

Foreword

Only a few thousand Roma in Germany survived the Holocaust and the Nazi concentration camps. They faced enormous difficulties when trying to build their lives again, having lost so many of their family members and relatives, and having had their properties destroyed or confiscated. Many had their health ruined. For years, when some tried to obtain compensation, their claims were rejected.

For the survivors, no justice came with the post-Hitler era. Significantly, the mass killing of Roma people was not an issue at the Nürnberg trial. The genocide of the Roma was hardly recognised in public discourse.

Neither were the crimes that the fascist regimes committed against the Roma during the same period in other parts of Europe. In Italy a circular in 1926 ordered the expulsion of all foreign Roma in order to “cleanse the country of Gypsy caravans which, needless to recall, constitute a risk to safety and public health by virtue of the characteristic Gypsy lifestyle”.

The order made clear that the aim was to “strike at the heart of the Gypsy organism”. What followed in fascist Italy was discrimination and persecution. Many Roma were detained in special camps; others were sent to Germany or Austria and later exterminated.

The fascist “Iron Guard” regime in Romania started deportations in 1942. Like many Jews, about 30 000 Roma were brought across the River Dniester where they suffered hunger, disease and death. Only about half survived the two years of extreme hardship before the policy changed.

The history of European repression against the Roma precedes the Nazi and fascist era. In fact, it goes back several hundred years – following the Roma migration from the Indian subcontinent. The Roma were the outsiders used as scapegoats when things went wrong and the locals did not want to take responsibility. The methods of repression have varied over time and have included enslavement, enforced assimilation, expulsion, internment and mass killings.

Truth commissions ought to be established in a number of European countries to establish the truth about the mass atrocities against the Roma people. Ideally, this should be a Europe-wide undertaking. A full account and recognition of these crimes might go some way to restoring trust amongst the Roma towards the wider society.

Not surprisingly, many Roma continue to see the authorities as a threat. When required to register or to be fingerprinted they fear the worst. This is all the more understandable when they explain how they see similarities between much of today's anti-Roma rhetoric with the language used in the past in Europe by Nazis and fascists and other extremists.

The Roma have been collectively stigmatised as criminals in strikingly sweeping statements also in recent times. One example is France where the government in July-August 2010 decided to deport Roma migrants from other EU countries, if necessary by force. The government campaign was accompanied by blatant use of anti-Roma rhetoric. The Roma community as a whole was linked to criminality. Their presence was described as a threat against "public security" – a legal term which is normally used for extraordinary situations when the peace and survival of the state is considered to be at stake.

The alleged link between the Roma and crime is an often repeated refrain in the hate speech. It can be rebutted and the misunderstandings sorted out – if the minds are open for a rational exchange. Of course, some Roma have been guilty of theft. Some have also been exploited and instrumentalised by traffickers. Socially marginalised and destitute people are in most countries over-represented in criminal statistics – for obvious reasons. It is also true that they tend to be disadvantaged in the current justice system which in turn affects such data.

These problems offer no excuse for stigmatising all Roma – the overwhelming majority of whom are not in conflict with the law. It is a crucial ethical principle that a whole group should not be blamed for what some of its members might have done.

The consequences of xenophobic statements by leading politicians should not be trivialised. Some distorted minds may understand such statements to be authorising retribution and even physical attack. The unfortunate rhetoric by some candidates in the course of the 2008 Italian election was followed by ugly incidents of violence directed against Roma individuals and camps. The cold-blooded murder of six Roma, including a 5-year-old child, in Hungary in 2008-09, was committed in an atmosphere fuelled by hate speech.

Anti-Gypsyism is now again being exploited by extremist groups in several European countries. Mob violence against Roma individuals has been reported from, for instance, the Czech Republic and Hungary.

The state representatives whom the Roma tend to meet most often are the police. During my missions, I have been struck in several countries by the signs of bad relations between Roma communities and the police. Many Roma have given specific examples of how the police failed to protect them against assaults from extremists. Even worse, there have been cases where police officers themselves have initiated violence.

