



# Housing conditions of Roma and Travellers in the European Union

Comparative report

October 2009

FRA

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European Union  
Agency for Fundamental Rights (FRA)

Housing conditions of Roma and  
Travellers in the European Union

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DISCLAIMER: This report has been prepared by the European Roma Rights Centre and Pavee Point Travellers Centre under a service contract with the FRA. The report was edited by the FRA, which is responsible for its conclusions and opinions.

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## Foreword

Drawing on a range of sources of data and information across the EU covering the years 2000-2009, this report shows clearly that many Roma and Travellers in the EU continue to live in conditions which fall far below the minimum standards for adequate housing, and that their substandard, insecure and often segregated housing conditions lead to major problems for Roma and Travellers in other areas of life, such as education, employment and health. Despite the fact that the European Union's Racial Equality Directive of 2000 provides protection to Roma and Travellers against discrimination in the field of housing, the report also demonstrates that direct and indirect discrimination against them in access to housing remains widespread. Forced evictions of Roma and Travellers still occur in a number of Member States.

International instruments have for many years established the right to adequate housing, and in recent years a growing recognition has emerged among national governments of the need for action to improve the housing conditions of Roma and Travellers in particular. But there is still much work to be done by Member States and local authorities in providing effective local initiatives to break the vicious circle of exclusion, segregation and deprivation rooted in inadequate access to housing. In addition, this report highlights a clear need for initiatives to raise the awareness of Roma and Travellers of their rights in this field. Also, measures are needed that can be drawn upon to assist them to fight the discrimination they too regularly encounter. The report follows on from previous work carried out by the Agency on Roma which targeted other areas of social life, including access to healthcare and education.

I would like to thank the European Roma Rights Centre and the Pavee Point Travellers Centre for their production of the original report for this project, and the staff of the Fundamental Rights Agency for their hard work and commitment in bringing this report to publication.

Morten Kjærum

Director

## Executive summary

In December 2007, the European Commission asked the European Union Agency for Fundamental Rights (FRA) to develop a report on the housing conditions of Roma and Travellers in the EU. The evidence in this report has been collected across the European Union, covering the years 2000-2009.

There are several international instruments setting out the contours and content of the right to adequate housing. It is clear from this report that large numbers of Roma and Travellers in the EU do not enjoy equal treatment in this respect living in substandard conditions which fall far below even the minimum criteria of adequate housing. Sometimes, Roma live in squalid shanty-towns and temporary camps, often in segregated and environmentally hazardous areas. Very often, Roma housing areas have poor access to public services, employment and schools, and are without adequate access to public utilities such as water, electricity or gas. Many Roma and Travellers live in overcrowded conditions, with considerably less space per person than national averages, where many dwellings are in a state of considerable disrepair.

### Segregation

Efforts to improve equal treatment and foster social inclusion need to actively combat residential segregation. As evidenced in this report, segregation is still evident in many EU Member States, sometimes as a result of deliberate government policy. Furthermore, some housing projects targeting Roma and Travellers maintain or further the isolation and segregation of these communities. Segregation can severely limit the access to education, employment and health care for many Roma and Travellers. Segregated or insecure settlements mean inadequate or interrupted access to schooling; living in segregated sites means fewer opportunities to hear about work or to use public transport to get to work, and there is evidence that having an address in a certain Roma area means that job applications are outright rejected. Inadequate standards of housing lead to poor health and higher incidences of diseases, and segregated sites mean more difficult access to medical facilities. There is also evidence that segregation makes Roma and Travellers more susceptible to violent attacks.

## Security of tenure

Lack of security of tenure is a particularly acute problem for Roma and Traveller communities living in informal settlements or in rented accommodation. Persons living in informal settlements are particularly vulnerable to forced evictions.

There are instances of forced evictions *en masse* of Roma from municipal accommodation, including evictions of Roma who are regular rent payers, evictions without prior notice, evictions without genuine consultation with the affected communities and evictions involving police violence and destruction of personal property. There are many cases where authorities fail to provide alternative housing and/or adequate compensation for expropriation.

## Lack of halting sites

In countries with a substantial Traveller community, the shortage of adequate permanent and transient halting sites and pitches is palpable, despite the implementation of relevant programmes. The most commonly cited reasons are the difficulties of finding suitable land plots as well as financial resources, yet one of the strongest elements appears to be the opposition of non-Travellers in the locality. In addition to the lack of sites, there are also instances of regulations in some Member States which create specific obstacles for Travellers to use sites.

Because of the insufficient number of spaces made available by relevant authorities and governments, and the difficulties in parking on regulated halting sites, a high number of Travellers live on unofficial/illegal sites, in unregulated encampments with no access to basic services. In general, living in informal settlements built on land not owned by the persons in question, or built without adequate planning permission, or living in abandoned buildings is commonly the last resort caused by the lack of any other housing alternatives.

## Racism and discrimination in housing

It is clear from this report that one of the reasons for the poor housing conditions of Roma and Travellers is racial discrimination, both direct and indirect. Sometimes, local authorities deny their access to social housing through measures that are directly or indirectly discriminatory against Roma and Travellers. Sometimes, landlords refuse to rent housing to Roma even if the accommodation is sought by the welfare services. There are also reports of

instances of pressure from non-Roma neighbours which result in the refusal of landlords to rent to Roma. Sometimes groups of private citizens organise campaigns against Roma and Travellers in the locality.

## The use of the Anti-discrimination legislation

With the adoption of the Racial Equality Directive 2000/43/EC,<sup>1</sup> the EU has provided an important legal tool to use in combating discrimination on the basis of racial or ethnic origin in access to, among others, goods and services, including housing, applicable to discrimination against Roma and Travellers. Yet available figures, gathered from a variety of sources, show only a very low number of complaints alleging discrimination in the field of housing filed with Equality Bodies or Ombudsperson offices.

Evidence in 2008, from the FRA's *European Union Minorities and Discrimination Survey* (EU-MIDIS) survey, casts further light on this. In the seven Member States where Roma were surveyed<sup>2</sup>, only one in nine (11.5 per cent) out of all Roma who responded that they had been discriminated against in access to housing in the last 12 months, chose to report such incidents to the relevant organisations. Most believed nothing would be achieved from doing so, while 41 per cent indicated that they were unsure how to report such incidents.

Respondents were also asked about their awareness of legislation that prohibits discrimination in relation to ethnicity when renting or buying a flat. Half of the respondents surveyed (47 per cent) did not know of any such laws. This was consistent across the Member States surveyed with the exception of Greece where only 13 per cent of the respondents were aware of such a law and 85 per cent were categorical in their assertion that no law existed.

This lack of rights awareness suggests that the message about the right not to be discriminated against is not reaching some of the most vulnerable minorities in Europe.

## National policies

One of the positive findings of this study has been that the vast majority of Member States have recognised the need for the adoption of Roma-specific initiatives for the residential inclusion of Roma. However, the findings of this

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<sup>1</sup> European Council Directive 2000/43/EC (29.06.2000) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>2</sup> These were Bulgaria, the Czech Republic, Greece, Hungary, Romania, Poland and Slovakia.

study show that, thus far, most have failed to improve the housing situation of Roma and Travellers commensurably with the funds that have been expended and the expectations they nurtured.

One reason is that these initiatives are often not based on adequate, ethnically disaggregated data, and are without timetables or benchmarks for assessment. Another reason is the reluctance of some regional and local authorities, which are often the bodies responsible for local housing policies, to implement effectively the national housing policies. Many local and regional authorities throughout Europe treat Roma and Travellers as ‘unwelcome guests’, a reaction prompted by the prevailing prejudice of sections of local communities. Furthermore, even when state authorities have the power to put pressure on local authorities to implement housing policies for Roma and Travellers, there is little evidence that they are willing to do this.

## The way forward

The current housing situation of Roma and Travellers constitutes a serious problem and needs to be addressed through urgent action by EU institutions, Member States and local authorities in order to ensure equal treatment and foster social inclusion. Particularly in this regard, the active participation of Roma and Travellers at all stages of the development of housing policies, from planning, implementation to evaluation and review, at EU, national, regional and local level, is essential.

EU Member States need to ensure that Roma and Travellers have security of tenure, available services and infrastructure; that their housing is adequate, affordable, habitable and accessible; and that they live in an adequate location and culturally appropriate homes. In the shortest time possible, Member States should provide potable water, electricity, waste removal, public transportation road provision and other infrastructure to Roma settlements and Traveller sites lacking any of the above. The quality of housing of Roma and Travellers needs to be constantly monitored and improved.

Member States should affirm the right of people to pursue sedentary or nomadic lifestyles, according to their own free choice. In order to ensure equal treatment, all conditions necessary to pursue these lifestyles should be made available to them by the national, regional and local authorities in accordance with the resources available and within the legal framework relating to building, planning and access to private land.

In light of the low awareness of anti-discrimination legislation, as evidenced by the FRA’s EU-MIDIS survey and the European Commission’s Eurobarometer surveys, Member States and specialised bodies, such as equality bodies, should intensify their efforts to raise awareness and disseminate information regarding

anti-discrimination legislation and the possibilities for redress, targeting particularly potential victims of discrimination in access to housing.

It is necessary to close any gaps between legislation and its implementation *on the ground*. National governments should recognise the multifaceted problems local authorities face and activate them to implement equal treatment and social inclusion measures. At the same time, they should monitor and sanction any direct or indirect discriminatory practices undertaken at local level. Specialised bodies, e.g. equality bodies, have a particularly important role to play in ensuring that victims are provided with access to complaint mechanisms.

Effective policies are informed policies: regular collection of official, usable and meaningful ethnically disaggregated data accompanied by all necessary safeguards, laid down, *inter alia*, by the EU Data Protection Directive, is therefore essential.

# 1. Introduction

Despite efforts in recent years to improve the housing situation of Roma and Travellers across the European Union, there is concern that large numbers continue to lack access to adequate housing. In December 2007, the European Commission asked the FRA to develop a report on the housing conditions of Roma and Travellers in the EU. In response, the Agency, after consultation with stakeholders, including the Council of Europe and the EU Commission, asked its network of National Focal Points (RAXEN)<sup>3</sup> to develop relevant thematic studies and commissioned additional research and a comparative analysis to the European Roma Rights Centre and the Pavee Point Travellers Centre. Valuable data for seven EU Member States (Bulgaria, the Czech Republic, Greece, Hungary, Poland, Romania and Slovakia) were provided by the FRA's EU-MIDIS<sup>4</sup> 2008 survey undertaken to explore the experience of discrimination and victimisation among immigrant and minority ethnic communities in the EU.

This comparative report complements other work done in the past by the Agency<sup>5</sup> focusing specifically on Roma and Travellers, namely the 2003 EUMC *Report on Romani Women and Health*, the 2005 EUMC *Report on Migrants, Minorities and Housing: Exclusion, discrimination and anti-discrimination in 15 EU Member States*, and the 2006 *Report on Roma and Travellers in Public Education*.<sup>6</sup> In this context, this report is yet another important step towards complementing and systematising information about persistent barriers for Roma and Travellers in their enjoyment of key economic and social rights as well as information about experiences across Member States in remedying disparate impact of economic and social factors on access of Roma and Travellers to housing.

The 2007 FRA *Annual Report* noted 'the high levels of housing deprivation of Roma', adding that 'data consistently shows that the quality level of Roma settlements and housing facilities is substandard as compared with the average population'.<sup>7</sup> European Parliament resolutions have called on governments to

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<sup>3</sup> Since 2000, the RAXEN National Focal Points (NFPs) in all EU Member States have been collecting data on issues regarding racism, xenophobia and related intolerances. NFPs are organisations selected by the Agency through an open call for tender and contracted to provide through different reporting tools background material on phenomena of racism, xenophobia and related intolerance, as well as policies and initiatives promoting equality and diversity. Additional information is available at:  
[http://fra.europa.eu/fraWebsite/research/raxen/raxen\\_en.htm](http://fra.europa.eu/fraWebsite/research/raxen/raxen_en.htm).

<sup>4</sup> For more information and the Data in Focus Report on Roma see:  
<http://www.fra.europa.eu/eu-midis>.

<sup>5</sup> In its previous form as European Monitoring Centre on Racism and Xenophobia (EUMC).

<sup>6</sup> All reports are available at: <http://fra.europa.eu>.

<sup>7</sup> European Union Fundamental Rights Agency (2007) *Annual Report 2007*, available at: [http://fra.europa.eu/fra/material/pub/racism/report\\_racism\\_0807\\_en.pdf](http://fra.europa.eu/fra/material/pub/racism/report_racism_0807_en.pdf), p. 88.

end housing segregation and implement policies to improve the housing conditions of Roma, drawing attention specifically to the disproportionate effects of substandard housing on Roma women. Although housing issues fall mainly within the scope of responsibility of Member States, the EU provided an important legal tool with the adoption of the Racial Equality Directive 2000/43/EC,<sup>8</sup> with which to combat discrimination on the basis of racial or ethnic origin in access to, among others, goods and services, including housing (Article 3.2.h). The directive also enabled Member States to undertake special measures to achieve equality.

