gather more than 50% of all Romani students. The

one with the highest percentage has 84% (...), which clearly violates the norm that stipulates that underprivileged students should be equally distributed in all schools. This problem is even worse in the case of private schools. Of a total of 165,000 primary and secondary students in private schools, only 999 are Roma, half of whom are in remedial education.”⁴⁴

13. Racial segregation in education is also reported from France, although the complex treatment of ethnicity within a strong republican ideology, as well as other factors, conspires to render debate on the subject difficult. Researchers report very high levels of Romani and Traveller children in “special public schools for children with learning or adaptation difficulties” as well as in informally constituted “Gypsy classes” in ordinary schools. A number of these are composed almost exclusively of Gypsy children – either due to their location in an area in which Gypsy communities are separated from the rest of the population, or due to the fact that other parents have removed their children from such schools.

14. Schooling authorities in some countries – notably Denmark – have in recent years designed schooling provisions for “Romani pupils who cannot be contained in normal classes or special classes”. Aside from the discriminatory character of such schooling provisions and the emotional harm they may cause the children in them, there is firm research evidence that the level and quality of provision for pupils attending segregated Roma schools is markedly inferior to that for other groups.⁴⁵

15. Research evidence from Wales and Northern Ireland in the United Kingdom reveals examples of segregated educational provision for Gypsy and Traveller children. Although educational policy in the

⁴² ERRC/EUMAP, “Joint EU Monitoring and Advocacy Program / European Roma Rights Center Shadow Report Provided to the Committee on the Elimination of Discrimination Against Women Commenting on the fifth periodic report of the Federal Republic of Germany Submitted under Article 18 of the United Nations Convention on the Elimination of All Forms of Discrimination against Women”, January 9, 2004, Budapest.

⁴³ Cabanes Hernández, José: “Gitanos en la escuela: una realidad cambiante” en *I Tchatchipen. Revista trimestral de investigación gitana*. (“The Roma in school: A Changing Reality” in *I Tchatchipen. Quarterly Magazine of Roma Studies*) No. 29. Instituto Romanò. Barcelona, 2000. p.26.

⁴⁴ Villarreal, Fernando y Wagman, Daniel: Gitanos y discriminación. Un estudio transnacional. (The Roma and Discrimination. A Transitional Study) Fundación Secretariado General Gitano. Madrid, 2001. p.36.

⁴⁵ The research carried out under the RrAJE Programme (Roma Rights and Access to Justice in Europe) in Bulgaria, clearly illustrated these discrepancies in terms of grossly differential levels of achievement. Commission 3 of the Advisory Audit Commission, Sofia, Bulgaria 2002/3. Romani Baht Foundation.

TEXT BOX 1. School Desegregation in Bulgaria

Starting in the school year 2000-2001, Romani children from the Nov Pat Romani settlement in Vidin, Bulgaria, began attending non-segregated schools as a result of local and international non-governmental initiatives. The "Vidin project", the first Romani-led school desegregation initiative in Central and Eastern Europe, began when roughly 300 Romani children, from the all-Romani school in the Nov Pat settlement in Vidin, began attending six mainstream schools in town. The enrolment of Romani children in the mixed schools in Vidin was preceded by an intensive advocacy campaign among the local Romani and non-Romani communities, educational authorities and the local administration. In the 2000-2003 period, the programme has and has successfully integrated over 600 students.

Under the project, students are bused from the settlement to school and back and those of them who need to catch up with their peers, receive supplementary classes at school. The project involves Roma supervisors who interact with parents and the school to encourage attendance. Representatives of the DROM organisation, which implements the project, are in constant contact with the Romani children and monitor their integration in the schools.

The success to date of the program is attribut-

ble to a number of factors. First, the Romani children are happy to be in schools where real learning takes place and to be among non-Romani peers. Second, the desegregation process has been organised and monitored by a Romani organisation, creating high levels of trust on the part of the Romani parents. Finally, the schools have accepted in-house Roma supervisors who ensure that the children are treated equally and with respect. Since the project started in Vidin it has been expanded to seven more cities in Bulgaria.

This initial model of desegregation should, however, be seen as a step in the right direction rather than an end in itself. Longer term and robust monitoring and evaluation are critical to ensure that the quality of the educational experience of the Roma pupils matches those accepted standards compatible with race equality in education. That is, that policy is sustainable; that adequate levels of training are maintained; that attendance and achievement outcomes are at parity with the average for all pupils; that in the interests of equal treatment, non-Roma pupils are also bused to ensure a racial mix across all the schools in the community and that enhanced investment is directed towards the schools which remain open in the Roma settlements.

UK is the only sectoral field that specifically includes Roma in the process of monitoring and evaluation, the achievement of Roma pupils in school is in very marked contrast to the achievements of all other minority ethnic groups.⁴⁶

16. In the field of lifelong learning, there is currently a failure by Member States to identify Roma as a policy target group. Thus, for example, despite a Romani population of at least 100,000, many of whom face very serious problems in accessing education, the Italian government, in its most recent

report to the Commission on the implementation of lifelong learning strategies, did not identify Roma (or indeed any ethnic group), stating, "The measures addressed to groups at risk of social and cultural marginalisation, co-financed by the ESF in both the central north and southern regions, include interventions for migrants, offenders, the disabled, disadvantaged groups in general, and women."⁴⁷ Other countries failing to make reference to Roma in their lifelong learning strategy progress reports include Germany, Poland, Sweden and the United Kingdom.⁴⁸

⁴⁶ Department for Education and Skills, London. Ethnic monitoring PLASC data, 2004. <http://www.dfes.gov.uk/rsgateway/DB/SFR/s000448/index.shtml>.

⁴⁷ European Commission, Directorate General Education and Culture, "Implementing Lifelong Learning Strategies in Europe: Progress report on the follow-up to the 2002 Council resolution. Reply to the Commission questionnaire, Italy", Brussels, December 2003, p.117.

⁴⁸ Member States' progress reports are available on the European Commission website at: http://europa.eu.int/comm/education/policies/2010/III_en.html.



17. The above examples provide more than sufficient evidence of Roma exclusion from mainstream education, and action is required from both national governments and, where appropriate, the EU. Given the centralised nature of school systems in Europe, national education Ministries must lead in designing policies that promote integrated education for Roma and in ensuring that this is firmly rooted in strategies aimed at race equality outcomes. As concerns the important area of primary and secondary education, key objectives of policy should include:

- Legal and administrative structures that secure unhindered access to mainstream educational opportunities;
- The establishment of efficient arrangements to address any barriers to regular school attendance;
- Integration – that is, schools should not segregate and they should include active elements aimed at combating existing racial segregation;
- Substantial and comprehensive support (and, where relevant, further education and retraining) to all players in the education process, including teachers, administrators, Romani and non-Romani

- children, and Romani and non-Romani parents;
- Strong elements within the formal and informal curriculum that promote anti-racism and anti-bullying;
- The provision of all necessary resources required to secure racial equality in educational outcomes;
- Enhanced pre-school education for a minimum of two years for all Romani children;
- Overcoming barriers between Roma and non-Roma and the promotion of good race relations;
- Providing curriculum materials on the important contributions Roma have made to the societies of Europe – and in particular to the society of the individual country. In the interests of rolling back currently high levels of anti-Romani sentiment in Europe, it is crucial that these materials be used in all schools, not only in schools where Romani children predominate;
- Providing adequately for cultural education about Roma – including Romani language, history and culture – for both Romani and non-Romani.

18. Finally, it should be noted that a number of states have recently adopted practices of providing scholarship funding to Romani students at university, and in

some cases secondary-school level. At least partly as a result of these policies, the number of Roma at university has increased considerably in recent years in some EU Member States (particularly in some of the new Member States). These and similar policies should be replicated in countries where they do not exist and be funded to the level required.

19. At the EU level, and notwithstanding EU subsidiarity principles, a number of EU programmes clearly have a direct role to play in creating the conditions for integrated education. In addition to setting data and framework conditions for the design of national policy, a number of Union programmes may be used to generate social change in the field of Roma education. The European Union's Directorate General for Education and Culture manages a wide variety of programmes supporting cooperation between Member States and candidate countries in the field of education, training and youth. Most of these programmes provide scope for projects aiming at improving Roma education and training and, crucially, assisting with government policies to integrate education. For example, the promotion of intercultural education, countering social exclusion by providing support to disadvantaged groups, is a priority of the European Union Community Action Programme in the field of education 2000-06 (Youth programme).⁴⁹

20. Within the scope of this programme, the stated objectives of the Comenius Action (school education) include the promotion of intercultural awareness through transnational activities designed to fight racism and xenophobia and improve the education of children of migrant workers, occupational travellers, Gypsies and Travellers. A range of transnational projects on Roma education and training are, or have been, supported in recent years within the Socrates (school, higher and adult education) and Leonardo da Vinci (vocational training) Community Action Programmes, as well as the Youth programme. Roma-specific transnational projects funded to date have addressed various themes and areas, including school attendance levels and quality of education, intercultural education and dialogue, teacher training and Roma mediators, and the educational needs of Roma to improve their employability and ability to enter or re-enter formal education.

21. The EU has in the past issued resolutions related explicitly to Roma. In 1989, the Council of Ministers of Education adopted Resolution 89/C 153/02 "On School Provision for Gypsy and Traveller Children". The 1989 Resolution was drafted with reference to the circumstances of the nomadic Roma/Gypsy and Traveller population of the Member States of the European Union at that time. In the framework of a newly enlarged European Union, the Union institutions should revisit EU strategies on the education of Romani children, taking into account in particular the need for thorough-going measures to combat racial discrimination and racial segregation in the educational system. To the extent that European Social Funds are also used to co-finance educational initiatives in Member States, the ESF guidelines might also stress the need to pursue the issue of Roma, Gypsy and Traveller education, and the need to address the issue from pre-school through to adult education.

EMPLOYMENT

22. At the Lisbon European Council, the European Union set itself the goal of becoming "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion". The strategy was designed to enable the Union to regain the conditions for full employment and to strengthen cohesion by 2010. The Council also considered that the overall aim of these measures should be to raise the overall EU employment rate to 70% and to increase the number of women in employment to more than 60% by 2010. The Stockholm European Council (March 2001) added two intermediate and one additional targets: the employment rate should be raised to 67% overall by 2005, 57% for women by 2005 and 50% for older workers by 2010. The Barcelona Council (March 2002) confirmed that full employment was the overarching goal of the EU and called for a reinforced Employment Strategy to underpin the Lisbon strategy in an enlarged EU.

23. The main tool at the Union level for implementing these goals is the European Employment Strategy (EES).⁵⁰ Key elements of the EES include:

⁴⁹ Decision No. 1031/2000/EC of 13th April 2000.

⁵⁰ Further information on the European Employment Strategy is available at: www.europa.eu.int/comm/employment_social/employment_strategy/index_en.htm.

TEXT BOX 2. Roma Employment Initiatives in Spain

The ACCEDER Programme, co-financed by the European Social Fund, was initiated by the Fundación Secretariado General Gitano (FSGG) in the framework of the Multi-regional Operative Programme 'Fight Against Discrimination' in Spain. Thirteen Spanish autonomous regions and more than forty city councils collaborate in the programme. Its main objectives are to provide access to employment for disadvantaged groups (mostly Roma) through a network of specialised employment offices that offer training, mediation and advisory services. ACCEDER started in 2000 and is due to finish in 2006. There are 47 offices in 44 municipalities and more than 70 private and public entities are taking part. Its strategy is designed to achieve two major objectives:

- The development and improvement of access to employment for Roma
- The promotion and development of new jobs in service (s) industries.

Since December 2003 16,961 people have been assisted (67% were Roma) and 9,741 people have entered employment. The service sector stands out – with 66% of all contracts – followed by the industrial sector (17%), construction (15%) and agriculture (3%). As far as the length of employment contracts is concerned, 45% last over 3 months and 10% over 1 year.

The programme has been identified by the European Social Fund as a "case of good practices" on the Intermediate Evaluation of the Operative Programme 'Fight Against Discrimination'.

- Employment Guidelines: following a proposal from the Commission, the European Council shall agree every year on a series of guidelines setting out common priorities for Member State employment policies;
- National Action Plans: every Member State shall draw up an annual National Action Plan, which describes how these Guidelines are put into practice nationally;

- Joint Employment Report: The Commission and the Council shall jointly examine each National Action Plan and present a Joint Employment Report. The Commission shall present a new proposal to revise the Employment Guidelines accordingly for the following year;
- Recommendations: The Council may decide, by qualified majority, to issue country-specific Recommendations upon a proposal by the Commission.

24. Despite considerable evidence of the powerful role of race in hindering access to the labour market, EU decision-makers have not yet identified eliminating unemployment among minority ethnic groups as a target of EU employment policy.

25. The result of the EU not providing specific guidance is evident in the absence of Roma and other groups regarded as "Gypsies" from the National Action Plans on employment. A review of the National Action Plans for 2003 for Austria, Belgium, Finland, Germany, France, Sweden, Spain, Ireland, United Kingdom, Netherlands, and Portugal, indicates that of the countries listed, only Ireland included mention of Roma ("Travellers" in the Ireland National Action Plan on employment).

26. Roma and other groups regarded as "Gypsies" do, however, face significant barriers in the labour market and in accessing gainful employment, and as a result disproportionately higher numbers are unemployed. Where data on the placement of Roma on the labour market exist, very disturbing disparities are apparent. For example, official data for the 3rd quarter of 2003 indicates that approximately 87.5% of the Slovak Romani population was unemployed during the period, as compared with an unemployment rate of 14.2% for the population as a whole. In Spain, half of Spanish Roma of working age are estimated not to have stable or legal jobs.⁵¹ In the Czech Republic, the unemployment rate for the general population was 10.8% of the total work force in early 2004,⁵² whilst the official unemployment rate for Roma was estimated to be between 50% and 80%.⁵³ Unofficial estimates, based on qualified sociological studies, also indicate that the unemployment rate for Roma ranges between 50-80%, of which men comprise 10%, and women comprise 90%.⁵⁴

⁵¹ Second National Action Plan for Social Inclusion in the Kingdom of Spain. (Appendix I. Diagnosis of the situation of Social Exclusion in Spain) Ministry of Labour and Social Affairs, Madrid, 2003. p.14.