Anti-Gypsyism continues to be widespread throughout Europe. In times of economic problems, it appears that the tendency to direct frustration against scapegoats increases – and the Roma appear to be one of the easy targets. Instead of fishing in murky waters, national and local politicians should stand up for and speak out on behalf of principles of non-discrimination and respect for people from different backgrounds. At the very minimum, politicians must avoid anti-Roma rhetoric themselves.

A number of concrete steps can be taken. Past atrocities against the Roma should be included in history lessons in schools. Key professions, such as the police, should be trained about the need to protect Roma against hate crimes, and be disciplined if they themselves misbehave.

Most important is the need for elected politicians to demonstrate moral leadership: they must encourage, and live out in practice, a commitment to respect and promote human rights for everyone.

I hope this review of the policies towards Roma in Europe today will encourage a constructive discussion on what must be done in order to put an end to discrimination and marginalisation.

Thomas Hammarberg

Summary

Roma and Travellers together comprise the largest set of minority groups in Europe. The Commissioner has observed during his visit to Council of Europe member states that discrimination and other human rights abuses against Roma and Travellers have become severe and that no European government can claim a fully successful record in protecting the human rights of the members of these minorities. This view provided the impulse for a comprehensive report on the human rights situation of Roma and Travellers in Europe.

Anti-Gypsyism

The report shows that anti-Gypsyism is deeply rooted in Europe. Many people who have never interacted with Roma or Travellers volunteer detailed, stereotype-laden descriptions of Roma or Traveller appearance and behaviour. Public leaders and opinion bodies – both elected officials and others – have openly defamed Roma and Travellers using racist or stigmatising rhetoric. In some cases, these words have been understood as encouraging violent action against the Roma, such as mob violence and pogroms. The Commissioner is of the opinion that anti-Roma speech, including during electoral campaigns, must be strongly condemned in all cases and punished when it breaks laws against incitement to hatred. Political parties should also adopt self-regulatory measures to exclude racist language.

In an increasing number of European countries, extremist groups explicitly target Roma and Travellers, in some cases galvanising segments of the public against these persons. Such extremist groups are increasingly active on the Internet, a medium which has allowed for enhanced cross-border co-operation among likeminded groups with extremist outlooks. These groups are active in recruiting youths through a variety of techniques, including the organisation of hate music concerts. Vigilante and paramilitary groups often wear uniforms, use weapons and have been increasingly tightening their net around Roma by using verbal and physical threats and carrying out massive protests. Members of these

extremist groups have been found to be at the source of a number of hate crimes targeting Roma. The Commissioner has recommended the termination of financing for organisations promoting racism, including political parties. States might also usefully consider dissolving extremist parties when they are deemed incompatible with the standards and values of a democratic society.

Anti-Gypsy stereotypes also continue to be spread and perpetuated in the media across Europe. A number of journals and broadcast media have been reporting on Roma and Travellers only in the context of social problems and crime. The Commissioner has stressed the need for self-regulation and ethical journalism to end the negative portrayal of Roma in the media. As a general principle, what is illegal offline should also be illegal online in a context where the Internet is used to perpetrate anti-Roma hate speech and to organise violence. Mechanisms to monitor racism on the Internet should be established by member states, in accordance with the General Policy Recommendations No. 6 of the European Commission against Racism and Intolerance (ECRI) on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.

Anti-Gypsyism may also entail a lack of recognition of Roma history of past suffering, particularly during the Second World War. This passive denial is often manifested in silence about Roma victims at commemorations and memorials, in media coverage, or in official history and textbooks. The Commissioner stresses that the extermination of Roma during the Second World War must not be forgotten. Teaching about Roma history, raising awareness of Roma genocide during the Second World War, and building and maintaining memorial sites are the least member states could do to honour Roma victims. Governments throughout Europe should translate the existing Council of Europe *Factsheets on Roma History* in their national languages in order to use and disseminate them as widely as possible in their national contexts, including schools. Truth commissions should also be created – ideally as a Europe-wide undertaking – to establish the historical facts concerning the atrocities committed against the Roma people.

