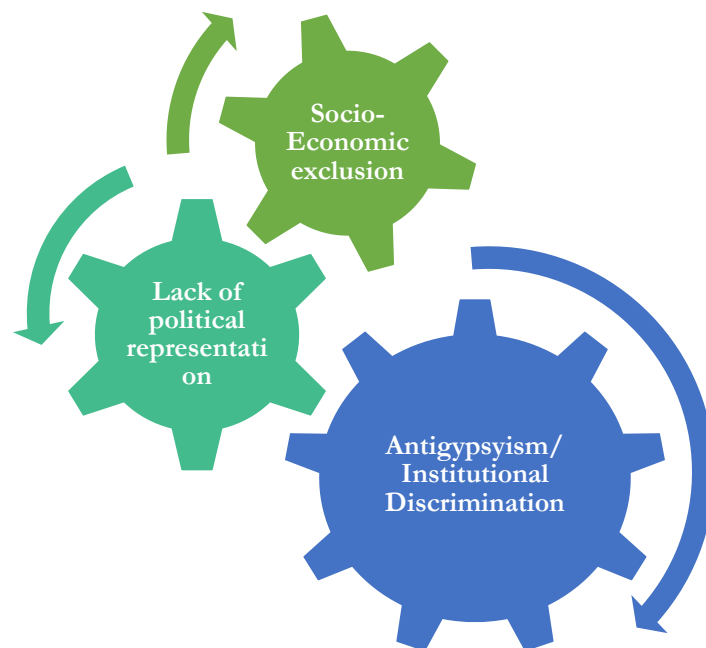


Scaling up Roma Inclusion strategies

Truth, reconciliation and justice for addressing antigypsyism



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STUDY

Abstract

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, aims to promote a better understanding of the Roma minority and communities' situation in the EU. The study explores concrete proposals to upscale the post-2020 Roma framework strategy via a Rule of Law, Democracy and Fundamental Rights (DRF) Periodic Review/Mechanism and a Truth and Reconciliation Process at the EU level. It proposes ways to strengthen the role of the European Parliament in ensuring democratic accountability and the right to truth and effective justice for past and current human rights violations.

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LIST OF ABBREVIATIONS

ACFC	Advisory Committee on the Framework Convention for the Protection of National Minorities (CoE)
AFSJ	Area of Freedom, Security and Justice
CERD	Committee on Elimination of Racial Discrimination (UN) (Treaty body of the ICERD)
CESCR	UN Committee on Economic, Social and Cultural Rights (Treaty Body of the ICESCR)
CJEU	Court of Justice of the European Union
CoE	Council of Europe
CSO	Civil Society Organisation
DG	Directorate-general
DG HOME	Directorate-General (DG) Migration and Home Affairs (HOME)
DG JUST	Directorate-General (DG) for Justice and Consumers (JUST)
EACEA	Education, Audiovisual and Culture Executive Agency
ECA	European Court of Auditors
EO	European Ombudsman
DRF	Democracy, the Rule of law and Fundamental rights (EU Pact)
ECHR	European Convention on Human Rights (CoE)
ECOSOC	UN Economic and Social Council
ECRI	European Commission Against Racism and Intolerance (CoE)
ECRML	European Charter for Regional or Minority Languages (CoE)
ECSR	European Committee of Social Rights (CoE)
ECtHR	European Court of Human Rights (CoE)
EESC	European Economic and Social Committee (EU)
EP	European Parliament
Equinet	European Network of Equality Bodies
EU	European Union
FCNM	Framework Convention on the Protection of National Minorities (CoE)
FRA	Fundamental Rights Agency of the EU
FRCh	Charter of Fundamental Rights of the EU

HCNM	High Commissioner on National Minorities (OSCE)
ICCPR	International Covenant on Civil and Political Rights (UN)
ICERD	International Convention on Elimination of All forms of Racial Discrimination (UN)
ICESCR	International Covenant on Economic, Social and Cultural Rights (UN)
LIBE	EP Committee for Civil Liberties, Justice and Home Affairs
NGO	Non-Governmental Organisation
NRIS	National Roma Integration Strategies
NRCP	National Roma Contact Point
ODHIR	Office for Democratic Institutions and Human Rights (OSCE)
OHCHR	UN Office of the High Commissioner on Human Rights
OSCE	Organization for Security and Co-operation in Europe
RESC	Revised European Social Charter
TANDIS	Tolerance and Non-Discrimination Information System (OSCE)
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TRC	Truth and Reconciliation Commission
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	UN High Commissioner for Refugees
UPR	UN Universal Periodic Review

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EXECUTIVE SUMMARY

...dealing with the past means knowing what happened. [...] We also need to know about the past so that we can renew our resolve and commitment that never again will such violations take place. We need to know about the past in order to establish a culture of respect for human rights. It is only by accounting for the past that we can become accountable for the future.¹

The EU Framework for National Roma Integration Strategies (NRIS) was adopted as the European Commission's main response to the controversial and unlawful 2010 evictions and expulsions by France and Italy of EU Roma citizens originally from Bulgaria and Romania. Civil society organisations advocated the adoption of Roma inclusion strategies at EU and national levels prior the controversy.² Many Roma self-representatives, other civil society actors and national governments welcomed the new framework. However, others remained critical towards the soft-law approach and the fact that the new strategy did not address systemic human rights violations.³ Academia has also remained critical for shifting the responsibility for structural discrimination mechanisms from state authorities towards the Roma communities themselves on account of their socio-economic exclusion and 'lack of integration'.⁴

One of the key challenges of the EU Framework for NRIS lies at its very premises or foundations. **It addresses the situation of Roma as an 'integration' challenge** to be tackled via socio-economic policies, and not as historically-rooted 'antigypsyism' to be tackled via Rule of Law and transitional justice measures (see Figure 1).⁵ In this context, civic and political participation of Roma is an important condition for developing and securing 'ownership' of transitional justice and the 'organic character' of a potential truth and reconciliation cycle on antigypsyism in the EU.

- **Antigypsyism**

The European Commission against Racism and Intolerance (ECRI) of the Council of Europe defined antigypsyism in 2011 as "a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination".⁶ The definition of 'antigypsyism' used in this study takes into account these contributions and relies on the working definition proposed by the Alliance against Antigypsyism, that highlights the role of historical and public memory and captures wider set of manifestations that are relevant for this study:

Antigypsyism is the specific racism towards Roma, Sinti, Travellers and others who are stigmatised as 'gypsies' in the public imagination [...] Antigypsyism is often used in a narrow sense to indicate anti-Roma attitudes or expression of negative stereotypes in the public sphere or hate speech. However, antigypsyism gives rise to a much wider spectrum of discriminatory

¹ Truth and Reconciliation Commission of South Africa (1998) Truth and Reconciliation Commission of South Africa Report, Volume 1, Chapter 1, p.7. The report was presented to President Nelson Mandela on 29 October.

² As, for example, during the first EU Roma Summit organised by the European Commission in 2008 (see: <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventsId=105>).

³ European Roma Policy Coalition (2011) "EU Roma Framework weak on discrimination against Roma, ERPC Statement, 5 April (see: http://www.errc.org/uploads/upload_en/file/erpc-euframework-reaction-05042011.pdf)

⁴ Carrera, S. (2013) "Shifting Responsibilities for EU Roma Citizens: The 2010 French affair on Roma evictions and expulsions continued", Brussels: CEPS.

⁵ See for example: Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May (see: https://www.ceps.eu/system/files/RR2017-08_AntiGypsyism.pdf); Mirga-Kruszelnicka A., and S. Skenderi (2017) "Revisiting the EU Roma Framework: Assessing the European Dimension for the Post-2020 Future", OSEPI: Brussels, March. (see: <https://www.opensocietyfoundations.org/sites/default/files/revisiting-eu-roma-framework-20170607.pdf>).

⁶ CoE, European Commission against Racism and Intolerance(2011) ECRI General Policy Recommendation No. 13 on Combating Anti-Gypsyism and Discrimination against Roma, adopted on 24 June, Council of Europe, Strasbourg.

expressions and practices, including many implicit or hidden manifestations. Antigypsyism is not about what is being said, but also about what is being done and what is not being done.⁷

From the multitude of expressions and manifestations of antigypsyism within societies, this study pays particular attention to **its institutional and structural forms or manifestations**, and critically assesses the roles of national and EU institutions and their responsibilities:

The antigypsyism concept addresses the historical role, responsibility and traditional posture taken by state institutions and the effects of widespread prejudices and stereotypes in society about Roma communities. The concept shows how state institutions and actors often play a direct or indirect role in co-producing and reproducing discrimination towards Roma and entrenching antigypsyism attitudes and stereotyping in the framing of laws and policies, as well as in their practical implementation and outputs. The latter often pose challenges to fundamental rights, EU citizenship and freedom of movement for Roma EU nationals, all of which lie at the foundations of the EU legal system in the Treaties.⁸

Eight years after the EU Framework for NRIS, there is an increasing consensus among EU level institutions, including the European Parliament and European Commission, that **antigypsyism is the most important barrier for Roma community empowerment and inclusion**. The European Parliament was among the first to mention the need to tackle antigypsyism in its resolution on the occasion of International Roma Day in 2015.⁹ It was soon followed by the European Commission¹⁰ and the Slovak Presidency of the Council of the EU.¹¹

Recently, the notion of institutional antigypsyism and its relation to fundamental rights were highlighted by the European Parliament, that passed a resolution in 2017 aiming to fight antigypsyism across the EU and calling for a **Truth and Reconciliation Commission to be set up in order to address 'historically rooted' forms of antigypsyism**, among other measures.¹² The High Level Group on Combatting Racism, Xenophobia and other forms of intolerance, formed by the European Commission, Member States and EU and international organisations, has also highlighted the importance of recognising and tackling various manifestations of antigypsyism, including measures targeting majority society and the attitudes and bias of various public officials, increasing monitoring of fundamental rights compliance, and tackling reasons of underreporting of hate crimes and discrimination.¹³ The emerging consensus raises hopes for the scaling up of post-2020 EU National Roma Inclusion strategies in a way that puts combatting antigypsyism at the heart of them.

- **The challenges and lessons learnt**

The study highlights that the EU Framework for **NRIS was not designed nor properly equipped to address antigypsyism** and in particular, its institutionalised and systematic forms. Civil society has additionally argued that EU policies are inverting cause and effect as “antigypsyism is not the result of poor living conditions many Roma have to live in” and that the socio-economic approach does not capture deeper rooted public perceptions replicated by state institutions.¹⁴

⁷ Alliance against Antigypsyism (2016) Antigypsyism – a reference paper, p. 3. (see: http://antigypsyism.eu/?page_id=17).

⁸ Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May, p.1.

⁹ European Parliament (2015), Resolution of 15 April 2015 on the occasion of International Roma Day – anti-Gypsyism in Europe and EU recognition of the Memorial Day of the Roma genocide during World War II (2015/2615(RSP)), Brussels

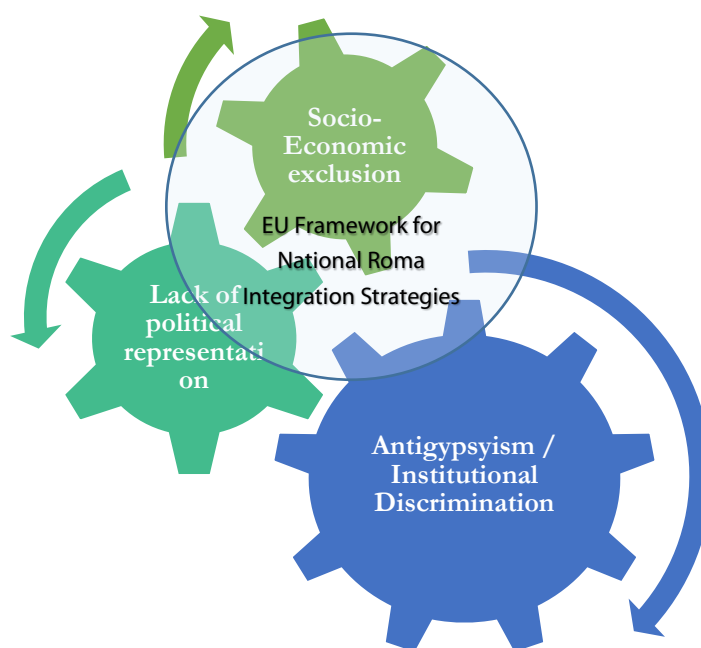
¹⁰ European Commission (2015) Report on the implementation of the EU Framework for National Roma Integration Strategies 2015, COM(2015) 299 final, Brussels, 17 June.

¹¹ Slovak Presidency of the Council of the EU (2016), Accelerating the Process of Roma Integration - Draft Council Conclusions, 14294/16, Brussels, 18 November.

¹² European Parliament (2017) Resolution of 25 October 2017 on fundamental rights aspects in Roma integration in the EU: fighting Antigypsyism Strasbourg, 25 October.

¹³ EU High Level Group on combating racism, xenophobia and other forms of intolerance (2018 a) Conclusions paper on Antigypsyism increasing its recognition to better understand and address its manifestations.

¹⁴ Alliance against Antigypsyism (2016) Antigypsyism – a reference paper, p. 3.

Figure 1: The key barriers to Roma empowerment/inclusion and scope of EU National Roma Integration Strategies

Source: Authors, 2018.

The second element initially overlooked by the EU Framework for NRIS were the barriers towards **political representation and electoral participation of Roma communities**, which are one of the most under-represented groups across the EU. In this area, Roma civil society organisations have been actively advocating for their rights across EU Member States and at the EU level. NGOs constitute a unique forum for a non-electoral form of participation by the community. The EU NRIS Framework has created certain fora at the EU and National level, known as 'Roma Platforms' which demonstrate a potential for ensuring representativeness and ownership of public policy and justice initiatives.

The challenges of the EU Framework stem mainly from two dimensions: First, the process of adopting the EU Framework; and second, its design. First of all, limited Roma participation, in their design, implementation and monitoring, translates into a **lack of 'Roma ownership' of the NRIS**. For example, the lack of Roma actors and organisations in the monitoring process leads to unclear allocation of financial resources. The EU Framework has failed to address antigypsyism and more particularly, its institutional forms.

The overall results of the EU Framework for NRIS by 2016 have remained limited. Three major large-scale surveys conducted by the EU's Fundamental Rights Agency (FRA) between 2008 and 2016 – EU MIDIS I, 2008; Roma survey, 2012 and EU-MIDIS II, 2016 – confirm that levels of Roma discrimination in different areas of life remain worryingly high across the EU. This study calls for the post-2020 period to tackle barriers such as antigypsyism discrimination and the lack of Roma political participation. Post- 2020 strategies should foster more effective and non-discriminatory socio-economic inclusion of Roma communities as a matter of Rule of Law, Democracy and Fundamental Rights. In many EU Member States, ensuring non-discrimination and equal access to a comparable standard of living in key areas, such as education, employment, housing and health still remains the goal to be met, as well as combatting hate crime.

The key question that remains unaddressed by current EU policies on Roma Communities is the following: **What are the conditions for Roma inclusion and participation in the EU?** This study provides evidence and argues that they are intrinsically linked to the need to uphold and deliver *a fundamental right to truth and justice* for past and current human rights violations of Roma Communities by state governments and authorities in the Union.

The right to know the truth is a pre-condition for justice and public and democratic accountability and awareness. This right does not only apply to Roma individuals and their families, but also "to other victims of

similar violations and the general public", who have the right to know what has happened. It is argued that "scaling up the inclusion of Roma communities" requires bringing to light past injustices towards Roma in Europe – to know what and how it happened, and a deeper inquiry into and analysis of historical and current institutionalised forms of racism and discrimination towards the Roma and violations of their human rights, which would open the way for justice and reparation.

The FRA MIDIS survey indicates **overall very high poverty and unemployment rates in Roma communities**. This data shows the lack of implementation and practical impact of EU instruments – particularly the 2013 Council Recommendations on effective Roma integration measures in the Member States and the Racial Equality Directive 2000/43/EC. Systemic discrimination towards Roma in other areas of life is still not showing signs of improvement; compulsory enrolment in school only rose by six points,¹⁵ classrooms composed only of Roma children are on the rise¹⁶ and the gender gap at school remains stable.¹⁷ Earlier research also found that there is little EU financial support can do if national or local officials are unwilling to spend EU funding allocated to Roma inclusion projects or if they are openly engaging in hate speech, xenophobia or exclusion of minorities.¹⁸ Also, little has been done at the EU level regarding forced evictions, expulsions and profiling of Roma EU citizens and Roma nationals, who have often been reframed as 'foreigners', despite their actual administrative and citizenship status, and all of whom are beneficiaries of the EU Charter of Fundamental Rights.¹⁹

EU policies and related funding schemes may therefore not serve their envisaged purpose precisely because of the existence or perpetuation of institutional racism at national, regional and local governance levels. That notwithstanding, this study confirms that **more EU efforts and common action are needed, with a more targeted and better equipped legal and policy toolbox**, to ensure regular and more systematic EU monitoring of compliance with the rule of law and fundamental rights by national, regional and local authorities across the EU in providing equal treatment of Roma communities.

This is supported by the findings of the EU's supervisory institutions, such as the recent special report by the European Court of Auditors (ECA) on EU policy initiatives and financial support for Roma integration, which confirmed that current funding schemes addressing socio-economic challenges of **Roma communities lack a targeted focus on antigypsyism as a specific phenomenon**.²⁰ In the same vein, an earlier own-initiative inquiry by the European Ombudsman (EO) on how the European Cohesion Funds are managed raised similar concerns about the need to find ways to better ensure the compliance of Member State national projects funded by EU Cohesion funds with the fundamental rights of Roma communities.²¹

This is in fact good news for EU policy makers: effective policies towards the Roma do not actually require more funding, but **more and smarter investment strategies**. This follows the key finding of a previous CEPS study on antigypsyism that "the largest funds are designed to fund a Roma integration/inclusion approach via key European Structural Investment Funds (ESIF), namely the European Social Fund (ESF) and European Regional Development Fund (ERDF)."²² Therefore, **more opportunities for civil society to obtain direct (non-government mediated) funding** could be opened within the new MFF period via the EU Values Instrument, Rights and Justice Fund, Strategic Litigation Fund and also under funding allocated to the NRIS implementation.

This study confirms that the NRIS arrived in a specific societal and public policy context. It shows how the EU Framework for NRIS, designed as a 'one size fits all', has missed the complexity on the ground. And although this

¹⁵ FRA (2016), MIDIS II, p.26

¹⁶ Ibid, p.31

¹⁷ Ibid, p.27

¹⁸ Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May.

¹⁹ Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May, p. 2.

²⁰ European Court of Auditors (2016) Special Report No. 14/2016 (see: www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf).

²¹ European Ombudsman (2015) Decision of the European Ombudsman closing her own-initiative inquiry OI/8/2014/AN concerning the European Commission, May 2015 (see: <https://www.ombudsman.europa.eu/en/decision/en/59836>).

²² Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May.

was later partly addressed by **country specific recommendations** during the European Semester of Economic Governance, they only targeted broader socio-economic issues in a limited way. This study also draws on the mid-term review of the EU Roma Framework which was completed in 2017²³ and the on-going Commission REFIT exercise in 2018.²⁴ It offers an opportunity for European institutions, national governments, and civil society to design a post-2020 EU Framework for NRIS, ensures meaningful Roma integration via the following five-pillar approach (see Figure 2).

Figure 2: The building blocks towards scaling up post-2020 National Roma Integration Strategies



Source: Authors, 2018.

- **Potentials for scaling-up**

The study proposes to scale up the current Framework by changing the approach and introducing three new pillars to address the Rule of Law, Truth and Reconciliation as well as to promote Roma political participation.

- **Rule of Law**

The Rule of Law, Democracy and Fundamental Rights are core elements of EU founding values. Their triangular and inter-connected relationship needs to be preserved, at all times, when certain governments, parties or politicians aim to dismantle domestic checks and balances and target minority rights.²⁵ Often at the cost of the rights and freedoms of national minorities, migrants and persons of different skin colour.²⁶ However, the 'Copenhagen dilemma' remains unresolved.²⁷ After a Member State has joined the Union, the EU does not have comprehensive tools to monitor and safeguard the rights of minorities across the Union.

²³ European Commission (2017) Midterm review of the EU framework for national Roma integration strategies, COM(2017) 458 final, Brussels, 30 August.

²⁴ European Commission (2017) Evaluation and Fitness Check (FC) Roadmap: Evaluation of the EU Framework for National Roma Integration Strategies up to 2020.

²⁵ UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2018) Thematic Report on Racial discrimination in the context of in the context of laws, policies and practices concerning citizenship, nationality and immigration, 25 April. (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/117/79/PDF/G1811779.pdf?OpenElement>).

²⁶ UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2018) Thematic Report on Racial discrimination in the context of in the context of laws, policies and practices concerning citizenship, nationality and immigration, 25 April 2018. (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/117/79/PDF/G1811779.pdf?OpenElement>).

²⁷ European Commission (2013) Safeguarding the rule of law and solving the "Copenhagen dilemma": Towards a new EU-mechanism) Speech of Viviane Reding, Vice-President of the European Commission, EU Justice Commissioner at General Affairs Council, Luxembourg, 22 April. http://europa.eu/rapid/press-release_SPEECH-13-348_en.htm.

The previous CEPS study concluded that the EU needs to elaborate its own Rule of Law mechanism that **could capture and prevent or remedy institutional forms of discrimination**, as for example, high-level politicians spreading hate-speech towards Roma and other ethnic, linguistic and religious minorities, or the misuse of EU funds allocated for Roma integration.²⁸ EU Member State practices violating the founding values enshrined in the Article 2 of TEU, including institutional forms of antigypsyism could be comprehensively addressed in a way which demonstrates EU added value and avoids duplication with other existing international and regional monitoring systems.

In 2016, the European Parliament called on the European Commission to establish a new EU Rule of Law mechanism, which would aim at ensuring permanent monitoring and **a comparable rule of law, democracy and fundamental standards across the EU** while taking into account the specificities of the EU legal system.²⁹ This proposal has so far not been followed up on by the European Commission.³⁰ However, the European Parliament has reiterated the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights and further developed the proposal.³¹

In the current context of 'Rule of Law back-sliding' in Poland, Hungary and other Member States, as well as radical right populism rising and targeting migrants and ethnic minorities alike, reflections on the need for independent Rule of Law-based monitoring are gaining momentum. For example, the European Commission has proposed Rule of Law conditionality for the new Multi-Annual Financial Framework (MFF) for the purpose of sound financial management.³² The European Parliament has also made a proposal for **the European Values Instrument** so as to enable civil society to uphold EU values.³³

The 2019 European Commission Work Programme³⁴ identified **"an area of justice and fundamental rights based on mutual trust"** as one of the themes where new initiatives would be presented before the European Parliament elections in May 2019. It announced that the Commission intended to "present an initiative with a view to further strengthening the 2014 rule of law framework" This proposal is pending at the time of writing.

- **Truth and Reconciliation**

In light of the EU's commitment to advance the Rule of Law, Democracy and Fundamental Rights, there is a need to place the current socio-economic situation of Roma not only in a current political context, but also **in a broader historical perspective**. This study confirms that 'historically and institutionally- rooted' injustices perpetrated by national and local authorities against Roma could be redressed by transitional justice-like tools that aim at bringing to light past injustices, to build a common narrative and facilitate mutual trust among Roma and non-Roma. Such an approach should include three aspects:

- **Right to know the truth** about what has happened to Roma communities across the EU;
- **Right to justice** – processes where the victims would be heard and justice would be established;
- **Right to reparations** – either individual redress for survivors or moral compensation to communities for past injustices.

The 'lessons learnt' from Truth and Reconciliation Commissions (TRCs) in Australia, Canada, South Africa as well as Sweden and Romania indicate a number of potential upsides as well as challenges, which will help in deciding

²⁸ Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) "Towards a Comprehensive EU Protection System for Minorities." Study for the European Parliament LIBE Committee, August.

²⁹ European Parliament resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (2015/2254(INL)).

³⁰ Bárd, P., Carrera, S. 2017. "The Commission's Decision on 'Less EU' in Safeguarding the Rule of Law: A play in four acts. CEPS Policy Insights, No. 2017/08, March 2017.

³¹ European Parliament (2018) Resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights (2018/2886(RSP)), Strasbourg, 14 November.

³² European Commission (2018) Fact-sheet "The EU Budget For Future: Sound Financial Management and the Rule of Law", Brussels, 5 of May. https://ec.europa.eu/commission/sites/beta-political/files/budget-proposals-financial-management-rule-law-may2018_en.pdf.

³³ European Parliament, Resolution on the need to establish European Values Instrument to support civil society organisations which promote fundamental values within the European Union on local and national level (2018/2619(RSP)), Brussels, 2018.

³⁴ European Commission (2018), Commission Work Programme 2019: Delivering what we promised and preparing for the future, COM(2018) 800 final, 23.10.2018, Strasbourg.

the options for the EU. Despite various degrees of impact, **TRCs have been decisive in building a common narrative and public awareness**, as well as providing a detailed historical record of past wrongdoings and systemic human rights abuses. Some have also paved the ground for further investigations and reparations to victims and their families.

While ‘knowledge transfer’ among TRCs has taken place internationally, it has been commonly acknowledged that ‘standardised toolkits’ or ‘models’ must be contextualised and tailored to the specificities of the issues and communities covered. **The most important factors for facilitating their success in the EU context** would be: first, to ensure their independence and impartiality; second, to guarantee representativeness and ownership among Roma and pro-Roma organisations; third, to grant them the necessary length of time; fourth, to enjoy sufficient public support and/or willingness of government; fifth, provide a deeper analysis and independent research of historical, societal and political factors and developments, and how have these developed in the context of European Union integration; and sixth, to devise strong follow-up measures and instruments.

The following set of options for potential EU-level intervention were identified during the Strategic Visioning Exercise with advisory board members and also discussed with civil society representatives (see further discussion in Chapter 5 of this Report):

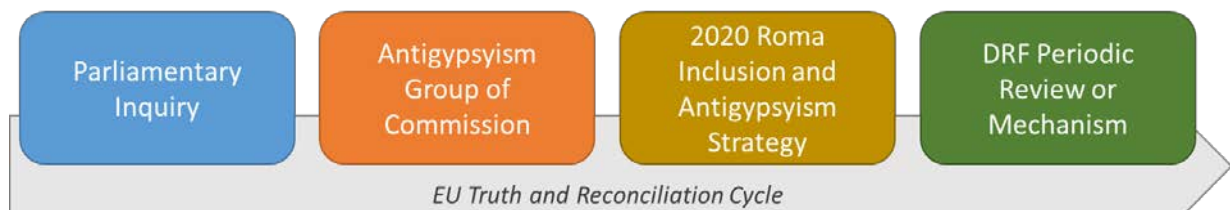
- | | |
|-----------------|---|
| Option 1 | European Parliament inquiry on antigypsyism |
| Option 2 | European Commission convoking a High Level Working Group of Experts or ‘Commission’ on antigypsyism |
| Option 3 | European Economic and Social Committee inquiry into antigypsyism (permanent study group) |
| Option 4 | Member State driven process (of ‘willing Member States’) with financial and institutional support from the EU |

Source: Authors, 2018.

These options are not mutually exclusive and could be implemented in parallel or in sequence, as shown in the Figure 3 below. Roma and pro-Roma civil society organisations have exhibited consensus regarding the recognition and remembrance or the right to know the truth about past injustices as well as Roma contributions to European culture, arts and society.

The recognition and remembrance aspect could be an exercise that could be scaled up at EU level, for example through a European Parliament inquiry into this question. Nevertheless, civil society was split over the balance between the potential upsides and risks entailed by aiming for a fully-fledged TRC. The view emerged that EU Member States where Roma civil society and governments are ready to start a Truth and Reconciliation process should go ahead, while the rest could learn from the exercise and engage in preparatory work, also with the help of EU funding and existing structures. See in addition the summaries of the Strategic Visioning Exercise and focus group discussion with civil society included with this study (Annex 1 and Annex 2).

Figure 3: EU Truth and Reconciliation Cycle



Source: Authors, 2018.

- **Roma participation as a condition for tackling antigypsyism**

Political participation and the right to participate in the political life of a country is not only a very important component of active citizenship, but also essential for enabling Roma civil societies to tackle antigypsyism and

to build capacity and ownership of transitional justice-like tools aiming at building mutual trust. Particularly for minority communities, such as the Roma, **ensuring effective and equal access to participation in political and public life is an essential stepping stone towards trust state institutions.** The latter are responsible for ensuring the enjoyment of equal rights and prevention of discrimination, as well as developing effective policies to address antigypsyism and its consequences such as poor living conditions.³⁵ Roma communities in Europe, contrary to common belief, are not apolitical and do participate in national elections, even showing similar levels of participation in the political sphere as non-Roma citizens in certain Member States. There is a clear will from the Roma community to participate more in the political life of their country and take a more active role in decision-making at national and European levels.³⁶

Political participation has risen in the past in both formal political fora and civil society participation, including protests and demonstrations.³⁷ As shown in the survey run by FRA in 2011, more than 70 % of Roma respondents from Bulgaria, Greece, Slovakia and Hungary, and over 80 % in Romania stated that they voted in previous elections. However, the data for western MS shows much lower levels of participation, with for instance only 9 % having voted in the latest French national election.

Notwithstanding increased participation, existing research has shown that the **continued underrepresentation and exclusion of the Roma in EU political and public life is also partly due to antigypsyism.**³⁸ Despite noticeable improvements in Roma political participation in OSCE participating States, “the progress achieved does not allow Roma and Sinti to exert a level of political influence that is proportional to their estimated numbers”.³⁹ Similarly, effective participation of the Roma in political decision-making is essential, as otherwise “other minority rights and the prevention of discrimination of minorities cannot be effectively ensured”.⁴⁰

³⁵ See F. Bieber (2008), “Introduction”, in: FES, *Political Parties and Minority Participation*, Skopje: Friedrich Ebert Stiftung – Office Macedonia, p. 5.

³⁶ See K. Koutouki and D. Farget (2012), “Contemporary Regulation of Public Policy Participation of the Saami and Roma: A Truncated Process”, *International Journal on Minority and Group Rights*, Vol. 19, No. 4, p. 434.

³⁷ See P. Vermeersch (2017), “Romani Mobilization and Participation: Obstacles and Opportunities”, in: J. Bhabha, A. Mirga and M. Matache (eds.), *Realizing Roma Rights*, Philadelphia, PA: University of Pennsylvania Press, pp. 200-201.

³⁸ See OSF (2013), op. cit.; I. Rostas (2014), “Roma and Sinti political participation: Opportunities and risks of local-level engagement”, Background Paper for OSCE/ODIHR Expert Meeting in Warsaw on 28 November 2014, in: ODIHR (2016), Summary Report of the Expert Meeting in Warsaw on 28 November 2014, Warsaw, OSCE, January, p. 22.

³⁹ Rostas (2014), op. cit., p. 22.

⁴⁰ Bieber (2008), op. cit., p. 6.

INTRODUCTION

The Roma community is defined as Europe's largest ethnic minority, with an estimated **10-12 million Roma living in Europe**, including around **6 million in the European Union**.⁴¹ For the purpose of this study, the term 'Roma' is defined in accordance with the European Commission's definition of "Roma" as an umbrella word which includes groups of people who have broadly similar cultural characteristics, such as Sinti, Travellers, Kalé, Gens du voyage, Tziganes, etc. whether sedentary or not.⁴² The authors consider that the current definition represents a challenge for the policy design of the EU Framework as detailed later in the study.

The EU Framework for National Roma Integration Strategies (NRIS) was developed as the European Commission's main response to the **controversial evictions and expulsions by France and Italy of mobile EU Roma citizens from Bulgaria and Romania in 2010**. Civil society organisations advocated the adoption of Roma inclusion strategies at EU and national levels.⁴³ Many Roma self-representatives, other civil society actors and national governments welcomed the new framework although others have remained critical towards the soft-law approach since its inception.⁴⁴ Academia has also remained critical about shifting the responsibility of structural discrimination mechanisms onto Roma persons themselves for their non-integration.⁴⁵

Subsequent reports elaborating on the challenges of the EU Framework for National Roma Integration Strategies have also confirmed that the very premise of **addressing the situation of Roma as an 'integration' issue and not a rule of law** or institutional and structural discrimination and human rights issue have resulted in policies not suited to addressing the root causes of antigypsyism.⁴⁶ In its special report on the efficiency and effectiveness of funding allocated to Roma, the European Court of Auditors has come to the similar conclusion that although some advancements have been made, the major barrier for EU funding to be used or to reach intended goals is historically rooted antigypsyism.⁴⁷

This study further highlights that the EU Framework and the national strategies for Roma integration have brought important changes in ensuring **'more EU' in the coordination of national Roma policies**, creating new institutional structures at EU and national levels as well as Roma platforms at EU and national level. It builds on the previous research and reports assessing the EU NRIS that were requested by the European Parliament⁴⁸ and other organisations.⁴⁹ Many challenges for the EU NRIS have been identified, namely the lack of focus on addressing the historically rooted and institutionalised forms of antigypsyism. This study takes stock of lessons learnt and proposes how to scale up the impact of EU level policies on Roma inclusion in the future, taking into account the EU's role in ensuring the rule of law, fundamental rights and democracy. The recent EP resolution has been calling for the need for trust to be built between Roma and non-Roma by setting up an EU Truth and Reconciliation Commission in order to overcome past injustices.⁵⁰ This study proposes that strong Roma civil

⁴¹ European Union Agency for Fundamental Rights (FRA), "Roma", Website of the, <http://fra.europa.eu/en/theme/roma>.

⁴² See European Commission (2011), "An EU Framework for National Roma Integration Strategies up to 2020", Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2011) 173 final, Brussels, 5.4.2011, ft. 1.

⁴³ As, for example, during the first EU Roma Summit organised by the European Commission in 2008 (see <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=105>).

⁴⁴ European Roma Policy Coalition (2011) "EU Roma Framework weak on discrimination against Roma", ERPC Statement, 5 April (see: http://www.errc.org/uploads/upload_en/file/erpc-euframework-reaction-05042011.pdf)

⁴⁵ Carrera, S. (2013) "Shifting Responsibilities for EU Roma Citizens: The 2010 French affair on Roma evictions and expulsions continued", Brussels: CEPS.

⁴⁶ See for example: Carrera S., I. Rostas and L. Vosyliute (2017) *Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States*. CEPS: Brussels, May; Mirga-Kruszelnicka A., and S. Skenderi (2017) "Revisiting the EU Roma Framework: Assessing the European Dimension for the Post-2020 Future", OSEPI: Brussels, March.

⁴⁷ European Court of Auditors (2016) Special Report No. 14/2016 (www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf).

⁴⁸ Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) "Towards a Comprehensive EU Protection System for Minorities." Study for the European Parliament LIBE Committee, August; Bartlett, W., Gordon, C., & Kamphuis, B. (2015) "Evaluation of the EU Framework for National Roma Integration Strategies" Study for the European Parliament LIBE Committee.

⁴⁹ See for example: Carrera S., I. Rostas and L. Vosyliute (2017) *Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States*. CEPS: Brussels, May; Mirga-Kruszelnicka A., and S. Skenderi (2017) "Revisiting the EU Roma Framework: Assessing the European Dimension for the Post-2020 Future", OSEPI: Brussels, March.

⁵⁰ European Parliament (2017) Resolution of 25 October 2017 on fundamental rights aspects in Roma integration in the EU: fighting antigypsyism Strasbourg, 25 October.

society should be at the heart of all these processes and therefore is a crucial condition for both fighting institutional forms of antigypsyism via rule of law measures and building trust via transitional justice-like tools that dig out these 'historically rooted' manifestations of antigypsyism from public opinion in the EU Member States.

This study uses the newer notion and thus spelling of 'antigypsyism' (as newer version of 'anti-Gypsyism'). Both notions are correct and co-existing in academia and policy debate and refer to the same phenomenon although nuances may differ. 'Anti-Gypsyism' is the initial notion that has been introduced in 2011 by the Council of Europe, European Commission against Racism and Intolerance (ECRI) General Recommendation No. 13.⁵¹ In 2016, the Alliance against Antigypsyism uniting Roma and with Roma working organisations in the EU expanded the meaning and therefore also proposed the new way of spelling 'antigypsyism'.⁵² In 2018, the new notion has been accepted by the Commission's EU High Level Group on combating racism, xenophobia and other forms of intolerance⁵³. In the light of this acceptance by the Commission, this study uses this newer and expanded notion.

Aim

This study aims to examine the lessons learnt from the design and implementation of Roma National Framework Strategies up to 2020. The study suggests **how to advance and upscale Roma rights** via the EU legal framework, policy tools and funding in post-2020 strategy. It seeks to draw on the analysis and sound evidence from the case studies of seven selected Member States, and to consult national stakeholders, including civil society and policymakers in the development of a more rigorous post-2020 Framework for National Antigypsyism and Roma Inclusion strategies that would remedy the current deficits – namely the lack of understanding and tools to address institutional forms of antigypsyism and cultural, political and socio-economic exclusion of Roma both at the EU and national levels.

When it comes to **addressing antigypsyism effectively**, this study will identify lessons learnt and 'promising experience and practices' in a selection of EU Member States from the perspective of their compliance with and promotion of existing international, regional and EU rule of law principles and fundamental human rights standards. The study builds upon **Truth and Reconciliation efforts in Sweden, South Africa and Canada**, and identify their building blocks or promising components that should be taken into account when reflecting on similar transnational justice processes for addressing antigypsyism in the EU, as was proposed by the European Parliament.⁵⁴ The specific objectives are as follows:

1. To embed the EU framework for NRIS better into the EU's Rule of Law Framework so as to comply with regional and international standards.

The EU legal framework is based on the provisions in the Treaty on European Union, the European Charter of Fundamental Rights, and EU secondary law and policy on non-discrimination and minority protection (namely, Equality directives⁵⁵ and the EU Council Decision on combating racism and xenophobia).⁵⁶ The EU legal

⁵¹ CoE, European Commission against Racism and Intolerance (2011) ECRI General Policy Recommendation No. 13 on Combating Anti-Gypsyism and Discrimination against Roma, adopted on 24 June, Council of Europe, Strasbourg.

⁵² Alliance against Antigypsyism (2016) Antigypsyism – a reference paper, (see: http://antigypsyism.eu/?page_id=17).

⁵³ EU High Level Group on combating racism, xenophobia and other forms of intolerance (2018) Conclusions paper on Antigypsyism increasing its recognition to better understand and address its manifestations. DG Justice and Consumers, Brussels, November, (see: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=51025).

⁵⁴ European Parliament (2017) Resolution of 25 October 2017 on fundamental rights aspects in Roma integration in the EU: fighting antigypsyism Strasbourg, 25 October.

⁵⁵ Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services; and the Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

⁵⁶ Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, OJ L 328 of 6.12.2008.

framework provides for a number of tools to protect and uphold regionally and internationally recognised standards, yet important gaps remain to be further explored and developed, particularly as regards its synergies and inconsistencies with the latter.

To this, the EU legal system has added its own specific tools or layer of protection, chiefly embodied in the EU Charter of Fundamental Rights and a set of secondary legislation instruments on non-discrimination and combatting racism and xenophobia. When implementing EU law, and part of their broader activities as Members of the EU complying with Article 2 TEU values, EU Member States must comply with these standards too.⁵⁷

2. To address the challenges and knowledge gaps when it comes to their practical meaning and domestic implementation.

These relate for instance to ‘what’ is precisely protected and ‘who’ is protected (definitions of traditional/national Roma, or new minorities – such as Roma EU citizens living in another Member State and Roma Third Country nationals), and their daily compliance by relevant states’ actors on the ground. These gaps may become significant challenges for states with a poor record on democratic rule of law and fundamental human rights performance.

3. To propose innovative solutions to go beyond the status quo.

This study suggests an innovative approach by addressing historically rooted forms of antigypsyism via the transitional justice and rule of law mechanisms that aim to build a common narrative on the past injustices perpetrated against the Roma, and also by acknowledging the crucial Roma contributions to the European economy, culture and arts.

Research questions and structure

The study will address the following research questions:

1. What have been the main achievements and challenges of the EU policies targeting the Roma minority across the EU?

Chapter 1 provides the broader overview of the EU policies in the area of Roma. The overview highlights the main developments and their impact as shown in statistical outcomes. The chapter briefly elaborates on the **key gaps and barriers**.

2. What is NRIS compliance with the established EU rules?

Chapter 2 assesses the **compliance of all EU Member States’ NRIS with the EC Communication on the Framework for National Roma Integration Strategies**; the European Council Recommendation on effective Roma integration measures; the Country Specific Recommendations (CSRs) within the European Semester; and with EU anti-discrimination and anti-racism and xenophobia legislation, as well as relevant case-law of the ECtHR that has set important anti-discrimination legal standards, especially in the area of education and housing.

3. What are the challenges and achievements emerging from NRIS implementation in the seven EU Member States?

Chapter 3 draws on the experience of **NRIS implementation in substantive policy areas** (education, housing, health care and employment) in seven EU Member States after 2015. In addition, elaboration is also provided on the country specific factors and on how pre-existing national legislation affects the implementation of the NRIS goals. For example, in Bulgaria, the Spatial Planning Act that is currently in force blocks the legalisation of Roma housing, which is one of the goals of the NRIS in the area of housing.

⁵⁷ Arnall, A. (2006) *The European Union and its Court of Justice*, Oxford: Oxford European Union Law Library, pp. 364 – 366.

4. How can implementation of the NRIS be upscaled and enhanced post-2020?

Chapter 4 explores two issues:

- how the Framework for Roma Inclusion could attach **specific responsibility to EU institutions** together with national governments via the **EU's rule of law mechanism**;
- **what can be learnt from the Truth and Reconciliation Processes** and Commissions in South Africa, Canada and Australia, and also from the antigypsyism Commissions on in Sweden and Romania, and how possible it is to reframe the approach to Roma integration by shifting the focus from social inclusion to the protection of human rights via establishment of a Truth and Reconciliation Commission at the EU level.

Chapter 5 elaborates on the key conclusions and provides **evidence-based recommendations** for EU policymakers on how to address the recurrent barriers of antigypsyism and institutional discrimination and how to scale up the EU Framework in the new period after 2020. A number of promising practices in the area of fighting antigypsyism and upholding the rights of Roma minorities across the EU have been identified in previous CEPS studies on antigypsyism and on a comprehensive protection system for minorities.⁵⁸ The proposed study would take a stock of what could be enabled as EU-level solutions as opposed to Member States cherry-picking and implementing some of the 'promising practices'.

Scope

- **Geographical coverage of NRIS implementation**

This study covers the **seven Member States** that were outlined in the terms of reference, namely – Bulgaria, France, Hungary, Italy, Romania, Slovak Republic and Spain. These Member States were selected due to the fact that the Roma community constitutes a sizable proportion of their total population.⁵⁹ As estimates from the Council of Europe show, the Roma population in the seven selected Member States either represents a significant percentage of the total population (Bulgaria – 9.94 %; Slovakia – 9.02 %; Romania – 8.63 %, Hungary – 7.49 %) or constitutes a significant number in absolute numbers (Spain – 750,000; France – 400,000; Italy – 150,000).⁶⁰ See table below.

Table 1: Estimates of Roma population in selected seven EU Member States

Country	Total population (World Bank 2010)	Minimum estimate	Maximum estimate	Average estimate (CoE used figure)	Average estimate as a % of total population
Bulgaria	7 543 325	700 000	800 000	750 000	9.94 %
France	64 876 618	300 000	500 000	400 000	0.62 %
Hungary	10 008 703	500 000	1 000 000	750 000	7.49 %
Italy	60 483 521	120 000	180 000	150 000	0.25 %
Romania	21 442 012	1 200 000	2 500 000	1 850 000	8.63 %

⁵⁸ Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) "Towards a Comprehensive EU Protection System for Minorities." Study for the European Parliament LIBE Committee, August; Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May

⁵⁹ Open Society Foundations (OSF) (2013) "Why Roma Political Participation Matters", *Open Society Foundations Explainer*, OSF, September, <https://www.opensocietyfoundations.org/explainers/why-roma-political-participation-matters>.

⁶⁰ Council of Europe (CoE) (2012) "Estimates on Roma Population in European countries", Document prepared by the Support Team of the Special Representative of the Secretary General of the Council of Europe for Roma Issues, Council of Europe, July, <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?docu mentid=0900001680088ea9>.

Slovak Republic	5 433 456	380 000	600 000	490 000	9.02 %
Spain	46 081 574	500 000	1 000 000	750 000	1.63 %

Source: CoE (2012), “Estimates on Roma Population in European countries”, Document prepared by the Support Team of the Special Representative of the Secretary General of the Council of Europe for Roma Issues, Council of Europe, July.

A team of national experts was contracted to conduct interviews with national policymakers, national equality bodies and Roma and non-Roma civil society (see Annex 3). On the basis of interviews and additional desk research, country notes were drafted and these are incorporated in Chapter 3.

- **Thematic coverage**

The following table lists the relevant conventions to which the seven Member States are party.

Table 2: Member States Parties to relevant international and regional conventions/mechanisms

Country	Schengen Acquis & Schengen Area	European Charter for Regional and Minority Languages	Framework Convention for the Protection of Minorities	ICCPR, First optional protocol (individual complaints)	ICESCR, Optional Protocol (individual complaints)	ICERD, Article 14 (individual complaints)
Bulgaria	Partly**	No	Yes	Yes	No	Yes
France	Yes	No*	No	Yes	Yes	Yes
Hungary	Yes	Yes	Yes	Yes	No	Yes
Italy	Yes	No*	Yes	Yes	Yes	Yes
Romania	Partly**	Yes	Yes	Yes	No	Yes
Slovakia	Yes	Yes	Yes	Yes	Yes	Yes
Spain	Yes	Yes	Yes	Yes	Yes	Yes

Key:

* - only signed, not ratified;

** - part of Schengen Acquis, internal borders apply.

Source: Authors: Based on official data.⁶¹

Chapter 3 consists of an in-depth assessment of implementation and follow up of the EU Framework for NRIS in seven national case studies. All of these national case studies take into consideration the inherent diversities within the Roma group. The **national experts** used a robust methodology consisting of desk research and historical, legal and policy analysis. Each country case study contains a brief country background to show where EU policies arrived in a country-specific context. The assessment of implementation of the EU Framework for National Roma Integration Strategies in seven selected Member States entails examination of the:

⁶¹ See: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/signatures?p_auth=ibCY0AMt; <http://www.coe.int/en/web/minorities/etats-partie>; <http://indicators.ohchr.org/>; http://www.osce.org/h_cnm/4_2060?download=true; <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/signatures>;

1. **Historical overview;**
2. **Socio-economic situation of Roma;**
3. **Fundamental rights and rule of law challenges.**

The anonymised list of interviews carried out is available in Annex 3.

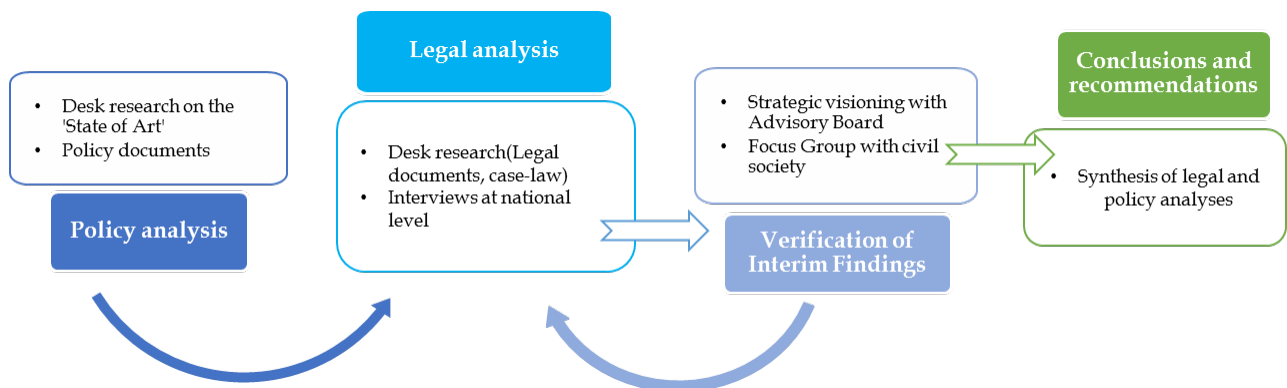
- **Case studies on potential EU level Truth and Reconciliation Commission on antigypsyism linking to the EU rule of law mechanism:**

1. The idea for an EU level Truth and Reconciliation Commission (TRC) follows the European Parliament resolution. This should be seen as a broader process closely linked with the EU rule of law mechanism.
2. The lessons from the Swedish Commission on Antiziganism, and from the Truth and Reconciliation Processes in South Africa, Canada and Australia (pending), will be elaborated via a strategic visioning method with distinguished members of the Advisory Board and via a focus group discussion with Roma and pro-Roma civil society representatives.
3. National case studies also contain analysis of the views of civil society and policymakers on the feasibility of such a TRC proposed by the European Parliament,⁶² at national and EU level. They identify some of the crucial challenges and lessons learnt from various national historical remembrance and transitional justice processes.

Methodology

In order to meet the research objectives and to produce the requested analysis, this study adopts a **multidisciplinary methodology**. It combines policy and legal analyses, and incorporates online-surveys and interactive methods that engage legal practitioners to verify the interim findings and to discuss the feasibility and added value of the proposed policy options (see figure below).

Figure 4: Sequence of the proposed research methods



Source: Authors.

The research is built on the existing **'state of the art'** in this area of the European, regional and international legal standards, actors and mechanisms in non-discrimination and Roma rights protection. It draws upon a wide range of legal sources, some of which are mapped in Table 1. The EU legal framework will be analysed in light of the EU Treaties, the EU Charter and related EU secondary law. In addition, the research will extract insights from policy papers, such as from Parliament resolutions and reports.

The methods for this study include:

- **Legal analysis**

A solid legal analysis is at the core of this study and is two-fold:

⁶² European Parliament (2017) Resolution of 25 October 2017 on fundamental rights aspects in Roma integration in the EU: fighting antigypsyism, Strasbourg, 25 October.

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- Analysis of the EU Framework for National Roma Integration Strategies – in light of European and international minority rights standards in the areas of education, housing, health, and employment and anti-discrimination;
 - Analysis of Member State compliance. Member States are assessed against the standards identified above.

Two data collection methods are used for the legal analysis – desk research and state of the art analysis of primary and secondary sources.

- **Policy analysis**

The policy analysis complements the legal analysis by defining the background and rationale behind the EU's approach on Roma. Policy analysis will be based on the state of the art of primary and secondary sources, and interviews conducted at national level. National experts have conducted 5-7 interviews with the key stakeholders in the seven selected Member States, with national officials and civil society representatives.

- **Verification of the interim findings**

Members of the European Parliament and national parliamentarians from EU Member States and pre-accession countries learnt about the interim findings and conclusions and recommendations of this study during the inter-parliamentary hearing on “Fundamental rights aspects of Roma inclusion and fighting Antigypsyism” on 18 October 2018.⁶³

The interim findings were verified through an online **strategic visioning exercise with the Advisory Board**, national experts from the selected Member States and other relevant stakeholders at EU, regional and international bodies. The strategic visioning exercise took place on 6 November 2018. Distinguished Advisory Board members gave relevant insights into the potential and challenges for a Truth and Reconciliation Commission. This study has benefited from the Advisory Board's long-standing expertise on truth and reconciliation mechanisms and minority protection in the EU.

The Advisory Board was composed of **Prof. Richard Goldstone** – former South African Supreme Court judge, **Ms. Marie Willsom** – former Canadian Truth and Reconciliation Commissioner, **Thomas Hammarberg** – former Human Rights Commissioner at the Council of Europe, and Chairperson of Swedish Commission on Antiziganism, and **Prof. Bruno De Witte**, Professor of European Law at Maastricht University and also at the European University Institute. They contributed via a structured discussion to improve the main finding and recommendations, in particular on the potential of truth and reconciliation mechanisms and their embeddedness in the EU rule of law framework (see Annex 1 with the interventions of the Advisory Board members and the summary of their discussion).

Focus Group discussion with Roma and pro-Roma civil society organisations took place in person in Brussels on 20 November 2018. This study greatly benefitted from the further ‘reality check’ among the national experts and civil society organisations representing realities in the different EU and pre-accession Member States. This method has secured additional qualitative data and facilitated a consensus-building exercise on the preferred policy options/recommendations. The summaries of the strategic visioning exercise and focus group discussion with civil society are found in Annex 2. The country case studies have been compiled by **a team of national experts. This study** has drawn on a thorough, robust and well-grounded methodology consisting of a set of tasks including desk research, an online survey of civil society and a legal practitioners' focus group, and analysis of the data collected.

⁶³ European Parliament (2018) Video Recording of Inter-Parliamentary hearing “Fundamental rights aspects of Roma inclusion and fighting Antigypsyism 18 October 2018”, EPTV. (<http://www.europarl.europa.eu/ep-live/en/committees/video?event=20181018-1430-COMMITTEE-LIBE>).

1. BACKGROUND OF THE EU FRAMEWORK FOR NATIONAL ROMA INTEGRATION STRATEGIES

KEY FINDINGS

- The EU Framework for National Roma Integration Strategies was a 'soft' policy instrument shifting the responsibility to Roma for their lack of integration. This limited approach has not captured institutional, systemic and historically rooted antigypsyism as a specific form of racism. Despite the efforts, policy tools and funding directed to integrating Roma, this socio-economic approach therefore had very little positive impact on housing, employment, education and health.
- There are many gaps in the EU Framework for the National Roma Integration Strategies. Among the most important are the limited Roma participation in the design, implementation and monitoring of the strategies at both EU and national level. Also, the practical challenges include unclear allocation of resources and a confusing definition of the target group.

This first chapter of this study gives an overview of the main initiatives and policies developed by the EU in the area of Roma integration and inclusion, particularly focusing on the EU Framework for National Roma Integration Strategies (NRIS). After a brief overview of the NRIS development and state of play, the chapter highlights what are the main gaps and barriers of the national policies. The emphasis here is put both on its design flaws and on the main needs of the Roma community and where the NRIS lacks efficiency. Lastly, the chapter formulates a statistical answer to the difficult question: After eight years of activity, what is the impact of the NRIS?

1.1. The EU policies and initiatives regarding the Roma community

The EU Framework for National Roma Integration Strategies (NRIS) was developed in response to repeated calls for an EU-wide framework by the EU Parliament. It was also the European Commission's main response to the **controversial evictions and expulsions by France and Italy of mobile EU Roma citizens from Bulgaria and Romania in 2010**. The European Commission published a Communication, which assessed the progress made in the integration of the Roma in the EU.⁶⁴ In 2011, it introduced the EU Framework for NRIS, calling on Member States to develop their own tailored set of policies to improve the community's situation in terms of education, employment, health care and housing.⁶⁵ The process of adoption of the Framework was particularly fast. In its desire to have it adopted during its six-month leadership of the EU, the **Hungarian Presidency** sped up the adoption process. Thus, in less than three months, the policy instrument was drafted and adopted by the European Commission. Indeed, one month after the publication of a study commissioned by the LIBE Committee, a motion for a European Parliament resolution on the EU strategy for Roma inclusion was presented, by Rapporteur Livia Jaroka. The European Parliament adopted the text, with a few amendments, as a resolution on 9 March 2011. A few weeks later, on 5 April 2011, the European Commission announced the adoption of the EU Framework, endorsed by the European Council at its meeting in June 2011.

An EU-wide framework had been advocated repeatedly by the Council and the Parliament. The overarching goal of the NRIS is to close the gap between the Roma and non-Roma communities in the Member States. This EU Framework was reinforced by a series of outputs at **Council level**⁶⁶ and particularly by the 2013 Council Recommendation on improving the inclusion of the community from a socio-economic, political and cultural point of view, aiming at fostering the participation of Roma in society.⁶⁷

⁶⁴ European Commission (2013) The social and economic integration of the Roma in Europe, COM(2010)133 final.

⁶⁵ European Commission (2011), "An EU Framework for National Roma Integration Strategies up to 2020", COM(2011) 173 final, Brussels, 5 April 2011.

⁶⁶ See also EUCO 23/11 and EPSCO 106665/11.

⁶⁷ Council of the European Union (2013) Council Recommendation 378/1 of 9 December 2013 on effective Roma integration measures in the Member States.

In terms of the monitoring and evaluation of activity, the landscape is fairly scattered and does not include legally binding decisions or recommendations. Each of the national policies are **annually assessed** by the European Commission, with different Communications, as shown in the table 3 below. The 2013 Council Recommendation also introduced **mandatory annual reporting** for Member States as of 2016. Additionally, the situation of Roma is also assessed in the **European Semesters**, specifically in the country reports of Member States with a large community of Roma. The 2016 Autumn Package deplores the early leaving rates of Roma children from school EU-wide.⁶⁸ The latest country report on Bulgaria mentions the Roma population in all the aspects covered (education, employment, health, poverty and housing).⁶⁹ Here again, the emphasis is put solely on socio-economic factors, thus leaving aside topics such as institutional racism, antigypsyism or a gender perspective.⁷⁰

Table 3: European Commission Communications on the NRIS

2012	National Roma Integration Strategies: a first step in the implementation of the EU Framework⁷¹
2013	Steps Forward in Implementing National Roma Integration Strategies ⁷²
2014	Report on the implementation of the EU Framework for National Roma Integration Strategies ⁷³
2015	Report on the implementation of the EU Framework for National Roma Integration Strategies ⁷⁴
2016	Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States ⁷⁵
2017	Midterm review of the EU framework for national Roma integration strategies ⁷⁶
2018	Report on the evaluation of the EU Framework for National Roma Integration Strategies up to 2020 ⁷⁷

The latest Communication of 2018 is accompanied by a Staff Working Document including **statistical data** on the progress made since 2011, looking at the four main objectives (education, employment, housing and health) and comparing the data with those of the general population.⁷⁸ Section 1.3 of this study further develops on the impact on the NRIS from a statistical perspective. The European Commission also launched a **Public Consultation on the Evaluation of the EU Framework for NRIS** between July and October 2017.⁷⁹ The majority of the respondents stated that there has been no major change in terms of employment, health care, housing or discrimination. By contrast, around half of the respondents indicated that efforts in the education field had been successful.

⁶⁸ European Commission (2016) Annual Growth Survey, COM (2016) 725 final, p.11

⁶⁹ Available at: <https://ec.europa.eu/info/sites/info/files/2018-european-semester-country-report-bulgaria-en.pdf>

⁷⁰ See for instance: <http://ergonetwork.org/2017/12/european-semester-2018-will-eu-members-states-include-roma-national-reform-programmes/>

⁷¹ European Commission (2012) National Roma Integration Strategies: a first step in the implementation of the EU Framework, COM/2012/0226 final.

⁷² European Commission (2013) Steps Forward in Implementing National Roma Integration Strategies, COM/2013/0454 final.

⁷³ European Commission (2014) Report on the implementation of the EU Framework for National Roma Integration Strategies, COM/2014/0209 final.

⁷⁴ European Commission (2015) Report on the implementation of the EU Framework for National Roma Integration Strategies COM/2015/0299 final.

⁷⁵ European Commission (2016) Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States, COM/2016/0424 final.

⁷⁶ European Commission (2017) Midterm review of the EU framework for national Roma integration strategies COM/2017/0458 final.

⁷⁷ European Commission (2018) Report on the Evaluation of the EU Framework for National Roma Integration Strategies up to 2020, COM/2018/785 final.

⁷⁸ European Commission (2018) Evaluation of the EU Framework for National Roma Integration Strategies up to 2020, Commission Staff Working Document, SWD(2018)480 final.

⁷⁹ Results available at: https://ec.europa.eu/info/consultations/public-consultation-evaluation-eu-framework-national-roma-integration-strategies-2020_en

Although not linked to the NRIS, **legal instruments** can also be used in order to tackle the lack of effort from Member States. The European Commission has launched **infringement proceedings** against Member States (Hungary, Czech Republic and Slovakia) based on the Race Equality Directive (2000/43/EC). In the case of Hungary for instance, the European Commission requests that the government put an end to discrimination in the schooling system, and especially to the over-representation of Roma children in special schools for mentally disabled children, therefore reinforcing segregation.⁸⁰ The Open Society Foundation urged the Commission in 2017 to start infringement proceedings against Bulgaria under Article 258 of the Treaty on the Functioning of the European Union (TFEU) for violations of the Race Equality Directive with respect to Roma in the area of housing.⁸¹

Another forum for discussion is the **European Platform for Roma Inclusion** for instance, which was set up by the European Commission, and specifically by DG JUST D1 in 2009. The Platform also includes national governments, international organisations and Roma civil society organisations.⁸² The latest meeting of October 2018 focused on inequalities in health and housing. Although the outcomes of the platform are not legally binding, it provides an interesting forum for the exchange of information and practices between different stakeholders. It also includes discussions on racism and antigypsyism.

Civil society organisations have for a long time advocated the adoption of Roma inclusion strategies at EU and national levels.⁸³ Many Roma self-representatives, other civil society actors and national governments welcomed the new 2011 EU Framework. However, others have remained critical towards the choice of a **soft-law approach since its inception**.⁸⁴ Academia has also remained critical for shifting the responsibility of structural discrimination mechanisms onto Roma persons themselves for their non-integration.⁸⁵ Subsequent reports elaborating on the challenges of the NRIS have also confirmed that the very premise of **addressing the situation of Roma as a 'socio-economic' issue, and not a rule of law** or institutional and structural discrimination issue, has resulted in policies not suited to addressing the very causes of antigypsyism.⁸⁶

Additional soft-law fora have been created in the larger area of non-discrimination, including the **EU High-Level Group on combating Racism, Xenophobia and other forms of Intolerance**, set up in 2016 and the **High-level Group on Non-Discrimination, Equality and Diversity**, both led by the European Commission. Both cover topics such as racism and integration, and include antigypsyism

Other funding programmes also exist, apart from the NRIS. In 2013, the European Commission and the Council of Europe (CoE) jointly launched the **ROMACT**, which aims at assisting local authorities in working with the Roma community in developing inclusive projects.⁸⁷ After six years in operation and experience of projects in six countries, the Joint Programme developed very diverse projects, ranging from training on fundraising at local level, to coaching on the preparation of funding applications to set up 'second chance' school programmes. ROMACT Transnational Cooperation and Capacity building (T.C.C.) was set up in 2016 as a new tool within the ROMACT framework, the objective of which is to better integrate marginalised population, and in particular non-national Roma communities (who are mobile EU citizens or experience emigration). **ROMED**, a CoE initiative has also been set up to support local projects. Since 2013, the programme has included the strategic goal of strengthening Roma participation in local decision-making and public life, with mediation and other types of

⁸⁰ For a summary of the background: http://europa.eu/rapid/press-release_MEMO-16-1823_it.htm and <https://romediafoundation.wordpress.com/2016/08/12/infringement-procedures-against-czech-republic-slovakia-hungary-for-segregating-romani-children/>

⁸¹ <https://www.opensocietyfoundations.org/sites/default/files/bulgaria-roma-infringement-memo-20170214pdf.pdf>

⁸² See: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/european-platform-roma-inclusion_en

⁸³ As, for example, during the first EU Roma Summit organised by the European Commission in 2008 (see <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventsId=105>).