⁵² Právo, February 10, 2004.

⁵³ Joint Inclusion Memorandum, Czech Republic, 2003, p. 6.

27. A large proportion of Roma in the Czech Republic – as elsewhere – perceive their position on the labour market as disadvantaged by racial discrimination. Sixty-one percent of Roma, when asked if they had been refused employment because of their origin, responded in the affirmative. In two fifths of families, at least one of the parents is unemployed and in one third of families one of the parents is the recipient of a disability pension.⁵⁴

28. There are clear indications that racial discrimination is a powerful force hindering the access of Roma to the labour market. For example, labour offices in a number of countries have frequently reported that employers attempt to submit listings stating that "Roma need not apply". Unfortunately, in some cases, labour offices have marked job-seeker listings for employers with the ethnicity of the person seeking work, such that potential employers can see who are "Gypsies" (and therefore not hire them). In a number of countries, Roma have sued employers for discriminating on racial grounds and notwithstanding the difficulty of proving racial discrimination for the purposes of legal action in the field of employment, a number of these cases have been resolved in favour of the plaintiff and courts have sanctioned employers. These successes have not, however, reduced widespread reports of racial discrimination on the job market. There is clearly a need to redouble efforts to ensure the full implementation of equality law in the field of employment.

29. Employment policies and strategies at the EU and Member State level, stated clearly, disseminated widely and monitored regularly, are a necessary basis for the social inclusion of minorities, including Roma. Appropriate regional development projects focussing on employment creation are also required, however, to give momentum to policy. This is particularly so in areas where Romani unemployment and poverty prevail, and particularly in the light of personal, social and economic disadvantage caused by long-term unemployment. In areas where there is very high or total unemployment among Roma, policies must include elements, and financial incentives, to encourage employers to recognise the benefits of employing Roma. Where Romani individuals have been unemployed for long periods

of time, measures must include elements that assist the transition (back) into the work force.

30. The EU programmes introduced in Chapter 3, and principally the ERDF, the ESF and the EQUAL Community Initiative, have facilitated project work targeting Roma in the field of employment in a number of Member States. A number of these have been financed through the European Union's EQUAL programme, an initiative to provide funding and encouragement for innovative projects to fight discrimination and social exclusion in labour markets. Since 2001, the EQUAL programme has funded around 45 projects where Roma have been among the beneficiaries, either as a specific target group or mainstreamed alongside other disadvantaged groups in broader programmes. Most of the EU Member States, and both of the two candidate countries that gained access to the EQUAL programme in 2002, have at least one or two projects promoting the integration of Roma in the labour market. Member States where no such projects have yet been implemented are Denmark, Luxembourg, the Netherlands, Belgium and Finland. Also active has been the Directorate General for Research and Innovation, which has financed a 3-year research project (WORKALO) into the barriers that exclude Roma from the European labour market, taking France, Portugal, Romania, Spain and the UK as case studies. The project was financed under the 5th Framework Programme (1998-2002).

31. In summary, employment is among the most essential mechanisms for securing social inclusion. The operation of the employment market in any one society provides a litmus test of its attitudes to race and social justice. The research has established that there are frequently very marked differences between the unemployment rates for Romani communities and other groups within the same society. Widespread reports of racial discrimination in employment have not yet been met with adequate action on the part of governments and other authorities. Projects to provide work to unemployed Roma have not yet had a marked impact on the levels of family/community poverty and debt, and in many of the existing Roma-specific employment programmes there is an emphasis on unskilled manual tasks with

⁵⁴ Vyzkum interetnickych vztahu: zpráva, Brno: Masarykova Univerzita, 2001.

⁵⁵ Source: STEM, Romani community in the city, November/ December 2002, in *Analyza sociálne ekonomické situace romské populace v České republice s návrhy na opatření*, Praha: Praha: Socioklub, 2003, p. 260.

minimal or no training opportunities. Employment policy is an underdeveloped sector in a number of the Member States examined in this study.

HOUSING

32. Housing is considerably less developed as an area of European Union policy than other fields of relevance to social inclusion, such as employment. There is no specific Directorate General in the European Union to address housing policy issues, housing is not presently covered by the European Regional Development Fund, and there is resistance to expanding EU competencies in this area, particularly due to the fact that housing is very resource-intensive. The European Union Race Directive explicitly bans racial discrimination in the field of housing, however, and the adoption of a housing indicator or indicators under the social exclusion indicators is under discussion within the Commission – explicit recognition of the key role played by housing in social inclusion measures. Experts have noted that where projects have been successful, housing has played a key role in the inclusion of Roma and other excluded minorities. When housing is improved to a certain degree, there is frequently a "point of no return" beyond which integration proceeds.

33. Nevertheless, it is of grave concern that many Roma throughout Europe live in substandard or extremely substandard housing, and often in slum ghettos or site locations characterised by:⁵⁶

- Uncertainty over the ownership of land on which settlements are placed;
- A lack of security of tenure (and with it a permanent threat of forced eviction);
- Inadequate or absent sewerage, electricity, lighting and potable water systems, and waste removal, heat, and transport services.⁵⁷ In some extreme slums, all such provisions are lacking;
- Exclusion or excessive distance from other settlements, public services such as quality schooling, postal services, healthcare and other urban

- facilities crucial for quality-of-living standards;
- Prevalent disease and/or threats of epidemic;
- Exposure to violent police raids and other arbitrary intrusions banned by fundamental international and European human rights laws;
- Segregation from other communities in an increasing number of states (the Czech Republic and Hungary have, importantly, acknowledged this as an area of concern).

34. Housing issues facing Roma have a high degree of variability across countries and indeed between rural, urban and semi-urban locations. In some countries, many Roma report that "the ground is disappearing beneath our feet" because of massive expulsions of Roma through forced evictions from housing/municipalities, as well as because of the sale of social housing stocks. Forced evictions are also frequently reported with respect to Roma, Gypsy and Traveller families who remain nomadic and, as a consequence of a shortage of official sites, are forced to camp on unauthorised land.

35. Social housing stocks reportedly vary extensively between Member States; for example, the Netherlands 35%, Slovakia 3.7%, Hungary 9%, and Belgium 7%. There is a need to replenish social housing stocks, where these are low, and to check the widespread sale of social housing stocks by local authorities in some countries, notably in some new Member States. The use of arbitrary criteria in the allocation of social housing has also been noted, as has the need to avoid policies distinguishing between the purported "deserving" and "undeserving" poor.

36. There is currently a debate as to how to address the existence of substandard slum settlements, with important initiatives being undertaken by OSCE missions in the former Yugoslavia, as well as by UN Habitat in its pursuit of the Millennium Development Goals.⁵⁸ The EU Phare programme has importantly made available a significant level of funding in the area of infrastructure for 30 Roma settlements for Slovakia. There are also a number of

⁵⁶ Many of these circumstances are also pertinent to the living circumstances and locations of many Roma families who have a nomadic lifestyle, such as the significant proportion of the Roma/Gypsy/Traveller communities in the United Kingdom.

⁵⁷ Even where services are provided, these are often problematic. For example, common water meters have led to massive water debt and subsequent forced eviction of Roma in Hungary. In Bulgaria, electricity providers withdrew services after Roma failed to pay debts accruing as a result of common electricity meters for very large numbers of individuals. Withdrawal of services has led to rioting by Roma on some occasions.

⁵⁸ Target 11 of the Millennium Development Goals is to: "By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers".

current projects in the old EU Member States as well as in the new Member States that may eventually constitute good practice, although it may as yet be too early to assess their long-term impact, given their recent starting dates.

37. In addressing the issue of slum settlements, there exists a danger that EU and other international funding may be being used to exacerbate spatial segregation of Roma. A consultant providing an assessment of approaches to Roma housing in Slovakia noted: "The housing situation of Roma is not seen as part of the general housing policy, but rather as a particular Romani problem and therefore there is a tendency to solve it in the narrow context of Roma policies and preferably with the financial assistance of the European Union. [...] In large towns and cities in particular, it can often happen that Roma apply for social housing and they are not provided with it, or they are provided only if that particular municipality has some special program for Roma housing. [...] My empirical conclusion would be that Roma are given 'Roma social housing' and this generally radically blocks any integration."⁵⁹ There is an urgent need in a number of countries for integrated approaches to housing. This need is particularly pressing as funding becomes available for Roma housing projects.

38. Political will at the national level and particularly at the local level is crucial if Roma, Gypsies and Travellers are to be provided with adequate accommodation. In the field of housing, the municipality is a key actor. National regulations and policies need to provide explicit guidelines to the municipality as to their obligations in the field of social housing for marginalised groups, and in particular for Roma, Gypsies and Travellers, and to ensure necessary funding for eventual land purchase from private owners.

39. Even in cases where the political will exists, funding is very frequently insufficient, or even totally lacking, due to the resource-intensiveness of house construction and renovation. At the Union level there are strong impediments to the use of the European Regional Development Fund for housing, even though such funding is available for complementary infrastructure such as water supply and sewage treatment, and a review of this policy is recommended. The current review of Structural Funding will define the extent and use of the European Regional

Development Fund for the period 2007-2013; there is a need to ensure that, to the greatest extent possible, the 2007-2013 funding will adequately address housing and complementary infrastructure issues facing Roma and other vulnerable groups. In the event that housing itself cannot be funded, the ERDF might examine ways in which it can promote schemes where the recipient government funds housing construction or renovation, and the ERDF finances complementary infrastructure. Use of such funds should concentrate on the desegregation of existing Roma communities by the construction of access roads and the integration of Roma settlements into existing service networks – electricity, water and waste removal services, for example.

40. In the area of project design, a number of positive examples have been noted (three projects in Spain in particular) although unfortunately there are also a number of bad practices in this area. The three positive examples cited involve (i) the creation of an integrated housing project, with concomitant social services, through the creation of an intermediary association; (ii) the provision by the government of funding to NGOs to buy housing and provide concomitant social services to Romani families; and (iii) the provision of government funding for the improvement of Romani housing in situ in a run-down area. In the third project, an employment component complemented funding for housing renovation. The beneficial effects of combining employment and/or social assistance components within housing projects have already been noted.

41. Best practices on housing for Roma include Romani involvement in the design, construction, maintenance and management of housing. There are models available for Romani control over housing through community management structures, including power-sharing among community members. This best practice should also be replicated in all those Member States where public provision is needed in the form of official sites for Roma, Gypsies and Travellers who are nomadic in lifestyle.

HEALTHCARE

42. Access to healthcare forms a core part of the EU anti-discrimination agenda, as recognised by the explicit ban on racial discrimination in the field of

⁵⁹ Expert assessment by Mr Laco Oreavec under ERRC/Milan Simecka Foundation/COHRE project on housing rights for Roma in Slovakia.

healthcare included in the EU Race Directive. The European Union Directorate General of Public Health is currently in the process of developing common health indicators and is also funding a Community Action Programme in the field of public health (2003-2008). The 2004 work plan specifies that social inequalities, gender mainstreaming and age-related aspects will be integrated into the tasks of each Working Party, and it is specified in particular that the Working Group on health determinants may "include socio-economic determinants, including minority and migrant populations".

43. Widespread unavailability of data with respect to the state of health of Roma, as well as their placement in or exclusion from the health care system, is particularly noticeable. Few studies have been undertaken with respect to access to health care and there is opposition on the part of many health professionals to ethnicity-specific surveys.

44. Where data does exist, the picture provided is worrying. Very serious public health risks, such as tuberculosis, are widely reported by public officials as prevalent among Roma, and particularly among Roma in isolated slum settlements,⁶⁰ but these have to date not been matched by adequate remedial action. Doctors Sánchez and Dorado, in their report on the Spanish Romani population for the ROMEUROPE European programme, provide a list of studies that show the prevalence of contagious and other diseases:

- i) higher prevalence of hepatitis A among Romani children;
- ii) higher prevalence of hepatitis B (among pregnant women, chronic infection rates are 8.4%, as against 1.4% of the general population);
- iii) higher prevalence of tuberculosis and asthma.

45. The data deficient environment surrounding Roma communities in Europe, and which has been stressed throughout this report, has a marked rele-

vance in the area of sexually transmitted diseases (STDs) and the incidence of HIV/AIDS infection. It should be noted that all existing evidence confirms the insufficiency of firm and comprehensive data, and in many cases, its unreliability and the research limitations. There is thus a considerable danger in creating or confirming negative stereotypes about Roma in these areas of heightened public interest.

46. There is evidence that the socio-economic circumstances of communities have a strong influence on risk factors associated with STDs and HIV/AIDS. For these reasons, HIV/AIDS has been found to disproportionately affect certain minority groups in Central and Eastern Europe,⁶¹ and many Roma communities are extremely vulnerable. Poverty, unemployment and discrimination are push factors said to be responsible for the involvement of some Roma women and teenagers in the sex industry, with its disproportionate exposure to high risk of STDs and HIV/AIDS infection, although there is no very firm data on actual disease incidence.⁶² Low levels of awareness and access to information about the diseases, their transmission, personal protection and access to treatment further exacerbate the vulnerability of Roma.⁶³

47. Although some recent initiatives by governments and NGOs have successfully started to address these issues, and in particular the need for greater public awareness, the response to date is not proportional to the needs and the urgency of the situation.