Racially motivated violence against Roma and Travellers

Violence against Roma and Travellers has been prevalent in post-1989 Europe, with a notable increase of serious cases in recent years. In some contexts, this violence has been perpetrated by organised fascist or neo-Nazi groups and has involved planning and preparation. However, anti-Roma violence is not committed only by organised groups. In some instances, non-Roma communities have engaged more or less spontaneously in vigilante violence against Roma and Travellers, while in other cases the violence has been carried out by individuals motivated simply by racist hatred without any particular political ideology. In some countries, anti-Roma violence has been committed by a combination of different kinds of perpetrators.

The development in recent years of ideologically-committed movements based in whole or in part on hatred of Roma is a matter of great concern. These movements have launched violent and in several cases deadly attacks. For instance, arson attacks have been carried out in a number of cases at night while people have been sleeping. In certain situations, public officials have been directly involved in instigating vigilante actions against Roma and Travellers. The Commissioner deems necessary an urgent redoubling of efforts in this area, at all levels, in order to deliver a clear message to potential perpetrators and to encourage victims to report incidents of wrongdoing. Member states should ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of criminal acts into account, and should establish mechanisms of systematic monitoring of racist incidents.

Treatment of Roma and Travellers by law enforcement and judicial authorities

Reports received by the Commissioner from around Europe indicate patterns of discrimination and ill-treatment by police towards Roma and Travellers. Roma have been subjected to police violence both in detention facilities and public spaces, such as Roma settlements during police raids. In a number of cases, when criminal investigations

of such acts have been initiated, they appear to have been manifestly biased or discriminatory. The Commissioner has observed that the established case law of the European Court of Human Rights (the Strasbourg Court) clearly indicates that member states are obliged to carry out an effective investigation of possible racist motives in these situations. The Commissioner invites member states to establish independent police complaints mechanisms in order to improve Roma and Travellers' trust in law enforcement authorities.

There are a number of reports that isolated Roma settlements have been subjected to particular attention by police, often in the form of intrusive raids. Roma persons in cars or other vehicles have been targeted for "stop-and-search" operations by police in a discriminatory manner. Ethnic profiling has also been reported in the context of the movement of Roma across international borders. The Commissioner has underlined that Roma should not be subjected to any kind of policing that would differ from that encountered by the general population. Laws should explicitly prohibit racial profiling and establish a reasonable suspicion standard in police operations. The police must receive training in these issues, as ECRI recommended in its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

Roma representatives have also reported arbitrary seizure of property or extortion by police. Such practices can violate Article 8 of the European Convention on Human Rights (which protects the right to respect for private and family life) and affect the enjoyment by Roma of other human rights, including rights to housing and security.

Further, Roma are disproportionately subjected to arbitrary detention measures. The Commissioner believes that excessive use of police power in this area should be drawn to a close, and that concrete measures must be taken to ensure that Roma are not subject to arbitrary detention. Additional steps to re-establish trust between Roma and Traveller communities and the police should be undertaken, such as the recruitment of Roma in the police or the recruitment and training of Roma mediators to liaise with the police.

In a number of countries, Roma appear to be discriminated against in decisions to remand in custody, rates of prosecution and sentencing. Some of the problems facing Roma in the field of criminal justice include a lack of adequate representation when facing charges, an absence of respect for Roma as witnesses or deficiencies in interpretation services. The principle of the presumption of innocence is not always respected when Roma individuals are put on trial. It is important that steps are taken to prevent racial discrimination against accused Roma persons who are subject to judicial proceedings so that these persons receive a fair trial.

These problems are compounded by the failure of justice systems to respond adequately to complaints by Roma of racial discrimination and/or other abuses. Efforts aimed at improving the effectiveness of the justice system's response to discrimination should include the establishment of effective anti-discrimination legislation or its strengthening, as well as specialised bodies that would offer a low-threshold mechanism to deal with complaints and assist with the implementation of the legislation.