⁸⁴ European Roma Policy Coalition (2011) "EU Roma Framework weak on discrimination against Roma", ERPC Statement, 5 April (see: http://www.errc.org/uploads/upload_en/file/erpc-euframework-reaction-05042011.pdf)

⁸⁵ Carrera, S. (2013) "Shifting Responsibilities for EU Roma Citizens: The 2010 French affair on Roma evictions and expulsions continued", Brussels: CEPS.

⁸⁶ See for example: Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May; Mirga-Kruszelnicka A., and S. Skenderi (2017) "Revisiting the EU Roma Framework: Assessing the European Dimension for the Post-2020 Future", OSEPI: Brussels, March.

⁸⁷ See: <http://coe-romact.org/>

similar projects.⁸⁸ The EUROCIITIES initiative on the **Roma Inclusion Task Force** is also worth mentioning as it has brought together representatives from more than 60 European cities to discuss Roma-related issues, specifically on inclusion and anti-racism.⁸⁹

1.2. Key gaps and barriers of the NRIS

The main challenges of the EU Framework stem mainly from two areas: **the process of adopting the EU Framework, and its design**. The key gaps and barriers of the NRIS have been categorised as: limited Roma participation, a narrow approach, limited policy objectives, failure to address antigypsyism, lack of a data collection mechanism and common methodology on data collection, unclear allocation of resources, and a confusing definition of the target group. The following paragraphs further detail each of the points.

- **Limited Roma participation**

Given the very short period of time for adopting the most complex policy arrangement for Roma in Europe, it is not surprising that **Roma did not have the opportunity to participate in the drafting and adoption of the EU Framework**. The EU Framework does not establish a mechanism for Roma participation at EU, regional, national or local levels. Roma participation in policymaking is thus limited mostly to participation through mechanisms of national minority representation, in Member States in which Roma are recognised as a national minority. At EU level, Roma Platform meetings represent the main forum where Roma organisations can provide feedback on the implementation of the EU Framework. However, Roma participation within the meetings is not institutionalised, and a lack of transparency and predictability are the characteristics of the Roma participants within the Roma Platform meetings.

At national, regional and local level, the **short deadline** set by the EU Framework for adopting or upgrading the Member State strategies and programmes on Roma contributed to the very limited participation of Roma within the drafting or upgrading of these strategies. During the implementation, some Member States created several platforms for dialogue with Roma organisations. However, this dialogue opportunity is fragile as it is not institutionalised.

- **Narrow approach and limited objectives**

The design of the EU Framework represents a narrow approach to the issues faced by Roma within the EU by focusing only on the development of targeted measures and leaving aside the issue of access of Roma to mainstream social policies. Experts emphasised the need for a dual approach to tackle the issues faced by Roma effectively:

A potential European Strategy for Roma Inclusion should encompass two strands. Firstly, Roma access to existing policy instruments should be enhanced, and further steps should be taken to overcome continuing discrimination. Secondly, new policy instruments, which are targeted but not exclusive, should be developed, addressing the specific structural and ingrained nature of Roma social exclusion.⁹⁰

In spite of the complexities of these issues, the EU Framework only focuses on four areas: education, employment, health and housing. It is unclear why these areas have been selected while **others considered as similarly important were left out, such as culture, gender, racism, migration, participation, and administration of justice**. Moreover, the EU Framework establishes objectives that are very limited and well below the provisions of national legislation. For example, the objective in education is to “ensure that all Roma children complete at least primary school” although national legislation in each Member State sets higher standards when it comes to

⁸⁸ See: <http://coe-romed.org/>

⁸⁹ EUROCIITIES (2018) Social rights for all: Roma inclusion at local level, Report from the EUROCIITIES study visit to Timisoara 12-14 June 2018, published September 2018 (see: <http://www.eurocities.eu/eurocities/news/New-EUROCIITIES-report-on-Roma-inclusion-at-local-level-WSP0-B82N0W>).

⁹⁰ Bartlett, W., Benini, R. and Gordon, C. (2011) Measures to promote the situation of Roma citizens in the European Union. Report for the European Parliament. Brussels: Directorate-General for Internal Policies, Policy Department C Citizens' Rights and Constitutional Affairs p.202.

the compulsory education of the general population. Indirectly, the objective of the EU Framework accepts **lower standards for Roma children**.

In addition, **the objectives of the EU Framework are not linked to each other**. For example, the objective of the education section will not lead to the achievement of the objective in the employment area. Indeed, it is well documented that people having only primary education will have limited opportunities to compete on the labour market and are at risk of facing long-term unemployment. It is difficult to imagine how a policy aiming at Roma completing primary education will “cut the employment gap between Roma and the rest of the population” – the objective of the employment section. On this point, it is important to highlight the change of focus taken by the policies, shifting the initial issues of relocation and eviction from an EU citizenship point of view to a **lack of integration from the Roma community**. In this sense, the Roma themselves are seen as the key to the issue.⁹¹

- **No focus on combatting antigypsyism**

In spite of the claims of civil society to combat antigypsyism as a priority in tackling Roma social exclusion and widespread prejudices against Roma in society, the EU Framework does not mention this at all. Antigypsyism could be defined as **“a special form of racism directed against Roma that has at its core the assumptions that Roma are an inferior and deviant group”**.⁹² The importance of focusing on antigypsyism has been emphasised by previous studies:

The antigypsyism concept addresses the historical role, responsibility and traditional posture taken by state institutions and the effects of widespread prejudices and stereotypes in society about Roma communities. The concept shows how state institutions and actors often play a direct or indirect role in co-producing and reproducing discrimination towards Roma and entrenching antigypsyism attitudes and stereotyping in the framing of laws and policies, as well as in their practical implementation and outputs. The latter often pose challenges to fundamental rights, EU citizenship and freedom of movement for Roma EU nationals, all of which lay at the foundations of the EU legal system in the Treaties.⁹³

Only in 2015 did the European Commission start discussing the issue of antigypsyism and the need to tackle it as part of the social inclusion policies towards Roma. Nevertheless, **antigypsyism is not part of the EU human rights agenda** and citizens do not receive protection against antigypsyism similar to other forms of racism like, for example, antisemitism. The most important avenue to combat antigypsyism remains to date the **EU antidiscrimination legal framework**. However, when it comes to institutional and structural forms of discrimination, including segregation, the antidiscrimination framework is inadequate. Whilst important for symbolic aspects, the above-mentioned launch of infringement procedures against the Czech Republic, Hungary, and Slovakia for racially segregating Roma children have failed to bring any change for the Roma on the ground so far.

The European Commission recognised antigypsyism as “a specific form of racism against Roma and one of the root causes of Roma social exclusion and discrimination” in its Midterm Review of the EU Framework for National Roma Integration Strategies.⁹⁴ However, even in its most recent document on antigypsyism the Commission adopts a reserved position to propose concrete measures to tackle antigypsyism effectively.⁹⁵ Tackling antigypsyism is the **sine qua non condition to improving the socio-economic conditions of the community**, as pointed out by

⁹¹ Carrera, S., I. Rostas and L. Vosyliute (2017) “Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States”, Brussels: CEPS, May, p.26. The topic is also discussed in Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) “Towards a Comprehensive EU Protection System for Minorities.” Study for the European Parliament LIBE Committee, August.

⁹² Carrera, S., I. Rostas and L. Vosyliute (2017) “Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States”, Brussels: CEPS, May Annex 1.

⁹³ Ibid.

⁹⁴ European Commission (2017) Midterm review of the EU framework for national Roma integration strategies, COM(2017) 458 final, Brussels, 30 August.

(see: [http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2017/0458/COM_COM\(2017\)0458_EN.pdf](http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2017/0458/COM_COM(2017)0458_EN.pdf))

⁹⁵ European Commission (2018) “Antigypsyism: Increasing its recognition to better understand and address its manifestations, Brussels, November. (See: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=51025)

previous studies.⁹⁶ It is also a key point for the effectiveness of EU, national and local initiatives. Thus, **antigypsyism is still the most important barrier for Roma community empowerment.**

- **Unclear allocation of resources**

The European Commission has constantly encouraged the EU Member States to use EU funding instruments for Roma inclusion. The call was repeated several times after the adoption of the EU Framework. In fact, the EU Framework asks Member States to allocate financial resources from the national budget to complement EU funding. But **it fails to indicate specific resources and amounts for implementation of the NRIS.**

At the same time, there is a very weak correlation between the planning for the EU budgeting and the Roma inclusion processes at EU level. As the Commission stated, “in 2007-2013, the funds took a mainstreaming approach to disadvantaged groups/regions, without explicitly targeting Roma, so the precise amounts of funding for Roma inclusion cannot be quantified”.⁹⁷ While the European Commission asserts that for the 2014-2020 period there is “a strong linkage between policy and funding priorities”, it does not indicate in any of its documents specific amounts allocated for Roma inclusion.⁹⁸

This funding issue is also linked to the previous point. The recent special report by the European Court of Auditors (ECA) on EU policy initiatives and financial support for Roma integration has confirmed that current funding schemes addressing socio-economic challenges of **Roma communities lack a targeted focus on antigypsyism as a specific phenomenon.**⁹⁹ In the same vein, an earlier own-initiative inquiry by the European Ombudsman (EO) on how the European Cohesion Fund is managed raised similar concerns about the need to find ways to better ensure the compliance of Member States’ national projects funded by the EU Cohesion Fund with the fundamental rights of Roma communities.¹⁰⁰

This is actually good news for EU policymakers, as effective policies targeting Roma do not actually mean more funding is needed, but **more and better investment strategies.** This follows from the earlier key finding of a previous CEPS study on antigypsyism that “the largest funds are designed to fund a Roma integration/inclusion approach via key European Structural Investment Funds (ESIF), namely the European Social Fund (ESF) and European Regional Development Fund (ERDF).”¹⁰¹ More opportunities for civil society to obtain funding could be opened within the new Multiannual Financial Framework (MFF) period via the EU Values Instrument, Rights and Justice Fund, Strategic Litigation Fund and also under funding allocated to the NRIS implementation.

- **Confusing definition of the target group**

One of the most confusing aspects of the EU Framework was the definition of Roma used by the European Commission:

The term "Roma" is used - similarly to other political documents of the European Parliament and the European Council - as an umbrella which includes groups of people who have more or less similar cultural characteristics, such as Sinti, Travellers, Kalé, Gens du voyage, etc. whether sedentary or not; around 80 % of Roma are estimated to be sedentary.¹⁰²

Leaving aside the reference to the sedentary characteristic of the majority of Roma, **people with similar cultural characteristics are not necessarily part of the same ethnic group.** In fact, some groups contest this definition and claimed, in some cases successfully, that they are a different ethnic or national minority than the generic

⁹⁶ Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May.

⁹⁷ European Commission (2017) Midterm review of the EU framework for national Roma integration strategies, COM(2017) 458 final, Brussels, 30 August, p. 4-5.

⁹⁸ Ibid.

⁹⁹ European Court of Auditors (2016) Special Report No. 14/2016 (www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf).

¹⁰⁰ European Ombudsman (2015). Decision of the European Ombudsman closing her own-initiative inquiry OI/8/2014/AN concerning the European Commission, May 2015 (<https://www.ombudsman.europa.eu/en/decision/en/59836>).

¹⁰¹ Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May.

¹⁰² European Commission (2011) An EU Framework for National Roma Integration Strategies up to 2020, COM/2011/0173 final, p.1.

Roma term. In addition, the fact that the European Commission does not specify that the EU Framework applies to Roma EU citizens that are on the territory of the EU, leads to a narrow interpretation of several EU Member States who treat Roma EU citizens on their territory as migrants.

These key barriers show that the situation has not improved much since the early days of the NRIS. Although some more focus has been put on tackling antigypsyism and on including gender issues in the policies, there is still much to do in terms of projects, funding and design of the policies. The latest report of the Fundamental Rights Agency in November 2018¹⁰³ still shows a **very low level of participation of Roma**, and calls for greater involvement of the community in the design of public policies, at local, national and EU levels. The 2018 FRA report examines the participatory approach to funding as a positive lesson learnt for future projects, whether from local authorities or from the ESIF:

The research finds that promoting small-scale, community-based activities, including promoting awareness raising of rights and cultural interaction, targeting interventions both towards Roma and non-Roma citizens, as well as adopting more flexible frameworks and longer timelines, could lead to meaningful results and change the situation of Roma at the local level.¹⁰⁴

Despite these criticisms, since 2011 the EU Framework has the added value of having brought **'more EU'** in tackling the lack of inclusion of the Roma community.

1.3. Impact of the NRIS since 2011

Even if monitoring tools have been put in place, assessing the real impact the national strategies have had over the years is a complex exercise. This section shows **statistical evidence** on the situation of the Roma community in Europe and suggests a fairly negative view of the effects the policies had on the Roma and their socio-economic condition.

The European Union Agency for Fundamental Rights (FRA) undertook three surveys in 2008 (EU-MIDIS I), 2011 (Roma survey) and 2016 (EU-MIDIS II), which collected anonymised data on the Roma community and analysed different areas including education, employment, living standards and health, housing, discrimination and participation, and demographics.¹⁰⁵ These surveys focus on six EU Member States: Bulgaria, the Czech Republic, Greece, Hungary, Romania and Slovakia. Portugal and Spain were added to the sample in the 2011 and 2016 surveys. Although they were carried out by the same institution, the FRA, **the surveys differ in terms of questions and methodology**. The three collected information on living discrimination and access and awareness to rights but only the 2011 and 2016 surveys touch upon topics such as poverty, education and housing.¹⁰⁶ The following exercise of comparing the results therefore has to take in account the limited similarity between the raw results and understand that the three reports published as a result of the surveys were not initially aimed at drawing an evolution and comparative analysis through time.

The main findings show that **many Roma continue living in conditions of severe poverty and social exclusion**. The community also consistently faces discrimination; **antigypsyism remains a major transversal issue**. Some progress has been observed in terms of infrastructure, with increased access to electricity and housing. In 2017, the European Commission published a Staff Working Document on the Roma integration indicators, summarising the evolution of the situation between 2011 and 2016. The following graph shows a schematic view of the data as shown in table 4 below.¹⁰⁷

¹⁰³ The European Union Agency for Fundamental Rights (FRA) (2018), "Working with Roma: Participation and empowerment of local communities", November, <https://fra.europa.eu/en/publication/2018/empowering-roma>

¹⁰⁴ Ibid. p.9.

¹⁰⁵ Reports available at: <http://fra.europa.eu/en> (accessed 4/12/2018).

¹⁰⁶ See more information on the EU MIDIS II methodology of the surveys at: <http://fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings/methodology-q-and-a> (accessed 4/12/2018).

¹⁰⁷ European Commission (2017) The Roma integration indicators scoreboard (2011-2016), Staff Working Document COM(2017) 458 final, accompanying the Midterm review of the EU framework for national Roma integration strategies.

Table 4: Summary of Roma integration indicators 2011-2016

Topic	Overall evolution
Education	Improvement
Employment	No change
Health	No change
Housing	No change
Poverty	Improvement

Source: Authors, 2018 based on the data from European Commission (2017) The Roma integration indicators scoreboard (2011-2016), Staff Working Document COM(2017) 458 final.

Despite the overall positive aggregated results of the European Commission's document, the more specific the data are, the more mitigated the picture is. The following table shows the difference of situation between the Roma and the general population of the Member States with regard to the four objectives of the NRIS between 2011 and 2016:

Table 5: Progress of the NRIS objectives between 2011 and 2016

Objective	2011	2016
Access to education	86 %	90 %
Access to employment	44 points gap compared to general population	46 points gap compared to general population
Access to health care	13 points gap compared to general population	0 point gap compared to general population
Access to housing	29 points gap compared to general population	33 points gap compared to general population

Source: Authors, 2018 based on the European Commission (2018) Evaluation of the EU Framework for National Roma Integration Strategies up to 2020, Staff Working Document, , SWD(2018)480 final.

Greater focus on specific data shows that **the overall data become more fragmented** as different factors are taken into consideration when evaluating the results of the policies. The following section shows a summary of the main changes through time, focusing especially on the FRA 2011 and 2016 surveys for the four objectives of the NRIS and adding antigypsyism.

- **Antigypsyism**

The EU-MIDIS II results show that one out of three Roma surveyed had experienced some form of harassment and 4 % had experienced physical violence.¹⁰⁸ The European Commission's 2015 Eurobarometer on discrimination in Europe confirms these findings:

- 20 % of the respondents would feel uncomfortable if one of their colleagues at work were Roma;
- 45 % would be comfortable or indifferent if their son or daughter had a relationship with a Roma person;
- Only 18 % have friends or acquaintances who are Roma.¹⁰⁹

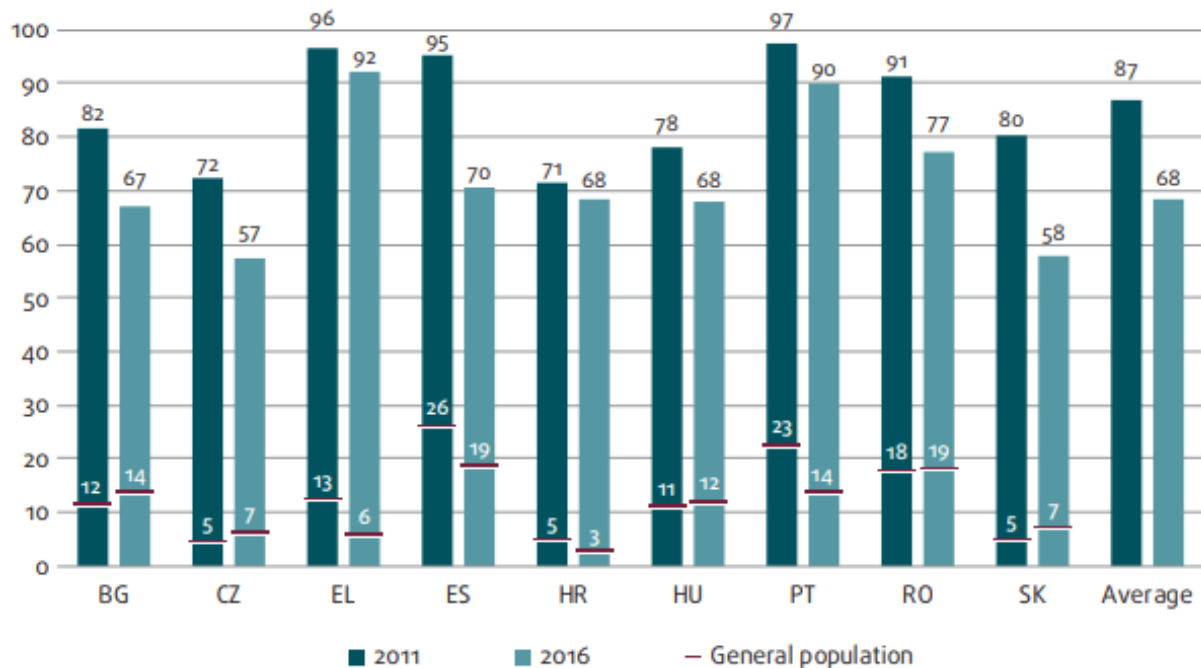
¹⁰⁸ FRA (2018), "A Persisting concern: Anti-Gypsyism as a barrier to Roma inclusion", p.10, hereinafter: FRA (2018).

¹⁰⁹ European Commission (2015), "Discrimination in the EU in 2015", Special Eurobarometer 437, pp.7-11 and 21-24.

- **Education**

Between 2011 and 2016, the number of Roma pupils who left education at the level of secondary school on average decreased – from 87 % in 2011 to 68 % in 2016. In terms of experience of direct discrimination, the overall share of Roma who felt discriminated against when in contact with schools has not changed since 2011 – totalling 14 % in 2016. In respect to school segregation, the share of Roma attending classes where “all classmates are Roma” on average increased from 10 % in 2011 to 15 % in 2016 underlining the **need for more decisive action in this area**.¹¹⁰ Meanwhile, the proportion of Roma early school leavers compared to early school leavers in the general population across all countries surveyed remains unacceptably high, as shown in the graph below:

Figure 5: Population that has completed most lower-secondary education and is not involved further



Source: FRA (2018), “A Persisting concern: Anti-Gypsyism as a barrier to Roma inclusion”, p.29.

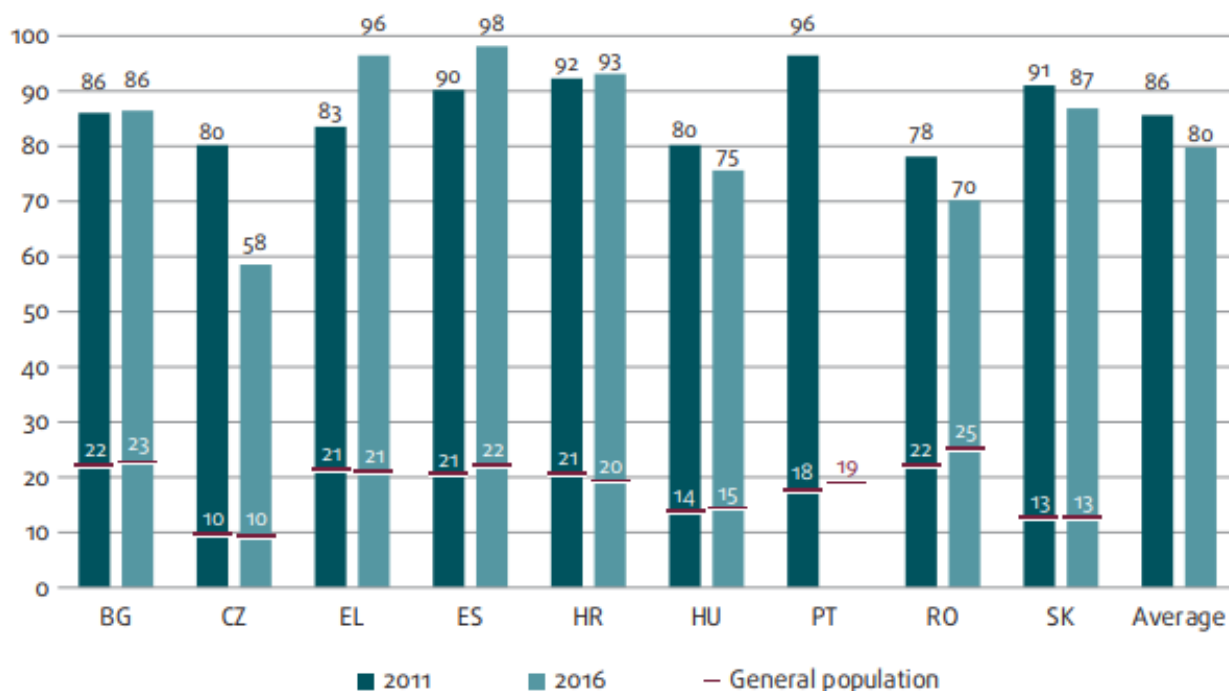
- **Poverty and housing**

The majority of Roma, 80 % in the nine Member States, are at risk of poverty. On average for the Member States surveyed, 27 % of Roma live in houses where a minimum of one person went to bed hungry at least once in the previous month.¹¹¹ In terms of housing, the **situation is also very similar since 2011**, with one third of the Roma living in housing with no tap water and 38 % with no toilet, shower or bathroom facilities inside their home.¹¹²

¹¹⁰ FRA (2018), op.cit., p.11.

¹¹¹ Ibid, p.12.

¹¹² Ibid, p.14

Figure 6: Household members at risk of poverty

Source: FRA (2018), "A Persisting concern: Anti-Gypsyism as a barrier to Roma inclusion", p.33.

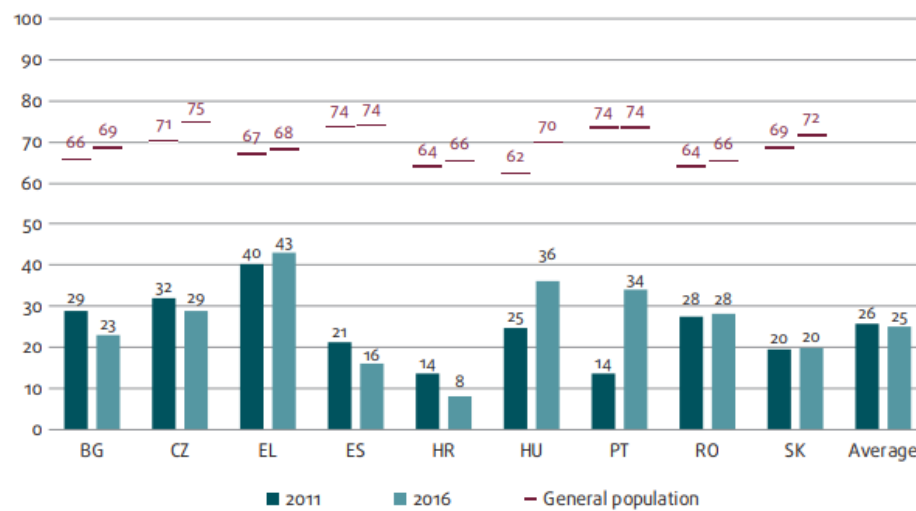
- **Employment**

The unemployment rates for Roma remain higher than for the general population, with no change between 2011 and 2016. The results are particularly relevant for the **youth and Roma women, with a very important gender gap**. The report underlines the salient lack of impact the policies have had on the employability of the Roma community.¹¹³ The number of young Roma, especially women who are not enrolled in either education, employment or training is 63 %. Although this percentage has slightly declined since 2011, it remains very high compared to the general population. Additionally, discrimination in access to employment is still very important: 40 % of Roma respondents reported having felt discriminated against because of their ethnicity.¹¹⁴ The following graph shows the percentage of household members (over the age of 16) who declared their main activity status as being in 'paid work' compared to the general population, between 2011 and 2016:

¹¹³ Ibid, pp. 12-13.

¹¹⁴ See also: European Commission, EU High Level Group on combating racism, xenophobia and other forms of intolerance (2018), "Antigypsyism: increasing its recognition to better understand and address its manifestations". Brussels.

Figure 7: Household members who declared their main activity status as being in paid work

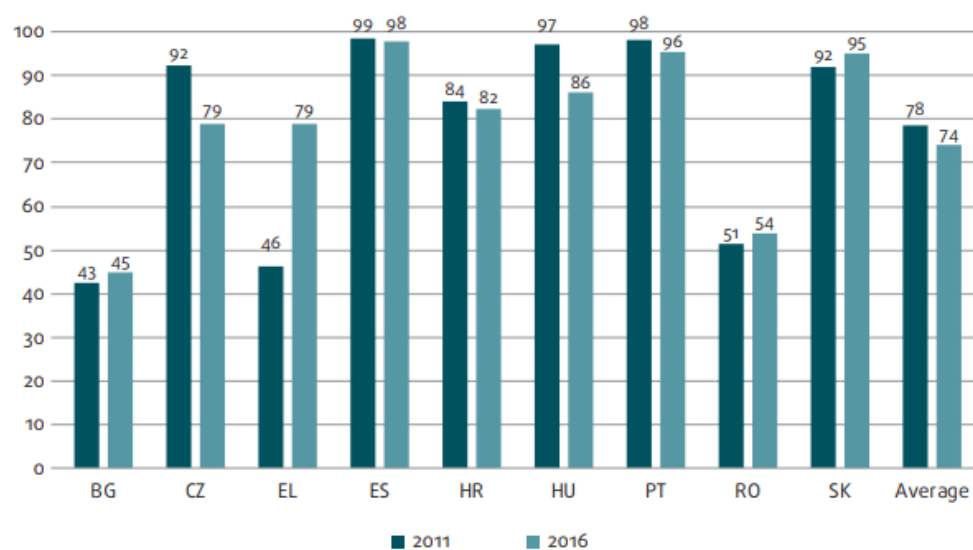


Source: FRA (2018), "A Persisting concern: Anti-Gypsyism as a barrier to Roma inclusion", p.35.

- **Health**

Health is the only indicator that significantly improved between the two surveys and is, in the 2016 survey, fairly similar to the general population of the nine Member States.¹¹⁵ Despite this increase in health condition, the insurance rate remains low, with 74 % of respondents reporting not to have health insurance coverage, compared to 78 % in 2011. This issue is directly related to the geographic segregation of the Roma community. The data vary greatly from one country to another and the Roma community still faces important challenges in terms of access to health and insurance, as shown in the graph below:¹¹⁶

Figure 8: Respondents with medical insurance coverage



Source: FRA (2018), "A Persisting concern: Anti-Gypsyism as a barrier to Roma inclusion", p.41.

This chapter showed the significance of the level of discrimination faced by the Roma community and its persistence through time, despite the efforts put in place at EU and national levels. It also outlined the need to

¹¹⁵ Bulgaria, the Czech Republic, Greece, Croatia, Hungary, Romania, Slovakia, Portugal and Spain.

¹¹⁶ FRA (2018) Op.cit.,p.13.

continue gathering anonymised statistics on the community to show the real impact of the policies put in place to tackle the discrimination, and to show their limits as well as promising practices.

2. COMPLIANCE ASSESSMENT OF NATIONAL ROMA INTEGRATION STRATEGIES IN THE EU

KEY FINDINGS

Some positive developments in the situation of Roma are overshadowed by the aggravated situation with anti-Roma racism and institutional discrimination across Member States which block meaningful intentions and efforts to advance integration of Roma. Remaining challenges across the various fields and among the countries of the EU include:

- Lack of political will at national and/or local level to combat antigypsyism;
- Persistent patterns of segregation in education and housing; forced evictions and sub-standard living conditions;
- Member State failure to implement judicial decisions and those of other bodies concerning implementation of international human rights law obligations and to correct their laws and policies;
- Lack of evaluation of the results achieved by the implementation of NRIS and lack of evaluation of the impact on Roma of general public policies.

This chapter looks into the structural and legal aspects of the NRIS, from a Member States point of view. It first describes the main compliance standards set at EU level in terms of funding, implementation and the main recommendations made to the National Roma Integration Strategies. It then assesses the situation of Roma in the selected Member States against the international and regional human rights standards.

2.1. Member State NRIS compliance with EU standards

The European Commission's midterm assessment of the NRIS in 2017 noted a broad consensus among various stakeholders about the importance of the EU Framework for National Roma Integration Strategies as an instrument for generating political commitment in the EU Member States for long-term integration action.¹¹⁷ The Commission's annual assessment since 2012, a study commissioned by the European Parliament (2015)¹¹⁸, a report by the European Court of Auditors (2016)¹¹⁹ as well as civil society reports¹²⁰, however, have highlighted deficiencies in the design, governance and implementation of the NRIS, which have undermined their impact on the situation of Roma to date. Beyond and above the technical aspects, however, as argued by the European Parliament study, "the dearth of political will at all levels of national and sub-national government in Member States is hampering the implementation of the objectives laid out in the NRIS".¹²¹

¹¹⁷ European Commission (2017) Midterm review of the EU framework for national Roma integration strategies, COM(2017) 458 final, Brussels, 30 August, p. 14.

¹¹⁸ European Parliament. Directorate General for Internal Policies, Policy Department C: Citizens' rights and constitutional affairs. *Evaluation of the EU Framework for National Roma Integration Strategies*, 2015, available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536485/IPOL_STU\(2015\)536485_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/536485/IPOL_STU(2015)536485_EN.pdf)

¹¹⁹ European Court of Auditors (2016) EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground, available at: https://www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf

¹²⁰ Comprehensive civil society monitoring reports on the implementation of the NRIS are produced by the project [Roma Civil Monitor](#) (2017-2020) which is initiated by the European Parliament and managed by the European Commission, Directorate General for Justice and Consumers. It is coordinated by the [Centre for Policy Studies](#) at Central European University (CEU), in partnership with the European Roma Grassroots Organisations Network (ERGO), the European Roma Rights Centre (ERRC), the Fundacio n Secretariado Gitano (FSG) and the Roma Education Fund (REF).

¹²¹ European Parliament. Directorate General for Internal Policies, Policy Department C: Citizens' rights and constitutional affairs. *Evaluation of the EU Framework for National Roma Integration Strategies*, 2015, p. 57.

2.1.1. Structural requirements

In its annual reports on the implementation of the NRIS, the European Commission has called on Member States to address a number of structural requirements as preconditions to secure effective implementation of the NRIS. Despite some progress in this regard, the European Commission's assessment in 2017 highlighted the **persistence of major obstacles such as a lack of sustainable funding, insufficiently inclusive involvement of civil society, and local authorities' limited administrative capacity to implement sustainable integrated measures.**¹²² In 2016 the European Court of Auditors pointed to similar deficiencies as regards coordination and cooperation between different institutions; allocation of funding for the NRIS; monitoring and evaluation of the results.¹²³ Similarly, a 2015 study commissioned by the European Parliament noted a number of structural issues such as the lack of a holistic approach to the intersectional challenges of Roma inclusion; inadequate administrative capacity at all levels of government; limitations in funding for Roma inclusion; and weak or non-existent monitoring and evaluation procedures, among others.¹²⁴

Monitoring and assessing the progress with the implementation of the NRIS is a serious challenge due to the absence of targets and measurable indicators to allow monitoring of progress in many Member States. A number of Member States did not propose monitoring and evaluation mechanisms which allow an evaluation of the effects of activities undertaken as part of the NRIS, including their impact on segregation trends, Roma school attainment and employment levels, and access to housing and health services in an integrated setting.¹²⁵ Member states do not monitor the impact of mainstream policies on Roma integration either, and allow such policies to undermine the effect of targeted Roma measures.¹²⁶

A major issue in most Member States is the lack of capacity or resistance of regional and local authorities to implement the NRIS (e.g. in Bulgaria, Czech Republic, Hungary, Romania, Slovakia, and Spain).¹²⁷ In some countries local action plans are formalistic statements without specific targets or funds (e.g. Bulgaria, Romania). Examples from Romania provided by the European Court of Auditors demonstrated that lack of sustained financial and institutional support from local authorities hampered projects' potential impact on the integration of the Roma population.¹²⁸ In the Czech Republic, Hungary and Slovakia, discriminatory actions by local authorities against Roma have undermined integration efforts.¹²⁹ There are also positive examples of local authorities successfully implementing innovative Roma integration projects. In Sweden, several pilot municipalities have received funding from the Government to develop **long-term solutions to Roma inclusion in the municipal administration based on the human rights approach.** An important part of the human rights approach was to identify which groups are exposed to discrimination and what are the obstacles they face for equal access; in addition, how to increase participation of Roma and their rights awareness.¹³⁰

Cooperation with civil society, including Roma, is more effective in Spain where platforms for consultation with Roma on policy-making were established at national and regional levels. In Sweden, civil society organisations noted the overall ambition of the Government to increase Roma participation in the implementation of the NRIS, however, perceptions among Roma are that the **Roma perspective is not properly reflected in the decision-making process** and that there is still much to be done to develop the structures and methods for participation

¹²² European Commission (2017) Midterm review of the EU framework for national Roma integration strategies, COM(2017) 458 final, Brussels, 30 August, pp. 13-14.

¹²³ European Court of Auditors (2016) EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground, paras. 48-50, (see: https://www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf)

¹²⁴ European Parliament (2015) Evaluation of the EU Framework for National Roma Integration Strategies, 2015, pp. 8-9.

¹²⁵ European Commission (2012) National Roma Integration Strategies: a first step in the implementation of the EU Framework. COM/2012/0226 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1444910230246&uri=CELEX:52012DC0226>.

¹²⁶ European Commission (2016) Effective Roma Integration Measures in the Member States, COM (2016) 424, 27 June, pp. 37-86, available at: https://ec.europa.eu/info/sites/info/files/roma_report_2016_web_ok_en.pdf.

¹²⁷ Ibid.

¹²⁸ European Court of Auditors (2016) EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground, para. 115.

¹²⁹ Centre for Policy Studies, Central European University (2018) A synthesis report on implementation of national Roma integration strategies in Bulgaria, Czech Republic, Hungary, Romania and Slovakia, March, p. 14. (see: <https://cps.ceu.edu/roma-civil-monitor-reports>).

¹³⁰ Civil society monitoring report on implementation of the national Roma integration strategies in Sweden, April 2018, pp. 13-14, available at: <https://cps.ceu.edu/roma-civil-monitor-reports>

and consultation.¹³¹ In Hungary and Slovakia, although there are various mechanisms for public consultations, civil society organizations noted insufficient transparency of Roma NGO participation and limited influence. A negative development was noted in Bulgaria where Roma organisations discontinued their participation in the national coordination council on Roma issues, whose secretariat also serves as the National Roma Contact Point (NRCP), in protest over its lack of capacity to manage the implementation of the NRIS.¹³²

2.1.2. Funding

In 2014-2020 twelve Member States have chosen to fund measures under the investment priority IP (ii) "Integration of marginalised communities such as the Roma" for the Operational Programmes (OPs) of the European Social Fund (ESF) – Austria, Belgium, Bulgaria, Czech Republic, Greece, France, Hungary, Italy, Poland, Portugal, Romania and Spain. The European Court of Auditors noted, however, that not all Operational Programmes which covered geographical areas with large Roma populations or which allocated significant amounts to the main areas relevant for the integration of the Roma population included IP 9(ii), or any indicators relevant to it (e.g. Hungary, Spain).¹³³ Despite the increase in financial resources for Roma integration, challenges with regard to the impact and sustainability of the funding continue. The 2016 report by the European Court of Auditors noted that some countries did not provide information on the financial allocations available for Roma-related measures, be it either under the national budget or from the ERDF or ESF OPs co-financed from the EU budget. The mid-term assessment by the European Commission observed that several Member States predominantly rely on EU funds to implement integration measures, without national investments.¹³⁴ Over-reliance on European Structural Investment (ESI) Funds in several countries (e.g. Bulgaria, Czech Republic, Hungary, Romania and Slovakia) poses risks to the sustainability of the measures after the end of the ESI Funds cycle.¹³⁵

National public funding is used mostly in the areas of education and housing, and much less in the areas of employment and health care. National funding for anti-discrimination measures and structural issues is insignificant in most countries.¹³⁶ Moreover, a number of countries (e.g. Bulgaria, Italy, Hungary, Romania) have not included investment priority 9(iii) 'Combating all forms of discrimination and promoting equal opportunities' in any of their OPs for the ESF. The European Court of Auditors noted that this is a missed opportunity to support anti-discrimination initiatives that could be integrated with measures under IP 9(ii).¹³⁷

Most Member States address Roma integration through both targeted and mainstream measures. Targeted measures are applied mainly in the area education and through territorial programmes (e.g. Czech Republic, Hungary, Slovakia). The multi-fund integrated approach and the targeted integrated projects in the Czech Republic, Hungary and Spain were noted as positive developments.¹³⁸ Civil society organisations, however, express concerns with regard to the effective targeting of socially-excluded Roma by such programmes.¹³⁹ A common concern about mainstream programmes is that Roma needs are not systematically taken into account and that there are no monitoring mechanisms to evaluate the outreach of mainstream programs to Roma and their impact.¹⁴⁰ Major concerns emphasised by the European Commission are: **lack of evaluation of interventions and monitoring of funds** allocated for Roma inclusion (e.g. Bulgaria, Romania); **possible use of**

¹³¹ Ibid., pp. 11-12.

¹³² Civil society monitoring report on implementation of the national Roma integration strategies in Bulgaria, March 2018, p. 13, available at : <https://cps.ceu.edu/roma-civil-monitor-reports>

¹³³ European Court of Auditors. EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground. 2016, para. 73.

¹³⁴ European Commission (2017) Midterm review of the EU Framework for National Roma Integration Strategies. COM (2017) 458 final, p. 12.

¹³⁵ Centre for Policy Studies, Central European University, (2018) A synthesis report on implementation of national Roma integration strategies in Bulgaria, Czech Republic, Hungary, Romania and Slovakia, March 2018, p. 18.

¹³⁶ European Commission. Effective Roma Integration Measures in the Member States 2016., p. 14.

¹³⁷ European Court of Auditors. EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground. 2016, para. 79.

¹³⁸ European Commission. Effective Roma Integration Measures in the Member States 2016.

¹³⁹ Centre for Policy Studies, Central European University, (2018) A synthesis report on implementation of national Roma integration strategies in Bulgaria, Czech Republic, Hungary, Romania and Slovakia, March 2018, p. 18.

¹⁴⁰ Ibid.

ESI Funds for supporting segregation of communities and education facilities (e.g. Bulgaria, Czech Republic, France, Italy, Slovakia, Romania).

2.1.3. Implementation in key policy areas

The European Commission midterm review of the NRIS in 2017 pointed to improvement of the situation of Roma with respect to early childhood education and training (e.g. Bulgaria, Greece, Hungary, Slovakia, and Spain); early school leaving (Bulgaria, Czech Republic, Romania, Slovakia, and Spain), self-perceived health status of Roma (Bulgaria, Hungary, Romania), and access to basic amenities (e.g. Bulgaria, Romania, Slovakia). These improvements, however, are overshadowed by deteriorating conditions both in the key policy areas and in the horizontal policies, especially anti-discrimination. Segregation in education is not sufficiently countered by desegregation measures; discrimination in employment is not addressed; youth unemployment has increased in most countries; Roma remain excluded from basic health insurance (e.g. Bulgaria, Romania); measures related to housing segregation and non-discriminatory access to social housing are not implemented.¹⁴¹

2.1.4. Country-specific recommendations (CSRs)

The CSRs focused on Roma within the European Semester aim at making mainstream policies more inclusive of Roma. Five countries have received CSRs related to Roma education since 2014 – Bulgaria, Czech Republic, Hungary, Slovakia, and Romania. The European Commission's assessment in 2017 noted only *limited progress* in the implementation of the CSRs related to inclusive and quality education of Roma in Bulgaria¹⁴², Hungary¹⁴³, and Slovakia¹⁴⁴. For the Czech Republic¹⁴⁵ and Romania¹⁴⁶, the European Commission noted that *some progress* was made to increase the inclusion of Roma children in education and in tackling early school leaving and increasing the provision of quality education.

2.1.5. EU anti-discrimination law

The principle of non-discrimination is enshrined in EU primary law¹⁴⁷; discrimination on racial or ethnic grounds is also prohibited in secondary legislation.¹⁴⁸ The 2013 EU Council recommendation on effective Roma integration measures is the first legal instrument which focuses specifically on the obligations of Member States with respect to the fundamental rights of Roma.¹⁴⁹

Most NRIS include some measures to fight discrimination against Roma. As this was not required by the EC Framework, however, none of the strategies includes measurable targets connected with anti-discrimination.¹⁵⁰

¹⁴¹ European Commission (2017) Midterm review of the EU Framework for National Roma Integration Strategies. COM (2017) 458 final, p. 13.

¹⁴² European Commission. Country Report Bulgaria 2017, Brussels, 28.2.2017 SWD(2017) 68 final/3, p. 13, available at: https://ec.europa.eu/info/sites/info/files/2017-european-semester-country-report-bulgaria-en_3.pdf

¹⁴³ European Commission. Country Report Hungary 2017, Brussels, 28.2.2017 SWD(2017) 82 final/2, p. 12, available at: https://ec.europa.eu/info/sites/info/files/2017-european-semester-country-report-hungary-en_1.pdf

¹⁴⁴ European Commission. Country Report Slovakia 2017, Brussels, SWD(2017) 90 final/2, p. 12, available at: https://ec.europa.eu/info/sites/info/files/2017-european-semester-country-report-slovakia-en_0.pdf

¹⁴⁵ European Commission. Country Report Czech Republic 2017, Brussels, 22.2.2017 SWD(2017) 69 final, p. 12, available at: https://ec.europa.eu/info/sites/info/files/2017-european-semester-country-report-czech-en_0.pdf

¹⁴⁶ European Commission. Country Report Romania 2017, Brussels, 22.2.2017 SWD(2017) 88 final, p. 12, available at: <https://ec.europa.eu/info/sites/info/files/2017-european-semester-country-report-romania-en.pdf>

¹⁴⁷ Article 2, Treaty on European Union and Article 10, Treaty on the Functioning of the European Union. The EU Charter of Fundamental Rights which became a legally binding document in 2009, also prohibits discrimination on racial or ethnic grounds, in the implementation of EU law (Article 21) and calls for measures to combat racially-motivated harassment and crime.

¹⁴⁸ The Race Equality Directive (2000/43/EC) is the main secondary law instrument which prohibits discrimination against Roma, among other racial or ethnic minorities, in the context of employment, access to the welfare system and social security, education, as well as access to goods and services. The EU Council Framework Decision 2008/913/JHA obliges all EU Member States to provide for criminal sanctions in relation to incitement to violence or hatred based on race, colour, descent, religion or belief, national or ethnic origin. Member States are also obliged to consider racist or xenophobic intent as an aggravating circumstance.

¹⁴⁹ Council of the European Union (2013) Council recommendation on effective Roma integration measures in the member states, Brussels, 9 and 10 September 2013, available at: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/139979.pdf The Recommendation complements the EU Framework for Roma Integration Strategies by a specific focus on anti-discrimination and multiple discrimination affecting Romani women and children.

¹⁵⁰ See in this regard, European Court of Auditors. EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground. 2016, para. 126.

The phenomenon of antigypsyism as a specific form of racism¹⁵¹ is not identified in most of the Strategies although many include measures to address manifestations of antigypsyism through countering public prejudices against Roma. Notable exceptions in this regard are the NRIS for the Czech Republic and Sweden which pay particular attention to antigypsyism. Increased awareness about the effects of antigypsyism on policies has led to the establishment of the Commission against antigypsyism and the issuing of a White Paper on abuses and rights violations against Roma in the 20th century in Sweden.¹⁵² Bulgaria NRIS explicitly refers to hate speech and includes measures to counter it. In addition, NRIS Hungary discusses the situation of Roma as victims of crime (without specifying whether this is hate crime) and the multiple victimisation of Roma.

Despite various programmes and measures by Member States, the European Commission, the EU Agency of Fundamental Rights (FRA), the EU Network of legal experts on gender equality and non-discrimination as well as a large number of civil society organisations have all underlined that discrimination and racism against Roma are endemic and not effectively addressed; hate speech and hate crime seriously affect Roma; and measures to implement the Race Equality Directive with respect to Roma are insufficient. The European Commission noted in its midterm review of the NRIS lack of political will at national, regional and local levels to ensure non-discrimination and equal treatment of Roma.¹⁵³ The 2018 FRA report on antigypsyism expressed the opinion that, "The existing evidence of wide-spread discrimination against Roma suggests that the Racial Equality Directive (2000/43/EU) is not effective".¹⁵⁴ The 2016 FRA survey showed that on average, 41 % of Roma in nine EU Member States surveyed felt discriminated against because of their Roma background; over 50 % of Roma felt discriminated in five of the surveyed Member States – Portugal, Czech Republic, Greece, Slovakia and Spain.¹⁵⁵

- **Hate speech and hate crime**

Racism against Roma in the political discourse is present in most countries and is prevalent in the media and on internet. Inciteful speech against Roma is no longer restricted to the radical right but has steadily entered the mainstream political discourse as well. Countries like Bulgaria, Czech Republic, Italy, Slovakia, and Romania have been repeatedly criticised for not taking sufficient action against hate speech through criminal, civil or administrative law. An OSCE election observation mission in Bulgaria noted the racist, anti-Roma and anti-Muslim speech in the 2017 election campaign.¹⁵⁶ In Slovakia, the Ministry of Interior observed a serious increase in anti-Roma and anti-minority hate speech on the internet.¹⁵⁷ In Spain, newspapers use discriminatory language towards Roma and publish the ethnic origin of Roma suspected of criminal offences. Racially-motivated attacks against Roma are also reported in several countries. In Bulgaria, civil society organisations warned that since 2012 there has been an escalation of racially-motivated aggressive acts against Roma, including anti-Roma riots and attacks against Roma individuals.¹⁵⁸ In protest over the lack of response from public institutions to serial manifestations of antigypsyism, the biggest Roma organisations discontinued their participation in the national coordination council on Roma issues in 2013. In Slovakia, transposition of the EU Council Framework Decision on combatting hate crime in 2016 is expected to overcome the tendency of law enforcement and judicial authorities to downplay racial motives of crime.¹⁵⁹ The under-reporting of hate crime is a serious problem in several countries.

¹⁵¹ See definition of antigypsyism by the European Commission against Racism and Intolerance (ECRI) of the Council of Europe. In ECRI, General Policy Recommendation No13 from 24 June 2011, available at: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.13>

¹⁵² Civil society monitoring report on implementation of the national Roma integration strategies in Sweden, April 2018, p. 24.

¹⁵³ European Commission (2017) Midterm review of the EU Framework for National Roma Integration Strategies. COM (2017) 458 final, p. 13.

¹⁵⁴ Fundamental Rights Agency (2018) "A Persisting Concern: Antigypsyism as a Barrier to Roma Inclusion", p. 10, available at: <http://fra.europa.eu/en/publication/2018/roma-inclusion>

¹⁵⁵ Fundamental Rights Agency (2016) *Second European Union and Minorities Discrimination Survey. Roma – Selected Findings*, available at: <http://fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings>

¹⁵⁶ OSCE, Office for Democratic Institutions and Human Rights (2017) *Republic of Bulgaria early parliamentary elections 26 March 2017*. OSCE/ODIHR Limited Election Observation Mission Final Report. 30 June 2017, Warsaw. P. 13, available at: <https://www.osce.org/odihr/elections/bulgaria/327171?download=true>

¹⁵⁷ Civil society monitoring report on implementation of the national Roma integration strategies in Slovakia, March 2018, p. 44., available at: <https://cps.ceu.edu/roma-civil-monitor-reports>

¹⁵⁸ Ibid, pp. 37-43.

¹⁵⁹ Ibid, pp. 42-43.

In the Czech Republic and Sweden civil society organisations observed that Roma rarely report hate crime due to lack of trust in the criminal justice system.¹⁶⁰

- **Segregation in education**

Patterns of segregation of Roma children in education are widespread in several EU Member States with over 60 % of Roma children attending schools where most or all children are Roma in Bulgaria, Hungary, and Slovakia, and 29-48 % in Croatia, the Czech Republic, Greece, Romania and Spain.¹⁶¹ The European Commission has launched infringement proceedings against three EU Member States, the Czech Republic (2014), Slovakia (2015) and Hungary (2016), for failure to correctly implement the Racial Equality Directive (2000/43/EC), due to different situations of systemic discrimination and segregation of Roma children in schools. The European Commission's assessment is that the issue of segregation of Roma children in primary and secondary education is not appropriately addressed in the NRIS of Bulgaria, Hungary, Slovakia, and Romania and active desegregation measures are lacking in the countries most concerned.¹⁶²

In the Czech Republic, despite several measures adopted by the Government aimed at addressing indirect discrimination against Roma in education, and ten years after the European Court of Human Rights judgment in the case *DH v. the Czech Republic*¹⁶³, the number of Roma children who are educated in specialised educational programmes for children with mild mental disabilities remains disproportionate.¹⁶⁴ In both Slovakia and Hungary, legislative steps have been taken following the initiation of the infringement proceedings, to amend the legal framework and thereby counter the situations of segregation and discrimination in education.¹⁶⁵ The effects of these measures, however, are still to be seen. Hungary was found in violation of the European Convention on Human Rights in the case *Horváth and Kiss v. Hungary*¹⁶⁶ dealing with the placement of Roma children in special schools for children with mental disabilities. In 2018, a court in Budapest found that the Hungarian Ministry of Education violated the principle of equal treatment with respect to Roma by having maintained segregation at school level in 28 elementary schools across the country. The court made detailed prescriptions for the desegregation of the schools and imposed on the Ministry a public interest fine to be used for civil monitoring of school desegregation programmes.¹⁶⁷

In 2012, a local court in Slovakia found that the placement of Roma children in separate mainstream classes is racial discrimination and violates human dignity. After this decision, however, the practices of separating Roma children continued through the construction of so-called "container schools" with public money, located near the segregated Roma settlements and designated specifically for the Roma children in the settlements.¹⁶⁸ In Bulgaria, the Protection Against Discrimination Act does explicitly prohibit and define segregation in education, but the definition is not compatible with European law as it requires the state of separation to be 'forced'.¹⁶⁹

¹⁶⁰ Civil society monitoring report on implementation of the national Roma integration strategies in Sweden, April 2018, p. 25. See also Civil society monitoring report on implementation of the national Roma integration strategies in Czech Republic, February 2018, p. 42., available at: <https://cps.ceu.edu/roma-civil-monitor-reports>

¹⁶¹ European Commission (2017) Midterm review of the EU Framework for National Roma Integration Strategies. COM (2017) 458 final, p. 9.

¹⁶² Commission's assessment of Bulgaria National Roma Integration Strategy (2012), available at: https://ec.europa.eu/info/sites/info/files/2012_0.pdf; see also European Commission (2017) *Midterm review of the EU Framework for National Roma Integration Strategies*. COM (2017) 458 final, p. 9, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52017DC0458&qid=1522237232017>

¹⁶³ European Court of Human Rights (Grand Chamber). *Case of D.H. and Others v. The Czech Republic*. Application No. 57325/00. Judgment of 13 November 2007.

¹⁶⁴ Civil society monitoring report on implementation of the national Roma integration strategies in the Czech Republic, March 2018, p.9, p. 32.

¹⁶⁵ In Hungary an amendment to the Act on Equal Treatment and Promotion of Equal Opportunities in 2017 prohibited segregation on the grounds of race or nationality in education based on religious or ideological conviction. The amendment aimed at remedying the earlier exemption of religious schools from the prohibition of segregation which had allowed the maintenance of church-based segregated Roma schools. See *Civil society monitoring report on implementation of the national Roma integration strategies in Hungary*, March 2018, p. 30, available at: <https://cps.ceu.edu/roma-civil-monitor-reports>

¹⁶⁶ European Court of Human Rights, *Case of Horváth and Kiss v Hungary*. Judgment of 29 January 2013

¹⁶⁷ Kadar, A. European network of legal experts in gender equality and non-discrimination. News report, 6 July 2018.

¹⁶⁸ Debrecéniová, J., Durbáková, V. European network of legal experts in gender equality and non-discrimination. *Country Report. Non-Discrimination. Slovakia*. 2017, p. 82.

¹⁶⁹ Ilieva, M. (2017) European network of legal experts in gender equality and non-discrimination. *Country Report. Non-Discrimination. Bulgaria*, p. 54.

School desegregation measures are not envisaged in the Bulgarian NRIS and consequently not implemented; the measures to eliminate segregated schools which were included in a Ministry of Education and Science Strategy of 2015, were found by the Bulgarian Court of Auditors to be ineffective and not conducive to the realisation of the goals of the Strategy.¹⁷⁰ In Romania, neither the Law on National Education nor the anti-discrimination act contains a definition of segregation in education.¹⁷¹ Segregation in education and the actions against it were defined in two orders issued by the Ministry of Education and Science in 2016, which laid the foundations of a public policy on desegregation.¹⁷² The Romanian equality body has issued several decisions finding that schools had segregated Roma children, imposed fines on schools and ordered the school inspectorate to desegregate the schools.¹⁷³

- **Restrictions in access to education**

The French Government policy against the unauthorised occupation of private and public property results in the expulsion of Travellers and foreign Roma. The permanent instability of their settlements and living conditions is an obstacle for Traveller and Roma children to access education.¹⁷⁴ According to a study, 88 % of children of school age who are living in slums, squats or otherwise illegally occupied land (the majority of whom are of Roma origin or Travellers) are not registered in school.¹⁷⁵ In Italy, Roma segregation in camps, often established far from public services, including schools, has an adverse impact on school attendance by Roma pupils. The situation is aggravated by the frequent evictions of illegal settlements. It is assessed that the measures envisaged in the NRIS to prevent drop-out from school would not be effective until this problem is solved.¹⁷⁶

- **Segregation in housing and forced evictions**

Patterns of housing segregation, substandard living conditions and forced evictions are common for several EU Member States. In 2016, the European Commission noted in its report on the implementation of the NRIS that “the most important housing challenges – namely fighting segregation and preventing forced evictions – were insufficiently addressed”.¹⁷⁷ Judicial and monitoring bodies have found that national legislation and practice with respect to forced evictions and segregation of Roma is not in compliance with international and European human rights standards in Bulgaria, Romania, Italy or France. In Bulgaria, forced evictions of Roma without proper alternative accommodation did not cease after the European Court of Human Rights found in *Yordanova and others v. Bulgaria*¹⁷⁸ that national legislation and practice in cases of evictions violated the European Convention on Human Rights. The decision had not been implemented as at the end of 2018.¹⁷⁹ In France, the European Court of Human Rights in *Winterstein and Others v. France*¹⁸⁰ and the European Committee of Social Rights in *European*

¹⁷⁰ Audit report № 0300102415 on performed audit on “Educational integration of children and pupils from ethnic minorities” for the period 01.01.2012 to 31.12.2014, available in Bulgarian at: <http://www.bulnao.government.bg/bg/articles/obrazovatelna-integraciq-na-deca-i-uchenici-ot-etnicheskite-malcinstva-ne-e-efektivna-1670>

¹⁷¹ Chopin, I., Germaine, C., Tanczos, J. (2017) European network of legal experts in gender equality and non-discrimination. *Roma and the enforcement of anti-discrimination law*. European Commission, Directorate General for Justice and Consumers, 2017, p. 17.

¹⁷² Iordache, R. (2018) European Network of Legal Experts in Gender Equality and Non-Discrimination. *Country Report. Non-Discrimination. Romania*, p. 68.

¹⁷³ *Ibid.*, pp. 67-68.

¹⁷⁴ See European Committee of Social Rights (2018) Decision on the Merits. *European Roma and Travellers Forum v. France*, complaint 119/2015, published 16 April 2018, paras. 51-52, 54-56, available at: <http://hudoc.esc.coe.int/eng?i=cc-119-2015-dmerits-en>

¹⁷⁵ Latraverse, S. (2017) European Network of Legal Experts on Gender Equality and Non-Discrimination. *Country report: Non-discrimination France*. European Commission, p. 73.

¹⁷⁶ Favilli, Ch. European Network of Legal Experts on Gender Equality and Non-Discrimination. *Country report: Non-discrimination Italy*. European Commission, Directorate General for Justice and Consumers, 2017, pp. 51-52.

¹⁷⁷ European Commission. Commission Staff Working Document accompanying the document Assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States — 2016. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, SWD(2016) 209, 27 June 2016.

¹⁷⁸ European Court of Human Rights. Case of *Yordanova and Others v. Bulgaria*. Application no. [25446/06](https://hudoc.echr.coe.int/eng?i=001-110449). Final Judgement 24.09.2012, available at: <http://hudoc.echr.coe.int/eng?i=001-110449>

¹⁷⁹ Council of Europe. Committee of Ministers. H46-5 *Yordanova and Others group v. Bulgaria* (Application No. 25446/06). *Supervision of the execution of the European Court's judgments*. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808d5956

¹⁸⁰ European Court of Human Rights. Case of *Winterstein and Others v. France*. Application no. [27013/07](https://hudoc.echr.coe.int/eng?i=001-110449). Judgement 17 October 2013.

*Roma and Travellers Forum (ERTF) v. France*¹⁸¹, among others, established that forced evictions of Travellers and Roma carried out by the authorities violated European human rights law.

Despite these decisions, forced evictions remain a major instrument of public policy with respect to Roma in France.¹⁸² In Romania, the UN Human Rights Council Special Rapporteur on extreme poverty and human rights noted in 2015 that a large number of Roma live without security of tenure and are exposed to forced evictions, and that national housing legislation does not provide legal protection from forced eviction in compliance with international human rights standards.¹⁸³ In Italy, a local court established in 2015 that Roma-only housing maintained by municipalities violates the Race Equality Directive.¹⁸⁴ In 2010, the European Committee of Social Rights found an “aggravated violation” of the Revised European Social Charter in *Centre on Housing Rights and Evictions (COHRE) v. Italy* because forced evictions were specifically targeted on Roma and because public authorities contributed to the violent execution of the evictions.¹⁸⁵ Nevertheless, thousands of Roma continue to live in segregated camps or in conditions unsuitable for human habitation, with no access to education and employment, and are subjected to forced evictions without accommodation alternatives.¹⁸⁶

In Hungary, in 2015, the Government adopted a policy for tackling housing segregation. Civil society organisations noted that previous programmes aimed at eliminating segregated settlements have had a limited effect.¹⁸⁷ In the Czech Republic, recent data indicated that the number of socially excluded localities, primarily populated by Roma, has doubled since 2006.¹⁸⁸ A draft law on social housing prepared by the Ministry of Labour and Social Affairs which was expected to reduce segregation of Roma in housing was not adopted by the Czech Parliament.¹⁸⁹ In Slovakia, an evaluation of Government housing policies concluded that **little has been done to address residential segregation** which affects a considerable number of the Roma population.¹⁹⁰ Moreover, civil society organisations have documented deliberate and systematic practices in certain localities preventing the Roma from moving out of segregated and substandard living conditions.¹⁹¹ Forced evictions of Roma and **construction and maintenance of walls to reinforce residential segregation** continues to be an issue in Slovakia.¹⁹²

- **Multiple Discrimination**

Multiple discrimination is covered by the anti-discrimination law in Bulgaria, Italy and Romania but case law does not exist. The NSIS (National Social Inclusion Strategy) in Hungary, **and the National Roma Inclusion Strategies (NRIS)** in Slovakia and Spain, use the concept of multiple discrimination and envisage specific measures to address it. Civil society organisations in Slovakia, however, note that the **goals addressing Roma women are**

¹⁸¹ European Committee of Social Rights. Decision on the merits *European Roma and Travellers Forum (ERTF) v. France* Complaint No. 119/2015, published 16 April 2018.

¹⁸² Civil society monitoring report on implementation of the national Roma integration strategies in France, March 2018, pp. 18-19, available at: <https://cps.ceu.edu/roma-civil-monitor-reports>

¹⁸³ End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights, Bucharest 11 November 2015, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16737&LangID=E>

¹⁸⁴ Favilli, Ch. European Network of Legal Experts on Gender Equality and Non-Discrimination. *Country Report. Non-Discrimination. Italy*. 2017, p. 53.

¹⁸⁵ European Committee of Social Rights. *Centre on Housing Rights and Evictions (COHRE) v. Italy*, Complaint No. 58/2009. Report to the Committee of Ministers, 6 July 2010, paras.76-77.

¹⁸⁶ In 2015, the European Roma Rights Center have made a submission to the European Commission detailing conditions of Roma in Italy which are at variance with the RED and asking the Commission to start infringement proceedings against Italy. See European Roma Rights Center. *Written comments by the ERRC to the European Commission on progress in 2015 with the EU Framework for National Roma Integration Strategies (NRIS)*. February 2016, available at: <http://www.errc.org/reports-and-submissions/errc-submission-to-the-european-commission-on-the-eu-roma-framework-february-2016>

¹⁸⁷ Civil society monitoring report on implementation of the national Roma integration strategies in Hungary, March 2018, p. 32-33, available at: <https://cps.ceu.edu/roma-civil-monitor-reports>.

¹⁸⁸ Civil society monitoring report on implementation of the national Roma integration strategies in Czech Republic, February 2018, p. 33.

¹⁸⁹ Civil society monitoring report on implementation of the national Roma integration strategies in Czech Republic, February 2018, p. 34.