48. Caution in relation to creating or confirming negative stereotypes of Roma is equally important in the consideration of the incidence of drug trafficking and use. Although Roma are as exposed as other communities to increasing drug use, adverse socio-economic circumstances, such as those experienced by Roma, are also known to place individuals and communities at risk. Evidence would seem to suggest that drug abuse is on the rise in some Roma

⁶⁰ Poland's Joint Inclusion Memorandum and Lithuania's Government Programme on Roma explicitly note tuberculosis as a problem among Roma, and tuberculosis and other extreme public health risks are reportedly widespread in a number of other countries. In its second report on Lithuania, the Council of Europe's European Commission Against Racism and Intolerance notes: "The health situation of the members of the Roma/Gypsy communities also testifies to their generally disadvantaged situation. Such disadvantage is linked to several factors such as poverty and unhealthy living conditions, but also reflects, in some cases, prejudice on the part of those providing the service.

⁶¹ United Nations Development Programme, *Avoiding the Dependency Trap*, A Regional Human Development Report (UNDP), Bratislava 2002, p.65.

⁶² Ringold Dena, Orenstein Mitchell, Wilkens Erika *Roma in and Expanding Europe - Breaking the Poverty Cycle*, A World Bank Study. Washington 2003. p.44.

⁶³ EUMC, *Breaking the Barriers - Romani Woman and Access to Public Health Care*, European Commissions 2003. pp.57-60.

communities, although reliable information is scarce.⁶⁴ Some research has provided evidence suggesting that the most vulnerable age groups within Roma communities are 9-16 year old children, who may be addicted to solvent and alcohol abuse, and 19-40 year olds who are more likely to be on 'hard drugs'.⁶⁵ It is suggested also in a number of sources that drug usage and trafficking may be more common in areas where communities are close to national borders. The UNDP report stresses the possible connection between the drug trade and use, and commercial sex work.⁶⁶

49. Given the marginalisation of Roma communities, their socio-economic circumstances and their poor access to information, education and public health structures, it is certain that they are particularly vulnerable to drug use and abuse with very limited access to appropriate treatment and addiction support agencies.⁶⁷

50. In the Czech Republic, data on the present life expectancy of Roma is not available. However, ten years ago the life expectancy of Romani men and women was twelve years shorter than average.⁶⁸ The state of health of the Romani population is assessed as being visibly worse than that of the majority population by 69.7% of general practitioners.⁶⁹ A 1997 study revealed very different rates of infection between Roma and non-Roma for a number of diseases.⁷⁰

51. In Spain in 1997, child vaccination campaigns carried out in various shanty towns in Valencia by

detected that nearly 40% of Romani children had not received any kind of vaccination and approximately 50% had not been fully vaccinated.⁷¹ A paediatric study undertaken in Alicante in 2002 similarly revealed vast differences in vaccination rates: 18.8% of Romani children aged 2 years had not received any vaccination, whereas all non-Romani children had already been vaccinated at that age.⁷²

52. Some countries, for example Poland and Slovakia, are now beginning to experiment with mobile health units for isolated slum settlements, in order to deliver rudimentary health care on an occasional basis. In Slovakia the programme is financed by Phare. The Greek government has stated that it has recently undertaken "16,580 multiple vaccines" among Roma in Greece. Such measures are to be commended, but also to be regarded as stop-gap, awaiting comprehensive policy measures aimed at securing full and unimpeded access by all Roma to preventative, primary and emergency healthcare services.

53. It is very worrying that in some of the countries studied, extreme abuses of the right of informed consent⁷³ have been documented in recent years where Roma are concerned, and have not yet been matched by adequate corrective measures by public officials.⁷⁴ Efforts must be redoubled to ensure a culture and regular practice of providing information about all aspects of medical care, medical treatment, and procedures to be undertaken in a language understandable to patients. In addition,

⁶⁴ Ringold Dena, Orenstein Mitchell, Wilkens Erika *'Roma in an Expanding Europe - Breaking the Poverty Cycle'*, A World Bank Study. Washington 2003. p.44.

⁶⁵ Puporka L. and Zadori Z., *'The Health Status of Roma in Hungary'*. Budapest: World Bank Regional Office - Hungary, NGO Studies No.2.

⁶⁶ United Nations Development Programme, *'Avoiding the Dependency Trap'*, A Regional Human Development Report (UNDP), Bratislava 2002, p.66.

⁶⁷ Open Society Institute (OSI), *'Drugs, AIDS and Harm Reduction'*. New York 2002.

⁶⁸ Janecková H., Nesvadbová L., Kroupa A., Rutsch J., "Attitudes of Roma Population in the Czech Republic to Health and Health Care", lecture presented at the conference Health in Transition: European Perspectives of the European Society for Health and Medical Sociology, BSA Medical Sociology Group 2nd Joint Conference, 14-17 September 2000, University of York; Praha: SOCIOKLUB Publishing house, p. 223

⁶⁹ Nesvadbová L., Rutsch J., Kroupa A., Sojka S., "The State of Health of the Romany Population in the Czech Republic", Central European Journal of Public Health, No. 3, Vol. 8 (JHEMI vol. 44), August 2000, pp. 147.

⁷⁰ Ibid.

⁷¹ López Bustamante, Joaquín: "La exclusión más vulnerable: el alarmante estado de salud de los gitanos más pobres" en *SOS Racismo. Informe anual 2001 sobre el racismo en España* ("The most vulnerable exclusion: the worrying state of health of the poorest Roma" in *SOS Racismo. Annual Report 2001 on Racism in Spain*) Editorial Icaria, Madrid, 2001, p.30

⁷² Sánchez Serrano, F.J et. al.: "Diferencia étnica en la actividad asistencial de urgencias. Aproximación a la realidad gitana. *Anales de Pediatría* 2002. no. 56 ("Ethnic differences in the assistance given at casualties. An approach to the Roma's reality. *Pediatrics* *anal*s 2002), on the Internet at:<http://db.doyma.es/cgi-bin/wdbcgi.exe/doyma/mrevista.fulltext?pident=13023940>.

comprehensive safeguards on patients' rights, in particular for vulnerable groups such as Roma, must be introduced, including access to just remedy where such rights are violated.

54. The European Union can and should provide guidance to Member States and Candidate Countries by including in the health indicators currently under development indicators related to both disease incidence and access to the health care system by marginalised ethnic groups. Given the specific problems faced by Romani populations, particularly where these are itinerant, as well as the numbers of Roma in many new Member States in particular, it may be appropriate to specify the need to develop indicators for Roma, Gypsy and Traveller groups. There is also considerable scope for developing the EU social exclusion indicators to encompass exclusion on ethnic grounds. The development of harmonised indicators between the Directorates General for Employment and Social Affairs and the Directorates General for Public Health would be particularly advisable in this area. Union institutions should also continue to monitor the health care situation of Roma in Member States where (i) there are plausible allegations that Roma have been subjected to abuses by health care providers and (ii) where there are clear indications that primary and/or emergency health care may not be reaching significant sectors of the Romani population.

55. In respect of the Directorate General for Public Health Community Action Programme, it is noted that the 50m 2003 budget was 10 times oversubscribed and that there is far more demand for health sector co-financing than can be met by the Programme. Given the importance of good health in ensuring economic activity and employment, the overarching goal of the Union, it would be reasonable for the Commission to increase this sum. Moreover, given the public health threats posed by the high levels of contagious disease among marginalised

TEXT BOX 3.

Roma Health Mediators Project, Romania.

Although the concept of Roma mediators in education was first developed in France in 1986-7, the extension of the concept to healthcare was initiated in Romania.

In 2000, the association Romani CRISS - Roma Centre for Social Intervention and Studies trained health mediators to provide liaison between Roma families and mainstream public health services. The work has been particularly effective in the promotion of child vaccination programmes, access to anti- and post-natal care for mothers, and education surrounding issues of contraception and family planning. As the work has progressed, the health mediators have become more involved in the identification of serious contagious diseases and the detailed recording of some aspects of Roma health data.

The work has been so effective in establishing and strengthening the active links between Roma communities and public health services that the scheme was adopted in 2002 by the Romanian Ministry of Health and Family, which supported 166 health mediators in 34 pilot counties, but with the training function still provided by Romani CRISS.

The numbers of mediators and their resources are still modest, however, and their effectiveness is still dependent on the character and quality of the existing public health infrastructure, which is often weak. Moreover, where family incomes and environmental circumstances are poor, and where little or no action is taken to ameliorate the situation, as is the case in the majority of Roma communities, then the quality of liaison, community healthcare, education and healthy lifestyle promotion is seriously undermined.

⁷³ The European Charter on Fundamental Rights, proclaimed by the European Commission on 7 December 2000, has anchored the right to full and informed consent at the core of the European Union. Article 3 of the Charter, on the right to the integrity of the person, guarantees that "in the fields of medicine and biology in particular", "the free and informed consent of the person concerned" [...] "must be respected in particular".

⁷⁴ According to ERRC documentation and that of partner organisations, Romani women have been coercively sterilised in recent years in the Czech Republic, Hungary and Slovakia. Legal complaints are currently pending before domestic and international courts with respect to coercive sterilisations in Hungary and Slovakia. In the Czech Republic, the ERRC has provided information to the Ombudsman related to coercive sterilisations.

groups, among which Roma groups are prominent, and the Directorate General's wish to improve cross-border cooperation in the field of healthcare, increased attention to the health status of Roma is fully justified. This is particularly the case given the population movements that the 2004 enlargement has stimulated.

**DISPARATE ENVIRONMENTAL IMPACT:
HOUSING AND HEALTH**

Empirical evidence from a number of countries indicates that Roma suffer disproportionately from environmental harms. For example,

- The predominantly Romani settlement of Lower Hrusov, Ostrava, Czech Republic, is located over a former mine which continually generates methane gas; the settlement is in constant danger of exploding;
- The Romani settlement of Patoracka, Rudnany, Slovakia, is located on the grounds of a former mercury mine;
- A Romani settlement in Aspropyrgos, Greece, just outside Athens, is located on a municipal dump.

In some areas, where environmental conditions may be dangerous generally, they are particularly compounded with respect to Roma. For example, in houses in the town of Zlatna, Romania, zinc, copper and lead concentrations – deriving from the tailings of a local mine – exceed the allowable levels set in some EU countries by factors of ten or more. Moreover, some local regulations related to the environment may have indirectly discriminatory effects. For example, in the city of Ostrava in the Czech Republic, fees for waste removal are a fixed sum per head, taking no account of income levels or amounts of waste generated. Romani families, which tend to be both larger and poorer, bear a disproportionate burden of local waste removal costs.

56. The European Commission Directorate General for the Environment may have a role to play in defining pan-EU policies in respect of the environment as a determinant of health, and in supporting projects aimed at improving the social welfare of disadvantaged groups, including Roma. Indeed, the Directorate General's 6th Environmental Action Plan, agreed in 2002, sets four priorities, of which one is

the environment in relation to health and the quality of life. Grants are given in support of organisations proposing acceptable projects and, although it does not appear that finance has previously been made available to Romani groups, this is a possibility for the future.

SOCIAL SECURITY, INCOMES AND DEBT

57. In the field of social assistance, it is of concern that, EU social inclusion efforts notwithstanding, some countries have in recent years amended laws with the effect of removing eligibility for social assistance from Roma. Most recently, in 2004, amendments to Slovak social support legislation reduced assistance for families with many children, a provision widely held to be targeted at Roma and one which will without question have indirectly discriminatory effects on Roma. In a number of cases, direct discrimination against Roma has been reported in the field of social protection. For example, in Romania researchers have documented local authorities stating that they apply discretionary means tests for eligibility for social benefits in a racially discriminatory manner, or otherwise indicating that they regard Roma in general as undeserving of social welfare support.⁷⁵

58. In France, a number of départements appear to have given all files concerning Gypsies and Travellers (including those who do not travel) over to the special associations of "friends of the Gypsies and Travellers". As a result, Gypsies and Travellers are not accepted in the municipal offices, and have to go to the specific associations designed "for them". In one département, sums appear to have been removed from social support payments based on an internal chart, which presumed that Travellers were working illegally and not declaring their real income. Moreover, Travellers in France are ineligible for certain forms of social assistance because their homes are not "fixed". Many nomadic Romani, Gypsy and Traveller communities in a number of European Union Member States suffer similar treatment as a result of having no fixed or permanent home and postal address.

59. The lack of recognition of traditional Romani marriages is a problem in some countries. This has led to a range of disadvantages, including the inabil-

⁷⁵ See for example, Zoon, Ina, *On the Margins: Roma and Public Services in Romania, Bulgaria and Macedonia*, New York: Open Society Institute, 2001, pp.32-34.

ity to collect pensions and to visit spouses in prison or in hospital.

60. Usury is also widespread in impoverished communities in some EU Member States, and usury has deepened the cycle of poverty of many Romani communities. Some commentators have argued that usury has become more severe recently, that interest rates have increased to 100% or more, and that violence or threats of violence in the context of debt collection is more frequent than previously.⁷⁶ For long periods of time, usury was more or less ignored by criminal justice authorities, being regarded as a feature of Romani and other marginalised community life and therefore not a priority for police attention. Slovak police have recently begun more aggressively arresting and seeking prosecution of usurers, and there is scope for involving community strengthening to combat usury. One such project has been implemented in recent years in the Czech city of Ostrava, apparently with some success (see Text Box 4).

LACK OF PERSONAL DOCUMENTS AND STATELESSNESS

61. A serious obstacle to the exercise of basic rights by Roma throughout Europe, as well as their access to services crucial for social inclusion, is a lack of personal documents, including but not limited to birth certificates, personal identity documents, local residence permits, documents related to state-provided health insurance and social welfare, and passports. There are also problems in a number of countries related to the fundamental status of individuals; a number of Roma have not managed to secure citizenship in Member States, and some Member States operate residence permit regimes which have the effect of perpetuating the social exclusion of Roma and others.