Respect for private and family life of Roma and Travellers

Forced and coercive sterilisations of Roma women

From the early 1970s, under the influence of resurgent eugenics considerations in late communism, doctors in Czechoslovakia in a number of cases coercively sterilised Roma women with support from policy-makers and national structures, including with assistance from social workers. Following the fall of communism, the new government endeavoured to end these practices. However, some health professionals appear to have continued the practice long after the transition in both the Czech Republic and Slovakia, sterilising Roma women who came to them for obstetrical/gynecological procedures without their full and informed consent. Such cases have also been documented in Hungary.

In November 2009, the late Czech Ombudsperson Otakar Motejl, whose 2005 report on the subject is one of the most important studies

on the legacy of coercive sterilisation in Czechoslovakia and its successor states, stated that as many as 90 000 women may have been sterilised on the territory of the former Czechoslovakia since the beginning of the 1980s. Of the countries that continued this practice after 1990, only the Czech Republic has stated officially an expression of regret “over instances of error” in November 2009. An effective domestic remedy for reparation and compensation does not appear to be available to the vast majority of victims of these practices in any of these countries. The Commissioner believes that all countries concerned should publicly acknowledge that these practices have taken place, express regret and set up effective remedy mechanisms providing assistance to victims. Time limits for compensation claims in court should take into account existing obstacles and start from the time when the victim first became aware of the sterilisation.

In order to prevent the recurrence of forced and coercive sterilisations, it is also important to adopt legislative changes clearly defining a requirement of free, prior and informed consent with regard to sterilisations, including a reflection period for the patient. Judicial and administrative sanctions must also be upheld against those persons liable for sterilising women without their full and informed consent.

Removal of Roma children from the care of their biological parents

Roma children are often over-represented among the children placed in out-of-family care, including in institutional and foster care. Roma children are in some cases removed from their families on the sole ground that homes are not suitable and stable or that economic and social conditions are unsatisfactory. In some countries, high levels of institutionalisation of Roma children result from legacies of communist-era policies in which the state was promoted as superior to parents in raising children, particularly in cases where children come from weak or deprived backgrounds, or have some form of disability.

In accordance with the case law of the Strasbourg Court, member states should ensure that no child is placed in institutional care solely on grounds relating to the poor housing conditions or financial

situation of his or her family. Placement of a child in an institution should remain the exception and should have as the primary objective the best interests of the child. Also, adoption and placement in foster families should be based on clear procedures that are consistent with international standards.

Common law and customary marriage among certain Roma groups

Some Roma groups maintain practices of common law and customary marriages. These informal unions have implications in the enjoyment of a range of human rights. Firstly, when minors are involved, these practices may infringe upon the rights of the child and perpetuate the subordinate position of women in practice. In ensuring compliance with human rights standards, utmost care should be taken to avoid generalisations and the stigmatisation of entire communities. The focus should rather be placed on education and awareness-raising activities. Secondly, adults who have entered into a non-recognised common law marriage may be denied or granted less favourable access to economic and social rights than officially wedded couples. As highlighted by the Strasbourg Court, adjustments may be required to prevent minority groups, including Roma, becoming victims of indirect discrimination in accessing these rights.

Roma and trafficking in human beings

Reports reaching the Commissioner indicate that trafficking in human beings in Europe affects Roma disproportionately. Roma are reportedly trafficked for various purposes including sexual exploitation, labour exploitation, domestic servitude, illegal adoption and begging. Roma women and children are often seriously over-represented as victims in all forms of trafficking. The vulnerability of Roma must be taken into account in national policies regarding trafficking in human beings, without any stigmatisation. Protection measures should include training of law enforcement officials and awareness-raising campaigns targeting Roma communities, in particular segregated and socially excluded communities.