The 2004 European Commission report, *The Situation of Roma in an Enlarged European Union*<sup>9</sup> highlighted access to housing among the key challenges to achieving full equality for Roma in Member States and called for the use of the European Regional Development Fund (2007-2013) to adequately address housing and complementary infrastructure. Simultaneously, since 2000, with the launch of the Social Inclusion Process, the Open Method of Coordination for social inclusion provided a framework for mutual learning and exchange on policy development and reforms concerning poverty and social exclusion. Through this process, governments also share experiences for the social inclusion of Roma, including experiences on improving their housing conditions.

The Decade of Roma Inclusion<sup>10</sup> 2005-2015, in which six EU Member States participate, addresses housing as one of the four priority areas requiring targeted programming by national governments.

In the context of this research, the term ‘housing’ is used to refer to all types of formal and informal accommodation, including houses, apartments, caravans, encampments, group housing, informal types of housing, etc. The terms ‘Roma’ and ‘Travellers’ are used as umbrella terms, inclusive of the variety of groups such as Roma, Sinti, Gypsies, Jenisch, Travellers, etc. and their subdivisions without prejudice to the manner in which any of these groups present themselves.

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<sup>8</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>9</sup> European Commission, Directorate-General for Employment, and Social Affairs, Unit D 3 (2004) *The Situation of Roma in an Enlarged Europe*, available at: <http://ec.europa.eu/social/BlobServlet?docId=99&langId=en> (10.10.2009).

<sup>10</sup> Bulgaria, the Czech Republic, Hungary, Romania, Slovakia and Spain are members of the Decade of Roma Inclusion, and Slovenia has an observer status. Detailed information on the Decade of Roma inclusion can be found on its official website, available at: <http://www.romadecade.org/> (10.10.2009).

## 2. The international framework: Law and policy

The right to adequate housing is multi-faceted requiring a diverse range of measures since its implementation ranges from policy-based and financial through to legal. It operates both as an independent right as well as an ‘enabling’ right in that its enjoyment is vital for the exercise of a series of other human rights. Hence, there are several international instruments setting out the contours and content of the right to adequate housing.

### 2.1. Right to housing under international law<sup>11</sup>

References to the right to housing in the international instruments have appeared since 1948 when this right was stipulated in the Universal Declaration of Human Rights.<sup>12</sup> This right has since been reaffirmed in a number of international instruments. The *International Covenant on Economic, Social and Cultural Rights* (ICESCR)<sup>13</sup> calls upon States Parties to take all necessary steps to ensure the realisation of the right to adequate housing. More specialised treaties such as the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW),<sup>14</sup> the *Convention on the Rights of*

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<sup>11</sup> References to housing rights provisions in this section will be limited to those laying down a full-bodied right to housing. As a result, no references (unless when expressly called for and when directly related to housing issues) will be made to other provisions laying down inchoate housing rights such as the right to respect of one’s home (laid down for example in Article 17 of the *International Covenant on Civil and Political Rights*) or other rights that can have a bearing on housing issues, such as the right to freedom from torture, inhuman or degrading treatment or punishment (see e.g. Articles 1 and 16 of the *International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*). UN General Assembly (1976) *International Covenant on Civil and Political Rights*, available at: <http://www2.ohchr.org/english/law/ccpr.htm> and UN General Assembly (1987) *International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, available at: <http://www2.ohchr.org/english/law/cat.htm> (16.7.2009).

<sup>12</sup> According to Article 25.1, ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing [...]’ UN General Assembly (1948), available at: <http://www.un.org/en/documents/udhr/> (16.7.2009).

<sup>13</sup> UN General Assembly (1966), Article 11(1), available at: <http://www2.ohchr.org/english/law/cescr.htm> (16.7.2009).

<sup>14</sup> UN General Assembly (1981), Article 14.2 (h), available at: <http://www2.ohchr.org/english/law/cedaw.htm> (16.7.2009).

*the Child (CRC)*<sup>15</sup> and the *Convention relating to the Status of Refugees*<sup>16</sup> also reference the right to housing. The conventions prominently also prohibit discrimination, e.g. the ICESCR in relation to the rights enumerated in the convention and the International Covenant on Civil and Political Rights (ICCPR) as a freestanding right to equality before the law and to equal protection of the law.<sup>17</sup>

In its *General Comment No. 4 on the right to adequate housing*,<sup>18</sup> the committee entrusted with monitoring the implementation of the ICESCR, the UN *Committee on Economic, Social and Cultural Rights (CESCR)*, elaborated on the elements of the right to housing. The committee noted that it does not refer simply to the existence of a roof over one's head but that it 'should be seen as the right to live somewhere in security, peace and dignity.' The CESCR also stressed that the right to housing should be ensured to all persons, irrespective of their income, and implemented in a manner corresponding to their resources. For example, housing related costs should be at such a level that a sufficient income is available to cover other basic needs.

The elements of adequate housing were defined as follows:

- legal security of tenure;
- availability of services, materials, facilities and infrastructure;
- affordability;
- habitability;
- accessibility;
- location, allowing access to employment, health, education, child care and other social facilities; and
- cultural adequacy.

Acknowledging that the full attainment of this right is a resource-intensive undertaking, the committee held that the obligations weighing on states are two-pronged. First, states should commit themselves, to the maximum extent of their resources, to progressively achieving the full realisation of the rights in the ICESCR. This entails the adoption of legislative, administrative, financial, educational and social measures that will ensure the full realisation of the right to housing. Second, certain obligations are immediately incumbent on states,

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<sup>15</sup> UN General Assembly (1990), Article 27.3, available at: <http://www2.ohchr.org/english/law/crc.htm>, (16.7.2009).

<sup>16</sup> UN General Assembly (1951), Article 21, available at: <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf> (16.7.2009).

<sup>17</sup> Articles 2(2) and 26, respectively.

<sup>18</sup> CESCR (1990) General Comment 4, *The right to adequate housing*, available at: [http://www.unhcr.ch/tbs/doc.nsf/099b725fe87555ec8025670c004fc803/469f4d91a9378221c12563ed0053547e?OpenDocument#\\*%20Contained%20i](http://www.unhcr.ch/tbs/doc.nsf/099b725fe87555ec8025670c004fc803/469f4d91a9378221c12563ed0053547e?OpenDocument#*%20Contained%20i) (16.7.2009).

notwithstanding their level of prosperity; these include providing legal redress for and refraining from discrimination,<sup>19</sup> the drafting of strategies and the monitoring of the degree of realisation of the right to housing.

Even countries that face severe financial hardship, due to recession or transition to a different economic system, should adopt relatively low-cost targeted programmes for the most vulnerable members of society. In some cases, the measures to be implemented would simply require the state to abstain from certain practices and to commit to facilitating ‘self-help’ for affected groups. The committee also observed that the ICESCR grants a minimum obligation to provide basic shelter/housing. If a significant number of individuals in a state are deprived of basic shelter, then the state in question would be considered to be failing to meet its obligations under the ICESCR. Furthermore, the adoption of any deliberately retrogressive measure would require careful consideration and would need to be fully justified.<sup>20</sup>

Another issue regarding the right of housing concerns whether or not it can be invoked before courts. The committee has noted that one way of promoting economic, social and cultural rights is to provide legal remedies for their realisation.<sup>21</sup> On 10 December 2008, the UN General Assembly unanimously adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which provides the committee with competence to receive and consider communications, i.e. complaints from individuals.<sup>22</sup>

One of the components of the right to adequate housing is that of protection from forced evictions, an obligation State Parties are required to meet immediately. With its *General Comment No. 7 on the right to adequate housing: forced evictions*, the committee provided comprehensive guidance on this issue. The committee defined forced eviction to be the ‘permanent or

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<sup>19</sup> CESCR (2009) General Comment No. 20, *Non-Discrimination in Economic, Social and Cultural Rights*, available at:

<http://www2.ohchr.org/english/bodies/cescr/docs/gc/E.C.12.GC.20.doc> (19.7.2009).

<sup>20</sup> CESCR (1990) General Comment 3, *The nature of States Parties obligations*, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument) (16.7.2009). On the issue of ‘progressive realisation’ of economic, social and cultural rights, see also *Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights*, 2-6 June 1986, available at:

<http://www.unimaas.nl/bestand.asp?id=2453> (16.7.2009), as well as the *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, Maastricht, 22-26 January 1997, available at: [http://www1.umn.edu/humanrts/instree/Maastrichtguidelines\\_.html](http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html) (19.7.2009).

<sup>21</sup> CESCR (1990) General Comment 3, *The nature of States Parties obligations*, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument) (16.7.2009).

<sup>22</sup> UN General Assembly (2008), available at: <http://www2.ohchr.org/english/bodies/cescr/docs/A-RES-63-117.pdf> (18.8.2009). The signing ceremony on 24 September 2009 led to 24 signatures, out of which eight were EU Member States. The Protocol will come into force after ratification by at least ten states.

temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.<sup>23</sup> While noting that evictions are in general incompatible with the ICESCR, it is also acknowledged that they can at times be justified, provided that they meet a number of conditions (such as prior consultation with the persons to be evicted, the provision of adequate and reasonable notice as to when the eviction will take place and the availability of judicial remedies either to prevent the eviction or provide compensation). Such requirements apply equally to cases of evictions by state authorities and private individuals. Evictions should not render persons homeless or render them more vulnerable to other human rights violations. They should also not take place in bad weather or at night. If those evicted cannot provide for themselves, then the State Party should take all reasonable measures, utilising all available resources, to ensure the provision of adequate alternative housing.

The CESCR also expressed its concern that forced evictions are often accompanied by acts of violence (evictions sometimes occur during incidents of inter-ethnic violence) and that women, children and minorities are particularly vulnerable.<sup>24</sup> Further elaborating the states' obligations in cases of forced eviction and drawing on the committee's General Comment 7, the UN Special Rapporteur on Housing has published a set of detailed guidelines outlining the States' obligations before, during and after evictions. Thus, following an eviction, states are mandated to, 'at a minimum, regardless of the circumstances and without discrimination, [...] ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: [...] basic shelter and housing.'<sup>25</sup>

The principle of non-discrimination recurs in all UN instruments and texts: virtually all the UN instruments referred to above contain anti-discrimination provisions. The CESCR has further elaborated on the different forms of discrimination and the way they can hinder the enjoyment of the rights protected by the ICESCR, including that of housing. The committee calls on states to 'eliminate' direct and indirect discrimination and aim at the realisation

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<sup>23</sup> CESCR (1997) General Comment 7, *The right to adequate housing: forced evictions*, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument) (19.7.2009).

<sup>24</sup> CESCR (1997) General Comment 7, *The right to adequate housing*, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument) (19.7.2009).

<sup>25</sup> UN Special Rapporteur on Housing (2007) *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Annex 1, Basic Principles and Guidelines on Development-Based Evictions and Displacement prepared by the Special Rapporteur under the auspices of the UN Human Rights Council, A/HRC/4/18*, 5 February 2007, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G07/106/28/PDF/G0710628.pdf?OpenElement> (19.7.2009).

of substantial equality. Noting that in certain cases States may be under an obligation to adopt special measures in order to attenuate the effects of discrimination, the committee emphasises multiple discrimination, which merits particular consideration and effort to remedy.

Of particular interest are the committee's comments in relation to 'systemic discrimination', namely discrimination which is 'pervasive, persistent and deeply entrenched in social behaviour and organisation, often involving unchallenged or indirect discrimination.'<sup>26</sup> According to the committee, tackling such discrimination calls for a comprehensive approach using a range of laws, policies and programmes, including temporary special measures. Measures should be taken both in order to raise awareness among relevant actors and to encourage them to change their attitude or, failing that, to penalise their non-compliance. In this respect, one of the fundamental obligations incumbent on State Parties under Article 2 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), is to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour or national or ethnic origin, to equality before the law in the enjoyment of the rights protected by the Convention. Housing is one of those rights.<sup>27</sup> The eradication of racial segregation is moreover an obligation specified in the Convention (Article 3)<sup>28</sup> and to guarantee the right to housing without distinction as to, for example, race (Article 5 (e)(iii)).