¹⁹⁰ Civil society monitoring report on implementation of the national Roma integration strategies in Slovakia, March 2018, p. 34, available at: <https://cps.ceu.edu/roma-civil-monitor-reports>

¹⁹¹ Ibid.

¹⁹² Ibid., p. 36.

not followed by specific measures in the Action Plan. Furthermore, Slovakia does not envisage measures to address disproportionate placement of Roma children in state care.¹⁹³ **The gender perspective is generally absent** from the NRIS in Bulgaria, Czech Republic and Romania, although the latter envisages some specific measures dedicated to Roma women.¹⁹⁴ In the Czech Republic, there is no progress with the measures to compensate Roma women who have undergone coercive sterilisation.¹⁹⁵

2.2. Member State NRIS compliance with regional and international anti-discrimination and minority protection standards

2.2.1. UN Human Rights Treaties: Non-discrimination and Roma

All EU Member States are bound by the core UN treaties which prohibit discrimination on racial or ethnic grounds.¹⁹⁶ States Parties' compliance with international anti-discrimination norms is assessed by the United Nations treaty bodies.¹⁹⁷ A number of UN bodies have welcomed adoption of anti-discrimination legislation by States Parties as well as the National Roma Integration Strategies. Recent concluding observations by UN Treaty bodies, however, highlighted:

- **Racist political discourse against Roma** in Bulgaria¹⁹⁸, Czech Republic¹⁹⁹, Slovakia²⁰⁰;
- **Excessive use of force by the police against Roma** without adequate investigation in Slovakia²⁰¹;

¹⁹³ Ibid., p. 28.

¹⁹⁴ Civil society monitoring report on implementation of the national Roma integration strategies in Bulgaria, March 2018, pp. 23-24 and Civil society monitoring report on implementation of the national Roma integration strategies in Romania, March 2018, pp. 30-31, available at: <https://cps.ceu.edu/roma-civil-monitor-reports>.

¹⁹⁵ Civil society monitoring report on implementation of the national Roma integration strategies in Czech Republic, February 2018, p. 26.

¹⁹⁶ Article 2(1) and Article 26 International Covenant on Civil and Political Rights (ICCPR); Article 2(2) International Covenant on Economic, Social and Cultural Rights (ICESCR); Article 1(1) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Convention on the Rights of the Child (CRC) (see Article 2); Convention on the Rights of Persons with Disabilities (CRPD)

¹⁹⁷ The Treaty Bodies referred to include: the Human Rights Committee (HRC) which supervises the ICCPR; the Committee on the Elimination of All forms of Racial Discrimination (CERD) which supervises the ICERD; the Committee on Economic Social and Cultural Rights (CESCR) which supervises the ICESCR; the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) which supervises the CEDAW; the Committee on the Rights of the Child (CRC) which supervises the CRC, and the Committee on the Rights of Persons with Disabilities (CRPD) which supervises the CRPD.

¹⁹⁸ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria, CERD/C/BGR/CO/20-22, 31 May 2017, para. 11.

¹⁹⁹ United Nations Committee against Torture. Concluding observations on the sixth periodic report of Czechia, CAT/C/CZE/CO/6, 6 June 2018, para. 26.

²⁰⁰ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined eleventh and twelfth periodic reports of Slovakia, CERD/C/SVK/CO/11-12, 12 January 2018, para. 13.

²⁰¹ Ibid, para. 15.

- **Persistent and entrenched discrimination against Roma in all spheres of social life**, especially segregation of Roma in education, segregation in housing, forced evictions, substandard housing in Bulgaria²⁰², Czech Republic²⁰³, France²⁰⁴, Hungary²⁰⁵, Italy²⁰⁶, Slovakia²⁰⁷, Spain²⁰⁸ and Romania²⁰⁹
- **Limited application of criminal code articles on racist offences** by law-enforcement officials and low conviction rate of hate crimes in Bulgaria²¹⁰ and Hungary²¹¹.

In their reviews of Governmental policies, UN Treaty Bodies also noted insufficient implementation of the National Roma Integration Strategies.²¹² The CRPD has raised the issue of multiple discrimination against Roma with disabilities in its supervisory practice.²¹³ The CEDAW has highlighted multiple discrimination issues affecting Roma women in the Czech Republic²¹⁴, Hungary²¹⁵, Slovakia²¹⁶, Spain²¹⁷, Romania²¹⁸, and others as well. The CRC paid particular attention to persistence of discrimination and stigmatisation of Roma children (see for example, Concluding Observations on France²¹⁹, Slovakia²²⁰); segregation of Roma women and children in hospital facilities (Hungary²²¹, Slovakia); enrolment in ordinary schools is a problem for some Roma children and unaccompanied

²⁰² United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria, para. 19.

²⁰³ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined tenth and eleventh periodic reports of the Czech Republic, CERD/C/CZE/CO/10-11, 25 September 2015.

²⁰⁴ United Nations Committee on Economic, Social and Cultural Rights. Concluding observations on the fourth periodic report of France, E/C.12/FRA/CO/4, 13 July 2016, paras. 38-40.

²⁰⁵ United Nations Human Rights Committee. Concluding observations on the sixth periodic report of Hungary, CCPR/C/HUN/CO/6, 9 May 2018, paras.15-18.

²⁰⁶ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined nineteenth and twentieth periodic reports of Italy, 17 February 2017.

²⁰⁷ See also United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined eleventh and twelfth periodic reports of Slovakia, para. 17.

²⁰⁸ United Nations Committee on the Rights of the Child. Concluding observations on the combined fifth and sixth periodic reports of Spain, CRC/C/ESP/CO/5-6, 5 March 2018, para. 37..

²⁰⁹ United Nations Human Rights Committee. Concluding observations on the fifth periodic report of Romania, CCPR/C/ROU/CO/5, 11 December 2017, paras. 11-14.

²¹⁰ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria, CERD/C/BGR/CO/20-22, 31 May 2017, para. 13, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/BGR/CO/20-22&Lang=En

²¹¹ United Nations Human Rights Committee. Concluding observations on the sixth periodic report of Hungary, CCPR/C/HUN/CO/6, 9 May 2018, para. 17, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/HUN/CO/6&Lang=En

²¹² See, for example, United Nations Human Rights Committee. Concluding observations on the fifth periodic report of Romania, CCPR/C/ROU/CO/5, 11 December 2017, para. 11. See also United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined eleventh and twelfth periodic reports of Slovakia, CERD/C/SVK/CO/11-12, 12 January 2018, para. 17.

²¹³ See, for example, United Nations Committee on the Rights of Persons with Disabilities. CRPD/C/SVK/CO/1. Concluding observations on the initial report of Slovakia, 17 May 2016, para. 17, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/SVK/CO/1&Lang=En

²¹⁴ United Nations Committee on the Elimination of Discrimination against Women (CEDAW). Concluding observations on the sixth periodic report of the Czech Republic, 14 March 2016, paras 26, 36.

²¹⁵ United Nations Committee on the Elimination of Discrimination against Women (CEDAW). Concluding observations on the combined seventh and eighth periodic reports of Hungary, adopted by the Committee at its fifty-fourth session (11 February–1 March 2013). CEDAW/C/HUN/CO/7-8, para. 36.

²¹⁶ United Nations Committee on the Elimination of Discrimination against Women (CEDAW). Concluding observations on the combined fifth and sixth periodic reports of Slovakia, 25 November 2015, paras. 38-39.

²¹⁷ United Nations Committee on the Elimination of Discrimination against Women (CEDAW). Concluding Observations on the combined seventh and eighth periodic reports of Spain. 29 July 2015, paras. 34-35.

²¹⁸ United Nations Committee on the Elimination of Discrimination against Women (CEDAW). Concluding observations on the combined seventh and eighth periodic reports of Romania, 24 July 2017, para. 36.

²¹⁹ United Nations Committee on the Rights of the Child. Concluding observations on the fifth periodic report of France, 23 February 2016.

²²⁰ United Nations Committee on the Rights of the Child. Concluding observations on the combined third to fifth periodic reports of Slovakia. 20 July 2016, para. 44.

²²¹ United Nations Committee on the Rights of the Child. Concluding observations on the combined third, fourth and fifth periodic reports of Hungary, 14 October 2014.

migrant children in France²²²; over-representation of children in care institutions in the Czech Republic²²³ and Hungary.

2.2.2. Discrimination against Roma in violation of European human rights instruments

The principles of equality and non-discrimination are embodied in the European Convention on Human Rights (ECHR), the Framework Convention on the Protection of National Minorities (FCNM), and the Revised European Social Charter. Under the ECHR, the prohibition of discrimination entails an obligation to combat crimes motivated by racism and xenophobia.

In a landmark decision in the case *D.H. v the Czech Republic* concerning segregation of Roma in education, the European Court of Human Rights (ECtHR) recognised that “the vulnerable position of Roma/Gypsies means that special consideration should be given to their needs and their different lifestyle...”²²⁴ and called for “special vigilance and vigorous reaction” by the State in cases of racial discrimination.²²⁵ In the case *Moldovan and others v Romania* concerning the failure of the State to remedy extreme violence against Roma²²⁶ the ECtHR held that racial discrimination can amount to degrading treatment within the meaning of Article 3 of the Convention.²²⁷

In the recent decade the European Court of Human Rights (ECtHR) repeatedly found that Member States in this study discriminated against Roma in relation to the right to life (Article 2), freedom from torture, inhuman and degrading treatment (Article 3), right to a fair trial (Article 6), the right to education (Protocol 1, Art. 2), the right to respect for private and family life, home and correspondence (Article 8), and other. The ECtHR established a positive duty of states to investigate possible racial motives in cases of violence against Roma. In *Nachova and Others v. Bulgaria*,²²⁸ a case challenging violence against Roma by state actors, the ECtHR found a violation of the non-discrimination provision of the ECHR in conjunction with the right to life (Article 2) because the authorities had failed to investigate whether the events leading to the deaths of the Roma might have been racially motivated. Subsequently, several decisions of the ECtHR – such as *Cobzaru v. Romania*²²⁹, *Stoica v. Romania*²³⁰, *Ciorcan and others v Romania*²³¹, *Balasz v. Hungary*²³² have found that the respective states discriminated against Roma by failing to take all possible steps to investigate whether or not racial bias may have played a role in the police ill-treatment of the Roma.

Systematic practices of placement of Roma children in special schools were found to violate the prohibition of discrimination in the landmark judgement *DH and Others v. the Czech Republic*. The ECtHR established that even where the wording of statutory provision is neutral, if it is applied in a racially disproportionate manner without a justification, it may amount to indirect discrimination in violation of the ECHR. The Court noted that the Czech Republic is not alone because discriminatory barriers to education for Roma children are present in a number of European countries.²³³ This judgement was followed by five other judgements of the ECtHR on cases involving various segregation patterns in Hungary, Croatia and Greece.²³⁴ In *Horváth and Kiss v. Hungary* – another

²²² United Nations Committee on the Rights of the Child. Concluding observations on the fifth periodic report of France, 23 February 2016.

²²³ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the combined tenth and eleventh periodic reports of the Czech Republic, paras. 19-20.

²²⁴ European Court of Human Rights (Grand Chamber). *Case of D.H. and Others v. The Czech Republic*. Application No. 57325/00. Judgment of 13 November 2007, para 181.

²²⁵ European Court of Human Rights (Grand Chamber). *Case of D.H. and Others v. The Czech Republic*. Application No. 57325/00. Judgment of 13 November 2007, para 176.

²²⁶ European Court of Human Rights. *Case of Moldovan and others v Romania*. Applications nos. 41138/98 and 64320/01. Judgement 2 of 12 July 2005.

²²⁷ *Ibid.*, para. 113.

²²⁸ European Court of Human Rights. *Case of Nachova and Others v. Bulgaria*. Applications nos. 43577/98 and 43579/98. Para. 145.

²²⁹ European Court of Human Rights. *Case of Cobzaru v. Romania*. Application no. 48254/99. Judgement of 26 July 2007.

²³⁰ European Court of Human Rights. *Case of Stoica v. Romania*. No. 42722/02. Judgment (Merits and Just Satisfaction) of 04.03.2008.

²³¹ European Court of Human Rights. *Case of Ciorcan and Others v. Romania*. Applications nos. 29414/09 and 44841/09). Judgement 27 January 2015.

²³² European Court of Human Rights. *Case of Balázs v. Hungary*. Application no. 15529/12. Judgement 20 October 2015.

²³³ European Court of Human Rights (Grand Chamber). *Case of D.H. and Others v. The Czech Republic*. Application No. 57325/00). Judgment of 13 November 2007, para. 205.

²³⁴ See the Roma education cases decided by the ECtHR as of 2017: *DH and Others v. the Czech Republic*; *Sampanis et autres c. Grèce*, Requête no 32526/05. Arrêt. 5 juin 2008; *Orsus and Others v. Croatia*. Judgement of 16 March 2010, Application No. 15766/03; *Sampanis et autres c. Grèce* 59608/09. 11 décembre 2012; *Horváth and Kiss v. Hungary* Application no. 11146/11. Judgement 29 January 2013; *Lavida et autres c.*

milestone case with relevance to patterns of school segregation of Roma – the ECtHR established a positive obligation of the state “to undo a history of racial segregation in special schools.”²³⁵

In *Yordanova and others v. Bulgaria*²³⁶ the ECtHR established that forced evictions without safeguards against disproportionate interference with one’s home violate the ECHR. In view of its importance for the protection of Roma against widespread practices of forced evictions in many European countries, the case was selected as best practice for the integration of Roma by the European Economic and Social Committee.

The European Committee of Social Rights (ECSR) found that Member States in this study violated the prohibition of discrimination with respect to Roma in connection with several rights protected by the Revised European Social Charter.²³⁷ Bulgaria²³⁸, Italy²³⁹ and France²⁴⁰ discriminated against Roma in relation to the right to health (Article 11), the right of the family to social, legal and economic protection (Article 16), to protection against poverty and social exclusion (Article 30), right to adequate housing (Article 31). Moreover, the ECSR established that the respective states discriminated against Roma and Travellers with respect to the exercise of these rights in violation of the non-discrimination provision of the Revised Charter (Article E).

In its assessment of State Parties’ measures to promote full and effective equality of Roma, the Advisory Committee on the Framework Convention (ACFC) underlined the systemic discrimination of Roma in all fields of life. Roma women, in particular, are affected by multiple layers of structural inequalities hampering their access to rights.²⁴¹ The ACFC noted widespread and rising antigypsyism including within the law-enforcement as well as instrumental use of anti-Roma sentiment for political purposes.²⁴² In several countries including Slovakia, Hungary and Romania, Roma are victims of police brutality and such cases are usually not effectively investigated.²⁴³

A common concern of the ACFC is the lack of progress on the implementation of the NRIS with reference to the European Commission’s assessment.²⁴⁴ The ACFC has repeatedly called on States Parties to develop systems for gathering reliable statistical data, since the absence of such data is a serious obstacle for the implementation and monitoring of the measures to ensure the full and effective equality of persons belonging to national minorities.

2.2.3. Specific minority rights

In addition to the universal protection against discrimination, international and regional human rights instruments recognise specific minority rights.²⁴⁵ Although the EU Framework on the NRIS does not require Member States to envisage measures for the protection of minority rights, several Member States have included

Grèce. Requête no 7973/10. Arrêt 13 mai 2013. For a detailed discussion of these cases see: Lilla Farkas. *Report on Discrimination of Roma Children in Education*. European Commission Directorate-General for Justice, April 2014.

²³⁵ European Court of Human Rights. *Case of Horváth and Kiss v Hungary*. Judgment of 29 January 2013, para. 127.

²³⁶ European Court of Human Rights. *Case of Yordanova and Others v. Bulgaria*. Application no. [25446/06](https://hudoc.echr.coe.int/eng/?i=001-110449). Final Judgement 24.09.2012, available at: <http://hudoc.echr.coe.int/eng/?i=001-110449>

²³⁷ Hungary, Romania, Slovakia and Spain have not ratified the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints and therefore do not allow submission of collective complaints by social partners and NGOs to the European Committee of Social Rights. See Chart of Signatures and Ratifications of Treaty 158, at: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158/signatures?p_auth=nw0ET97o

²³⁸ European Committee of Social Rights (2007) *Decision on the Merits. European Roma Rights Centre v. Bulgaria, complaint 31/2005*. Published 31 March 2007, available at: <http://hudoc.esc.coe.int/eng/?i=cc-31-2005-dmerits-en>

²³⁹ European Committee of Social Rights (2010) *Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009*. Decision on the merits of 6 July 2010.

²⁴⁰ Council of Europe. Committee of Ministers. Resolution CM/ResChS(2010)5 Collective complaint No. 51/2008 by the European Roma Rights Centre (ERRC) against France. Adopted by the Committee of Ministers on 30 June 2010.

²⁴¹ Advisory Committee on the Framework Convention. *Fourth Opinion on the Slovak Republic*, adopted 3 December 2014, para. 25.

²⁴² See, for example, Fourth Opinion on Hungary, paras. 79-83; Fourth Opinion on Italy, para. 59; Third Opinion on Romania, paras. 106-108; Fourth Opinion on the Slovak Republic, paras. 35-37, 41; Fourth Opinion on Spain, paras. 39-40.

²⁴³ *Fourth Opinion on the Slovak Republic*, para. 41; *Fourth Opinion on Hungary*, para. 85; Third Opinion Romania, paras. 112-117.

²⁴⁴ See, for example, Advisory Committee on the Framework Convention. Fourth Opinion on Italy adopted on 19 November 2015, para. 39; Third Opinion on Romania adopted on 21 March 2012, paras. 70-71; Fourth Opinion on the Slovak Republic, adopted 3 December 2014, para. 24; Fourth Opinion on Spain, adopted 3 December 2014, para. 30.

²⁴⁵ The main instruments are: The International Covenant on Civil and Political Rights (ICCPR, Article 27), the Council of Europe Framework Convention on the Protection of National Minorities (FCNM), and the European Charter for Regional or Minority Languages (ECRML). All countries in This study have ratified the ICCPR; all countries except France have ratified the FCNM; Hungary, Romania, Slovakia, and Spain have ratified the ECRML.

measures for the preservation and development of the Roma identity, language, and culture – Bulgaria, Hungary, Romania, Slovakia, and Spain. With respect to participation in public affairs, social and cultural life, most of the countries, except France have declared among the goals and objectives of their NRIS promotion of full participation of Roma in public life. In its Opinions on States' implementation of the FCNM, the Advisory Committee on the Framework Convention have noted that in a number of countries, including Bulgaria, Hungary, Italy, Slovakia, and Spain, Roma do not participate effectively in public life due to under-representation in elected bodies; disproportionately low number of persons employed in public administration and law enforcement agencies; or formalistic and non-transparent consultation processes about Roma integration policies.²⁴⁶

²⁴⁶ See, for example, Advisory Committee on the Framework Convention for the Protection of National Minorities. Third Opinion on Bulgaria, published 30 July 2014, p. 2; Advisory Committee on the Framework Convention for the Protection of National Minorities. Fourth Opinion on the Slovak Republic, para. 79; Advisory Committee on the Framework Convention for the Protection of National Minorities. Fourth Opinion on Hungary, published 12 September 2016, p. 2; Advisory Committee on the Framework Convention for the Protection of National Minorities. Fourth Opinion on Italy, published 12 July 2016, paras. 113-117; Advisory Committee on the Framework Convention for the Protection of National Minorities. Fourth Opinion on Spain, adopted 3 December 2014, para. 93; Advisory Committee on the Framework Convention for the Protection of National Minorities.

3. IMPLEMENTATION OF NRIS IN SELECTED EU MEMBER STATES: ACHIEVEMENTS AND CHALLENGES

KEY FINDINGS

- The overview of National Roma Integration Strategies (NRIS) in selected EU Member States with significant Roma populations confirms the general challenges identified in Chapter 2. The study confirms that the NRIS arrived in a specific societal and public policy context. Each of the national case studies lays down the national context. The study also confirms that the EU Framework for NRIS designed as a 'one size fit all' has missed this complexity on the ground. Although this was later partly addressed by country specific recommendations during the European Semesters, the recommendations targeted only limited socio-economic issues.
- Interviews have revealed that in countries where there is lack of recognition and understanding of antigypsyism among officials (Bulgaria, Hungary, Italy, Slovakia, Romania), there are fewer efforts made to counter antigypsyism. These countries are also least advanced in the issues of housing, continuous forced evictions of Roma EU citizens (France also belongs to this category), inability for Roma from the Balkans to seek asylum, and continuous segregation in education. However, Spain stands out as an example for better understanding and treatment of national Roma communities, Roma EU citizens and Roma third country nationals. In France, a major difference was revealed with the national Roma community – Gens du Voyage, who do not consider themselves as Roma and Roma EU citizens – who although targeted by various policy measures, more often experience mistreatment and discrimination as Roma non-citizens by national policies on migration.
- The interviews at the national level confirm that despite the efforts of National Roma Contact Points, equality bodies and civil society, institutional, societal and attitudinal barriers for Roma integration remain high. Moreover, Roma integration is seen as an issue of concern for these bodies and rarely as a horizontal priority – in urban planning that results in spatial segregation, and lack of land ownership that ends up in forced evictions – or as an issue of rule of law, justice and international reputation. This situation has been partly created by the EU Framework for NRIS that lacks a rule of law and human rights approach. For example, the post-2004 enlargement countries, like Bulgaria, Hungary, Romania and Slovakia, no longer see the issue of Roma as litmus paper for the situation of Rule of Law, Democracy and Fundamental Rights. This has been illustrated by the difficulty in contacting and interviewing Foreign Ministries (apart from Spain and France) as they are tasked with representing their country within regional and international human rights bodies and other EU venues.

This chapter evaluates the developments of the NRIS after 2015 in seven EU Member States – Bulgaria, France, Hungary, Italy, Romania, Slovak Republic and Spain. The country case studies rely on country notes that were drafted by national experts as highlighted in the methodology. National country case studies go beyond NRIS and also assess the broader societal and public policy context in the respective Member States. National context analysis includes exploration of issues such as:

- How public authorities communicate the issues of the NRIS and Roma integration in general to the broad public
- What actions by public authorities promote or undermine the implementation of the NRIS
- How national legislation affects the implementation of the NRIS goals

Moreover, each of the national case studies contains relevant information about NRIS implementation in substantive policy areas – namely education, housing, health care and employment.

The national case studies also look into implementation of horizontal issues such as tackling discrimination of Roma and institutional forms of antigypsyism hate speech and hate crime. The national case studies also assess

the policies of historical remembrance and whether they address and redress the injustices perpetrated against Roma. Section 3.8 summarises the emerging promising practices from the national case studies. However, it is important to highlight that there was no exhaustive evaluation of the actual impact of these initiatives and they would not necessarily suit all Member States. Finally, each of the case studies elaborates on the feasibility of national and European Truth and Reconciliation Commissions. These findings also feed into the TRC assessment in Chapter 4.

The team of **national experts** in drafting these country case studies have relied on interviews they conducted at national level. They also undertook additional desk research and **attended** the Strategic Visioning Exercise. All national experts had clear and structured guidance to follow, with regular updates and review processes. The anonymised list of interviews carried out is available in Annex 3.

3.1. Bulgaria²⁴⁷

3.1.1. Public and policy context

Stigmatisation of Roma has been characteristic in the Bulgarian public discourse since the 1990s. However, in recent years there has been a sharp deterioration of the public climate with respect to Roma integration and human rights in general. The “wave of antigypsyism” as defined by the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly (PACE)²⁴⁸ has been manifested in anti-Roma rhetoric, including hate speech by high level public officials, racially-motivated attacks on Roma, anti-Roma riots, and forced evictions conducted under public pressure.

One of the serious factors contributing to the deterioration of the public climate is the escalation of hate speech in political discourse. In the election campaigns in 2013, 2014 and 2017, several parties, some of which were subsequently elected to Parliament, used racist rhetoric in election platforms and speeches, instigating discrimination against Roma and other minorities. As noted by the OSCE election observation mission with regard to the early elections in 2017, “The campaign tone was marred by cases of using racist, xenophobic and anti-Roma and anti-Turkish rhetoric”.²⁴⁹ Although the Bulgarian criminal code envisages punishment for hate crimes and hate speech, manifestations of antigypsyism in public political speech remained unpunished by the Bulgarian authorities, despite criticism by domestic and international organisations.²⁵⁰ In most cases, there have been no civil or administrative sanctions either.

Hate speech against Roma is also prevalent in most media – mainstream and marginal alike, which produce their own anti-Roma content as well as uncritically reproducing racist and xenophobic views. According to a national representative survey, in 2016, 91.5 % of all people who encountered hate speech in the previous 12 months reported that it was targeted against Roma.²⁵¹ Another monitoring organisation analyses that the practice of emphasising the Roma ethnicity in association with criminal news is a stable tendency in the Bulgarian media context.²⁵² According to respondents, the biggest group which uses hate speech is citizens in social media, and the second biggest group is politicians and journalists.²⁵³

²⁴⁷ This case study has been developed by Savelina DANOVA-ROUSSINOVA.

²⁴⁸ See Council of Europe's Parliamentary Assembly (2011) Wave of Antigypsyism in Bulgaria: statement by the Legal Affairs Committee, 03 October, available at: <http://assembly.coe.int/nw/xml/News/FeaturesManager-View-EN.asp?ID=1009>.

²⁴⁹ OSCE and ODIHR (2017) Republic of Bulgaria early parliamentary elections 26 March 2017. OSCE/ODIHR Limited Election Observation Mission Final Report, 30 June, Warsaw, p. 13, available at: <https://www.osce.org/odihr/elections/bulgaria/327171?download=true>.

²⁵⁰ See for example, European Commission against Racism and Intolerance (2014) ECRI Report on Bulgaria, fifth cycle, 16 September, paras. 37-38, available at: <https://rm.coe.int/fifth-report-on-bulgaria/16808b55d8>.

²⁵¹ Open Society Institute Sofia (2016) Public Attitudes against Hate Speech in Bulgaria, 12 July, Sofia, p. 12, available at: http://osi.bg/downloads/File/2016/Hate%20speech%20ENG%202016%20interact_final.pdf.

²⁵² Fondacia “Mediyna demokracia”, Fondacia “Centar za modernizirane na politiki” (2016) “Ezikat na omrazata v Balcgaria: riskovi zoni, uyazvimi obekti” (“Hate Speech in Bulgaria: Risk Zones and Vulnerable Objects”), Sofia, p. 87-88, available at: http://antihate.europe.bg/sites/antihate.europe.bg/files/uploads/antihate_index.pdf

²⁵³ Ibid.

Systematic public instigation to hatred and discrimination against Roma has led to periodic outbursts of intolerance against Roma. Several criminal incidents, involving Roma, in recent years have escalated to collective punishment actions by non-Roma citizens against entire Roma neighbourhoods.²⁵⁴ Under public pressure, in a number of municipalities across the country, local authorities have proceeded with the forced eviction of Roma and demolition of the only homes of Roma families.²⁵⁵

This public climate is incompatible with the Government commitments to combat discrimination against Roma and to work for the integration of Roma. Six years after the adoption of the NRIS and 19 years after the adoption of the first governmental Roma integration strategy²⁵⁶, the situation of Roma is described by monitoring bodies as “continued marginalisation [...] in all walks of life, including in public and political life, [...] which is attributed to limited funding and a deficient implementation of related initiatives”.²⁵⁷ Antigypsyism as such is not recognised by Bulgarian institutions, and the measures to combat it are ineffective. As noted by the European Court of Auditors, failure to address antigypsyism and the lack of specific targets to combat discrimination “leaves scope for institutional discrimination to develop or continue unchecked”.²⁵⁸

3.1.2. Implementation of substantive policies

The Bulgarian National Roma Integration Strategy 2012-2020 was adopted by a decision of the Bulgarian Parliament on 1 March 2012. Roma civil society organisations insisted on and welcomed this act as a demonstration of political commitment at the highest level of the state to implement the Strategy. A few years later, however, the policy dialogue between the Government and Roma civil society which takes place within the National Council for Cooperation on Ethnic and Integration Issues (NCCEII, the Council) has been disrupted.²⁵⁹ The Secretariat of the Council is part of the administration of the government and serves also as the National Roma Contact Point for the implementation of the NRIS.²⁶⁰ In two waves in 2013 and 2017, Roma organisations, including the biggest and most active ones, discontinued their participation in the NCCEII, in protest over the lack of institutional reaction to the rampant anti-Roma racism²⁶¹ in the public sphere and following the appointment of the Deputy Prime Minister, Valery Simeonov, as chairman of the Council in 2017. Several hundred human rights activists and intellectuals denounced the appointment of Mr Simeonov and protested against the political endorsement of a “pronounced supporter of fascist and neo-Nazi ideology”.²⁶²

For a number of years, Roma civil society organisations called for the establishment of a functional institutional framework for the implementation of the NRIS through an administrative body with adequate powers and resources in place of the NCCEII which did not have the powers and capacity to perform such functions.²⁶³ The

²⁵⁴ See for example, Amalipe Centre for Interethnic Dialogue and Tolerance and others (2018) Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Bulgaria, March, p. 37 and 39-40, available at: <http://amalipe.com/files/publications/rcm-civil-society-monitoring-report-1-bulgaria-2017.pdf>.

²⁵⁵ See, for example, incidents detailed in Bulgarian Helsinki Committee (2017) Written Comments of the Bulgarian Helsinki Committee Concerning Bulgaria for Consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 92nd Session, March, available at: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BGR/INT_CERD_NGO_BGR_27032_E.pdf; see also Mihaylova D., A. Kashamov (2017) Roma Evictions and Demolition of Roma Houses: A Sustainable Solution for Roma Integration or a Problem of Roma Discrimination in Bulgaria?, Sofia, March, p. 34-39, available at: <https://www.equalopportunities.eu/reports/146-roma-evictions-and-demolition-of-roma-houses-en.html>.

²⁵⁶ The Framework Programme for Equal Integration of Roma in Bulgarian Society was adopted by the Bulgarian Government in April 1999. A number of the measures envisaged in this programme have been reiterated over the years in other strategic documents, the last one being the NRIS.

²⁵⁷ United Nations (2017) Committee on the Elimination of All Forms of Racial Discrimination. Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria, CERD/C/BGR/CO/20-22, 31 May, para. 19.

²⁵⁸ European Court of Auditors (2016) EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground, para. 126, available at: https://www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf

²⁵⁹ Roma organisations, along with other ethnic minority organisations, participate as members of the NCCEII.

²⁶⁰ The Secretariat is composed of 4 persons, who are responsible for Roma and other ethnic minority issues. The staff does not include persons who identify as Roma.

²⁶¹ See Open letter by nongovernmental organisations working on Roma integration issues (in Bulgarian), 5.04.2012, available at: <http://www.amalipe.com/index.php?nav=news&id=1543&lang=1>

²⁶² See Declaration to Bulgarian and European institutions, available in Bulgarian at: <https://www.marginalia.bg/novini/osvobodete-nezabavno-valeri-simeonov-kato-predsedatel-na-nseiv-osvobodete-go-i-ot-pozitsiyata-mu-na-vitsepremier-po-demografските-vaprosi/>

²⁶³ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Bulgaria, March 2018, p. 15.

organisations interviewed for this study also expressed the opinion that the effective implementation of Roma integration policies, including policies to fight discrimination, should be realised by a specialised organ with executive powers.²⁶⁴

In March 2018, the Monitoring Committee on the Partnership Agreement of the Republic of Bulgaria established a Subcommittee on Roma integration composed of representatives of line ministries, Operational Programmes of the ESIF, and Roma organisations.²⁶⁵ Its purpose is to coordinate Roma integration interventions with ESIF in line with the implementation of the NRIS. Roma organisations considered that this solution could potentially restore and invigorate the dialogue for the implementation of the NRIS, but it is early to make an assessment in this regard.

In addition to the problems related to the governance of the NRIS, major structural challenges remain its funding and monitoring. The assessment of the Bulgarian NRIS conducted by the European Court of Auditors noted that the NRIS does not state the amount of money available for Roma integration measures either from the national budget or from the EU budget through the ERDF and ESF.²⁶⁶ The inclusion of Roma integration ex-ante conditionality in investment priority 9(ii) "Integration of marginalised communities such as Roma" of the ESIF as well as the active negotiation of Roma NGOs with the Government ensured a significant increase of resources for Roma integration measures in the period 2014-2020. Despite the availability of larger resources, however, Roma civil society organisations noted that the achievement of sustainable results is hindered by the persistence of major challenges such as the design of measures which do not aim at systemic changes in the situation of Roma, the limited participation of NGOs and the lack of capacity in smaller municipalities.²⁶⁷

Although having a robust monitoring system is one of the conditions for fulfilling the ex-ante conditionality on the implementation of the NRIS, the Bulgarian NRIS does not have methods and mechanisms other than the so called "Administrative Reports" which are prepared annually by the public institutions responsible for the implementation and do not involve NGOs. The reports lack concrete indicators and mechanisms for collecting information related to the outcomes of the integration policies. Due to the absence of a mechanism for collecting disaggregated data, the only instrument for official data collection is the national census, which does not provide data regarding Roma integration policies. A public institution interviewed for this study explained that in 2018 a system for monitoring and control of the NRIS was developed and it is currently being filled with data. It was emphasised that this new system is based on measurable indicators and would allow comparative analysis.²⁶⁸

With respect to the implementation of the substantive policy commitments in the NRIS, the mid-term review of the EU NRIS Framework conducted by the European Commission in 2017 noted improvement of the situation of Roma in Bulgaria in education, in particular, with a view to higher rates of participation of Roma in pre-school education, reduction of the number of early school-leavers; improvement of access to basic amenities; and in the area of health – improvement of self-perceived health status.²⁶⁹

• Employment

In the area of labour market participation, there is an increase in the share of young Roma persons who are not in employment, education or training from 61 % in 2011 to 65 % in 2016 as recorded by the EUMIDIS II survey.²⁷⁰

²⁶⁴ Interview with a Roma organisation, 22.09.2018, Sofia, and with a pro-Roma organisation, 1.10.2018, Sofia.

²⁶⁵ See Internal Rules of the Monitoring Committee on the Partnership Agreement for the use of EUSIF 2014-2020, art. 21(a), № 02.44-9/10.01.2018 (In Bulgarian), available at: https://www.eufunds.bg/images/eu_funds/files/СП/Обява%20членове%20на%20КН%20роми/Internal_Rules_PA_MC%20final.pdf

²⁶⁶ European Court of Auditors (2016) EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground, para. 47.

²⁶⁷ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Bulgaria, March 2018, p. 18-19.

²⁶⁸ Interview with public institution, 18.09.2018, Sofia.

²⁶⁹ European Commission (2017) Midterm review of the EU Framework for National Roma Integration Strategies. COM (2017) 458 final, p. 8-11, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52017DC0458&qid=1522237232017>

²⁷⁰ FRA (2016) Second European Union Minorities and Discrimination Survey. Roma – Selected Findings, p. 21. See FRA (2014) also Poverty and Employment – the Situation of Roma in 11 Member States. Roma Survey Data in Focus, p. 20.

Roma persons in Bulgaria experience high levels of discrimination when looking for a job and once at the workplace.

- **Education**

These conclusions are corroborated by the data in the EUMIDIS II survey of the EU Fundamental Rights Agency which registered an increase in the rates of participation of Roma in early childhood education, from 45 % in 2011 to 66 % in 2016.²⁷¹ The disparity between the rates of participation of Roma children and children from the general population, however, remains significant with 89 % of the latter participating in early childhood education.

With respect to early school leaving, the 2016 FRA survey indicated a reduced proportion of Roma early school leavers, 67 % compared to 85 % in 2011.²⁷² The rate of early school leaving for the general population in the 2016 survey was 13 %. With respect to the prevention of school drop-out, a public institution interviewed for this study noted as a success the establishment of the Inter-institutional Mechanism for inclusion in the education system of children and pupils at compulsory pre-school and school age, which started operating in the summer of 2017.²⁷³

In the area of education, there are no government measures to address patterns of segregated education of Roma. According to European Commission data, at least 60 % of Roma children in Bulgaria attend schools in which all or most of the pupils are Roma.²⁷⁴ Segregated education of Roma children was denounced by the European Court of Human Rights as a violation of the European Convention on Human Rights in six cases challenging various forms of educational segregation in several countries.²⁷⁵ Although elimination of school segregation is highlighted in the EU Framework and in the 2013 Council Recommendation on effective Roma integration measures in member states²⁷⁶, the Bulgarian NRIS did not formulate the elimination of segregated Roma schools in Bulgaria as a strategic goal. Accordingly, the Plan of Action for the implementation of NRIS 2015-2020 does not contain measures in this direction. The measures for desegregation of Roma-only schools, envisaged by the 2015 Strategy of the Ministry of Education for the educational integration of children and pupils from ethnic minorities²⁷⁷, were found to be ineffective and not achieving their goal by a 2016 report of the Bulgarian Court of Auditors.²⁷⁸

- **Housing**

In the area of housing, there are no measures by the Government to solve the systemic patterns of substandard housing as a result of lack of urban regulation of Roma neighbourhoods and unlawful construction, although such measures are envisaged by the NRIS. The persistence of these problems exposes Roma to inadequate housing conditions, poor basic infrastructure, such as water, electricity, sewage, poor access to public services,

²⁷¹ FRA (2016), Op.cit. p. 23. See also FRA and UNDP (2012) The Situation of Roma in 11 Member States, Survey Results at a Glance, p. 13, available at: <https://fra.europa.eu/en/publication/2012/situation-roma-11-eu-member-states-survey-results-glance>.

²⁷² FRA (2016), Op.cit. p. 27. See also FRA (2014), Education – the Situation of Roma in 11 Member States, Roma Survey Data in Focus, p. 33.

²⁷³ Interview with public institution, 18.9.2018, Sofia. See also Council of Ministers decree No100/8.06.2018, available in Bulgarian at: <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=127310>

²⁷⁴ Midterm review of the EU Framework for national Roma integration strategies, p. 8.

²⁷⁵ DH and Others v. the Czech Republic, Judgement of the Grand Chamber of 13 November 2017; Sampanis et autres c. Grèce, Requête no 32526/05, Arrêt. 5 juin 2008; Orsus and Others v. Croatia, Judgement of 16 March 2010, Application No. 15766/03; Sampanis et autres c. Grèce 59608/09, 11 décembre 2012; Horváth and Kiss v. Hungary Application no. 11146/11, Judgement 29 January 2013; Lavida et autres c. Grèce, Requête no 7973/10. Arrêt 13 mai 2013.

²⁷⁶ Council of the European Union (2013) Council recommendation on effective Roma integration measures in the member states, Brussels, 9 and 10 September, available at: https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lisa/139979.pdf

²⁷⁷ Ministerstvo na obrazovaniето i naukata, Strategia za obrazovatelnata integratsia na decata i uchenitsite ot etnicheskite malcinstva 2015-2020, (Ministry of Education and Science, Strategy for Educational Integration of Children and Students from Ethnic Minorities 2015-2020), available in Bulgarian at: <https://www.mon.bg/bg/143>

²⁷⁸ Smetna palata, Oditen доклад № 0300102415 za izvarshen odit na izpalnenie "Obrazovatelna integratsia na detsa i uchenitsi ot etnicheski maltsinstva" za perioda 01.01.2012 до 31.12.2014 г. (Audit report № 0300102415 on performed audit on "Educational Integration of children and pupils from ethnic minorities" for the period 01.01.2012 до 31.12.2014), available in Bulgarian at: <http://www.bulnao.government.bg/bg/articles/obrazovatelnata-integraciya-na-deca-i-uchenici-ot-etnicheskite-malcinstva-ne-e-efektivna-1670>

and forced evictions. The unresolved problems with the legal status of the homes of Roma are an obstacle for many people to obtain identity documents because they live at addresses which do not exist. Without identity documents Roma do not have access to other political, civil and social rights.²⁷⁹

Forced evictions and destruction of housing are conducted on a massive scale, in violation of international human rights norms and the EU Race Equality Directive.²⁸⁰ Available data demonstrate that this practice affects Roma disproportionately.²⁸¹ Bulgarian law does not require authorities to provide adequate alternative accommodation in cases of forced evictions, and consequently in most cases the Roma families who were evicted remain practically homeless. In April 2012, the European Court of Human Rights handed down a unanimous decision on the case *Yordanova and others v. Bulgaria*²⁸² finding Bulgaria in violation of the right to respect for one's home protected by Article 8 ECHR. The case concerned the planned eviction of Roma from their home unlawfully constructed on municipal property. The ECtHR's decision obliged the state to cease the arbitrary evictions of Roma who have no other home and to amend its legislation which did not provide safeguards against disproportionate interference with the right to respect for one's home.

As at October 2018, after a six-year period, this decision had not been implemented by the Bulgarian authorities. In their written statement for this study, the Ministry of Justice reported that it prepared an analysis of the legal framework and recommendations for legislative amendments with the purpose of preventing disproportionate interference with rights in the future.²⁸³ The Ministry also initiated the establishment of an inter-ministerial working group on the reforms of the legislation, which started working in June 2018. In September 2018, the Council of Europe Committee of Ministers noted with concern "the lack of tangible progress in the adoption of the legislative reforms necessary to ensure the examination of the proportionality of removal orders in cases of unlawful occupation of public property or orders for the demolition of unlawful buildings".²⁸⁴

Earlier, the discriminatory impact of Bulgarian legislation related to housing on Roma was established by the European Committee on Social Rights (ECSR) in its decision on the merits of collective complaint 31/2005 *ERRC v. Bulgaria*.²⁸⁵ The ECSR found that the legislation on the legalisation of dwellings affects Roma families in a disproportionate manner and that by strictly applying the rules on legalisation to Roma, whose situation also differs as a consequence of the state non-intervention over a certain period, Bulgaria has discriminated against Roma families by failing to take due consideration of the specificity of their living conditions.²⁸⁶ In its latest assessment in 2015 of the follow-up by the Bulgarian Government on the decision, the ECSR noted that the information provided by the Government with respect to measures addressing the lack of legal security of tenure and the non-respect of the conditions accompanying eviction of Roma families is not clear. The ECSR concluded that the situation has not been brought into conformity with the Charter.²⁸⁷

- **Health**

²⁷⁹ On the problems with civil registration of Roma, see Mihaylova D. (author), A. Kashamov, (referee) (2013) *Grazhdanskata registraciya v Balgaria: Sastoyanie na neopredelenost* (Civil Registration in Bulgaria: A State of Uncertainty), Institut Otvoreno Obshtestvo, available in Bulgarian at: https://osis.bg/wp-content/uploads/2018/04/OSI_Publication_Roma_5.pdf

²⁸⁰ On forced evictions, see Open Society Justice Initiative and the Equal Opportunities Association (2017) *Violations of EU Law and Fundamental Rights by Bulgaria's Discriminatory Treatment of Roma in the Area of Housing*, February, available at: <https://www.opensocietyfoundations.org/sites/default/files/bulgaria-roma-infringement-memo-20170214pdf.pdf>

²⁸¹ A recent study, based on data received from 61 % of municipalities in Bulgaria, showed that 89 % of the orders for demolition of illegal residential buildings that were issued by local authorities in the period 2012-2016 affected the homes of Roma. See Mihaylova D., A. Kashamov (2017) "Roma Evictions and Demolition of Roma Houses: A Sustainable Solution for Roma Integration or a Problem of Roma Discrimination in Bulgaria?", Sofia, March, p. 30-31.

²⁸² European Court of Human Rights (2012) *Case of Yordanova and Others v. Bulgaria*. Application no. [25446/06](https://hudoc.echr.coe.int/eng/?i=001-110449). Final Judgement 24.09.2012, available at: <http://hudoc.echr.coe.int/eng/?i=001-110449>

²⁸³ Ministry of Justice, Press Centre. Written response of 02/10/2018.

²⁸⁴ Council of Europe (2018) Committee of Ministers. H46-5 *Yordanova and Others group v. Bulgaria* (Application No. 25446/06), *Supervision of the execution of the European Court's judgments*, Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808d5956

²⁸⁵ European Committee of Social Rights (2007) *Decision on the Merits. European Roma Rights Centre v. Bulgaria*, complaint 31/2005, Published 31 March, available at: <http://hudoc.esc.coe.int/eng/?i=cc-31-2005-dmerits-en>

²⁸⁶ *Ibid.*, paras. 42 and 55.

²⁸⁷ Assessment of the follow-up: *European Roma Rights Centre (ERRC) v. Bulgaria*, Collective Complaint No. 31/2005, 4.12.2015, available at: <http://hudoc.esc.coe.int/eng/?i=cc-31-2005-Assessment-en>

In the area of health care, a public institution interviewed for this study noted that the Ministry of Health regularly conducts mobile medical check-ups with own funds. The same public institution also emphasised as a positive aspect of the governmental policies on the integration of Roma the implementation of the mediation model, including health mediators, school mediators and employment mediators.²⁸⁸ The mediation model, however, is considered by Roma organisations as a short-term measure without potential to address the systemic discrimination of Roma in various fields.²⁸⁹ The European Commission's midterm review in 2017 noted that, generally, the impact of measures on the situation of Roma in all thematic fields, was limited.²⁹⁰ Civil society organisations interviewed for this study were critical of the implementation of the NRIS, stating that it did not tackle any of the systemic discrimination problems faced by Roma.²⁹¹

In the area of health care, a serious structural barrier for the access of Roma to health care which remained unaddressed by governmental policies is the exclusion of significant numbers of Roma from health insurance coverage. According to data from the EUMIDIS II survey, 55 % of the Roma who were surveyed were not included in the national health insurance system.²⁹² This problem is recognised in the NRIS and one of the tasks in the thematic priority on Healthcare envisaged legislative changes to increase health insurance coverage.²⁹³ The task had not been implemented as of 2018. Moreover, the amendment of the Healthcare Act in 2015 has increased social inequalities in access to health care, by introducing a higher financial burden for the recovery of the health insurance status of persons who had failed to pay their dues and had been excluded from the system. This unfavourable development was noted during the discussion of the 2017 Administrative Monitoring Report on the NRIS in the Parliamentary Committee on Health care.²⁹⁴

The problems of Roma in Bulgaria with access to healthcare were brought to the attention of the European Committee of Social Rights (ECSR) which supervises the implementation of the Revised European Social Charter by collective complaint 46/2007 *ERRC v. Bulgaria*. In its decision on the merits the ECSR found Bulgaria in violation of the right to protection of health guaranteed by the Revised Charter in connection with the non-discrimination provision of the Revised Charter due to "the failure of the authorities to take appropriate measures to address the exclusion, marginalisation and environmental hazards to which Roma communities are exposed in Bulgaria, as well as the problems encountered by many Roma in accessing health care services".²⁹⁵

In its last assessment of the follow up on the decision on the merits in 2015, the ECSR found that the measures reported by the Government were insufficient and did not bring the situation with access of Roma to health care into compliance with the Revised Charter.²⁹⁶

3.1.3. Horizontal policies: anti-discrimination and antigypsyism

- **Addressing discrimination and segregation**

The term 'antigypsyism' is not accepted by Bulgarian institutions, its scope and definition were considered by them as 'unspecified'. Nevertheless, public authorities interviewed for this study acknowledged the unfavourable public climate for Roma and the widespread prejudices and stereotypes against Roma in society as a major challenge to Roma integration.²⁹⁷

²⁸⁸ Interview with public institution, 18.09.2018, Sofia.

²⁸⁹ Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Bulgaria, March 2018, p. 25.

²⁹⁰ Midterm review of the EU Framework for National Roma Integration Strategies, p. 7.

²⁹¹ Interviews with a pro-Roma and a Roma organisation, 22.09.2018 and 1.10.2018, Sofia.

²⁹² FRA (2016) Second European Union Minorities and Discrimination Survey, Roma – Selected Findings, p. 29-30.

²⁹³ National Roma Integration Strategy of the Republic of Bulgaria 2012-2020, p. 23.

²⁹⁴ Chetirideset i chetvarto Narodno sabranie, Komisia po zdraveopazvaneto. Protokol № 32 (Forty-fourth National Assembly, Committee on Healthcare, Protocol № 32), available in Bulgarian at: <http://www.parliament.bg/bg/parliamentarycommittees/members/2588/steno/ID/5127>

²⁹⁵ European Committee of Social Rights (2009) Decision on the Merits 17 April 2009 on the case European Roma Rights Centre v. Bulgaria, Complaint No 46/2007, para. 51, available at: [https://hudoc.esc.coe.int/eng/#!/"ESCDclidentifier":\["cc-46-2007-dmerits-en"\]](https://hudoc.esc.coe.int/eng/#!/).

²⁹⁶ European Committee of Social Rights (2016) Follow up to decisions on the merits of collective complaints - Findings 2015, p. 26, available at: <https://rm.coe.int/16805939f5>

²⁹⁷ Interview with and written response from public institutions, 18.09.2018 and 9.10.2018.

Despite the fact that the NRIS includes a separate chapter “Rule of Law and Non-Discrimination”, systemic discrimination affecting Roma in various social fields is not recognised as such in either this chapter or the rest of the thematic areas in the NRIS. Moreover, there is no analysis of the manifestations of anti-Roma racism in the general analysis of the situation of the Roma community in the NRIS. The Action Plan for the implementation of the NRIS envisages measures to address intolerance, discrimination and hate speech, among others. However, it does not contain indicators or targets which deal with anti-discrimination or antigypsyism in general.

- **Combatting hate crime and hate speech against Roma**

Protection against hate crime and discrimination is provided through the Bulgarian Criminal Code and the Protection against Discrimination Act (PADA). Monitoring organisations observed ineffective responses to hate crime and hate speech by criminal and administrative law. In February 2018, the Council of Europe Committee of Ministers noted with concern that racially-motivated offences for which charges could be brought under the existing criminal law provisions are rarely prosecuted as such.²⁹⁸ In May 2017, the UN Committee on the Elimination of Racial Discrimination (CERD) regretted the limited application, by law enforcement officials, of articles of the Criminal Code addressing racist offences, and the low conviction rate of racist crimes.²⁹⁹ A public institution approached for this study noted that there is a relatively small number of investigations for hate crime per year and that the bias motivations of hate crime are not specified.³⁰⁰ With respect to hate speech, monitoring bodies observed that criminal law provisions to combat hate speech are rarely invoked and hardly ever successfully.³⁰¹

- **Specific measures countering antigypsyism and promoting historical remembrance**

Roma, along with Jews, residing on Bulgarian lands, were saved by the Bulgarian state from deportation to the Nazi concentration camps during the second world war. There is little knowledge in society, however, that not only Jews but also Roma were rescued from the concentration camps. Official documents and ceremonies dedicated to these events, usually omit mentioning the Roma. In 2018, the public events dedicated to the 75th anniversary of the salvation of Bulgarian Jews, did not mention the salvation of the Roma.

On 2 August, International Roma Holocaust Remembrance Day, some Roma NGOs participate in the commemoration of the Roma victims of the Holocaust; public information about such events taking place in Bulgaria or elsewhere in Europe is limited, mainly through a few media reports. However, there are no official events for commemoration of 2 August organised by government.

3.2. France³⁰²

3.2.1. Societal and public policy context

French law currently prevents any policy from targeting a particular group defined on an ethnic basis. France is nevertheless following a strategy on Roma inclusion to respond to EU demands, but only within the framework of French law. Furthermore, by doing so, it also claims to serve other EU members as an example³⁰³ to raise the level of critical analysis of the root causes of what should be more overtly defined at the EU level as a social (socio-economic) problem, thus preventing a further deterioration of the situation by allowing the situation to be defined in terms of ethnicisation³⁰⁴ of poverty and crime.

²⁹⁸ Council of Europe's Committee of Ministers (2018) Resolution CM/ResCMN(2018)2 on the implementation of the Framework Convention for the Protection of National Minorities by Bulgaria, 7 February, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168078753c

²⁹⁹ United Nations (2017) Committee on the Elimination of Racial Discrimination. Concluding observations on the combined twentieth to twenty-second periodic reports of Bulgaria, CERD/C/BGR/CO/20-22, 31 May, para. 13, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/BGR/CO/20-22&Lang=En

³⁰⁰ Written response by public institution, 9.10.2018.

³⁰¹ See for example, Council of Europe (2014) European Commission against Racism and Intolerance. ECRI Report on Bulgaria, fifth cycle, published 16 September, paras. 37-38, available at: <https://rm.coe.int/fifth-report-on-bulgaria/16808b55d8>

³⁰² This case study has been developed by William BILA.

³⁰³ Interview with government agency, September/October 2018.

³⁰⁴ While national level officials may cite this reason, it may more likely be a reaction to civil societies' criticism.

While this may seem like French exceptionalism and adapting the EU policy to a national legal framework has admittedly caused delays in mobilising resources,³⁰⁵ the use of existing remedies and the deferral to subsidiarity principles in the EU which emphasise competencies at different levels of government can be arguably considered as creating less complexity than creating new categories exclusively for Roma. The policy is therefore implemented in two streams: one which is defined as targeting impoverished EU citizens living in shanty towns and squats (inhabited by those who are perceived in France as Roma migrants) and the second which targets the *Gens du Voyage* population, who make up a distinct group of itinerant French citizens as defined by an administrative legal category.

Neither Roma nor any other group is recognised as a minority in France. Those people perceived as Roma are primarily Bulgarian and Romanian citizens most often living in illegally occupied sites due to their extreme poverty, with no consideration for whether they self-identify as ethnically Romani or not. This is the general understanding within the French public after over 20 years of reporting in major media outlets using the term ‘rom’ this way, which has contributed to this general misperception. In turn this causes government officials in many instances to react by communicating in a way that accepts this ethnicisation of poverty³⁰⁶ and reinforces antigypsyism in an alarmingly widespread manner. The word ‘Roma’ is therefore used in this report as a noun or as an adjective applied to the group targeted by the policies monitored, – i.e. the citizens of East-European countries living in so-called “illicit encampments” or squats, whatever their ethnic belonging may be. In France, the word ‘Rrom’ (‘Rroms’ in plural, or the adjective ‘Rromani’), refers to the ethnic minority as such, regardless of the social status of the designated person or group. The French expression ‘Gens du Voyage’ is used in its original language because it refers to a specific French administrative category with no relation to ‘Travellers’, a distinct ethnic minority not present in France, but in the UK and Ireland.

Some government officials at the national level recognise the widespread and deeply rooted problem of antigypsyism although they do not yet use this word, nor do they always exhibit a thorough comprehension of the entire phenomenon behind the word itself.³⁰⁷ However, they do understand the perception that having a policy especially dedicated to Roma, i.e. to foreigners, meets a deep seated xenophobic resistance, which seems to further justify the great length of time they took to develop a national framework not just from a legal point of view, but from the reality of local circumstances.³⁰⁸ Roma are statistically the most stigmatised group in France and have remained so for a number of years³⁰⁹. “Locally, anti-Roma sentiment seems to be stronger only in Italy out of all European countries surveyed, according to a 2014 survey by the Pew Research Center”.³¹⁰ The CNCDH (the National Consultative Commission for Human Rights) also confirmed in its most recent report that the Roma remain the most stigmatised and disliked group in France.³¹¹

Despite these views, the general consensus between the government and civil society demonstrates that the real objective of this strategy is rather to apply the policies to these “vulnerable groups” (i.e. impoverished EU citizens or ‘foreigners’) who are perceived as Roma and to *Gens du Voyage*. The most important change since the adoption of the EU framework for NRIS is the regular channel of communication between the European Commission and the government, rather than the national policies themselves.³¹² ³¹³ It is important to recognise that the government elected a few months after the adoption of the French NRIS in 2012 distanced itself from that strategy and adopted a new one on 26 August 2012, in the form of an inter-ministerial circular on “anticipating and accompanying the eviction of illicit encampments”.³¹⁴ It is this circular that is effectively implemented and understood by civil society as the local adoption and adaptation of the NRIS, and which led to the gradual

³⁰⁵ Interviews with government agency and civil society NGOs.

³⁰⁶ Fassin E., C. Fouteau, S. Guichard, and A. Windels (2014) *Roms & riverains : Une politique municipale de la race*, Paris, La Fabrique.

³⁰⁷ Interview with various government agencies and NGOs, September/October 2018.

³⁰⁸ Interview with government agency September/October 2018.

³⁰⁹ Dahlgreen W. (2015), “Roma People and Muslims are the Least Tolerated Minorities in Europe,” *Youngov.co.uk/News*, June 5.

³¹⁰ Pew Research Center (2014) *Views of Roma, Muslims, Jews*.

³¹¹ La Commission nationale consultative des droits de l’Homme (2018) *Rapport sur la lutte contre le racisme sous toutes ces formes* 2017, March 22.

³¹² Interviews with government agencies and civil society NGOs, September /October 2018

³¹³ Roma Civil Monitor (2018), *Civil society monitoring report on implementation of the national Roma integration strategies in France* Focusing on structural and horizontal preconditions for successful implementation of the strategy, November, p. 12.

³¹⁴ *Ibid*, Roma Civil Monitor 2018.

strengthening of Roma and pro-Roma NGOs' roles in the civil society landscape. Civil society nevertheless is following up on results concerning the circular, also within the framework of national legislation rather than attempting to determine what can be measured or determined to be related to the EU NRIS. It does not attempt to monitor NRIS results other than in cases similar to this report, when it is commissioned by someone outside France.³¹⁵ Evictions have been the primary subject.³¹⁶

3.2.2. Implementation of substantive policies

There is no ethnically disaggregated data on any ethnic group in France concerning education, employment, or healthcare and therefore these items are not directly addressed in the NRIS. Since the issue of impoverished migrant Roma from Eastern Europe occupying squats and creating shantytowns on illegally occupied land has been present in France from the late '90s (and became more noticeable with the entry of Romania and Bulgaria into the EU in 2007), civil society has been occupied with finding ways to improve the immediate living conditions and respect for the human rights of these people. The most obvious of starting points were access to the labour market and access to housing. Restrictions on full membership of Bulgaria and Romania to the EU presented the main obstacle. Although not all member states accepted full entry, some of those that resisted eventually quickened the pace to remove the remaining barriers specifically for the sake of improving the lives of poor EU citizen migrants, like Spain for example. France, however, kept these restrictions in place for the maximum amount of time allowed under the treaty until January 1, 2014.³¹⁷ This dynamic, where civil society is consulted by government but insufficient measures are taken to significantly improve the lives of the first-concerned over a number of years, has until recently created an atmosphere of animosity without the appearance of being conducive towards cooperation,³¹⁸ especially when the official policy has essentially been one of forced evictions.³¹⁹

The policy framework of the French NRIS is an inter-ministerial circular of 26 August 2012 on anticipating and accompanying the evacuation of so-called 'illicit encampments'.³²⁰ This has been the official government strategy for evictions from occupied land. It was updated by another inter-ministerial circular signed by eight ministers on 25 January 2018 and led by the DIHAL (the inter-ministerial delegation on emergency housing and access to housing), a body under the authority of the prime minister and which makes up the Roma contact point for the NRIS along with the Ministry of Foreign Affairs. While the importance of this issue is given great visibility by the fact that it is rare to ever see such a single act actually signed by eight ministers, not a single one of them has appeared to speak about it publicly to support it. This might be interpreted as being either something to which they do not wish to draw significant public attention or something on which they do not know how to position themselves vis à vis clear objectives for this policy.³²¹ Other than this inter-ministerial delegation working on the housing issue, civil society does not report any evidence of any inter-ministerial cooperation. Furthermore, when trying to obtain interviews with various ministries for this study, some of the ministries themselves could not decide who would be an appropriate person to answer the questions – as some perceived Roma as foreigners, others perceived Roma as EU foreign nationals – providing further evidence that not only is coordination hard to find, but that understanding of who Roma are is not consistent among ministerial employees.³²²

The DIHAL is allocated a yearly budget of EUR 3 million, which represents EUR 170 per person per year for the people targeted by the circular.³²³ Its role is also limited because it has no hierarchical power over local authorities, which maintain exclusivity over any initiatives concerning the implementation of possible integration projects related to the circular. Most often political will is directed toward evictions at the local level. Participation of Roma

³¹⁵ Interview with Civil Society NGO, September/October 2018.

³¹⁶ Ibid, Roma Civil Monitor 2018.

³¹⁷ This statement is also relevant within the context of the statements related to footnotes 81 to 83.

³¹⁸ Interviews with government agencies and civil society NGOs, September/October 2018.

³¹⁹ Carrera S. (2013) Shifting Responsibilities for EU Roma Citizens: The 2010 French affair on Roma evictions and expulsions continued, June, p. 1-5.

³²⁰ Roma Civil Monitor (2018), Op.cit., p.9 and 15.

³²¹ Interview with civil society NGO, September/October 2018.

³²² Pre-interview conversations with government agencies, September/October 2018

³²³ Collectif National Droits de l'Homme Romeurope (2017), 20 propositions pour une politique d'inclusion des personnes vivant en bidonvilles et squats.

is very weak, as is Roma civil society in France as a whole. The budgets allocated for both Roma and *Gens du Voyage* have also declined. The role of these groups is limited to consultation and is not a guarantee of efficiency of the programmes or projects put in place and financed by these budget lines. Access to funding for Roma inclusion activities is also difficult. In the cases where EU funds are concerned, a high structural and financial solidity is required for the applicant to be able to advance the necessary amounts. In addition, their management depends on the political orientation of each region.³²⁴

The carrying out of any social inclusion policies of Roma and the initiative toward finding long-term permanent solutions with respect to housing and social inclusion depend on political will at the local level. There is an absence of any national decisions to facilitate these issues. The region of Ile de France, for example, continues to have the highest number of people living in shanty towns and squats, and the number of victims of forced evictions who do not receive social accompaniment to help with resettlement remains high.³²⁵ This is in comparison to recent developments that show the city of Strasbourg claims success in 'slum clearance' with the re-housing of approximately 300 people, and the city of Toulouse has reduced the number of people living in squats by 60 % over the past four years, or approximately 1000 people. Whether all of these people have been able to remain in social housing, find jobs and have their children successfully enrolled in school is not verifiable nor closely monitored³²⁶. What is known, for example in the case of Strasbourg, is that Roma were provided housing in a former military barracks far from the city centre and in caravans.³²⁷

This segregation provides additional hurdles for social integration as no next steps into permanent homes are foreseen.³²⁸ Whether this is because Roma are misperceived by the authorities as nomadic and preferring to live in isolated caravans or whether it is simply becoming a more permanent solution due to lack of effort are equally plausible and not mutually exclusive conclusions. In the Toulouse example, while most people received assistance, some did not. While the law requires that people be afforded suitable accommodation even in the case of a forced eviction on illegally occupied land, there is no evidence that any government agency has fully complied. Normally when a shanty town is destroyed, a new one in a new location is built shortly afterwards, keeping the numbers on the whole of shanty town dwellers still relatively stable despite each forced eviction costing on average EUR 300 000 and an annual cost in 2014 of roughly EUR 30 million-40 million.³²⁹

More importantly for the purposes of this report it should be mentioned that while the numbers show there has recently been a reduction of shanty dwellers and an increase in those receiving social assistance, this is generally not viewed as a result of efforts linked to the EU framework of NRIS.³³⁰ Locally, most authorities hope the problem goes away by not dealing with it, or with forced evictions to make it go away at least over to the next town. A mayor or local prefect who is interested in solving the issues related to the extreme poverty of migrant EU citizens for the long term makes the difference, and these instances are rare.