62. For example, a large number of Roma in Slovakia are unable to access a range of basic services crucial to fundamental economic and social rights because they lack a residence permit in the place of their actual residence. In order to secure legal permanent residence in a given municipality, an individual must usually produce a valid identity document, as well as papers confirming the individual's right to use the flat or other habitable rooms, or the written approval of the flat's owner or primary tenant. Due to the fact that many Roma live in

TEXT BOX 4. Community Project to Combat Usury.

The Czech organisation Life Together has developed successful projects related to combating usury in Romani communities. The "Roma Police Assistants Project" was started in order to:

- Help loan shark victims seek police aid
- Prepare the police to work professionally with loan shark victims among the Roma
- Bridge mutual distrust between police and Romani communities, as well as to open up the police to the idea of employing Roma within the police force
- Raise the expectations of the Romani community for quality police servicing.

The project began from an appeal in Spring 2002 with a group of about fifty Romani women who were caught in an impoverishing, humiliating and violent debt trap.

Of the fifty women who approached the organisation Life Together for assistance in combating usury, five decided to stand together against the loan sharks. This created an unprecedented change in the community. The loan sharks were challenged for the first time, responded initially with threats, but later became unsure and violence was avoided. Two of the women concerned decided to help other victims by providing them with psychological aid and by working as police assistants for this NGO. Their public honour is ensured by working transparently and by not informing police who the loan sharks are. They support victims who wish to file complaints to the police concerning usury. The community perceives them as police assistants working for the benefit of the victims, and not as "police informers".

Further information on the project is available from vzajemne.souziti@tiscali.cz.

informal settlements where these conditions cannot be met, as well as due to a range of other factors, many Roma either do not have a residence permit at all, or have a residence permit only in their town of birth. As a result, large numbers of Roma have no access to basic public services, or only extremely limited access to such services.

63. In some instances, local officials in Slovakia

⁷⁶ Novák, Karel, "Lichva jako prirodzeny jev", available on the Internet at www.clovekvtisni.cz/romske_projekty/lichva.htm.

have struck Roma from the municipal register. For example, on June 28th, 2001, the local council of the town of Letanovce adopted Resolution 21/28.6.2001, "terminating the permanent residence of the citizens living in the Gypsy settlement Letanovce from August 1, 2001." Despite the intervention of the Slovak Government's Plenipotentiary for Roma Communities, as well as review by a parliamentary committee, the local council refused to strike down the act. A court subsequently annulled the act, but as of October 2003, approximately 60 Roma in the Letanovce settlement lacked permanent residence there, despite the fact that many of them were born there. Similar cases have occurred in the Czech Republic and Hungary.

64. In extreme cases, Roma lack citizenship, and the very worrying phenomenon of statelessness has arisen among Roma in some countries.⁷⁷ In the context of the breakup of Czechoslovakia in 1993, for example, rather than making Czech citizenship available to all former Czechoslovak citizens, the Czech Act on Citizenship awarded citizenship to those who had Czech, as opposed to Slovak republic citizenship, a previously meaningless administrative designation provided under a 1969 law. Those former Czechoslovak citizens who had not been automatically awarded citizenship were entitled to apply for it, but were required to meet the condition that they had been permanent residents of the Czech Republic for at least two years and that they had not been sentenced for a crime in the previous five years.

65. As a result of the Act, thousands of people with Slovak republic citizenship who had lived all or most of their lives on the territory of the Czech Republic, found themselves officially ineligible for Czech citizenship either as a result of a criminal record or because their real residence was not matched by official residence documentation. The vast majority of those excluded from Czech citizenship were Roma, and indeed many commented that the law was designed precisely for the purpose of trying to force Roma in the Czech Republic to go to Slovakia. The worst elements of the Act were removed through legal amendments in 1999, but researchers have noted that in practice access to Czech citizenship frequently remains blocked for Roma, and that there is still a range of consequent effects in key areas of social inclusion policy including education, housing and social assistance.

66. Statelessness and lack of documents among Roma have not been confined to new Member States. Instances of the phenomenon of statelessness have been reported among Sinti and Roma in Germany since World War II until recent years.⁷⁸ Moreover, many long-term resident Roma in Germany hold only a temporary status called "tolerated" ("duldung"). A "duldung" is not a residence permit – it is merely a stop on expulsion, and it must be renewed at frequent intervals, in some instances after only several weeks.⁷⁹ Members of the same family are often provided with "duldung" status for different periods of time, meaning that a head of household may be almost constantly queuing for

⁷⁷ The principle that statelessness is anathema has been repeatedly affirmed by the international community. Article 24 of International Covenant on Civil and Political Rights (ICCPR), addressing the rights of children, stipulates that "[e]very child has the right to acquire a nationality." The Convention of the Rights of the Child (CRC) states at Article 7: "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents [...]" A number of international legal instruments address the issue of statelessness exclusively. The Convention on the Reduction of Statelessness includes a number of provisions aiming to prevent statelessness as a result of loss of nationality due to any change in the personal status of an individual.

⁷⁸ Citizenship laws in Germany were until 1999 based solely on descent and included no provision for the acquisition of citizenship through birth on German territory, and cases of statelessness were reported regularly.

⁷⁹ A number of international monitoring bodies have expressed concerns at the treatment of non-citizens in Germany. For example, the UN Committee against Elimination of Racial Discrimination has expressed concerns about absence of any protection accorded to *de facto* minority groups resident in Germany for long periods of time (see CERD/C/338/Add.14, 10 August 2000). The Council of Europe's European Commission against Racism and Intolerance (ECRI) noted that around nine percent of the entire population (c. 7,000,000 persons) do not have German citizenship and called for regularisation of the status of long-term foreign residents (see Council of Europe's European Commission against Racism and Intolerance, Second Report on Germany, adopted on 15 December 2000 and made public on 3 July 2001, p. 9).

⁸⁰ Mihok, Brigitte, *Zurück nach Nirgendwo. Bosnische Romaflüchtlinge in Berlin*, Berlin 2001, p. 76.

renewal of the status for various members of family.⁸⁰ The "duldung" status frequently includes restrictions on freedom of movement, access to employment and various forms of social assistance, although provisions vary from state (*Land*) to state.

67. There are no publicly available figures on the total number of Roma who are in possession of "duldung" status in Germany. In 2002, the number of people with "tolerated" status was around 227,000, of whom 146,838 had been living in Germany for at least five years and 78,487 for more than ten years. In many cases, children with "duldung" status speak fluent German and their language of primary education is German. Exclusionary practices with respect to Romani migrants have also been documented in Austria, whilst a lack of documents is also a serious problem among Roma in Greece.⁸¹

68. Exclusionary obstacles created by lack of documents can be daunting and in many instances the lack of one document can lead to a "chain reaction" in which the individual is unable to secure further documents. This problem is rarely addressed systematically by government policy, and Member State governments should carry out a "discrimination proofing" of their citizenship procedures to ensure that they comply both with the EU principles of non-discrimination and are within the scope of international conventions on the treatment of temporary and permanent residents.

GENDER ASPECTS OF THE SITUATION OF ROMA

69. Perhaps the only area in which EU guidelines on data collection and the use of indicators acknowledges the value of monitoring policy impacts on ethnic groups is where these require the provision of data on women belonging to such groups. Thus, whilst the possibility of collecting policy-related data on ethnic groups is recognised by the EU, it is not specified explicitly in the same way as is the need to monitor gender.⁸² It is therefore ironic that statistical

data on the situation of Romani women in the social inclusion sectoral fields is particularly weak. These lacunae are all the more significant because the handful of studies available demonstrate that Romani women face even more difficulties than both Romani men and women of the majority community in accessing education, employment, health and other services necessary for full social inclusion.

70. According to a number of reports, a significant proportion of Romani women are unemployed.⁸³ A disturbing feature is the reported high level of unemployment among particularly vulnerable women such as single mothers, widowed women and victims of domestic violence.⁸⁴ In the absence of suitable employment opportunities, Romani women in several countries including Bulgaria, the Czech Republic and Slovakia have engaged in prostitution. Concomitant with this is the problem of trafficking of Romani women, an issue that has not yet received sustained interest from international organisations and national governments. That said, it is imperative that anti-trafficking measures do not feed into widely-held stereotypes about Romani criminality.

71. Field monitoring, however, also indicates that Romani women are in many instances the primary breadwinner in a family, often working at three or four jobs in the 'gray' economy in order to support families. Some such activities include door-to-door selling, domestic work, making traditional handicrafts and agricultural work. Exclusion from the formal labour market is particularly widespread in places such as the Czech Republic where an exclusionary citizenship law continues to have negative effects on the ability of Roma to fully participate in society. Women working primarily in the gray economy are very frequently excluded from a range of protections such as maternity benefits, pensions and medical leave, and they are very vulnerable to exploitation.

72. Extending micro-credit to women has been

⁸¹ See European Roma Rights Center and Greek Helsinki Monitor, *Cleaning Operations: Excluding Roma in Greece*, Country Reports Series No. 12, April 2002.

⁸² For example, goals of European Union social inclusion policies include the promotion of "the social integration of women and men at risk of facing persistent poverty, for example because they have a disability or *belong to a group experiencing particular integration problems*." (see European Union document, "Fight against poverty and social inclusion – Definition of appropriate objectives", Brussels, 30 November 2000, emphasis added).

⁸³ See for example "Vyzkum interetnickych vztahu: zpráva", Brno: Masarykova Univerzita, 2002, p. 45.

⁸⁴ Presentation by Jennifer Tanaka at the Romani Women's Employment at the World Bank/Open Society Institute Roma Women's Forum Budapest, June 29, 2003 (on file with ERRC).

seen as one possible strategy for improving their economic independence. As the Committee on Equal Opportunities for Women and Men of the Council of Europe's Parliamentary Assembly notes "existing micro-finance schemes show that women as a rule are better than men at repaying loans, especially in the context of schemes based on a group or on mutual solidarity. In addition, it appears that loans to women have a greater knock-on effect, as women see to it that children benefit from the increase in the mother's income."⁸⁵

73. Although the "increased schooling of mothers has a measurable impact on the health of their children, on the future schooling of the child, and on the child's adult productivity",⁸⁶ research shows that much needs to be done to ensure the full and complete access of Roma girls to education.

74. For example, in the Suto Orizari municipality in Macedonia (the biggest Romani community in Macedonia), while school participation of Romani girls and boys in primary school is almost equal in the lower grades, girls are obliged to help in the house or to get married at very young ages (from 12-17 years) and, as a result, often drop out in the higher grades.⁸⁷ Moreover, "a Romani girl who lives in the ghetto, like her parents and grandparents before her, knows no other life. Everyday she meets people who did not go to school or did not finish and people who are unemployed or perform unskilled jobs".⁸⁸ Thus, in the absence of positive role models and mentors, under the weight of traditions rooted in patriarchy, coupled with the broad issue of racial discrimination, Romani girls remain seriously handicapped from participating fully in, and enjoying the benefits of, education. It is argued

that desegregation of schools and interaction with people from diverse backgrounds is one way of breaking this cycle of disadvantage.⁸⁹

75. In the healthcare arena, the ROMEUROPE programme (1998-2000), promoted by Médicos del Mundo and co-funded by the European Union, carried out two empirical studies - both sociological and quantitative - in three of the countries that participated in the project (France, Spain and Greece). The data on the health of socially excluded Romani women show a high number of natural abortions, the lack of contraception (65%) and extremely high rates of child (2.35%) and neonatal (2%) mortality, which is eight times higher than that of the general population.⁹⁰

76. A cross-cutting theme that has emerged from research in various countries is the extent of discrimination Romani women face in accessing health services. In many of the countries surveyed, Roma perceive strong anti-Romani sentiment on the part of health service providers, so they do not access medical services unless there is a life-threatening emergency. It appears that this issue may have a greater impact on Romani women than on men.

77. Romani women also often fall victim to domestic violence. It is only very recently that governments in many of the countries studied have acknowledged the problem of domestic violence generally. For instance, the International Helsinki Foundation of Human Rights records a lack of shelters and a lack of professionals - including police, doctors and social workers - trained to deal with victims of domestic violence in the Czech Republic.⁹¹ Given the distrust of public officials among Romani women, it is unlikely that even where shelters are established, Romani women will have complete

⁸⁵ Committee on Equal Opportunities for Women and Men "Women and micro-loans" para 41, 42, Doc. 9696 (13 February 2003) available at <http://assembly.coe.int/Documents/WorkingDocs/doc03/EDOC9696.htm> (last visited on April 2 2004).

⁸⁶ *Ibid.*

⁸⁷ Zaklina Durmis's presentation on Romani Women's Employment at the World Bank/Open Society Institute Roma Women's Forum Budapest, June 29, 2003 (on file with ERRC).

⁸⁸ Kalinka Vasileva's presentation on Romani Women's Employment at the World Bank/Open Society Institute Roma Women's Forum Budapest, June 29, 2003 (on file with ERRC).

⁸⁹ *Ibid.*

⁹⁰ Lamara, Farid: *L'accès aux soins et à la santé de populations Rom/Tsiganes migrantes en situation de grande exclusion dans trois pays d'Europe. Espagne, France, Grèce.* Médecins du Monde. Paris, 1999 and Gilg, Anabelle: *Données médicales et socio-démographiques: les populations Roms/Tsiganes migrantes en situation de grande exclusion dans trois pays d'Europe - Espagne, France, Grèce.* Médecins du Monde. Paris, 1999.