Although lacking a Roma- or Traveller specific instrument or a broad Roma and/or Travellers initiative within the UN framework, various UN bodies have indicated that the lack of a comprehensive housing policy in relation to, among others, Roma and Travellers, might be in breach of obligations of states arising under the relevant UN instrument. Furthermore, under the guidelines of the CESCR, states are required to provide statistics and information regarding their housing situation (particularly concerning the housing situation of vulnerable social groups), and describe measures adopted to counter the situation and their impact.<sup>29</sup>

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<sup>26</sup> CESCR (2009) General Comment No. 20, *Non-Discrimination in Economic, Social and Cultural Rights*, available at:

<http://www2.ohchr.org/english/bodies/cescr/docs/gc/E.C.12.GC.20.doc> (19.7.2009).

<sup>27</sup> UN General Assembly (1969), Article 5 (e), (iii), available at:

<http://www2.ohchr.org/english/law/cerd.htm> (07.10.2009).

<sup>28</sup> Article 3 is elaborated upon by CERD (1995) General Recommendation No. 19, *Racial Segregation and Apartheid*, available at:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/18c91e92601301fbc12563ee004c45b6?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/18c91e92601301fbc12563ee004c45b6?Opendocument) (12.10.2009), emphasising that racial segregation may also occur as an unintended consequence of private action, for which the state must work to eradicate.

<sup>29</sup> CESCR (2009) *Guidelines on Treaty-specific documents to be submitted by States Parties under Articles 16 and 17 of the [ICESCR]*, available at:

<http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.2008.2.doc> (20.9.2009).

UN bodies have often called on states to design and implement housing policies for Roma. In its *General Recommendation No. 27 on Discrimination Against Roma*, the Committee on the Elimination of Racial Discrimination (CERD) called upon states to ‘adopt and implement national strategies and programmes and express determined political will and moral leadership, with a view to improving the situation of Roma and their protection against discrimination by State bodies, as well as by any person or organisation.’ Similarly, states are called upon to provide nomadic Roma or Travellers with camping places for their caravans, equipped with all necessary facilities.<sup>30</sup> The CERD also regularly refers to Roma and Travellers, in its concluding observations, including and highlighting problems related to housing.<sup>31</sup>

The numerous problems Roma face in the field of housing were amply demonstrated in a seminal housing case brought before CERD. The case addresses four related and often overlapping themes: racist reactions by local non-Roma residents, adoption of discriminatory measures by local authorities, non-discrimination in the exercise of the right to housing and the existence of legal remedies to challenge the discrimination.

The case relates to a resolution, adopted by the Municipal Council of the town of Dobšiná in Slovakia, approving a housing policy for the destitute Roma community living there and calling on the mayor to prepare the necessary documentation and apply for state funding. However, following the resolution, local non-Roma residents petitioned the municipality not to proceed with the housing plan, as it would lead to ‘an influx of inadaptable citizens of Gypsy origin’.<sup>32</sup> Upon receiving this petition, the Municipal Council revoked the first resolution and adopted a new one, replacing the original plan with a call to elaborate a proposal regarding measures to be taken in relation to the ‘inadaptable’ citizens of the town: a proposal that would then be subject to a public discussion with the municipality’s residents. The new resolution made explicit reference to the non-Roma residents’ petition. Through their legal representatives, the Roma challenged both the petition and the revocation of the first resolution before the Prosecutor’s Office and the Constitutional Court,

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<sup>30</sup> CERD (2000) General Recommendation No. 27, *Discrimination against Roma*, paragraph 1.2, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/11f3d6d130ab8e09c125694a0054932b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/11f3d6d130ab8e09c125694a0054932b?Opendocument) (18.7.2009).

<sup>31</sup> CERD (2009) Concluding observations, CERD/C/FIN/CO/19, (13.03.2009), paragraph 17; CERD (2009) CERD/C/BGR/CO/19, (23.03.2009), paragraph 15.

<sup>32</sup> CERD (2005), *Communication No. 31/2003, L.R. and others v. Slovakia*, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3764f57be14718c6c1256fc400579258?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3764f57be14718c6c1256fc400579258?Opendocument) (16.8.2009). For a similar case, concerning a neighbourhood not willing to accept an immigrant moving into the area and ensuring inadequate reactions by the state, see *Communication No. 4/1991, L.K. v. The Netherlands*, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ec0884e5a47c1a1480256714005f6000?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ec0884e5a47c1a1480256714005f6000?Opendocument) (10.10.2009).

which dismissed their claims holding that the resolutions were not legal acts and hence not subject to review by courts.

Before the CERD, the government of Slovakia repeated this argument, noting that such resolutions constituted ‘purely internal organisational rules’ and as such, conferred no rights, let alone the right to housing that could be invoked before a court. The CERD disagreed, noting that town councils do constitute public authorities and hence their acts should be in conformity with the ICERD. The committee also held that it would be unduly formalistic and run counter to the ICERD to indicate that there should be no discrimination in the actual exercise of a right but to leave scope for discrimination in the previous stages leading to its exercise. This applies particularly in relation to rights that require extensive administrative and policy-making measures for their implementation (such as the right to housing). The CERD noted that the initial resolution of the municipal council constituted an important policy and practical step towards the realisation of the right to housing. Its subsequent, racially motivated revocation was in violation of the state’s obligation to ensure that all authorities, national and local, exercise their functions in a manner which is not racially discriminatory.<sup>33</sup> Furthermore, the resolution’s revocation also violated the prohibition of discrimination regarding the right to housing.<sup>34</sup> The CERD also found a violation in the lack of legal remedies available to the Roma to challenge the revocation of the first resolution and claim redress.<sup>35</sup>

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<sup>33</sup> UN General Assembly (1969) *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), Article 2.1 (a), available at: <http://www2.ohchr.org/english/law/cerd.htm> (16.8.2009).

<sup>34</sup> UN General Assembly (1969) *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), Article 5(e), (iii), available at: <http://www2.ohchr.org/english/law/cerd.htm> (16.8.2009).

<sup>35</sup> UN General Assembly (1969) *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), Article 6, available at: <http://www2.ohchr.org/english/law/cerd.htm> (16.8.2009).

## 3. The European framework: Law and policy

### 3.1. The impact of the Racial Equality Directive

In June 2000, the Council of the European Union adopted Directive 2000/43/EC of 29 June 2000 *implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*, (the Racial Equality Directive) setting a deadline of 19 July 2003 for its transposition into the legislation of the Member States.<sup>36</sup>

The directive applies to all persons, as regards both the public and private sectors, including public bodies. Thus, the scope of the prohibition on discrimination reaches various fields. Amongst others, Article 3(1)(h) of the Racial Equality Directive lists ‘access and supply of goods and services which are available to the public, including housing’.

Under Article 13 of the Racial Equality Directive, Member States must ensure that victims of a violation of the principle of equal treatment have at their disposal remedies leading to effective, proportionate and dissuasive sanctions against the offending party. At the same time, they should designate a body or bodies for the promotion of equal treatment; these bodies should provide independent assistance to victims of discrimination in pursuing their complaints, conduct independent surveys regarding discrimination and publish independent reports and make recommendations on any issue regarding discrimination.

#### 3.1.1. The competences of the equality bodies

The impact of the Racial Equality Directive as a legal tool to combat discrimination in housing varies between Member States. Thus in some cases the directive has had no impact, either because it has been transposed only recently (as in the case of **Czech Republic**<sup>37</sup>) or because the transposing

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<sup>36</sup> OJ L 180, 19.7.2000, p. 22.

<sup>37</sup> The Lower House of the Czech Parliament adopted the Act (198/2009 Coll) transposing the Racial Equality Directive (as well as the Employment Equality Directive (Council Directive 2000/78/EC)) on 17.6.2009; see [http://www.equineteurope.org/405\\_3.html](http://www.equineteurope.org/405_3.html) (23.8.2009). The

legislation did not extend the directive's ambit to all potential housing situations (as is the case of **Poland** and **Latvia**<sup>38</sup>).

Almost all EU Member States have by now established equality bodies that can receive discrimination complaints,<sup>39</sup> although the scope of their mandate varies. For example, they may have a mandate to award compensation directly, e.g. without recourse to a court; or to impose fines or to issue an opinion or a recommendation. Some equality bodies are empowered to launch judicial proceedings before a court or a quasi-judicial body examining cases of discrimination, either in their own right and/or on behalf of the applicants, in order to obtain a binding ruling on a finding of discrimination.

It is important to note that certain equality bodies have adopted various measures in order to prioritise Roma and Traveller issues. For example, Roma and Traveller activists are represented on the boards of the equality bodies of **Ireland, Portugal and Romania**. Also, the equality body in **Belgium** has assigned members of its staff to deal exclusively with Roma and Traveller issues. The equality bodies of **Ireland, Sweden** and the **UK** have adopted strategies regarding Roma and Traveller issues while the equality body of **Portugal** has a special office that provides information about Roma projects as well as national and international Roma news.<sup>40</sup> Other equality bodies, such as those of **France, Greece, Italy, Romania** and **Finland** have, on the basis of the complaints on Roma/Traveller housing issues, implemented some ad hoc activities or measures or prepared special reports on Roma and Traveller issues. Thus the equality body of **France** has formed a working group and has issued recommendations on Traveller issues (including housing). The **Greek** equality body has recently published a Special Report on Roma, indicating that some Roma who are not included in municipal registries may have problems when applying for the housing loans programme.<sup>41</sup> The equality body of **Italy** has

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act came into force on 1.9.2009 with the exception of provisions regarding the *Veřejný ochránce práv* (Public Defender of Rights), designated under the act as the national equality body; these provisions are to become effective on 1.12.2009. The quality of the act was criticised from all parts of political spectrum as well as by non-governmental organisations. The act is likely to be amended following the autumn 2009 parliamentary elections.

<sup>38</sup> The *Patērētāju tiesību aizsardzības likums* (Consumer Rights Protection Law) has been amended and covers discrimination in the field of provision of housing by service providers (i.e. entrepreneurs, real-estate agencies and so forth). The Civil Code has yet to be amended however and as a result private transactions are still not covered by the Racial Equality Directive.

<sup>39</sup> A list of equality bodies is available at: <http://ec.europa.eu/social/main.jsp?catId=616&langId=en> (15.9.2009).

<sup>40</sup> *Gabinete de Apoio à Comunidade Cigana* [Office for Support to the Roma Community]. The Office has its own website, available at: <http://www.ciga-nos.pt/Home.aspx> (16.09.2009)

<sup>41</sup> *Δημοτολογική Κατάσταση των Ελλήνων Τσιγγάνων*, August 2009, available at: [http://www.synigoros.gr/pdf\\_01/8289\\_3\\_Dimotologisi\\_Roma\\_Eidiki\\_Ekthesi.pdf](http://www.synigoros.gr/pdf_01/8289_3_Dimotologisi_Roma_Eidiki_Ekthesi.pdf) (18.9.2009). The report contains an English summary at the end.

organised a sensitisation campaign<sup>42</sup> on prejudice against Roma, while the equality body of **Romania** has organised anti-discrimination seminars for public officials.

### 3.1.2. Housing related complaints

Under Article 13 of the Racial Equality Directive,<sup>43</sup> Member States are required to designate one or more equality bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. At the very minimum, these bodies should provide independent assistance to victims of discrimination in pursuing their complaints about discrimination,<sup>44</sup> conduct surveys, publish independent reports and make recommendations. There is no obligation under Article 13 for governments to empower equality bodies to impose fines or sanctions. As was seen above however, some Member States have conferred far more power on their equality bodies.

One of the ways these bodies provide assistance is by taking up a complaint. All the equality bodies can receive discrimination complaints and examine them – the difference between them lies in what action they can take once a case of discrimination has been presumed. A way of measuring the impact of the

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<sup>42</sup> See A. Simoni (2008) *Report on Measures to combat discrimination, Country Report / Update 2007, Italy, State of Affairs up to 29 February 2008*, available at: <http://www.non-discrimination.net/content/media/2007-IT-Country%20Report%20Final.pdf> (9.9.2009), p. 52.

<sup>43</sup> Article 13 provides as follows: '1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights. 2. Member States shall ensure that the competences of these bodies include: - without prejudice to the right of victims and of associations, organisations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination, - conducting independent surveys concerning discrimination, - publishing independent reports and making recommendations on any issue relating to such discrimination.'