With respect to *Gens du Voyage*, serious improvements concerning access to standardised rights, identity papers, etc., as French citizens have taken place since 2007, when the law requiring separate forms of identification was eliminated by Parliament. Now everyone has the same form of identity card. This however, clearly was not a result of the NRIS. With respect to individual rights, there is a different set of laws which applies to French citizens compared to eastern European Roma migrants, who are treated under the fundamental rights of foreigners (all foreigners, Roma or not, are treated the same under these laws). With respect to emergency housing related to evictions, whether Roma (foreign EU citizens), *Gens du Voyage* (i.e. French citizens), refugees or others, the same legislation applies for all.³³¹

³²⁴ Roma Civil Monitor (2018), Op.cit., p. 10.

³²⁵ Interview with civil society NGO, September/October 2018.

³²⁶ Ibid.

³²⁷ Trochet J. (2014), "L'espace Hoche: l'insertion au milieu de nulle part", Rue 89 Strasbourg, 8 December.

³²⁸ Roma Civil Monitor (2018), Op.cit., p. 18.

³²⁹ Le Parisien (2015) Si chères les expulsions de bidonvilles, *Le Parisien*, September 23, available at : <http://www.leparisien.fr/info-paris-ile-de-france-oise/si-cheres-expulsions-de-bidonvilles-23-09-2015-5119735.php>

³³⁰ Interview with civil society NGO, September/October 2018.

³³¹ Interview with government agency, September/October 2018.

The legal framework is the same and the courts must respect them as the same; the tools that can be used cross over for all parties in this case. An example of another area of law is that for children. The rights of children are specifically protected under French legislation, whether the children are foreign or not. Regardless of whether their parents are illegal aliens, refugees, EU citizens or French citizens, all children have the same rights under the law. Whether or not a child is legally resident is irrelevant in the eyes of the law. She or he can oblige the state to provide access to education, health services, etc. This however, does not automatically mean their rights are respected.³³² The rights of Roma children exist, but they are not effective, and there is work to be done on making this a reality. The same goes for access to emergency housing which exists under the law and needs to be better enforced. Discrimination due to poverty is a relatively new area of the law in France that is also covered within the ombudsman's office.³³³

The intersection of any and all of these rights covers the needs of many Roma without the need for any Roma-specific policy. While it may be cumbersome to ensure those rights are enforced depending on the government elected to power from local to national levels, at the same time the ombudsman's office realises that special efforts are needed to reach out to such victims in order to represent them and ensure their rights are defended. The barriers to obtaining such institutional help from the ombudsman for those without education, money, or knowledge of their own rights remain a major hindrance in obtaining appropriate assistance, and this should not be an excuse for not providing this assistance.³³⁴

Returning to the issue of housing, more than six years after the 26 August 2012 circular was issued, no viable solution has been realised, not just because many decision makers did not respect the circular or were even ordered to disregard it, but because it was not a structural long-term solution.³³⁵ It was just an emergency response. If for example, a child is denied registration at a school, the ombudsman's office has on numerous occasions written to a mayor's office reminding them of their obligations under the law and they have an obligation of response to the ombudsman's office, which can accelerate efficiency. The number of cases of refusal, however, exceeds the number that reaches the ombudsman's office, and often those refusals are linked to imminent evictions.³³⁶ The issues of discrimination and the issues related to illegal occupation of land are handled under two different sets of laws and up until 2012 were not handled within the same administrative body. The ability to respond effectively to discrimination cases that also intersect with issues of illegally occupied land (squats and shanty towns) is not effectively coordinated.

Thanks to the reorganisation of the ombudsman's office in 2012, which had nothing to do with the adoption of the NRIS, the office was able to respond to the evacuation orders that were resulting from the August 2012 circular. The ombudsman's office responded by writing to every single prefect nationally, reminding them of their duties and obligations to respect the rules of the circular. The ombudsman was able to act and had an effect.³³⁷ This was necessary under the government at that time since the number of evictions was growing, and then Minister of Interior Valls was accused by Minister of Housing Duflot of expressly instructing the prefects not to follow the instructions of the August 2012 circular. The new structure in 2012 of the *Défenseur des Droits* after three reorganisations has also now created a unit that deals with the fundamental rights of foreigners (which covers Roma). It is not EU law driving this.³³⁸ Regardless of these better coordinated abilities for fighting eviction orders while simultaneously supporting children's fundamental right to go to school despite any imminent eviction (evictions being illegal as an excuse to refuse registering any child in school), according to civil society there has been no leadership from any Ministry of Education within the past three administrations in addressing the issues of incessant roadblocks from local officials preventing children from being registered at school. The time lost from prolonged periods of missing school is not recoverable and a whole generational cohort of children living in shanty towns in France has been prevented from exercising their rights to education.

³³² Ibid.

³³³ Ibid.

³³⁴ Ibid.

³³⁵ Interview with civil society NGOs, September/October 2018.

³³⁶ Ibid.

³³⁷ Interview with civil society NGOs and government agency, September/October 2018.

³³⁸ Interview with government agency, September/October 2018.

French law is quite rich in providing protection against discrimination. Government and civil society generally agree that these categories are sufficient and have not been fully exhausted in protecting the rights of Roma. Since the anti-discrimination directives were introduced into the EU treaties in 1997 regarding discrimination on racial, sexual orientation or handicapped grounds, new member states have not fully adopted these and the directive has been blocked for over ten years at the EU level.³³⁹ In France these areas are already covered by national legislation. The application of this directive in the source countries of Roma migrants coming to France would help to serve the needs of the Roma population in Europe according to French government sources.³⁴⁰ The *Défenseur des Droits* does follow closely what has happened in the EU, to try to benefit from recent jurisprudence, especially from the court of human rights at the COE; and as a result *Gens du Voyage* have benefitted from EU decisions regarding discrimination which they previously did not, but this is again not a direct result of the NRIS.³⁴¹

In reality most of the visible public authority action towards Roma in France is carried out by the Ministry of the Interior: systematic forced evictions, abusive use of deportation orders for EU citizens (in some cases defeated by efforts from the ombudsman's office), and racial profiling of itinerant crime against Romanian Roma.³⁴² Concerning the prosecutors and courts, there is a discriminatory tendency to punish juvenile petty crime more harshly when the perpetrators are Roma, and especially girls.³⁴³ While EUR 30 million to 40 million per year is spent on the evictions of slums, the annual budget of the DIHAL was reduced by 30 %, to a mere EUR 3 to 4 million. In 2014, the High Committee for the Housing of the Underprivileged asserted in a notice that the repressive aspect of the circular of 26 August 2012 on evictions of illegal camps is "blindly enforced", but the "inclusion" aspect is "rarely or insufficiently followed". In November 2016, the number of inhabitants of "illicit camps" and squats was reported stable at around 18 000 people.³⁴⁴ In June 2018, France reportedly had some 570 slums, inhabited by approximately 16 000 persons. Roma from Romania and Bulgaria reportedly make up the majority of persons living in slums, with other inhabitants comprising some French nationals, other European Union (EU) citizens and persons from countries outside the EU.³⁴⁵

While the discourse coming from government offices is no longer openly centred around talk of evictions but rather trying to emphasise "slum clearance" ("*resorption des bidonvilles*", or absorption of the population into the mainstream out of the margins) and there continues to be talk since the election of President Macron about new political will exerting efforts to focus on impoverished people and children,³⁴⁶ very little in the way of concrete action has occurred to convince civil society that the target of eliminating all shanties and squats by 2022 will be reached.³⁴⁷ Both civil society and government agencies agree that it is not the EU NRIS but the natural evolution of applying French law that is making a difference to the lives of Roma, and that while the EU is not making a major impact it is having some influence. Suggestions for the future on how to improve the NRIS include the following:³⁴⁸

- Do not treat Roma inclusion or speak of Roma civil society as separate issues, apart from general inclusion efforts. Transversally horizontal subjects need to be treated in transversally horizontal manners without separate policies which create new categories, new silos and more complexity. Further entrenchment of de facto antigypsyism cannot be treated in one silo at a time, it also needs to be tackled transversally and horizontally. The confusion, mix-up, and mislabelling of social issues with ethnic names must stop. (For example, if Roma are defined as those who are excluded, by their very nature they cannot be called Roma once they start participating. If such definitions are allowed to persist, circularly illogical analyses will continue.)

³³⁹ Ibid

³⁴⁰ Ibid

³⁴¹ Ibid

³⁴² Interview with government agency, September/October 2018.

³⁴³ Vuattoux A. (2015) Les jeunes Roumaines sont des garçons comme les autres, *Plein Droit*.

³⁴⁴ Roma Civil Monitor (2018), Op.cit.

³⁴⁵ OHCHR (2018) No One Left Behind Mission Report On The Right To Housing And Related Human Rights Of Roma in France, June.

³⁴⁶ Interview with government agency, September/October 2018.

³⁴⁷ Interview with civil society NGOs, September/October 2018.

³⁴⁸ Interviews with civil society NGOs and with government agencies, September/October 2018.

- Develop the rules on access to EU funding. This may include aspects such as: passing rule of law requirements before being able to access funding for some Member States, reducing the amount of co-financing necessary (80/20 vs. 50/50), reducing the complexity of application rules, the carrot and stick approach encouraging Member States to access these funds and penalising them when they do not attempt to access them due to a lack of political will. For example, if funds are available for France to take care of migrant EU citizens in poverty yet no one at the local level attempts to access these funds because xenophobic tendencies prevent any political will to do so, the national government should be penalised for allowing people to continue to suffer when the funds for a solution to housing are available and remain untouched. If there is not enough motivation locally, then the national level should push the local levels to take appropriate action, not idly allow inaction, pushing the problem to the next locality as the persistent default solution, which has become national policy.
- Change the way monitoring is done, to ensure funds are used appropriately. The EU cannot rely on a standard monitoring across different countries and needs to consider the effect on people in need. Measures that show people have been helped should be used to support continued funding. Measures which show no improvement or a worsening of people's situations should be taken as a sign to cut off further funding. The EU has to have staff on the ground locally on a regular basis to do this type of monitoring.
- The approach of evaluating the participation of first-concerned people should also take into consideration their needs, to realistically allow space for their active participation, not just consultation, and balance their needs with what they can realistically be expected to organise themselves.
- Invest in the capacity building of first-concerned organisations, and their continued support as a long-term continual process for inclusion for all.
- Stop subsidising hate speech and propagation of harmful stereotypes in films and television, which receive government support directed towards the arts and cinema. Allocations for positive media campaigns and awareness building can be improved towards anti-racism efforts.

3.2.3. Horizontal policies: anti-discrimination and antigypsyism

Addressing discrimination and segregation

The UN OHCHR, in its recent report based on a mission from 25 to 29 March 2018 to gain an in-depth understanding of the progress, challenges and opportunities in the enjoyment of the right to adequate housing and related rights by Roma, particularly in light of the circular instruction of January 2018, provided the following recommendations:³⁴⁹

1. **Sustainable, safe, non-segregated housing should be at the centre of France's interventions to ensure dignity for all.** France should focus its interventions to end informal slums on fulfilling the right to adequate housing, in a manner that avoids segregation and that ensures the right of all persons to live in security, peace and dignity. Persons living in squat or slum conditions face high obstacles in accessing their rights to work, attending school on the basis of equal dignity with others, or enjoying the right to the highest attainable standards of physical and mental health. These obstacles are magnified when coupled with eviction or threat of forced eviction. Social workers estimate that such evictions from housing in practice cost, on average, six months in the schooling of every child. As such, the denial of the right to adequate housing jeopardises the realisation of a broad range of human rights. It is therefore recommended that the cycle of slum housing coupled with periodic forced eviction be replaced by inclusion in mainstream, integrated housing with appropriate support.³⁵⁰
2. **Authorities at all levels should redouble efforts to ensure that all children are enrolled in and regularly attending school, in safe and non-segregated environments.** The enrolment and attendance of children in schools is uneven across the country for a variety of reasons. These include the refusal of some mayors to

³⁴⁹ OHCHR (2018), Op.cit.

³⁵⁰ Ibid.

accept registration (e.g. due to the purported lack of documents, such as proof of residence), schools being full, and the effects of displacement due to eviction. In particular, special efforts must be paid to the situation of girls and of children – especially older children who have never before attended school. Despite the efforts of civil society and educators, serious gaps remain, which are incompatible with the minimum core requirements of the right to education.³⁵¹

3. **France should ensure that its measures to end informal slums are based on human rights and provide mechanisms for appeal, access to justice, and genuine participation in decision-making and accountability.** While the language of the Instruction of 2018 appears to foster social inclusion, it contains very few human rights-based provisions. It lacks justiciability, meaning that rights-holders lack access to an effective remedy in the event that their rights are violated. There is no evident accountability or consequences for non-compliance or inaction by the authorities. No legal standing is provided for civil society organisations to challenge aspects of the policy, although since 2016 certain non-governmental organisations have legal standing to challenge discrimination. Furthermore, it contains only limited provision for the participation of Roma themselves in decisions taken under the policy.³⁵²

In addition, the report provides more detailed recommendations regarding: (1) housing, (2) education, (3) employment and health, and (4) collective or arbitrary expulsion from French territory. In particular with respect to employment and health it goes on to mention that, even though some improvements have taken place since 2014, the UNHCR Europe regional office considers that the French government should ensure the full enjoyment by Roma of their rights without discrimination:

- Facilitate access to gainful employment for Roma, including through language and vocational training, referral programmes, and awareness-raising of the right to work of Roma EU citizens.
- Pay particular attention to ensure the effective access to the formal labour market by Roma women.
- Undertake systematic intervention and social accompaniment to ensure access to health care for persons living in slums, with a view to the full realisation of the right to health.

An example currently taking place only locally in one specific region regarding this last set of recommendations, but which is not mentioned in the OHCHR report, is an experimental programme in Ile de France called *La préparation opérationnelle à l'emploi collective (POEC)*³⁵³, an employment programme which includes paid French lessons to help to find a job. At least 100 people have received this training, only recently.³⁵⁴

Recognising and countering antigypsyism

Government officials at the national level admit the following major challenges:³⁵⁵

- 1) Even with willing people at every level of government it is a complicated process to help obtain access to housing and schooling, and to eliminate poverty, and it will take time.³⁵⁶
- 2) The willingness most certainly is not always there. It is hard to mobilise people at different levels. The subject of Roma itself is politically toxic. Racism, xenophobia, and discrimination are simply very present and this creates more complications.³⁵⁷
- 3) While ESF may be available, the funds do not work because they are not used. Local officials are afraid to access the funds not only because it is complicated. The fact that ESF would be used for EU migrants conceptually causes a dilemma: the home country should access these funds to prevent migrants from coming here. Using these funds to help EU migrants to settle in France is met with resistance. Appealing to people's sense of social justice is difficult in the face of strong antigypsyism.³⁵⁸

³⁵¹ Ibid.

³⁵² Ibid.

³⁵³ French Ministry of Labour (2014), *La préparation opérationnelle à l'emploi collective - POEC*, January 15, 2014.

³⁵⁴ Interview with civil society NGO, September/October 2018.

³⁵⁵ Interview with government agency, September/October 2018.

³⁵⁶ Ibid.

³⁵⁷ Ibid.

³⁵⁸ Ibid.

Combatting hate crime and hate speech against Roma

When reviewing the human rights situation in France, the UN Treaty Bodies have repeatedly expressed concern regarding discrimination, violence and hate speech, including “the rise of racist and discriminatory discourse and behaviour” against Roma and *Gens du Voyage*.³⁵⁹ Hate crime and hate speech often has gone unpunished and even unaddressed until relatively recently. Several cases have been brought to courts. While Jean-Marie le Pen was convicted for stating that “Roma are like birds; they steal/fly naturally,” Manuel Valls’ statement that Roma should be sent back to Romania because their lifestyles are “extremely different from ours and obviously in confrontation,” escaped any judicial review. The case has been filed by La Voix des Roms with the European Court of Human Rights and is awaiting a response. A successful trial could result in the abolishment of the special court for ministers in France (Cour de Justice de la République).³⁶⁰

Regarding key achievements, it should be noted that despite the weakness and scarcity of Roma civil society organisations one of the positive effects overall on all of French civil society is the idea of using the law in their advocacy efforts³⁶¹, which includes taking people and institutions to court to hold them accountable. Other parts of civil society, such as women’s organisations, traditionally do not have this approach in France. It is an Anglo-Saxon approach. The Roma organisations doing this in France are setting an example for others to follow and it is a critical part of civil society, if it is to be effective in countering the encroachments of governments hostile to various human rights. Unfortunately, at the same time this is sophisticated legal work, the complexity of which requires a great deal of time and effort that is never appropriately remunerated. Via this work the most important advances will be made.³⁶² More funds available for this type of legal assistance would be an excellent means of supporting civil society and especially Roma organisations.

While the work combatting discrimination, hate crime and hate speech is complex and not sufficiently funded, the state has nevertheless generously funded media representations of Roma that support antigypsyism images. A recent example would be the release of the film *A bras ouverts* in 2017, made by a very popular director who depicted Roma based on exaggerated stereotypes.³⁶³ This film received public funding of EUR 590 339 from the CNC (The National Centre for Cinema and Animated Images). While films whose applications for public funding are approved do get published in the CNC’s annual report, the actual amount of funding received is not made available except by special request.³⁶⁴ As far as criteria for obtaining public funding for film production are concerned, there is currently no transparency with respect to when artistic licence encroaches on hate speech or when damage from harmful stereotypes may exceed harm resulting from censorship. Institutional racism in public funding for film makers is a topic that has received attention from civil society and minority film makers in France, but no definitive developments regarding this topic have occurred.³⁶⁵ Institutional racism however, remains a touchy subject that is not fully acknowledged by many mainstream politicians.³⁶⁶

Specific measures countering antigypsyism and promoting historical remembrance

Before beginning to address the issue of a specific type of institutional racism known as antigypsyism it should be noted that the concept of institutional racism in France on a more general level is practically considered taboo. This was clearly demonstrated by the appointment of a black woman to a government council on reducing the digital divide between the mainstream and marginalised communities. Rokhaya Diallo, was chosen specifically because she comes from one of those communities, however she was immediately dismissed due to protests from legislators claiming that her record on speaking out against institutional racism is evidence of communitarianism and therefore divisive rather than aligned with the universal needs of the French Republic.³⁶⁷

³⁵⁹ Ibid OHCHR report.

³⁶⁰ Interview with civil society NGO, September/October 2018.

³⁶¹ Interview with government agency, September/October 2018.

³⁶² Ibid.

³⁶³ Van Hoeij B. (2017) “*With Open Arms*’ (*A bras ouverts*): Film Review”, The Hollywood reporter, April 21.

³⁶⁴ Correspondence from the CNC confirms the amount, as per special request.

³⁶⁵ Salmon C. (2017) “When did French comedies become so reactionary”, *Sight & Sound Magazine*, April 20.

³⁶⁶ Soumahoro M. (2017) “In France a woman has been dismissed for her anti-racism. Where is our égalité?”, *The Guardian*, 27 December.

³⁶⁷ Le Nouvel Obs (2017), “Le gouvernement demande le départ de Rokhaya Diallo du Conseil national du numérique,” December 14.

Such an environment might therefore be considered hostile to the concept of antigypsyism. It is not officially recognised or specifically addressed by any government institution.

Roma civil society is not strong or well organised.³⁶⁸ There are very few active participants. Antigypsyism has been normalised by government officials and the media as demonstrated through previous examples here. Despite these factors the DILCRAH and the DIHAL have demonstrated an interest in starting a discussion on this topic. While individuals in some government institutions recognise a phenomenon but hesitate to give it a name, they are willing to set up a working group on naming that phenomenon and defining it. Civil society actors have expressed the need to have a practical approach with the objective of addressing solutions for peoples' lives before the administrative linguistic exercise is fully completed. In other words, the manifestations of the phenomenon can be identified and begin to be addressed with solutions before all participants ultimately agree upon the precision of the word and its full definition. For example, whether the term is ultimately *antitsiganisme* or *anitgitanisme*, it should be decided in consultation with civil society while building consensus on the actions needed to improve the lives of shanty town dwellers, *Gens du Voyage*, and others who might find themselves affected.³⁶⁹ As for the historical context building towards an understanding of antigypsyism, Roma were never slaves in France but Roma immigrants from Romania, who tend still to receive the most media attention, and have a history of slavery which is shared with formerly colonised peoples currently present in metropolitan France.

The only mention of Romani history in public school textbooks deals with *Tsiganes* and *Nomades* very briefly as victims of internment and genocide during the Second World War. Teachers receive very little instruction on how to teach this subject and therefore do not often place any emphasis on it.³⁷⁰ *Nomades* were placed in internment camps in France during the war where many people died of hunger and disease, but they were not released from these camps until May 1946, one year after the war ended. Families whose property was confiscated before entering these camps were never afforded any means with which to claim restitution.³⁷¹ This population which was surveyed had been issued special identification documents since 1912 in France. These were replaced under a new law in 1969 which changed their name from *Nomades* to *Gens du Voyage* and they were required to register at local police stations every three months, until the law was abolished last year. It was not abolished thanks to any EU NRIS based initiative but rather the personal political will of a single member of Parliament.³⁷² Often, the fact of holding such a special identification card prevented these people from obtaining a regular identity card and passport. Even though this restriction was not legal, public servants would refuse to issue these documents in the past, which created additional complications for access to health care and travelling across borders. This continuum of treatment was never interrupted by the ending of the Second World War and continues to this day according to civil society members. Individual teachers who are interested in doing the subject justice, on occasion reach out to Romany- and *Gens du Voyage*- related associations for help, but it is based solely on the teachers' personal discretion and motivation do so.

In October 2016 for the first time, the head of state publicly recognised the role of the French government in the unjust internment of the "*Tsiganes*."³⁷³ The president attended the unveiling of an addition to the memorial site of the camp of *Montreuil Bellay* naming the prisoners of the camp. There are a number of memorials across the country in addition to this one, such as the *Camps des Milles* near *Aix-en-Provence*, and *Saliers*. Additional camp sites are documented, and information is available, though exhaustive research has not taken place and the accounts of the few remaining survivors are still being recorded for the first time. Since 2016, a commemoration has taken place on 2 August at the tomb of the Unknown Soldier at the *Arc de Triomphe* in Paris, organised by the association of military veterans.³⁷⁴ To date, President Macron has not attended any such ceremony since taking office 18 months ago in May 2017, and it receives little media attention.

³⁶⁸ Interview with civil society NGO, September/October 2018.

³⁶⁹ Ibid.

³⁷⁰ Ibid.

³⁷¹ Ibid.

³⁷² Interview with NGO and government agency, September/October 2018.

³⁷³ Public Sénat (2016), "Hollande samedi à Montreuil-Bellay pour un hommage aux Tsiganes," October 28.

³⁷⁴ Interview with civil society NGO, September/October 2018.

Members of civil society have said that any agreement simply to consult with them over any commemoration ceremony, without involving them in the organisational process or treating them as equal partners with the right to decide/veto over the narrative of any ceremony, would be unacceptable.³⁷⁵ Losing control in the process of future commemorations may be a hindrance toward more recognition, but it is one which understandably has been fiercely held by those first concerned. Any recommendation to set up a commission to fully explore the governance issues related to managing a memorial process in the future would need to take such considerations into account. Not only allowing but fully requiring co-participation in any decisions related to the future is an important element. Consulting with them is not enough.³⁷⁶

3.3. Hungary³⁷⁷

3.3.1. Societal and public policy context

Out of the 13 officially recognised ethnic groups in Hungary, Roma is Hungary's largest ethnic minority group.³⁷⁸ The figure of Roma population greatly varies depending on whether the data were collected based on auto-identification or hetero-identification.³⁷⁹ The most recent data estimate the number of Roma at 876 000, which makes up 8.8 % of the whole Hungarian population³⁸⁰. Roma's geographical concentration is at the north-east and south-west of Hungary, especially next to the border and peripheral regions.³⁸¹

According to the Hungarian Central Statistical Office (CSO), in 2016, the rate of severe material deprivation within the Roma population was 63.9 % compared to the 14.7 % of the non-Roma population.³⁸² Furthermore, a shocking 82.8 % of Roma were at risk of poverty or social exclusion, compared to their fellow non-Roma citizens, whose rate comes down to 24.5 %.³⁸³

Lack of education and the large unemployment rate also explains the high risk of poverty. In 2015, around 16 % of the Roma between the ages of 15-64 did not finish primary school, and 63 % of them did not pursue high school or other educational related courses.³⁸⁴ This data already serves as a partial explanation of the unfavourable labour market indicators for Roma. In 2015, only 39 % of the Roma were employed, while 16 % of them were unemployed and approximately 45 % of them were considered as inactive.³⁸⁵ The rate of employment could be further broken down into how many of those active workers are currently employed in the Hungarian public employment scheme, and how it would affect the labour market if the programme itself was cut off.

The quality of housing, the geographical aspects and segregation also add to the mix of policy issues. Unfortunately, recent data on housing have not been available for years.³⁸⁶ In spite of the fact that the healthcare gap between Roma and non-Roma does not show a strong difference, infant mortality among Roma is much higher, and life expectancy is shorter within the Roma group.³⁸⁷ Lack of services also characterise the areas where

³⁷⁵ Ibid.

³⁷⁶ Ibid.

³⁷⁷ This case study has been developed by Iulius ROSTAS and Adrienn KOVACS.

³⁷⁸ Tátrai P. (2014) "Etnikai folyamatok Magyarországon az ezredforduló után," *Területi Statisztika* 54, no. 5: 508, accessed October 14, available at: <http://www.ksh.hu/docs/hun/xftp/terstat/2014/05/tatrai.pdf>

³⁷⁹ Pásztor Z., Zoltán I. and J. Péntes (2018) "The Number and Situation of the Roma Population in Light of a Survey From Northeastern Hungary", *Földrajzi Közlemények*, 142, no. 2: 153, accessed October 14, available at: https://www.foldrajzitasasag.hu/downloads/foldrajzi_kozlemenyek_2018_142_evf_2_pp_154.pdf

³⁸⁰ Tátrai P., Zoltán I. and J. Péntes, "A roma népesség területi megoszlásának változása Magyarországon az elmúlt évtizedekben", *Területi Statisztika* 58, no. 1 (2018): 3–26, accessed October 14, available at: <http://www.ksh.hu/docs/hun/xftp/terstat/2018/01/ts580101.pdf>

³⁸¹ Tátrai, Zoltán and Péntes, Op.cit., p.22.

³⁸² For further information and comparison, see the Hungarian Central Statistical Office (2017), "Statistical Yearbook of Hungary, 2016", p.77, Available at:

http://www.ksh.hu/docs/hun/xftp/idoszaki/evkonyv/evkonyv_2016.pdf

³⁸³ Hungarian Central Statistical Office, Op.cit., p. 77.

³⁸⁴ Központi Statisztikai Hivatal (2015), "Munkaerőpiaci helyzetkép, 2015", available at: <http://www.ksh.hu/docs/hun/xftp/idoszaki/munkerohelyz/munkerohelyz15.pdf>

³⁸⁵ Központi Statisztikai Hivatal, Op.cit., p. 14.

³⁸⁶ Habitat for Humanity (2016), "Éves Jelentés a Lakhatási Szegénységről", available at: https://habitat.hu/wp-content/uploads/2018/08/Habitat_éves_jelentes_2016_web_2.pdf

³⁸⁷ Decade of Roma Inclusion Secretariat Foundation (2015), "Roma Inclusion Index," September, available at:

Roma live but this is often due to the geographical location: small villages, rural areas, where it would be difficult to convince doctors and other professionals to move.³⁸⁸ Furthermore, there are recorded cases of so-called “Gypsy Rooms” in hospital maternity wards, and substandard treatment of patients.³⁸⁹

All four indicators – housing, education, employment and health care – are impacted by the appearance of discriminatory attitudes, both institutionalised attitudes, and socially constructed prejudices among Hungarian citizens. The National Social Inclusion Strategy (NSIS)³⁹⁰ itself does not mention anti-discrimination programmes directly but has an underlying purpose in the section ‘Raising awareness of the Roma culture’. Although this emphasises the importance of Roma culture, the budget compared to other areas of the Strategy is much smaller in size and would not result in positive changes of attitude towards Roma on a large scale.³⁹¹ Campaigns such as the ‘Roma Heroes of 1956’³⁹² or the ‘No Hate Speech Movement’³⁹³ could be part of those attitude-changing initiatives towards Roma, but they would have to be organised more frequently, and the latter would have to be more focused on changing the existing stereotypes towards Roma.³⁹⁴

The negative governmental attitude towards refugees had been widely represented in the media, and political attacks towards migration³⁹⁵ and civil society sympathising with human rights have been present in Hungary’s politics in the last couple of years.³⁹⁶ For example, high-ranking politicians in Hungary have accused many NGOs of receiving politically biased funds, and they especially targeting the Norway Grants NGO Fund and later the Opens Society Foundation.³⁹⁷ The attack on the former included an unlawful police raid into the NGO’s offices, as well as temporarily terminating their Tax tax numbers. The Bill T/14967 on the Transparency of Organisation Receiving Foreign Funds was passed on 13th of June 2017. This legislation obliges NGOs supported by a certain amount of foreign funding, to register themselves and reveal their funding partners.

The Roma population has become an excuse for Hungary’s limited capacity in dealing with refugees and has been integrated into the political rhetoric and opinion of top officials such as the Prime Minister, the Minister of the PM office and the Justice Minister himself.³⁹⁸ As a reflection of current political attitudes towards Roma, the European Commission launched an infringement procedure in 2016 regarding Roma school segregation³⁹⁹, and recently the European Parliament has voted to proceed with Article 7 (1) of the Treaty of European Union, due to several anti-democratic policies and actions implemented in Hungary.⁴⁰⁰ Although the latter is not directly related to

<https://www.rcc.int/romaintegration2020/files/user/docs/Roma%20Inclusion%20Index%202015.pdf>

³⁸⁸ Interview with the National Roma Contact Point, 2018.

³⁸⁹ Izsák R., ‘Gypsy Rooms’ and Other Discriminatory Treatment Against Romani Women in Hungarian Hospitals,’ Text, European Roma Rights Centre, available at: <http://www.errc.org/roma-rights-journal/gypsy-rooms-and-other-discriminatory-treatment-against-romani-women-in-hungarian-hospitals>

³⁹⁰ Ministry of Public Administration and Justice and State Secretariat for Social Inclusion, ‘National Social Inclusion Strategy (Extreme Poverty, Child Poverty, The Roma) 2011-2020’, available at: http://ec.europa.eu/justice/discrimination/files/roma_hungary_strategy_en.pdf

³⁹¹ Roma Civil Monitor (2018), ‘Civil Society Monitoring Report on Implementation of the National Roma Integration Strategies in Hungary,’ March, 44, available at:

<https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-1-hungary-2017-eprint-fin.pdf>

³⁹² ‘1956 Roma Hősei,’ RSK (blog), accessed October 14, 2018, <http://romasajtokozyont.hu/1956-roma-hosei/>

³⁹³ Tempus Közalapítvány, ‘No Hate Speech Movement - Young People Against Hate Speech,’ accessed October 14, 2018, <https://tka.hu/palyazatok/8973/no-hate-speech-movement-young-people-against-hate-speech>

³⁹⁴ Roma Civil Monitor (2018), Op.cit., p. 45.

³⁹⁵ A legislative package under the name of Stop Soros has been introduced in Hungary, setting out sanctions for those organisations that support asylum seekers: A Magyar Helsinki Bizottság, ‘The Hungarian Government’s Proposal on The Stop Soros Legislative Package,’ available at:

<https://www.helsinki.hu/wp-content/uploads/STOP-SOROS-LEGISLATIVE-PACKAGE-PROPOSAL.pdf>

³⁹⁶ Barna I. and B. Hunyadi (2015), ‘Report on Xenophobia, Discrimination, Religious Hatred and Aggressive Nationalism in Hungary in 2015’, http://politicalcapital.hu/pc-admin/source/documents/Report%20on%20xenophobia%20Hungary%202015_Final.pdf

³⁹⁷ For further information and a complete timeline of the attack on NGOs in Hungary see: Magyar Helsinki Bizottság (blog) (2017), ‘Timeline of Governmental Attacks against NGOs,’ November 17, <https://www.helsinki.hu/en/timeline-of-governmental-attacks-against-ngos/>

³⁹⁸ Barna I. and B. Hunyadi (2015), Op.cit., p. 22.

³⁹⁹ DailyNews Hungary (2016), ‘EC Launches Infringement Procedure against Hungary over Segregation of Roma Children in Schools,’ *Daily News Hungary* (blog), May 26,

<https://dailynewshungary.com/ec-launches-infringement-procedure-against-hungary-over-segregation-of-roma-children-in-schools/>

⁴⁰⁰ Köves N. (2018), ‘The Sargentini Report – Its Background and What It Means for Hungary and for the EU,’ Heinrich Böll Foundation, September 19,

<https://www.boell.de/en/2018/09/19/sargentini-report-its-background-and-what-it-means-hungary-and-eu>

Roma, the campaigns against refugees and the anti-democratic government actions resulted in a significant rise in the percentage of people with xenophobic attitudes. While before 2012 the ratio of people with a xenophobic attitude was approximately 30%, this figure increased to 40% in 2015 and 58% in 2016. The increase of xenophobia would without doubt have a counterproductive effect in the campaign advocating a positive attitude change towards Roma.⁴⁰¹

3.3.2. Implementation of substantive policies

The Hungarian National Social Inclusion Strategy (NSIS) does not only targets Roma but the poor as well. Although the government officially categorises Roma as the poorest of the poor, the situation is intertwined with other people living in poverty, meaning that it is impossible to create a separate inclusion policy only for the Roma. The Hungarian government policy is best described as explicit but not exclusive.⁴⁰² Data collection on Roma has proved to be difficult due to the narrow interpretation of the provisions of the Data Protection Act (1992).⁴⁰³ Only the 2011 census widened the government vision on ethnic data and gave more formal freedom over declaring a plural ethnic identity.⁴⁰⁴ Since 2014 the CSO has included the ethnicity question in their survey and, although they have advanced information, it is not free of charge.⁴⁰⁵ The CSO also feeds back to the European Statistical System and provides the most advanced data on the Examination of Income and Living Conditions. Unfortunately, such extensive data is yet to be published on the other three indicators: housing, education and health.⁴⁰⁶ Statistical indicators show improvement, but that does not necessarily include changes within the social status of Roma or whether the inequality increased or decreased.⁴⁰⁷ One of the positive results of the NSIS in Hungary is the fact that it fuels the political discourse and policy change towards Roma, and there is a platform for the discourse of the Roma problem even though there are only carefully selected civil society actors who are involved in the process.⁴⁰⁸

One of the fundamental bodies of the state governance involving the NSIS is the State Secretariat for Social Affairs and Inclusion, embedded into the structure of the Ministry of Human Capacities.⁴⁰⁹ Although the Secretariat has the main responsibility for coordinating, directly and indirectly, issues related to Roma, other ministries, with the exception of the Ministry of Defence and the Ministry of Foreign Affairs and Trade,⁴¹⁰ all take part in an insider forum, the Inter-ministerial Committee for Social Inclusion and Roma Affairs (TFCTB),⁴¹¹ which ensures inter-governmental harmonisation of the social policies implemented in the inclusion strategy. A further oversight body is the Consultative Council on Roma Issues, whose main task is to formulate opinion and proposals, as well as to execute monitoring power over those programmes which were implemented in the NSIS. An additional important role is for it to object if any misconduct took place with the resources within the Roma programmes.⁴¹² However, this is not the only financial oversight body which the State has set up.⁴¹³ The TFCTB and the

⁴⁰¹ Roma Civil Monitor (2018), Op.cit., p. 47.

⁴⁰² "Nemzeti Társadalmi Felzárkózási Stratégia," accessed October 14, 2018, <http://romagov.kormany.hu/nemzeti-tarsadalmi-felzarkozasi-strategia>

⁴⁰³ For further information see: "Nemzeti Adatvédelmi És Információs szabadság Hatóság," accessed October 14, 2018, <https://www.naih.hu/general-information.html>

⁴⁰⁴ Roma Civil Monitor (2018), Op.cit., p. 25.

⁴⁰⁵ Ibid., p. 26.

⁴⁰⁶ Lukács G. (2017), "Addressing Extreme Poverty in Hungary - How the Development Sector Is Working with and for, Communities" (Badur, 2017) http://www.badurfoundation.org/images/badur/reports/Third_sector_mapping_EN_WEB_FINAL.pdf

⁴⁰⁷ Interview with the National Roma Contact Point.

⁴⁰⁸ Interview with pro-Roma organisation, September 28, 2018.

⁴⁰⁹ Rixer Á. (2015), "The Roma and Central Public Administration in Hungary," in *The Roma and Public Administration in Hungary*, ed. Rixer Ádám (Budapest: Károli Gáspár University of the Reformed Church in Hungary - Lajos Lőrincz Research Centre for Public Law), <http://real.mtak.hu/28415/>

⁴¹⁰ Interview with the National Roma Contact Point.

⁴¹¹ For further information see EMMI (2015), "First Meeting of the Inter-Ministerial Committee for Social Inclusion and Roma Affairs This Year," Government, <http://www.kormany.hu/en/ministry-of-human-resources/news/first-meeting-of-the-inter-ministerial-committee-for-social-inclusion-and-roma-affairs-this-year>

⁴¹² Rixer Á. (2015), Op.cit., p. 10.

⁴¹³ For Further information on state-level oversight bodies see European Commission, "4.Administration and Governance - EACEA National Policies Platform - European Commission," EACEA National Policies Platform, <http://national-policies/en/content/youthwiki/42-administration-and-governance-hungary>

Consultative Council can be considered as the highest internal advisory board to the State Secretariat for Social Affairs and Inclusion

There are some forms of Roma participation both on the state level and across the country:

- **Roma Coordination Council (ROK-T):** The Council itself has 29 members, delegated from different ministries, church bodies, human rights committees, and civil society organisations. Its main purpose is to include actors from all levels into the creation, familiarisation, and execution of the National Social Inclusion Strategy⁴¹⁴. This serves as the highest external advisory board to the above-mentioned State Secretariat. While the ROK-t “transmits and aggregates interests towards the decision makers” the TFCTB and Roma Consultative Council “settle those interests in practice, inserting them into drafts of different programmes or laws”.⁴¹⁵
- **Roma minority self-governance (ÖRO):** The practices and structure of the national Roma self-governance system have provoked much criticism. “The system of minority self-governments can do little to facilitate Roma integration: their relation to local governments (the division of functions and responsibilities) is not clear, they lack professional and financial capacities, and they are often used by national politics as the means of building their clientele.”⁴¹⁶ In 2017 as many as 29 representatives out of the 47 belonged to the Lungo Drom Roma minority party which is associated with the current government of Fidesz.⁴¹⁷ Through the years the ÖRO has faced many accusations and fraud cases over not being able to be accountable for billions of forints.⁴¹⁸ Viktor Orbán himself, notified the Ministry of Human Capacity of allocating over HUF 1.3 billion to the ÖRO, so the self-governance can finance their debt accumulated by fraud, deceit and embezzlement.⁴¹⁹
- **Anti-Segregation Roundtable:** The roundtable was founded in 2013. Civil society, church associations and government officials have come together to discuss and dissolve segregation on all levels in society. Through their meetings civil society members could thematise issues, they could hold accountable the State Secretariat of Social Affairs and Inclusion, and they could also settle anomalies around Tanoda Programmes.⁴²⁰ Despite some positive opinion, many of the well-established professionals have left the Roundtable, referring to the fact that there is no meaningful dialogue or shift in policymaking. Furthermore, they do not want to assist a government which does not tolerate any voices that criticise its policies, and whose political attitude projects anti-EU and other negative behaviours.⁴²¹
- **Roma platforms:** In addition to the three already established Roma platforms in Borsod, Szabolcs and Baranya Counties, which were funded by the European Commission,⁴²² the Ministry of Human Capacities plans to create similar discussion forums in every county in Hungary. Their main task is to help the social inclusion strategy and find answers on the local level for local problems.⁴²³

⁴¹⁴ Kormány (2011), “Megalakult a Roma Koordinációs Tanács,” September 26 2018, <http://romagov.kormany.hu/megalakult-a-roma-koordinacios-tanacs>

⁴¹⁵ Rixer Á. (2015), Op.cit., p.11.

⁴¹⁶ Budapest Institute for Policy Analysis (2011), “Background Material for an EU Roma Strategy Framework: Hungary”, March http://www.budapestinstitute.eu/uploads/Situation_of_Roma_integration_in_Hungary_-_Proposals_for_the_national_integration_strategy.pdf

⁴¹⁷ Rácz T. and Z. Fülöp (2017), “Egyik romanapról a másikra,” Magyar Narancs, April 5, <https://magyarnarancs.hu/belpol/egyik-romanaprol-a-masikra-103924>

⁴¹⁸ Ibid.

⁴¹⁹ Index, “1,3 milliárd forint adósságot engedett el a kormány a Roma önkormányzatnak,” December 21, 2016, accessed October 14, 2018, http://index.hu/belfold/2016/12/21/elengedi_a_kormany_a_roma_onkormanyzat_adossagat/

⁴²⁰ Fülöp Z. (2017), “Eddig és ne tovább!” – Ketten is faképnél hagyták Balog Zoltán kerekasztalát,” Magyar Narancs, April 19, <https://magyarnarancs.hu/belpol/eddig-es-ne-tovabb-ketten-is-fakepnel-hagytak-balog-zoltan-kerekasztalat-103680>

⁴²¹ Ibid.

⁴²² Roma Civil Monitor (2018), Op.cit., p. 16.

⁴²³ MTI (2017), “Várhatóan az ősszel már minden megyében lesz roma platform,” Dehir, May 23, www.dehir.hu/belfold/varhatoan-az-osszel-mar-minden-megyeben-lesz-roma-platform/2017/05/23/

What is missing is a true voice of Roma and pro-Roma organisations that is independent of the current government. Both civil organisations interviewed believe that as long as they are criticising the government, they will never be invited into such discussion forums. If the dissenting voices are missing from a democracy, a true advocacy and discussion forum cannot be implemented.⁴²⁴

- **Employment**

In Hungary, Roma also face a disadvantageous situation on the labour market. Statistics show that in 2015, the ratio of Roma working in the government's Public Works Scheme was 42 %, meaning that every fifth Roma was employed by this programme, and furthermore that every eighth had been unemployed.⁴²⁵

Creating a Public Works Scheme of such a volume can easily backfire, even though the intention might be the elimination of poverty and unemployment. Not only does it strengthen the relationship of subordination between the publicly employed person and the governing bodies, but it also creates a secondary labour market, where entering the primary labour market proves to be difficult for those employed within the Scheme. The government keeps the wage under the minimum wage established by law, saying that it is a motivation for the people participating in the programme to aim higher and eventually move out of the Scheme.⁴²⁶ In addition, further legislation obliges 'employment seekers' or Public Works Scheme workers to accept whatever jobs offered to them.⁴²⁷

A programme like this creates a marketable solution for poverty questions and fuels the thinking that instead of social support people have to work for the money. The other actors with a high interest in the Public Works Scheme programme are the municipalities. They can keep a tight control over the poor, in this case over Roma as well, and in addition, those workers who have been financed from the municipalities' own budget can now be financed by the Scheme itself. Many higher educated people are working in this Scheme as well, not only low skilled labourers.⁴²⁸

As mentioned before, Roma are not the only participants in the programme, but when it comes to direct and indirect discrimination it can be said that they are targeted and distinguished by municipalities and job providers, and are generally less preferred than the non-Roma citizens working in the programme.⁴²⁹

The Ministry official interviewed recognised that discrimination and local power play does exist, but that it is not the intention of the NSIS to discriminate against Roma. On the contrary, the government made it mandatory for every municipality to have their own local Equal Chance Strategy drawn up. Furthermore, the official emphasised that the Public Works Scheme is a temporary solution, and that the difficult part is transferring those people from the secondary job market to the primary one with training provided by the government.⁴³⁰

- **Education**

Within the Hungarian NSIS, disadvantaged children's early childhood development, and education has received great emphasis. In 2015 the introduction of compulsory kindergarten education and the punishment of withdrawing childcare support if the parents fail to enrol their children can be deemed successful. In the 2016/2017 school year the enrolment of 3-6 year-old children in the kindergarten rose by 0.5 percentage points

⁴²⁴ Interview with pro-Roma organisation.

⁴²⁵ kamaraonline (2016) "A romák a magyar munkaerőpiacon: átfogó kép a KSH-tól," *kamaraonline*, October 28, <http://kamaraonline.hu/cikk/a-romak-a-magyar-munkaeropiacon-atfogo-kep-a-ksh-tol>

⁴²⁶ 24.hu (2018) "Nem emelik a közmunkások bérét 2018-ban," 24.hu (blog), January 16, <https://24.hu/kozelet/2018/01/16/nem-emelik-a-kozmunkasok-beret-2018-ban/>

⁴²⁷ Doros J. (2018), "Közmunkások lázadása - Ne legyen kötelező méltatlan munkát elfogadni," *Népszava*, June 25, https://nepszava.hu/1162999_kozmunkasok-lazadasa-ne-legyen-kotelezo-meltatlan-munkat-elfogadni

⁴²⁸ "A Közfoglalkoztatás Ördögi Kör," *Jogtalanul*, May 15, 2012, http://jogtalanul.blog.hu/2012/05/15/a_kozfoglalkoztatasi_ordogi_kor

⁴²⁹ European Network Against Racism (2014), "Racism and Related Discriminatory Practices in Employment in Hungary", <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202012-13/Hungary.pdf>

⁴³⁰ Interview with the National Roma Contact Point.

to 83.5%.⁴³¹ Further early childhood support has been provided through the ‘Sure Start Children Houses’. The main targets of this programme are those areas where the rate of poverty, unemployment etc. are especially high. It is financed from governmental and EU budget and aims to create educational activities for the children, and for their parents by involving them actively.⁴³² The percentage of children under 3 years old who could not use day-care services was 23 % in 2015. If the territories with the biggest Roma density are examined, the percentage of unavailable day-care services climbs to 40-45 % for children between ages 0-2. Parents with socio-economic disadvantage are less likely to obtain access to day-care services.⁴³³

Tanoda Programmes (Study Hall) are also successful among the disadvantaged and mostly Roma children since they can have tutoring, extracurricular activities, or any other meaningful programmes, which helps them in development. However, in the recent cycle only 171 Tanoda have been successful out of 1 200 applications⁴³⁴. Some of the civil society members suggested that only those Tanodas that have been successful in securing government funding have the support of the churches⁴³⁵. Another success is the Christian Roma Dormitories, which according to the Ministry of Human Capacity have around 250 Roma students. Its success rate has resulted in the government more than doubling its funding for the network.⁴³⁶

Despite the successful programmes, the number of segregated schools and the number of Roma children in special schools have increased significantly in the last ten years. The decision of Hungary's Supreme Court to allow racially segregated classes in religiously-run schools has resulted in an infringement procedure issued by the European Commission, stating that such Roma student segregation cannot be legitimised under any circumstances.⁴³⁷ The official standpoint of the government is the fact that it does not have ethnic data on who is Roma and who is not, and is therefore not discriminating on the basis of ethnicity.⁴³⁸

Disadvantaged children in segregated schools are high in number and most of these children come from Roma families. Their school separation has only worsened with time. There are so-called ghetto schools where at least 50 % of children are Roma. The Civil Public Education Platform⁴³⁹ data show that in 2007 there were at least 270 ghetto schools but that this number had grown to 350 in 2015, an increase of just over 25 %.⁴⁴⁰ Furthermore, according to the Report of the Fundamental Rights Agency, 61 % of Roma children aged between the ages of 6 to 15 were attending segregated schools in 2017.⁴⁴¹

Although Hungary amended its Equal Treatment legislation in 2017⁴⁴², and declared religious or other ideologically based segregations unlawful, the results are yet to be seen in dismantling the existing segregated schools.

- **Housing**

⁴³¹ Roma Civil Monitor (2018), Op.cit., p. 48.

⁴³² Dare-net, “Jelentés a Roma Integrációs Stratégia Oktatási Intézkedéseinek Megvalósításáról Magyarországon”, Dare-net, p. 37, <http://www.dare-net.eu/cms/upload/file/shadow-report-on-roma-segregation-in-education-hungary-hungarian.pdf>

⁴³³ Roma Civil Monitor (2018), Op.cit., p. 51.

⁴³⁴ Fülöp Z. (2016), “Megvárják a hivatalos értesítést és fellebbeznek – nem tehetnek mást,” Magyar Narancs, September 23, <http://magyarnarancs.hu/belpol/megvarjak-a-hivatalos-ertesitest-es-fellebbeznek-nem-tehetnek-mast-100930>

⁴³⁵ Dare-net, Op.cit., p. 44.

⁴³⁶ Magyar Idők (2016), “Balog Zoltán: megduplázódott a romák száma a felsőoktatásban,” Magyar Idők (blog), <https://magyaridok.hu/belfold/balog-zoltan-megduplazodott-romak-szama-felsooktatásban-989335/>

⁴³⁷ Nyiregyháza case.

⁴³⁸ HungaryToday (2016), “European Commission Launches New Infringement Procedures Against Hungary,” Hungary Today (blog), May 27, <https://hungarytoday.hu/european-commission-launches-new-infringement-procedures-hungary-77889/>

⁴³⁹ The Civic Public Education Platform consists of 45 civil organisations, and trade unions, and its purpose to generate discussion on how to develop education and to provide support for its activities. Its organisation came about due to the dissatisfaction of teachers with the government's public education reform. See Daily News Hungary (2016) “Teachers Set up Joint Platform,” Daily News Hungary (blog), February 16, <https://dailynewshungary.com/teachers-set-up-joint-platform/>

⁴⁴⁰ Juhász Dániel, “AZ MTA is igazolja: egyre nő az iskolai szegregáció,” Népszava, February 16, 2018, accessed October 14, 2018, https://nepszava.hu/1153048_az-mta-is-igazolja-egyre-no-az-iskolai-szegregacio

⁴⁴¹ FRA (2017) “Fundamental Rights Report 2017,” p. 104, <http://fra.europa.eu/en/publication/2017/fundamental-rights-report-2017>

⁴⁴² Hungarian Government (2017) “Az Egyenlő Bánásmódról És Az Esélyegyenlőség Előmozdításáról Szóló 2003. Évi CXXV. Törvény Módosítása,” évi XCVI. Törvény S, http://njt.hu/cgi_bin/njt_doc.cgi?docid=202693_340341

According to the latest statistics, in **823** shanty towns and in 10 districts of the capital in Hungary there are **1 633** poor and Roma settlements, where around **300 000** people live.⁴⁴³ The complexity of poor housing conditions does not only include the lack of access to housing, but costs of maintenance, and staying in the cycle of debt due to the lack of working opportunities and sufficiently paying jobs.⁴⁴⁴

Within the framework of NSIS, the Complex Settlement Programme shifted its main goal from renovation of the segregated houses to community building, training, health services, and prevention programmes. In 2016 the Hungarian Government allocated HUF 96 billion to the programme (approx. EUR 300 million).⁴⁴⁵ This type of programme could only be successful if the local municipality is also devoted to the issue at hand, which does not happen in most cases.⁴⁴⁶ The programmes should build on more than one social rehabilitation programme, and the municipality should seek out long-term procedures, which are also supported from the wide range of educational and employment policies. Furthermore, it is important to note the significant contribution of the NGO sector. Behind almost every successful programme, there is a civil organisation supporting the work of the municipality.⁴⁴⁷ The case of Mátraverebély is a textbook example of how the local citizens, municipality and NGOs, also with the help of some state funding, could bring about changes, such as achieving better community cohesion, renovating houses, opening up a new school, and motivating adults to finish secondary school.⁴⁴⁸

Despite the efforts and budget allocation of the government, many negative examples exist such as the Numbered streets of Miskolc,⁴⁴⁹ where dozens of Roma people were evicted and might have to live on the streets without any civil or social support.⁴⁵⁰ Unfortunately, the Complex Settlement Programmes will not be enough to treat all the issues for as long as some of the legislation goes against the core need of the people in the segregated areas – for example, the abolishment of debt minimising support and the fact that the municipalities can decide locally whether they want to transfer support to the struggling families.⁴⁵¹

- **Health**

The health of the community is greatly determined by their quality of life, but the educational, housing and employment conditions are all important factors contributing to the poor health condition of Roma. Furthermore, the geographical locations also give way to poor infrastructure and limited access to health care. In addition, discrimination based on ethnicity is another factor which contributes to the health situation.⁴⁵² The Complex Settlement Programmes mentioned in the housing section previously are also designed for improving health

⁴⁴³ Emberi Erőforrások Minisztériuma (2015) "A Teleszerű Lakhatás Kezelését Megalapozó Szakpolitikai Stratégia," March, p. 16, <http://www.kormany.hu/download/3/a6/40000/Lakhat-Strat.pdf>

⁴⁴⁴ Lukács G. (2017) "Addressing Extreme Poverty in Hungary - How the Development Sector Is Working with and for Communities," p. 19.

⁴⁴⁵ MTI (2016) "91 Milliard Forintból Folytatódik a Komplex Telepprogram," August, <http://www.kormany.hu/hu/emberi-eroforrasok-miniszteriuma/szocialis-ugyekert-es-tarsadalmi-felzarkozasert-felelos-allamtitkarsag/hirek/91-milliard-forintbol-folytatodik-a-komplex-telepprogram>

⁴⁴⁶ Interview with the National Roma Contact Point.

⁴⁴⁷ Gulyás E. (2016) "Program van, a telepek megmaradtak", July, Népszava, https://nepszava.hu/1099843_program-van-a-telepek-megmaradtak

⁴⁴⁸ See the example of Mátraverebély: Illés S. (2016), "Csoda: van egy Magyar falu, ahol összefogtak a lakók!," Abcug.hu, February 2, <https://abcug.hu/csoda-van-egy-magyar-falu-ahol-osszefogtak-lakok/>

⁴⁴⁹ Under the guise of "Eliminating slums of the city's outskirts" Miskolc authorities evicted and chased away Roma, clearly wanting to create an environment where no Roma minority has a place to live. Some of the Roma residences were offered social housing in another part of the town, but with conditions that ensured none of them could secure housing in the area. Further action from the municipal side included offering EUR 6 500 in support if these Roma found homes outside of the city's territory. For Further information see: "Miskolc Mayor Remains Defiant on Roma Evictions Despite Latest Court Ruling," Text, European Roma Rights Centre, accessed November 1, 2018, <http://www.errc.org/news/miskolc-mayor-remains-defiant-on-roma-evictions-despite-latest-court-ruling>

⁴⁵⁰ Amnesty International, "Numbered Streets: The Hungarian Neighbourhood Where Everybody Could Be Left Homeless," 2014, accessed October 14, 2018, <http://www.amnesty.eu/en/news/blog/numbered-streets-the-hungarian-neighbourhood-where-everybody-could-be-left-homeless00048/>

⁴⁵¹ The debt minimising support consisted of two parts: financial, comprising help to reduce debts; and consultative, comprising a one-on-one session with a social expert. Citizens could be eligible for the support if their income was under a certain minimum, if they had utility debts for over six months, and if the amount of their debt was over HUF 50 000. The size of the support could be no more than HUF 300 000 in case of utility service debt, and HUF 600 000 in loan debt. Habitat for Humanity (2015) "Gondolatok Az Adósságkezelési Szolgáltatás Megszüntetésével Kapcsolatban," Budapest, https://www.habitat.hu/files/adossagkezeles_habitat_20150224_2.pdf

⁴⁵² Kovács Á. (2018) "A Romák Egészségi Állapota És a Szolgáltatásokhoz Való Hozzáférésük," http://real.mtak.hu/16483/1/tanulmánykotet_roma.pdf

care in settlements, and for battling addiction within the community. Roma in Hungary barely live until 65 years old and compared to non-Roma citizens their life-expectancy is 10 years less. The child mortality rate is also high, and health problems such as tumours are more common within this minority group.⁴⁵³

Furthermore, a research sample collected by a researcher from the University of Debrecen (comparing data under the Roma Decade) indicates that the doctor-visiting practices of Roma did not change, and that they use healthcare services less than non-Roma. Only the younger generation shows signs of improvement. The research found that Roma women are less likely to go for gynaecological check-ups than before. The results of the 1 000 Roma people surveyed showed that alcohol consumption is still high, which can be also be a result of the changed and eased condition of Pálinka (alcohol) making. In addition, the research found that a large proportion of Roma are overweight despite the fact that the government also imposed taxes on certain types of unhealthy dietary products like chips. The research implied a correlation between the Public Works Scheme, the higher taxation on cigarettes, and the ban on smoking at the workplace and public places, and Roma smoking less and buying more vegetable than before.⁴⁵⁴ However, this is not scientifically proven and data on a bigger scale needs to be collected.

One of the civil society members interviewed commented that Roma lack every kind of service, including health care. There are not sufficient doctor's practices, and even if they do exist, they do not know how to address problems faced by the Roma in accessing health services. The civil society members criticised the priorities of EU funded programmes concentrating on topics like eating healthily and abortion, when in fact one of the biggest problems emerging among the Roma community is drug use.⁴⁵⁵

3.3.3. Horizontal policies: anti-discrimination and antigypsyism

Addressing discrimination and segregation

Discrimination and segregation against Roma show an intersectional tendency across Housing, Health, Education and Employment. Compared to other disadvantaged people, Roma significantly face multiple discrimination. Some research in 2013 showed that Roma are 2.5 times more likely to encounter intersectional discrimination, while in 2017, compared to the average Hungarian, the rate increased to 3 times more likely. In absolute terms, this means that four-fifths (86.4 %) of Roma have been a victim of multiple discrimination. Furthermore, when asked about whether they have experienced discrimination in the last 12 months only 29.9 % said no compared to the previous 60.8 %. Both the year 2013 and 2017 showed that the highest discrimination rate relates to the intertwined workplace and institutional discrimination.⁴⁵⁶

In 2017, out of all EU Member States, Hungary was one of the leading countries in school segregation, with a shocking 61 % of Romani children attending segregated educational institutions or classes. The legal antidiscrimination framework and the corresponding national equality body exists. The arrangements of the Race Equality Directive have been transposed through ACT NO CXXV of 2003, which ensures equal treatment and equal opportunities. Fundamental rights are guaranteed without a distinction, as is equal treatment in the labour market, and further laws in the Civic Code are set out to eliminate negative discrimination. Furthermore, the Equal Treatment Authority (EBH) and the Ombudsman for Fundamental Rights are also added to the Hungarian legal system as bodies contributing to the protection of minority rights.⁴⁵⁷ The Hungarian Criminal Code has recently been amended with the offence of 'incitement against a community' in order to comply with the Framework Decision on Racism and Xenophobia.⁴⁵⁸

Many of the people interviewed mentioned that institutional racism is very much alive in Hungary, despite the government trying to cover it with programmes and legislation. One of the civil society members commented:

⁴⁵³ Mizsur A. (2018), "Többet isznak a romák, mint egy évtizede," Abcug.hu, May 31, , <https://abcug.hu/tobbet-isznak-a-romak-mint-egy-evtizede/>

⁴⁵⁴ Ibid.

⁴⁵⁵ Interview with Pro-Roma organisation.

⁴⁵⁶ Egyenlő Bánásmód Hatóság and MTA TK Institute of Sociology (2017) "Az Egyenlő Bánásmóddal Kapcsolatos Jogtudatosság," http://real.mtak.hu/73102/1/nemenyi_sagvari_tardos_ebh_2017_.pdf

⁴⁵⁷ Roma Civil Monitor (2018), Op.cit., p. 29.

⁴⁵⁸ FRA (2017), Op.cit., p. 81.

"The main challenge is that the Hungarian Government has destroyed democracy, rule of law and civil society. There is no Roma emancipation. Everybody is working towards survival in this dictatorship. They are killing all the democratic forums. The government is trying to create an environment where the minority is not equal to the majority. The focus now is on something else, it is far-right politics, high governmental officials allow themselves to use hate speech in regard to Roma. They do not address this challenge, but they are promoting it".⁴⁵⁹

Combatting hate crime and hate speech against Roma

Combatting discrimination and prejudice against Roma is part of the NSIS. However, the strategy presents these issues not as the fault of the majority but as mutual lack of trust, aggression and prejudice. The term 'antigypsyism' is not used in the strategy, nor is it widespread in academia or civil society.⁴⁶⁰

One of the biggest problems regarding hate crime is the inactivity or institutional prejudice of the police. Roma are often racially profiled, or they do not enjoy immediate protection from law enforcement when they are threatened and victimised by far-right groups (Case of Gyöngyöspata and Devecser).⁴⁶¹ In order to bring about changes in the police, the Working Group against Hate Crimes held training for officers, sensitising them with regard to victims of hate crimes, and a further forum has been established where positive practices of hate crime investigation have been exchanged.⁴⁶²

The equality body representative who was interviewed said: "We can make training, but the problem is that the current government does not take them seriously. What we need to have is total support and background. There is a lot of hate speech going on against Roma on the local level as well. Regarding the police, they answer to complaints, but it is a different question what they acknowledge and what they do not. Among the measures implemented, the police provided training for and aim to train more Roma police officers. These are general measures and in practice, it does not seem to work."⁴⁶³

Negative attitudes towards foreigners have grown in Hungary in recent years. According to the research conducted by Tárki, xenophobia in 2015 was strongest towards Arabs, reaching 94 %, and the rejection rate of the Roma minority followed closely.⁴⁶⁴ Government rhetoric, the comparison of Roma to migrants, and scapegoating them for the lack of positive policies towards refugees are not the only cases when hate speech enters the political medium.⁴⁶⁵ Despite the publicly demonstrated attitudes of politicians towards Roma, Hungary does have laws and bodies in place to deal with hate crime, although the definition itself does not appear in the Criminal Code of Hungary.⁴⁶⁶

One of the biggest challenges is the lack of comprehensive monitoring. In 2015 the European Commission against Racism and Intolerance reported that "bias motivation is not included in official data on hate-motivated offences in the country".⁴⁶⁷ The opinion of the representative interviewed from an equality body resonates the lack of realisation of hate and bias behind offences. She brings examples of how when hate speech appears on walls, the police treat it as vandalism and not hate crime. The lack of recognition of hate motivation is hindering the effectiveness of justice.⁴⁶⁸

⁴⁵⁹ Interviews with a representative from a civil society organisation, 2018.

⁴⁶⁰ Roma Civil Monitor (2018), Op.cit., p. 38.

⁴⁶¹ Barna I. and B. Hunyadi (2015), Op.cit., p. 14.

⁴⁶² FRA (2017), Op.cit., p. 82.

⁴⁶³ "Interview with a Representative representative from a Hungarian Equality equality Bodybody," 2018.

⁴⁶⁴ Barna I. and B. Hunyadi (2015), Op.cit., p. 28.

⁴⁶⁵ Ibid., p. 21.

⁴⁶⁶ For further information on how hate crime and hate speech is monitored by Hungarian bodies see: Roma Civil Monitor (2018), Op.cit., p. 39.

⁴⁶⁷ Subjective Values Foundation (2017), "National Hate Crime Report: Hungary," July 7, http://www.szubjektiv.org/wp-content/uploads/2017/11/National_Hate_Crime_Report_Hungary_07-07-2017.pdf

⁴⁶⁸ Interview with a representative from a Hungarian equality body.