Enjoyment by Roma and Travellers of economic and social rights

The right to education

Many thousands of Roma throughout Europe are not or have not been schooled at all, or have left school with limited education results. In some countries, the fact that Roma and Travellers lack personal documents has a negative impact on school enrolment. Lack of public transport or funds for transport, and racist bullying as well as lack of school materials, represent additional obstacles in the way of Roma pupils seeking to go to school. In some countries, Roma children are over-represented in alternative systems such as “home schooling”. Many Roma children with developmental, intellectual or physical disabilities may not be attending school at all in certain European countries. Roma children also suffer from a lack of pre-school facilities.

Policies and practices that separate Roma children from others in education are found in several Council of Europe member states. Educational arrangements are frequently segregated in cases where Roma live in isolated communities – either rural slum settlements or urban ghettos. The fact that non-Roma parents pull their children out of schools frequented by Roma also results in *de facto* segregation of entire schools. Even in mainstream schools, Roma pupils are often separated from the majority in classrooms, by being in specific areas of the class, or in entirely separate classes. Remedial classes, separate classes and segregation in the classroom have been reported in many European countries.

Roma children are also disproportionately streamed into special schools, in particular schools for children with intellectual disabilities. In the Czech Republic, segregation persists despite the 2007 ruling of the Strasbourg Court in the matter of *D.H. and Others v. the Czech Republic*, and the enactment of a new Schools Act in 2004 which restructured the provision of special needs education. An estimated 30% of Roma children are still educated in schools designed for pupils with mild mental disabilities, compared to 2% of their non-Roma counterparts.

These practices are seen in a number of other countries. The Commissioner has taken a stand against all forms of segregation

in education and has called for clear commitments and measurable advances to be made in the fields of desegregation and inclusive education. Desegregation must be combined with the necessary support measures for children in order for them to integrate into mainstream classes so that they can succeed and excel in education.

In some Roma communities, the parents of girls may expect their daughters to leave school early in order to marry and start their own families. There are cases where child marriage precludes girls from attending school, thereby undermining their right to education as well as their future employment opportunities. Positive measures for awareness-raising seem to reveal progress in improving Roma girl school enrolment.

Although some countries in Europe have been developing and implementing policies for Traveller outreach in education since the 1960s, much remains to be done. Indeed, in recent years we have seen in some countries an erosion of previously existing provisions for Traveller education. It is important that special attention is given in these countries to the enrolment of Traveller children in school, in particular for children whose families have a nomadic way of life.

Where Romani language, history or cultural lessons are provided in education, frequently they are targeted primarily or solely at Roma children, thus depriving non-Roma of the right to know about the contributions Roma have made to their own and other European societies. In the main, the development of school curricula in this area remains in its infancy. Improving the quality of education received by Roma and Traveller children necessarily means including Roma and Traveller culture and history in standard curricula.

Access to adequate housing

Discrimination in access to housing is reported in a number of member states, often taking forms such as denial of access to public and private rental housing on an equal footing with others or refusals even to sell housing to Roma.

Some local authorities have pursued a policy of spatial segregation. This has in some cases been reinforced by the construction of separation walls close to Roma neighbourhoods. Such destructive measures should be terminated.

Many Roma continue to live in sub-standard conditions in most European countries, without heat, running water or sewerage. Vocal international concern has been registered over the situation of Roma in a series of localities in and around Mitrovicë/Mitrovica in Kosovo* where Roma, over a period of more than 10 years, were subjected to housing conditions in very toxic environments.

Roma living in informal settlements or on land they do not own, as well as Roma living in legally recognised housing, lack security of tenure throughout Europe. The lack of adequate recognition of tenure leads directly to threats of forced eviction. In some countries, the number of forced evictions has increased in recent years, often targeting the same migrant Roma families, including children, on several occasions over a short period of time. The repetition of forced evictions, including the destruction of property, in certain western European countries has been described as a strategy to encourage Roma to return to their countries of origin, notably Bulgaria and Romania. In some cases, destruction of entire centuries-old Roma neighbourhoods has taken place. Forced evictions should only be carried out according to international procedural safeguards developed by, among others, the UN Committee on Economic, Social and Cultural Rights (General Comment No. 7).