<sup>44</sup> There is no guidance as to what Article 13(2) implies when it states that the assistance to be rendered to victims of discrimination should be 'independent', prompting experts as early as 2006 to ask for more clarification regarding the content of the terms 'independent assistance' of Article 13 RED and 'effective sanctions' of Article 15 Racial Equality Directive. See R. Holtmaat (2006) *Catalysts for Change? Equality Bodies according to Directive 2000/43/EC – existence, independence and effectiveness*, available at: [http://www.stop-discrimination.info/fileadmin/pdfs/Reports/Catalysts\\_for\\_Change\\_en.pdf](http://www.stop-discrimination.info/fileadmin/pdfs/Reports/Catalysts_for_Change_en.pdf) (15.8.2009), pp. 41 and 61. Similarly, no meaningful guidance is to be found in relevant Commission communications; in its overview of the state of play regarding the Racial Equality Directive, it did not address these concerns and seems to expect the European Court of Justice (ECJ) to provide 'definitive guidance on how to interpret the provisions of the Directive'. See European Commission (2006) *The application of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*, COM (2006) 643, Brussels, 30 October 2006, p. 8. [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0643en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0643en01.pdf) (18.8.2009).

directive in the field of Roma and Traveller housing would therefore be to examine the complaints that have been lodged by Roma/Travellers with their country's equality body, alleging discrimination in the field of housing. However, an accurate assessment of the complaints filed is difficult, as there is no readily available, official statistical data disaggregated by theme and ethnic origin, either in relation to the complaints filed with the equality bodies or their outcomes.

Nevertheless, according to data collected by RAXEN from equality bodies, approximately 550 Roma/Traveller housing-related complaints were filed with equality bodies or Ombudsperson offices in the EU between 2000 and 2009. Out of these complaints, RAXEN found that a violation was found or a settlement was reached in approximately 35. Given the results of EU-MIDIS and the qualitative evidence provided by reports of international organisations, it is reasonable to conclude that housing discrimination on grounds of racial or ethnic origin is seriously underreported.

Turning to the nature of complaints filed with the equality bodies, the following cases present a snapshot of the numerous problems faced by Roma and Travellers in the field of housing:

A pregnant Roma woman with three children signed a lease with a sole proprietorship in western **Sweden**. Some time later the landlord found out that the woman was of Roma ethnic origin and when the family was out of town, he changed the lock on the flat, effectively evicting her. According to the then Swedish Ombudsman against Ethnic Discrimination,<sup>45</sup> the eviction was racially motivated and the Ombudsman's office brought proceedings against the landlord before the Linköping District Court. The court ruled that the landlord discriminated against the Roma woman on grounds of her ethnicity and awarded her damages of SEK 50,000 (approximately 5,000 EUR). The landlord appealed to the Göta Court of Appeal but the case was eventually settled.<sup>46</sup>

In a case from **Finland**, a homeless Roma family applied for an apartment from the municipality of Himanka in 2005 and 2006 but was continuously passed over when applicants for housing were chosen from the waiting list. The family suspected that this was due to their Roma background and filed a complaint with the Ombudsman for National Minorities. In their response to an enquiry made by the Ombudsman for Minorities, the municipal authorities argued that Himanka is not an ideal living area for the Roma as it provides no opportunity

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<sup>45</sup> As of 1.1.2009, the four previous offices of the anti-discrimination ombudsmen, namely the Equal Opportunities Ombudsman (gender), the Ombudsman against Ethnic Discrimination, the Disability Ombudsman and the Ombudsman against Discrimination due to Sexual Orientation, were replaced by the office of the *Diskrimineringsombudsmannen* [Equality Ombudsman].

<sup>46</sup> DO OMED 2005/1209 (15.12.2008). See also a related case, where a verdict was handed down in favour of an applicant, Göta Court of Appeal, nr 3501-08.

to remain in touch with the Roma culture. The Ombudsman decided to refer the case to the National Discrimination Tribunal, which noted that the municipality had claimed that all applicants are offered housing within three months from their application yet the complainants were on the waiting list for more than two years, although a number of apartments had been made available. The tribunal held that the municipality of Himanka had treated the Roma family less favourably than applicants belonging to the majority population. In its deliberation, the tribunal also took into account the fact that homeless persons should be prioritised in the selection of tenants. The tribunal ordered the municipality to cease its discriminatory practice; as the latter however failed to do so, the tribunal decided to impose a conditional fine of 4,000 EUR on the municipality to enforce its compliance with the prohibitive decision.<sup>47</sup>

A case from **Ireland** illustrates the problems Travellers sometimes face in securing unhindered access to a halting site. The local council had, with the agreement of the families living in the halting site, installed a barrier that prevented the applicant from entering and leaving with his van. When he contacted them and asked for a key to the barrier, he was informed that he could not be issued with a key and that he would have to inform the local authority 24 hours before he wanted to get in/out of the caravan site. The complainant found this discriminatory given that in the past non-Travellers had been provided with keys to the barrier and provided the Equality Tribunal with photographs to that effect. In its response, the council held that such barriers can be found on all halting sites as their installation is laid down according to a policy decision<sup>48</sup> and that keys are not being issued to Travellers and non-Travellers alike in order to protect the sites and the residents living there. The investigating Equality Officer found that the reasons the council advanced as to why persons living on halting sites are not given keys to the entrance barriers of their homes did not justify the complainant's less favourable treatment. According to the Equality Officer, the difference in treatment between the complainant and a person who resides in standard non-Traveller specific accommodation was based on the failure to accept a Traveller as a responsible person. As a result, the officer held that the complainant had established a *prima facie* case of discrimination. The respondent was ordered to pay the complainant 2,000 EUR as redress for the effects of the discrimination and ordered to immediately provide him with a key to the barrier in question. Finally, the Equality Officer also recommended that the council carry out an urgent review to examine whether a barrier to the site entrance, as recommended under the relevant guidelines, was needed.<sup>49</sup>

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<sup>47</sup> Syrjintälautakunta/National Discrimination Tribunal of Finland (13.03.2007).

<sup>48</sup> Namely by the Department of the Environment and Local Government (2002) *Guidelines for Group Housing for Travellers*, Dublin; Department of the Environment and Local Government.

<sup>49</sup> Ireland/Equality Tribunal/DEC-S2008-004 (29.1.2008).

A case that was brought before the equality body of **Romania** (National Council for Combating Discrimination – NCCD) amply highlights the structural nature of the housing problems which Roma and Travellers are facing. The complaints concerned the forceful eviction of ten to eleven Roma families of at least five members each living in a derelict building they were renting from the Municipality of Miercurea Ciuc. According to the findings of the NCCD's investigation, the Roma had been relocated to a wastewater treatment facility on the outskirts of the city and settled on a poorly landscaped area of 700-800 square metres, surrounded by a fence. They were provided with eight metallic shacks and seven wooden houses connected to the electricity grid and running water mains. The Roma alleged that two children had died and attributed their deaths to the toxic environment. Responding to these allegations, the mayor purportedly declared he was not interested in the health of the children since they (the Roma) had, in any case, 'too many children.' In fact the mayor considered the relocation as a 'positive measure' for the Roma as their utility bills were paid by the municipality. NCCD's investigation however revealed that the operative reason for the relocation of the Roma to the particular area was opposition of the local society over other relocation sites. Referring *inter alia* to Articles 8 and 14 of the European Convention on Human Rights the NCCD held that the Miercurea Ciuc Council had discriminated against the Roma. A fine of 4,000 Romanian lei (approximately 1,000 EUR) was imposed on the municipality.<sup>50</sup>

### 3.1.3. Roma and Traveller rights awareness

The scarcity of complaints in regard to housing discrimination on grounds of racial or ethnic origin filed with the equality bodies could, at a first reading, indicate that Roma and Travellers do not in fact face serious discrimination in their effort to secure adequate housing. Yet that would be inconsistent with many reports by international bodies about the appalling housing conditions and widespread discrimination faced by many Roma and Travellers.

An analysis<sup>51</sup> of the recent EU-MIDIS survey sheds some light into this inconsistency: in the seven Member States where Roma were surveyed, only one in nine (11.5 per cent) out of all Roma who responded that they had been discriminated against in access to housing in the last 12 months, chose to report such incidents to the relevant organisations. This data indicates very high levels of underreporting of discrimination in relation to housing among Roma. The vast majority did not choose to report any incidents; most believed nothing could be achieved from doing so. Many respondents gave multiple reasons for

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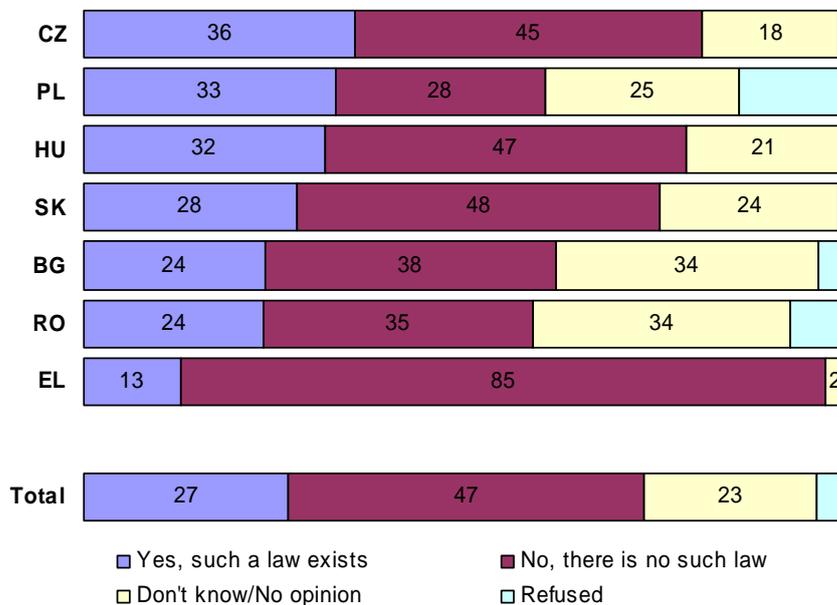
<sup>50</sup> Romania/Consiliul National pentru Combaterea Discriminarii (23.9.2005).

<sup>51</sup> See FRA (2009) *Housing discrimination against Roma in selected EU Member States: experiences and perceptions of housing discrimination: An analysis of EU-MIDIS data.*

non-reporting. Almost three quarters said that ‘nothing would change’ while 41 per cent indicated that they were unsure how or where to report such incidents. A quarter of respondents were also concerned about the potentially negative consequences to them if they reported the discrimination, with some 16 per cent concerned that they would suffer intimidation from perpetrators as a backlash.

Respondents were also asked a question about their awareness of legislation that forbids discrimination in relation to ethnicity when renting or buying a flat (see graph below). Only a quarter (27 per cent) of all respondents stated awareness of such laws. In contrast, half of the respondents surveyed (47 per cent) did not know of any laws and a further 23 per cent of respondents were unsure or had no opinion. This trend was evident across the Member States surveyed with the exception of Greece, where only 13 per cent of the respondents were aware of such a law and 85 per cent stated that no such law existed. This lack of rights awareness suggests that the message about the right not to be discriminated is not reaching some of the most vulnerable minorities in Europe. Added to this the fact that Finland and Ireland account about for 376 of the approximately 550 Roma/Traveller housing related complaints lodged EU-wide seems to indicate that the equality bodies in these countries were able to gain a certain visibility and trust.

Fig. 1 EU-MIDIS: Awareness of laws that prohibit discrimination when renting or buying a flat (%)



### Implementing anti-discrimination legislation

In January 2008 the National Discrimination Tribunal of Finland made a finding of discrimination against a property company in the city of Raahelä, issuing a conditional fine of 2,000 EUR. The property company had agreed to rent an apartment to a Roma applicant only on condition that the department of Social Services of the city of Raahelä act as a guarantor for the lease. The Tribunal found that this was not a standard procedure with regards to members of the majority population in similar situations. Accordingly, the Tribunal found that the property company had treated the applicant in a discriminatory manner on grounds of ethnic origin.<sup>52</sup>

### Combating discrimination in the Swedish housing market during 2006-2008

Specifically examining the structural and direct discrimination in the housing market during a three-year period, the then Ombudsman against Ethnic Discrimination financed a report. This report detailed discriminatory patterns, such as rental criteria, purchasing obstacles, brokering systems, lack of transparency, et cetera, that allows for inequality and discrimination. The report even suggests that some of these are intentionally systematised. Rules and procedures persisting in housing market were also identified that caused various forms of discrimination. The report included recommendations to the national and local governments, as well as to private housing brokers. The budget of the project was SEK 500,000 (50,000 EUR).<sup>53</sup>

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<sup>52</sup> The decision is available at:  
<http://www.intermin.fi/intermin/hankkeet/sltk/home.nsf/PFBD/A85FDCAD7E5D1774C22573DA0049%208F0?opendocument> (10.10.2009).

<sup>53</sup> DO (2008) *Diskriminering på den svenska bostadsmarknaden – En rapport från DO:s särskilda arbete under åren 2006-2008 kring diskriminering på bostadsmarknaden*, available at: [http://www.sabo.se/SiteCollectionDocuments/DO\\_Bostadsrapport\\_2008\\_ny.pdf](http://www.sabo.se/SiteCollectionDocuments/DO_Bostadsrapport_2008_ny.pdf) (12.10.2009).