Each of the people interviewed emphasises the role of NGOs in Hungary, although pro-Roma organisations in the current environment are declining. They have always had a great role providing justice to victims of hate crime and have served as a monitor over civil society, and many times the government itself.⁴⁶⁹

Specific measures countering antigypsyism and promoting historical remembrance

Without doubt, Roma were killed, persecuted and deported from Hungary during the Holocaust. However, the official number of victims is still debated, and varies from 5 000 to 15 000.⁴⁷⁰ Roma are commemorated both on International Holocaust day on 27 January, and on International Roma Holocaust day on 2 August.⁴⁷¹ The 371 Stars also commemorates the event, remembering the Holocaust Roma children victims, and is funded by the Ministry of Human Capacity.⁴⁷² A civil society representative mentioned that on 27 January there is a civil movement commemorating the Hungarian Roma serial killings in Hungary, but there are other smaller initiatives throughout the country on different commemoration days.⁴⁷³

In the opinion of the International Holocaust Remembrance Alliance representative, the Roma Holocaust is more recognised on the national agenda than before. Now the officials do not only mention Jewish people but also Roma in Holocaust commemoration events. It is in the political discourse, although awareness-raising, education or research on the Holocaust are not measures included in the NSIS.⁴⁷⁴

A permanent Roma Holocaust exhibition can currently be found in the Holocaust Memorial Centre in Budapest. Another Roma Historical, Cultural, Educational Holocaust Centre was created by the Roma Polgári Tömörülés, mostly from private funding, but it was shut down in 2017 because of a lack of financial resources. The director of the institution felt that this unique project has been treated as a step-child of the government, since the limited funding the project received could barely cover the taxes that had to be paid.⁴⁷⁵

The civil society member who was interviewed mentioned that there is a Roma Holocaust Memorial which can be found in Budapest in the Nehru Park. The memorial itself is vandalised and damaged every year, and there are no protective measures taken to prevent people from destroying it.⁴⁷⁶

Regarding the retributions to the Roma Holocaust victims, there were three programmes in Hungary but none of them were directly state-funded or aimed exclusively at Roma victims.⁴⁷⁷ Currently, retribution legislation in Hungary compensates all those who have suffered under Nazism and the Communist regime. The form of compensation comes in additional financial support to their pension, and in 2014 the government spent HUF 2.65 billion (EUR 8.2 million).⁴⁷⁸ However, from these compensation policies, it is not entirely clear how many Roma Holocaust victims benefited.

Regarding the representation of Roma in history books, research is carried out by the Monitor Critical Platform, the Romology Department at the University of Pécs, the European Roma Rights Centre, the Chance for Children Foundation and the EEA Grants.⁴⁷⁹ Three problematic areas have been identified. Firstly, the image of Roma is in distortion and asymmetric in historical and civil rights textbooks (throughout secondary school): they only appear in relation to the Holocaust and in the post-communist area. A positive image is difficult to create here since, in

⁴⁶⁹ Interview with Pro-Roma Organisation.

⁴⁷⁰ Beszélő and Roma Satjóközpont, "Porrajmos", <http://beszelo.c3.hu/cikkek/porrajmos>

⁴⁷¹ Interview with the representative of a historical remembrance body, 2018.

⁴⁷² Ibid.

⁴⁷³ Interviews with a representative from a civil society organisation.

⁴⁷⁴ Interview with the representative of a historical remembrance body, 2018.

⁴⁷⁵ Attila Hidvégi B. (2017), "Bezárják a Csepeli Roma Holokauszt Központot," Romnet, January 27, accessed October 14, 2018, <http://www.romnet.hu/hirek/2017/01/27/bezarak-a-csepeli-roma-holokauszt-kozpontot>

⁴⁷⁶ Interview with relevant Roma organisation, 2018.

⁴⁷⁷ Attila Hidvégi B. (2017), "Holokauszt-Kárpótlási Csalók Járvák Az Országot," Romnet, December 10, accessed October 14, 2018, <http://www.romnet.hu/hirek/2017/10/12/holokauszt-karpotlasi-csalok-jarjak-az-orszagot>

⁴⁷⁸ Tett és védelem alapítvány (2016), "Tények – amit a Holokauszt-kárpótlással kapcsolatban tudni illik," TEV, November 22, <https://tev.hu/tenyek-amit-a-holokauszt-karpotlással-kepcolatban-tudni-illik/>

⁴⁷⁹ Bogdán P. (2016), "A Romák/Cigányok Tankönyvi Jelenlétét Elemző Kutatásokról," Új Pedagógiai Szemle 5–6 http://real.mtak.hu/38666/1/BOGDAN_PETER_A_ROMAK_CIGANYOK_TANKONYVI_JELENLETET_ELEMZO_KUTATASOKROL_upsz_2016_5_6_teljes.127_136_u.pdf

both periods, Roma were victims of the different regimes. Secondly, many Roma references are not well integrated in the structure of textbooks as they mention Roma in one historical period, but the text connected to them is from a different century. Thirdly, there are not enough sources about Roma in exercise books, and in addition, from all textbooks, there was only one question regarding the history of Roma. Furthermore, the proper socio-economic context is missing, and some of the information is not accurately presented in the books.⁴⁸⁰

For further suggestions, the representative from the Holocaust Remembrance body suggests that in order to educate non-Roma people on Holocaust and Roma history, it is not only textbooks that are needed but proper teacher training as well.⁴⁸¹ Furthermore, the representative from the equality body pointed out that history is not the only important aspect where Roma have to be compensated. Victims of the Roma serial killings in Hungary themselves are not compensated, this should be a top priority as well.⁴⁸²

3.4. Italy⁴⁸³

3.4.1. Societal and public policy context

The Roma minority in Italy represents a very limited portion of the total population. According to the Council of Europe's estimates, Roma in Italy amount to about 150 000 members, representing 0.25 % of the whole population⁴⁸⁴. Their presence, like in other western European countries, is characterised by strong differences between groups, both in cultural, socio-economic and legal terms. The National Roma Integration Strategy (NRIS) recognises three main groups: Roma, Sinti and Caminanti. The term Roma mainly refers to groups migrated from Eastern European countries since the '70s, but also to autochthonous Roma who have been historically present in the central and southern part of Italy. Sinti refers to another autochthonous macro-group living in the northern regions, while Caminanti are exclusively located in Sicily, particularly around the town of Noto. Sinti and Caminanti have commonly been associated to itinerant crafts that brought them to practise nomadism. Despite the progressive disappearance of these trades and their sedentarisation, the association between Roma in general and nomadism has deeply affected Italian policies and still today is reiterated in the public debate by use of the terms "Roma" and "nomad" as synonyms⁴⁸⁵.

The condition of Roma in Italy is also characterised by their varied legal positions: while the majority have Italian citizenship and a great part of those migrated in the last 15 years come from EU countries, a good number of migrant Roma still suffer from the lack of documents. Especially complicated is the condition of those migrated from Yugoslavia before or during its dissolution, who lost the Yugoslavian citizenship, but did not acquire a new one, becoming de-facto stateless. This situation is partly the consequence of the complex bureaucratic procedures to acquire Italian documents, added to the condition of marginalisation and segregation that many Roma, labelled as "nomad", have to face within the nomad camps⁴⁸⁶.

The "camp system" surely denoted the approach adopted by Italian authorities towards Roma for decades. Created through a series of regional laws with the aim of providing "nomad Roma" with halting sites, these structures very soon turned into segregated ghettos, where all Roma labelled as "nomad" were placed, without considering that the majority was sedentary. Consequently, these structures became the symbol of the segregation and marginalisation of Roma in Italy, attracting media attention, and reinforcing the association between Roma and social problems⁴⁸⁷. Nevertheless, the public perception on the share of Roma living in camps is often distorted, since, according to the annual report of the Italian Associazione 21 Luglio, only 26 000 Roma

⁴⁸⁰ Bogdán P. (2016), p. 129.

⁴⁸¹ Interview with the representative of a historical remembrance body.

⁴⁸² Interview with a representative from a Hungarian equality body."

⁴⁸³ This case study has been developed by Silvia CITTADINI.

⁴⁸⁴ Council of Europe (2012), "Estimates on Roma Population in European Countries", <https://www.coe.int/en/web/portal/roma?desktop=false>

⁴⁸⁵ Sigona N. and L. Monasta (2006), "Imperfect Citizenship. Research into Patterns of Racial Discrimination against Roma and Sinti in Italy,"; Piasere L. (2004), *I Rom d'Europa. Una Storia Moderna*, Roma, Bari: Laterza.

⁴⁸⁶ Tavani C. (2012), *Collective Rights and the Cultural Identity of the Roma, A Case Study of Italy* Leiden, Boston: Martinus Nijhoff Publishers.

⁴⁸⁷ Tosi Cambini S. (2013), "Accesso All'abitazione e Problemi Di Salute Delle Popolazioni Rom e Sinti," in *Stranieri e Disuguali Le Disuguaglianze Nei Diritti e Nelle Condizioni Di Vita Degli Immigrati*, ed. Chiara Saraceno, Nicola Sartor, and Giuseppe Sciortino Bologna: Il Mulino, 225–50.

and Sinti, about 17 % of the entire population, live in camps⁴⁸⁸. The association between Roma and camps, and their stigmatisation, is the consequence of policies based on antigypsyism and, at the same time, it contributes to boosting anti-Roma sentiment. In this context, the most worrisome and relevant data are those provided by a study conducted by the Pew Research Center on anti-Roma and anti-immigrant sentiment in Europe. According to this study, Italy is the country with the highest share of the population with unfavourable opinions on Roma (85 %) among European countries, followed by Greece with the 65 %⁴⁸⁹. This unfavourable attitude towards Roma is considered by most of the institutions and organisations consulted by this study as one of the main obstacles to inclusion and is identified at all levels of society.

The unfavourable attitude of Italian society towards Roma is reflected in national and local policies often marked by a securitarian approach treating Roma as a problem of “public security”, leading to illegal evictions and expulsions. For this reason, the adoption of the NRIS represented an important shift towards the recognition of the Roma minority and its integration. Nevertheless, the implementation of the NRIS has been hindered by a series of factors, which will be analysed in the following section, failing to achieve the expected results. Also the political debate on the recognition of Roma and Sinti as either a linguistic or national minority did not lead to the adoption of a law, despite the numerous proposals presented over the years.

Currently, implementation of the NRIS risks being further hampered by the new political environment. The League, one of the current ruling parties, has often presented evictions and expulsions of Roma as one of their main goals within electoral campaigns. In addition, after the first month of government, the Minister of Interior, Matteo Salvini, declared the intention of carrying out a census of Roma and expelling those who do not have Italian citizenship⁴⁹⁰. The renewed securitarian approach has been reaffirmed by a series of actions addressing immigrants in general but affecting also those Italian Roma and Sinti living in conditions of insecurity. An example is a ministerial circular prompting local authorities to carry out evictions of illegally occupied buildings and lands, which resulted in a new wave of eviction of Roma camps and settlements⁴⁹¹.

The current situation is particularly worrisome also for the sharp increase in the number of hate crimes and speeches registered in recent months, which the Italian Roma civil society organisations cannot counter due to their lack of funds and their general under-representation within the public debate. In this regard, indeed, despite the efforts to improve the coordination and cooperation between Roma organisations and national institutions within the implementation of the NRIS, representation of Roma within political and media debate remains unsatisfactory, as emerged during the interview with one Roma organisation⁴⁹².

3.4.2. Implementation of substantive policies

Due to the impossibility, under Italian law, of collecting census data according to ethnic belonging, there is no official and sure statistical information regarding the presence, condition and composition of Roma groups in Italy. The collection of data in this regard is also hindered by immigration/emigration flows, which are not always registered by social services. Some studies on the condition of Roma in Italy have been conducted by national and international organisations, although it is not always clear how Roma have been identified and how data have been collected. Furthermore, these studies are usually conducted through surveys completed by local authorities/services/organisations on the presence of Roma on their territory, and consequently risk overlooking those ‘invisible Roma’ who do not have contacts with them.

In this context, some studies have been conducted on Roma persons living within camps or informal settlements, since these structures are usually registered and controlled by local authorities. As mentioned above, the media

⁴⁸⁸ Associazione 21 Luglio Onlus (2017), “Rapporto Annuale 2017,” http://www.21luglio.org/21luglio/wp-content/uploads/2018/04/Rapporto_Annuale-2017_web.pdf

⁴⁸⁹ Pew Research Center (2014), “Views of Roma, Muslims, Jews,” A Fragile Rebound for EU Image on Eve of European Parliament Elections,” <http://www.pewglobal.org/2014/05/12/chapter-4-views-of-roma-muslims-jews/>

⁴⁹⁰ Custodero A. (2018), “Salvini Shock: ‘Censimento Sui Rom, Quelli Italiani Purtroppo Ce Li Dobbiamo Tenere’. Scontro Nel Governo, Di Maio: ‘Incostituzionale,’” La Repubblica, 18 June. https://www.repubblica.it/politica/2018/06/18/news/salvini_rom_censimento-199319863/

⁴⁹¹ La Repubblica (2018), “Viminale, Stretta Contro Le Occupazioni Abusive Di Immobili: Chiesti Censimenti e Sgomberi. Scontro Con Il Pd,” 1 September. https://www.repubblica.it/politica/2018/09/01/news/casa_circolare_viminale_sgomberi_censimento-205417322/

⁴⁹² Interview with Roma CSO, 29 September 2018 (via Skype).

and political 'visibility' of the camps risks reinforcing the idea that all Roma in Italy live in these areas, while according to a study conducted by Associazione 21 Luglio, only 26 000 (17 % of the total) live in formal or informal camps. Among them, about 9 600 immigrated from ex-Yugoslavia and 3 000 risk to be stateless, while the majority of the inhabitants of informal camps are Romanians (86 %) ⁴⁹³. Regarding the housing solutions of those living outside the camps, no clear data are available. Particularly relevant, but also challenging to acquire, are data regarding Roma living in so-called "micro-areas", ⁴⁹⁴ because of the debate over the possibility to legalise or favour this solution.

The European Union Agency for Fundamental Rights (FRA) in 2014 published a series of thematic reports on a survey conducted among Roma and non-Roma in 11 Member States, assessing the socio-economic situation, specifically in the areas of education and employment ⁴⁹⁵. According to these reports, in Italy over 30 % of the Roma respondents of working-age declare they are completely unemployed; within this group, the results are particularly worrisome for the share of those between 16 and 24 years old who declare they are not in employment, in education or in training, amounting to 69 % (among the highest within the 11 EU countries). Still within the sector of employment, results are also relevant for the share of Roma individuals who declare they are self-employed, representing 73 % of all Roma employed respondents (highest share within the 11 EU countries). In the education sector, Italy appears to be in line with the situation of other countries, where the gap in school attendance between Roma and non-Roma is very wide everywhere. An example is the share of children of school age not attending school (data refer to the year 2010-2011), standing at 13 % for Roma, while for non-Roma this decreases to 2 %. Similar results are obtained if considering the share of respondents aged 16 or above declaring they are illiterate: in Italy 17 % of the Roma respondents declared they were illiterate, in contrast to the 0 % of non-Roma respondents.

According to the interviews conducted with national authorities and organisations, the main challenge in implementing the NRIS in Italy lies in the complex system of governance, which requires the commitment and cooperation between national and local level ⁴⁹⁶. Under the Italian Constitution, the regions have competence in the administration of a series of social and economic sectors, such as housing and health ⁴⁹⁷. For this reason, most of the practical implementation of the NRIS lies on the local administrations, who were asked (but not obliged) to intervene with the creation of regional/local tables aimed at the elaboration and implementation of integration policies. This complex system resulted in a strong fragmentation of the interventions and a divide between local authorities that carried out policies in line with the NRIS and local authorities that did not intervene at all or continued carrying out interventions in contrast with it. According to the civil society organisations, the autonomy of the local authority nullifies the effectiveness of the NRIS, as the virtuous authorities that intervened would have done the same also without it ⁴⁹⁸. According to most of the national authorities, another challenge in the implementation of the NRIS is the lack of funds and personnel working exclusively in this sector ⁴⁹⁹.

The issue of the lack of competent personnel emerged especially during the interview with one authority in the area of Rule of Law, justice and equality, having to deal with a series of other social issues and, consequently, not

⁴⁹³ Associazione 21 Luglio Onlus (2017), Op.cit.

⁴⁹⁴ The term "micro-area" commonly refers to an area where a Romani family live after purchasing the ownership of the land (usually meant for agricultural use). This housing solution is particularly common among Sinti in northern Italy who purchased these areas to permanently place their caravan and/or build shelters where to live with the extended family. Nevertheless, it is progressively becoming a solution also for those Roma who want to abandon formal or informal camps.

⁴⁹⁵ FRA (2014), Education: The Situation of Roma in 11 EU Member States, 2014; FRA (2014), Poverty and Employment: The Situation of Roma in 11 EU Member States.

⁴⁹⁶ Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

⁴⁹⁷ See Title V of Part II of the Constitution of the Italian Republic https://www.senato.it/documenti /repository/ istituzione/ costituzione _inglese.pdf

National authorities interviewed confirmed the autonomy of the Regions in implementing policies in social sectors touched by the NRIS, preventing the intervention of the national institutions. Interviews with national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 23 September 2018 (Rome, Italy)

⁴⁹⁸ Interview with pro-Roma CSO, 22 September 2018 (Rome, Italy)

⁴⁹⁹ Interviews with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy)

having resources and time to focus on implementation of the NRIS. Similar observations emerged during the interview with a civil society organisation, which highlighted how integration policies succeeded where the local administrators had sufficient knowledge and interest on the issues concerning the local Roma communities⁵⁰⁰. Another issue that emerged during the interviews with the authorities is the legal status of Roma, especially for those who are stateless. The lack of documents, indeed, is one of the main and most complex obstacles to integration and one of the main issues raised by international observatory bodies regarding Roma⁵⁰¹.

The Roma civil society organisation highlighted particularly the lack of a constant dialogue between Roma associations and implementing bodies as one of the main challenges, resulting in the realisation of policies designed without taking into account the real needs and possibilities of the beneficiaries. This top-down approach would lead to the implementation of actions that do not achieve the expected results. In this context, it is also important to highlight the limited number of Roma and pro-Roma organisations that have the resources to apply for funds and directly realise integration projects. It is therefore deemed necessary to invest in capacity-building strategies in order to provide Roma activists with the possibility to intervene in the design and implementation of the NRIS⁵⁰².

Finally, antigypsyism is unanimously considered as one of the main obstacles to the integration of Roma. Nevertheless, in this context divergences emerged regarding which should be the main target in addressing this problem: while national authorities mainly point to the media and public opinion, which would hinder the realisation of policies by the local authorities⁵⁰³, civil society organisations identify as the main obstacle the systemic antigypsyism present within the authorities themselves⁵⁰⁴.

Integration within the housing sector is considered by the Italian NRIS as the main priority towards the integration of Roma, in consideration of the segregation produced by nomad camps. In recent years, public debate in this sector has focused greatly on the individuation and provision of alternatives to the nomad camps and many projects have been realised in this sector at the local level. Nevertheless, in many cases, the closure of the camps has been achieved through the creation of other solo-Roma structures, which, despite being equipped with adequate infrastructures, may present issues of marginalisation and ethnic segregation. On the other side, the inclusion within the regular housing market is hindered by financial problems and the chronic lack of public housing prevents the possibility of providing this solution to all Roma in need⁵⁰⁵.

The housing issue encounters diverging points of view, not only between authorities and organisations, but also between Roma and pro-Roma organisations. For instance, during the interview, the Roma organisation stated that the main problem in the housing sector is not the camps themselves, but rather the systemic causes that prevent the provision of alternatives (i.e. discrimination and antigypsyism). Furthermore, in their view, institutions and non-Roma organisations give too much attention to issues of desegregation, preventing the realisation of policies designed in cooperation with the local communities that may represent a valid solution to homelessness⁵⁰⁶. In this regard, a topic that is debated is the legalisation and/or creation of micro-areas, which was also foreseen by the NRIS. In the past years, a consistent number of Roma and Sinti have purchased agricultural lands on which to place mobile homes as an alternative to the camps.

Nevertheless, the latest legislation has prevented the possibility of placing such structures (although mobile) on agricultural lands, resulting in the eviction of families who chose this solution. According to the Roma organisation, the micro-area represents a feasible and adequate alternative to the camps, especially in consideration of the fact that such a solution is often requested by Roma and Sinti because it better responds to

⁵⁰⁰ Interview with Roma CSO, 29 September 2018 (via skype)

⁵⁰¹ Interviews with national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 2 October 2018 (via phone)

⁵⁰² Interview with Roma CSO, 29 September 2018 (via skype)

⁵⁰³ Interviews with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy), national authority in the area of rule of law, justice and equality, 2 October 2018 (via phone)

⁵⁰⁴ Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

⁵⁰⁵ This aspect especially emerged during the interview with Roma CSO, 29 September 2018 (via skype)

⁵⁰⁶ *Ibid.*

their specific needs (i.e. living in extended families). On the other hand, the pro-Roma organisation opposes such a solution because it considers it as a new form of segregation, although micro-areas are usually inhabited by only one or two families. Also, the national authority in the area of Roma integration does not consider the provision of micro-areas as a priority and it prefers the inclusion within the regular housing market⁵⁰⁷.

The lack of sustainable solutions in the housing sector deeply affects also the inclusion in education. Indeed, housing insecurity and the consequent numerous evictions suffered by Roma in Italy are considered as one of the main obstacles to integration in the education system⁵⁰⁸. Despite the fact that access to education is universal and mandatory until the age of 16, the share of Roma children not attending compulsory education is still high⁵⁰⁹. Evictions affect this data as the continuous transfers and housing instability risk prompting early school drop-out. In this contest, another issue raised by national authorities is the lack of clear data regarding the presence and school attendance of Roma children, which prevents the development of policies aimed at countering school-leaving⁵¹⁰.

The interviews with civil society organisations and national authorities did not produce comprehensive results on the challenges encountered in the implementation of projects in the specific sectors of health and employment, because of the fragmentation of the initiatives carried out in these fields at the local level. In the employment sector, the Roma organisation pointed to the incapacity of the project realised to respond to the specific needs and possibilities of the Roma beneficiaries, bringing the examples of training addressing unemployed Roma that did not lead to the effective inclusion of the beneficiaries in the job market⁵¹¹. In this context, the development of new strategies may be necessary, aimed at addressing the specific situation of those Roma who have been out of the regular job market for a long time. In the health sector, a national authority pointed to the lack of trust of Roma in the health services and to the lack of awareness of the problems connected to poor nutrition⁵¹². Nevertheless, it is also possible to suppose that the access to health services, though universal, may be hindered by forms of discrimination and antigypsyism which transversally affect all sectors of society, as highlighted by most of the interviewees.

According to most of the authorities and organisations, the adoption of the NRIS had a positive impact in changing the approach and the perspective on the issues concerning the Roma and Sinti population in Italy. It highlighted the need to move from a securitarian approach that considers Roma as an issue of public security to an approach aimed at integration in the four sectors addressed by the NRIS⁵¹³. In the housing sector, this change of approach resulted in the awareness by the national and local authorities of the need to provide alternatives to nomad camps, while in the education sector the adoption of the NRIS has emphasised the need to work also on school achievement, not only on formal school attendance⁵¹⁴.

In this field, the Ministry of Labour and Social Services is implementing a national project aimed at improving the inclusion of Roma children at the local level (*Progetto nazionale per l'inclusione e l'integrazione dei bambini rom, sinti e caminanti*) since 2013. The project aims to favour the inclusion of Roma children through a series of actions, with special attention to the education sector. It adopts a series of innovative methods, such as peer-to-peer learning, in order to improve the school achievements of the Roma children and the cooperation between teachers and families. According to the national authority, this project has achieved important results as school attendance has increased and the participation of the families in the education of the children has improved sharply⁵¹⁵.

⁵⁰⁷ Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵⁰⁸ Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)

⁵⁰⁹ See FRA (2014), op.cit.

⁵¹⁰ Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵¹¹ Interview with Roma CSO, 29 September 2018 (via skype)

⁵¹² Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)

⁵¹³ Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

⁵¹⁴ Interviews with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 11 October 2018 (via phone)

⁵¹⁵ Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)

Nevertheless, the Roma organisation presented a different point of view on this, stating that the initiative generally did not achieve the expected results – but in a municipality where the local administration was already very active in this field⁵¹⁶. Furthermore, both parties highlighted the fact that participation in this project is left to the will of the local authorities and it is therefore implemented solely within those realities that are willing to implement projects in the sector of integration.

The fragmentation of the initiatives and the lack of comprehensive strategies implemented at the regional level within the framework of the NRIS prevent the individuation of promising practices addressing these issues in a systematic manner. The only exception in this field is the case of the Emilia Romagna region, which in 2016 adopted a Regional Strategy for the integration of Roma and Sinti and a law for the legalisation of the existing micro-areas. The Regional Strategy foresees the realisation of a series of actions in all sectors addressed by the NRIS with the adoption of different solutions, aimed at responding to the needs and possibilities of Roma individuals. It furthermore foresees actions aimed at countering discrimination against Roma and in enforcing their participation in the implementation of local policies. The Roma organisation considers this strategy a good example, especially in consideration of the fact that it has been designed in close cooperation with the local Roma associations. Nevertheless, it pointed to the fact that also in this case the adoption of the strategy remains non-mandatory and, consequently, dependent on the will of the local administrations⁵¹⁷. In addition, although promising, the implementation of this strategy started only in 2017 and it consequently does not allow an early evaluation of its results.

3.4.3. Horizontal policies: anti-discrimination and antigypsyism

Addressing discrimination and segregation

The fight against discrimination remains one of the main recommendations raised by international bodies when considering the situation of Roma in Italy. Specific concerns are raised regarding the bureaucratic difficulties encountered in the acquisition of legal documents, especially for those who are stateless, and regarding the situation of Roma women and girls⁵¹⁸. On the legal status of stateless Roma, Italian institutions engaged in a debate over possible solutions, especially within the legal table of the NRIS. As a result of this work, arrangements for the acquisition of citizenship by children of stateless individuals had been included in the law proposal on citizenship, presented at the time by the Ministry for Integration in 2013⁵¹⁹, but so far never approved by the Senate. At the same time, the Strategy launched a debate on the recognition of Roma as a minority.

In this regard, two proposals have been presented: the recognition of Roma as a linguistic minority and therefore its inclusion within the law on the protection of linguistic minorities⁵²⁰; a law on the promotion of specific norms for the protection and promotion of equal opportunities of Roma and Sinti minorities⁵²¹. This last proposal also foresees measures to facilitate access to documents by stateless Roma and is supported by the Roma associations⁵²². In contrast, the pro-Roma organisation considers it counter-productive, because it would establish privileges that can increase antigypsyism⁵²³. Nevertheless, none of this legislation has yet been approved by the Italian Parliament.

⁵¹⁶ Interview with Roma CSO, 29 September 2018 (via skype)

⁵¹⁷ Ibid.

⁵¹⁸ Interview with national authority in the area of rule of law, justice and equality, 2 October 2018 (via phone)

⁵¹⁹ Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵²⁰ Bill for amendment to the law of 15 December 1999, n. 482, and other provisions regarding the recognition of the historical linguistic minority speaking the Romani language. http://www.camera.it/dati/leg17/lavori/schedela/apriTelecomando_wai.asp?codice=17PDL0034400

⁵²¹ Bill for "Rules for the protection and equal opportunities of historical-linguistic minorities of Roma and Sinti" (3541) <http://www.camera.it/leg17/126?tab=1&leg=17&idDocumento=3541&sede=&tipo=>

⁵²² Interviews with national authority in the area of rule of law, justice and equality, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

⁵²³ Interview with pro-Roma CSO, 22 September 2018 (Rome, Italy)

Another issue often raised is the problem of the continuous evictions suffered by Roma and of the lack of adequate housing alternatives⁵²⁴. While the need to ensure housing security is broadly considered as a priority, the impact and relation with housing segregation are debated. On one side, the pro-Roma organisation and the national authority in the area of Roma integration in housing consider housing segregation as one of the main obstacles to integration⁵²⁵; on the other side, according to the Roma organisation, institutions should stop focusing almost exclusively on housing desegregation, because such an approach fails to consider the different situations and risks perpetuating conditions of homelessness⁵²⁶.

The intersectional discrimination suffered by women and other groups, such as the LGBTIQ Roma community, has not been tackled specifically by the NRIS⁵²⁷. Nevertheless, special attention is always paid to the inclusion of Roma women, especially in the education and health sectors. Especially in this last field, actions have targeted women in order to improve their reproductive health and access to social services⁵²⁸. Nevertheless, issues concerning specific issues of intersectional discrimination still seem to be under-considered in the framework of the NRIS.

The fight against antigypsyism is an issue upon which all counterparts agreed. In particular, the Roma organisation calls on further political support from the European institutions, especially in consideration of the worrisome growth of xenophobic and racist political parties in Italy and Europe. Civil society associations alone cannot fight such a widespread and growing phenomenon and, for this reason, strong institutional support is considered essential⁵²⁹.

Combatting hate crime and hate speech against Roma

After some years in which hate speech and hate crime against Roma decreased⁵³⁰, probably also because of the diminished media attention on issues concerning Roma, 2018 has marked a worrisome shift towards a new increase of these phenomena, supported by a political environment that is nourishing anti-Roma and anti-immigrant sentiment. Particularly alarming is the fact that such acts are finding legitimisation within the current political rhetoric, but this is not surprising considering that The League, one of the parties of the current government, has been the main protagonist of political hate speech against Roma in the past.

This worrisome shift has been marked by the declarations of the current Minister of Interior, who, a few weeks after the formation of the government, declared the intention of conducting a census of Roma present in Italy, stating that “unfortunately, we will have to keep the Italian ones!”⁵³¹ This declaration has since been supported by other political representatives of right-wing parties, who have reiterated old stereotypes against Roma. An example is the declarations of the leader of the extreme right party Fratelli d’Italia, Giorgia Meloni, who supported the proposal of a census by stating that “if you are nomad you have to keep moving”⁵³².

Since then, summer 2018 has seen an alarming rise of hate speech and crime against immigrants in general, often also concerning Roma. On 17 July, a Roma family was shot in Rome with a compressed air gun, and one of the

⁵²⁴ Interviews with pro-Roma CSO, 22 September 2018 (Rome, Italy), national authority in the area of Rule of Law, justice and equality, 11 October 2018 (via phone), national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy)

⁵²⁵ Interviews with pro-Roma CSO, 22 September 2018 (Rome, Italy), national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy)

⁵²⁶ Interview with Roma CSO, 29 September 2018 (via skype)

⁵²⁷ Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵²⁸ Interview with national authority in the area of rule of law, justice and equality, 11 October 2018 (via phone)

⁵²⁹ Interview with Roma CSO, 29 September 2018 (via skype)

⁵³⁰ Associazione 21 Luglio Onlus (2017), *Op.cit.*; Associazione 21 Luglio Onlus (2016), “Rapporto Annuale 2016,” <http://www.21luglio.org/21luglio/rapporto-annuale-2016/>

⁵³¹ Custodero (2018), “Salvini Shock: ‘Censimento Sui Rom, Quelli Italiani Purtroppo Ce Li Dobbiamo Tenere’. Scontro Nel Governo, Di Maio: ‘Incostituzionale.’”

⁵³² Huffington Post (2018), “‘Se Sei Nomade Devi Nomadare’. Meloni Dice Sì Al Censimento Dei Rom e Lancia Una Proposta,” 19 June. https://www.huffingtonpost.it/2018/06/19/se-sei-nomade-devi-nomadare-meloni-dice-si-al-censimento-dei-rom-e-lancia-una-proposta_a_23462443/

bullets seriously harmed their 15-month toddler⁵³³. This case is just one of a series of other similar crimes against immigrants that took place during those weeks. The ruling party always tried to minimise these acts, stating that they were not motivated by racism and that in Italy racism is not a serious issue. Another example, representative of the current political approach towards Roma, concerns a case in which a train conductor addressed Roma through the loudspeakers with the term “gypsy”, asking them to get out at the next stop with a very offensive expression. In this case too, the main government representatives, instead of repudiating the act, defended the public officer, stating through social networks that it is more important to worry about the safety of the passengers⁵³⁴. The gravity of the situation moved the United Nations to announce the appointment of observatory envoys to investigate the rise of racism in Italy.⁵³⁵

Italy has often been criticised in the past for its lack of bodies in charge of monitoring hate crime and hate speech in the country. This gap has partially been plugged by the creation, in 2010, of the Observatory of the Security against Discriminatory Acts (OSCAD), which provides the possibility to report discriminatory acts anonymously. Furthermore, this institution, in cooperation with the National Roma Contact Point - UNAR (National Office against Racial Discriminations) and other international organisations, has developed a series of tools aimed at countering antigypsyism and ethnic profiling particularly among police forces, carrying out a series of training sessions on these topics with police officers⁵³⁶. At the same time, UNAR has adopted similar measures and organised a series of training sessions with Roma and non-Roma activists on the fight against hate speech online⁵³⁷.

Despite the fact that Italian legislation punishes these acts and that Roma and pro-Roma associations in the past have successfully sued hate crime perpetrators, access to legal protection against these phenomena for Roma is still limited. The main obstacles are represented by the high level of discrimination and antigypsyism at all levels of society, by the complexity of the legal procedures and by the lack of resources necessary to support access to such mechanisms. Furthermore, Italy has often been criticised for its the lack of independent body monitoring and offering support against discriminatory acts. Indeed, both OSCAD and UNAR are established under the Ministries of the government. Consequently, their action, as also emerged during the interviews with national authorities, strictly depends on the political direction given by the Ministries⁵³⁸.

Specific measures countering antigypsyism and promoting historical remembrance

In the last year, the National Roma Contact Point has particularly engaged in the promotion and support of initiatives aimed at remembering the Roma Holocaust, in order to improve the general knowledge of an aspect of the Nazi-fascist persecutions still under-represented and studied. The most important event in this context has been the national commemoration of 27 January at the Presidency of the Republic, in which the President remembered the Roma Holocaust and invited a delegation of Roma representatives to give a speech. Another initiative has been the commemoration of the Roma Holocaust and Resistance on the 16 May organised by Roma associations in cooperation with UNAR in Agnano, one of the Italian localities to which Roma were deported. On 2 August, a delegation of Roma with UNAR took part in the commemoration in Auschwitz and on 5 October the first monument of the Roma Holocaust inaugurated in Lanciano⁵³⁹.

⁵³³ Sacchettoni I. (2018), “Bimba Rom Ferita a Roma: Indagato Un Italiano Che Ha Sparato Dal Balcone,” Corriere Della Sera, 24 July. https://roma.corriere.it/notizie/cronaca/18_luglio_24/roma-bimba-rom-ferita-indagato-italiano-lesioni-gravi-e65853ca-8f47-11e8-84b6-8543850c3d94.shtml

⁵³⁴ Bazoli G. (2018), “Trenord, Annuncio Razzista: «Giù Gli Zingari Dal Treno». È Bufera Sulla Capotreno, Rischia Il Posto,” Corriere Della Sera, 9 August. https://milano.corriere.it/notizie/cronaca/18_agosto_09/trenord-annuncio-razzista-giu-zingari-treno-bufera-capotreno-rischia-posto-76efc558-9b96-11e8-928f-aca0fa0687aa.shtml

⁵³⁵ La Repubblica (2018), “Migranti, Onu: ‘In Italia Violenza e Razzismo’. Farnesina: ‘Allarme Ingiusto e Infondato,’” 10 September. www.repubblica.it/politica/2018/09/10/news/onu_razzismo_italia-206054277/

⁵³⁶ Interview with national authority in the area of rule of law, justice and equality, 10 October 2018 (via phone)

⁵³⁷ Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵³⁸ Interviews with pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵³⁹ Interviews with national authority in the area of historical remembrance, 19 September 2018 (via phone), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy), Roma CSO, 29 September 2018 (via skype)

These initiatives represent an important response to the general lack of recognition of the persecutions suffered by Roma and Sinti under fascism. In recent years, Roma organisations have stood up for further recognition by the institutions and for the official inclusion of Roma within the national commemorations. The engagement of UNAR and of the President of the Republic in this sense is considered by the Roma organisation an important step forward, but they request the inclusion of Roma within the law establishing 27 January as Remembrance Day⁵⁴⁰. According to the national authority in the area of Historical Remembrance, the law establishing the Remembrance Day does not refer explicitly and solely to Jews, but to all Italians who suffered and died under Nazi-fascist persecutions⁵⁴¹. It is, nevertheless, true that the government committee dealing with the organisation of Remembrance initiatives, although also cooperating with UNAR for the initiatives on the Roma Holocaust, deals specifically and solely with the Holocaust of the Jews. Furthermore, the date of 2 August is still little-known, and no commemoration is organised at the institutional level⁵⁴².

It is therefore considered necessary to enforce initiatives in this area, also as a means to fight the current high level of antigypsyism. As the Roma organisation also highlighted, the current President of the Republic is sensitive to these issues and it is therefore possible to hope in further institutional recognition⁵⁴³. It is considered important to invest in the knowledge production on these events, because, as a national authority emphasised, little is still known regarding the perpetrators and victims of the persecutions suffered by Roma⁵⁴⁴. In addition, it is necessary to enforce the visibility of the Roma Holocaust within school programmes: despite Roma starting to be included in the commemorations in schools, the inclusion of Roma persecutions in textbooks is considered unsatisfactory⁵⁴⁵.

3.5. Romania⁵⁴⁶

3.5.1. Societal and public policy context

The Romanian state recognises 20 national minorities. According to the latest national census (2011), the two largest ethnic minorities are Hungarians (1 227 623 persons, 6.1 % of the total population) and Roma (621 573 persons, 3.089 %). The Roma in Romania are not a homogenous group, there are many different subgroups within the minority⁵⁴⁷.

Some Roma do not declare themselves as Roma for the census owing to multiple factors such as stigmatisation and discrimination, memories from the Holocaust against Roma in Romania or other methodological problems of the census. The Council of Europe estimates that between 1.2 million and 2.5 million Roma live in Romania. The Romanian Constitution provides representation for national minorities in the parliament guaranteeing a seat to each national minority even if they do not pass the 5 % parliamentary threshold.⁵⁴⁸ Since 1992, the Roma minority have always had one representative in the parliament and all of them come from the Roma Party.

In Romania, Roma are usually judged based on stereotypes in the minds of most of the population; these stereotypes demonstrate lack of knowledge or ignorance regarding the history of Roma on Romanian territory. Until recently (2017), in school curricula, there were no specific lessons regarding Roma, thus the image of Roma was created primarily through the media. At the same time, teachers do not punish antigypsyism attitudes, and thus discrimination, hate speech and stereotypes are recreated in schools. Moreover, social distance research

⁵⁴⁰ Interview with Roma CSO, 29 September 2018 (via skype)

⁵⁴¹ Interview with national authority in the area of historical remembrance, 19 September 2018 (via phone)

⁵⁴² Interviews with Pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵⁴³ Interview with Roma CSO, 29 September 2018 (via skype)

⁵⁴⁴ Interview with national authority in the area of Roma integration, 23 September 2018 (Rome, Italy)

⁵⁴⁵ Interview with pro-Roma CSO, 22 of September 2018 (Rome, Italy)

⁵⁴⁶ This case study has been developed by Gelu DUMINICA and Alexandra HOSSZU.

⁵⁴⁷ Council of Europe, Factsheets on Romani Culture, Romani Group names. http://romafacts.uni-graz.at/get_pdf.php?file=pdf_docs/ROMANI_CULTURE/English/C_1_7_group_names.pdf

⁵⁴⁸ Constitution of Romania, Art. 62: Organisations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organisation only.

indicates that over 42 % of teachers declared in 2018 that they would not want Roma as their neighbours.⁵⁴⁹ Also, according to national research⁵⁵⁰, the fourth least accepted group by the general population are Roma, after drug addicts, LGBT persons and persons with HIV/AIDS. Another study⁵⁵¹ found 62 % of the terms associated by non-Roma with Roma are negative (thieves, lazy, aggressive).

The high level public discourse (Government, politicians, public institutions) about Roma has improved in recent years especially due to the sanctions applied by the Equality Body to the politicians who have anti-Roma messages⁵⁵². There are also isolated cases of state officials who promote respect for Roma people. This was the case, for example, with former Prime Minister Dacian Ciolos, who on the occasion of International Roma Day acknowledged past and ongoing injustices against the Roma people⁵⁵³. As expressed by the NGO representative respondents, the attitude towards Roma, expressed in public statements and speeches, seems to depend more on the personal beliefs of politicians than on the official party lines.

Roma and pro-Roma civil society is more developed in Romania than other European country. Since 1990, many NGOs (more than 600 Roma and pro-Roma NGOs were registered in 2015⁵⁵⁴) have been created and have implemented projects for the Roma communities, but only a few of them have stayed the course of time and managed to self-sustain their activities beyond the European funds. Platforms and coalitions have also been made over time. One of the most recent is the Roma Democratic Federation (Federatia Democrata a Romilor)⁵⁵⁵ consisting of five of the most active Roma and pro-Roma NGOs (Impreuna Agency for Community Development Foundation, Romano Butiq, Sastipen, Roma Party Pro Europe, Amare Romentza).

Even in 2018, most of the Roma in Romania still do not accept and do not express their ethnic identity because of the stigmatisation they faced in Romanian society for being Roma. Besides discrimination and exclusion in different forms, Roma are suffering from self-marginalisation as a result of the negative experience they or other members of the same ethnic group faced before⁵⁵⁶. Along with persisting discrimination and segregation patterns in the education system, as well as the low expectations of teachers regarding the educational attainment of Roma children, this situation reinforces negative stereotyping and low aspirations of Roma children and their parents regarding potential success in economic and social life through education.

3.5.2. Implementation of substantive policies

The impact of the Romanian Strategy for Roma inclusion cannot be measured appropriately because there was no baseline before the strategy started to be implemented and no systematic monitoring and evaluation system has been established. Data about the impact of the NRIS are usually collected by NGOs or the EU Fundamental Rights Agency and other international bodies. The National Roma Contact Point reports data to the European Commission based on this data collection. Also, the strategy comprises more specific actions for each area (employment, education, housing, health, plus culture and infrastructure) and these actions have implemented in a fragmented way, mostly by NGOs through projects funded by the EU or other funding mechanisms (Swiss Funds, Norwegian Funds).

⁵⁴⁹ Badescu, G. et al. (2018). Education for Democracy in Romanian schools, p. 80

⁵⁵⁰ National Council for Combating Discrimination (2015) Percepții și atitudini ale populației României față de Strategia națională de prevenire și combatere a discriminării http://nediscriminare.ro/uploads_ro/112/106/Sondaj_TNS_CNCD_2015.pdf

⁵⁵¹ Duminica G. and Ivasiuc A. et all (2013) The Roma in Romania. From Scapegoat to Development Engine, Federal Foreign Office

⁵⁵² National Council for Combating Discrimination (2016) Activity Report 2016, available at: http://api.components.ro/uploads/1d3a0bf8b95391b825aa56853282d5da/2017/04/Activity_Report_2016.pdf

⁵⁵³ Message of the former Prime Minister Dacian Ciolos on the occasion of International Roma Day (8 April 2016): "There is, at the same time, regretful shadows too in the past of Romania and Europe, with nomadic Roma, that we must remember in order to avoid summary judgments that nourish intolerance: Roma slavery and deportations during the Second World War, which resulted in many casualties".

⁵⁵⁴ Horvath I. (2017) Raport de cercetare SOCIOROMAP. O cartografiere a comunităților de romi din România, Institutul pentru Studierea Problemelor Minorităților, p. 336

⁵⁵⁵ See <http://federatiaromilor.org/> for more details

⁵⁵⁶ Grigore D. et al. (2007) Rromii în căutarea stimei de sine. Studiu introductiv, București: Vanemonde

Since the 2001 Strategy many Roma human resources have been developed and set into public institutions: Roma school mediators, Roma health mediators, Roma local experts in mayors' offices, experts in the Roma County Offices, Romani teachers, etc.⁵⁵⁷. Even though this measure could have been an important step towards Roma inclusion, this was not the case because the network of experts was not efficiently coordinated and monitored, and the local and county administrations thus started to use these experts for tasks other than the official ones.

The main institutions responsible for implementing the NRIS at the central level (in line with the NRIS) are the Ministry of European Funds, the Ministry of National Education, the Ministry of Labour and Social Justice, the Ministry of Health, the Ministry of Regional Development, the Ministry of Culture, the Ministry of Public Finance, the General Secretariat of the Government, the National Agency for Roma, the Department for Interethnic Relations, and the National Council for Combating Discrimination. The Ministry of Foreign Affairs⁵⁵⁸ and the Ministry of Justice should be informed about and consulted on the process of implementing, monitoring and evaluating the NRIS, but they do not feel it is their competence, even though they have to report to international and regional human rights bodies about the progress made. At local level the institutions responsible for implementing the NRIS are prefectures through County Offices for Roma, the local public authorities, and the decentralised public services⁵⁵⁹.

According to an official working with the national authority in the area of Roma integration, the biggest achievement of the strategy was introducing the integrated approach⁵⁶⁰ for projects funded through the European Social Fund (Operational Programme Human Capital, axis 4.1 and 4.2);

As stated by one Roma NGO interviewee, the involvement of Roma civil society in all the strategy's phases was only formally checked through so-called "public consultations", but the interviewee raised concerns that there was no specific procedure for taking into consideration the voice of the Roma after the "public consultations" – some NGOs were consulted, but there was no follow up afterwards. The same interviewee believes this model of "fake" consultations is not limited to Roma issues, but an indication of an overall weak social dialogue in Romania.

The funding of the strategy was a challenge from the start. Most of the funds come from the EU: "for the 2014-2020 period, Romania will be allocated €22.9 billion in EU funds, out of which €15.95 billion will come from the European Social Fund (ESF) and the European Regional Development Fund (ERDF). Of this amount, at least 30.8 % will be spent on the ESF, with at least 20 % of that going towards the promotion of social inclusion and combating poverty. The latter amount could also finance Roma-related measures".⁵⁶¹ The official working with national authority interviewee believes one of the biggest issues of the strategy is that it is not funded from the national budget, but from the European funds. According to this interviewee this reflects a lack of the government's commitment and ownership of the issue.

In Romania, recent years have brought many commissions, committees, strategies, procedures etc. aiming at coherent, effective and correlated state intervention on Roma inclusion issues. Unfortunately, most of the time, they were provided for only on paper without real implementation and/or effect. One example of such a committee is the Inter-Ministerial Committee for Monitoring and Evaluation of the Roma Inclusion Strategy. The committee is formed of relevant central institution representatives (state secretaries) and is managed by a representative of the Government General Secretary or a representative from the Prime-Minister's Office.

⁵⁵⁷ According to NCPD, more than 1 700 persons have specific roles on Roma inclusion: <http://www.fonduri-ue.ro/pncr/2091-baza-de-date-cu-angajatii-cu-atributii-in-problematika-roma>

⁵⁵⁸ The Romanian national experts contacted a representative from the Ministry of Foreign Affairs for an interview regarding the implementation of the strategy for Roma inclusion. Their answer was that they were not directly responsible for this issue, they only had to be consulted, and thus it was not relevant to participate in an interview on such a theme.

⁵⁵⁹ The strategy is available at: http://ec.europa.eu/justice/discrimination/files/roma_romania_strategy2_en.pdf

⁵⁶⁰ One of the strategy's objectives is: Developing an integrated approach for priority domains and correlating measures provided by the strategy with direct measures targeted on the problems specific for each stage of life, with a view to supporting Romanian citizens belonging to the Roma minority throughout their life.

⁵⁶¹ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/roma-and-eu/roma-integration-eu-country/roma-integration-romania_en#facts-and-figures

According to the official working with the national authority interviewee, the committee depends on the political changes that occur in the government. In the last two years, Romania has had three prime ministers each of whom have changed their political staff at least three times. The members of the Inter-Ministerial Committee have also therefore changed each time and they are not able to carry out their activities. Only in 2018 was the committee reactivated and become effective. The three state institutions that agreed to participate in this study are also part of this committee.

- **Employment**

In 2016, according to the European Commission, the percentage of Roma NEETS was 63 % and this percentage increased from 56 % in 2011⁵⁶². The aim of the NRIS on the employment level was to increase Roma participation on the labour market. The National Agency for Employment implemented several measures for combatting unemployment and supporting work with labour contract⁵⁶³. On the other side, the NGOs also implemented projects aiming to increase the percentage of Roma legally employed. Most of the projects were funded through the Social European Fund. However, none of the respondents mentioned achievements of the NRIS related to employment.

- **Education**

Access to inclusive quality education for Roma children in Romania is still a major challenge. The findings presented below summarise the Romilor report of 2017⁵⁶⁴: the drop-out risk for Roma is higher than the majority population and the level of Roma children attending kindergarten is low (only 38 %). According to the same report, other factors that influence the poor quality of inclusive education for Roma are (1) concentration of Roma in disadvantaged schools, (2) high levels of poverty and (3) lack of qualified teachers in schools with a high percentage of Roma. Also, in 2017, the early school-leaving rate (aged 18-24) was one of the highest in Europe – 18.1 %, with even higher rates in rural areas (27 %) and Roma communities (77 %). The PISA scores complete the picture: 40 % of the 15-year old students do not have even basic reading and writing skills. As the main improvement, the Roma NGO interviewee mentioned the high number of Roma students attending high-school and university due to the public policy of reserved places for Roma.

Educational segregation is still a challenge - One European Commission report mentioned that “despite some progress, it is estimated that around 27 % of Roma children receive education in de facto segregated schools”.⁵⁶⁵ More recently, an NGO (Centre for Advocacy and Children’s Rights) monitored the segregation phenomenon in 394 schools in the north-eastern region of the country. One of their findings was that 20 % of the schools presented at least one form of segregation. Also, 50 % of the communities involved in the monitoring process (112) have at least one school where a form of segregation is present.⁵⁶⁶

In 2016, the Ministry of National Education issued a framework order banning school segregation in pre-university schools (*Ordinul Cadru privind interzicerea segregării în unitățile de învățământ preuniversitar*).⁵⁶⁷ The framework order has an action plan which has as its main objectives: (1) amending the legislative framework on school desegregation in Romania; (2) increasing the quality of the educational services provided in the pre-university Romanian school system; (3) training of teachers; (4) incentivising and attracting quality human resources to the schools. Due to political changes, the implementation of the plan was postponed until 2018.

⁵⁶² European Commission (2017), Midterm review of the EU framework for national Roma integration strategies, COM(2017) 458 final, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52017DC0458&qid=1522237232017>

⁵⁶³ Buletin Statistic Trimestrial nr. 1 - Ocupare, Mobilitate, Șomaj și Protecția Socială a Șomerilor, disponibil la website-ul Ministerului Muncii și Justiției Sociale: www.mmuncii.ro/j33/images/buletin_statistic/2018/ocupare_1_2018.pdf

⁵⁶⁴ European Commission (2018), Education and Training Monitor, country analysis.

⁵⁶⁵ European Commission (2016), Education and Training Monitor 2016, Romania. https://ec.europa.eu/education/sites/education/files/monitor2016-ro_en.pdf, p. 5.

⁵⁶⁶ <http://scoalapentrutotocopiii.cado.org.ro/raportul-de-monitorizare-a-segregarii-scolare-in-regiunea-nord-est.html>

⁵⁶⁷ Ordinul Cadru privind interzicerea segregării în unitățile de învățământ preuniversitar, the document is accessible at: <https://www.edu.ro/ordin-cadru-nr-613421122016-privind-interzicerea-segreg%C4%83rii-%C8%99colare-%C3%AEn-unit%C4%83%C8%9Bile-de-%C3%AEnv%C4%83%C8%9B%C4%83m%C3%A2nt>.

- **Housing**

According to a 2013 report⁵⁶⁸ conducted by the Impreună Agency for Community Development on the social inclusion indicators of the Roma in Romania, there is a significant gap between the Roma and non-Roma in the quality of housing conditions. 50 % of the Roma live in low-quality housing compared to 10 % of non-Roma. Employment data contradicts stereotypes, as the percentage of inactive Roma persons is very close to that of inactive non-Roma persons: 49.9 % versus 47.7 %.

In terms of spatial segregation, more than half of the Roma in Romania live in segregated communities,⁵⁶⁹ with less than 150 people. These communities face problems such as a long distance to school or other institutions, overcrowded houses and low access to infrastructure (water, sewage, etc.). Additionally, discrimination against Roma when accessing social housing still exists.⁵⁷⁰

- **Health**

Although coverage of the Roma population with family doctors⁵⁷¹ appears to be good (81.19 % of respondents claiming to have a family doctor), the degree of access to health services remains low: only a very low percentage of respondents declare access to primary care (family doctor) for preventive medical check-ups if they do not show signs of illness.⁵⁷²

The NRIS included several health measures such as: Improvement of the legal framework regulating the operation of community healthcare, establishment/extension to the national level of the network of community centres providing integrated basic services, prioritising rural Roma communities when hiring Roma community nurses and health mediators, support for scholarship programmes for young Roma to facilitate their access to medical schools at post-secondary and university levels, support the employment of Roma medical school graduates (including in Roma communities) under the conditions of the legislation in force, counselling the Roma on people's right to a minimal package of health services even if they are not in the social health insurance system, and registration of the Roma with family doctors. The health mediator programme is the initiative considered a successful practice that should be continued.⁵⁷³

3.5.3. Horizontal policies: anti-discrimination and antigypsyism

Addressing discrimination and segregation

The term 'antigypsyism' has just recently started to be used in Romania by the NGOs. However, the responses of national officials indicate that antigypsyism is not yet in the national debate and that there is lack of understanding on what it actually entails. State officials prefer to use terms like "racism against Roma" or "discrimination". An interviewee representing an equality body said they use the legal term when dealing with Roma, which is "racism", not 'antigypsyism' or 'discrimination on the ethnicity'. Also, an official working with the national authority on Roma integration declared there is no such thing as "institutional racism", there are specific cases of persons belonging to a governmental institution who are racist or discriminate. According to the interviewee, such people should be judged as individuals and not the whole institution. One representative from

⁵⁶⁸ Duminica G. and A. Ivasiuc (2013), *The Roma in Romania. From Scapegoat to Development Engine*, p. 3-9.

⁵⁶⁹ Horvath I. (2017), *op.cit.*

⁵⁷⁰ Desire Foundation, the case brought to court by the Desire Foundation. It challenged the discriminatory criteria laid down by the Cluj Napoca City Hall for access to social housing, which set vulnerable people at a disadvantage. <https://www.desire-ro.eu/?m=201807> (accessed on 18.10.2018).

⁵⁷¹ Sastipen (2015) *Evaluare de nevoi și comportamente la risc pentru sănătate în 45 de comunități de romi, Raport de cercetare realizat în cadrul proiectului "Întărirea Rețelei Naționale de mediatori Romi pentru îmbunătățirea stării de sănătate a populației rome"*, finanțat prin Mecanismul Financiar Norvegian 2009-2014.

⁵⁷² *Ibid.*

⁵⁷³ Centrul Romilor pentru Politici și Servicii de Sănătate Sastipen, *Raportul Unității de Asistență Tehnică (2014), Monitorizare și Evaluare* [Technical Assistance Unit Report, Monitoring and Evaluation], www.sastipen.ro

a national authority on historical remembrance acknowledged that racism exists in institutions through procedures and the staff who put them into practice.

On the other side, the Roma civil society interviewee acknowledged that antigypsyism is more than racism because it very clearly expresses a fear of Roma that is encountered both in history and in contemporary society [the latter is known as 'romaphobia']: "In the beginning the term was 'antigypsyism(tzigan)' because the word has a negative historical and emotional significance in Romania, and also in the other countries". The civil society interviewee identified two cases of institutional racism or antigypsyism practices in public institutions. They are described below:

- 1) **The first case related to abusive practices** that prevent the remaining **survivors of the Roma deportations to Transnistria** benefitting from their **legal rights** under Law 189/2000: a monthly allowance of RON 400 (approx. EU 85) for two years of deportation, medical treatment, and a burial plot free of cost⁵⁷⁴. Some of the survivors received this benefit, while others did not. The decisions were taken arbitrarily depending on the legal interpretation of the regional pension offices. One of the national authorities in the area of historical remembrance declared he would not consider this case as institutional racism because there were only a few cases and they were strictly related to the subjective evaluation of some public servants.
- 2) **The second case relates to the forced evictions:** At the beginning of 2017, eight families (in total 43 persons) were evicted from their settlement in Bucharest where they had been living for over 25 years. Such eviction cases are not isolated incidents; that same year, in Alba Iulia (a city in the central region), 150 people were evicted by the local authorities.⁵⁷⁵ Fifteen Roma families were then evicted in Mangalia in September 2017.⁵⁷⁶ Under Romanian law No. 577, it is illegal for forced evictions to be carried out between 1 December and 1 March, but in many cases the Romanian authorities have failed to observe this stipulation. International institutions and organisations have urged the Romanian state to take action and to stop the forced eviction of Roma families.⁵⁷⁸

Combating hate crime and hate speech against Roma

Romania is compliant with European and international standards regarding hate speech. The provisions of Article 369 of the Criminal Code are applicable: Article 369, Incitement to hatred or discrimination, meaning, "Inciting the public, using any means, to hatred or discrimination against a category of individuals shall be punishable by no less than six months and no more than three years of imprisonment or by a fine".

There are no national data available on the incidence of hate speech. Nevertheless, Active Watch Media Monitoring Agency, a human rights organisation that militates for free communication in the public interest,⁵⁷⁹ has produced two reports on hate speech in Romania (2014-2015⁵⁸⁰ and 2015- 2016⁵⁸¹). The main findings of the

⁵⁷⁴ Către: Ministerul Muncii și Justiției Sociale / Ministry of Labor and Social Justice of Romania, Dreptate pentru supraviețuitorii romi deportați! / Justice for the Roma survivors of the Holocaust <https://campaniamea.declie.ro/petitions/supravietuitorii-romi-ai-deportarilor-in-transnistria-nu-au-drepturi>

⁵⁷⁵ Timonea D. (2017), Foto Video Minunile de la Poșaga: izvorul cu puteri tămăduitoare și schitul unde a slujit pustnicul din Apuseni, Alba Iulia, 9 October. http://adevarul.ro/locale/alba-iulia/foto-video-familii-romi-evacuate-fortat-dintr-un-bloc-alba-iulia-suntem-oameni-nu-animale-Si-caine-gasesti-adapost-1_59dc74355ab6550cb8fcc6d2/index.html.

⁵⁷⁶ <https://www.agerpres.ro/justitie/2017/10/03/avocatul-poporului-efectueaza-o-ancheta-privind-evacuarea-unor-familii-de-romi-din-mangalia-13-29-05>

⁵⁷⁷ AGERPRES (2017), Avocatul Poporului efectuează o anchetă privind evacuarea unor familii de romi din Mangalia <http://www.budusan.com/articole/despre-procedura-speciala-a-evacuarii-din-imobilele-folosite-sau-ocupate-fara-drept>.

⁵⁷⁸ End-of-mission statement on Romania, by Professor Philip Alston, United Nations Human Rights Council Special Rapporteur on extreme poverty and human rights, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16737&LangID=E>.

⁵⁷⁹ More information about the organisation is available at: <http://www.activewatch.ro/en/home/>.

⁵⁸⁰ The report is available at: [http://www.activewatch.ro/Assets/Upload/files/Raport%20annual%20cu%20privire%20la%20discursul%20instigator%20la%20ura%202014%20-%202015\(1\).pdf](http://www.activewatch.ro/Assets/Upload/files/Raport%20annual%20cu%20privire%20la%20discursul%20instigator%20la%20ura%202014%20-%202015(1).pdf).

⁵⁸¹ The report is available at: [http://www.activewatch.ro/Assets/Upload/files/Raport%20annual%20cu%20privire%20la%20discursul%20instigator%20la%20ura%202015%202016\(1\).pdf](http://www.activewatch.ro/Assets/Upload/files/Raport%20annual%20cu%20privire%20la%20discursul%20instigator%20la%20ura%202015%202016(1).pdf).

2015-2016 report were that Roma remain the main target of hate speech in Romania (along with the LGBT minority); and that the violence of the messages has increased.

The mass media are one of the most frequently-used channels for the perpetuation of stereotypes and prejudices against Roma. Crimes committed by Roma people are extensively covered by the Romanian mass media and have attracted many negative public reactions from key figures, mostly politicians who generalise about certain situations by associating them with the alleged perpetrators' ethnicity⁵⁸². The Roma CSO representative highlighted the existing negative discourse and attitudes towards Roma in Romania and how they are influenced by media and online communication channels.

Specific measures countering antigypsyism and promoting historical remembrance

The history of Roma on Romanian territory is about marginalisation, self-marginalisation and low self-esteem.

Roma slavery

The first evidence of Roma in the geographical area now known as Romania depicts them as being slaves. This situation continued until 1856 when, pressured by democratic states and 1848 revolutionary ideas, the Romanian Principality decided to free all Roma slaves. It is worth mentioning that Roma slavery was a problem specific to the Romanian Principality, the situation being unique in Europe at that time. The abolition of slavery in 1856 did not improve the Roma situation, because they were left to fend for themselves, without any property. After the abolition of slavery, Roma started to organise themselves in order to improve their socio-economic condition. With the support of Romanian authorities, they tried to eliminate misperceptions of Roma by creating the first Roma NGOs. In 1942 the Romanian state participated in the Holocaust against Roma, by deporting 25,000 Roma to Transnistria. Because most people in Romania are not aware of the history Roma lived on Romanian territory, a few commemoration events have started to be organised at national and local level in recent years.

The main specific Roma commemoration days are 20 February, 16 May and 2 August:

20 February is the Celebration of Slavery Abolishment in Romania (according to Law no. 28/ 2011). In 2016, 160 years were celebrated since the liberation of Roma in Romania. On this occasion, Romania's President Klaus Iohannis linked the past injustices with the ongoing discrimination:

"The discrimination cases are [have] not disappeared, and, most of the time, their conviction lacks speed and firmness. After 160 years, not all Roma are citizens. Some of them still do not have identity papers and they are deprived by [of] any integration perspective in terms of education, health, social security and constitutional rights. This situation must be on the agenda of the responsible authorities."⁵⁸³

The Romani Resistance Day⁵⁸⁴ of 16 May (related to the Holocaust) is not officially recognised by the state. However, there are several commemoration events organised on this day by civil society. The International Roma Genocide Remembrance Day of 2 August is a commemoration for which events are organised by relevant institutions, usually the National Agency for Roma and the National Centre for Roma Culture with the participation of others (Ministry of Culture, representatives of the Parliament, Roma Party, Elie Wiesel Institute, NPCR etc.). This year, the Ministry of Foreign Affairs had a statement:

⁵⁸² Roma Civil Monitor (2018), Civil Society Monitoring Report on Implementation of the National Roma Integration Strategy in Romania: Focusing on structural and horizontal preconditions for successful implementation of the strategy. <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-1-romania-2018.pdf>

⁵⁸³The Romanian president's message at the celebration of 160 years since Roma liberation, <http://www.presidency.ro/ro/media/comunicate-de-presa/mesajul-presedintelui-romaniei-domnului-klaus-iohannis-transmis-in-cadrul-evenimentului-160-de-ani-de-la-dezrobirea-romilor-in-principatele-romane>,

⁵⁸⁴ 16 May – Romani Resistance Day, available at: <http://2august.eu/the-roma-genocide/16-may-romani-resistance-day/>

“The Ministry sustains consolidating the efforts for including the issue of Roma genocide from the Second World War in the educational programs and for ensuring decent conditions to the last survivors of the Roma deportations in Transnistria.”⁵⁸⁵

Also, 9 October is National Holocaust Day, commemorating both Jews and Roma who suffered during the Holocaust in Romania. One interviewee, an official working with the national authority on Roma integration, stated that these commemoration events have recently become more visible. The Roma civil society interviewees believe commemorative events are not enough for promoting Roma history in Romania; there are other cultural initiatives that should receive more support from the public authorities: Roma museums, commemorative monuments, Roma theatre, and promoting Roma heroes.