⁹¹ Quoted in "Romani Women from Central and Eastern Europe: A 'Fourth World', or Experience of Multiple Discrimination" (Refugee Women's Resource Project, March 2002) p.98.

access to them, unless supported by other positive measures. The EUMC report on the state of Romani women's health recommends greater co-ordination with Romani women's NGOs and training for health mediators as some of the strategies that governments can adopt to deal with domestic violence.⁹²

78. Finally, the separate or non-treatment of gender and race in many systems of data collection undermines governmental policies on Roma. Government policies, often developed by reference to these statistics, frequently fail to address the double discrimination faced by Romani women. Most government policies on Roma are silent on the issue of gender equality, or include only inadequate provisions. Where gender matters are addressed in policies, they are frequently confined to issues related to marriage, the use of contraception or parental responsibility. Government strategies are essential to improving the situation of Romani women, however, and governments should incorporate a gender perspective into their Roma strategies, building upon accurate research which better identifies women's interests and the issues that affect them, beyond the traditional role of maternal caring.⁹³

POLICIES ADDRESSING TRAVELLER COMMUNITIES AND INDIVIDUALS

79. In countries where Roma are nomadic, there have often been failures to provide adequate services, particularly in the fields of housing, education and healthcare. Some countries have compounded this policy failure by adopting other policies that have a detrimental effect. For example, in Ireland and Greece, trespassing is a criminal offence and nomadic Roma or Travellers may be disproportionately affected by trespass laws because of parallel failures to provide legal halting sites. Commenting on similar practices in the United Kingdom, European Court of Human Rights Judge Bonello noted: "Here, we are confronted with a situation in which an individual was 'entrapped' into breaking the law because a public authority was protected in its own breach."⁹⁴

80. Under a new U.K. 2004 Bill (The Planning and Compensation Bill) it will be possible for planning authorities to serve "temporary stop notices" for development that has no planning consent. There is particular concern because there is documentary evidence to indicate that Gypsies in Britain are refused planning permission for new developments far more often than non-Gypsies.⁹⁵ Even where site provision is made available for nomadic communities, facilities (especially on older sites) are frequently inadequate in number and substandard in terms of infrastructural provisions. Moreover, the research confirmed that in situations where site provision is made for nomadic communities, the location of sites is frequently (70%) on marginal land, and some public sites are in potentially dangerous environments. One such site in west London was built in 1974 directly under a raised motorway complex.

81. A number of persons surveyed for this study noted that in addition to violations and social exclusion suffered as a result of forced eviction, the repeated appearance of media articles on the local expulsion of nomadic Romani and Traveller groups often significantly heightened anti-Romani sentiment and exacerbated a vicious circle wherein policy makers were subsequently unable to implement site provisions for nomadic Roma and Travellers locally.

82. In France, Travellers are required to procure a "travelling permit", which paradoxically imposes an obligation on one ethnic group for what is a general right, the right to freedom of movement. Furthermore, there are some concerns that even non-nomadic Roma may be required to procure such a permit in some areas and a number of rules relating to the necessity of having a permanent address in order to vote preclude many Travellers from being able to exercise the right to vote. Very few officially provided sites in France include adequate provision of water, electricity and other basic services. Finally, Travellers experience obstruction because of opposition by local authorities when trying to purchase

⁹² European Monitoring Centre on Racism and Xenophobia, "Breaking the Barriers - Romani Women and Access to Public Health Care", Vienna, 2003, pp. 63-64.

⁹³ *Ibid.*

⁹⁴ Separate opinion of Judge Bonello, Chapman v. The United Kingdom, Application no. 27238/95, Judgment on merits, 18 January 2001.

⁹⁵ See Morris, Rachel and Luke Clements, *At What Cost: The Economics of Gypsy and Traveller Encampments*, Bristol: The Policy Press, 2002.

land, and, if successful, frequently experience difficulties in securing provision of water, electricity, waste removal and other publicly provided services.

83. There is a danger that policies addressing nomadism may be applied to Romani communities regardless of whether they are nomadic or not. For example, a joint ministerial decision of the Ministers

for the Interior and of Health of Greece, entitled "Sanitary provision for the organised relocation of wandering nomads"⁹⁶ and providing regulations on site provisions, has reportedly been used repeatedly to expel Roma from municipalities. Some Roma have even been criminally prosecuted for infringing the Sanitary Provision.⁹⁷

⁹⁶ Ref. No. A5/696/25.4-11.5.83.

⁹⁷ Systemic violations of the right to adequate housing for Roma is currently the subject of a collective complaint against Greece by the European Roma Rights Center before the European Committee of Social Rights under the European Social Charter.

5. POLICY CHANGES

1. This section of the report identifies themes emerging from Chapter 4, which are factors in either the success of policies addressing Roma integration or factors in their failure. These themes are then used in Chapter 6 to detail recommendations for the attention of the European Union, Member States and civil society actors.

MINORITY RECOGNITION

2. Issues of minority ethnic status and recognition of Roma and other groups perceived as "Gypsies" continue to challenge a number of Member States, including but not necessarily limited to, France,⁹⁸ Germany,⁹⁹ Greece,¹⁰⁰ the Netherlands¹⁰¹ and Slovakia and, as noted above, Ireland. Even some countries with extensive minority rights protection systems, such as Hungary,¹⁰² continue to withhold certain key elements of minority rights where Roma are concerned. There is a pressing need to provide full recognition to Romani and other similarly situated minorities in all Member States, new and old, without arbitrary limitation.

LACK OF STATISTICAL DATA ON ROMA

3. There is an almost complete lack of official, publicly available and reliable Roma-specific data of relevance to EU social inclusion and anti-discrimination policy. In some countries, there is a significant misconception among researchers, as well as policy makers and government officials, to the effect that collecting data on Roma, and other ethnic minorities, violates data protection laws and would therefore not be legal.¹⁰³ In its data protection rules, however, the EU has consistently affirmed that such rules apply to personal data, not to aggregate data about groups, nor data disaggregated by ethnicity or other criteria.¹⁰⁴ A number of international monitoring bodies have both generally called for the provision of data on the situation of weak ethnic groups as well as repeatedly called on states – including European Union Member States – to provide statistical data on the situation of ethnic groups in various sectoral fields.¹⁰⁵

4. As part of European Union social inclusion processes agreed at the Lisbon European Council in 2000, governments should provide data relating to

⁹⁸ France does not legally recognise the existence of minorities on French territory, nor guarantee any minority rights.

⁹⁹ For the purposes of minority rights, Germany recognises only "German Sinti and Roma", excluding therefore Roma of foreign birth from minority rights protections.

¹⁰⁰ Greece had not ratified the Framework Convention for the Protection of National Minorities as of February 2004, and the Greek government has on a number of recent occasions indicated that it questions the idea that Greece is a multicultural society. For example, see (European Commission against Racism and Intolerance (ECRI), *Second Report on Greece*, CRI (2000) 32, Adopted on 10 December 1999, available at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Greece/. The government's statements can be found in the annex to the report.)

¹⁰¹ As of February 2004, Netherlands had not yet ratified the Framework Convention on the Protection of National Minorities, despite having signed the Convention in 1995.

¹⁰² Although Hungary provides extensive guarantees for (non-migrant) minorities, as of Autumn 2003 Hungary had failed to include 7 of its 13 officially recognised minorities (including Roma) on lists of recognised minorities for the purposes of the European Charter on Regional and Minority Languages.

¹⁰³ For example, in its response to the Opinion of the Council of Europe's Framework Convention on the Protection of National Minorities Advisory Committee, the German Government stated that "Germany could not consider collecting any such data due to basic legal considerations" (Comments by the Federal Republic of Germany on the Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Germany (19th July 2002), reference GVT/COM/INF/OP/II(2002)008), Section III, Re Art. 3, number 75.

ten "primary indicators" and eight "secondary indicators".¹⁰⁶ Although data protection rules should in principle allow the collection and publication of data disaggregated by ethnicity, provided it cannot be linked to any particular individual, EU data frameworks to date have not specified indicators of social exclusion impacts on ethnic groups. Thus, for example, the European Commission publication "European Social Statistics: Income, Poverty and Social Exclusion" includes no data on the situation of minority groups, including Roma, or the impact of socially exclusionary forces on specific ethnic groups.¹⁰⁷ The more recent Commission publication "The Social Situation in the European Union 2003", although also providing statistical data on social exclusion, is similarly silent on matters related to the impact of racial discrimination.¹⁰⁸ The Statistical Annex to the 2003 "Commission Staff Working Paper 'Draft Joint Inclusion Report'", although including data and "new" indicators going beyond the 18 social exclusion indicators adopted at the Laeken European Council in December 2001, likewise includes no framework for the provision of data by ethnicity.¹⁰⁹ The Commission has itself noted the need to develop data and indicators in the Lisbon areas.¹¹⁰

5. The Commission has raised the issue of collecting ethnicity data with Member States, but was unable to convince national statistical offices that this was necessary and feasible. National statistical offices have therefore taken various approaches to the collection of ethnicity data, with many ignoring the issue whilst some have taken steps to improve the situation. For example, the UK Office of Nation-

al Statistics has recently published two relevant documents: *Focus on Ethnicity and Identity* and *Ethnic Group Statistics: A guide for the collection and classification of ethnicity data*.¹¹¹ Recognising the issue as one of importance, the Directorate General of Employment and Social Affairs of the European Commission has, however, commissioned an international study, detailing different methodologies for the collection of ethnicity data, which it can then share with Member States. Furthermore, it has initiated a Working Group to discuss barriers to data collection on ethnicity at a European level and to explore possible ways forward. In this context, the Directorate General is planning a European conference on data collection by the end of 2004. At the same time, it should be noted that although the Commission itself collects data on its own employees' nationality and gender, it still does not collect data on its ethnic composition and is therefore unable to provide information on the degree of representation of ethnic minorities among its own staff.

6. Moreover, a general lack of statistical data on the situation of Roma in key sectoral fields makes the design, monitoring and evaluation of policy and programmes, particularly in relation to anti-discrimination and social inclusion, difficult if not impossible. The problems associated with the lack of statistical data on Roma are key issues throughout this report. There is a need to clarify the scope of data protection regulation and to emphasise the need to provide data disaggregated by ethnicity (always to be specifically inclusive of Roma) in the fields of relevance to social inclusion policy.

¹⁰⁴ Most recently, Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 "on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data" states: "(a) 'personal data' shall mean any information relating to an identified or identifiable natural person hereinafter referred to as 'data subject'; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his or her physical, physiological, mental, economic, cultural or social identity".

¹⁰⁵ For a summary of such calls for statistical data, see Goldston, James A., "Race and Ethnic Data: A Missing Resource in the Fight against Discrimination", in *Ethnic Monitoring and Data Protection: The European Context*, Budapest: CPS Books, Central European University Press – INDOK, 2001.

¹⁰⁶ See European Union Social Protection Committee, "Report on Indicators in the field of poverty and social exclusion", October 2001.

¹⁰⁷ European Commission, Eurostat, "European Social Statistics: Income, Poverty and Social Exclusion", Detailed Tables, European Communities, 2000.

¹⁰⁸ European Commission, Directorate General for Employment and Social Affairs, "The Social Situation in the European Union 2003", Office for Official Publications of the European Communities, 2003.

¹⁰⁹ (COM(2003)773 final)

7. One way of stimulating the collection and publication of such data would be to further specify the indicators necessary for the development of social inclusion policies. Under the Lisbon Process, the primary and secondary indicators, while providing an important basis from which to work, are not yet fully developed so as to provide the data required for adequate policy-making. Areas in need of elaboration include:

- i) expansion of the indicators to all areas of social inclusion policy, such that the focus on poverty and employment is matched by similar detail in areas including education, housing, healthcare, social protection and access to justice;¹¹²
- ii) sharpening the existing indicators and developing new indicators to better measure the impact of racial discrimination and other exclusionary forces affecting ethnic, minority and other weak groups;
- iii) developing indicators of more relevance to Roma, such as for example, "segregation indices" for education, housing and healthcare, etc.

8. The current gap in race-specific statistical data deprives policy makers of a clear and justifiable basis for action. It also deprives the public of important information about the societies in which Europeans live, and might lend credibility to those who deny that race is a factor in public life or that discrimination exists. Data, particularly where such data indicates serious disparities, can be among the most powerful tools available for ensuring policy efficacy, facilitating social change and guaranteeing race equality. Without such statistical data, little concrete information exists which might motivate change.

9. It is recognised, however, that there is also a need to reassure some ethnic groups about the purpose of collecting data as in some quarters there remains a fear that such collection could be used as a basis for further discrimination. Thus, whereas in Ire-

land Travellers successfully lobbied the government to include a Traveller category in the national census, a move that resulted in official estimates of the number of Travellers in Ireland being raised, in Slovakia minority ethnic groups, concerned about the use of personal information, supported the introduction of Act. No. 428 of July 3, 2002 on Protection of Personal Data. The law establishes the Office for Personal Data Protection to provide a higher degree of protection than previously to the subjects of data collectors. Given the partially subjective nature of ethnicity, confidence should be built up by allowing ethnic minorities to identify themselves, rather than have national or local authorities define ethnicity and collect ethnicity data without reference to the groups concerned, and to allow access to all personal data held.

10. In summary, whilst it is recognised that the European Commission is taking steps to improve the extent of ethnicity data collection within Member States, further guidance on the scope of data collection, and the methodologies to be employed, is required. This should include the specification of impact indicators relevant to ethnic minorities, including Roma, within sectors relevant to social exclusion, and the collation of ethnicity data at the EU level. It would also be helpful if the Commission started to monitor its own ethnic composition so as to facilitate compliance with its own Race Directive. Despite this recommendation, lack of data should not be seen as an excuse for inaction in the development of Roma-specific policies within the EU and across Member States. Rather, it is that continuing efforts to improve data sets should lead to increasingly targeted and effective policies.