## 3.2. Case law from the Council of Europe

### 3.2.1. European Court of Human Rights

Increasingly, Roma and Traveller housing issues are being brought before the European Court of Human Rights (the Court/ECtHR), mostly alleging violations under the European Convention on Human Rights (ECHR) of Article 3 (prohibition of torture and inhuman or degrading treatment), Article 8 (respect for private and family life) and Article 1 of Protocol 1 (protection of property).

The right not to be discriminated is safeguarded by two provisions of the ECHR. The first is Article 14 (prohibition of discrimination) which is not a free-standing right, meaning that it can only be invoked in conjunction with any of the substantive provisions of the convention. The second provision is Article 1 of Protocol 12, which provides for a free-standing non-discrimination clause, in relation not only to rights protected under the convention but also discrimination more generally, including all rights laid down in domestic law.<sup>54</sup>

Although none of these articles explicitly grants a right to housing, the court has steadily expanded the protection it affords to persons in a precarious housing situation and those facing forced eviction. In *Marzari v Italy* (not a Roma/Traveller related case), the applicant was suffering from a serious medical condition and complained about being evicted and the failure to provide suitable alternative accommodation. After noting that eviction on ground of non-payment of rent was legitimate, the court also noted that in some cases authorities might be required to provide housing. In this case, the court noted that not only had the authorities postponed the applicant's eviction for a long period of time, they had in fact provided the applicant with a house even though the applicant considered this unsuitable. As a result, the court found the complaint unfounded.<sup>55</sup>

In *Stanková v. Slovakia*, the court, echoing the Slovak Constitutional Court, held that the municipality's unjustified eviction of the applicant and failure to provide adequate alternative accommodation was in violation of Article 8 ECHR.<sup>56</sup> In addition to the provision of alternative accommodation, the court indicated that other measures aimed at protecting tenants would be legitimate in

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<sup>54</sup> As of 1 September 2009, six EU Member States were state parties to Protocol 12: Cyprus, Spain, Luxembourg, Netherlands, Romania and Finland. Another 13 were signatories. Eight Member States have not signed the Protocol (Bulgaria, Denmark, France, Lithuania, Malta, Poland, Sweden and the UK).

<sup>55</sup> ECtHR, Chamber decision, 36448/97, (04.05.1999), see also ECtHR, Chamber decision, *Botta v. Italy*, 21439/93, (24.02.1998) and ECtHR, Chamber decision, *O'Rourke v. the UK*, 39022/97 (26.06.2001).

<sup>56</sup> ECtHR, Chamber judgment, 7205/02 (09.10.2007).

principle. These measures include the suspension of evictions,<sup>57</sup> the imposition on the landlord of an obligation to provide the tenant with alternative accommodation before eviction<sup>58</sup> as well as the adoption of rent-control schemes.<sup>59</sup>

Another case with a housing element is that of *Wallová and Walla v. the Czech Republic* (not a Roma/Traveller related case).<sup>60</sup> Here the court was critical of social authorities that took custody of the applicants' children and placed them in an institution on the sole ground that their parents did not have adequate housing – a problem faced by many Roma in the Czech Republic.<sup>61</sup> The court held the authorities should have helped the applicants overcome the housing problem they faced rather than resort to such a drastic measure.

Turning to Roma and Traveller cases the court recognised that caravans placed on a piece of land without prior permission were also to be considered as homes and came within the scope of Article 8. The court held that under certain circumstances, even a dwelling built illegally could be considered as 'property' and its owner be entitled to compensation under Article 1, Protocol 1 (right to property).<sup>62</sup> In line with this approach, the court appears to have accepted that Roma sheds<sup>63</sup> also constitute homes and hence come within the ambit of Article 8 (privacy and family).<sup>64</sup> In the case of *Connors v. UK*, the court held that a Gypsy man who was summarily evicted from a local authority site should have been provided with the opportunity to contest effectively the decision to evict him before the eviction took place.<sup>65</sup>

Forced evictions of Roma (many times accompanied by the destruction of their homes by state officials) and Travellers further exacerbate their already

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<sup>57</sup> ECtHR, Grand Chamber judgment, *Immobiliare Saffi v. Italy*, 22774/93 (28.07.1999).

<sup>58</sup> ECtHR, Chamber judgment, *Schirmer v. Poland*, 68880/01 (21.09.2004).

<sup>59</sup> ECtHR, Grand Chamber judgments *Mellacher and Others v. Austria* 10522/83 (19.12.1989) and *Hutten-Czapska v. Poland* no. 35014/97 (19.06.2006).

<sup>60</sup> ECtHR, Chamber judgment, 23848/04 (26.10.2006).

<sup>61</sup> ECRI (2009) *Report on the Czech Republic (fourth monitoring cycle)*, CRI(2009)30, 15.2.2009, available at: [http://www.coe.int/t/dghl/monitoring/ecri/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp) (16.9.2009), paragraph 144.

<sup>62</sup> ECtHR, Grand Chamber judgment, *Öneryıldız v. Turkey*, 48939/99 (30.11.2004), see however ECtHR, Chamber judgment, *Hamer c. Belgique*, 21861/03 (27.11.2007).

<sup>63</sup> The term 'shed' is used here to describe impromptu dwellings built by Roma. These sheds are usually made of wooden planks, tin and nylon sheets.

<sup>64</sup> ECtHR, Statement of Facts, *Evangelos Tzamalís and Others v. Greece*, 5469/07, decision to communicate (13.06.2008); The court solicited the government's comments on whether the destruction of the applicants' sheds was in violation of Articles 3 and 8. At time of writing this report the case was pending.

<sup>65</sup> ECtHR, Chamber judgment, 66746/01, (27.05.2004); It should be noted that the court placed significant emphasis on the fact that the applicant was living in a lawfully established site, thus distinguishing the case from the UK 'Gypsy' cases where the applicants had settled without securing the relevant permit. See also ECtHR, Chamber judgment, *McCann v. UK*, 19009/04 (13.05.2008).

problematic living conditions. In the seminal case of *Moldovan and Others v. Romania* (No.2)<sup>66</sup>, the court noted that the applicants' appalling living conditions, following the destruction of their homes, together with the racial discrimination by various authorities to which they were publicly subjected in the handling of their grievances also constituted a violation of Article 3 of the Convention.

A series of recent applications before the court concerning alleged illegal forced evictions of Roma relate to the issue of available remedies. It is reminded that in order for an applicant to bring a case before the court, all available domestic remedies that would be likely to afford redress for the harm suffered. In most cases, this will involve legal action before the courts. Should the applicant fail to try these avenues, the court will reject the application as 'inadmissible.' The only exception to this rule is for the applicant to convince the court that either there was no remedy for the harm suffered or that it would be ineffective.

In the cases of *Tzamalīs and Others v. Greece*,<sup>67</sup> *Ibishi and Others v. Greece*<sup>68</sup> and *Rasema Husovic and Others v. Italy*,<sup>69</sup> the applicants (all of whom were Roma squatters) did not exhaust any kind of domestic remedy. They noted instead that the real harm they had suffered was the destruction of their homes and the loss of their housing. As they argued, the only remedy that would be effective under the circumstance would be one that would help them secure housing as soon as possible. Since no such remedy existed, they maintained, they could not have recourse to it. In a rather surprising move, the court decided to communicate the cases to the respective governments, soliciting their comments as to whether any remedies capable of redressing the main thrust of the complaints were available, as well as whether they had been discriminated against on grounds of their ethnic origin. In fact, in the case of *Rasema Husovic and Others v. Italy*, one of the questions addressed to the Italian government by the court was whether the government had provided the Roma applicants with any kind of assistance following their eviction while in *Ibishi and Others v. Greece* the Court questioned whether the authorities had taken any measures to

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<sup>66</sup> ECtHR, Chamber judgment, 41138/98 and 64320/01 (12.07.2005); see also the similar cases ECtHR, Chamber judgment, *Kalanyos and Others v. Romania*, 57884/00 (26.04.2007) and ECtHR, Chamber judgment, *Gergely v. Romania*, 57885/00 (26.04.2007).

<sup>67</sup> ECtHR, Statement of Facts, 5469/07, decision to communicate (13.06.2008). At the time of writing this report the case was pending.

<sup>68</sup> ECtHR, Statement of Facts, 47236/07, decision to communicate on 2 February 2008. One of the questions posed by the court to the Greek government was whether they enjoyed 'access to an effective and accessible procedure that would allow them to voice their concerns to the relevant authorities and take part in the decision making process relating to their eventual relocation.' As of the time of writing, the case was pending.

<sup>69</sup> ECtHR, Exposé des faits et Questions aux Parties, *Rasema Husovic et autres c. Italie*, 4830/05, decision to communicate 30 July 2007. Following the provision of housing to the applicants, the latter notified the Court of their intention to withdraw their application and the Court struck the case off its list. ECtHR, Chamber judgment, *Rasema Husovic et autres c. Italie*, 4830/05, 13 May 2008.

provide the applicants with a realistic and sustainable solution to their predicament.

This could be considered as an incremental development of the court's jurisprudence on Roma and Travellers. A highly important aspect of the court's jurisprudence in the UK 'Gypsy' cases<sup>70</sup> under Article 8 relates to the existence of alternative accommodation in cases of eviction, as well as the nature of this accommodation in cases concerning Travellers. Although all these cases were ultimately unsuccessful before the court, the latter nevertheless did hold that states are under an obligation to facilitate the 'Gypsy way of life.'<sup>71</sup> Furthermore, the court noted that the availability of alternative accommodation is a consideration that should be taken into account by the authorities seeking the eviction,<sup>72</sup> thereby suggesting that an eviction not accompanied by provision of alternative accommodation might run counter to Article 8.<sup>73</sup>

In this respect and in what can be considered as a landmark decision, in the case of *Yordanova and Others v. Bulgaria*, the court granted a request put forward

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<sup>70</sup> ECtHR, Grand Chamber, *Chapman v. United Kingdom*, 27238/95; ECtHR, Grand Chamber, *Beard v. United Kingdom*, 24882/94; ECtHR, Grand Chamber, *Coster v. United Kingdom*, 24876/94; ECtHR, Grand Chamber, *Lee v. United Kingdom* 25289/94; ECtHR, Grand Chamber, *Jane Smith v. United Kingdom* 25154/94. All five cases were joined by the Grand Chamber that delivered its judgment on 18 January 2001.

<sup>71</sup> ECtHR, Grand Chamber, *Chapman v. United Kingdom*, no 27238/95 (18.01.2001), paragraph 96: 'Nonetheless, although the fact of belonging to a minority with a traditional lifestyle different from that of the majority does not confer an immunity from general laws intended to safeguard the assets of the community as a whole, such as the environment, it may have an incidence on the manner in which such laws are to be implemented. As intimated in *Buckley*, the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases [...] To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the Gypsy way of life'.

<sup>72</sup> ECtHR, Grand Chamber, *Chapman v. United Kingdom*, no 27238/95 (18.01.2001), paragraph 103: 'A further relevant consideration, to be taken into account in the first place by the national authorities, is that if no alternative accommodation is available the interference is more serious than where such accommodation is available. The more suitable the alternative accommodation is, the less serious is the interference constituted by moving the applicant from his or her existing accommodation'. Ultimately the court held (at paragraphs 112-113) alternative sites were available to the applicant and that she had failed to adduce before the court any special considerations that should be taken into account (e.g. her lack of resources).

<sup>73</sup> ECtHR, Chamber decision, *Codona v. United Kingdom*, 485/05 (07.02.2006). For a similar case regarding French Travellers, see ECtHR, Chamber judgment, *Gabriel Louis Stenegry et M<sup>me</sup> Sonia Adam c. France*, 40987/05, (22.05.2007). In both cases, the court held that the authorities had in fact provided the applicants (a British Gypsy and French Travellers respectively) with alternative accommodation following their eviction and as a result no violation of Article 8 arose, even if the provided accommodation did not fully satisfy their cultural needs. It should be noted that in the *Codona* case the court intimated that a long-standing failure to provide the applicant with culturally adequate housing could in fact amount to a violation of the Convention.

by Bulgarian Roma and, under Rule 39 of the Rules of the Court,<sup>74</sup> indicated measures to be taken by the Bulgarian government to effectively suspend the eviction,<sup>75</sup> as it happened. Furthermore, in communicating the application to the Bulgarian government, the court called upon the government to comment on why authorities that had tolerated the settlement of Roma for many years now wanted to gain possession of the ground and whether they would implement concrete projects aimed at assisting all applicants to secure housing for themselves and, in particular, the more vulnerable persons, such as the children, the ill and the elderly.<sup>76</sup>

### 3.2.2. European Committee of Social Rights

Both the original 1961 European Social Charter and the 1996 Revised European Social Charter (ESC) contain provisions that are either directly or indirectly related to housing (Articles 16 and 31 respectively). The charter (the original as well as the revised) provides that the rights enshrined should be implemented in a non-discriminatory way.