However, some of the interviewees, especially those representing national authorities for historical remembrance, believe these commemorations and remembrance events do not have an impact on the population; the participants in these events are usually the same (institutions and NGO representatives), and they do not target the general population. Such events could be described as very formal and repetitive – funerary royal depositions, official speeches, moments of silence).

Only in 2017 did the Ministry of Education agree to the compulsory study of Roma slavery and the Holocaust of Roma, along with the Jewish Holocaust (as study cases) in the framework of the history curriculum for early years in secondary school. Although this is a big step forward, at the moment there is no control over the messages teachers will transmit to their students regarding these sensitive subjects (slavery and the Holocaust). For example, according to a recent study, more than 47 % of the teachers said they could not evaluate the activity of Antonescu, who was the main person responsible for the Holocaust in Romania.⁵⁸⁶

The Roma civil society interviewee believes there is a need for a big public campaign on media channels for promoting positive messages and Roma role models (similar to the campaigns against the abuse of children and women). Until now, there has been no public campaign challenging negative prejudices and biases about Roma on state channels.

3.6. Slovakia⁵⁸⁷

3.6.1. Societal and public policy context

The Roma represent the second largest ethnic minority in the Slovak Republic. This is corroborated by data from all population censuses conducted during the country’s post-communist history. In the 2011 census, 105,738 Slovak citizens declared Romany nationality (1.96 % of the Slovak population). However, various estimates say the Romany population in Slovakia is much larger. The reluctance of the Roma to declare their nationality is attributed mostly to their fear of being persecuted, and to the integration of many Roma into majority society. Most of experts consider the most important factor preventing the Roma from declaring their nationality is a serious crisis in Romany ethnic identity caused by decades of often forced assimilation, and the perception that being a Roma carries the stigma of inferiority. In this respect official definition of Roma in Slovakia is based on self-declaration only, any usage of other data is considered unconstitutional.⁵⁸⁸

⁵⁸⁵ Ministerul Afacerilor Externe: <https://www.mae.ro/node/46588#null>

⁵⁸⁶ Badescu G. et al. (2018) Education for Democracy in Romanian schools.

⁵⁸⁷ This case study has been developed by Michal VASECKA.

⁵⁸⁸ Problems with statistics on Roma arise from the incongruity between data on ethnicity (gathered before 1989 on the basis of people’s anthropological characteristic, affinity towards a certain type of settlement, and even an evaluation of preferred lifestyle) and data on nationality (gathered on the basis of self-declaration in population censuses after 1989). Throughout the transformation period, statistics on the number of Roma have originated from three sources, all of which are inaccurate and potentially misleading:

- Statistical data from the 1991, 2001, and 2011 population censuses. In these official counts, only a small percentage of Roma living in Slovakia declared Roma ethnicity; consequently, all analyses of the Roma population based on these data capture only a small part (probably less than a quarter) of the actual Roma population.

- Statistical data from various head counts of Roma done for the needs of state administration. These data are inherently incomplete and inaccurate because they are based on arbitrary decisions about how ethnicity is reflected in lifestyle and settlement. These data include all statistics on Roma prior to 1989.

The fact that the actual number of Roma living in Slovakia is much higher than official records show can be documented by a nationwide collection of data on Roma communities that resulted in creation of the Atlas of Roma Communities in Slovakia.⁵⁸⁹ Atlas estimates indicated a population of 402,840 who are considered as “being Roma”. According to the census by the Statistical Office SR (2011) the total population of Slovakia was 5 404,322 inhabitants, thus the share of Roma according to the Atlas is 7.45 %. Atlas of Roma Communities offers unique information about the situation of Roma in Slovakia.⁵⁹⁰ According to information from Atlas, 187,285 Roma (47 %) live among the non-Roma majority population, 51 998 Roma (13 % of the Roma population) live in settlements inside the municipality, 95,971 Roma (23 % of Roma population) in Slovakia live in settlements on the edge of municipalities, and 68,540 Roma (17 % of the Roma population) live in segregated settlements.

There are 804 Roma settlements in Slovakia in 584 municipalities. Out of these, 246 Roma settlements are inside villages/towns in 179 municipalities, 327 settlements are situated on the edge of villages/towns in 305 municipalities, 231 settlements are segregated in 195 municipalities (average distance between settlements and village/town is 900 m, while the longest distance is 7 km). In 153 municipalities the Roma population do not live dispersed among the non-Roma majority at all – they live in segregated settlements only.

Roma settlements consists of 21,168 dwellings. Out of these, there are 1,531 blocks of apartments with 10,411 individual apartments; 8,722 bricked houses (officially registered); 196 wooden houses (officially registered); 986 unfinished bricked houses (unofficial); 3 679 bricked houses (unofficial); 400 wooden houses (unofficial); 4,134 shacks (unofficial); 528 prefabricated cabins (unofficial); 60 caravans; and 62 apartments in non-residential buildings. Out of all dwellings, 73 % are connected to water pipelines, 59 % of dwellings use water connections, 30 % of dwellings use water from wells, 11 % of dwellings are without access to running water and use non-standard sources (river, springs, brooks, etc.) and in 188 Roma settlements in 152 villages/towns a public water pipeline is absent (out of these 152 towns/villages, 71 are with a water pipeline, which clearly indicates unequal access to water at the local level). There are 600 settlements with asphalt roads, 107 settlements with roads partially asphalt combined with other types (panel, gravel etc.), 22 settlements with concrete roads (panels) combined with other types (gravel etc.), 50 settlements with only gravel roads, and 25 settlements are with only a cart-road.

By far the greatest barrier that Roma in Slovakia face in the process of inclusion into the core part of Slovak society is the very negative attitudes of the Slovak majority population towards Roma. The way of life of Roma is perceived negatively by the majority population, where the prevailing opinion is that most of the Roma do not want or do not know how to adapt to the general social standards and these perceptions widen the social gap between the majority population and the Roma. According to all sociological opinion polls (see, for instance, surveys of IPA⁵⁹¹, GfK⁵⁹², or ÚVVM⁵⁹³) analysing the attitudes of the majority population on minorities, the social gap or “social distance” is the largest between the majority and the Roma population. In the long term, the relationship and attitudes of the majority population towards the Roma are significantly worse than the relationship towards the other groups of inhabitants. On the scales of social distance, the Roma usually rank first, even if the respondents can also choose other highly unpopular groups, such as alcoholics or drug addicts.⁵⁹⁴

Every opinion poll dealing with the Roma issue since 1990 confirmed that the social gap is equally big among all classes of people regardless of age, sex, education, nationality, political inclinations or size of the municipality, and remains basically constant over time. A large part of the majority population perceives the presence of the Roma as a burden, and this feeling is even more intense when they think of Roma being in their close proximity.

- Statistical data from academic experts, Roma leaders and politicians. The inaccuracy and methodological flaws are usually apparent at first glance.

⁵⁸⁹ Atlas was prepared and implemented within the framework of the cost-sharing programme between the Ministry of Labour, Social Affairs, and Family and the UNDP. Data were envisaged to serve for the evidence-based policy making in the area of social inclusion. Atlas has been an ex-ante conditionality for the Partnership agreement for the 2014-2020 programming period.

⁵⁹⁰ Atlas rómskych komúní na Slovensku 2013. UNDP: Bratislava, 2013. Online at: https://www.minv.sk/?atlas_2013

⁵⁹¹ See: <http://www.ivo.sk>

⁵⁹² See: <http://www.gfk.cz>

⁵⁹³ See: (<http://www.statistics.sk>)

⁵⁹⁴ Vašečka M. (2002) (ed.): Čačipen pal o Roma. Súhrnná správa o Rómoch na Slovensku. [Čačipen pal o Roma. A Global Report on Roma in Slovakia]. Bratislava: Institute for Public Affairs.

The proportion of people refusing the Roma as their neighbours remained basically constant during the 1990s – throughout the examined period it was more than three-quarters of respondents.

Before 1989 the Roma were not acknowledged as an ethnic minority in Slovakia. The Slovak Constitution declares all citizens equal regardless of nationality, religion, or social status.⁵⁹⁵ At the same time, members of ethnic minorities are granted the right to master the official state language, to establish and maintain their own educational and cultural institutions, to receive information in their native language, the right to use that language in official contacts with state authorities, and the right to participate in the administration of matters that concern national and ethnic minorities.⁵⁹⁶

Attitudes of public officials toward Roma have not changed for a long time (since 1989). Although there have been numerous institutional and non-institutional, formal and non-formal attempts to improve the situation of Roma, they have materialised only very slowly due to the high social distance towards Roma and the level of hatred. Political representatives learned their lesson not to intervene in so-called Roma issues and this has only recently started to change.⁵⁹⁷ At the same time, co-operation between the state administration, local governments, and NGOs in seeking solutions to the Roma issue has been improving since Slovakia became a member of the European Union and mostly due to pressure from the NGO sector. The social atmosphere with respect to the Roma has not changed since 2015 and this is also due to discussion about migration to Slovakia, with Roma becoming overshadowed in public discourse by almost non-existing refugees. While displays of overt racism have become a regular phenomenon in Slovakia, rejection of racism and xenophobia by a growing part of the Slovak public has increased visibly, mostly in urban areas of the country.

The Roma civil society and various societal and political Roma leaders are visibly better at articulating their goals to public officials, in the media, and in negotiations with majority political parties than they were in the past. Nevertheless, Roma are dramatically under-represented at all levels of state and local administrations, parliament, within the NGO sector, etc. Roma NGOs create only a minor, almost invisible, part of the general NGO sector in Slovakia.⁵⁹⁸

3.6.2. Implementation of substantive policies

The Office of Government Plenipotentiary for Roma Inclusion (GPRI) is a coordinating body for Roma inclusion and can propose or comment on measures or laws, but the body responsible within the government is the Ministry of Interior. During the current programming period for the use of structural funds, the GPRI has become the recipient of these funds. Unlike the previous programming period 2007-2013, however, the GPRI is not significantly included in the planning and management of the structural funds for the integration of Roma. In 2007 - 2013, the GPRI was responsible for the coordination and monitoring of the horizontal priority of the inclusion of marginalised Roma communities and the ESF special territorial scheme.

Since the 1990s, the GPRI has traditionally been headed by a Roma person. There have been three exceptions, including recent plenipotentiary Ábel Ravasz. The GPRI has always tried to recruit experts working in this area and to build up its expertise to prepare public policies in this area. Since the appointment of Ábel Ravasz, this shift towards the creation of a well-qualified team has been particularly evident, among other things by the recruitment of a high proportion of Roma professionals into the office. The proportion of Roma employees in the office is relatively high – Roma represent about one-half of them. In addition, the number of employees has gradually increased to currently more than 90, with only 35 working in the Bratislava office, and the rest in the regional offices. Despite the fact that the GPRI has the competence to implement national projects, it focuses on the preparation of laws and policies, as well as on the defence of the interests of marginalised Roma communities in localities.⁵⁹⁹

⁵⁹⁵ Constitution of the Slovak Republic, Article 12, Paragraph 2.

⁵⁹⁶ Constitution of the Slovak Republic, Articles 34 and 35.

⁵⁹⁷ Interview with Roma CSO.

⁵⁹⁸ Interview with National Roma Contact Point.

⁵⁹⁹ Interview with National Roma Contact Point.

On the other hand, the integration of the Roma agenda into the work of other ministries should be strengthened. Relevant ministries – in particular the Ministry of Education, Ministry of Health, Ministry of Labour, Social Affairs, and Family – all have their departments that deal with topics important for Roma inclusion. However, their expertise, as well as efforts to address barriers and discrimination against Roma, could be better visible and more in-depth.⁶⁰⁰ However, out of all Slovak authorities, it is mostly the GPRI that proposes action plans and policy measures, while ministries often reject them and point at the shortcomings of these proposals. In particular, the Ministry of Education is well-known for rejecting the proposals of the GPRI, but it is not willing to prepare alternative solutions to support Roma integration in the field of education.⁶⁰¹

It is often forgotten that municipalities have very important competences in pre-primary and primary education, housing, infrastructure, environmental protection, and health. Recognised and probably most advanced municipalities, such as Spišský Hrhov, Raslavice or Ulič, have also created successful models of employing disadvantaged jobseekers through general companies. These municipalities became an interesting model for others – for example, regarding strategies for the legalisation of land under Roma settlements (Raslavice), support for pre-school attendance (Spišský Hrhov), improvement of housing and general improvement of interethnic relations (Ulič). In the most successful locations, the mayor was the main tracer of the positive change. Mayors, motivated by pragmatic rather than human-law intentions, quickly realised that a disadvantaged settlement in the village had a negative impact on the lives of all its inhabitants. They managed to convince local people from the majority in order to prevent their resistance to integration measures.

Those interviewed for this study agreed on the fact that the GPRI has become the most important institution for Roma inclusion, and that its competencies should be strengthened and the scope of its activities enlarged. The GPRI prepares useful conceptual materials and, together with opportunities to utilise structural funds, it leads to potential breakthrough from previous years of stagnation. Credit for recent improvement of the social status of Roma communities, however, should not be paid directly to structural funds and GPRI activities. It is rather the result of, firstly, the self-empowerment of Roma communities; secondly, increased migration of Slovak Roma to some of the EU-15 countries; thirdly, activities of concrete municipalities; and lastly, the systemic lowering of unemployment of Roma in Slovakia. These positive changes are nevertheless coupled with gradual resignation to desegregation and de-ghettoisation activities, which were designed as core principles of Roma inclusion in Slovakia.

- **Employment**

As far as employment is concerned, positive elements mostly supporting 'second-chance' education and increased training opportunities have been identified, together with motivating public and private employers to adopt a culture of offering job opportunities to the marginalised and socially excluded, and improving non-discriminatory access to work opportunities. However, experts suggest there are many shortcomings in implementing the National Roma Inclusion Strategy (NRIS) in Slovakia. There is a need to address high inactivity, long-term unemployment, and low skill levels by more specific measures and supported by adequate budgets. The ineffectiveness of current active labour market policy and public work creation should also be addressed, with increased focus on effective integration to the open labour market. At the same time public employment services providing accessible and targeted services for Roma jobseekers should improve results, as well as non-discriminatory access to the labour market. Policies involving the majority population, schools, social partners, and media to fight prejudice are necessary. Strengthening territorial aspects of policymaking with focus on the most disadvantaged regions should also be considered; and the possibilities of job creation in rural areas in sectors other than agriculture and forestry, (e.g. traditional crafts) and micro-businesses should be tackled as well.

- **Education**

In the sphere of education, among the positive solutions, Slovak experts mention predominantly increasing the pre-school participation of Roma children from 5 years of age, increasing the inclusiveness of the educational system and effectiveness of the social support system, eliminating the barriers in the transition to high schools,

⁶⁰⁰ Interview with Roma CSO.

⁶⁰¹ Interview with Roma CSO.

linking secondary education with labour market needs, and finally increasing the number of teachers and specialists fluent in the Romani language. However, space for improvement is identified in the request for more focus on desegregation, second chance education, and ensuring that mainstream policies also respond to the specific needs of Roma communities. At the same time, measures to develop local policies preventing 'non-Roma children's flight' from schools attended by many Roma pupils will be needed; and compulsory pre-school education, and offering increased financial support to high school and tertiary school students should be examined.

- **Housing**

In the sphere of housing experts have difficulties to mention positive elements, although there is a major improvement visible in many Roma communities. These results are, however, not linked to NRIS, but rather activities of particular mayors on the local level with significant presence of NGOs (such as ETP Slovakia). In particular, those who decided not to use structural funds in solutions for the unsatisfactory situation of Roma communities met with success (the best example is the well-known case of Raslavice). Experts criticise the lack of concrete, more ambitious and integrated measures to provide non-discriminatory access to housing; the non-existence of links between goals and the process to reach them; and failures in addressing the issue of eligibility for housing support for people with temporary residence in shelters or in undocumented dwellings.

- **Health**

As part of the fulfilment of the Strategy's objectives, "Expanding the knowledge on the state of health of the Marginalised Roma Communities (MRC)"⁶⁰² under the Strategy's Action Plan, the primary measure, has been set "to design and develop a comprehensive system for monitoring the health status of the MRC population and its determinants and interventions aimed at achieving health objectives".⁶⁰³ Despite the continuous intention and years of advocacy being performed by the NGO sector – Healthy Community NP, Platform for Support of the Health of Disadvantaged Groups (PPZZS) – and in particular the effort made by the Pavol Jozef Šafárik University of Life Sciences in Košice (LFUPJS), the task has not been realised on the side of the Ministry of Health of the Slovak Republic (MH SR).

The shift in this area has been achieved by elaboration of a partial analysis and evaluation of the relevant documents of selected MRC health interventions comparing the health of MRC population and the majority population. The primary objective of the analysis was to map out the baseline situation for the purposes of Healthy Community n.p. The Europe 2020 Strategy is based on the global objective of "Reducing health discrepancies between the Roma and the majority population, in particular by improving access to quality health care, protecting and promoting good health and preventing disease, promoting healthy lifestyle and improving living conditions".⁶⁰⁴ The Action Plan reflects the above-mentioned needs, but it is necessary to note that the majority of activities and tasks of the MH SR are implemented by the MH SR's State Contribution Organisation - Healthy Regions (since 2017) and the Regional Public Health authorities (RÚVZ). Most of the activities are implemented only on a project basis from the EIF funds (Healthy Community NP) or implemented as partial measures within RÚVZ competences.⁶⁰⁵ Primarily, the MH SR carries out only the basic law-driven tasks.

Experts evaluate positively the improvement of accessibility to health care, including preventive health care and health education, and the improvement of hygiene in deprived Roma settlements. A positive element of strategy implementation is also the improvement of communication between members of Roma communities and

⁶⁰² The term 'Marginalised Roma communities' is used in all official documents in Slovakia, as not all Roma are marginalised, not all Roma are segregated, etc., and at the same time the strategy is not focused on Roma as a 'national minority' category. Therefore, this term highlights the focus on Roma communities that are marginalised.

⁶⁰³ Revised Action Plans of the Strategy of the Slovak Republic for Roma Integration until 2020 for years 2016-2020 for the area of Health area, government resolution 87/2017, 22 February 2017, online at: <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=26278> Task. 2.3.1

⁶⁰⁴ Revised Action Plans of the Strategy of the Slovak Republic for Roma Integration until 2020 for years 2016-2020 for the area of health, government resolution 87/2017, 22 February 2017, online at: <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=26278> Task. 2.3.

⁶⁰⁵ More details on competencies and activities of the Authority in the field of protection, promotion and development of public health are stated in Act number 355/2007 Collection of Laws, paragraph 5.

medical personnel, and most importantly, the increased focus on health education, and awareness-raising on sexual and reproductive health, drug addiction, and domestic violence in marginalised Roma communities. Experts nevertheless point to a missing quantitative assessment of the health situation of Roma in Slovakia, and the non-existence of monitoring of health outcomes among Roma communities.

3.6.3. Horizontal policies: anti-discrimination and antigypsyism

Addressing discrimination and segregation

All international bodies dealing with issues of human and minority rights (FRA, ECRI) in their reports point to a high level of segregation in all aspects of life of Roma communities.⁶⁰⁶ The inadequate enforcement of anti-discrimination legislation and measures against antigypsyism is a major obstacle to the achievement of this goal. Given the criticism and recommendations from international human rights organisations, there is a consensus among experts that the Roma in Slovakia face discrimination in all areas of their lives. It is very difficult to quantify the exact extent of discrimination against the Roma in Slovakia in different areas. There are several problems in doing so – the low legal awareness of those Roma who are the most frequent targets of discrimination, the absence of organisations monitoring rights violations of the Roma in Slovakia in a purposeful and thorough manner over the long term, and failure of the monitoring that exists to cover all of Slovakia.

The Roma are officially granted equal access to elementary, secondary, and university education. In reality, however, few Roma children attend kindergarten, and Roma elementary school students therefore progress far more slowly than their non-Roma classmates. Few Roma children attend secondary school, and the number of Roma university students is so limited, that one can observe articles in Slovak media about them. One of the most frequent problems in relation to ensuring the equal access of Roma children to education and equal treatment in the education process is the practice of concentrating Roma children in certain schools, or sending them to 'special schools' intended for mentally handicapped children, despite the fact that the Roma children are not mentally handicapped.⁶⁰⁷ The Slovak education system, in spite of all attempts to change it, is still not capable of handling certain social backwardness of Roma children at the age when children start their attainment. Roma children cannot therefore be integrated into the elementary and secondary school system to allow them to obtain the qualifications needed to be successful on the labour market.

The placing of children in 'special schools' is done on the basis of psychological tests carried out in the pre-school years. These tests focus on the abilities of children who are about to enrol in school. However, they do not take into account of the different cultural and language background of Roma children. A side effect of the practice of dispatching healthy Roma children to schools for the mentally retarded is that they are automatically disqualified from secondary education and tertiary educational and specialised institutions. In order to counter these problems, the NRIS aimed to address the above-mentioned issues, as well as other issues affecting the integration of Roma pupils in school, such as high absenteeism, poor school performance and high drop-out rates.

As far as systemic discrimination is concerned, those interviewed for this study allege that the courts punish the Roma more harshly than the non-Roma, the Roma are remanded in custody for longer and more often than the non-Roma, and courts inflict higher penalties on the Roma and do not use suspended sentences as often as they do with the non-Roma.⁶⁰⁸ These allegations cannot be statistically proven, as ethnic crime data cannot be kept. Certain disproportions, such as harsher penalties in the case of less serious criminal offences like petty theft, could be related to whether the defendant is a repeat offender.

As far as reporting about Roma is concerned, those interviewed point to various negative trends in spreading a negative perception of Roma among non-Roma population. The media often publish information on Roma crime supplied by regional police stations without trying to gain more information from the Roma community. Many

⁶⁰⁶ See for instance: European Commission (2016), assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States - 2016. https://ec.europa.eu/info/sites/info/files/roma_report_2016_web_ok_en.pdf

⁶⁰⁷ See: ECRI (2014), Report on Slovakia - Fifth monitoring cycle, adopted on 19 June 2014. <https://rm.coe.int/fifth-report-on-slovakia/16808b5c17>

⁶⁰⁸ Interview with Roma CSO.

journalists fail to understand the opinions of the Roma, who may be angry in a given situation, this failure to understand is then reflected in the image of the Roma that the report presents to the public. Moreover, newspapers frequently publish photographs of Roma in emotional and extreme situations, and the media are more interested in negative stories (crime, migration, conflict) than in neutral or positive topics.

In spite of all these trends the word 'antigypsyism' is not recognised at national level and experts interviewed for this study raised concerns about this. Neither the Action Plan Against Racism nor the Action Plan on Non-Discrimination contain the term 'antigypsyism'. These documents, however, deal with antigypsyism, for example, through the fight against anti-Roma stereotypes in the majority population. It is nevertheless more a question of the wording than of the content. There is no doubt that the level of hatred and discrimination against Roma goes beyond the standard rejection of a particular group of people.⁶⁰⁹ While NGO representatives support inclusion of 'antigypsyism' into the vocabulary of anti-discrimination legislation, state representatives show a certain reluctance to accept it. One of reasons is the fact that Slovakia since 1989 has been successful in getting rid of the word "Gypsy" from the public discourse and its replacement by the more neutral and less stigmatising word "Roma". State representatives fear that by including 'antigypsyism' in legislation, systemic work of both authorities and activists over the last 29 years can be damaged.⁶¹⁰

Combatting hate crime and hate speech against Roma

The prevalence of different forms of hate speech targeting vulnerable groups including Roma has increased in recent years. While a number of sections of the Criminal Code in Slovakia punish the so-called extremist offences, other types of hate speech – slander, defamation and insults – are being overlooked. Data concerning the offences of hate speech are not disaggregated in accordance with the different kinds of specific motivation recorded and it is therefore difficult to make an overall evaluation of the situation in Slovakia, since the only offences that are known and available are data on extremist offences. This would help to gain a better picture of the trends in the country and to provide adequate policy responses and protection to victims.⁶¹¹

Anti-minority rhetoric, in particular aimed at stirring anti-Roma sentiment to make electoral gains, has been common among politicians from the entire political spectrum. Leaders across the entire political scene who have often used nationalist rhetoric for quick political gain share some responsibility for the fact that a far-right extremist was elected regional governor for the first time in the post-1989 history of Slovakia. Hateful and racist statements are so common on the internet that the public have become used to them, in spite of numerous initiatives to combat this. Racism within social networks worsens the situation systematically.⁶¹² Experts agree that ratification of the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, could also change the situation.⁶¹³

The process of combatting hate speech in Slovakia is being systematically reversed. It is influenced by the existence of growing anti-system media (Slobodný vysielač; Hlavné správy; Zem a Vek), activities of anti-civic civil society and, since the parliamentary elections of 2016, also by the presence of the extremist party Kotleba-Ľudová strana Naše Slovensko in the Parliament of Slovakia. Extremist Kotleba-ĽSNS is supported predominantly by younger, often first-time voters who appreciate that the party became taboo-breakers and fighters against political correctness. Their supporters are active mostly online and in recent years they have continued to poison the Slovak internet and mostly social media.⁶¹⁴ Kotleba-ĽSNS has been particularly successful in rural areas, building grassroots support on the local level. Success of extremists is the direct consequence of various factors, among them failures of the liberal-democratic regime in tackling problems in the coexistence of Roma and non-Roma, which has been systematically utilised by extremists.⁶¹⁵

⁶⁰⁹ Ibid.

⁶¹⁰ For instance interview with National Roma Contact Point.

⁶¹¹ Interview with Office of Ombudsperson.

⁶¹² Interview with Roma CSO.

⁶¹³ Interview with the Ministry of Justice.

⁶¹⁴ Interviews with Roma CSO and Office of Ombudsperson.

⁶¹⁵ See Vražda D. (2017), "Kotleba", N-press, Bratislava.

However, the real problem for the liberal-democratic regime in Slovakia is rooted in the tendency of various types of populists, who participate in democratic politics, utilising extremists as a negative frame of reference. In fact, they show a tendency to compete with them. Richard Sulík, chairman of the SaS party, announced his Roma reform on social networks in the village of Veľká Lomnica in 2017. He illustrated the need to address the situation of Roma by pointing at the disproportion of how many Roma children are born each year in this village compared to non-Roma children. The SaS proposal, which also includes various positive elements, includes free sterilisation for women over 35 who already have three children. In response to the introduction of the SaS reform, Kotleba-ĽSNS pointed out that in fact SaS was ripping off their electoral programme.

Support for Kotleba-ĽSNS is slowly growing. The anti-system and extremist political scene has been on the rise in Slovakia in recent years in general. Marián Kotleba, a former secondary school teacher and long-time advocate of the inter-war Slovak fascist state, gradually developed from a marginal entity in 2013 to a head of the Banskobystrický region. Kotleba-ĽSNS has an open anti-Roma, anti-Semitic, Islamophobic, and xenophobic agenda. Since his election to Parliament he has even begun to send his so-called patrols to trains to secure the protection of decent citizens from “criminals and maladjusted Roma”.

Specific measures countering antigypsyism and promoting historical remembrance

Roma have not been subject to slavery in Slovakia, although there is a long tradition of discrimination against Roma in Slovakia that comes from the times of the Habsburg monarchy, the first Czechoslovak republic, the Slovak fascist state 1939-1945, right up to the times of real socialism until 1989. The most important legal norm pertaining to the Roma in the times of the Habsburg monarchy was the official ruling of the Vienna Interior Ministry on nomadic Gypsies from 1888. Its repressive provisions pushed both the nomadic and the settled Roma to the outskirts of society and the origin of this regulation was adopted by the first Czechoslovak republic.

Under the influence of Nazi Germany, the Slovak WWII Nazi-puppet government approached the Roma issue far more vigorously than the interwar government. The law on state citizenship, dated 25 September 1939, divided Slovak citizens into two groups – state citizens and foreign elements. The anti-Roma measures peaked when the Roma were sent to labour camps. Pursuant to an Interior Ministry decree from 1941, the country's labour centres were reserved for Jews who had been excluded from the economy, while the labour camps were meant mainly for the Roma. Using experience that had been gained with Aryan antisocial elements labour units, the Slovak government opened its labour units in 1942. Roma were sent to concentration camps in 1942, especially the “East Slovak labour units” headquartered in the town of Hanušovce nad Topľou. In 1942 and 1943, a Slovakia-wide selection and recording of “antisocial persons” was carried out. Political, social, and ethnic oppression encouraged the formation of an antifascist movement that was transformed into the Slovak National Uprising in 1944. Roma were slaughtered especially in the period following the Slovak national uprising against fascism by both German and Slovak fascist Einsatzgruppen.⁶¹⁶

Since 2012 Slovakia has commemorated “Porajmos”, the international day of Roma genocide, on 2 August. Some high-level politicians attend it regularly, including ministers (former minister of justice Lucia Žitňanská) and members of parliament (MP Martin Poliačik). Slovakia's Andrej Kiska has also attended commemoration of Porajmos. Commemorations are attended increasingly by both Roma leaders and Roma public, although – as some officials suggest – unpleasantly hot and unbearable weather in recent years is increasingly becoming a problem for especially elderly participants.⁶¹⁷ However, experts have a consensus that the international Holocaust day, 27 January, does not focus on Roma suffering at all and Roma are not mentioned during commemorations.

The number of memorials dedicated to the suffering of Roma has increased recently in Slovakia and the general public are slowly becoming aware of them. They are, however, rather the result of activities of Ma Bisteren, a small Roma NGO headed by Zuzana Kumánová, an ethnologist and Roma leader.⁶¹⁸ Memorials commemorating Porajmos and their visibility are evaluated positively and with declared enthusiasm by public officials, although

⁶¹⁶ Nečas C. (1976), Pracovné útvary tzv. asociálů a cikánů na východním Slovensku v roce 1942 [‘Labor Units of Antisocial Elements and Gypsies in Eastern Slovakia in 1942’], *Nové obzory*, No. 17.

⁶¹⁷ Interview with National Roma Contact Point.

⁶¹⁸ See for instance: <https://www.youtube.com/watch?v=gZONNYLNrlk>

public support for their construction does not materialise into systematic financial support.⁶¹⁹ There has so far been no contribution or monetary compensation to victims of Porajmos and there have been no significant and recorded attempts by Roma political and community leaders to claim such compensation.⁶²⁰

Efforts to address Roma history in the school curriculum started in the 1990s with publication of the first Roma history textbook by Arne Mann. Various textbooks, supportive materials, and leaflets reflecting Roma history in Slovakia have been published since then. Nevertheless, Roma history and information about the coexistence of non-Roma and Roma on the territory of Slovakia in the past were not included in mainstream textbooks. General knowledge about the history of Roma in Slovakia is therefore very low or close to non-existence.⁶²¹

3.7. Spain⁶²²

3.7.1. Societal and public policy context

The Roma people (known as 'Gitanos') has been present in Spain since the 15th century and its historical trajectory has been marked, as in the rest of Europe, by persecutions, assimilation attempts and processes of social exclusion. Currently, the Spanish Roma population is calculated at around 725 000-750 000 people (according to the Council of Europe).⁶²³ However, one should exercise certain caution with respect to these data: approximations to the total figures have been carried out on studies on sub-standard housing that did not count Roma people who do not live in slums or ghettoised urban areas. According to other calculations the figures can vary between 700 000 and 1 000 000 Roma people⁶²⁴.

The Roma population in Spain has increased with the arrival of Roma migrants (mainly from Romania and Bulgaria), especially after 2002 (when the visa requirement for these two countries was eliminated) and later after 2007 (when they joined the EU). Due to the lack of records that reflect the ethnicity of foreigners in Spain, it is difficult to quantify the number of Roma people of Romanian and Bulgarian nationalities who live in Spain: they are statistically integrated into large contingents of Romanian and Bulgarian citizens who have residence permits in Spain.⁶²⁵

In the 1990s, specific initiatives for the Roma population began to be promoted within the framework of the Horizon programmes of the European Social Fund (ESF), which culminated in the Operational Programme to Combat Discrimination (2000-2006) that continued in the 2007-2013 cycle (mainly through Fundación Secretariado Gitano).

At regional level, some autonomous governments have launched specific action plans for the Roma, such as the Basque Country (2004-2007; 2007-2011), Catalonia (2005-2008; 2009-2013), Extremadura (2007-2013) or Navarre (2011-2014). The Government of Spain approved in 2010 the National Action Plan for the Roma Population, which is currently in force through the NRIS (2012-2020).

Since the 2000s, consultative and advisory bodies have been established to include the Roma and pro-Roma NGOs in the General Administration of the State and several autonomous communities. Examples of this are the creation of a State Council of Gitanos (2005), as well as the articulation of bodies of similar characteristics in Catalonia (2005), Basque Country (2003), Extremadura (2001) and Castilla-La Mancha (2011).

The Spanish NRIS was conceived as an opportunity to deepen national plans and policies in four different areas: education, employment, housing and health. Given the high degree of decentralisation of the Spanish administrative framework, the NRIS was developed in collaboration with the autonomous communities and Bodies of the local Administration (in consultation with the Roma and pro-Roma NGOs). The NRIS was designed,

⁶¹⁹ Interview with Roma CSO.

⁶²⁰ Interview with Ministry of Justice.

⁶²¹ Interviews with Roma CSO and Ministry of Foreign Affairs.

⁶²² This case study has been developed by Ismael CORTES.

⁶²³ Council of Europe (2012) Human rights of Roma and Travellers in Europe. Commissioner for Human Rights. Strasbourg.

⁶²⁴ Laparra M. (coord.) (2011): Diagnóstico social de la comunidad gitana en España. Un análisis contrastado de la Encuesta del CIS a Hogares de Población Gitana 2007. Madrid, Ministerio de Sanidad, Política Social e Igualdad.

⁶²⁵ Based on the information provided by Fundación Secretariado Gitano, the estimates are around 50 000 Roma immigrants.

implemented and monitored by the Ministry of Health, Social Services and Equality, through the DG for Family and Childhood. The NRIS benefitted from the European Social Fund (ESF) and the European Regional Development Fund (ERDF), in line with the orientations provided for in the multiannual financial framework period 2014 - 2020.

Catalonian Context

In 2001, the Parliament of Catalonia explicitly recognised the identity of the “Roma people and the value of their culture”.⁶²⁶ Nevertheless, up to now there has been no debate on whether or not, and to what extent, collective recognition (and corresponding rights) involves the individuals who constitute that collective. The Comprehensive Plan for the Gitano Population in Catalonia (PIPG) was approved by the Catalan Parliament in 2005. The plan was completed in 2008 and renewed for the period 2009-2013. It was a policy framework designed, implemented and monitored by the Department of Social Services and Family of La Generalitat (regional government). This plan is based on seven pillars: education, work, culture, justice, health, housing and media.

3.7.2. Implementation of substantive policies

- **Employment**

There is no updated information on the positive progress of the Roma population in the area of work, in relation to the national strategy objectives.⁶²⁷ However, the following progress is perceived among the actors: the range of occupational sectors where Roma work is expanding; a decline in the black economy; and more and better trained Roma, which has affected the employability of young people and women. With regard to the employment situation of women, the data supplied by the EU-MIDIS II confirms that the smallest gender gap in labour market participation was observed in Spain, where 16 % of women and 31 % of men were employed in the previous four weeks.

Based on the Second European Union Minorities and Discrimination Survey (EU-MIDIS II), nearly all Spanish Roma (98 %) covered by the survey have incomes below the national income poverty threshold. The lowest self-declared employment rates in the sample were observed in Croatia (8 %), followed next by Spain (16 %). 57 % of Spanish Roma declared themselves to be ‘unemployed’, while the average rate for Roma across the EU was just 34 %. Important challenges remain in accessing regular employment and preventing discrimination during the recruitment process. Roma also have limited professional development and worse working conditions than the rest of the population, as well as a tendency towards excessive concentration in certain sectors. Since most Roma work in the informal market, an effort should be made to reduce their vulnerability while engaging in itinerant trade⁶²⁸.

- **Education**

Before the adoption of the National Roma Integration Strategy in Spain (2012-2020,) there was already special interest to increase the schooling of Roma in elementary education. There have been incremental gains in the percentage of Roma students attending secondary school, which exceeds the general NRIS targets set for 2015 in the EU. For those aged 13-15, there was an increase of 8 % in the case of boys (from 84.2 % in 2007 to 92.3 % in 2012) and 17.5 % in the case of girls (from 71.7 % in 2007 to 89.2 % in 2012)⁶²⁹.

Since Spain joined the NRIS, according to the EU-MIDIS II,⁶³⁰ 99 % of school-aged Spanish Roma attends school. Of the nine countries surveyed, only Spain (95 %) and Hungary (91 %) have participation rates that come close to

⁶²⁶ Adoption of the Resolution 1046/VI, in the 20th Session of the Social Policy Commission of the Parliament of Catalonia, 21 November 2001.

⁶²⁷ Enhance access to stable employment and improvement on vocational training.

⁶²⁸ Summary of the 2012-2016 evaluation of the 2012-2020 National Strategy for Roma Social Inclusion and its 2014-2016 Operational Plan: summary of progress and proposals for improvement.

⁶²⁹ 2012-2016 Evaluation: Summary of progress and proposals for improvement. Conclusions of the reports: monitoring of the 2014-2016 Operational Plan and intermediate monitoring of the Strategy.

⁶³⁰ The sample includes Roma in nine EU Member States: Bulgaria, Croatia, Czech Republic, Greece, Hungary, Portugal, Romania, Slovakia, and Spain. In Spain 3 059 individuals were interviewed.

the Education and Training 2020 target.⁶³¹ Spain is also noteworthy because it is the Member State with the least segregated schools and classes.⁶³²

In order to raise employability, Roma must increase their attainment of qualifications and rate of vocational training. Additionally, efforts should be made to compile information related to: a) the enrolment of Roma pupils in pre-school education; b) the correlation between academic success and professional success among Roma after finishing secondary and tertiary education.⁶³³

- **Housing**

According to the EU-MIDIS II, almost all Spanish Roma have access to electricity (97-98 %). Just 1 % of households are deprived of basic sanitation amenities, and the rate of Roma without tap water inside their home is the same as the general population.⁶³⁴ In general terms, the national strategy objectives – eradication of substandard housing and improvement of housing quality – have been met. The most significant improvements are the reduction in the percentage of households in areas that lack urban facilities (19.5 % in 2011 to 10.34 % 2015) and the reduction in the percentage of overcrowded households (29.4 % in 2011 to 8.9 % 2015).⁶³⁵ There has also been a decline in both the percentage of slum dwellings among Roma households (from 3.9 % in 2011 to 2.17 % 2015) and in the percentage of Roma living in dwellings considered “substandard housing” (from 7.8 % in 2011 to 6.46 % 2015).

According to the EU MIDIS II, 25 % of Spanish Roma feel exposed to pollution, grime, and other environmental problems – such as smoke, dust, unpleasant smells, or polluted water. The highest rate of Roma affected by crime, violence, and vandalism occurs in the Czech Republic (46 %) and Spain (42 %).

According to the Map of Roma housing by Fundación Secretariado Gitano⁶³⁶, Spanish Roma face the following problems: a) Overcrowded household (affects 8 % of Roma families); b) Substandard housing with lack of at least one of the following facilities: water supply, electricity, sanitation or kitchen (8.63 % in 2015 compared to 11.66 % in 2007); c) Illegal occupations: 4.47 % in 2015 (no comparable data with previous years).

- **Health**

The objectives concerning health were ambitious and ambiguous. The Operational Plan 2014-2016 main considerations were improving overall Roma health and reducing the social inequalities related to care. The EU-MIDIS II results reveal that 95 % to 98 % of Spanish Roma are covered by the national basic health insurance scheme⁶³⁷. Recent years have shown a particular improvement in the health of Roma females. More women perceived they enjoyed better health (from 51.4 % to 55.5 %). The percentage of Roma women attending a gynaecological consultation for the first time has been reduced from 25.3 % to 16.4 % (the target being 20 %). Also, the occurrence of accidents of any kind among Roma girls has decreased, from 13 % in 2006 to 7.9 % in 2014.

According to the Summary of the 2012-2016 evaluation of the National Strategy for Roma Social Inclusion, dental care has set the standard for other areas of health. In the 2012 - 2016 period, the number of Roma children who have never been to the dentist has dropped from 49.5 % to 37.7 %. The rate for girls dropped from 51.4 % to 43.9 %, which exceeded the target of 45 %.

⁶³¹ The Education and Training 2020 recognises the potential of early childhood education and care in addressing social inclusion and economic challenges. Its aim is that at least 95 % of children aged between four and the starting age of compulsory primary education participate in early childhood education.

⁶³² The proportion of Roma children attending schools in which all schoolmates are Roma is 3 % (primary school) and 4 % (secondary school).

⁶³³ Increase in the secondary education completion rate and the level of economic achievement of Roma students.

⁶³⁴ Compared with the 2011 Roma survey, the biggest improvements in the ‘availability of space’ indicator can be observed in Romania, Portugal, and Spain. The availability of space is similar to the overcrowding rate, which measures the space available to the household, considering the household’s size, its members’ ages, and family situation.

⁶³⁵ Ibid.

⁶³⁶ Fundación Secretariado Gitano (2016) Estudio-Mapa sobre Vivienda y Población Gitana, 2015. Ministerio de Sanidad, Servicios Sociales e Igualdad. Madrid.

⁶³⁷ In Spain, the health insurance coverage for the general population ranges from 94 % to 100 %.

According to the Second National Survey of Health to the Roma Population (2014)⁶³⁸, the Spanish Roma face the following inequalities: a) 65.3 % of Roma men and 55 % of Roma women consider their health status to be good or very good, compared to 77.7 % and 70.4 %, respectively, in the overall population; b) The inequalities are higher in the access to those health services that are not covered by the public system such as the dentist or eye examination. The Roma population presents less use of glasses and contact lenses than the general population (33.0 % versus 53.4 % in men, and 31.3 % versus 63.6 % in women); c) With regard to eating habits, daily consumption of fresh fruit is less frequent in the Roma population than in the general population (39.1 % versus 56.1 % in Roma men, and 40.5 % versus 63.1 % in Roma women); d) The frequency of gynaecology visits and the performance of mammograms and cytology are lower among Roma women compared to the general population. However, this trend has been strengthened by comparing this parameter with the 2006 survey⁶³⁹, since the number of Roma women who have never attended a gynaecological consultation has decreased from 24.4 % to 17.3 %.

According to the EU-MIDIS II results, there has been little progress in the last eight years related to the reduction of the proportion of Roma experiencing discrimination, physical violence, or harassment motivated by hatred.⁶⁴⁰ In Spain, 50 % of Roma reported being discriminated against based on their ethnic background in the past five years. More detailed data reveals that they more often felt discriminated in "other public/private services".⁶⁴¹ Among the rest of EU Members, it was Spanish Roma who felt the most discriminated against based on religion (25 %).

According to the EU-MIDIS II, Spanish Roma have the lowest rates of trust in the police (3.7 %) and the legal system (3.2 %) in the EU.⁶⁴² Only 5 % of Spanish Roma have reported or filed a complaint about discrimination. The average rate across the EU is 12 %. As for Roma who have filed a report about violence, 60 % were either somewhat dissatisfied or very dissatisfied with police performance. Cases of ethnic profiling are still common. 19 % of the respondents reported being subject to police stops in the past five years. On average, 8 % of the respondents perceived being stopped just because of their Roma background.

3.7.3. Horizontal policies: anti-discrimination and antigypsyism

Addressing discrimination and segregation

Spain has never used the term 'antigypsyism' in its policies addressing Roma.⁶⁴³ In general, antidiscrimination has not been properly addressed in the NRIS. "Once per year, the State Council of Gitanos co-organises a thematic dialogue together with the National Roma Contact Point (NRCP), in which all authorities from the regional governments participate. This year will be dedicated to antigypsyism. This would be the first session dedicated to discussing antigypsyism".⁶⁴⁴ Year after year, the Council of Europe under the mandate of the Framework Convention for the Protection of National Minorities asks the Spanish government to recognise the Roma as a national minority. There is a constant rejection by the Spanish government to give such recognition to the Roma people, arguing that the condition of national minority can be given only to historical non-State nations that belong to the Spanish State.⁶⁴⁵

The Socialist Party (now in power at the national government) is amending a new Equality Law, expected to be approved by the end of the year. It proposes the creation of an Independent Agency against any type of discrimination, under the Ministry of the Presidency. One of its functions will be to monitor and prosecute cases of hate speech and to provide training for the judiciary and for all public servants, including the staff from all ministries. This work of monitoring hate speech will be coordinated among the Ministry of Justice, the Ministry of

⁶³⁸ La Parra D. (2016) Segunda Encuesta Nacional de Salud a Población Gitana, 2014. Ministerio de Sanidad, Servicios Sociales e Igualdad. Dirección General de Salud Pública, Calidad e Innovación. Madrid.

⁶³⁹ La Parra D. (2006) Encuesta de Salud a Comunidad Gitana 2006. Ministerio de Sanidad, Servicios Sociales e Igualdad. Madrid.

⁶⁴⁰ Includes but is not limited to offensive gestures, comments, text messages, and emails.

⁶⁴¹ Other public/private services include: night clubs, bars, restaurants, hotels, administrative offices or public services, public transport and shops.

⁶⁴² Second European Union Minorities and Discrimination Survey: Selected Findings on Victimization & Policing, 2017.

⁶⁴³ Interview of Roma CSO.

⁶⁴⁴ Interview with National authority in the area of Family and Children.

⁶⁴⁵ Ibid.

Interior, the Ministry of Equality and the NGOs. If a politician commits hate speech, they would also be prosecuted by the new Agency against any type of discrimination. Ideally, this agency will provide training for the national police and other regional security forces on treatment of diversity and about the most frequent types of discrimination, including antigypsyism.⁶⁴⁶

Specific measures countering antigypsyism and promoting historical remembrance

Under the coordination of the Sefarad Centre, there is a Spanish delegation at the International Holocaust Remembrance Alliance (IHRA), where both the Shoah and the Samudaripen are represented in all international meetings. Moreover, on 27 January there is an official event for the International Holocaust Remembrance Day, in the National Senate, in Madrid. On 2 August, the Roma Genocide Remembrance Day, there is also an official event in the Ministry of Social Affairs.⁶⁴⁷

In Spain there is no compensation process for Jewish or Roma victims of the Genocide. "As far as we know, there were no Spanish Roma or Jewish who died in the World War II in concentration or extermination camps."⁶⁴⁸ All the interviewees agree on the following: in Spain there is very little social awareness about the Roma Holocaust. At the level of formal and non-formal education, the Shoah gets much more attention.

3.8 Promising practices and experience emerging from national case studies for scaling up Roma integration and combatting antigypsyism

This section gathers a number of complementary practices to the Rule of Law mechanism and the Truth and Reconciliation Commission in combatting Roma exclusion and antigypsyism within the seven member states analysed in this study. This compilation takes into account promising practices and experience that could inspire policymakers and civil society. It is thus important to note that there was no exhaustive evaluation of the actual impact of these initiatives and they would not necessarily suit all Member States.

3.8.1. Implementation and monitoring of Roma policies

The interviewees from civil society organisations and national authorities have raised similar problems regarding the implementation and monitoring of policies for the Roma. Some of the common issues are the weak results of national initiatives due to central and local governments' lack of comprehensive and harmonised strategy, as well as localities' institutionalised antigypsyism.⁶⁴⁹ Moreover, the lack of ministerial cooperation is also one of the key issues in implementing comprehensive integration policies in areas such as education, employment, housing and health. Nevertheless, the country experts have brought to light promising practices that could inspire solutions for a more harmonised and concrete impact of national initiatives in local communities.

Local level initiatives have proven to be very positive in tangibly reaching communities. This is the case in Spain, where promising practices arose from the autonomous governments and local administrations in collaboration with the National Roma Integration Strategies (NRIS). Two programmes worth highlighting are the Roma Socio-Cultural Centre of Andalusia and the Hate Crimes and Discrimination Service, which was established in the prosecutor's office by the City of Barcelona. The latter has set a precedent and since 2013 each province in Spain has had a public prosecutor specifically to combat antigypsyism.⁶⁵⁰ Both programmes will be further detailed in the following subsections.

⁶⁴⁶ Interview with National authority in the area of Equal Treatment and Diversity.

⁶⁴⁷ Interview with Ministry of Foreign Affairs and the Spanish Agency for International Cooperation for Development.

⁶⁴⁸ Personal interview with National authority in the area of Historical Memory.

⁶⁴⁹ Country reports conducted for this study on France, Bulgaria, Romania, Spain, Italy, Slovakia and Hungary.

⁶⁵⁰ Carrera S., E. Guild, L. Vosyliūtė and P. Bard (2017), "Towards a Comprehensive EU Protection System for Minorities", Study for the European Parliament LIBE Committee, August, p.88 (see: <https://www.ceps.eu/publications/towards-comprehensive-eu-protection-system-minorities>); Carrera S., I. Rostas and L. Vosyliūtė (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May, p.23. (see: <https://www.ceps.eu/publications/combating-institutional-anti-gypsyism-responses-and-promising-practices-eu-and-selected>).

In Italy another interesting policy was adopted in the region of Emilia Romagna in 2016.⁶⁵¹ The “Regional Strategy” foresees the formulation of a law that legalises the creation of micro-areas of action in order to be able to integrate Roma and Sinti through tailored policy solutions aimed at combatting discrimination in all sectors addressed by the NRIS. Hence, it also promotes the participation of the communities concerned in the design and implementation of these projects. However, the fragmentation of the initiatives at the regional level and the lack of comprehensive strategies within the framework of the NRIS actually prevent the implementation of such promising practices in a systematic manner throughout the country.

In order to create better harmonised inclusion policies for Roma in the different areas, there was the establishment of an inter-governmental forum for the cooperation of almost all ministries in Hungary⁶⁵². This is the Inter-ministerial Committee for Social Inclusion and Roma Affairs (TFCTB) which is one of the highest internal advisory boards of the Secretariat for Social Affairs and Inclusion. The latter deals directly and indirectly with issues related to Roma and it is one of the fundamental bodies of the National Social Inclusion Strategy (NSIS). Moreover, there is also a Consultative Council on Roma Issues which has the same weight of importance as the TFCTB. Its main task is to formulate opinion and proposals, as well as to execute monitoring power over those programmes which were implemented by the NSIS. In addition, it is responsible for the financial oversight, thus it has the power to object to any misconduct of resources within Roma programmes. It is important to note that such a promising practice needs to be embedded in the right conditions such as respect for democracy, rule of law and fundamental rights, in order to have good results in the fight against discrimination and exclusion.

3.8.2. Access to justice at national and local levels

Institutional antigypsyism and poverty hinder Roma access to justice. The following promising practices aim at promoting a double-sided awareness through training public servants to apply anti-discrimination laws as well as empowering Roma communities to benefit from their right to justice.

In Spain, public officials in the judiciary have to follow a number of training sessions as part of the national and local strategies to fight discrimination within society and public institutions. Notably, the police have courses with the Directorate General for Equality and Non-Discrimination and also receive a “Guide to Police Management of Diversity”, which provides a legal protocol to treat groups in a non-discriminatory manner, including the Roma.⁶⁵³ Moreover, “the general prosecutor’s office and the judiciary also receive an annual one-month training regarding hate crimes and racial discrimination which is conducted by the General Council of the Judicial Power”.⁶⁵⁴ In a previous study, the effectiveness of this programme was questioned since it does not focus on a specific protected group and it is limited to a certain amount of public prosecutors⁶⁵⁵. However, the programme has the potential of having a positive impact on combatting institutional antigypsyism if the issues are properly addressed.

Still in Spain, the Socialist Party is amending a new Equality Law, expected to be approved by the end of the year. It proposes the creation of an Independent Agency against any type of discrimination to monitor and prosecute cases of hate speech. It will count on the participation of civil society organisations together with the Ministry of justice, the Ministry of interior, and the Ministry of Equality in its monitoring operation. Moreover, it also provides for promoting training sessions to the judiciary and to all public servants (e.g. ministerial staff, police etc.) on the treatment of diversity and types of discrimination including antigypsyism.

Besides examples of promising national strategies, the City of Barcelona is responsible for a programme that has had a positive impact on the fight against antigypsyism in the city and later in the rest of the provinces. It founded the Office on Hate Crimes and Discrimination within the public prosecutor’s office in 2009. The main goal is to provide a specialised response to crimes that violate the principles of equality and non-discrimination of groups protected by the Spanish penal code: Article 510 - “ethnic, racial, religious, sexual or national minorities and

⁶⁵¹ Interview with Roma civil society organisation as part of the country report on Italy.

⁶⁵² The only exception is the Ministry of Defence and the Ministry of Foreign Affairs and Trade.

⁶⁵³ Carrera S., I. Rostas and L. Vosyliute (2017) Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States. CEPS: Brussels, May, p.49.

⁶⁵⁴ Ibid.

⁶⁵⁵ Ibid.

people with disabilities". It also collaborates with civil society organisations in order to raise awareness of the Office's work, thus encouraging victims to denounce hate crime and to increase the security of protected groups.⁶⁵⁶ Although, antigypsyism does not have its own category within racism (as does anti-Semitism), since 2013 the Office has been responsible for setting a new precedent that has made each province have a public prosecutor to combat antigypsyism specifically.

The Romanian case is particularly interesting as it provides more specialised training courses on antigypsyism, and awareness-raising is organised together with civil society organisations, targeting public servants and Roma communities. In this way there is judicial capacity building at the same time as Roma having the necessary information to access their right to justice and equality. In this setting, the National Institute of the Magistracy (NIM), which is in charge of providing professional training for judges and prosecutors, was a partner in the "Equal Access to Justice for Roma",⁶⁵⁷ a project coordinated by the Roma CRISS association.⁶⁵⁸ Its objective was to "organise continuous training seminars for judges and prosecutors in the field of national and international legislation and supranational case law against racism, in particular in criminal justice matters".⁶⁵⁹ Moreover, antigypsyism courses were given to judges, police, gendarmes, prosecutors and other public servants, as part of the anti-discrimination training that has been provided for over 11 years by the National Council for Combating Discrimination (NCCD).

In addition, the project "Improving access to justice – an integrated approach with a focus on Roma and other vulnerable groups"⁶⁶⁰ has promoted better access to Roma rights to justice and equality before the law through "awareness-raising campaigns and legal consulting in regions where Roma communities are more represented as well as professional training of judges, prosecutors and lawyers".⁶⁶¹ Unfortunately, the project was only set to run until 2017.⁶⁶²

3.8.3. Consultation and direct participation of Roma and CSOs in policy making

In Spain the participation of Roma and pro-Roma NGOs in consultative and advisory bodies to both the General Administration of the State and to several autonomous communities have been a reality since the 2000s.⁶⁶³ Several bodies were created for this purpose, notably the State Council of Gitanos (2005), as well as the articulation of bodies of similar characteristics in Catalonia (2005), Basque Country (2003), Extremadura (2001) and Castilla-La Mancha (2011).⁶⁶⁴

In Hungary, the Roma participation in policymaking is done through different State and non-State channels. Notably, the "Roma Coordination Council" (ROK-T) is one of the highest external advisory boards to the State Secretariat. It includes actors from all levels in the creation, familiarisation, and execution of the National Social Inclusion Strategy and it advocates for Roma interests in policymaking.⁶⁶⁵ The three existing "Roma platforms" are forums that provide advice to social inclusion strategies on the local level and they are expected to be exported to the rest of the counties where they do not currently exist. The "Anti-Segregation Roundtable" founded in 2013 is also a forum for discussion among civil society, church associations and the government regarding the making and monitoring of inclusion strategies. It holds the State Secretariat of Social Affairs and Inclusion accountable. In addition, there is the "Roma Minority Self-governance" which is often criticised for its structure and practices of political clientelism.⁶⁶⁶ The idea of these multiple forums, and advocacy and advisory bodies enable different ways of exercising pressure and making the State accountable, but their impact is rather irrelevant in the current political setting.

⁶⁵⁶ Ibid., p. 53.

⁶⁵⁷ The initiative was financed by the European Commission's Criminal Justice Programme.

⁶⁵⁸ Ibid.

⁶⁵⁹ Ibid.

⁶⁶⁰ The initiative was funded by the 2009-14 Norwegian Financial Mechanism.

⁶⁶¹ Ibid.

⁶⁶² Ibid.

⁶⁶³ Cortes, I. (2018), Country Report – Spain.

⁶⁶⁴ Ibid.

⁶⁶⁵ Rostas, I. (2018), Country Report – Hungary.

⁶⁶⁶ Ibid.

3.8.4. Education and culture

Fighting antigypsyism through education on past injustices and positively promoting one's culture are important steps to denaturalise the rooted racism in society. In Romania, a partnership agreement between State and non-State actors⁶⁶⁷ resulted in the foundation of an educational project in October 2016.⁶⁶⁸ The aim is to develop material to train professors on antigypsyism and include Roma history in the school curriculum. Moreover, it also targets parents and the general public with respect to the realities of Roma slavery in Romanian principalities and the Holocaust.

Another promising initiative in the area was also found in Spain. The Roma Socio-Cultural Centre of Andalusia (Centro Socio-Cultural Gitano Andaluz) was established in 1989 by the regional government.⁶⁶⁹ The centre has received EU structural funds⁶⁷⁰ and it is associated with the Regional Ministry of Equality and Social Welfare as well as the Regional Policy Framework for Equality and Social Inclusion. Its main objective is to deconstruct stigma and stereotypes against Roma in the general public opinion, promoting tolerance and mutual respect through a range of art and cultural activities.⁶⁷¹

⁶⁶⁷ The project is led by Impreuna Agency for Community Development Foundation with the Ministry of Education and Scientific Research, the Elie Wiesel National Institute for Studying the Holocaust in Romania and the National Centre for Roma Culture – Romano Kher. The project is financed by the "Remembrance, Responsibility and Future" Foundation, and it has a small contribution from the National Centre for Roma Culture. In: Carrera S., I. Rostas and L. Vosyliute (2017) *Combating Institutional Anti-Gypsyism: Responses and promising practices in the EU and selected Member States*. CEPS: Brussels, May, p. 49

⁶⁶⁸ *Ibid.*, p. 50.

⁶⁶⁹ *Ibid.*, p. 17.

⁶⁷⁰ (...) "namely from the European Social Fund via the Regional Government of Andalusia. Approximately 60 % of its budget for social programmes comes from the ESF. Andalusia has renewed its social action plan through the ESF Operative Funding Programme for the period 2014-20." In *Ibid.*, p. 51.

⁶⁷¹ *Ibid.*, p. 51.

4. THE WAY FORWARD: RULE OF LAW EMBEDDED TRUST BUILDING MECHANISMS ADDRESSING ANTIGYPSYISM

KEY FINDINGS

- The EP has been calling for establishing a Rule of Law mechanism. Such a mechanism could ensure the comprehensive protection of minorities, including Roma, across the EU. The EU Rule of Law mechanism could early capture and scrutinise EU Member State practices, violating the founding values enshrined in the Article 2 of TEU and in particular, the institutional forms of antigypsyism where EU currently lacks competence or willingness to act.
- In light of the EU's commitment to advance the Rule of Law, Democracy and Fundamental Rights, to place the current socio-economic situation of Roma not only in the current political context, but also in a broader historical perspective. This study confirms that 'historically rooted' injustices perpetrated by national and local authorities against Roma could be re-dressed with transitional justice-like tools that aim to build a common narrative and build mutual trust among Roma and non-Roma. Such an approach includes three aspects: 1. Right to know truth on what has happened to Roma communities across the EU; 2. Right to justice – processes where the victims would be heard and justice would be established; 3. Right to reparations – either individual redress for survivors or moral compensation to communities for past injustices.
- The lessons learnt from Truth and Reconciliation Commissions in Australia, Canada, South Africa indicate a number of potential upsides as well as challenges in deciding the mandate and size of the commission, its selection procedures, managing the expectations among the survivors, and mistrust among general population, avoiding the politicisation and abuse of the process from partisan or other interests. The international processes teach about conditions of 'success' – the political will and the public support, among those whose rights are at stake. The closer look at the Swedish Commission on Antiziganism and Norwegian Truth and Reconciliation Commission on Tatars and Roma shows the importance of follow-up and sustainability of such initiatives. The process in Romania on Addressing Slavery warns that without public support and involvement of Roma communities, such TRC initiatives risk being treated as yet another administrative exercise by national governments and being quickly forgotten or even back-firing against Roma communities. The study also elaborates on emerging transitional justice processes in Germany and Spain.
- The study puts forward policy options regarding the Truth and Reconciliation at the Union-level. Roma and pro-Roma organisations have demonstrated consensus regarding the recognition and remembrance or the right to know the truth of past injustices as well as Roma contributions to European culture, arts and society. The recognition and remembrance aspect could be an exercise that could be scaled up at the EU level, for example through a European Parliament inquiry into this question. Nevertheless, civil society was split over the balance between the potential upsides and risks that going for a fully-fledged TRC could entail. The view emerged that EU Member States, where Roma civil society and governments are ready to start this societal process, should go ahead, while the rest could learn from the exercise and engage in preparatory work, also with the help of EU funding and existing structures.
- The national interviews revealed that besides Spain and Italy, national officials were by and large not ready to speak about such processes. The interviews revealed that some interviewees lacked knowledge about Roma history, while others had difficulty linking state-led injustices with transitional justice mechanisms. An interesting approach emerged in Spain, where Roma organisations are active in ensuring that Roma would not be forgotten in the current process of investigating the crimes of Franco's regime.

This chapter embeds the Truth and Reconciliation processes within the Rule of Law approach in a search for European solutions. The first section elaborates on the links between transitional justice and the Rule of Law mechanisms. The second section further presents the experiences of historical justice through the work of Truth and Reconciliation Commissions in Australia, Canada, South Africa and Sweden, the lessons learnt from these

experiences and their potential application in the EU context. In addition, the third section elaborates on some European experiences, discovered during the research, such as in Sweden and Romania, as well as in Norway and currently – in Germany and Spain. Further sections summarise the experiences of different transitional justice tools and models and sheds light on what should be taken into account when thinking about Truth and Reconciliation on antigypsyism or a Mutual Trust building process with and for Roma in Europe.

4.1. Post-2020 EU Framework for NRIS more fully embedded in the Rule of Law Framework

The Rule of Law, Democracy and Fundamental Rights are core elements of the EU founding values. Their triangular relationship needs to be preserved, at all times, when certain governments, parties or politicians aim to increase their powers, often at the costs of the rights and freedoms of national minorities, migrants and persons of darker skin colour. However, the 'Copenhagen dilemma' remains unresolved: the EU does not have comprehensive tools to monitor and safeguard the rights of minorities across the EU, once Member States have joined the Union.