INADEQUACY OF POLICY RESPONSE

11. In the field of social inclusion policy, although those new Member States with significant Romani populations did name Roma explicitly as a target

¹¹⁰ For example, the "Commission Staff Working Paper: Progress Towards the Common Objectives in Education and Training: Indicators and Benchmarks" states: "Indicators and benchmarks are essential for the implementation of the open method of co-ordination and for the success of the Lisbon strategy. Without valid and comparable data, Member States will lack information on how their actions support the attainment of the Lisbon objectives by 2010. However, there is an urgent need to improve the situation in order to make the necessary data and indicators available." (See Commission of the European Communities, "Commission Staff Working Paper: Progress Towards the Common Objectives in Education and Training: Indicators and Benchmarks", Brussels, 21.1.2004, SEC(2004) 73).

¹¹¹ It is to be noted, however, that Gypsy/Roma/Traveller groups were not included in the UK census of 2001, apart from Northern Ireland which included a 'Traveller' category.

¹¹² Some of these areas are currently addressed by the Indicators, but not to the level of detail provided in other areas.

group for their social inclusion policies, in the old Member States only five countries out of fifteen (Finland, Greece, Ireland, Portugal and Spain) have to date named Roma as a target group within their National Action Plans. Roma are not cited in the National Action Plans of Austria, Belgium, Denmark, France, Germany, Italy, the Netherlands, Sweden and the United Kingdom, although reports from all of these countries indicate that Roma are in need of targeted policy actions aimed at social inclusion and eliminating discriminatory practices. Moreover, some groups suffering discriminatory treatment as "Gypsies" or similar – such as Travellers in the Republic of Ireland¹¹³ – are not yet fully covered by the ban on discriminatory treatment on grounds of race or ethnic origin.

12. In situations in which the needs of a minority have been identified clearly, it is often the case that the level of policy response is inconsistent with the level of assessed need. For example, in the United Kingdom, the Office for Standards in Education (OFSTED), published two reports on the education of Roma, Gypsies and Travellers (1996 and 2003) in which it was estimated in both reports that as many as 12,000 such pupils were not even registered with schools. Although some actions have been taken following the 2003 report, there was little significant action following the 1996 report.

13. Where Roma-specific policies exist, few have yet to demonstrate durable impact. Several of the old Member States began undertaking policies in the 1980s or even earlier. In some areas, these have yielded results, but not nearly to the level required under current anti-discrimination and social inclusion policy. In Spain, for example, despite a comprehensive policy in effect since the late 1980s, where data exists (such as percentages of Roma in prisons), there are very serious causes for concern that the policy has not delivered the results sought.

14. Most of the comprehensive government policies in effect in Central and Eastern Europe date from no earlier than 1996 (Hungary) and in most

cases were adopted even more recently. To date they remain under-funded, at very preliminary stages of implementation, and often resemble more a menu of desired outcomes than viable and realistic policies. There also appear universally to be significant deficiencies in terms of targets for assessing the success of existing policies; it is difficult to see to what standards policy makers aspire in the implementation of many Roma-related policies.

15. Consultation with Roma and Roma participation in the design and implementation of policies intended to benefit them is currently very modest, where existing at all, and generally hesitant. This status quo is in noticeable contrast with well-established standard procedures with respect to other minority cultural and ethnic groups in a number of European Union Member States.

16. Moreover, EU Member States have in some cases adopted measures which eliminated previous gains. In 1994, for example, United Kingdom lawmakers removed the obligation of municipalities to provide halting sites for Gypsies and Travellers, effectively eroding close to three decades of progress in the area of Traveller accommodation, education and other positive measures.¹¹⁴

CAPACITY AND WILL AT LOCAL LEVEL

17. A very powerful force for undermining social inclusion projects targeting Roma is local opposition. Local authorities frequently use discretionary powers to block implementation of projects aimed at improving the situation of Roma. One of the unsettling developments of 2003 took place in the Slovak village of Svinia, where in March 2003 the local council decided in resolution 34/2004 to "approve the termination of activities currently being carried out in the village with the organisations Habitat for Humanity International and the Canadian International Development Agency." The local council had earlier voted for changes to a proposed infrastructure project, the nature of which, it was aware, would dis-

¹¹³ One consequence of the failure to recognise Travellers as an ethnic group in Ireland would mean that Directive 2000/43/EC, the Union's primary document on laws banning racial discrimination would not clearly apply to discriminatory treatment of Travellers. The Irish government's stance on the issue is in contrast to the government of the UK, excepting Scotland, where similar groups are recognised for the purposes of UK race equality law. Primary obstacles to the recognition of Travellers in Ireland as an ethnic group appear to stem from debate as to the origins of Travellers, questions of only tangential relevance to the application of equality law and policy. Ironically, in England, Wales and Northern Ireland, 'Travellers of Irish heritage' are defined in law as an ethnic group covered by the Race Relations Acts.

¹¹⁴ Criminal Justice and Public Order Act, 1994.

qualify it for EU funding available under a Phare 2001 project. With the two decisions, the local council of Svinia chose to refuse over a million Euro in infrastructure assistance, rather than assist its local Romani community. It is unclear what measures can be employed to overcome local unwillingness to seek development funding, although it is clear that in certain contexts, such as where racial prejudice and segregation is at issue, there is a need to exercise all available legal sanctions.

18. Local officials in Greece have similarly undermined recent efforts by the Greek government to implement policies on Roma.¹¹⁵ Indeed, information concerning actions to assist (predominantly or exclusively non-Romani) earthquake disaster victims provided in Greece's first National Action Plan to combat social exclusion contrasts with actions by Greek authorities to house Roma:

"[...]103 settlements were formed with transferable pre-fab houses. In less than 4 months, 6,854 such houses were set up. Three months after the earthquake, no victim of the earthquake lived under a tent."¹¹⁶

19. These figures are noteworthy because they indicate the capabilities and capacity of the Greek public administration under conditions of sufficient political will and because they provide very precise data as to numbers of housing units provided to (predominantly or exclusively non-Romani) earthquake victims. Despite the existence of two government policies – begun in 1996 and 2001 respectively – aimed at improving the housing situation of Roma in Greece, no similar data on housing provisions for Roma has to the research team's knowledge been provided by the Greek government.

20. Many persons involved directly with government policy-makers and the Phare programme in Central and Eastern Europe have expressed serious concern at the capacity of authorities to implement

EU policy well, particularly as structural funding becomes available following enlargement in May 2004. This is despite the attempt, in Hungary in particular, to strengthen the representation of Roma locally through the establishment of Roma local governments. It is of concern that authorities in the region may at present lack the capacity to take advantage of the European Social Fund and the European Regional Development Fund, particularly in light of matching funding requirements.

POLICIES DETRIMENTAL TO THE POOR GENERALLY

21. Some EU Member States have undertaken measures which have had a broadly detrimental impact on the poor, and as a result, specific impacts on the disproportionately large segment of the Romani population represented among the poor and extremely poor. For example, the dramatic weakening of the rights of tenants throughout Central and Eastern Europe, and particularly in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia, as a result of changes to the legal framework have undercut policy measures in other areas. Hungary must stand here as an example of worst practice. In May 2000, and in the face of clear indications of high levels of anti-Romani hostility at local levels, Hungarian lawmakers amended legislation allowing the notary – an employee of the municipality – powers to order evictions without a court procedure.¹¹⁷ The decision ordering the eviction must be implemented within eight days, and appeals do not involve suspension of the order.

22. Significantly, the amended law includes provisions to protect evicted furniture, but not tenants. Although the Hungarian judiciary has attempted to ameliorate the impact of these rules by the use of moratoria on forced evictions in winter, these stop-gap measures have not had a durable impact overall and Roma have been disproportionately subjected to forced evictions.¹¹⁸ According to one study monitor-

¹¹⁵ For example, Mr Evangelos Sisamakias, the Mayor of Nea Alikarnassos, Crete, was reported by the major Greek daily newspaper of 27 January 2003 as having stated: "You cannot have a Gypsy settlement next to a basketball court, part of the Olympics 2004 facilities, because Gypsies blemish one's sense of good taste and, in addition, they deal in drugs... I do not deny that I do not want the Gypsies in our area."

¹¹⁶ Ministry of Labour and Social Security, Ministry of Health and Welfare, Ministry of Interior, Public Administration and Decentralization, Ministry of Education and Religious Affairs, Ministry of National Economy and Finance, *National Action Plan for Social Inclusion 2001-2003*, June 2001, p.48, available at: http://europa.eu.int/comm/employment_social/news/2001/jun/napincl2001el_en.pdf.

¹¹⁷ The Housing Act 1993/LXXVII, as amended by Act 2000/XLI.

ing the Hungarian media during the period January 1, 2003 and November 1, 2003, in 55 percent of eviction or threatened eviction cases reported, the victims were identified as Romani, although Roma account for around 6 percent of the total population of Hungary.¹¹⁹ Social inclusion is not a realistic objective unless there is an across-the-board commitment to bring about systemic change in the current systems.

ROMA AND REGIONAL DEVELOPMENT

23. In a number of areas, especially in Central and Eastern Europe, Romani issues are particularly pressing in areas targeted for regional development. Northeast Hungary, central and eastern Slovakia and southern Poland are all areas in which, on the one hand, poverty is widespread and infrastructure is poor, and, on the other hand, Romani populations are particularly large. In other areas, such as Miskolc in Hungary and Ostrava in the Czech Republic, cuts in subsidies to heavy industries have caused economic decline, and these areas too would benefit from an investment approach that explicitly included attention to Roma issues.

24. EU programmes – and in particular the European Regional Development Fund (ERDF) – are particularly relevant for addressing these issues, provided sufficient funding is earmarked for Roma inclusion in areas benefiting from such funding. Furthermore, the Community Support Frameworks for 2004-2006 agreed with the Czech Republic, Hungary, Poland and Slovakia recognise the importance of Roma issues and have adopted strategies to combat Roma exclusion. For example, the CSF for the Czech Republic includes a component addressing Social Integration and Equal Opportunities, which, with support from EU structural funds, has the potential to contribute significantly to improving the situation of Roma. In the case of Slovakia, the Ministry for Construction and Regional Development, responsible for the administration of structural funds, is establishing the CSF Working Commission for the Development of Roma Commu-

nities in order to take advantage of potential EU funding. The actions supported by the structural funds, however, suffer particularly from the unavailability of ethnic data which may influence the targeting of the actions and their effectiveness.

25. Nevertheless, as noted earlier, central policies may be rendered ineffectual by inadequate commitment and knowledge at local level. There is the scope for using structural funds for the improvement of capacity at local levels and, for example, the Czech Republic has agreed a CSF component for the Development of Human Resources within the regions. There is no reason why this component should not be used, *inter alia*, to train local government staff on anti-discrimination and diversity issues. Separate budgets should be allocated for the training of local government and NGO staff on structural fund application procedures.

NON-MEMBER STATES

26. Although this report deals only with the situation of Roma in the European Union, the linkages between Romani populations in the Union with those outside its borders, and the incentives that exist for migration to the EU, mean that EU policies designed to address the situation of Roma in the Union must also consider their situation in the rest of Europe. This is particularly the case where the EU manages programmes to prepare states for accession or where it manages external aid programmes, both of which might address Romani issues. In such countries European Union policies influencing Roma remain underdeveloped and under-implemented. Of particular concern are the countries of the former Yugoslavia (with the exception of Slovenia) and Albania ("Western Balkans").

27. Although the Directorate General for External Relations finances five projects that target Roma in the Balkans and Ukraine, worth €2.5m, and seven minorities projects that include Roma beneficiaries, worth €7.5m, the scale of the problem is such that a much larger, multi-national effort is required. More

¹¹⁸ For a non-exhaustive list of forced evictions cases documented by the ERRC with support from the Norwegian Foreign Ministry and the British Embassy in Budapest, see "Comments of the European Roma Rights Center (ERRC) and the Centre on Housing Rights and Evictions (COHRE) on the occasion of the Article 16 Review of Greece, Hungary and Turkey under the European Social Charter supervision cycle XVII-1", December 1, 2003, available on the ERRC Internet website: <http://errc.org/publications/indices/housing.shtml>.

¹¹⁹ Data from the European Parliament's Country Profile on Hungary. Available on the Internet at: http://www.europarl.eu.int/enlargement_new/applicants/pdf/hungary_profile_en.pdf.

extensive co-financing may be possible in the future given that the above projects are administered in co-operation with the Council of Europe, OSCE and European and local NGOs, and the Directorate's programming for 2005/2006 is expected to include a strong anti-racism and minority protection component in the Balkans and other countries.

28. Despite this presence, the situation of Roma has not in the past been sufficiently emphasised in European Union policy frameworks. Not only is the situation in the Western Balkans comparable to that in Central and Eastern Europe as far as Roma are concerned, but Roma were ethnically cleansed from Kosovo by ethnic Albanians following the withdrawal of Yugoslav troops from the province and the return of several hundred thousand ethnic Albanians. To date, despite intense pressure to provide security in Kosovo for Roma, others regarded as "Gypsies" and minorities generally, such that returns may commence, the authorities have not yet managed to provide such security. According to local authorities, no person has ever been prosecuted for an anti-Romani or anti-Gypsy crime in Kosovo, and impunity for racially-motivated violence against persons regarded as "Gypsies" is currently complete.

29. There are large numbers of displaced Roma (and others regarded as "Gypsies") living in extreme conditions in Serbia and Montenegro. There are also many thousands of Romani refugees in countries such as Bosnia and Herzegovina and Macedonia, despite the very weak capacity of those countries to provide effective protection to them. Romani refugees from Kosovo are scattered throughout Europe and there are indications that more Roma and others belonging to groups regarded as "Gypsies" leave, often through clandestine means, than stay. The Dayton Peace settlement, which ended the conflict in Bosnia and Herzegovina and provided for post-conflict administrative arrangements, has resulted in the structural exclusion of Roma, since its provisions enshrine tri-partate arrangements for the three warring groups, to the exclusion of all others. For these reasons and others related to the post-conflict situation, suitable conditions still – close to a decade after the end of the conflict – do not exist for the return and integration of Roma in Bosnia and Herzegovina. There are also serious concerns related to the situation of Roma in a number of countries of the former Soviet Union.