The European Committee of Social Rights (ECSR) is the body entrusted with supervising implementation by State Parties of the European Social Charter. In so doing, the committee has examined the issue of housing in general and of access to housing of Roma and Travellers in particular in many instances, both in its conclusions adopted on State Party compliance with the charter and in its collective complaint decisions. To date, there have been three decisions on collective complaints exclusively concerning Roma housing,<sup>77</sup> as well as another two<sup>78</sup> that concerned housing in general but also had a Travellers

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<sup>74</sup> Following a successful Rule 39 request, the European Court of Human Rights can indicate to a government to take specific measures, pending the examination of the application by the court (e.g. should an applicant have filed an application regarding his / her imminent deportation to a country where he / she alleged will be a victim of torture, then the court can indicate to the government not to deport him / her until the application has been examined). The court has granted Rule 39 requests only in cases where the applicant's life or health were at risk, raising issues under Article 2 or 3 of the Convention. This in turn indicates that the court considered that the eviction of the Roma would put their and their families' health and/or life at risk.

<sup>75</sup> These measures have not been made public but considering from the outcome called upon the Bulgarian government not to proceed with the eviction.

<sup>76</sup> ECtHR, Statements of Facts and Questions to the Parties, *Yordanova and Others v. Bulgaria*, 25446/06, decision to communicate 8 July 2008.

<sup>77</sup> ECSR, Decision on the Merits, *ERRC v Greece*, Collective Complaint 15/2003, (8.12.2004), ECSR, Decision on the Merits, *ERRC v. Italy*, Collective Complaint No. 27/2004, (07.12.2005), ECSR, Decision on the Merits, *ERRC v. Bulgaria*, Collective Complaint No. 31/2005, (18 October 2006). All decisions as well as related documentation are available at: [http://www.coe.int/t/dghl/monitoring/socialcharter/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/default_en.asp) (19.8.2009).

<sup>78</sup> ECSR, Decision on the Merits, *International Movement ATD Fourth World v. France*, Collective Complaint No. 33/2006, (05.12.2007) and ECSR, Decision on the Merits,

housing component. As of August 2009, another two collective complaints on Roma housing were declared admissible and were pending before the ECSR, while a third had been registered.<sup>79</sup>

According to the ECSR, adequate housing implies a dwelling that is structurally secure and safe from a sanitary and health perspective, as well as a dwelling that is not overcrowded and that has access to the necessary amenities such as waste disposal, electricity, heating and water. Its tenants should have legal security of tenure. Although the provision of temporary shelter might be necessary under certain circumstances, it should also meet certain standards and be affordable. Those living in such accommodation should be provided with adequate (i.e. permanent) housing within a reasonable period of time. In relation to Travellers, housing should be understood as referring to the existence of a sufficient number of adequately equipped halting sites.<sup>80</sup> Regarding affordability, a house will be considered affordable when the household can pay the initial costs (such as deposit and advance rent), the current rent and/or other costs (utilities and maintenance charges) on a long-term basis and still be able to maintain a minimum standard of living, in reference to the criteria of the society in question.<sup>81</sup> The ECSR has also made explicit the link between inadequate housing and health risks.<sup>82</sup>

The ECSR has addressed the issue of protection from forced eviction at length and has defined eviction as the ‘deprivation of housing which a person occupied on account of insolvency or wrongful occupation.’<sup>83</sup> Evictions should take place only if strictly necessary, and even then they should conform to relevant standards that should be sufficiently protective of the rights of the persons concerned. Such rules should include prior consultation with the persons affected, reasonable notice as to the date of the eviction and should set out the circumstances in which evictions can take place. Alternative accommodation or housing subsidies should be provided, even if the eviction is justified on grounds of public interest. Legal remedies as well as legal aid should be made

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European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Collective Complaint No. 39/2006 (5.12.2007).

<sup>79</sup> ECSR, Decision on Admissibility, International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece, Collective Complaint No. 49/2008, (23.09.2008), ECSR, Decision on Admissibility, ERRC v. France, Collective Complaint No. 51/2008, (23.09.2008), and Centre on Housing Rights and Evictions (COHRE) v. Italy, Collective Complaint No. 58/2009, registered on 29.05.2009.

<sup>80</sup> ECSR, Decision on the Merits, ERRC v. Greece, Collective Complaint 15/2003 (08.12.2004) paragraphs 24-25 and 46, ERRC v. Italy, Collective Complaint No. 27/2004 (07.12.2005), paragraph 35, ECSR, Decision on the Merits, ERRC v. Bulgaria, Collective Complaint No. 31/2005 (18.10.2006), paragraph 56.

<sup>81</sup> ECSR, Decision on the Merits, International Movement ATD Fourth World v. France, Collective Complaint No. 33/2006 (5.12.2007), paragraph 94.

<sup>82</sup> ECSR, Decision on the Merits, ERRC v. Bulgaria, Collective Complaint No. 46/2007, (03.12.2008) paragraph 47.

<sup>83</sup> ECSR, Decision on the Merits, International Movement ATD Fourth World v. France, Collective Complaint No. 33/2006 (5.12.2007), paragraph 78.

available to persons under eviction and compensation afforded for cases of illegal evictions.<sup>84</sup> The above requirements are cumulative: although under French law many of the above requirements were met (e.g. relevant authorities sought to prevent evictions, reasonable notice was given and evictions were not enacted during winter time), the French law did not provide any guarantees that the evictees would be re-housed. This was enough, according to the ECSR, to find France in violation of Article 31(2) of the charter.<sup>85</sup>

In its decision on collective complaint *No. 31/2005 ERRC v. Bulgaria*, the ECSR noted that persons whose rights are not adequately protected by the law might be forced to break the law in order to meet their basic needs. However, this should not serve as an excuse to continue depriving them of their rights or not take measures to ensure that this situation is reversed. The committee noted that although the conditions regarding the regularisation of the illegal dwellings appeared neutral, they had an indirectly discriminatory effect on Roma because they did not take into account the long-standing failure of the state to address the housing needs of the Roma in an integrated and coherent way. As a consequence Roma dwellings were effectively less likely to be regularised since they could not meet the relevant criteria.<sup>86</sup> This in turn meant that Roma were more likely to be evicted from their non-regularised dwellings.<sup>87</sup> Similarly, the ECSR noted that the shortage of stopping places for French Travellers was attributable to the deficient implementation of French policy on provision of halting sites. This made Travellers more likely to have to park their caravans illegally with a higher risk of eviction.<sup>88</sup>

### 3.3. Right to housing and protection from forced eviction under domestic law

Housing falls primarily within the competence of the EU Member States. The issue of discrimination falls within the EU competence, as mentioned above,

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<sup>84</sup> See e.g. ECSR, Decision on the Merits, *ERRC v Greece*, Collective Complaint 15/2003 (08.12.2004), paragraph 51, ECSR, Decision on the Merits, *ERRC v. Italy*, Collective Complaint No. 27/2004 (7.12.2005), paragraph 41, ECSR, Decision on the Merits, *ERRC v. Bulgaria*, Collective Complaint No. 31/2005 (18.10.2006), paragraph 52, ECSR, Decision on the Merits, *International Movement ATD Fourth World v. France*, Collective Complaint No. 33/2006 (5.12.2007), paragraph 78.

<sup>85</sup> ECSR, Decision on the Merits, *International Movement ATD Fourth World v. France*, Collective Complaint No. 33/2006 (5.12.2007), paragraph 80.

<sup>86</sup> ECSR, Decision on the Merits, *ERRC v. Bulgaria*, Collective Complaint No. 31/2005 (18.10.2006), paragraph 55.

<sup>87</sup> ECSR, Decision on the Merits, *ERRC v. Bulgaria*, Collective Complaint No. 31/2005 (18.10.2006), paragraph 56.

<sup>88</sup> ECSR, Decision on the Merits, *International Movement ATD Fourth World v. France*, Collective Complaint No. 33/2006 (5.12.2007), paragraph 151.

through the Racial Equality Directive, Article 3(1)(h). The Charter of Fundamental Rights confirms that the EU ‘recognises’ a right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources.<sup>89</sup> However, the charter addresses the Member States ‘only when they are implementing Union law.’ Rights like the one at stake have to be read ‘in accordance with the rules laid down by Union law and national laws and practices.’<sup>90</sup> Throughout the Member States there are different approaches to the right to housing in their domestic legal orders.

Some Member States have introduced a right to housing which can be claimed in court; for example, in **France**,<sup>91</sup> the Autonomous Community of Catalonia<sup>92</sup> in **Spain** (a similar bill is pending in Andalusia)<sup>93</sup>, and in Scotland in the **UK**.<sup>94</sup> A somewhat different approach has been followed by **Poland** where the law ensures that under no circumstances can a person be left homeless; even if a person under eviction has not been assigned social housing, the eviction will be suspended until either the local authority or the landlord seeking the eviction provides temporary housing in the same or a nearby locality with at least five square meters of living space per capita.<sup>95</sup> In the **UK**, under the Housing Act 1996, local authorities have a duty to provide accommodation to people who are judged to be ‘homeless’ and have a ‘priority need’ for accommodation.<sup>96</sup> In **Hungary**, the Constitutional Court has interpreted the Constitution as creating the obligation on the state to provide accommodation to a person facing a direct threat to life.<sup>97</sup>

Most EU Member States have adopted public national and/or regional housing policies for their citizens from which Roma and Travellers can also benefit. For example, it was general public housing policies that had an important effect on the housing situation of Roma in **Spain**<sup>98</sup> and **Portugal**.<sup>99</sup>

The access of Travellers to culturally adequate housing deserves special mention. Although **Ireland**<sup>100</sup> and the **UK**<sup>101</sup> have enacted legislation for the

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<sup>89</sup> See Article 34(3) of the charter. Although not yet legally binding, the charter is expected to have an impact on relevant EU policies. See also Article 21 of the charter which contains a comprehensive anti-discrimination provision.

<sup>90</sup> See Article 51(1) of the charter.

<sup>91</sup> France/Loi 2007-290 (05.03.2007), known as Loi DALO (Droit au Logement Opposable).

<sup>92</sup> Catalonia/ Ley 18/2007 (28.12.2007)

<sup>93</sup> Andalusia/Anteproyecto de Ley del Derecho a la Vivienda (Draft bill for the right to housing).

<sup>94</sup> Scotland/Homelessness etc. (Scotland) Act 2003 (05.03.2003).

<sup>95</sup> Poland/Dz. U. 1964/43/296 (17.11.1964), Art. 1046 as amended in 2005.

<sup>96</sup> UK/Housing Act 1996 (24.07.1996).

<sup>97</sup> Hungary/Constitutional Court, Resolution No. 42/2000 (XI. 8.).

<sup>98</sup> Spain/Ley 41/1980 (05.07.1980).

<sup>99</sup> *Programa Especial de Realojamiento* (PER) [Special Re-Housing Program], launched 1993.

<sup>100</sup> Ireland/Housing (Traveller Accommodation) Act 1998 (13.7.1998).

<sup>101</sup> The UK was one of the first, if not the first country to adopt a law on Travellers’ housing in the form of the Caravan Sites and Control of Development Act 1960 (29.6.1960) and later on

provision of Traveller specific social housing in the form of e.g. halting sites or group housing schemes, the number of available pitches is very limited. The non-existence of available spaces coupled with the lack of any prospect of progress and the constant threat of eviction has led many Travellers to seek accommodation in settled accommodation. Similarly, although **Belgium**<sup>102</sup> and **Greece** nominally accept the right of Roma and Travellers to ascribe to an itinerant/semi-itinerant way of life, the provision of appropriate accommodation is so limited that their right is effectively negated. In the **Netherlands**, a Traveller specific law existed in the past but was subsequently repealed.<sup>103</sup> As a result, existing sites have been dismantled, and only a limited number of new ones have been made available to Travellers. This has led to the overcrowding of the existing sites and the increasing recourse of Travellers to 'ordinary' social housing.

A number of Member States have provided incentives for combating segregation. For example, in **Hungary**, applications for financial support through EU structural funds by local authorities for housing projects must be accompanied by a clear equal opportunity policy; local authorities have thus to develop measures to integrate Roma into the social fabric.<sup>104</sup> Additionally, the Hungarian 2003 Act on Equal Treatment and the Promotion of Equal Opportunities<sup>105</sup> specifically addresses the issue of housing segregation.<sup>106</sup> In **Slovakia**, although not mandatory, it is recommended to include an anti-

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of the Caravan Sites Act 1968 (26.7.1968). At present, the most important development regarding Traveller's accommodation is the adoption of Circular 1/2006, *Planning for Gypsy and Traveller Caravan Sites* of the Office of Deputy Prime Minister, which provides national guidance on the planning aspects of finding and setting up sites for Travellers.