The previous CEPS study concluded that the EU needs to elaborate its own Rule of Law mechanism that could capture and prevent or remedy institutional forms of discrimination, as for example, high-level politicians spreading hate-speech towards Roma and other ethnic, linguistic and religious, minorities or are misusing EU funds allocated for Roma integration.⁶⁷² EU Member State practices, violating the founding values enshrined in the Article 2 of TEU, including the institutional forms of antigypsyism could be comprehensively addressed in a way that shows EU added value and avoids duplication with other existing international and regional monitoring systems. For example, at the United Nations level there are Special Procedures, Treaty bodies, the High Commissioner of Human Rights, while at the Council of Europe level the Venice Commission, the Human Rights Commissioner and Special Rapporteurs, the European Commission against Racism and Intolerance (ECRI), or the CoE Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), OSCE Office for Democratic Institutions and Human Rights (ODIHR) that are monitoring and warning countries when they are violating the rights of Roma and other minorities.

In 2016, the European Parliament called on the European Commission to establish a new EU Rule of Law mechanism, which would aim at ensuring permanent monitoring and comparable rule of law, democracy and fundamental standards across the EU that would take into account the specificities of the EU legal system.⁶⁷³ However, the abovementioned proposal has not been followed up so far by the European Commission.⁶⁷⁴ In the current context of Rule of Law back-sliding in Poland, Hungary and other Member States, as well as right-wing populism rising and targeting migrants and ethnic minorities alike, reflections over the need for independent Rule of Law-based monitoring are gaining the momentum. For example, the European Commission has proposed Rule of Law conditionality for the new Multi-Annual Financial Framework (MFF) for the purpose of sound financial management.⁶⁷⁵ The European Parliament also made a proposal for an European Values Instrument to enable civil society to uphold EU values.⁶⁷⁶

The previous CEPS study on minorities raises and investigates very serious and timely challenges facing European integration.⁶⁷⁷ It explored ways and promising practices in which the EU could better bridge existing gaps

⁶⁷² Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) "Towards a Comprehensive EU Protection System for Minorities." Study for the European Parliament LIBE Committee, August.

⁶⁷³ European Parliament (2016) Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (2015/2254(INL), Strasbourg, 25 October.

⁶⁷⁴ Bárd, P., Carrera, S. (2017) "The Commission's Decision on 'Less EU' in Safeguarding the Rule of Law: A play in four acts. CEPS Policy Insights, No. 2017/08, March 2017.

⁶⁷⁵ European Commission (2018) Fact-sheet "The EU Budget For Future: Sound Financial Management and the Rule of Law", Brussels, 5 of May. (see: https://ec.europa.eu/commission/sites/beta-political/files/budget-proposals-financial-management-rule-law-may2018_en.pdf).

⁶⁷⁶ European Parliament (2018) Resolution on the need to establish European Values Instrument to support civil society organisations which promote fundamental values within the European Union on local and national level (2018/2619(RSP)).

⁶⁷⁷ Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) "Towards a Comprehensive EU Protection System for Minorities." Study for the European Parliament LIBE Committee, August.

towards the fulfilment of its commitments towards human rights and equality of treatment of minorities as laid down in Article 2 of the Treaty of the European Union (TEU).⁶⁷⁸

The general principles of the EU's legal system, the values embedded in the EU Treaty Article 2, the EU's Charter of Fundamental Rights injects equality before the law and non-discrimination at the centre of attention when assessing their accessibility to civic and political, as well cultural, social and economic rights for Roma across the EU. European citizenship is another basis for protection for both national Roma and Roma EU citizens that live in another EU Member State. Freedom of movement⁶⁷⁹ and other achievements of European citizenship seem to be increasingly compromised and narrowed for Roma EU citizens.

This study puts the EU Framework for NRIS in the context of a broader commitment to democratic rule of law and fundamental rights, including non-discrimination, as overarching pillar of the analysis. A well-functioning rule of law, fundamental rights and democratic accountability framework are considered as playing a fundamental role and as a pre-condition for properly ensuring minority rights protection. Moreover, democracy, the rule of law and fundamental rights are co-constitutive, therefore they shall be discussed together, with due regard to their triangular relationship.⁶⁸⁰ Deterioration of any of the elements hits Roma citizens particularly hard. Under the rule of law, in-built correction mechanisms compensate for the deficiencies of a majoritarian government by making good on the consequences of misrepresentation or non-representation of certain segments of the population, on the prohibited grounds of discrimination as discussed above.

Members of minority groups who have been excluded from "we, the people" may for example be granted participation in the democratic process by the courts,⁶⁸¹ or their interests may be represented by them.⁶⁸² Accordingly we regard international and EU norms and enforcement mechanisms as external tools of rule of law and democracy whereby the unrepresented – whether an unrepresented majority in a state of constitutional capture or an oppressed minority – are granted protection against their substandard representatives, when all domestic channels of criticism have been effectively silenced and all domestic safeguards of democracy have become inoperative – in short, when the rule of law has been efficiently deconstructed in the national setting.

The EU should however not only prevail *ex post facto*, but in an ideal case, both supervise and actively promote establishment and maintenance of EU values. Beyond mechanisms for responding to national crises with regard to foundational European values, there should also be permanent and periodic monitoring ensuring objective, independent and regular scrutiny and evaluation processes of EU Member State compliance with Article 2 TEU.⁶⁸³ A case study on antigypsyism is provided below as a further illustration of this issue. We further elaborate on the added value of linking the Rule of Law approach with a Truth and Reconciliation mechanism across the EU.

⁶⁷⁸ Carrera S., E. Guild, L. Vosyliute and P. Bard (2017) "Towards a Comprehensive EU Protection System for Minorities." Study for the European Parliament LIBE Committee, August.

⁶⁷⁹ Guild, E., S. Carrera, L. Vosyliūtė, K. Groenendijk, E. Brouwer, D. Bigo, J. Jeandesboz and M. Martin-Mazé (2016) "An Analysis of the Schengen Area in the Wake of Recent Developments, DG IPOL, European Parliament, (see: [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571356/IPOL_STU\(2016\)571356_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/571356/IPOL_STU(2016)571356_EN.pdf)).

⁶⁸⁰ Carrera S., Guild E. and Hernanz N. (2013) *The Triangular Relationship between Fundamental Rights, Democracy and the Rule of Law in the EU, Towards an EU Copenhagen Mechanism*, CEPS 2013, (see http://www.ceps.eu/system/files/Fundamental_%20Rights_%20DemocracyandRoL.pdf); the original study done for the Directorate General for Internal Policies of the European Parliament, PE 493.031; 2013, is available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493031/IPOL-LIBE_ET\(2013\)493031_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493031/IPOL-LIBE_ET(2013)493031_EN.pdf); Council of Europe (Parliamentary Assembly) (2007) Report of the Committee on Legal Affairs and Human Rights: The Principle of the Rule of Law, Doc. No. 11343, 6 July 2007, para. 5.

⁶⁸¹ *Hirst v the United Kingdom*, Application no. 74025/01 [Grand Chamber], 6 October 2005, *Greens and M.T. v the United Kingdom*, Application no. 60041/08, 23 November 2010, *Alajos Kiss v Hungary*, Application no. 38832/06, 20 May 2010.

⁶⁸² In particular in relation to persons who are excluded from voting rights, such as minors, foreigners, disabled persons and convicts deprived of their voting rights, etc.

⁶⁸³ For such an attempt see European Parliament (2016) Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights (2015/2254(INL)), P8_TA-PROV(2016)0409. See also Ballegooy W. and Evas T. (2016) "An EU Mechanism on Democracy, the Rule of Law and Fundamental Rights", Interim European Added Value Assessment accompanying the Legislative initiative report (Rapporteur Sophie in 't Veld), European Parliamentary Research Service, October 2016, PE.579.328.

4.1.1. Links between a Rule of Law mechanism and an EU Truth and Reconciliation Commission on Antigypsyism

The previous CEPS study on antigypsyism already evidenced the need for an EU level mechanism capturing institutional malpractices at local and national level. A subsequent CEPS study elaborated what a comprehensive EU protection system for minorities could look like. We conclude that without such a Rule of Law embedded mechanism it is difficult if not impossible to address antigypsyism and to deliver equality effectively and efficiently, irrespective of the size of EU funds allocated or number of programmes and policy initiatives to implement the EU Framework for NRIS up to 2020.

Roma in the EU are experiencing institutional and structural forms of racism and discrimination, which have rarely been challenged via socio-economic measures targeting the Roma population. This is illustrated by the recent findings of the FRA EU MIDIS II study conducted in 2016. The EU MIDISII study supports CEPS findings, that despite various EU level and national initiatives “the European Union’s largest ethnic minority [Roma] continues to face intolerable discrimination and unequal access to vital services”. For example, “80 % of Roma surveyed live below their country’s at-risk-of-poverty threshold; every third Roma lives in housing without tap water; every third Roma child lives in a household where someone went to bed hungry at least once in the previous month; and 50 % of Roma between the ages of six and 24 do not attend school”.

This study suggests, in light of the EU’s commitment to advance the Rule of Law, Democracy and Fundamental Rights, to place the current situation of Roma in a wider historical perspective. It further addresses ‘historically rooted’ injustices perpetrated by national and local authorities against Roma with transitional justice tools that aim to build a common narrative and build trust. Therefore, in addition to a Rule of Law mechanism, the subsequent chapter elaborates on the broader societal process of Truth and Reconciliation within the EU, that aims at providing ‘majority society’ with a better understanding and greater sensitivity about the ‘historically’ rooted and systemic nature of injustices and to propose ways for communities to work together towards reconciliation based on principles of fairness and cooperation.

4.1.2. A ‘right to truth’ as a condition for effective justice and dignity

There is a close relationship between the right to know the truth and that of effective remedies or justice of victims of human rights violations. That relationship becomes most intimate and crucial when perpetrators are state governments and/or authorities, or when human rights violations result from, or find their roots in, rule of law backsliding or systematic rule of law deficits.

Previous Sections have argued that antigypsyism must be read and addressed from the perspective of a triangular relationship between rule of law, democracy and fundamental rights, which are co-constitutive in EU Treaties and national constitutional and legal traditions. The existence of a ‘right to the truth’ had been acknowledged and recognised by relevant international and regional human rights standards and actors. Yet, what does a ‘right to truth’ actually entail in the scope of European human rights law and jurisprudence? And what are its scope of application and potential advantages for the EU legal system and the EU Charter of Fundamental Rights, especially at times of addressing antigypsyism and scaling up Roma inclusion strategies?

- **The role of truth in upholding human rights: the Strasbourg Court’s contribution**

The right to truth in cases of human rights violations has recently been at the heart of a set of subsequent judgments by the European Court of Human Rights (ECtHR) dealing with the complicity of several European governments with the US CIA-led extraordinary renditions and secret detentions programme, in particular those in Macedonia, Poland, Italy, Lithuania and Romania.⁶⁸⁴

In these cases, the ECtHR recognised the existence of the right to truth for the first time and put particular emphasis on its importance not only for the applicant and their family, but also for other victims of similar crimes and the general public, who had the right to know what had happened.⁶⁸⁵ Its ‘ownership’ does not only belong

⁶⁸⁴ For an overview of all relevant cases refer to European Court of Human Rights (2018), *Factsheet – Secret Detention Sites*, October, Press Unit: Strasbourg.

⁶⁸⁵ See para.191 of Case *El-Masri v. The former Yugoslav Republic of Macedonia*, 13 December 2012 (Grand Chamber)

to specific individual victims and their families, but also “to other victims of similar violations and the general public, who have the right to know what has happened”.⁶⁸⁶ The right to know the truth therefore comprises both an individual as well as a general public or public accountability dimension. It also comprises private and public ownership. According to the Strasbourg Court:

An adequate response by the authorities in investigating allegations of serious human rights violations may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of impunity, collusion in or tolerance of unlawful acts. For the same reasons, there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory.⁶⁸⁷

The same case-law has clarified that the ‘right to truth’ entails a *duty* (or ‘positive obligation’) by relevant state authorities to bring to light and allow for “effective, prompt and thorough” investigations into the alleged human rights violations, as well as to ensure a “sufficient element of public scrutiny”.⁶⁸⁸ The underlying principle in the Strasbourg Court’s assessment has been the need to prevent *impunity* in cases of serious human rights violations, which according to the Council of Europe⁶⁸⁹ “...must be fought as a matter of justice for the victims, as a deterrent to prevent new violations and to uphold the rule of law and public trust in the justice system”.

The Strasbourg Court found in its review of various CIA-led secret detention sites that the European governments involved had been negligent or obstructed the truth, which in turn undermined the *effectiveness* of remedies for victims. They had not only unjustifiably failed to properly secure an effective and independent investigation on the human rights violations of the victims of the CIA-led programme. In some cases, these same governments had also actively put serious obstacles aimed at preventing the search for truth and justice, in particular in what concerns well-documented cases of torture and ill-treatment of victims (Art. 3 European Convention of Human Rights, ECHR).

The ECtHR has in this way positively contributed towards a better understanding of the linkage between truth and justice in cases of grave human rights violations. In a Joint Concurrent Opinion (JCO) several Judges rightly pointed out the “timid” and over-cautious approach by the Court in not acknowledging more expressly the relation to Art. 13 ECHR.⁶⁹⁰ The JCO underlined that “the right to the truth would be more appropriately situated in the context of Article 13 of the Convention, especially where, as in the present case, it is linked to the procedural obligations under Articles 3, 5 and 8” ECHR.⁶⁹¹ The same judges reiterated that “for society in general, the desire to ascertain the truth plays a part in strengthening confidence in public institutions and hence the rule of law”.⁶⁹² The ECtHR has recently acknowledged the central role played by the ‘right to truth’ in maintaining public confidence in state’s compliance with the rule of law, and that the “gravity of the issues involved requires particularly intense public scrutiny of the investigation”.⁶⁹³

⁶⁸⁶ Case *Husayn (Abu Zubaydah v Poland)*, Application no. 7511/13, 24 July 2014, § 489.

⁶⁸⁷ See para.489 of Case *Husayn Abu Zubaydah v Poland*, Application no. 7511/13, 24 July 2014. The judgment made reference here to see *Anguelova v. Bulgaria*, no. 38361/97, § 140, ECHR 2002-IV; *Al-Skeini and Others*, § 167.

⁶⁸⁸ *Ibid*, para. 192. See also Case *Nasr and Ghali v. Italy*, application no. 44883/09, 23 February 2016.

⁶⁸⁹ Refer to Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations, 30 March 2011.

⁶⁹⁰ See Joint Concurrent Opinion of Judges Tulkens, Spielmann, Sicilianos and Keller, which highlights that the Court however did not expressly acknowledged “that in the absence of any effective remedies – as conceded by the Government – the applicant was denied the “right to the truth”, that is, the right to an accurate account of the suffering endured and the role of those responsible for that ordeal” or “the right to ascertain and establish the true facts”. Reference was here made to Association “21 December 1989” and *Others v. Romania*, nos. 33810/07 and 18817/08, § 144, 24 May 2011.

⁶⁹¹ See para. 4 of Joint Concurrent Opinion. On the general principles deriving from the ECtHR case law on Art. 13 ECHR refer to Case *Abu Zubaydah v. Lithuania*, Application no. 46454/11, 31 May 2018, § 672-675.

⁶⁹² *Ibid*, para. 6..

⁶⁹³ Case *Al Nashiri v. Romani*, Application no. 33234/12, 31 May 2018, § 654 states that:

“In that regard, the Court would emphasise that the securing of proper accountability of those responsible for enabling the CIA to run Detention Site Black on Romanian territory is conducive to maintaining confidence in the adherence by the Romanian State’s institutions to the rule of law. The applicant and the public have a right to know the truth regarding the circumstances surrounding the extraordinary rendition and secret detention operations in Romania and to find out what happened at the material time. A victim, such as the applicant in

Art. 13 ECHR must be therefore read in accordance with the effective exercise of all relevant 'substantive' human rights enshrined in the ECHR, and a 'right to truth' makes little sense without being acknowledged as one its emblematic manifestations. While the ECtHR has been somewhat too prudent, it is clear that there is an intrinsic relationship between truth and justice, which takes specific features and relevance in cases of institutional or state-led human rights violations, and which entails a duty to allow for investigation, reparation and democratic and public accountability of past and current wrong-doings against Roma communities as part of or as a condition for "effective remedies" in cases of human rights violations.

- **The 'right of truth' in the EU legal system: fundamental rights and accountability**

The entry point of the interpretation provided by the Strasbourg Court into the EU legal system can be found in the EU Charter of Fundamental Rights. A fundamental 'right to truth' would in this way provide substance to one of the effective remedies enshrined in Art. 47 EU Charter of Fundamental Rights (EUCFR). This Article is of particular salience in cases where EU Member States have engaged in policies, laws or practices posing 'risks' or 'threats' to the EU founding principles enshrined in Art. 2 TEU.

The right to know the truth can be also embedded into the fundamental right to human dignity and non-discrimination. According to the EUCFR Preamble, 'human dignity' constitutes a universal value, which is inviolable, and must be protected and respected (Art. 1). Furthermore, the evidence provided in the previous Section of this study has showed institutional or structurally-embedded manifestations of discrimination towards various Roma communities, including mobile EU citizens, which stand in contradiction with the prohibition of discrimination laid down in Art. 21 of the Charter, as well as the freedom of movement and residence envisaged in Art. 45 EUCFR.

Public and democratic accountability also represent central features in the notion of 'truth' and its nexus with delivering fundamental rights protections. The European Parliament has in the recent past played a key role in calling for accountability for human rights violations by national governments. This was also the case in respect of the above-mentioned complicity with US CIA-led extraordinary renditions and secret detention sites, where Parliament called for effective national investigations and inquiries to ascertain the truth and to hold those who collaborated directly or indirectly with the CIA legally responsible. In 2006 the European Parliament set up a special Parliament Committee of inquiry (Temporary Committee on the Alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, TDIP), which published its final report in 2007.⁶⁹⁴

The recommendations included in that report were then followed up in 2012 by a further report on the alleged transportation and illegal detention of prisoners in EU countries by the CIA,⁶⁹⁵ which provided further evidence on Member State complicity and regretted the failure of national accountability processes and inquiries (due to factors such as their lack of independence and effectiveness),⁶⁹⁶ as well as a lack of 'follow-up' steps by the European Commission and the Council "to ensure accountability for human rights violations committed in the context of the CIA programme and the necessary redress and compensation for victims".

This past Parliamentary experience provides us with a template or 'model' for the setting up of a future Inquiry Committee in the European Parliament that could address antigypsyism in the EU and provide evidence, testimonies and specific recommendations feeding into the European Semester for Economic Governance and a future EU DRF Periodic Review or Mechanism.

the present case, who had made a credible allegation of being subjected to ill-treatment in breach of Article 3 of the Convention, has the right to obtain an accurate account of the suffering endured and the role of those responsible for his ordeal. That right has to date been denied to the applicant."

⁶⁹⁴ European Parliament (2007), Report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, 30 October.

⁶⁹⁵ European Parliament (2012) Resolution of 11 September 2012 on alleged transportation and illegal detention of prisoners in European countries by the CIA: follow-up of the European Parliament TDIP Committee report (2012/2033(INI)), P7_TA(2012)0309.

⁶⁹⁶ Bigo, D., S. Carrera, E. Guild and R. Radescu (2017), A quest for accountability? EU and Member State inquiries into the CIA Rendition and Secret Detention Programme, European Parliament Study, DG IPOL, Brussels.

4.2. Truth and Reconciliation Commissions in Australia, Canada and South Africa

4.2.1. Australia

Following the deaths of 99 Aboriginal and Torres Strait Islander people (88 males and 11 females) in the custody of prison, police or juvenile detention institutions, communities and civil rights groups pressurised the authorities to launch an inquiry into the causes of these deaths. The deaths occurred between 1 January 1980 and 31 May 1989.

The Government established the Royal Commission in October 1987 in response to growing public concern that deaths in custody of Indigenous people were disproportionate. The Commission was tasked to inquire into the deaths found to fall under its jurisdiction and to enquire also into:

Any subsequent action taken in respect of each of those deaths including ... the conduct of coronial, police and other inquiries and any other things that were not done but ought to have been done.⁶⁹⁷

The Commission was expected to make recommendations regarding the underlying issues associated with the deaths of Indigenous people. The idea of a Royal Commission was announced on 10 August 1987. At the outset of the Royal Commission, the judge James H. Muirhead, QC, was appointed as the sole Commissioner. Following subsequent amendments to the Letters Patent, four other professional lawyers were appointed as commissioners: Elliott Johnston, Daniel O'Dea, John Wootten, and Lewis Wyvill. The Commission presented an interim report in December 1988 and a final report in April 1991.⁶⁹⁸ The period of investigation of the Commission's finding was 1 January 1980 - 31 May 1989.⁶⁹⁹

Commissioners conducted individual inquiries and prepared reports on individual deaths in 120 cases. The Commission held public hearings in the towns where the deaths happened. The Commission received written statements from individuals, organisations and family members of the deceased. There were also roundtable discussions organised in those towns. The final report summarised the findings of the individual reports and addressed the significant social, cultural and legal factors that had a bearing on the deaths.⁷⁰⁰

Based on the final report of the Royal Commission, which recommended that a formal reconciliation process should take place, the Council for Aboriginal Reconciliation Act was enacted in April 1991 by the Federal Government. The Council had 25 members, with a majority of Indigenous peoples representatives and others drawn from the business, trade unions, religious, media and community sectors. The Council had three terms (1991-1994, 1995-1997 and 1998-2000) with some members being involved for more than one term. The Council for Aboriginal Reconciliation vision statement called for "A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all".⁷⁰¹ The goals of the Council were to draft a reconciliation document to be acknowledged within the Constitution, promote partnership between indigenous and non-indigenous people to achieve equality, and to mobilise populations beyond the end of its mandate in 2000. Following consultations with stakeholders, in 2000 the Council released the Documents for Reconciliation – the Australian Declaration Towards Reconciliation and the Roadmap for Reconciliation.⁷⁰²

⁶⁹⁷ Australian Royal Commission into Aboriginal Deaths in Custody (1991) National Report Volume 1 – 1.1 The Royal Commission, 15 April 1991. See: <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/national/vol1/7.html>

⁶⁹⁸ National Archives of Australia, Royal Commission into Aboriginal Deaths in Custody- Fact Sheet 112. See: <http://www.naa.gov.au/collection/fact-sheets/fs112.aspx>.

⁶⁹⁹ Wright, K., Swain, S., and Sköld, J. (2017). *The Age of Inquiry: A global mapping of institutional abuse inquiries*. Melbourne: La Trobe University. See: <http://doi.org/10.4225/22/591e1e3a36139>

⁷⁰⁰ The reports are available at: <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/>

⁷⁰¹ Aubrey-Poiner, K. and J. Phillips (2010) "Are we there yet? Ten years on from the Decade of Reconciliation: A Reconciliation Progress Report", Australians for Native Title and Reconciliation (ANTaR) November 2010, p. 16.

⁷⁰² Aubrey-Poiner, K. and J. Phillips (2010) "Are we there yet? Ten years on from the Decade of Reconciliation: A Reconciliation Progress Report", Australians for Native Title and Reconciliation (ANTaR) November 2010, p. 18.

In August 1995, the federal government launched an investigation of the practices to remove Aboriginal and Torres Strait Islander children from their families as an assimilationist practice. The inquiry was conducted by the Human Rights and Equal Opportunity Commission (HREOC) at the request of the Attorney-General of Australia. The mandate of the HREOC was to trace past laws, policies and practices that led to separation of children from their families, to analyse the need for changes in current laws, policies and practices regarding placement of and care of Aboriginal and Torres Strait Islander children and the services available to the victims, and to examine the possibility of compensation for those separated. The investigation period was August 1995 – December 1996. However, the Prime Minister Kevin Rudd only made a formal apology to the Stolen Generations in 2008.

Although the work of the Council for Aboriginal Reconciliation ended in 2000, the impact of the Royal Commission and of the Council on the status of the First Nations and for Australia is long-lasting. In the early 1990s, following the work of the Royal Commission, the Mabo case decision was handed recognising the land rights of Indigenous population.⁷⁰³ It was followed by the Wik case, in which the High Court upheld and furthered secured native title rights over lands and waters.⁷⁰⁴ The reconciliation process led to further investigations of human rights violations and to grassroots mobilisation of the First Nations Peoples, such as the Australian Reconciliation Convention convened by the Council in Melbourne in 1997 and attended by more than 1 000 participants, or the Corroboree 2000 celebrations when hundreds of thousands of Australians walked across bridges in support of reconciliation.⁷⁰⁵ It also opened up discussions on holding a referendum to amend the Constitution to recognise the rights and the voice of the First Nations Peoples. The Government set up a Referendum Council and amended legislation to recognise the rights of the First Nations People. Larger mobilisation followed in what is known as “Uluru Statement from the Heart”, a 2017 National Constitutional Convention pushing for the constitutional referendum recognising the rights and the voice of the First Nations People.⁷⁰⁶

4.2.1. Canada

In August 1991, the Canadian Government set up the Royal Commission for Aboriginal Peoples to investigate the relations relationship between the Indigenous peoples of Canada,⁷⁰⁷ the Canadian government and Canadian society. The decision came following a protest of Mohawk Peoples over burial grounds, indicating serious problems with the handling of Indigenous affairs.⁷⁰⁸ The Commission was composed of seven members, four Indigenous peoples’ representatives and three non-Indigenous and operated until November 1996.⁷⁰⁹ It presented a final report in October 1996 consisting of five volumes.⁷¹⁰ The reports were based on data collected through 178 days of public hearings, 96 visits in communities, consultations with 150 experts, roundtable discussions and commissioned research studies – 350 projects, testimonies collected from 2 067 witnesses and almost 1 000 written submissions.⁷¹¹ The report included 440 recommendations for restructuring relations between Indigenous peoples of Canada and authorities and society at large, requiring a new set of ethical principles for government actions, including respect for Indigenous cultures and recognition of Indigenous

⁷⁰³ Mabo and others v Queensland No2 (1992) 175 CLR1. Details about the case at: <https://aiatsis.gov.au/explore/articles/mabo-case>

⁷⁰⁴ *Wik Peoples v Queensland* (1996) 187 CLR1. Details about the case at: <https://aiatsis.gov.au/publications/products/case-summary-wik-peoples-v-queensland>

⁷⁰⁵ Aubrey-Poiner, K. and J. Phillips (2010) “Are we there yet? Ten years on from the Decade of Reconciliation: A Reconciliation Progress Report”, *Australians for Native Title and Reconciliation (ANTaR)* November 2010, p. 5-6.

⁷⁰⁶ ANTaR (2018) Submission to Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples June 2018, see:

https://antar.org.au/sites/default/files/antar_submission_to_joint_select_committee_on_constitutional_recognition_2018.pdf

⁷⁰⁷ The term ‘Aboriginal peoples’ is no longer used in Canada. The First Nations, Inuit and Metis peoples make up the Indigenous peoples of Canada.

⁷⁰⁸ Wright, K., Swain, S., and Sköld, J. (2017). *The Age of Inquiry: A global mapping of institutional abuse inquiries*. Melbourne: La Trobe University. See: <http://doi.org/10.4225/22/591e1e3a36139>

⁷⁰⁹ Canadian Royal Commission on Aboriginal Peoples (1996) *People to people, nation to nation: Highlights from the report of the Royal Commission on Aboriginal Peoples*, vol. 1 of 1, Minister of Supply and Services Canada, Ottawa, 1996. Also available at <http://www.aadnc-aandc.gc.ca/eng/1100100014597/1100100014637>.

⁷¹⁰ <http://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/final-report.aspx>

⁷¹¹ Wright, K., Swain, S., and Sköld, J. (2017). *The Age of Inquiry: A global mapping of institutional abuse inquiries*. Melbourne: La Trobe University. DOI: <http://doi.org/10.4225/22/591e1e3a36139>

peoples' right to self-determination. The report proposed a further investigation in the educational practices of separating Aboriginal children from their families.

The Government reacted in January 1998 by issuing a Statement on Reconciliation, expressing regrets for past errors and committing CAD 350 million toward community-based healing, especially for compensating the victims of the residential school system.

The Truth and Reconciliation Commission of Canada was set up in 2007, as part of the legal settlement between the victims of the Indian Residential Schools programme, supported by several Indigenous peoples' organisations, and the Government of Canada. In a practice that lasted until late 1990s, Indigenous children were removed and separated from their families and communities and placed in residential schools. Following a class-action against the Government, an agreement was reached in May 2006 and was implemented as of September 2007, serving as a fair and lasting resolution to the legacy of such schools. Some 150 000 Indigenous children were victims of these oppressive practices.

To effectively bring reconciliation and a renewal of the relationships between Indigenous people who had been placed in these residential schools, their families and communities, and all Canadians, the settlement agreement included five different components:

1. a Common Experience Payment (CEP) for all eligible former students of Indian Residential Schools,
2. an Independent Assessment Process (IAP) for claims of sexual or serious physical abuse,
3. measures to support healing such as the Indian Residential Schools Resolution Health Support Program and an endowment to the Aboriginal Healing Foundation,
4. commemorative activities, and
5. the establishment of a Truth and Reconciliation Commission.

In addition, on 11 June 2008, the Prime Minister and the leaders of all major political parties apologised in the House of Commons for the Indian Residential School system and the damages produced by this system.⁷¹² The first two components provided financial compensation to the victims. According to the data provided by the Government, from 19 September 2007 to 31 March 2016, an amount of CAD 1 622 422 106 was paid to the victims.⁷¹³ Applications for CEP are no longer accepted.

The Canadian Royal Commission on Aboriginal Peoples consisted of a Chairperson and two Commissioners appointed by the Government in consultation with former students, Indigenous peoples' organisations and churches. At least one member of the Commission was to be Indigenous. The Commission operated through a Secretariat with regional liaisons, responsible for research, events organisation, statement taking/truth-sharing, obtaining documents, information management of the Commission's documents, production of the report, ensuring the preservation of its records, and evaluation of the Commemoration Policy Directive proposals. The Commission was assisted by the Indian Residential School Survivors Committee, composed of 10 members. The mandate of the Commission was for five years, with two timelines. Within two years the Commission was to develop a budget and produce a report, and within five years the Commission was to complete the truth and reconciliation events, statement taking/truth-sharing and closing ceremonies, and the establishment of a research centre.

The work of the Canadian Royal Commission on Aboriginal Peoples was based on the following principles: "accessible; victim-centred; confidentiality (if required by the former student); do no harm; health and safety of participants; representative; public/transparent; accountable; open and honourable process; comprehensive; inclusive, educational, holistic, just and fair; respectful; voluntary; flexible; and forward looking in terms of rebuilding and renewing Aboriginal relationships and the relationship between Aboriginal and non-Aboriginal Canadians".⁷¹⁴ The Canadian Royal Commission on Aboriginal Peoples Canada used a clear and unequivocal language to describe the oppression of Indigenous people in Canada amounting to cultural genocide, defining

⁷¹² Kate Aubrey-Poiner and Jacqueline Phillips (2010) "Are we there yet? Ten years on from the Decade of Reconciliation: A Reconciliation Progress Report", *Australians for Native Title and Reconciliation (ANTaR)* November 2010, p. 20.

⁷¹³ See <https://www.aadnc-aandc.gc.ca/eng/1353514851338/1353514981910> visited on October 17, 2018.

⁷¹⁴ The principles are provided for by the Schedule N of the Indian Residential Schools Settlement Agreement.

it as “the destruction of those structures and practices that allow the group to continue as a group”.⁷¹⁵ The situation described by the Canadian Royal Commission on Aboriginal Peoples Canada pushed the government to improve its record on human rights in general to uphold Canada’s international reputation. However, most of the recommendations of the Royal Commission on Aboriginals have been ignored by the government and have not been implemented.⁷¹⁶ Nevertheless, the report signalled to the public the issues faced by the Indigenous peoples in Canada and opened the way for further investigations of abuses.

The Government of Canada had to provide CAD 72 million for the work of the Truth and Reconciliation Commission of Canada between 2007 and 2015, **as ordered by the courts**. This sum had to be paid as part of the court settlement in which the government was the largest defendant.⁷¹⁷

The Truth and Reconciliation Commission of Canada which is therefore much more recent and still in its implementation phase. So far, the TRC of Canada had achieved the following outreach:

- 150 thousand members of society participated in hundreds of national and community events;
- 7,000 statements recorded and now part of a permanent public archive;
- all public hearings were live-streamed around the world via internet, with some 65 countries viewing;
- major focus on youth engagement and education throughout the process, with some 15 thousand Indigenous and non-Indigenous students involved in ‘Education Days’.

In June 2015, the Truth and Reconciliation Commission held its closing event and presented a final report, which included 94 ‘Calls to Action’, drawing attention to their urgency. Many of the ‘Calls to Action’ are directed at all sectors of society, business, academic, professional and civil society, not just at the government.

The current Government of Canada is on record with its intention to implement all 94 of the TRC Calls to Action, and in the three years since the final report, has begun to take action on several of them. The Royal Commission and the TRC influenced the discourse on Indigenous peoples and open the way for accommodating Indigenous peoples’ interest within the society.⁷¹⁸

4.2.3. South Africa

In South Africa, the Truth and Reconciliation Commission was established through the 1995 Act 43 on Promotion of National Unity and Reconciliation.⁷¹⁹ The main objective of the TRC was to provide a detailed account of the nature, causes and extent of gross violations of human rights committed during the apartheid regime (March 1, 1960 – cut-off date established by the 1993 Constitution). TRC work was supported by a staff of 300 members divided into three committees: the Committee on Human Rights Violations, the Committee on Amnesty, and the Committee on Reparation and Rehabilitation.

The commission consisted of 17 commissioners, appointed by the President in consultation with the Cabinet. It was led by a highly respected public figure, archbishop Desmond Tutu and consisted of nine men and eight women. The mandate was until 1998 and was extended until 2002. The TRC had an annual budget of USD 18

⁷¹⁵ Truth and Reconciliation Commission of Canada, Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada, 2015, p. 1, available at: http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf

⁷¹⁶ Truth and Reconciliation Commission of Canada, Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada, 2015, p. 7, available at: http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf

⁷¹⁷ Data provided by the portal of the Government of Canada <https://www.rcaanc-cirnac.gc.ca/eng/1450124405592/1529106060525> visited on October 18, 2018.

⁷¹⁸ Julia Hughes, Instructive Past: Lessons from the Royal Commission on Aboriginal Peoples for the Canadian Truth and Reconciliation Commission on Indian Residential Schools., Canadian Journal of Law and Society, vol. 27, April 2012, 101-127 pp. Also available at <https://doi.org/10.3138/cjls.27.1.101>.

⁷¹⁹ Act 34 of 1995 on Promotion of National Unity and Reconciliation, available at: <https://ihl-databases.icrc.org/applic/ihl/ihl-nat.nsf/0/AF494D2C3E5803FEC1256AF400524BE5>

million.⁷²⁰ The objectives of the establishment of such a commission were: reconciliation between South Africa's citizens and reconstruction of society based on new fundamentals such as the recognition of human rights, democracy and peaceful co-existence for all South Africans. Thus, as Richard Goldstone mentioned in the Strategic Visioning Exercise for the purposes of this study, the TRC was building a common narrative of what happened during apartheid and aimed at building societal trust.

For reconciliation to take place, the initiators deemed it necessary "to establish the truth in relation to past events as well as the motives for and circumstances in which gross violations of human rights occurred, and to make the findings known in order to prevent a repetition of such acts in future".⁷²¹ Reconciliation and reconstruction were only possible if amnesty could be granted to perpetrators. Thus, the TRC work focused on gathering evidence on gross violation of human rights from both victims and perpetrators and not on prosecuting individuals for past crimes. Constructing an impartial historical record of the past and drafting a reparations policy were two other important tasks of the TRC. Finally, the TRC was tasked to compile a final report on the activities and findings of the commission together with recommendations of measures to prevent future violations of human rights. With regard to the South African experience it is important to point out that it was the majority population that was victimised by the minority. It is the reverse situation that is being considered in the case of antigypsyism.

The principles guiding the TRC's work were victim-centred: compassion and respect for their dignity; equality; expeditious, fair, inexpensive and accessible procedures; information provided on their rights; protection of privacy and safety; accommodation of different languages spoken by victims; the use of informal mechanisms to support reconciliation and redress for the victims.⁷²² The commission released the first five volumes of its final report on 29 October 1998, and the remaining two volumes of the report on 21 March 2003.⁷²³ As the Chairperson of the TRC put it in its foreword to the report: "This report has been constrained by a number of factors – not least by the extent of the Commission's mandate and a number of legal provisions contained in the Act. It was, at the same time, driven by a dual responsibility. It had to provide the space within which victims could share the story of their trauma with the nation; and it had to recognise the importance of the due process of law that ensures the rights of alleged perpetrators."⁷²⁴

A defining feature of the South Africa TRC was its open and transparent working procedure with public hearings and debates. Its work was widely broadcast on national television, radio, including live hearings and hour-long episodes on its work. The TRC's extensive work will constitute a significant legacy. In dealing with the past, to use Archbishop Tutu's words:

In our case, dealing with the past means knowing what happened. [...] We also need to know about the past so that we can renew our resolve and commitment that never again will such violations take place. We need to know about the past in order to establish a culture of respect for human rights. It is only by accounting for the past that we can become accountable for the future.⁷²⁵

Approximately 21 000 victims testified before TRC and 2 000 of them appeared at public hearings. The commission received 7 112 amnesty applications. Amnesty was granted in 849 cases and refused in 5 392 cases, while other applications were withdrawn. The most controversial aspects of the TRC work were concerning amnesty, lustration and the implementation of its recommendations. Only in 2006, after pressure from civil society, the government appointed a body to monitor the implementation of the TRC's recommendations – reparations and exhumations in particular.

While imperfect, the TRC process in South Africa assisted in achieving a successful transition to a democratic system and avoidance of civil war. Data collected from the field suggest that the TRC contributed to greater

⁷²⁰ <https://www.usip.org/publications/1995/12/truth-commission-south-africa>

⁷²¹ Preamble of the Act 34 of 1995.

⁷²² Act 34 of 1995, Art. 11.

⁷²³ The seven volumes of the report are available at: <http://www.justice.gov.za/trc/report/>

⁷²⁴ Truth and Reconciliation Commission of South Africa (1998) Report, Volume 1, Chapter 1, p.2, available at: <http://www.justice.gov.za/trc/report/finalreport/Volume%201.pdf>

⁷²⁵ Truth and Reconciliation Commission of South Africa (1998) Report, Volume 1, Chapter 1, p.7.

reconciliation in South Africa. According to a 2001 survey, the public, irrespective of their race, considered apartheid as a crime against humanity. The public was supportive of the TRC process and they perceived amnesty as unfair to the victims.⁷²⁶

4.3. European experience: truth and reconciliation-like processes in Sweden and Romania

4.3.1. Sweden

In response to the report "Roma Rights – a strategy for Roma in Sweden" prepared by the Delegation for Roma Issues, a forum for debates on Roma's situation in Sweden, the Government started working in spring 2011 on a White Paper on the abuse and rights violations suffered by Roma in the 20th century. The Delegation report proposed an inquiry into past abuses and violations of Roma rights in Sweden, the establishment of Truth and Reconciliation Commission and the adoption of a government strategy on Roma. Earlier on, in 1997, in an attempt to deal with past abuses, the Swedish government launched a special inquiry into "the issue of sterilisation in Sweden from 1935 to 1975", but it was not focused on Roma but rather on the population control practices of that time.⁷²⁷

In March 2014, the Government published the report "The Dark Unknown History" as a White Paper.⁷²⁸ The report covers a period of over 100 years and highlights the following areas: mapping of Roma, sterilisation and taking their children into custody, entry bans and regulated immigration and preventing Roma access to housing, education and work. The report identifies the role of state institutions in violating the rights of the Roma and the mechanisms through which Roma were excluded from almost all aspects of public life in Sweden. The White Paper acknowledges the responsibility of the government for the situation in which many Roma find themselves, given that government policies have been guided by antigypsyism.

As a follow up to the White Paper, the government set up a Commission on Antiziganism (antigypsyism in Swedish). The commission operated between 2014 and 2016 and it had nine members, five Roma and four non-Roma. Roma participation and co-determination were two important principles in its activities. In 2016, the Commission on Antiziganism published a final report which includes a summary in English language.⁷²⁹ The report indicates a continuity in exclusionary practices of Roma in Sweden and clearly states that antigypsyism is part of existing structures. The report recommends that the Government takes concrete action to combat antigypsyism including by implementing the Government strategy on Roma, through the human rights work of its own institutions such as the Ombudsman, including legal proceedings against perpetrators, support for Romani language and culture and that the Government issues a formal apology to Roma.

There were two main criticisms that the Commission was confronted with: its short mandate and insufficient concern for all Roma affected by antigypsyism. The main criticism from Swedish civil society has been that the work against antigypsyism cannot only include those who are Swedish citizens because there are many Roma EU citizens and non-EU Roma asylum seekers living in Sweden.

To date, the government has not issued an apology and no concrete action to follow up the recommendations of the report have been announced. Nevertheless, the work of the Commission on Antiziganism has documented the exclusion of Roma and resulted in a number of publications on combating antigypsyism including a text book and a guide for teachers that were disseminated.

⁷²⁶ Gibson, J. L. (2005) The Truth about Truth and Reconciliation in South Africa. *International Political Science Review / Revue internationale de science politique*, Vol. 26, No. 4 (Oct., 2005), pp. 341-361.

⁷²⁷ Hartmann, Y. L. and H. Gerdes (2015), *What Justice for Sweden's Roma?*, Stockholm: Swedish Foundation for Human Rights, p.24, available at: <http://www.humanrights.se/wp-content/uploads/2015/10/What-justice-for-swedens-roma-final1.pdf>

⁷²⁸ Sweden Ministry of Culture (2015), *The Dark Unknown History: White Paper on Abuses and Rights Violations Against Roma in the 20th Century*, Stockholm, 2015, available at: <https://www.government.se/contentassets/eab06c1ac82b476586f928931cfc8238/the-dark-unknown-history--white-paper-on-abuses-and-rights-violations-against-roma-in-the-20th-century-ds-20148>

⁷²⁹ Slutbetänkande av Kommissionen mot antiziganism (2016), *Kraftsamling mot antiziganism*, Stockholm 2016, SOU 2016:44, available at: https://www.regeringen.se/contentassets/b76e2b51_299b42eba2c360c58f0754_f7/kraftsamling-mot-antiziganism-sou-201644

4.3.2. Romania

In June 2007, the Government of Romania adopted a decree setting up a Commission for the study of Roma Slavery in Romania.⁷³⁰ The objective was to conduct in-depth and interdisciplinary research of the slavery of Roma within Romanian territory. Early documents from 14th century mention Roma as slaves. Roma were gradually liberated from slavery in the Romanian Principalities of Walachia and Moldova from 1844 to 1856. There were three categories of Roma slaves, depending on the owner: those belonging to the landowners, those belonging to the State and, the largest category, those belonging to the Orthodox Church.⁷³¹ The liberation from slavery was not followed by any measures to compensate or to support the victims. On the contrary, Roma were excluded from being beneficiaries of the 1864 land reform. To date no material or symbolic compensations have been awarded to those enslaved and their descendants.⁷³² Moreover, no formal apology was made on behalf of the State or the Orthodox Church. Thus, the Government decision was a first step into researching the slavery of Roma and opening the way for acknowledging the past.

The Commission was supposed to be under the National Agency for Roma and the Prime Minister was in charge of appointing its 12 members. The Government Decree included a plan of activities for 2007 and a budget of around EUR 75 000. The Commission was expected to produce a report by the end of 2007 to be presented to the public.

To date, the Commission has failed to produce any results. It is even unclear whether the Commission was in fact legally formed and there is no public information about its meetings. In 2011, the Parliament adopted the Law no 28/2011⁷³³ commemorating February 20 as the day of Roma liberation from slavery. The law has only two articles and makes no reference to Roma suffering, reparations for victims, and reconciliation. Nevertheless, it opens the way for state institutions to allocate resources for commemorating the day of liberation. In a symbolic gesture, a Romanian Roma politician, Member of the European Parliament, unveiled a memorial plaque in the Tismana Monastery, the place where Roma slavery was first documented in the 14th century.⁷³⁴

One of the lessons learnt during this process is that the establishment of such a commission should be preceded by debates involving different groups in society, to gain support for its establishment and to mobilise people to hold authorities accountable and make sure that the commission will achieve its objectives. Without public support, it is very probable that any such commission will fail.

4.4. Lessons learnt from international TRCs and European experience

The international use of TRC, and their role in implementing the 'right to truth', have been explored by the academic literature.⁷³⁵ As a rule, TRC processes should be seen as complementary – not a substitute to the justice system. As argued above in this study, the right to know the truth, the right to justice and the right to reparations go hand-to-hand – so recognition, reconciliation and restoring the victims and their families' dignity can be duly ensured. TRCs have faced some general objections and criticism. The academic literature has not only examined what they cannot accomplish, but also what they can indisputably offer and contribute to. Well-planned TRCs have played a central role in addressing institutionally rooted human rights violations and providing a facts-based inquiry allowing for the development of public historical records and archives of the extent, pattern and consequences of past or current injustices.

The search for adequate models for a potential EU TRC on antigypsyism should start from the premise that 'models' from elsewhere should not be imported from other international experiences. Any EU TRC should instead be designed in a form that matches the specific human rights abuses towards Roma Communities in Europe and taking shape in a way that would fit well with the EU legal and fundamental rights system (*EU-specific*

⁷³⁰ Government of Romania Decree no 546/2007 regarding the establishment of the Commission for The study of Roma slavery, published in the Official Gazette of June 8, 2007.

⁷³¹ Achim, V.(1998) *The Roma in Romanian History*. Central European University Press, 1998.

⁷³² Magda Matache and Jacqueline Bhabha, Roma Slavery: The Case for Reparations, *Foreign Policy in Focus*, April 22, 2016, available at: <https://fpif.org/roma-slavery-case-reparations/>

⁷³³ Published in Official Gazette on March 15, 2011.

⁷³⁴ <https://evz.ro/damian-draghici-marcheaza-160-de-ani-de-la-dezrobirea-romilor-printr-o-placa-comemorativa.html>

⁷³⁵ Alston, P. and R. Goodman (2013), *International Human Rights*, Oxford University Press, pp. 1406-1425.

model). The need for tailor-made TRC approaches has been underlined by the United Nations Human Rights Office of the High Commissioner (OHCHR), pointed out in its *“Rule of Law Tools for Post-Conflict States: Truth Commissions”*, which emphasised the uniqueness of every TRC and their foundations in concrete regional contexts. The OHCHR additionally underlined that

While many technical and operational best practices from other commissions' experiences may usefully be incorporated, no one set truth commission model should be imported from elsewhere. This is true of the design of the commission's mandate as well as in specific operational aspects. Many key decisions should be based on local circumstance. This approach is likely to result in a stronger commission and enhance a sense of national ownership.⁷³⁶

4.4.1. What is the legal and moral basis of a TRC?

The first challenge relates to the moral and legal basis of a TRC. Should justice be sought outside of the normal justice system? Is there a 'right to truth' as such that could serve as foundation for TRC processes? Is there a right to know? Who is entitled to know the past? How to balance the right to know the past, especially in cases of gross violations of human rights with the respect for privacy and dignity of the victims? What purposes does it serve to establish a TRC? The answers to these questions are at the core of reconciliation and offer legitimacy to any TRC. Section 4.1.2 above has elaborated on these questions and provided some answers as regards the place of a 'right to truth' in the international and EU fundamental rights system.

The OHCHR has underlined that TRCs “can help a society understand and acknowledge a contested or denied history, and in doing so bring the voices and stories of victims, often hidden from public view, to the public at large.” As a condition, a TRC should enjoy a large support from all political spectrum and from the. This can be achieved through dialogue with different groups from society. TRC work should be presented as a benefit for the whole society. Political will is crucial for the implementation of the TRC's recommendations and decisions. This was also indicated in both the Strategic Visioning Exercise and discussion with civil society representatives. The latter were particularly cautious, not so much about the recognition, but on demands for justice and reparations as it could sometimes back-fire on Roma constituencies. What do you do in situations where anti-Roma rhetoric is spread by high-ranking politicians?

- **Mandate of the TRC**

The second major challenge regards the mandate of the TRC. Issues here relate to the investigation period, the specific aspects that a TRC could look into, and, most importantly, what kind of decisions and measures it could adopt and/or recommend. The TRC mandate is connected with the principles on which it operates. Providing clear definitions of reconciliation and reparation and the set of principles on which they are based would facilitate the establishment of a TRC, its work and overall feasibility.

- **Composition**

The third major challenge is the composition of the TRC. In all countries where TRC processes took place, the composition of the TRC was challenged by opponents, but also by some supporters of the process. Should it be a broader group – like in South Africa or just a few commissioners – like in Canada? TRC membership is first and foremost an issue of moral authority and reputation. It should also rigorously ensure its independence and impartiality. A TRC should include representatives of those that were oppressed in the past but also other groups from society – judges, bishops, academics and well known public figures. The appointment of its members should be done *in consultation with* those groups interested in the process. A particular role should be envisaged here for civil society Roma representatives. Furthermore, any TRC work should be supported by a Group of Antigypsyism Academic Experts providing a deeper and qualitative (context-specific) research into historical, political and societal factors and effects, such as those related to 'institutional racism, discrimination and xenophobia'. Its workings should be as transparent and independent as possible.

⁷³⁶ Office of the High Commissioner for Human Rights (OHCHR) (2006) *Rule of Law Tools for Post-Conflict States: Truth Commissions*, United Nations, Geneva and New York, 2006, p. 5 – 6.

4.4.2. What kind of reconciliation?

The right to know the past seems less disputable. The challenge is the definition of victim and the reparations they are entitled to. Who is a victim and a perpetrator are key issues in TRC processes. While victims could be individuals or entire communities, one of the criticisms faced by a TRC is that it takes an individual approach to the oppression and ignores the role of structures in oppressing people and inflicting harm. While it is hard to compensate victims for past suffering, the TRC process should aim to establish direct compensations for those that suffered injustices. For example, if Roma women who suffered forced sterilisations are still alive or those who experienced sufferings in concentration camps, gulags, etc.

It is desirable that compensation is commensurate with the damages, not only symbolic, such as establishing a museum or, as happened in Germany, a Documentation Centre that is run by Central Council for German Roma and Sinti. They can not only take the form of individual grants for victims and survivors, including for their dependents, but also symbolic reparations (clearing of criminal records, issuing death certificates, assistance in accessing services to obtain a decent living standard, etc.). In numerous cases, reparation should include resolving outstanding legal issues related to violations.

Reparations for the community and for the society should be indeed an integral part of TRC processes: renaming of streets, memorials/monuments, commemoration ceremonies, a day of remembrance, etc. Community rehabilitation should include specific programmes in education, health, housing, access to justice, employment developed at community level to serve the members of the community, educational grants awarded to children to attend schools or support for the development of infrastructure at community level. That notwithstanding, as the OHCHR has rightly acknowledged that: “When considering and designing a truth commission care should be taken not to raise undue and unfair expectations among the victims that they, or the country as a whole, will or should feel quickly “reconciled” as a result of knowing the truth about unspeakable past atrocities—or, in some cases, receiving official acknowledgement of a truth that they already knew.”

4.4.3. What kind of impacts and follow up for a TRC?

The fifth major challenge is outreach and the impact of reconciliation. One of the criticisms of TRCs is that the process will not achieve a better society in the future as it only looks into the past. Inquiries into the past might not lead to forgiveness and sometimes a suggested alternative is to forget the past. In cases when lustration is at stake, the option of forgetting the past has a specific relevance supported by those interested in maintaining privileges. However, speakers with experience of the South African and Canadian situations underlined the positive relevance of their investigative and fact-finding role and that they brought to light (for instance through the organisation of public hearings) key factual records of historical wrongdoings. They also indicated that there was a ‘common narrative’ constructed and a new level of mutual trust achieved.

Nevertheless, during the elaboration of this study the Roma civil society representatives consulted remained somewhat cautious, asking who is measuring the impacts and how? While there was a consensus that mutual trust should be among the aims of any commission tackling antigypsyism it was also highlighted that it is an underlying condition for starting such a process. This may explain why the experiences in Sweden, for example, were *prima facie* more positive and successful than those in Romania. The civil society representatives were cautious about making it into a benchmarking exercise, where governments would undertake such exercises without serious commitment.

TRC processes are not perfect and reconciliation is debatable, especially if it involves amnesty for certain category of perpetrators. However, TRCs challenge the legacy of past injustices and reframe the narrative for future generations with a large and thorough documentation, and directly influence public memory and remembrance of past injustices.

Following the analysis of truth and reconciliation mechanisms in different countries, including the above case studies, as well as based on discussion with leading experts in the field of transitional justice. The following options were identified during the Strategic Visioning Exercise:

- Option 1: European Parliament inquiry on antigypsyism.
- Option 2: European Commission convoking a High Level Working Group of Experts on antigypsyism.

- Option 3: European Economic and Social Committee inquiry into antigypsyism
- Option 4: Member State driven process (of 'willing Member States') with financial and institutional support from the EU (see further discussion also in Chapter 5)

4.5. Perceptions among stakeholders: feasibility and challenges

The present section analyses seven country reports – Bulgaria, France, Hungary, Italy, Romania, Slovakia and Spain – on the feasibility of a TRC, which were produced by a set of external experts working with CEPS.⁷³⁷ These reports are the result of several interviews conducted with the main stakeholders at national level, such as Roma or pro-Roma civil society organisations and national authorities,⁷³⁸ in order to shed light on the main challenges and opportunities for a TRC in each country.

According to the general perception of the interviewees from civil society and national authorities, although setting up a TRC would in theory be positive for the Roma, it seems there is little prospect that such commissions would be feasible or effective at the national and European level, if past experiences and the current political and societal climate are taken into account. The three key points evoked by the majority of respondents are the lack of political will and public support, and the low probability of a meaningful impact in society or even negative effects for the current situation of the Roma in Europe. The opinions of the two groups, national authorities and civil society, did not present a specific pattern, thus positive and negative views were seen on both sides.

4.5.1. Challenge: political will and public support to set up a TRC

Among the different factors that contribute to this sceptical view on setting up a TRC, there are two key points: the lack of political will and public support. In the case of Bulgaria, the interviewees had divergent opinions. However, the national authority in the area of Roma Integration expressed concerns over the possibility that a TRC could actually have the opposite result from the expected, due to rooted racism and antigypsyism manifested in society and in the rhetoric of high-level public officials.⁷³⁹ As the Roma in Bulgaria are not victims of the Holocaust,⁷⁴⁰ a commission on their behalf would be seen as a form of privilege to this group and could even increase hatred against them.⁷⁴¹ Consequently, there is no political will to address the problem of these communities, even though they are a big part of the Bulgarian population that has long suffered injustices.⁷⁴²

A similar context can be found in Spain, where racism and antigypsyism are normalised and accepted in society, according to the statement of a national authority in the area of Rule of law, justice and equality. Moreover, all three respondents⁷⁴³ agree that it seems unrealistic to think that a TRC for Roma would have enough public and governmental support as this population was not a victim from human rights violations in the Holocaust or the civil war period in Spain. Secondly, there is the strong belief within society that Roma segregation is driven by economic and cultural logics without openly recognising its root in structural racism. Finally, according to the interviewees from the CSO, although the process of memory and reconciliation of the Civil War period (1936-39) in Spain has achieved good visibility, it is currently not having the expected results. Thus, one of the civil society respondents is sceptical about the idea of adding the Roma question into the process. However, the national authority in the area of equality has expressed a divergent opinion in that respect.

⁷³⁷ Adrienn Kovacs, Alexandra Hoszu, Ismael Cortes, Savelina Danova, Iulius Rostas, Silvia Cittadini and William Bila.

⁷³⁸ In order to preserve the anonymity of the interviewees, the national authorities are classified according to their field of work. Thus, they are from the area of Roma integration; Historical Remembrance; Human Rights; Housing; Foreign Affairs; and Rule of Law, justice and equality.

⁷³⁹ There has been a "wave of Antigypsyism as defined by the Committee on Legal Affairs and Human Rights of the Council of Europe Parliamentary Assembly (PACE) which has been manifested in anti-Roma rhetoric, including hate speech by high level public officials, racially-motivated attacks on Roma by the Media, anti-Roma riots, and forced evictions conducted under public pressure. In Danova, Savelina (2018), "Country Note Bulgaria" as part of The study "Scaling up Roma Integration strategies".

⁷⁴⁰ Interviewee from a national authority in the area of Roma Integration, 18th September 2018, Sofia.

⁷⁴¹ Interviewee from a Roma NGO (22nd September 2018, Sofia) and from a national authority in the area of Roma Integration (18th September 2018, Sofia) share similar views.

⁷⁴² Interviewee from a pro-Roma NGO the 1st October 2018 in Sofia.

⁷⁴³ Two interviewees are national authorities in the area of 'Roma Integration', and of 'Rule of Law, justice and equality', as well as one respondent from a CSO in the area of Historical Remembrance.

In France, the Roma NGOs and government officials interviewed agree that the main problem would also be the lack of political will. While the latter sees this resistance as a result of a politicised and controversial topic, the former attributes it to the fact that state crimes and prejudice against this population are still ongoing.⁷⁴⁴ Thus, it would be difficult to imagine any interest of the State in setting up a TRC and finally being held accountable. Moreover, Roma NGOs showed concern that when looking into the past, there might be a loss of focus on the current problems faced by Roma communities.

The same challenges can be found in the report on Hungary. According to a government official, one of the main challenges would be social resistance to the creation of a TRC for Roma.⁷⁴⁵ Past experiences with projects focused on shaping public opinion did not have impressive results.⁷⁴⁶ Prejudice and discrimination against Roma are widespread in society and institutions. Moreover, a representative from a historical remembrance CSO was sceptical that there would be any political will to set up a TRC at national level, if the worrying trend of governmental hate speech as well as racist and xenophobic attitudes are taken into account. The State position regarding these communities can be easily understood when looking into the case of the infringement procedure launched by the European Commission against Hungary for Roma School segregation in 2016.⁷⁴⁷

Even though national authorities and civil society actors⁷⁴⁸ have shown more optimism about setting up an Italian TRC, the abovementioned problems can be found in the country. The holders of such opinions believe that there could be a potential “positive evolution of what has been done so far in the field of Roma Holocaust Remembrance and a possible answer to the recent rise of antigypsyism”.⁷⁴⁹ However, two respondents⁷⁵⁰ raised doubts regarding the feasibility and effectiveness of a new body that does not have the proper authority or resources for bringing about a real impact.

4.5.2. Challenge: meaningful impact

In the reports on Italy, Hungary and Romania, one of the key challenges stressed by the interviewees was to attain a meaningful impact in society and governmental attitudes towards Roma as the result of a TRC. As mentioned above, the Hungarian authorities interviewed believe that it would not be enough to have a new Commission with enough authority to monitor and call out high level officials.⁷⁵¹ This is due to the fact that with the rule of law compromised, the government could and would simply ignore the Commission’s recommendations. Consequently, it is unlikely that a TRC will be able to have a meaningful impact on the recognition and reconciliation of Roma with the rest of the country if there is no robust effort to bring awareness and visibility to the process as well as to enforce the rule of law.

In the Italian case, another important risk that must be considered is a process that has no meaningful impact or that backfires and ends up hindering future initiatives in the area. The pro-Roma organisation raised doubts on the potential impact of this initiative and whether it would really affect daily life of Roma living in conditions of marginalisation. Moreover, the national authority in the area of Roma Integration considers historical knowledge

⁷⁴⁴ Pro-Roma NGOs also withheld opinions as they felt this is the place of speech for those directly concerned.

⁷⁴⁵ National authority in the area of Rule of law, Justice and Equality.

⁷⁴⁶ “Campaigns such as the ‘Roma Heroes of 1956’ or the ‘No Hate Speech Movement’ could be part of those attitude changing initiative towards Roma, however, they would have to be organized more frequently, and for the later to be more focused on changing the existing stereotypes towards Roma.” In the country report of Hungary realised by Iulius Rostas and Adrienn Kovacs for the present study. Sources Tempus Közalapítvány (2018), “No Hate Speech Movement - Young People Against Hate Speech”, (<https://tka.hu/palyazatok/8973/no-hate-speech-movement-young-people-against-hate-speech>); and Roma Civil Monitor, “Civil Society Monitoring Report on Implementation of the National Roma Integration Strategies in Hungary,” 45.

⁷⁴⁷ In the country report of Hungary realised by Iulius Rostas and Adrienn Kovacs for the present study. Sources Daily News Hungary (2016), “EC Launches Infringement Procedure against Hungary over Segregation of Roma Children in Schools”, *Daily News Hungary* (blog), May 26.

⁷⁴⁸ Not all institutions interviewed expressed their opinion on this subject, arguing that it is not in their competences. Those who intervened on this matter and expressed generally positive opinions are: national authority in the area of Historical Remembrance, 19 September 2018, Roma CSO, 29 September 2018, national authority in the area of Rule of Law, justice and equality, 2 October 2018, national authority in the area of Rule of Law, justice and equality, 23 September 2018.

⁷⁴⁹ Country report on Italy.

⁷⁵⁰ Concerns on this regard have been expressed especially by Roma CSO, 29 September 2018 (via skype), national authority in the area of Rule of Law, justice and equality, 23 September 2018 (Rome, Italy).

⁷⁵¹ Hungarian authority in the area of Rule of Law, justice and equality.

of these events insufficient.⁷⁵² In order to avoid such risks, the state official interviewed recommended that the commission should not be a new structure. Moreover, in spite of being an independent body from the state with the necessary authority and means to enforce change, it still needs to have the support from an impartial and authoritative state institution.⁷⁵³

Referring to past experiences, the interviewees from Romania stressed that the main challenge in the country is to be able to have a real impact on society and government action through a TRC. In 2003, the president of the period established an International Commission for studying the Holocaust in Romania.⁷⁵⁴ The final report that recognised state responsibility for crimes against Roma in this period (e.g. deportation, ethnic cleansing policy, Holocaust) was publicly presented and assumed by the Presidency at that time. Moreover, some of the individuals responsible for the Holocaust in Romania were judged for war crimes after the Second World War.⁷⁵⁵ Moreover, in 2007 the Government of Romania adopted a decree setting up a Commission for the study of Roma Slavery in Romania aiming to study the slavery and to develop recommendations for promoting historical information in schools.⁷⁵⁶

Unfortunately, results were minimal due to weak monitoring and follow-up of the attempts to bring awareness to the crimes committed against the Roma over the years. According to a survey from 2015, people are still poorly informed with respect to the Romanian Holocaust and the general perception is highly favourable to Ion Antonescu⁷⁵⁷ – Romania's wartime leader, who was convicted and executed for war crimes after the Second World War.⁷⁵⁸ In this context, the state representatives interviewed were sceptical that a new TRC would have any usefulness or effectiveness. In their view, it would be more productive to empower the existing body, the National Council for Combatting Discrimination, with greater resources and competencies in order to have a wider impact.