The Commissioner has observed that in some places a vicious circle prevails in which authorities decline to develop infrastructure because the Roma communities lack formal tenure, and refuse to recognise tenure formally, because of substandard infrastructure. The Commissioner has urged the authorities to find ways to resolve these

* Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

conflicts in accordance with international and European human rights standards.

Travellers are also disproportionately affected by discriminatory patterns in the allocation of planning permission in cases where Travellers or others purchase private land for the purposes of parking caravans, and discrimination in access to campsites, hotels and/or other temporary accommodation. The Commissioner has made his position plain that in countries where there is a migrant Traveller population, there should be a statutory obligation on local authorities to provide short- and long-term caravan sites that meet basic standards of decency.

The Commissioner has emphasised that the right of Roma to live in adequate housing in accordance with international legal standards need to be guaranteed. All public utilities, including water, electricity, waste collection and maintenance of access roads, need to be provided to Roma settlements. The Council of Europe Committee of Ministers Recommendation on improving the housing conditions of Roma and Travellers in Europe called for a review of housing legislation, policies and practices in order to remove all provisions or administrative practices that result in direct or indirect discrimination against Roma.

Access to employment

Challenges affecting the inclusion of Roma in the labour market are numerous and result in the near complete exclusion of Roma and Travellers from decent work in Europe. Endemic discrimination combined with under-education appears to nullify the effect of emerging employment policies targeting Roma and Travellers. Despite positive efforts in some countries, levels of unemployment among Roma and Travellers in Europe are invariably at levels significantly higher than among non-Roma.

In a number of countries, Roma and Travellers are denied employment on discriminatory grounds – due to their ethnicity or the perception of their affiliation with Roma or Traveller communities or groups. Patterns in Europe also show that employed Roma are more inclined to face discrimination in the workplace. Discrimination

also affects educated Roma who are constrained from progressing upwards. Throughout Europe, while perceptions of discrimination are widespread, data is lacking, partly because discrimination in the labour market is frequently covert. Racial and ethnic discrimination in the labour market is in contravention of the European Social Charter, as well as the European Union Racial Equality Directive. Measures to address Roma and Traveller unemployment must include assistance to victims of discrimination in claiming their rights.

Gender discrimination problems have also arisen. European employers have discriminated against Roma women on the grounds of both ethnicity and gender. Special attention should be paid to Roma women who suffer from double discrimination, including efforts to improve their socio-economic status and to ensure their access to education and health as preconditions for employment.

The Commissioner has called for specific measures, including the allocation of funds, to develop programmes to increase employment and private enterprises in Roma communities – for instance, through specific training programmes.

The right to the highest attainable standard of physical and mental health

Throughout Europe, the average life span of the Roma and Travellers is shorter than that of non-Roma and non-Travellers. Roma and Traveller infant mortality rates are higher. Factors precluding Roma and Travellers' access to health care include a lack of funds to pay for insurance or treatment, a lack of identification documents, and a lack of means of transportation from remote areas to health care facilities.

Health care providers also reportedly discriminate against Roma, including in the provision of emergency services. Some hospitals regularly segregate Roma patients from non-Roma patients, especially in maternity wards. Very few Roma or Traveller persons work in health care provision in Europe. In some countries, Roma have been excluded from health care schemes, as they cannot afford to pay health insurance contributions or are not formally employed or registered in employment agencies.

Existing provisions on the right to the highest attainable standards of physical and mental health should be applied to Roma and Travellers, as was recommended by the Council of Europe Committee of Ministers in 2006. Geographically accessible and affordable health care should be provided to Roma and Travellers without discrimination. Efforts should be made by member states in the field of preventive care and awareness-raising campaigns regarding Roma and Travellers, particularly in the area of sexual and reproductive health of Roma women.