<sup>102</sup> A distinction should be made regarding the availability of sites in the different Belgian regions: Flanders, Brussels-Capital Region and Wallonia: 1) In the Flemish Region, the right of Roma and Travellers to ascribe to an itinerant /semi-itinerant way of life is nominally and legally accepted. Official halting sites are available although their number is insufficient, 2) in the Brussels-Capital Region and in Wallonia, the itinerant/semi-itinerant way of life is not officially included in the regional legislation on housing. Appropriate permanent official halting sites for Roma and Travellers are lacking, although the use of certain sites as temporary halting sites is often tolerated. Nevertheless, the latter type of sites is largely insufficient.

<sup>103</sup> Netherlands/Woonwagenwet 1968 (Caravan Act 1968); The Act was repealed in 1999.

<sup>104</sup> Thus under the *Új Magyarország Fejlesztési Terv* (ÚMFT) [New Hungary Development Plan (NHDP)], local authorities have to develop Integrated Urban Development Strategies including Anti-segregation Plans. For the progress until now, see Szociális és Munkaügyi Minisztérium (2008) *Kormányzati intézkedések a lakhatási szegregáció visszaszorítására*, available at: <http://www.romaweb.hu/romaweb/index.html> (27.03.2009).

<sup>105</sup> Hungary/Act No. CXXV. of 2003.

<sup>106</sup> The act lays down specific typologies of housing related situation where the postulate of equal treatment will also be breached regarding persons with protected characteristics that are discriminated against, directly or indirectly, in terms of state or local housing aids, preferences or interest subsidies; in the process of selling or letting of publicly owned flats and building plots; denied the issuing of or setting conditions for permissions of construction administration based directly or indirectly on any of the protected characteristics. The act also provides that housing-related provisions cannot aim at the involuntary segregation of population groups with any of the protected characteristics.

discrimination dimension into housing policies for Roma.<sup>107</sup> Similarly, in **Finland**, municipalities should take into account Roma housing issues when drawing up their ethnic equality plans, although no sanctions are prescribed for failure to do so.<sup>108</sup>

In many Member States Roma and Traveller specific housing programmes depend on additional legislation for their implementation, which is not always introduced on time. On the other hand, countries, such as **Ireland**, **Italy** (at the regional level) and **France** have adopted Roma and Traveller specific housing laws that are currently in force.<sup>109</sup> In the past **Finland**<sup>110</sup> and the **Netherlands** had such laws, which have since been repealed.

Regarding evictions, **Austria**,<sup>111</sup> **France**,<sup>112</sup> **Germany**<sup>113</sup> and **Slovenia**<sup>114</sup> have mechanisms and procedures in place for addressing the reasons that might lead to a person's eviction and assisting in their prevention. In **Italy**<sup>115</sup> the enforcement of an eviction order can be suspended for up to 18 months in certain cases<sup>116</sup> while in **Germany** an eviction can be deferred (possibly for an unlimited period of time) if the tenant has not seriously breached his/her contract and can establish that losing the apartment would cause him/her specific hardship (not finding an adequate house to move into can be considered as such a hardship).<sup>117</sup> **Poland**<sup>118</sup> and **Latvia**<sup>119</sup> should also be mentioned for

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<sup>107</sup> Slovakia/Ministerstvo výstavby a regionálneho rozvoja SR (2006) *Postupy prípravy a vzorové projekty výstavby bytov nižšieho štandardu* [Preparation Methods and Example Projects of Construction of Lower-Standard Flats], p. 3.

<sup>108</sup> Finland/21/2004 (20.02.2009).

<sup>109</sup> This does not mean that other legal instruments (e.g. ministerial decisions) or laws providing for measures for vulnerable groups and that make reference to Roma and Travellers, have not been adopted. The focus here is rather on laws dealing exclusively and explicitly with Roma and Travellers housing issues. For instance in Slovenia, a Roma-specific law was adopted, which includes, among others, provisions regulating state's obligations in respect to Roma situation in the field of housing.

<sup>110</sup> Finland/Mustalaisasiain neuvottelukunta (1981) *Mustalaiset vähemmistönä suomalaisessa yhteiskunnassa* [law on the Improvement of Housing Conditions of the Gypsies].

<sup>111</sup> A. Schoibl, H. Schoibl (2006) *Wohnungslosigkeit in Österreich: Grundausswertung der quantitativen Angaben, aus der Fragebogenerhebung 'Wohnungslosenhilfe und gesundheitsbezogene Dienstleistungen für wohnungslose Menschen'*, available at: [http://www.helix-austria.com/uploads/media/Kurzbericht\\_zu\\_Wohnungslosigkeit\\_in\\_sterreich\\_06-12.pdf](http://www.helix-austria.com/uploads/media/Kurzbericht_zu_Wohnungslosigkeit_in_sterreich_06-12.pdf) (19.03.2009).

<sup>112</sup> ECSR Decision on the Merits, International Movement ATD Fourth World v. France, Collective Complaint No. 33/2006 (5.12.2007), paragraphs 79 and 81.

<sup>113</sup> Germany/SGB XII, Sec. 67-69, SGB II, Sec. 22 (5), BGB Sec. 574 (2).

<sup>114</sup> Slovenia/ Slovenia/SOP 2003-01-3312 (19.06.2003), Article 104 paragraphs 1, 2, 3, and 4.

<sup>115</sup> See ECSR (2007), *Conclusions 2007 (Italy)*, available at: <http://www.coe.int/t/dghl/monitoring/socialcharter/> (11.9.2009), pp. 73-74.

<sup>116</sup> The enforcement of an eviction order can be suspended for up to 18 months for certain categories of people such as elderly and people with disabilities and it is only applicable to evictions from a house or apartment but not to settlements and encampments.

<sup>117</sup> Germany/BGB Sec. 574a.

<sup>118</sup> Poland/Dz. U. 1964/43/296 (17.11.1964), as later amended, Article 1064.

<sup>119</sup> Latvia/Par dzīvojamu telpu īri (16.02.1993), as amended.

making it incumbent on the owner (private individual) of a house under certain circumstances to find alternative accommodation for the tenant before proceeding with the eviction. Many local authorities in **Hungary**<sup>120</sup> have decided that evictions are to be suspended during winter (usually from November and December until March); in **France**<sup>121</sup> and **Poland**<sup>122</sup> evictions are in general suspended between 1 November and 15 March, and 1 November and 30 March respectively. In **Austria**<sup>123</sup> and **Belgium**<sup>124</sup> the law provides for the notification of the eviction order/request for eviction respectively to the competent authorities to enable them to assist the evicted families or those to be evicted to find accommodation in good time.

In relation to the procedures in which evictions are ordered, RAXEN evidence indicates a constellation of legal procedures; grounds for seeking an eviction are rent-defaulting, violation of other terms of the contract, causing damage to the property and so forth. In general, all Member States provide for a judicial review of the eviction. The determining factor for when this review will take place (namely before or after the issuance of the eviction order) is usually the legal nature of the person/entity seeking an eviction order. Thus, in cases where a private landlord seeks an eviction, a court order is required. In some cases however, should the landlord/owner of the plot of land be a state agency, the eviction order takes the form of an administrative decision that can then be challenged before a court.<sup>125</sup> This approach has a number of shortcomings as the tenant/trespasser might not be able to secure adequate legal representation in time to present his/her arguments before a court and as a result the possibility to challenge the eviction (if such a possibility is recognised under domestic law) might be illusory. Whereas this is also true in relation to the first approach, as the eviction can only be ordered by a court in this case, the latter might *ex officio* proceed to take into consideration the tenant's situation and strike down the request or suspend the eviction for a period of time.

Member States have also followed different approaches as to the measures to be taken by the authorities following the eviction. The majority have provisions for alternative accommodation in housing of varying type and quality that range from emergency/homeless shelters, subsidised flats, rented hotel rooms,

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<sup>120</sup> RAXEN NFP Hungary (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>121</sup> RAXEN NFP France (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>122</sup> RAXEN NFP Poland (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>123</sup> Austria/BGBI 520/1981 (01.12.1981) as last amended by BGBI II 295/2008, Article 33a and Austria/BGBI 264/1951 as last amended by BGBI II 452/2008 (20.12.1951), Article 569.

<sup>124</sup> RAXEN NFP Belgium (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>125</sup> This distinction is not watertight; in the Czech Republic a private landlord can have a tenant evicted without having recourse to a court first; however, the tenant has the right to challenge the eviction before a court, although in such a case the tenant has the burden of proving that eviction would be illegal. Czech Republic/107/2006 (31.02.2006).

rudimentary flats and proper housing (a combination of such types of alternative accommodation can be found, for example, in **Belgium**, the **Czech Republic**, **Denmark**, **Finland**, **France**, **Germany**, **Ireland**, **Italy**, **Latvia**, **Lithuania**, the **Netherlands**, **Austria**, **Poland**, **Slovakia**, **Slovenia**, **Sweden** and the **UK**). In some cases the right to new housing is conditioned by the reasons that led to the eviction in the first place and/or whether those evicted belong to a special category (as is the case in **Latvia**<sup>126</sup> and **Poland**<sup>127</sup>). Alternative accommodation is not awarded automatically in **Slovakia** – in some cases, the burden of convincing the court that alternative accommodation must be provided rests with the person under eviction.<sup>128</sup> In other cases, for example in **Bulgaria**, **Greece**, **Hungary**, **Romania**, **Spain** and **Portugal**, there is a lack of a clear mechanism to allocate alternative accommodation and a wide variation of local practises is reported.

Legislation concerning specifically Travellers' evictions exists in **Ireland**,<sup>129</sup> the **UK**<sup>130</sup> and **France**.<sup>131</sup> Challenging evictions in court is possible, but these cases may come to a court hearing after an eviction has taken place. All three countries have also enacted laws<sup>132</sup> that could affect Travellers criminalising squatting on private or public property; such a trespass is punished by a fine and/or imprisonment and can also be accompanied by the impounding of the vehicles. In **Italy**, under the recently enacted legislation<sup>133</sup> the prefects of Rome, Milan and Naples, Turin and Venice are empowered to take measures in regard to Roma and Sinti, including the eviction of Roma and Sinti from unauthorised encampments.

Travellers living on authorised sites may enjoy less tenure security than those in houses. In the **UK**, tenants of local authority sites are considered as 'licensees' rather than tenants and, as such, have fewer statutory rights (most notably they can be evicted without any justification after serving 28 days notice and obtaining a possession order by a court). Although courts can suspend the

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<sup>126</sup> Latvia/Par dzīvojamo telpu īri (Law (16.02.1993), Article 36(1), part 1.

<sup>127</sup> Poland/Dz. U. 2001/71/733 (21.06.2001), as later amended, Article 14.

<sup>128</sup> RAXEN NFP Slovakia (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>129</sup> Criminal Justice (Public Order) Act 1994 as amended by Housing (Miscellaneous Provisions) Act, 2002 (10.4.2002).

<sup>130</sup> UK/Criminal Justice and Public Order Act 1994 (c.33), as amended.

<sup>131</sup> France/Loi n°2007-297 (5.3.2007).

<sup>132</sup> Ireland/Housing (Miscellaneous Provisions) Act 2002, as amended, UK/ Criminal Justice and Public Order Act 1994 (c.33), as amended, and France/ Loi n°2003-239 (18.3.2003); It should be noted here that the text of the Irish law does not refer, either implicitly or explicitly, to Travellers. A government press release states however, that the reason behind the passing of the act were to deal with the 'large encampments.' According to NGO reports, the law has been used exclusively against Travellers. See Irish Traveller Movement (ITM) (undated) (*A Briefing document on the use of the Housing (Miscellaneous Provisions) Act, 2002*, available at: [www.itmtrav.com](http://www.itmtrav.com) (16.5.2009).