4.5.3. Policy choice: national vs. European level. Other challenges and opportunities

- **Romania**

In Romania, the representative of the Roma civil society organisation still believes that a TRC at national level is still needed in the country despite failed experiences in the past. The same interviewee considers that the national level would be the most suitable, at least as a first step. In this way, it could deal with the specificities of Roma people in the country, gather different stakeholders and establish a proper space to debate sensitive subjects of their own history, such as the Roma Slavery and the Holocaust. In order to have a reconciliation with the past as well as to bring support and visibility to the process, the respondent highlighted that the Commission should be initiated by the Romanian President. Moreover, the representative of the Roma CSO explained that the best way to proceed with a TRC would be in a more conciliatory rather than conflictual way towards the rest of society.

- **Bulgaria**

The interviewees, both from the state and civil society in Bulgaria, were less optimistic regarding the acceptance of a TRC by society and the political sphere. However, one of the national authorities⁷⁵⁹ believes that with the current momentum in the fight against other types of prejudice such as antisemitism, there could be an opening

⁷⁵² Interviews with Pro-Roma CSO, 22 of September 2018 (Rome, Italy), national authority in the area of Roma Integration, 23 September 2018 (Rome, Italy)

⁷⁵³ Italian authority in the area of Rule of Law, justice and equality.

⁷⁵⁴ Excerpt extracted from Hoszu, Alexandra (2018), Country Report – Romania, as part of the present study. Based on International Commission on the Holocaust in Romania (2004), Final Report, (http://www.inshr-ew.ro/ro/files/Raport%20Final/Final_Report.pdf).

⁷⁵⁵ Ibid.

⁷⁵⁶ Hoszu, Alexandra (2018), Country Report – Romania.

⁷⁵⁷ "34 % of the population believed the Holocaust took place in Romania (most of them believe it was only in Germany) while 25 % of them know there is a National Day for Commemorating Holocaust in Romania. When describing Ion Antonescu (the main responsible for Holocaust in Romania), 54 % of the respondents said he was a patriot and 52 % that he had strategic visioning." In Hoszu, Alexandra (2018), Country Report – Romania. Data taken from Institutul Național pentru Studiarea Holocaustului din România "Elie Wiesel" (2015), Sondaj de opinie privind Holocaustul din România și percepția relațiilor interetnice, (http://www.inshr-ew.ro/ro/files/proiecte/Sondaje/Sondaj_opinie-INSHR-ianie_2015.pdf)

⁷⁵⁸ United States Holocaust Memorial Museum, Romania: Facing its Past, (<https://www.ushmm.org/research/scholarly-presentations/symposia/holocaust-in-romania/romania-facing-its-past>).

⁷⁵⁹ National authority in the area of Rule of Law, justice and equality interviewed

for a TRC dedicated to the Roma. In the respondent's view, it would be logical to pursue this process when taking into account the percentage of the Roma population in the country.⁷⁶⁰

- **France**

The interviewees from France proffered many opinions on whether a Commission should take place at national or European level and its challenges. Moreover, the Roma NGO contributed to important considerations regarding several steps to be taken in the process. The majority of respondents⁷⁶¹ were sceptical with respect to just one Commission at the European level as it would overlook important specificities of each country. Consequently, they agree on the need to conduct it first at national level or at least simultaneously with the one at the European level.⁷⁶² Nevertheless, according to the Roma NGO and some of the national authorities, if the Commission were to be held at a European level, it would need to define who will be concerned by the TRC. In France there is a diversity of Roma communities as well as the *Gens du voyage*, who have complete different experiences in the country. Moreover, it is particularly important to not confuse Roma people with *Gens du voyage*. The latter are a distinct group of itinerant French citizens as defined by an administrative legal category⁷⁶³ and the injustices they endured during WWII and still today are not specific to migrant Roma.

Regarding the process itself, the pro-Roma NGO withheld opinions as they felt it was not their place to speak and preferred to let those first concerned to communicate their concerns directly. Thus, the Roma NGO firmly expressed the need to do a thorough study with guidelines for such a Commission beforehand. They reiterated the importance of being careful and respecting the speed of all the steps in order to have a Commission that can bring meaningful impact to this population.

The study should entail a historical analysis of all the crimes committed against the Roma people in France. Afterwards it should go into detail with regards to how to set up, conduct and execute the TRC. Moreover, it must frame the scope of the Commission, notably how far in history, back or forward, the Commission shall go. According to the Roma NGO, state crimes against this population are still ongoing in the country, thus the Commission must not focus only on the past in order to hold the French state accountable and obtain redress. Secondly, deciding who will be concerned has its own challenges. As mentioned above, the Commission should also be attentive to addressing the specificities of different groups, for instance Roma migrants. And then decide how to involve those concerned in the whole process (before, during and in the execution thereafter) as well as how they will avoid perpetuating a discourse of victimisation as opposed to establishing a more empowering narrative for the Roma.

- **Hungary**

The interviewees from Hungary showed divergent opinions regarding the challenges and opportunities of a TRC at the national level as mentioned above. Moreover, they proposed different alternatives for the European level. Notably, the representative of an equality body in Hungary highlighted that the main problem in setting up a TRC at national level is the lack of social acceptance. According to this person's past experience, the main challenge is to change the mentality in society. Past projects to bring awareness have failed and the current political climate would not be conducive to these ideas. In that respect, the expert in historical remembrance also added the prevalence of an understanding that antigypsyism is the root of their economic situation. Thus, the interviewee seems to see as a secondary challenge the question of whether the Commission would be a new or already existent body with an extended mandate.

In the hypothesis of establishing the Commission at national level, the representatives from civil society and the historical remembrance body agree on some elementary recommendations. Notably, the TRC should take a form completely independent from government, and should involve the participation of social-psychologists, social experts, Roma civil society members, and lawyers. Essentially, it would need to have enough authority to monitor

⁷⁶⁰ "On 17 October 2017, Bulgarian government adopted the working definition of antisemitism of the International Holocaust Remembrance Alliance (IHRA) and appointed a National Coordinator for Combatting Antisemitism." In the Bulgaria's report.

⁷⁶¹ National authority in the area of Human Rights, Housing, Foreign Affairs and representatives of Roma, Pro-Roma, Rroma and *Gens du Voyage* civil society organisation.

⁷⁶² Country Report on France.

⁷⁶³ William Bila (2018), Expert country note – France.

and call out high-ranking politicians in order to have any relevance. However, the respondent from the historical remembrance body is still very sceptical that the Hungarian government would follow any final recommendations or sanctions decided by the Commission.

The official from the equality body and the expert from the historical remembrance body pointed out that a Commission at the EU level would not be the most appropriate solution as it would have to treat Roma as a homogeneous community and ignore country differences. Thus, the interviewee suggested defining minimum standards for Roma protection at the EU level, although they recognised that there would be a lot of resistance from some politicians. Another alternative proposed this time by the representative of the historical remembrance body was for the European parties to create an ethical code against hate speech to be followed by themselves.

- **Spain**

In Spain, the historical remembrance NGO and the national authority from an equality body have agreed that one of the possible strategies is to extend the current work that is being done on the Spanish Civil War (1936-39) and to include the investigation of cases of Roma victims of Francoism, either during the war or during the dictatorship. Moreover, the national authority also added the possibility of creating a new DG for Historical Memory under the Ministry of Justice or an agency against any type of discrimination that could also dedicate its work to studying historical injustices. Finally, a state official of a Roma integration body believed that a TRC at EU level would oblige the country to adopt it sooner or later. Secondly, the support for a TRC should not come just from the EU level but also from the UN and Council of Europe.

Finally, the interviewee from the NGO dedicated to equality and non-discrimination proposed how a hypothetical TRC on antigypsyism should be composed and function. It should have three main functions: 1. Mass sensitisation about the roots of anti-Roma stereotypes; 2. Legislation to combat discrimination against Roma as a very specific type of racist discrimination; 3. Education for public servants – a good pedagogical team to design a variety of manual guides on antigypsyism for future teachers, judges, prosecutors, policemen, social workers and any other relevant kind of public servant that can play a critical role in the reproduction of antigypsyism attitudes and practices. In addition, it would require the support of politicians from all political parties, in order to create the political will and awareness to fight against antigypsyism within their own parties. Therefore, the Commission would be composed of respected professionals in all of these areas, politicians as well as people from the Roma and pro-Roma NGOs.⁷⁶⁴

- **Italy**

In Italy, both national authorities and civil society organisations consider that the creation of a National TRC is potentially a positive evolution of what has been achieved so far in the field of Roma Holocaust remembrance and a possible answer to the recent rise of antigypsyism.⁷⁶⁵ In order to achieve the expected results from the Commission, some of the interviewees⁷⁶⁶ believe that it needs to be an independent body from the government, at the same time enjoying the support of an authoritative and impartial institution so as to exercise some authority.⁷⁶⁷ Another alternative proposed would entail the inclusion of such an initiative within an independent institution addressing discrimination and protection of human rights in general, which as yet does not exist in Italy.⁷⁶⁸

⁷⁶⁴ Interviewee on Equality and non-discrimination NGO. From Spain Report.

⁷⁶⁵ Report on Italy.

⁷⁶⁶ Interviews with national authority in the area of Historical Remembrance, 19 September 2018, Pro-Roma CSO, 22 of September 2018, national authority in the area of Roma Integration, 23 September 2018, Roma CSO, 29 September 2018.

⁷⁶⁷ Interviews with national authority in the area of Rule of Law, justice and equality, 23 September 2018, Pro-Roma CSO, 22 of September 2018.

⁷⁶⁸ Interviews with national authority in the area of Historical Remembrance, 19 September 2018, Pro-Roma CSO, 22 of September 2018.

At the European level, the creation of a TRC is seen as a potential support to the development of such processes at the national level.⁷⁶⁹ However, a Commission established at the EU level could turn into an ineffective body intended simply to organise conferences and meetings that do not have an impact at the national and local level. Thus, the role of the EU should be to provide political and financial support to initiatives in the field, such as to studies and national commissions.⁷⁷⁰

⁷⁶⁹ National authority in the area of Roma Integration and national authority in the area of Rule of Law, justice and equality, 23 September 2018. Other similar opinions have been expressed by national authority in the area of Historical Remembrance, 19 September 2018, national authority in the area of Rule of Law, justice and equality, 23 September 2018.

⁷⁷⁰ National authority in the area of Rule of Law, justice and equality, 23 September 2018. Other similar opinion have been expressed by national authority in the area of Historical Remembrance, 19 September 2018, national authority in the area of Rule of Law, justice and equality, 23 September 2018.

5. CONCLUSIONS, RECOMMENDATIONS AND POLICY OPTIONS

This chapter briefly summarises the conclusions emerging from each of the chapters and subsequently provides some policy recommendations as well as setting out policy options for EU Truth and Reconciliation Mechanisms.

5.1. Conclusions

- **EU Framework for NRIS became a victim of its own approach**

The study concludes that **the EU Framework for NRIS was a 'soft' policy instrument** that merely shifted the responsibility and attention to Roma. After some failures it was Roma who were blamed for their lack of integration, and not the structural discrimination mechanisms that prevent Roma from accessing and enjoying their rights to education, employment, health and housing without discrimination. However, **the phenomenon of antigypsyism and in particular institutional forms of discrimination of Roma were left unchallenged by the EU Framework for NRIS**. Such a limited approach has not captured institutional, systemic and historically rooted antigypsyism as a specific form of racism. Therefore, the socio-economic approach, despite the efforts, policy tools and funding directed to integrating Roma had very little positive impact on housing and employment, education and health. There are many gaps in the EU Framework for NRIS. For example, the lack of tools to address institutionalised forms of antigypsyism – the very reason why mainstream education, housing, health and employment policies are not serving Roma in the same way they serve non-Roma. Also, the very limited Roma participation in the design, implementation and monitoring of the strategies at both EU and national level. Practical challenges included unclear allocation of resources and finally the confusing definition of the target group – as some groups targeted by antigypsyism do not consider themselves as 'Roma', for example *Gens du Voyage* in France, and also whether the Roma 'national minority' is targeted or only marginalised communities, whether only nationals or also Roma mobile EU citizens and third-country nationals are included in the scope of the measures.

- **Formal compliance with the EU Framework for NRIS has not led to changes on the ground in addressing antigypsyism**

The EU Framework for NRIS obliged each of EU Member State to draft their own NRIS. While all countries complied, **it has not led to the anticipated changes for Roma across Europe**. All in all, there were some positive developments, in particular, in the area of education and health, but overall the circumstances for Roma are overshadowed by the aggravated situation of antigypsyism and institutional discrimination across Member States. Institutional forms of discrimination can block meaningful intentions and efforts to advance the integration of Roma: For example, some Member States were unwilling or unable to use allocated EU funds for Roma Integration. In other Member States, Roma communities were targeted by xenophobic rhetoric from high-ranking politicians.

Remaining challenges across the various fields and countries of the EU include the **lack of political will at a national and/or local level to combat antigypsyism**. In many countries, segregation in education and housing, with forced evictions and sub-standard living conditions, persists due to public policy choices. This flouts the state's obligations under international human rights law. Most Member States tend to disregard observations and recommendations of international monitoring bodies, and some countries fail to implement decisions of the European Court of Human Rights. Therefore, the EU Framework for **NRIS should be embedded in a broader Rule of Law, Democracy and Fundamental Rights context**.

The NRIS monitoring at the EU level should take into account and should promote correct implementation of international human rights law obligations, and the alignment of laws and policies, as well as implementation of relevant decisions by the ECtHR. The mid-term review confirmed that there was lack of evaluation on an ongoing basis of the results achieved by the implementation of NRIS in EU Member States. In addition, there is a lack of monitoring and evaluation of concrete barriers that prevent general or horizontal public policies from serving Roma communities.

- **The success of NRIS also depends on careful implementation in the national context, where there may be conflicting attitudes to whether antigypsyism is acknowledged and addressed as a matter for horizontal policies.**

This study confirms that in countries where there is **lack of recognition and understanding of antigypsyism** among officials (Bulgaria, Hungary, Italy, Slovakia, Romania), there is less effort to counter antigypsyism. These countries are also the least advanced on issues in the area of housing, with continued forced evictions of Roma EU citizens (France also belongs in this category), inability for Roma from the Balkans to seek asylum, and continued segregation in education. However, Spain stands out as an example for **improving treatment of national Roma communities, Roma EU citizens and Roma third country nationals**. In France, a major difference was revealed between the national Roma community – *Gens du Voyage*, who do not consider themselves as Roma – and Roma mobile EU citizens, who, although targeted by various policy measures, are more often subject to being mistreated and discriminated against as Roma non-citizens by national policies on migration. In addition, the treatment of ‘others’ has direct impacts on Roma, worsening the situation of Roma due to increasing xenophobic attitudes towards refugees and other migrants.

The interviews conducted for the purpose of this study with stakeholders at the national level confirm that despite the efforts of National Roma Contact Points, Equality Bodies and Civil Society, **institutional, societal and behavioural barriers for Roma integration remain high**. Roma integration is seen as an issue of concern of these bodies rather than a horizontal priority that engages the mechanisms and resources of various other institutions. This approach results in a failure to address the core problems of Roma integration. For example, in urban planning this results in spatial segregation, and lack of land ownership ends up in forced evictions, or as an issue of justice and international reputation. This situation has been partly created by the EU Framework for NRIS that lacks a Rule of Law approach. For example, the post-2004 enlargement countries Bulgaria, Hungary, Romania and Slovakia no longer see the issue of Roma as a litmus test for the state of Rule of Law, Democracy and Fundamental Rights. This was illustrated by difficulties in contacting and interviewing Foreign Ministries (apart from Spain and France) as they are tasked with representing their country within regional and international Human Rights Bodies and other informal venues, such as the Friends of the Rule of Law.

- **The EU level process is needed to enhance mutual trust between Roma and non-Roma. Such process could draw on the transitional justice approaches to acknowledge the past injustices and to address the ongoing be embedded in the Rule of Law approach.**

In light of the EU’s commitment to advance the Rule of Law, Democracy and Fundamental Rights, to place the current socio-economic situation of Roma not only in a current political context, but also in a broader historical perspective. This study confirms that **‘historically rooted’ injustices perpetrated by national and local authorities against Roma could be re-dressed with transitional justice-like tools** that aim to build a common narrative and build mutual trust among Roma and non-Roma. Such an approach includes three aspects: 1. Right to know the truth about what has happened to Roma communities across the EU; 2. Right to justice – processes where the victims would be heard and justice would be established; 3. Right to reparations – either individual redress for survivors or moral compensation to communities for past injustices. The Roma and pro-Roma civil society cautiously evaluated preparedness for a fully-fledged transitional justice mechanism – while there was consensus that EU could start with the right to know the truth, the right to justice and the right to reparations should be thought through so as to evaluate potential risks and challenges at the Member State level.

- **The lessons learnt from Truth and Reconciliation Commissions in Australia, Canada, South Africa as well as Sweden and Romania indicate a number of potential upsides as well as challenges, which will help in deciding the options for the EU. The most important is to ensure ownership of the process among Roma and pro-Roma organisations and to enjoy sufficient public support and/or willingness of government to follow up.**

This study shows how important it was for each of the TRCs to **carefully define the mandate and size of the commission**, its selection procedures, to manage the expectations among the survivors, and to avoid mistrust among the general population and politicisation or abuse of the process by political parties or figures. The

international processes indicate the conditions for 'success': political will and public support, also among those whose rights are at stake. The closer look at the Swedish Commission on Antiziganism and Norwegian Truth and Reconciliation Commission on Tatars and Roma shows the **importance of follow-up and sustainability of such initiatives**. The process in Romania on Addressing Slavery warns that without **public support and involvement of Roma communities**, such TRC initiatives risk being treated as yet another administrative exercise by national governments and being quickly forgotten or even back-firing against Roma communities. The study also elaborates on emerging processes in Germany and Spain that may lead to the 'promising practices' that other Member States and most importantly, Roma communities themselves, would like to undertake. The national interviews revealed that apart from Spain and Italy, **national officials were by and large not ready to speak about such transitional justice-like processes**. The interviews revealed that some interviewees lacked knowledge about Roma history, while others had difficulty linking state-led injustices with transitional justice mechanisms. An interesting approach emerged in Spain, where Roma organisations are active in ensuring that Roma would not be forgotten in the current process of investigating the crimes of Franco's regime. Swedish, Spanish and German examples, as well as Canadian, South African and Australian models indicate that it is crucial that Roma communities and in particular the survivors of historical injustices feel a high degree of ownership of such processes.

5.2. Policy recommendations

- A democratic rule of law and fundamental rights approach is the *sine qua non* of effective implementation of socio-economic inclusion policies targeting Roma. Therefore, the post-2020 EU Framework for NRIS should change the approach from 'socio-economic' to **Rule of Law, Democracy and Fundamental Rights**.
- The EU should **operationalise the term 'antigypsyism'** and explicitly name it among the different grounds of discrimination and racism readily prohibited at EU level. The term and notion need to be promoted among national practitioners working with Roma communities as well as among those responsible for horizontal policies.
- The scope of the EU Framework for NRIS should be reframed as the 'EU Framework for National Roma Inclusion and Combatting Antigypsyism'. The EU Framework for NRIS in post-2020, in addition to the inclusion measures, should be better equipped in particular to address antigypsyism and other institutional and structural manifestations of **discrimination, racism and xenophobia** by local authorities, states and institutional actors.
- The European Commission should **further support Roma representatives and civil society** and ensure that they are centrally and actively engaged in the design, implementation and monitoring of NRIS.
- The existing **financial support from the EU budget should be confirmed and increased** for Roma inclusion and combatting antigypsyism, and a specific sum or percentage earmarked for marginalised Roma communities and Roma civil society that is challenging institutional forms of antigypsyism. The newly proposed Rights & Values programme in the Multiannual Financial Framework could be an appropriate vehicle for this.
- As institutional antigypsyism poses particular challenges in certain Member States, the European Commission should foresee **direct funding for Roma and pro-Roma civil society** rather than channelling it via government programmes.
- In particular, **Roma and pro-Roma organisations need to be meaningfully involved** in the monitoring committees of domestic managing authorities in Member States, so as to assure better transparency of use of EU funding instruments.
- The European Parliament should persist in calling for the establishment of an **EU Pact for Democracy, the Rule of Law and Fundamental Rights (EU DRF Pact)**, which would include setting up a new EU Rule of Law mechanism. The first worrying signs of institutional antigypsyism could be better captured and addressed

via such an EU Rule of Law mechanism. This would demonstrate EU added value in ensuring more thorough and comprehensive monitoring of international and regional standards

- The EU should make more efforts to **ensure that EU Member States comply** more effectively with their obligations under the Treaties when it comes to both antigypsyism and Roma minority protection. In this regard, Roma civil society and communities must also be made aware in detail of their rights under EU and national laws and their avenues for redress. If they do not know and understand their rights, they cannot enforce them.
- Past injustices towards Roma should be addressed via **transitional justice-like mechanisms** taking into account numerous factors, such as support from the Roma community and public support and/or government willingness. The European Parliament, European Commission and the European Economic and Social Committee should explore potential venues for the TRC on antigypsyism (see chapter 5.3. below for more discussion).
- The Roma Summit could further discuss how existing bodies, networks and mechanisms could play a fuller role in reclaiming the right to know the truth for what has happened with Roma communities across the EU, starting with **Roma Holocaust remembrance** and ending with the commissions tasked to build mutual trust between Roma and Non-Roma.
- It is essential **to develop programmes and tools that sensitise and educate all levels** of the population with regard to recognising and combatting antigypsyism, including the past and present discrimination of the Roma communities across the EU. The Roma history must be taught in all schools and researched at universities. The facts should be publicised via the media and represented in all relevant museums.

5.3. Truth and Reconciliation – what policy options for the EU?

This study puts forward below four main policy options regarding Truth and Reconciliation at the Union level. **These options are not mutually exclusive and could be implemented in sequence.** Roma and pro-Roma organisations have shown consensus regarding recognition and remembrance or the right to know the truth of past injustices as well as Roma contributions to European culture, arts and society. The recognition and remembrance aspect could be an exercise that could be scaled up at the EU level, for example through a European Parliament inquiry into this question. Nevertheless, civil society was split over the balance between the potential upsides and risks that going for the fully fledged TRC could entail. The view emerged that EU Member States, where Roma civil society and governments are ready to start this societal process, should go ahead, while the rest could learn from the exercise and engage in preparatory work, also with the help of EU funding and existing structures. The preparatory work should be oriented to both Roma and non-Roma. Roma civil society and pro-Roma civil society need to be strengthened and actively engaged in bringing together Roma communities, learning from them and also raising awareness of their history and rights. This entails improving compliance with EU values within Member States. The transitional justice-like processes should be engaging all sectors of society, business, academic, professional and civil society, not just the government.

- **Option 1 - The European Parliament Inquiry:** matches the European Parliament's mandate and rules of procedure, which suit a model for truth and reconciliation mechanisms based on hearings, testimonies, and research. An independent expert group could be set up to conduct the inquiry in a secure environment. This option requires support from the main political groups in the European Parliament and most probably, the group will have to be set up after the next elections. It would appropriate and indicate the political salience and seriousness that the EP accords the issue of antigypsyism and the need to building mutual trust between Roma and non-Roma.
- **Option 2 -The European Commission's High Level Working Group of Experts on Combatting Antigypsyism:** is consistent with the measures adopted by the European Commission on promoting Roma inclusion and an inquiry into antigypsyism might be proposed based on lessons learnt during the

implementation of the EU Framework for NRIS. As in other TRC processes questions would be raised concerning the composition of the expert group, their qualifications and the mandate of the working group to produce a meaningful and effective inquiry.

- **Option 3 - The EESC Inquiry/ Permanent Study Group on Antigypsyism:** consists of an inquiry led by the European Economic and Social Committee, the consultative European Union institution representing social partners – trade unions, employers, associations and civil society. Antigypsyism fits the mandate of the EESC and falls into several of its policy areas. A permanent study group on antigypsyism could be set up, which would have a non-binding role. The challenges regarding membership and mandate of the group will remain, in addition to doubts about the capacity of the EESC, given its non-binding opinion role in the EU system, to mobilise the political will of the EU institutions to consider and follow up its recommendations.
- **Option 4 Member State led process with EU institutional support:** leaves the process open to the discretion of well-intentioned Member States. While there is a need to provide a national context, in addition to the pan-European one – to historical patterns of racism and exclusion of Roma, the current political climate might negatively influence adherence by Member States, especially those with significant Roma populations, to an initiative that will bring the negative historical experiences of Roma to public attention.

All the suggested options should involve a committee of experts including representatives of the Roma communities and, in particular, of the survivors, whenever possible. It would be crucial that the group of experts be assisted by an adequately resourced and efficient investigative department. The process should address in parallel each of the affected Member States and not only exist in Brussels. It is crucial that Roma communities are made aware of the benefits and risks with regard to the various options and that expectations should not be raised to a level that cannot reasonably be achieved. The Strategic Visioning Exercise and Roma civil society focus group discussions have showed more support for the Option 1 and Option 4 (see Annex 1 and Annex 2). As regards the Option 1, Roma Civil Society saw potential of **the European Parliament Inquiry to deliver on the right to know the truth, whereas the right to justice and the right to reparations could be achieved via transitional justice-like processes at the Member State level.**

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Annex 1. Summary of the Strategic Visioning Exercise

Feasibility of European Truth and Reconciliation Commissions on antigypsyism

Strategic Visioning Exercise, 6 November 2018.⁷⁷¹

Richard Goldstone, former Justice of the Constitutional Court of South Africa:

- **The mandate of the Truth and Reconciliation Commission in South Africa:**
 - The Commission was established by the Parliament in 1995, approximately one year after Nelson Mandela became the first democratically elected president of South Africa. It was set up to investigate Human Rights abuses committed between 1960 and 1990. It included the circumstances, factors, and context of such violations, giving the victims the opportunity to tell their story, granting amnesty in return for full confession, constructing an impartial and historical record of the past violations, and reparation policy.
 - Finally, the TRC was to provide a final report with comprehensive accounts of the activities and findings of the Commission's recommendations and measures to prevent future violations of Human Rights.
- **The composition.** It was composed of 17 people selected by Mandela on the advice of his cabinet and after a national nomination process. Anybody could be nominated and they were publicly interviewed by a panel composed of representatives of political parties, civil society and religious bodies in the country. The final nominees were selected from different racial, political and linguistic groups.
- **Conflict of interest.** There was only one conflict of interest concerning a member of the TRC, one of the most important members of the commission, the head of the investigation department of the TRC. Some of the records showed that he had supplied the guns to the murderers of white people attending a church service in Cape Town. The allegations were subsequently proven to be without foundation. There were no other cases of conflict of interest probably owing to the transparent method of selection of the members the commission.
- **Follow-up.** This was the weakest part of the TRC. The **reparations** were implemented very slowly by the government. Mandela's new government was not responsible for the violations and were facing widespread demands to boost the black areas that had been impoverished during the apartheid era - this included the provision of adequate health and education facilities.
- **Key challenge.** There was a **lack of political** will to implement recommendations and to bring to court and prosecute some of the perpetrators. Very few perpetrators were actually prosecuted.
- **Value of TRC.** The TRC produced **a single history of what happened in the apartheid era**, the black victims had their experiences heard and it also forced the white population to recognise the history of past injustices. This single history had a bigger impact on the white population because it forced them to listen and watch to the evidence of such violations. The outcome helped to justify **affirmative action** in the country in the post-apartheid period.
- **Lessons learnt – the key conditions or ingredients for any TRC:**
 1. Political will (on the part of the government);
 2. Public support from the victims.
- **Connection to Roma:**
 1. Importance of consultation and support of Roma people;
 2. The lack of political will of the governments of the countries where they are suffering.

Dr. Ms Marie Wilson, Commissioner, Truth and Reconciliation Commission of Canada, 2009-2015:

- **The mandate of the TRC in Canada.** The Commission was set up, not through political process (normal process), but as a **court ordered obligation**. There are approx. 80 000 living survivors of forced

⁷⁷¹ The summary of the discussion includes the names and affiliations of the speakers who are acting as advisory board members for this study. The invited discussants were anonymised, unless they have expressly agreed to use their name and affiliation when approving this summary.

residential schooling in Canada. For over 150 years, Indigenous children were taken from their families to attend schools away from their lands and cultures. The Canadian government contracted national churches to run these residential schools. Conditions were harsh. Abuses were widespread and unchecked. Early this century, adult Survivors took the government and churches to court. The court, as one of the terms of a massive "Indian Residential Schools Settlement Agreement 2005 (IRSSA)", ordered the creation of a Truth and Reconciliation Commission. It gave Survivor 'victims of harm' a public platform to tell their side of the residential school story, and created a documented record of their childhood experiences and lifelong impacts.

- There were **no reparations or compensation within the Canadian TRC itself**. Those were dealt with through other provisions of the Settlement Agreement. The mandate of the TRC was:
 1. Research, document, and record the 150-year history of forced residential schooling, including the role of the churches, as well as the legacy impact of the schools on realities today for Indigenous people in Canada.
 2. Educate the general public of Canada on the facts and consequences of the residential schools, and the past and present implications for all public institutions, and wider society.
 3. Inspire widespread, on-going reconciliation as both an individual and collective process, between victims and their families, members/staff of the churches that ran the schools, and governments, including the "people of Canada";
 4. Recommend the allocation of 20 Million dollars for commemoration projects.
 5. Establish a national research centre (National Centre for Truth and Reconciliation-NCTR) to preserve and make the findings of the TRC accessible.
 6. Deliver recommendations:

RESULT: "94 Calls to Action"

- **Selection of Commissioners.** The government was just one of several different stakeholders on the selection committee for Commissioners. First Nations, Inuit, School Survivors, Protestant and Catholic Churches and Government were all part of the Settlement Agreement. Their representatives worked together to form the selection committee. Nearly 400 applications and nominations were submitted. Final contenders were all interviewed by this committee.
- **Commission Membership.** The TRC of Canada had three Commissioners. Two were First Nations men, both lawyers and one of them a judge, from central and western Canada. The other Commissioner was a bilingual (French-English) non-Indigenous woman, a career journalist, teacher and senior executive manager from northern Canada. One was also a residential school Survivor, one the child of a Survivor, and one the spouse of a Survivor. Together, this Commissioner team reflected the official languages of Canada and much of its geographic diversity, as well as three distinct perspectives based on their respective personal experiences of the residential school legacy.
- **Practical limitations of Commission size.** Strained human capacity: Just 3 commissioners to get the job done in a huge country with Survivors throughout; diverse Indigenous languages and an officially bilingual country.
- **Issues/challenges of Commissioner selection.** Balancing representation, skills, diversity and size, to avoid large, unwieldy leadership. (Why did certain other groups not have their own voice? E.g. Inuit wanted their own voice. To solve this, the TRC created an Inuit sub-commission for specific regions/timeframes.
- Failure of first Commission. Three Commissioners lasted less than one year. The perception was that the cause was **political interference**, indicating the **importance of political independence** in such processes.
- Political independence key for TRC process; political will key for implementation of findings.
- Implementation of TRC: follow-up still on-going and slow. Specific Calls to Action (recommendations) #'s 52-56 call for the establishment of an ongoing mechanism (National Council for Reconciliation) to monitor the implementation of all the 94 recommendations, and for a public annual report on the progress on closing gaps in social wellbeing and conditions. However, this instrument is not yet up and running almost four years later, and it is a growing cause for concern.

Mr. Thomas Hammarberg, Sweden:

- Late recognition, around the late 60s, of the plight of the Roma after a long history of **structural racism**.

- Roma endured 3 to 4 decades of racism supported by the Parliament and the Government. They were treated as foreigners, not allowed to settle down in municipalities, pushed from one place to the other, prevented from going to school, etc.
- After a while there was an awakening it was limited to seeing the Roma situation as a question of **social welfare**, the question of rights came only later in 1970s. Roma people themselves started to ask for their **rights**, which made it possible later on to start the conciliation process. It was a **demand from Roma people themselves**.
- Fact-finding was the basis of the process, however it was not well-done as it **lacked Roma participation** in the design of the process of the first commission.
- **Results.** The publication of the report was criticised by the Roma because of still on-going racism against them.
- Thus, there was a need for a 2nd commission to address the situation at the time.
- The work of **2nd Commission:** a majority of **Roma people directly involved** to look at the ongoing **discrimination** of Roma people and come up with **concrete proposals** on what ought to be done.
- Commission lasted 2 years and produced a report with recommendations.
- In the 2nd Commission the media revealed that the police were registering Roma simply because they were Roma, and just in case they were suspects for having committed a crime. It was a **great scandal** that served as a **wakeup call to the population**.
- **Lessons learnt.** A two-step process: 1) **Roma participation** in all the processes; 2) need for follow-up with **concrete actions**.
- **Follow-up.** The history of Roma is presented in a way that people can understand in schools and museums. It raises awareness in mainstream society about the oppression and the need for an official apology.
- **Question/risk of the report.** Roma **did not want to be seen just as victims**. They did not want to be reported as poor people who ask for sympathy and with no capacity to do things for themselves. The Roma did not want to reproduce this public narrative.
- **Conclusions.** The need for **ombudsman** structures (there is more than one ombudsman in Sweden) to take the discrimination of Roma more seriously.
- **Public remembrance:** history included in school books.
- **Debates about Roma migration to Sweden:** the law until 1954 prohibited Roma to enter Sweden (including Roma refugees during the Holocaust).
- **Diversity of Roma:** the **diversity of Roma** groups and their different interests also needs to be considered for their representation.

Mr Bruno De Witte, Netherlands:

- **Constraints of EU in embedding a TRC in its system.** The EU does not have complete freedom to take action, as it has limited competences conferred by the EU treaties and Member States. This limitation is not only related to creating binding legislation but also to funding projects. They all have to have a basis in the treaties, and relate to a subject that falls **within the legitimate scope of EU activities**.
- Setting up a TRC by the EU requires EU funding, thus resources from the EU budget.
- It raises the question of how to fit the TRC process within the existing system of EU policies and EU powers.
- **Option A:** set-up a special programme for a TRC process with a separate budget.
 - Most feasible option.
 - Two possible avenues to justify in a **EU treaty perspective:** a measure that would support Member States to tackle **discrimination**, so the Legal basis would be Article 19 paragraph 2, which allows the EU to combat discrimination and also to support member states in doing that (including financial support); use the **Social Inclusion** perspective as the EU is also allowed to start innovative approaches to combat social exclusion and the TRC could be an innovative approach.
- **Option B:** to fit into the broadly-based **multi-annual programmes of the EU (EU budget)**
 - As it has a broad base, why not fit TRC processes within that?

- Current funding programs at EU level that would be closer to this purpose are the **Rights, Equality and Citizenship programme**, which runs until 2020. The **problem** is that part of the money has already been committed to many other projects, so there might be a constraint in the resources left. The European Commission has said that the follow up should (starting from 2021) be a more ambitious and better funded programme. It would be called **Rights and Values**, a project that would favour truth and reconciliation for the Roma. This is a prospect for the future, because it could only happen in 2021.
- Once such a programme is put in place direct relations between the EU and the beneficiaries are possible, so a **single Member State cannot block the process**. Of course, Member States have to participate, but not all need to do it, and the willing member states could not be stopped by those countries that oppose it.
- It would be important to make it a Europe-wide programme so as not to single out particular countries.
- **Minority protection** is not an accepted area for EU policy. Protecting minorities is a pre-condition for Member States to join the EU. But the EU itself does not have the legal resources for conducting its own minority protection policies. At least it should not be referred to as minority protection policies.
- The TRC or other measures to scale up the EU's Roma policy has to fit into the existing language of legitimate EU policy, which is the language of discrimination, social inclusion, regional development but not minority protection, even though that might be the objective of a particular project, because otherwise it would raise legal problems and political opposition.

Part II: Debate from present to future – a vision for a European Truth and Reconciliation Commission

Sergio Carrera, CEPS (scientific coordinator):

- Option 1: European Parliament inquiry on antigypsyism.
 - This fits into the European Parliament's mandate and rules of procedure, which allow for a model of truth and reconciliation mechanisms, so bringing testimonies, commission and research, setting up independent expert groups, into a secure environment.
- Option 2: European Commission convoking a High Level Working Group of experts on antigypsyism.
 - The questions would be who those experts would be? What would be their qualifications and the requirements of those experts to fit into something that will be meaningful and effective?
- Option 3: EESC (European Economic and Social Committee), the consultative European Union institution representing social partners – so we have trade unions, employers, associations and civil society – that would have a non-binding role. We would call for convoking a permanent study group on antigypsyism.
 - (Non-binding opinion role of EESC in the EU system)
- Option 4: Member State driven process (of 'willing Member States') with financial and institutional support from the EU.
- Consider: 'right to truth' fitting in the EU system (example: CIA process):
 - Right to truth, Human Rights and EU Charter of Fundamental Rights fits into the EU legal system. This has been explored at the Council of Europe in the context of extraordinary rendition in a CIA-led process to secret detention with the complicity of certain EU Member States. The European Human Rights Court has provided very interesting insights when it comes to the application of the human right to truth regarding investigations, accountability and wrong doings.

Iulius Rostas, CEU (co-author):

- Assumption: I start with the assumption that many Member States will not be open to such a process looking back into some dark episodes of history. We know in central and eastern Europe that states do not necessarily want to look at that but rather at national glory and heroism.
- Importance to find moral and legal basis in the EU to set up this process: is it a social, political rights or legal process issue?

- Also we should consider it as a long-term process which will set the agenda of the next 15-20 years of the debate on Roma. And we have to have a gradual approach and process at different levels: EU, national and local. Because it happened in a different context than we are right now.
- Factors: how to involve Roma and how to gain the support of important Roma actors and communities? Without that support to the process, it can be manipulated by political actors (far-right is a real danger); we need to test how far we can push for this process, also to test the field. So it is important to question how the EU Commission or Parliament will receive this proposal.

Discussant No 1. Claude Cahn, Human Rights Officer, UN Human Rights Regional Office for Europe (OHCHR ROE) representing a UN-level organisation:

- Opportunities. The European Parliament resolution of last year calls for truth and reconciliation commissions on national and European levels and we are approaching that problem because next year is a “blank year” in European terms, as there are the Parliament elections in May and a Commission will not be in place until late in the second half of the year. In discussion with civil society and European parliamentarians, the view emerged that 2019 is strategically a good year to start getting momentum at national level. We see 10 or 12 potentially promising national domains in which it would be good to start the communication and movement. We have raised it at the Council of Europe meeting, which is an intergovernmental meeting, to try to encourage the beginning of the process at the national level, because we are going to be missing 10 or 12 months while waiting for the European Union to reconstitute itself.
- Secondly, there are several important processes at the European Union level that are going forward. First of all, the current Framework for Roma inclusion strategy that is coming to an end in 2020. The UN Human Rights’ Office (OHCHR) advocates that there needs to be a follow-up programme, but we are not 100 % sure if this effort will succeed. The current Framework was very important but the work is not finished, so it seems clear that there needs to be another one after 2020. It seems that according to civil society and Member States, it would have a stronger focus in antigypsyism.
- The entire funding framework for the European Union also comes to an end very soon. The European Commission launched its proposal for regulations for the funding of the next period in May, which is still under discussion. However, according to rumours it won’t be possible for it to be adopted before the European Parliament Election. There is now a discussion: What will the European Union fund following 2020? What will the rules specify as to legitimate EU funding measures?
- There is the renewed version of the Rights, Equality and Justice Programme proposed by the European Commission, and our view on the subject is that the money is not sufficient.

It is important to raise, with European policy-makers, the important possibilities for challenging antigypsyism of truth and reconciliation processes. If possible, to specifically include support for this area in the next EU financial framework to avoid having to think too exhaustively about the treaty location.

Action should be taken now at national level, so that the ground is seeded for progress at the European level when the European institutions reconvene in late 2019. There appears to be potential space in civil society and in Member States such as Germany (moving in this sense recently), the Czech Republic (currently having a discussion on the Holocaust), Austria, Romania, Ireland, Finland, Spain, as well as possibly others.

Discussant No 2. Representing civil society in Germany and at European level:

- Question: Is the European Council also an option for working closely with Member States (Austrian Presidency is considering planning a conclusion in anti-Semitism, concern over the next Commission losing focus in fighting anti-Semitism)
- Commitment of the current German government to establish an expert commission on antigypsyism: there is a selection process already established by the current government, a budget in place, and it is set to start in January. We are still waiting for a decision of the German Parliament, because we believe it is not enough for this process to be led by the Ministry. We want a clear political mandate, because in the end it is a question of public support and discourse.

- Question: Is it an issue of political independence, Roma participation, role of civil society and vice versa, not losing the political responsibility, political will or follow-up?
- Option 4 seems key, but my concern is that are these Member State processes enough? We have to make sure not to lose a European process on top of that, in order for it to be a real driving force. It is a moral European commitment and responsibility in terms of history.
- Question to be asked: Is a European dimension just a financial / coordination driving force, or is there a moral / historical argument also for an EU process?
- Already 100 years ago when Interpol was created there were a lot of historical roots of antigypsyism. So, I wonder if there are other records of other EU traces of antigypsyism and historical oppression that could provide an input or justify a European process (besides a coordination or financial support role)?
- Final Concern: important to lead a debate about Roma participation and about the independence of such a Commission. Because it is very difficult to find the right balance between the stakeholders, for instance if it moves too quickly to independent actors and civil society it can lose political support and commitment. We need to consider the right balance on how to address this and arrive at the right set up.

Discussant No 3. Representing an EU level institution:

- An MEP asked the European Commission if it would be possible to have a TRC and they received a negative response, stating they should not be responsible for setting up such a process or having a leading role in it, even if they would be happy to help.
- Using the EU Framework for NRIS as a basis, the European Commission should take more of a leading role to establish national Roma platforms, which should take on the process of the truth and reconciliation commissions.
- Due to the good results of the framework, it may be used in the future as well.
- In the post-2020 EU Framework we would like to see a more active role of the European Commission in setting up National Roma platforms in the direction of TRC, because then the financial aspect would be covered. They launched a call last year for EU Member States that were willing to set up these platforms.
- As for the Council, there was considerable lobbying of the Austrian Presidency to take up this TRC mission (27th November conference dedicated to antigypsyism of the Austrian Presidency).
- Also lobbying with the Romanian EU Presidency and maybe a Council conclusion dedicated to the topic, however no clarity whether they are willing yet.
- Inquiry Committee on antigypsyism in the European Parliament: probably too late for this current legislative period, because the final meetings will be in April next year.

Discussant No 4. Representing European civil society:

- Participation of the Roma people in the process.
- Support of the initiative.

Discussant No 5. Representing academia and civil society in France:

- No political will in France and probably also not in many countries.
- We first need to build up the demand/common understanding of Roma in civil society. If the demand does not come from civil society, I believe it is very dangerous to try to move on quickly and take advantage of the European Budget and timing of the administrations to push something in. Because if we do it we want it to stay for the long term, and we still do not have that support.
- I also doubt that in the Czech Republic and Slovakia there are Roma organisations asking for this, and it needs to come from them. We need first to build this support before moving forward, if we do not have that we are building something without their communities' participation.

Discussant No 6. Former OSCE level official:

- Not an option to go with "willing Member States". As there are different processes for different times, in different Member States. And for some countries there is a huge reluctance to touch some of the issues,

for instance financial compensation or repatriation. We do have some Member States that addressed the topic but not in the same way.

- When we speak of the whole Europe we have to understand first:
 - Do we talk about any kind of violations (specific injustices), specific time (Austria did when it comes to the Nazi era). In order to go beyond “One-size-fits-all”.
 - A European Commission High level working group report could raise public awareness, but I do not think you can achieve any support in some Member States.
- Difficulty to enlarge the OSCE mandate on addressing antigypsyism. It is not the right timing for the OSCE right now, but an EU process could later be taken on by the OSCE.
- The European Union maybe could prepare something that could be supported.
- Importance to clarify expectations about injustices and reparations, and in particular about compensation because some unwilling Member States would block such a process.

Discussant No 7. European-level organisation:

- Question of ingredients for this process: political will and public support. How do we deal with increasingly hostile/racist societies and governments? Not sure if it is now the right timing because governments know that they have wrong-doings for centuries, there is also the decline of political correctness or rights discourse in many countries. They were and are comfortable with the current situation of the Roma, which is a big challenge. We need to mitigate the risks so this does not backfire.
- Looking into past experiences of other countries and communities. Can we measure the impact of such truth commissions in increasing the awareness of history and also relations between the oppressor and the victim minority? Does it change the relationship or increase polarisation?
- Also need to focus on what outcomes we really want: how can we ensure that it does not remain just a declarative report but lead into something concrete? Such as recommendations, policy implementation, legal implications.
- The European Parliament is the most feasible option. It is important to find support among like-minded MEPs, rather than government support, due to the rise of the extreme-right and conservatism in Member States and within the EU Parliament.
- Role of ERIAC to contribute, role of arts and culture particularly in the process of healing.

Speaker, Thomas Hammarberg:

- What do we actually want? It would be ideal if every country in Europe had a review of history when it comes to this population. Current examples have been inspiring and we would like that this could be repeated in different countries.
- Option 4 seems realistic where there is an opening in some countries.
- What can be done from a pan-European level? We would need some text that could highlight what is required for organising such a process with what we have learnt so far. That could be a role of an independent institution with a broader European perspective and not a country. Something that the European Parliament or Council could support.
- The Council of Europe could play an important role based on its reports on the treatment of Roma in various countries, but the information would have to be updated and complemented regarding the historical dimension in other countries. Also an advantage would be the involvement of the Parliamentary Assembly of the Council of Europe, as the members are National MPs in their countries.
- This is a step-by-step approach, we cannot go faster than the atmosphere would allow.
- Regarding EU institutions, maybe this recommendation can come from the European Parliament or the Social Committee.

Speaker, Marie Wilson:

- Independence does not mean that governments should not be involved.
- After formulation, independence is important in the interpretation of how the work should be done.

- Example: We had to do prescribed hearings but the HOW was not prescribed. It was our decision, and we decided to do it publicly. Also important for the TRCs to be cultural in nature in order to make it a less confrontational way to educate the public.
- All this is connected to public support: the issue of public support is connected to massive ignorance regarding the non-recognition of the realities of indigenous people, and no interaction in society.
- We could not just follow the process, but strategically we had to find the non-indigenous people that could help to reach out to certain groups (former Prime Ministers, sports stars, movie makers and artists).
- Cannot comment on the options (CEPS report), but whatever the option is, allow adequate time for the process in order to build trust and the relationship among commissioners and communities, which takes time and resources.

Discussant No 1. Claude Cahn, Human Rights Officer, UN Human Rights Regional Office for Europe (OHCHR ROE, representing a UN level body):

- Importance of time frame, what we are talking about is examining past, present, and its impact in the future, so envisioning a different future.
- That is why it needs to come from the national level and needs civil society's voice to push it forward.
- History is very diverse in different countries across Europe.
- If we start on an European level, it will stay very superficial because it cannot address all the details in each one of the countries. The European level does not seem to reach the public right now. We need a national mobilisation as a start to reach the European level, and on the back of that a Europe-wide process.
- Probably the only potential is in the European Parliament. For the time being, the European Commission is cautious. But also the European Parliament does not create sufficient 'gravity'. In principle, we would build a community of some countries, with a view to moving forward at Europe level.
- It can come back to the European level if more governments move on this and work in concert. The Sweden example was not perfect as a process but it helped tremendously to change the narrative and perception.
- Once it starts to become a body of countries moving in the same direction it can become an EU subject and builds consensus.

Discussant No 8. Representing academia and civil society in Spain:

- Option 2: European Commission should convoke High Level Group on antigypsyism, not enough political will on national level, difficulty to create such a will and it would take a lot of time.
- 1. In terms of practicality and objectivity we should first create political knowledge and influence public opinion, especially by creating an independent body of knowledge for national institutions on what is antigypsyism and its historical roots as well as to know what has been done so far. Also, there is the danger to mix this with social inclusion policies. These programmes are a totally different field, and the institutions that are willing for social inclusion of Roma are not quite aware of what antigypsyism is about and are already overloaded, so they do not want a new issue.
- We need to differentiate human rights violations and crimes against humanity from forms of injustices and social inclusion issues.
- Difficulty of the Spanish reconciliation process for the Franco regime (currently taking place).

Discussant No 9. Alexandra Hosszu, Impreuna Agency (academia and civil society in Romania):

- Take a bottom-up approach from a national level.
- First of all, we should know how to present such a Commission because the interviews we had showed that both NGO and institutional representatives said they do not want new commissions, as there is a frustration that they are useless and just on paper.
 - The question is how to promote this idea in a way to create better support from NGOs and institutions, because at the moment there seems to be no public support or political will. But it does not mean that there is no potential to build on that.

- Issue of diversity: slavery and Holocaust in Romania, as well as present antigypsyism in Romania. We should first test commissions on national level to see what works and what does not, and then bring it to the European level.

Speaker, Richard Goldstone:

- National level approach risks Roma feeling left out in some countries where governments are unwilling.
- South Africa: people of the apartheid system were against the TRC. However, pro-apartheid was a minority and oppressed majority population in South Africa wanted the TRC.
- Mandela's government was careful, they waited almost a year to set up the TRC to avoid any coup d'état attempt by the army.

Discussant No 10. Representing European-level organisation:

- Member States that are willing: even if some are involved in processes, it does not mean that they are always willing. For example, the Czech Republic process was criticised by civil society actors because not everyone obtained the reparations, and the process was long and complicated. Reparations for Roma also show how they are treated as a second class victims if compared to the very different reparations for Jews.
- National level is the preferred one but there should be cooperation with the EU level. There must be a combination of both. So, national level should lead because of different contexts and I do not believe a "One-size-fits-all" approach can work, but the vision has been coming from the EU, and it could be a shared vision.

Discussant No 11. Representing Council of Europe level body:

- Various Commissioners for Human Rights have supported the idea to establish TRCs at the national level, starting with Thomas Hammarberg. The current Commissioner, Dunja Mijatovic, also considers this proposal with great interest. TRCs are instrumental in improving the effectiveness of policies to tackle antigypsyism.
- The Council of Europe can play an important role in this process, based on its work on the Roma Holocaust, Roma history teaching (Factsheets on Roma history), and addressing antigypsyism.
- Perspective of Roma Team that coordinates the CAHROM, intergovernmental committee representing CoE Member States: CAHROM expressed interest in the subject and is planning to organise peer visits on the subject in the near future (probably in 2020).
- Answer to the questions proposed by CEPS:
 - It is imperative to clarify the scope of the work of such a commission, types of human rights violations it would deal with, the time frame, etc.
 - Key element: the need to secure Roma participation in setting up such a body is a key factor but also a challenging one. Also participation in the following stages such as the level of implementation. Because sometimes Roma were involved at the beginning but then they were left out of subsequent processes.

Discussant No 12. Representing a UN level body:

- The UN actually works in conflict and post-conflict settings.
- Importance of participation or representation of Roma from the beginning to the end, because representation and participation has been a challenge in work experiences with indigenous people.
- How can we create a process where also the majority society takes ownership of it, to understand that it affects them and that has importance for them?
- We would aim for a process on national level, so option 4. However, listening to Ismael Cortes, I do not know if this is an idealistic approach. Is country level really feasible in the context of Europe nowadays?

Discussant No 8. Representing academia and civil society in Spain:

- Roma participation: how to include victims of crimes and injustices and not just Roma and pro-Roma NGOs (civil society), it has to be dealt differently from Roma participation in social inclusion, as it is a different process.

Sergio Carrera, (scientific coordinator) conclusions:

- South Africa experience "Looking at the beast in the eye".
- We can find / identify the best ways to look at the beast and this could be the European process and role.
- CEPS study aims to offer the best options to the current and next European Parliament.
- The options provided for setting up a TRC by CEPS were created to structure/facilitate the discussion, but maybe we need to look at a combination of the options as they are interconnected. For instance, maybe an EU facilitation for willing Member States to proceed with it as well as facilitate the discussion for the unwilling ones.

Annex 2. Civil society's perception on the feasibility of a Truth and Reconciliation Commission

Alliance against Antigypsyism organised a strategy meeting “Post 2020 Roma Framework and Alliance against Antigypsyism” on 21st November 2018, in Brussels. Seizing this opportunity, CEPS consulted with Roma and pro-Roma civil society actors and organisations. The focus group method discussion was devised to explore the feasibility of a Truth and Reconciliation Commission at the EU and/or national level as it was proposed by the European Parliament.⁷⁷² The focus group discussion results are summarised in a way that ensures anonymity and confidentiality of the focus group participants and enclosed to this study as an Annex. The aim of the focus group discussion was to assess the civil society position on potentials, risks and challenges for the establishment of TRC and if so, how these risks could be minimised and potential upsides unleashed. In order to do that, the participants were divided into three parallel discussion groups, as in total there were more than 30 discussants from the different EU Member States and pre-accession countries.

There emerged a clear consensus among the different actors of civil society regarding the need for a trust-building process that would base itself in the right to know the truth and would acknowledge past injustices. However, there was a certain degree of hesitation to go for a fully-fledged Truth and Reconciliation Commission that would encompass the right to justice and the right to reparations. The past experiences of the Canadian, Australian and South African Commissions started the discussants looking into past processes and best practices to learn from and employ in the case of Roma people. The Swedish Commission on Antiziganism, that was not a fully-fledged Truth and Reconciliation process, in the views of majority of discussants, was a good example that aimed at fighting antigypsyism and at the same time building understanding and trust among Roma, non-Roma and institutions, consequently promoting structural change. Questions were raised on how to measure the success of TRCs and what should be the parameters?

The divergences emerged when debating how and when such TRCs should be implemented. In respect to practical questions of how to do it, the general belief is that the process must take place at national level, while ensuring the oversight, support and involvement of the European Union. Thus, the TRC could take the form of an EP inquiry or national parliamentary enquiries or expert commissions. Some of the participants stressed using already existing structures instead of creating new ones – Roma platforms, ERIAC, were mentioned as examples.

Secondly, a question was raised regarding whether TRCs would be state or civil society and academia-led processes. It was a common understanding among the participants that the state should be the main actor in setting up the structure for a TRC as it has a historical responsibility from past violations against the Roma people. However, in many case the willingness may be lacking as states are also in many cases also the perpetrators of crimes against Roma and some of them engage in institutional forms of antigypsyism – for example segregation of Roma children in education, segregated Roma settlements, forced eviction and collective expulsions.

Civil society has evoked the trust between Roma and institutions as a pre-condition for establishing TRCs. It is important to have a level of trust in state institutions and a common understanding in order to gather their support for the TRC process. Although among participants there was no clear agreement at which moment this trust building should take place: before, during or as an outcome of a TRC.

Moreover, the need for safeguards was also stressed in the debate in order to prevent the risk of political co-opting by certain party agendas or setting up of a biased or uncritical Commission. The mechanisms proposed to overcome these challenges are Roma ownership, transparent procedures and research-based outputs. Roma ownership means that process is embedded in the leadership of Roma civil society, the active participation of Roma communities and self-representation of survivors of past injustices in all of its phases. Discussants stressed that there needs to be Roma ownership of the process. Some participants highlighted that in all cases Roma ‘participation’ needs to be meaningful as to avoid tokenism and a box-ticking exercise on the side of the authorities.

⁷⁷² European Parliament (2017) Resolution of 25 October 2017 on fundamental rights aspects in Roma integration in the EU: fighting Antigypsyism Strasbourg, 25 October

The debate also raised the need for more clarity regarding the potential TRC mandate and aims. For instance, one of the participants brought to the table the need to frame who will be targets of such a TRC: whether it should focus only on Roma or whether it should also include other victims of state crimes, for instance in the case of Franco's dictatorship and the Spanish civil war. Another concern was framing which period in time the TRC would cover. Also, whether it would focus on historical or contemporary antigypsyism and how far back it has to go in history.

Moreover, it was highlighted in the groups' discussions that the TRC must consist of a bottom-up process, thus with full participation of Roma communities and survivors of past injustices and crimes. As some actors recalled that, in the Canadian TRC example, there has been a weak or no participation of the survivors. In this respect, civil society recommended to start from consultations with Roma communities in order to build a common understanding or narrative of the Roma history. Again, Roma communities should not only be involved in the leadership, decision-making and also the performance of the TRC, but also be the main advocates for such processes to be launched. Some discussants mentioned that such processes could also be beneficial for highlighting Roma contributions to European societies and for Roma self-identity. Roma ownership, recognition and participation in the TRC would facilitate trust building and creating a common narrative of the past and ongoing injustices.

The consensus for conducting the TRC is evident. However, there was a divergence of views when defining which steps such processes should entail (e.g. recognition, remembrance, reconciliation and reparation). Participants highlighted that certain Member States would refrain from setting up a TRC in case it involves a final reparation. Thus, the discussants proposed alternatives as reparations only for direct victims of crimes (e.g. Holocaust and forced sterilisation) or rebuilding community structures as a form of direct investment in Roma. They also evoked the risk of focusing too much in the remembrance of the past and not addressing the current issues faced by Roma. Finally, they asked for more clarity regarding the definition of each step, for instance 'recognition' could have different meanings depending on the country.

The focus group participants also concluded that the openness and readiness of the rest of society also plays an important role in the process. Their support is essential to have a real and long-term impact in the fight against rooted antigypsyism. Thus, the TRC needs to be well communicated to gain visibility through wide ranging campaigns targeting the non-Roma. In addition, the way TRC aims and goals are communicated would play an important role in the support and acceptance of the process by the rest of society, for instance whether it will be more confrontational or conciliatory.

The steps mentioned above are definitely of great importance in building awareness and creating structural changes towards the situation of Roma people in these countries. However, another key point is the reconstruction of positive contributions to European societies and promoting positive narratives about Roma via TRCs. Therefore, it should not focus only in the negative experiences endured by these communities but also praise the positive aspects of their identity, history and societal contributions. A victimising discourse would be very negative for changing the current situation of Roma communities in the region as well as to their self-identity and empowerment.

Moreover, one of the discussants brought attention to the fact that these positive aspects must not be used to justify their right for such a TRC, but to enable pride in their own identity and nourish the reconciliation process with the whole society. In this respect, the terminologies and the name of the TRC also play a role in building the future image of the Roma people. Some have proposed calling it "Roma for European Democracy", "Trust Building Process among Roma and Non-Roma" or "Commission against Antigypsyism" instead of "Truth and Reconciliation Commission on Antigypsyism".

Finally, the timing to start the TRC was a source of disagreement among civil society actors. While some believe that the political climate is not favourable, others think that now is the right moment. The former expressed concerns over the risks of forcing through a TRC without having the proper political and societal support, and in particular broad support from Roma civil society. The rise of racism, polarisation in society and illiberal governments in Europe could affect the outcomes of the TRC, causing a counter effect or hindering further action to fight antigypsyism. However, the latter believes that the conditions of Roma in Europe cannot wait for a future

change in the political and societal climate to enable setting up a TRC. Therefore, the real issue is not when but how to address the Roma question in the current climate.

There are no indications of when or if this would happen in the short-term. There is this a risk of losing the momentum to do it, as there are moments of openings at the EU level, in particular with the recent EP Resolution calling to set up such a TRC in the EU and also the case with the Austrian Presidency being followed by the Romanian one. In any case, participants agreed that the impacts from a TRC are part of a long-term process and would only change realities in the future. Therefore, it could start as soon as possible in the given country context, but always respecting the process' own speed, and in particular, giving the needed time for the Roma civil society to get on board and build their ownership of such a process.

Annex 3. Anonymised list of interviewees

The following table details all the interviews carried out by Member State experts.

Table 6: Interviews carried out by Member State experts

Number	Date	Stakeholder category	Place
Romania			
1	5/10/2018	National authority in the area of Roma Integration	Bucharest
2	8/10/2018	National authority in the area of Rule of Law, justice and equality	Bucharest
3	9/10/2018	National authority in the area of Historical Remembrance	Bucharest
4	16/10/2018	Roma Civil Society Organisation	Bucharest
5	24/10/2018	National authority in the area of Historical Remembrance	Bucharest
6	31/10/2018	Roma Civil Society Organisation	Via phone
France			
1	19/09/2018	Roma Civil Society Organisation	Paris
2	20/09/2018	National authority in the area of Human Rights	Paris
3	26/09/2018	National authority in the area of Housing	Paris
4	28/09/2018	Gens du Voyage Civil Society Organisation	Paris
5	17/10/2018	National Authority in the area of Foreign Affairs	Via phone
6	26/10/2018	Roma Civil Society Organisation	Paris
Italy			
1	19/09/2018	National authority in the area of Historical Remembrance	Via phone
2	22/09/2018	Roma Civil Society Organisation	Rome
3	23/09/2018	National authority in the area of Roma Integration	Rome
4	23/09/2018	National authority in the area of Rule of Law, justice and equality	Rome
5	29/09/2018	Roma Civil Society Organisation	Via Skype
6	2/10/2018	National authority in the area of Rule of Law, justice and equality	Via phone
7	10/10/2018	National authority in the area of Rule of Law, justice and equality	Via phone
8	11/10/2018	National authority in the area of Rule of Law, justice and equality	Via phone
Bulgaria			
1	18/09/2018	National authority in the area of Roma Integration	Sofia
2	22/09/2018	Roma Civil Society Organisation	Sofia
3	1/10/2018	Roma Civil Society Organisation	Sofia

4	2/10/2018	National authority in the area of Rule of Law, justice and equality	Written
5	9/10/2018	National authority in the area of Rule of Law, justice and equality	Written
Hungary			
1	1/10/2018	National Roma Contact point	Budapest
2	24/09/2018	Roma Civil Society Organisation	Budapest
3	28/09/2018	National authority in the area of Historical Memory	Budapest
4	28/09/2018	Roma Civil Society Organisation	Budapest
5	04/10/2018	National authority in the area of Rule of Law, justice and equality	Budapest
6	11/10/2018	National authority in the area of Foreign Affairs	Via phone
Slovakia			
1	15/10/2018	Ministry of Foreign Affairs	Bratislava
2	25/10/2018	Ministry of Culture	Bratislava
3	11/10/2018	Ministry of Justice	Bratislava
4	10/10/2018	Office of Ombudsperson	Bratislava
5	3/10/2018	National Roma Contact Point	Bratislava
6	16/10/2018	Roma Civil Society Organisation (Human Rights)	Bratislava
7	8/10/2018	Roma Civil Society Organisation	Skalica
Spain			
1	10/10/2018	National authority in the area of Equal Treatment and Diversity	Madrid
2	15/10/2018	National authority in the area of Family and Children	Madrid
3	18/10/2018	National authority in the area of Historical Memory	Madrid
4	8/10/2018	National authority in the area of Foreign Affairs and Development	Madrid
5	17/10/2018	Roma Civil Society Organisation	Madrid
6	5/10/2018	Roma Civil Society Organisation	Via phone

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee, aims to promote a better understanding of the Roma minority and communities' situation in the EU. The study explores concrete proposals to upscale the post-2020 Roma framework strategy via a Rule of Law, Democracy and Fundamental Rights (DRF) Periodic Review/Mechanism and a Truth and Reconciliation Process at the EU level. It proposes ways to strengthen the role of the European Parliament in ensuring democratic accountability and the right to truth and effective justice for past and current human rights violations.