The right to social security

Factors negatively impacting the ability of Roma and Travellers to access social services reportedly include discrimination against Roma and Travellers by social service workers. The Commissioner has received reports about complete denial of access to services or reduced amounts of assistance. There have also been reports of the discriminatory application of social assistance programmes (such as means-tested social assistance); the use of regulations and/or policies that have the effect of rendering Roma and Travellers ineligible for regular social services; territorial segregation of Roma and Travellers making social services difficult to access; communication barriers between social service offices and Roma or Traveller individuals; a lack of information about such services in Roma and Traveller communities; and other barriers. Non-citizen Roma have also been subject to different treatment on arbitrary grounds. Some authorities have announced that they will not provide social services to “itinerant Roma”. Measures should be taken to address such discriminatory attitudes among social services employees, including specific training on Roma and Travellers needs in terms of social security. Information on existing social services should be made available to Roma and Travellers, including migrant Roma. Member states must avoid indirect discrimination when considering legislation and policy in the social security sphere.

Access to goods, services and public places

Roma and Travellers throughout Europe face discrimination in access to goods and services available to the public. Discrimination

is reported in access to hotels, discotheques, restaurants, bars, public swimming pools and other recreational facilities, as well as in access to services crucial for small business activity, such as bank loans. Although government programmes to address such discrimination are currently limited, examples from several Council of Europe member states indicate that action in this area can be important in identifying and challenging patterns and practices of racial discrimination against Roma. Effective and independent equality bodies should be established and their functions may include conducting research and surveys on discrimination in access to good and services and providing guidance and support to service providers on good practice in promoting equality, adjusting for diversity and combating discrimination.

Statelessness and gaps in the personal documentation of Roma

The social exclusion of Roma and Travellers can worsen as a result of their having no formal administrative existence. As the Commissioner noted in the Human Rights Comment, “Stateless Roma: no documents – no rights: tens of thousands of Roma live in Europe without a nationality. Lacking birth certificates, identity cards, passports and other documents, they are often denied basic rights such as education, health care, social assistance and the right to vote.”

Many factors contribute to hindering Roma access to documents and effective citizenship, including armed conflicts and forced migration, extreme poverty and marginalisation and, above all, the lack of genuine interest on the part of authorities to tackle and resolve the issues. These difficulties are amplified when Roma find themselves in a situation of forced displacement.

Moreover, certain consequences of state succession, such as restrictive citizenship laws, have created additional obstacles that disproportionately affect Roma. As a result, many Roma in Europe are stateless: they are not considered as nationals by any state and are frequently denied basic social rights and freedom of movement. The problem exists in many countries in Europe, but it is particularly acute in the western Balkans. Lack of a formal administrative existence, whether in the

form of statelessness or the lack of personal identification documents, has a devastating impact on all persons' ability to enjoy their human rights and fundamental freedoms. In recent years, the United Nations High Commissioner for Refugees (UNHCR) has run programmes in the western Balkans to help Roma accessing personal documents. The European Union has also started similar projects. However, without major state-level commitments to ameliorate conditions so that currently excluded persons can have access to documents, for example via "amnesties" for persons with no birth certificates or similar measures, there is little indication that these pilot projects (or other similar ad hoc projects) are having any major impact.

Enjoyment by Roma and Travellers of freedom of movement and international protection inside and outside state territory

Very few European states are committed to ensuring that Travellers can exercise their freedom of movement, despite the Strasbourg Court case law on the issue. In fact, existing policies in all but a few countries serve to dissuade Travellers from developing regular migration routes. In practice, zoning measures or other rules and regulations are frequently used to discourage Travellers or itinerant Roma from coming and going. Regulatory frameworks can also add additional burdens or create particular limitations of rights for Travellers. In France, for example, Travellers of French nationality are subject to special legislation that does not apply to other French citizens. Elsewhere, the denial of planning permission to Traveller accommodation limits possibilities for Travellers to use their own land to foster Traveller traditions. Countries with a nomadic or semi-sedentary population should comply with the Council of Europe Committee of Ministers recommendation (2005) on improving the housing conditions of Roma and Travellers in Europe to make it possible for all Roma and Travellers to live as they choose.