30. Due to the proximity of the countries of the

Western Balkans and the former Soviet Union to the EU, and the fact of flight from ethnic persecution and extreme poverty, as well as the sheer size of the excluded Romani communities in these countries, the scale of financial assistance and the degree of policy advice offered both need to be substantially increased.

MIGRANTS AND REFUGEES

30. It is noteworthy that efforts to bring about an ever closer political and economic union have been accompanied by ever more stringent measures in Member States with respect to the treatment of migrants and rights of migrants and refugees. Of particular impact on Romani communities have been:

- Racially discriminatory border policies and practices in a number of Member States (most notably the United Kingdom);
- Collective expulsions of Roma by the governments of a number of Member States (and for which two governments [Belgium and Italy] have been found in violation of the European human rights law by the European Court of Human Rights, or have settled out of court due to imminent findings of violations);
- The erosion of protections for refugees.

31. The Romani population of some Member States, such as Austria, may be comprised of up to 80% persons who are not the citizens of an EU Member State. Common countries-of-origin for non-EU Romani migrants in the European Union include Candidate Countries Bulgaria, Romania and Turkey, but especially countries which are not yet candidates for European Union membership, such as Albania, Macedonia and Serbia and Montenegro, but are in very close proximity to the European Union. The continued failure to integrate such persons, who may be long-term residents in a European Union Member State, gives rise to psychological as well as social and economic harm to individuals.

32. Finally, there are problematic features to the EU anti-discrimination law framework as it relates to non-citizens. In the general provisions of the Directive, at Article 3(1), the Directive provides that its scope of application shall be "all persons". However, Article 3(2) of Directive 2000/43/EC states: "This Directive does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and

residence of third-country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned." As yet, no body of jurisprudence exists to indicate how the disparity between the provisions of Article 3(1) and Article 3(2) should be regulated. The friction between these two provisions gives rise to the concern that individuals may suffer racial discrimination and not have any recourse if the discriminator justifies the action on grounds that the person concerned is a third-country national. The provision is distinctly at odds with international human rights law.¹²⁰

INACCESSIBILITY OF FUNDING

33. The effectiveness of EU policies depends in very large part on the accessibility of subsequent funding and there is a widespread belief that, at present, EU funding is fragmented, complex and is very difficult to access particularly for civil society actors. Moreover, complexity of funding does not encourage transparency in the application for, and use of, funds. It has been observed that Phare has been particularly successful where projects have been designed with an eye to building stakeholder capacity to work under future structural funding mechanisms, facilitating future access to EU discretionary funds.

THE NEED FOR AN EU ROMA INTEGRATION DIRECTIVE

34. The scale of problems facing Roma has led recently to a proposal that the European Union adopt a Roma Integration Directive. In its "Report on the Situation of Fundamental Rights in the European Union for 2003", dated January 2004 but only published on May 26th, 2004, the European Union Network of Experts in Fundamental Rights recommended the adoption of a "Directive specifically aimed at encouraging the integration of Roma".¹²¹ The EU Network of Experts in Fundamental Rights was established by the European Commission at

the request of the European Parliament and charged with monitoring fundamental rights in the Member States and in the Union. It comprises leading jurists from all of the EU Member States.

35. In presenting the need for such a Directive, the EU Network of Experts first notes that, "The concept of universal service [...] should in particular take account of the special situation of communities living in conditions of segregation, isolated from the rest of the community, especially when low income forms an obstacle to the use of paid transport. The case of the Roma presents itself in those terms in several States".

36. The EU Network of Experts' report continues: "The most important contribution which the European Community could make to the protection of minorities, within the framework of its existing powers, would be the adoption of a Directive specifically aimed at encouraging the integration of Roma". The Opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities call into question the inadequacy of Directive 2000/43/EC of 29 June 2000, even though it protects the Roma against all discrimination on the ground of membership of an ethnic group. Detailed reasoning for such a Directive within various sectors such as employment, housing, education and health follows within the report.

37. Finally, the EU Network of Experts notes that EU anti-discrimination law does not, at present, cover issues related to access to personal documents: "Directive 2000/43/EC does not prohibit discrimination in the issuing of administrative documents. Such documents, however, are often required to access certain social benefits that constitute, particularly for marginalised peoples, an essential aid to integration. This is another reason why a Directive specifically aimed at Roma is indispensable. Article 13 EC forms the appropriate legal basis for such a Directive."¹²²

38. The authors of the present report believe there is sufficient evidence to support the conclu-

¹²⁰ See, for example, The International Covenant on Civil and Political Rights (ICCPR), The International Covenant on Economic, Social and Cultural Rights (ICESCR) and The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Each of these specifies that rights are common to all individuals irrespective of, among other criteria, nationality.

¹²¹ European Union Network of Experts in Fundamental Rights, "Report on the Situation of Fundamental Rights in the European Union for 2003", Brussels, January 2004, p. 103. The full text of "Report on the Situation of Fundamental Rights in the European Union for 2003" is available on the Internet website of the European Commission's Directorate General of Justice and Home Affairs: http://europa.eu.int/comm/justice_home/index_en.htm

sions of the EU Experts in Fundamental Rights, and that without such a Directive, there will not be sufficient impetus for EU Member States to integrate Roma and other groups regarded as "Gypsies". It should be acknowledged, however, that this proposal raises a number of legal and practical questions. Firstly, to what extent could the challenges identified be addressed by better implementation and enforcement of existing European and national anti-discrimination legislation? Secondly, is it desirable to propose or adopt legislation targeting one

specific ethnic minority group, as opposed to a general framework for equal treatment that may benefit all minorities? Thirdly, how far is the EU competent to impose requirements for positive action, taking into account the jurisprudence of the European Court of Justice? Should it be that legal opinion is against the issuing of such a Directive, the inclusion of Roma will depend upon a series of lesser, but important, individual initiatives that may collectively, however, have a similar effect to a Directive, and which are detailed in the next Chapter.

¹²² Ibid., pp.102-107.

6. CONCLUSIONS, RECOMMENDATIONS, WAYS FORWARD

1. A number of recommendations and outlines for action have been included throughout the text of this report, and a summary of the main points for action follows below. Throughout, it should be emphasised that, in order for Roma to be effectively included in policy, targeted initiatives are required at the same time as the inclusion of Roma within mainstream policies is encouraged. This stance is taken in the knowledge that mainstream legislation and policies have in the past not assisted the situation of Roma in any material way, and that, for a number of reasons, the group is frequently excluded from programmes and projects designed to benefit marginalised groups. Moreover, as Romani women often suffer from double discrimination, particular attention should be paid to the gender aspects of policy to ensure that proposals take full account of the situation of Romani women.

EU LEVEL RECOMMENDATIONS

2. Steerage. A key conclusion of this research study is that the EU should clearly and explicitly identify Roma within existing and comprehensive anti-discrimination and social inclusion policies, and not simply assume that Roma will be effectively covered by such policies.

3. There is a need for policies to be efficiently steered by a body with sufficient influence and authority to ensure that EU departments, Member State governments and other stakeholders take decisive action to target Roma integration. The European Commission should therefore improve the internal coherence and efficacy of its policies and action relating to Roma by establishing a standing co-ordination group on Roma policy, featuring at a minimum members from DG Employment and Social Affairs, DG Education and Culture, DG Public Health, DG Environment, DG Justice and Home Affairs, DG Enlargement and DG Eurostat, as well as representatives from relevant funding instruments. The Commission should consider seriously the

establishment of Roma liaison units or officers throughout the Commission to ensure that policies are implemented effectively at all levels. The European Commission should explicitly add Commission responsibility for Roma issues to the portfolio of at least one Commissioner, who would also provide a point of contact for MEPs with responsibility for, or an interest in, Roma integration.

4. The European Commission could further lead by facilitating the establishment of a pan-European steering group on Roma issues involving relevant EU bodies, relevant Council of Europe bodies, the OSCE, Member State governments, representatives of initiatives such as the Decade of Roma Inclusion and the European Roma Forum, as well as representatives of relevant civil society organisations should these organisations consider this to be useful. Such a body might meet regularly to ensure the cohesion of Roma-specific policies across Europe, to join forces on specific initiatives and to ensure a rational division of effort and the avoidance of duplication.

5. These initiatives should actively promote the participation of Roma in policy-making, implementation and assessment. Accordingly, the Commission should make efforts to recruit Roma in its structures, and to provide training for Roma in EU matters, including by establishing training programmes directly inside the EU institutions. This may include internship programmes within the European Commission and Parliament as well as in the Delegations of the European Commission in candidate and other countries, and in agencies such as the future Human Rights Agency (and current European Union Monitoring Centre on Racism and Xenophobia). The many international organisations funded by the European Commission should also promote the inclusive hiring, training and other involvement of Roma. The goal of all initiatives at EU level should be to ensure the effective implementation of policies aimed at improving the material and human rights situation of Roma in Europe, including the

Member States and countries beyond the borders of the EU.

6. Anti-Romani racism. This report refers in various places to high levels of anti-Romani sentiment in Europe. Hostility towards Roma has been repeatedly noted as an obstacle to sustaining government policies on Roma. EU instruments should be used to raise awareness of the situation of Roma in society and to build a pan-European pro-Roma coalition. At the EU's disposal are the anti-discrimination and social inclusion action programmes. Beyond this, the EU should consider focused awareness-raising campaigns along the lines of European Days and European Years specifically on the problems of anti-Romani racism and the current social exclusion crisis facing Roma in Europe, as well as on other relevant themes.

7. The EU should also encourage Member States, candidate countries and other countries where Roma live to undertake such awareness-raising campaigns. Above all, it is incumbent upon the political elites of European society, at the local, regional, national and trans-national level, to speak out – and to act – against anti-Romani racism.

8. Monitoring anti-Gypsyism. Existing European monitoring bodies should devote explicit attention to the problem of anti-Gypsyism as a specific form of racism. There is a need for elaboration and documentation/research into the specific forms this phenomenon takes, as well as the establishment of regular monitoring of levels of anti-Gypsyism in particular states, as well as in Europe as a whole. In light of the current crisis of anti-Romani sentiment in Europe, the establishment of a standing body to monitor and report on developments in the field of anti-Gypsyism, to be located at a relevant European institution, should be seriously considered.

9. Roma involvement. The European Union, at the Tampere summit in December 1999, emphasised the need for measures to achieve full equality of opportunities for minorities. The effective participation of Roma ought to be ensured at the earliest stages of policy formation, programme design, implementation and evaluation. As has been stressed repeatedly by actors involved both in implementing and developing projects and policies, Roma involvement at all stages is key to the real impact and sustainability of initiatives. The Commission can play a major role in promoting and establishing cooperation between those national

and local actors involved in the design and implementation of programmes and the beneficiaries, including disadvantaged groups more broadly, and Roma in particular.

10. One condition for the increased involvement of Roma in both policy and projects is the capacity of local groups and organisations to participate actively. There is an urgent need to empower Romani organisations and representatives, both politically and practically, in this field. Existing programmes under, for example, the European Social Fund have the potential to include components for training and the empowerment of Romani groups and individuals in order for them to become more active in implementing and shaping policies and programmes. However, to date, very few projects have made use of this possibility. The Commission should also consider the regular allocation of a specific training budget in order to provide information on EU policies and the EU's structures and working methods to the Roma and other minority representatives. All relevant projects should include clear guidelines for Roma involvement.

11. Statistical data. The European Union should continue to address and remedy the deficiencies in its ethnic data collection frameworks, across those sectors described above. Whilst the attitudes of Member States to such collection varies, a clear statement from the Commission on the need for such information, and guidance on its collection, would provide a major incentive for Member States to improve their performance in this area. It is recognised that the issuing of such advice will need to await the results of the research currently being carried out on international norms, and the views provided by Member State representatives at the meeting of the Working Group on ethnic data collection scheduled for the end of 2004. Nevertheless, the existence in 2005 of a pan-European structure for data collection on ethnicity would be of very great help. At the same time, the Commission will wish to examine its internal procedures on personnel data collection (gender and nationality data are collected, but not data on ethnic origin) and on the recruitment to EU structures of ethnic minority representatives, including Roma.

12. Legislation. The Commission has already launched infringement procedures against a number of Member States that have failed to transpose the Race Directive and the Employment (frame-

work) Directive into national law. The Commission should continue to take the appropriate action in order to ensure that all Member States transpose into their domestic law all elements of the Directive. In assessing full compliance by Member States with the requirement of transposition, the European Commission and other EU bodies should take into account first and foremost the ability of individuals in reality to have access to justice when they have suffered racial discrimination.

13. The European Union should adopt, without delay, criminal law standards in the area of hate crimes to ensure that race is seen as an aggravating circumstance under Member State law. The EU should also amend or clarify Directives such that the anti-discrimination framework clearly applies to all persons resident in Member States and does not arbitrarily allow discrimination on grounds of nationality. The European Union should also strengthen the legal framework for addressing the specific impact of environmental harm on ethnic and minority groups, by including in the draft Directive of the European Parliament and of the Council on Access to Justice in Environmental Matters – as well as in related rules and policies – explicit linkages to the EU anti-discrimination framework, and in particular to Directive 43/2000.

14. There is a need to consider the adoption of EU rules prohibiting ethnic and racial segregation in the fields of, at minimum, education, housing and healthcare. The Union should investigate further the development of legal measures in this area, providing inter alia definitions and minimum measures to combat racial segregation, including formal monitoring inspections and sanctions. Some have proposed a "desegregation directive" comparable to the Article 13 Directives relating to race and employment. This idea merits closer scrutiny and should be the focus of further research and policy initiatives. In addition, the authors of this study believe that the proposed idea of legal measures binding the Member States to the integration of Roma deserves full consideration, and that the European public is owed a well-grounded debate on the subject. Such a debate should ideally be led by the European Union institutions, in particular the European Commission.