Even when at risk of serious human rights violations, Roma face discrimination in accessing protection mechanisms on an equal footing with the rest of the population, including in accessing the asylum procedure. In some countries, Roma asylum seekers have been provided

with forms of temporary protection which do not confer residence status or any progressive accrual of rights. The repeated provision of extremely short-term “tolerated” status has effectively prevented tens of thousands of third-country national Roma from integrating into host societies. The right to asylum is recognised by the UN Convention relating to the Status of Refugees (1951) for all refugees without discrimination. Roma asylum-seekers and internally displaced persons should be treated the same way as non-Roma asylum-seekers and IDPs.

Many European countries have undertaken the practice of expelling Roma from their territory, including to Kosovo, despite the fact that Kosovo is at present unable to provide conditions for the sustainable reintegration of these returnees, according to, amongst other sources, the UNHCR assessment in November 2009. The Commissioner has repeatedly opposed the forced or involuntary return of Roma, Ashkali and Egyptians to Kosovo. The Council of Europe Committee of Ministers’ *Twenty guidelines on forced return* provide standards on procedural safeguards which member states should respect when proceeding with forced return. The guidelines note that the collective expulsion of aliens is prohibited.

The freedom of movement of goods, services, capital and people are founding purposes of the European Union. However, Roma have repeatedly been treated differently from non-Roma in the exercise of this freedom. Efforts to expel EU citizens in contravention of EU law, as well as other discriminatory measures aimed at hindering access to territory, should be stopped. The Commissioner has suggested that the resources being used by EU member states to repatriate Roma who are EU citizens would be better spent facilitating their social inclusion.

Participation of Roma and Travellers in public life and decision-making processes

Many Roma and Travellers are in practice unable to vote, in many cases because of administrative obstacles or their lack of personal documentation or permanent residence. Governments should repeal

any laws and regulations that discriminate against Roma minorities in terms of political representation. More outreach efforts are needed to ensure voter registration. Again, it is important to reach women.

With a few noteworthy exceptions, Roma are also broadly missing from elected bodies at local, regional, national and supra-national level. Participation of Roma in the parliaments of Europe is extremely limited. Only in certain countries in central and south-east Europe are Roma present at all in Parliament. There are currently no Roma in any parliaments in western Europe. In some countries, the numbers of local representatives – including mayors and local councillors – appear to have been rising over the past decade. However, even in these countries, the proportion of Roma elected to public office at local level is extremely low by comparison with their representation among the population-at-large.

The Commissioner has noted that reserved seats have had positive results, as has the focus on participation of Roma at the local level. It is important that elected minority representatives participate in decision-making processes, including in fields that are not strictly related to national minorities, and that their role is not confined to a mere observer status.

Mechanisms encouraging equal, direct and open communication with Roma have been set up in some countries. At all levels, organised consultation should be encouraged, in accordance with the principles of representativeness and transparency detailed in the 2008 Advisory Committee of the Framework Convention on National Minorities' Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs. The representation of Roma and Travellers in public life would be considerably improved were Roma and Travellers visibly represented among the ranks of civil service, including among teachers and the police at local, regional and national level. At present, however, inclusion in public employment remains low, and for the most part of low visibility. The development of special internship programmes for Roma in the civil service should be encouraged, in order to increase Roma representation within state and local administration.

The Commissioner hopes that member states will choose to give high and genuine priority to the inclusion of Roma and Travellers. The continued exclusion of more than 10 million human beings can only lead to the increase of inter-ethnic tension in Europe. Member states have to take concrete steps to counter anti-Gypsyism and put an end to discrimination and marginalisation. Efforts to secure the human rights of Roma and Travellers are urgently required.