15. Social inclusion. Social inclusion of Roma should be the focus of short-, medium- and long-term commitment by the European Union, Member State governments and other stakeholders. The

European Commission should encourage all Member States to address Roma, Gypsies and/or Travellers as a target group for the purposes of their National Action Plans on Social Inclusion, Lifelong Learning, Employment and other relevant policy frameworks. This is considered a valid approach given that, particularly in the old Member States, Roma, Gypsies and Travellers are often overlooked, whilst more visible or vociferous minorities are often more successful in influencing policy.

16. The European Union should explicitly link the use of the European Social Fund to the Lisbon agenda and, to the extent possible, should amend rules to permit the use of the European Regional Development Fund for projects in the fields of housing and health and related infrastructure. At the very least, the ESF and the ERDF should recognise and publicise the cross-cutting nature of Roma, Gypsy and Traveller issues, in the same way as gender and disability are so recognised, so that there is an increased probability of funds being used for the benefit of Roma populations. Should a proposal to include housing and health investments in the ERDF be rejected, the Fund should examine mechanisms whereby it can co-finance complementary infrastructure such as access roads and water and sewerage systems. Irrespective of the outcome of discussions on the scope of the ERDF, attention needs to be given to the expansion of the DG Public Health Community Action Programme, and to the health problems of marginalised communities, including Romani communities.

17. Respecting the limits of subsidiarity, the European Union should explore ways in which Union education policies and programming can address the very serious problem of racial segregation in education and the widespread unequal and inadequate level of provision for Roma, Gypsies and/or Travellers.

18. Experience from Phare programmes suggests that in order to have a sustainable impact, it is important that projects financed in the area of social inclusion are not stand-alone initiatives working in isolation from the policy environment, but represent the operationalisation of policy. In the context of the decentralised ESF (including EQUAL), ERDF and the Directorate General of Public Health programmes, it is therefore essential that EU and national and local governments work together both to ensure project targeting and sustainability, and also the collection

and dissemination of results and experiences in order to be able to inform policy at all levels. Policy dialogue should therefore be integrated and included in the programmes as far as possible, to ensure the visibility and practical impact of policies. Specifically, programme guidelines should recognise the marginalisation of Romani populations and encourage the inclusion of Romani communities in such programmes, not neglecting the need to include Roma in the design, implementation and assessment of such projects and policies.

19. Policy mainstreaming. The term "mainstreaming" has been frequently misunderstood as avoiding specifically targeted groups. Quite the contrary, "mainstreaming" involves ensuring that all policies are proofed in advance and regularly assessed in progress to ensure that their impacts reach identified, marginalised groups to a level adequate to need. The European Union can and should work to foster policy approaches at the Union level, as well as at the level of the Member States and their regions, ensuring that policies reach Roma and other persons regarded as "Gypsies".¹²³ As Commissioner for Employment and Social Affairs Anna Diamantopoulou stated at the Budapest Conference on Roma in 2003, "We will only succeed when Roma issues are being treated, not just with specific programmes and actions - important as they are - but also as part of the framework of European and national policies." The EU should ensure that all policy stakeholders understand the concept of "mainstreaming" and act adequate to the level of need to ensure that all policies include Roma mainstreaming components.

20. Monitoring and evaluation. There is a pressing need to evaluate the impact of EU and national projects and programmes targeting Roma. Since what matters is change on the ground, the real impact of changes in attitudes, actions and policies needs to be assessed in a way that is both credible and useful in terms of informing further policy devel-

opments. Only a few EU and national Roma programmes have moved beyond general aspirations and have set specific and quantified targets to provide a basis for monitoring progress. Moreover, in many cases, there is confusion between monitoring and evaluation, and the scope of these activities is either not defined or is unclear. Roma-related policies and strategies should have a special chapter which specify the scope of monitoring, such as;

- Set clear benchmarks according to which to evaluate success or lack of success;
- Allocate funding for monitoring projects by Romani non-governmental organisations;¹²⁴
- Provide support for capacity-building of Roma organisations, so that they will be able to play an active role in monitoring the implementation of projects designed to benefit them.

21. The European Union should consider developing standards and guidelines according to which Member States should assess the impact of draft and existing policies and laws on disadvantaged groups, in particular ethnic groups. Safeguards should be introduced to ensure that EU funding is not used to racially segregate Roma.

22. Human rights monitoring. [t1] Commenting recently on the so-called "Brok Report" ("Report on the comprehensive monitoring report of the European Commission on the state of preparedness for EU membership of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia"¹²⁵), the European Parliament's Committee on Citizens' Freedoms and Rights, Justice and Home Affairs stated that it: "Believes that in order to tackle the deficit in justice, freedom and security, ...a culture and process of peer review and mutual surveillance encompassing all 25 Member States, in which the European Commission and the European Court of Justice, backed up by the European Parliament and the Council, would play key roles, [is required]" and "Identifies a need to develop

¹²³ For extensive discussion of mainstreaming, see "Mainstreaming Equality in European Union Law and Policy-Making", a report prepared for the European Network Against Racism (ENAR) by Jo Shaw, Professor of European Law, University of Manchester and Senior Research Fellow at the Federal Trust, March 2004, European Network Against Racism, July 2004.

¹²⁴ To be effective, monitoring should be as much about the *process* of preparing, presenting and using a report as about the report itself. Preparing an effective report requires reporters to think critically, to involve and to draw their information from communities affected by the problems being monitored, and to formulate their critique in a reasoned and persuasive manner. And thus it is logical that Roma should take a leading role in articulating and transmitting critiques of the programmes designed for their benefit.

¹²⁵ (COM(2003) 675 - C5 - 0532/2003 - 2201/2003(INI))

comprehensive and unambiguous EU justice standards within the EU, together with systematic scrutiny and enforcement mechanisms to ensure their observance [...];"

23. The Committee went on to state that it, "Supports the governments of all countries concerned in their efforts to continue a long-lasting and intensive policy addressing the problems of minorities (especially the Roma), aiming at their social integration through access to education, employment and housing" and "insists that all new Member States should take care that the EU's anti-discrimination acquis is fully transposed and implemented in their legislation". These recommendations have yet to be fully acted upon. The European Union should explore expanding the powers of one or more bodies in order to ensure effective compliance with common human rights standards.

24. EU finance and civil society eligibility. The use of structural funds in new Member States is a relatively recent phenomenon and it appears that these are not yet being fully spent due to the failure of governments to provide adequate levels of matching funding. Whilst this situation may well improve in the future, there is nevertheless a pressing need to:

- Make widely available in accessible language to civil society, the media and other stakeholders information about structural funding, why it is of relevance to Roma, and how it can be accessed;
- Foster projects that will facilitate greater input at the domestic level of civil society and other non-governmental stakeholders in the design of projects seeking structural funding.

25. Some EU funding toward civil society is exclusively reserved for international "umbrella of umbrella" organisations, such as the European Network Against Racism (ENAR), the Anti-Poverty Network, Social Platform, etc. Without prejudice to these organisations, it may make sense to foster a Roma-specific "umbrella of umbrellas" organisation. However, any measure to make EU funding more accessible to grassroots organisations would be important, and prior to the establishment of a Roma-specific "umbrella of umbrellas" other models aimed at Romani civil society inclusion in EU policy processes, such as support for smaller, more localised networks, should be studied carefully. Ultimately, a combination of approaches may be worth considering.

26. External relations. The European Union is a major actor in the development and the promotion of human rights beyond the borders of the European Union. In the European Union Candidate Countries, the Western Balkans, and in the countries of the former Soviet Union, the EU can and should explicitly target Roma as a component of its development and human rights work. For Candidate Countries to the European Union, the situation of Roma should be a key component for assessing the readiness of any given candidate country. Roma rights should constitute a specific evaluation chapter of regular reports toward accession. Initiatives such as the Decade of Roma Inclusion offer the potential to have significant impact in a number of countries; the EU should play an active role in the Decade and similar initiatives.

MEMBER STATE-LEVEL RECOMMENDATIONS

27. Minority rights protection and recognition.

Those Member States that have not already done so should recognise Roma, Gypsies and Travellers as an ethnic minority, and should waive any arbitrary criteria excluding segments of the minority for the purposes of recognition. EU Member States should also ratify without delay the Framework Convention for the Protection of National Minorities and the Charter on Regional and Minority Languages, two standard-setting Council of Europe instruments.

28. Anti-discrimination law. In the relatively straightforward area of transposition of the EU anti-discrimination directives, not only have many new Member States missed deadlines for transposing the EU anti-discrimination acquis into domestic law, but many old and new Member States have, as of July 2004, failed to transpose all provisions of the directives, and some have not transposed any. This serious problem must be swiftly remedied.

29. All Member States should transpose all provisions of the EU anti-discrimination directives as quickly as possible. In transposing EU anti-discrimination directives into domestic law, Member States should provide strong, independent and adequately funded enforcement bodies in line with the provisions of Directive 43/2000 and with the recommendations of the Council of Europe's European Commission Against Racism and Intolerance. Member States should also ratify Protocol 12 to the European Convention on Human Rights, and should undertake comprehensive reviews to ensure that no

laws or regulations in effect at national, regional or local level have indirectly discriminatory impacts on Roma, Gypsies and/or Travellers.

30. Roma agencies/government structures. Governments should ensure that all administrative agencies - including Ministries and other national- and county-level institutions as well as local authorities, include bodies charged with ensuring Roma inclusion. Governments should consider seriously the establishment of governmental Roma Agencies charged with ensuring the effective implementation of social inclusion policies targeting Roma. At minimum, ministerial bodies under the direct supervision of Prime Ministers should be responsible for steering policies and initiatives of various relevant departments.

31. Ethnic Data Collection. Member States should develop tertiary indicators to register and assess the impact of racial discrimination and other exclusionary forces on particular ethnic groups. Respecting all relevant data protection laws, Member States should gather and make public in a readily comprehensible form statistical data on the situation of Roma, Gypsies and Travellers and other weak groups in fields relevant to social inclusion policy, including but not necessarily limited to education, employment, healthcare and housing.

32. Social inclusion. Roma (including Travellers and other groups regarded as "Gypsies") should be a clearly named priority group with a specific allocation of annual funding, within the overall social inclusion policy of each Member State. Governments must lead in ensuring that social inclusion and integration policies for Roma are translated into practice.

33. National Action Plans should include specific measures on Roma, Gypsies and/or Travellers under all relevant sectoral field headings, including but not limited to education, employment, health care, housing and social services and assistance. In the next round of National Action Plans to combat social exclusion, all Member States should consider naming Roma (including Gypsies, Travellers and other groups) as a target group of domestic social inclusion policy.

34. Governments should move away from targeting Roma through a fragmented and disparate collection of individual projects, lacking sustainable impact, and adopt an approach whereby the social inclusion of Roma is a mainstream objective within existing policies.

35. Member States should sign and ratify all articles of the Revised European Social Charter, including the provisions related to a collective complaints mechanism, and the European Union should encourage Member States in this direction.

36. As a key measure for ensuring the effective realization of social and economic rights by Roma and others, all European governments should champion the adoption of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights to facilitate individual and NGO complaints under the Covenant.

37. Policy coherence. In light of the detrimental impact a number of policy and law changes, as well as deeper structural changes, have had in recent years on many Roma, Member State governments are urged to undertake thorough-going assessments of all policies related to social inclusion, to determine: (i) whether policies are socially corrosive generally and (ii) whether negative impacts are being borne disproportionately by Roma. In light of the issues raised in the body of this report, there are clearly a number of areas in which policy and law amendment and reform are advisable in the very near term.

38. Rights of migrants. Member State governments can begin to improve the status of migrants by joining two treaties in whose development they actively participated: The Council of Europe's European Convention on the Legal Status of Migrant Workers and the United Nations' International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. In addition, States should review extensively policies involving border crossing and other issues related to the border, individual establishment and expulsion, to ensure that they conform broadly to European Union social inclusion goals, as well as to ensure that they are not infected by direct or indirect racial discrimination or are otherwise in violation of Europe's common human rights standards.

39. Inter-Agency Cooperation. In the field of Roma inclusion, Member State governments must lead in policy implementation. However, they should co-operate more closely with international organisations and civil society players, forming partnerships which are dedicated to the promotion of effective change.

CIVIL SOCIETY RECOMMENDATIONS

40. Roma organisations also have a role to play in

advancing their own welfare. This is clearly recognised in the submission dated the 2nd June of the Roma Network to the Roma Daily News concerning the outcomes of the April 2004 Conference on Roma in an Enlarged EU, held in Brussels. Whilst making a number of recommendations to other bodies, the Network notes that "Roma must contribute to the removal of prejudices and stereotypes through active participation and civil rights work in the societies in which they live". They also note that "Roma must recognise that not only the majority but they too are responsible for their future, which they can and have to influence".

41. Roma are able to do this in a number of ways. They might participate in single-issue lobby groups, such as those pressing for increased gender equality, in order to point out the discriminatory treatment received by Roma which in some cases, such as that of Roma women, constitutes double

discrimination. All too often, such groups are unaware of the extremely marginalised position of Roma, Gypsy and Traveller communities, and may be prepared to incorporate the Roma case within their lobby efforts, to mutual advantage.

42. Roma, Gypsy and Traveller leaders might also pursue, as far as is possible, means of consolidating the differing views of Roma groups into a single, majority voice, to be made known to international and national policy-makers, whilst noting the existence of dissenting views. It may be that the European Roma Forum, established in 2004, can fulfil such a role. Both intergovernmental organisations and non-Roma NGOs need to intensify the focus on Roma communities in Europe to ensure that actions and funding programmes are well informed, appropriate to the needs and increasingly well networked to avoid duplication and clashes of interest.

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