<sup>133</sup> Dichiarazione dello stato di emergenza in relazione agli insediamenti di comunità nomadi nel territorio delle regioni Campania, Lazio e Lombardia (21.05.2008). In May 2009 the state of emergency was extended until December 2010 and now includes Venice and Torino.

enforcement of the notice for up to 12 months, they cannot annul it. Travellers in **Ireland** are also considered as ‘licensees’ rather than tenants and as a result enjoy less procedural safeguards in cases of eviction. Internal regulations for many halting sites in **France** or camps in **Italy** frequently prescribe the sanction of eviction for even minor transgressions. The non-recognition of a caravan as a dwelling in **France** also means that Travellers do not benefit from suspension of evictions during wintertime.<sup>134</sup>

### 3.4. Roma and Traveller housing policies in Europe

#### 3.4.1. European Union (EU)

In June 2009, the Council of the European Union published its Conclusions on the Inclusion of Roma calling upon the European Commission and the Member States to take the Common Basic Principles on Roma Inclusion<sup>135</sup> into account when designing, among others, social inclusion and access to housing policies: ‘Policies aiming at the inclusion of Roma people respect and realise the core values of the European Union, which include human rights and dignity, non-discrimination and equality of opportunity as well as economic development. Roma inclusion policies are integrated with mainstream policies, particularly in the fields of education, employment, social affairs, housing, health and security. The aim of these policies is to provide the Roma with effective access to equal opportunities in Member State societies.’ Moreover, the Principles stress: ‘All inclusion policies aim to insert the Roma in the mainstream of society (mainstream educational institutions, mainstream jobs, and mainstream housing). Where partially or entirely segregated education or housing still exist, Roma inclusion policies must aim to overcome this legacy.’<sup>136</sup>

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<sup>134</sup> RAXEN NFP France (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>135</sup> Council of the European Union (2009) *Council Conclusions on Inclusion of the Roma, 2947th, Employment, Social Policy, Health and Consumer Affairs, Council meeting*, available at: <http://ec.europa.eu/social/BlobServlet?docId=2808&langId=en> (19.07.2009); The principles are appended as an annex to this report.

<sup>136</sup> Council of the European Union (2009) *Council Conclusions on Inclusion of the Roma, 2947th, Employment, Social Policy, Health and Consumer Affairs, Council meeting*, Annex, Principles no 1 and 4, available at: <http://ec.europa.eu/social/BlobServlet?docId=2808&langId=en> (19.7.2009). The Principles are appended as an annex to this report.

The Common Basic Principles on Roma Inclusion are expected to provide guidance for further EU policies in the field of Roma rights. An immediately discernible practical effect of the EU's new approach is to allow<sup>137</sup> the use of Structural Funds during 2007-2013 for social housing projects (including legalisation of Roma settlements, social housing and provision of settlements with the necessary amenities). The European Commission underlines that the Structural Funds 'can support measures to improve housing stock – another fundamental issue for Roma communities'.<sup>138</sup>

The Regulation on the European Regional Development Fund (ERDF) says that it is 'necessary to establish that the contribution from the ERDF to housing expenditure should concern the provision of good quality accommodation for lower income groups, including recently privatised housing stock, as well as accommodation for vulnerable social groups'.<sup>139</sup> According to the implementing regulation of the European Commission, 'delivery of modern social housing of good quality through renovation and change of use of existing buildings owned by public authorities or non-profit' is eligible for ERDF means.<sup>140</sup> Areas selected for housing operations have to comply with some compulsory criteria: they have to suffer 'a high level of poverty and exclusion' and they have to have 'a high number of immigrants, ethnic and minority groups, or refugees'.<sup>141</sup>

Certain states have already recognised the need for closer co-operation and for making better use of Structural Funds. To this end, 12 Member States<sup>142</sup> have formed a network (EURoma) aimed at promoting the use of Structural Funds to enhance the effectiveness of Roma-related policies by exchanging information on good practices, approaches and strategies.<sup>143</sup>

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<sup>137</sup> European Commission bulletin *The Roma in the European Social Fund 2007-2013*, available at: [http://ec.europa.eu/employment\\_social/esf/docs/roma\\_en.pdf](http://ec.europa.eu/employment_social/esf/docs/roma_en.pdf), p. 7 (19.7.2009).

<sup>138</sup> European Commission staff working document, *Community Instruments and Policies for Roma Inclusion*, SEC (2008) 2172, 2.7.2008, at p. 17.

<sup>139</sup> Consideration no. 6 of the regulation (EC) No 1080/2006 of the European Parliament and the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999, in OJ no. L 210, 31.7.2006, in, p. 1

<sup>140</sup> European Commission regulation (EC) No 1828/2006 of (08.12.2006), Art. 47 Para. 2 lit. b), setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund, in OJ no. L 371, 27.12.2006, p. 1

<sup>141</sup> Art. 47 Para. 1 regulation (EC) No 1828/2006

<sup>142</sup> Bulgaria, the Czech Republic, Finland, Greece, Italy, Hungary, Poland, Portugal, Romania, Spain, Slovakia and Sweden

<sup>143</sup> See <http://www.euromanet.eu/> (19.7.2009). The Peer Review in Social Protection and Social Inclusion and Assessment in Social Inclusion also (though not exclusively) examines Roma-related issues. See <http://www.peer-review-social-inclusion.eu/> (19.7.2009).

### 3.4.2. Council of Europe (CoE)

The Committee of Ministers of the Council of Europe has adopted a number of recommendations dealing expressly with the housing of both itinerant and sedentary Roma. Recommendation Rec(2005)4 of the Committee of Ministers to Member States *on improving the housing conditions of Roma and Travellers in Europe*<sup>144</sup> underlines the need for the implementation of comprehensive and integrated Roma housing policies and sets out a number of principles and guidelines to be respected and taken into account. Echoing UN Habitat's definition of adequate housing as well as General Comment 4 of the CESCR, the recommendation addresses a number of parameters ranging from non-segregation of Roma settlements to their legalisation and protection from forced eviction and discrimination. Similar principles and guidelines are contained in the earlier Recommendation Rec(2004)14 of the Committee of Ministers to Member States *on the movement and encampment of Travellers in Europe* regarding the setting up of adequately equipped halting sites.<sup>145</sup> Furthermore, according to Recommendation Rec(2008)5 *on policies for Roma and/or Travellers in Europe*, states should implement 'a coherent, comprehensive and adequately resourced national and regional strategy with short- and long-term action plans, targets and indicators for implementing policies that address legal and/or social discrimination against Roma and/or Travellers and enforce the principle of equality.'<sup>146</sup> In its resolution in relation to Collective Complaint No. 31 *ERRC v. Bulgaria*, the Committee of Ministers noted that: '...the simple guarantee of equal treatment as the means of protection against any discrimination does not suffice. Article E [the non-discrimination provision of the Revised European Social Charter] imposes an obligation of taking into due consideration the relevant differences and acting accordingly. This means that for the integration of an ethnic minority as Roma into mainstream society measures of positive action are needed.'<sup>147</sup>

Regarding social policies, the European Committee of Social Rights (ECSR) has underscored the importance of drafting and implementing programmes to ensure that vulnerable groups can also enjoy their charter-protected rights. These programmes should be funded to the maximum extent possible, have a reasonable completion timeframe and their progress should be measurable, while they should also take into account the specificities/particularities of the

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<sup>144</sup> Council of Europe, Committee of Ministers Recommendation (2005), 15.6.2005, available at: [http://www.coe.int/t/cm/home\\_en.asp](http://www.coe.int/t/cm/home_en.asp) (19.7.2009)

<sup>145</sup> Council of Europe, Committee of Ministers Recommendation (2004), 1.12.2004, available at: [http://www.coe.int/t/cm/home\\_en.asp](http://www.coe.int/t/cm/home_en.asp) (22.7.2009).

<sup>146</sup> Council of Europe, Committee of Ministers Recommendation (2008), 20 February 2008, available at: [http://www.coe.int/t/cm/home\\_en.asp](http://www.coe.int/t/cm/home_en.asp) (22.7.2009).

<sup>147</sup> Council of Europe, Committee of Ministers (2007), Resolution CM/ResChS(2007)2 Collective Complaint No. 31/2005 by the European Roma Rights Centre against Bulgaria, available at: [http://www.coe.int/t/cm/home\\_en.asp](http://www.coe.int/t/cm/home_en.asp) (26.8.2009).

situation of the programmes' intended beneficiaries.<sup>148</sup> Furthermore, should there be evidence suggesting that a group is being particularly discriminated states should ensure that effective data-collection mechanisms are put in place in order to be able to evaluate the measures' impact.<sup>149</sup> The ECSR has also been critical of government arguments that although central authorities seek to implement housing programmes for Roma, local authorities seem unwilling to cooperate; the former are to be held accountable for the latter's failings and they should take all necessary measures, including sanctioning them, in order to ensure that the policies are implemented.<sup>150</sup>

The Council of Europe Commissioner for Human Rights has also expressed his concerns regarding the housing situation of Roma and Travellers, both in reports following country visits as well as in a special report.<sup>151</sup> The commissioner had observed that the issue of Roma rights violations would be high on his agenda and in his country visits he would be monitoring the progress achieved in the national Roma action plans, stressing that Roma should be treated as full partners by the authorities in all activities pertaining to them.<sup>152</sup> On 24 October 2007, the commissioner and the United Nations Special Rapporteur on the Right to Adequate Housing issued a joint public statement calling upon states to take adequate measures to protect the right to housing of Roma in Europe. They stated that their offices had received an increased number of complaints relating to forced evictions of Roma throughout Europe and called upon Council of Europe Member States to apply the *Basic Principles and Guidelines on Development-Based Evictions and Displacement* prepared by the Special Rapporteur.<sup>153</sup> Furthermore, in his recommendation on the implementation of the right to housing, the commissioner stresses the fact that Roma and Travellers have often been victims of discrimination in the field of housing and advocates that Member States should adopt and implement a national housing strategy which should apply a gender perspective, identify

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<sup>148</sup> ECSR Decision ERRC v. Greece, Collective Complaint No. 15/2003, paragraph 21.

<sup>149</sup> ECSR Decision ERRC v. Greece, Collective Complaint No. 15/2003, paragraph 27. See also ECSR Decision ERRC v. Italy, Collective Complaint No. 27/2004, paragraphs 23-24.

<sup>150</sup> ECSR Decision ERRC v. Greece, Collective Complaint No. 15/2003, paragraphs 29 and 42.

<sup>151</sup> Council of Europe, Commissioner for Human Rights (2006), *Final report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on the human rights situation of the Roma, Sinti and Travellers in Europe*, CommDH(2006)1, Strasbourg, 15 February 2006.

<sup>152</sup> Council of Europe, Commissioner for Human Rights (2007) *Roma must be partners in implementing their rights*, Keynote speech by Thomas Hammarberg Commissioner for Human Rights of the Council of Europe, CommDH/Speech(2006)21, Strasbourg, 6

November 2006, available at: [http://www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp) (17.8.2009).

<sup>153</sup> Council of Europe, Commissioner for Human Rights (2007) *Joint Statement by Council of Europe Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari*, CommDH/Speech(2007)16 Strasbourg, 24 October 2007, available at: [http://www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp) (10.8.2009).

disadvantaged and vulnerable groups and include positive measures for ensuring their effective enjoyment of the right to housing.<sup>154</sup>

The commissioner has also recently stressed the need for states to include benchmarking indicators in their human rights policies, referring to the child rights indicators of the FRA (something that would require, *inter alia*, the collection of disaggregated statistical data).<sup>155</sup> The commissioner has also underlined the need to assess state budgets from a human rights perspective to ensure that funds are allocated where they are needed the most and that budget proposals take into account their potential impact on the most disadvantaged groups in society.<sup>156</sup>

The *European Commission against Racism and Intolerance* (ECRI), Council of Europe's independent monitoring body in combating racism, racial discrimination, xenophobia, anti-semitism and intolerance, has adopted General Policy Recommendation N° 3, *Combating racism and intolerance against Roma/Gypsies*, which underscores the need for countering discrimination and discriminatory practises in the field of housing.<sup>157</sup>

Equally important are the recommendations on Roma issues, including housing, of the Advisory Committee (AC) on the *Framework Convention for the Protection of National Minorities*. The Advisory Committee stressed that 'Substandard housing conditions, often coupled with the physical/spatial separation of persons belonging to certain national minorities, in particular Roma and Travellers, considerably affect their ability to participate in socio-economic life and can result in their further poverty, marginalisation and social exclusion'.<sup>158</sup>

The Advisory Committee also calls on the State Parties to promote equal access to adequate housing, in particular by improved access to subsidised housing. In

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<sup>154</sup> Council of Europe, Commissioner for Human Rights (2009) *Recommendation of the Commissioner for Human Rights on the implementation of the right to housing*, CommDH(2009)5, Strasbourg, 30 June 2009, available at: [http://www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp) (9.9.2009).

<sup>155</sup> Council of Europe, Commissioner for Human Rights (2009) *Viewpoint: Serious implementation of human rights standards requires that benchmarking indicators are defined*, available at: [http://www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp) (25.8.2009).

<sup>156</sup> Council of Europe, Commissioner for Human Rights (2009) *Viewpoint: State budgets reveal whether the government is committed to human rights*, available at: [http://www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp) (27.8.2009).

<sup>157</sup> ECRI (1998) *General Policy Recommendation N° 3, Combating racism and intolerance against Roma/Gypsies*, available at: [http://www.coe.int/t/dghl/monitoring/ecri/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp) (22.7.2009). In 2009 an ECRI working group was tasked to analyse country-by-country monitoring reports on the situation of Roma with a view to draft general conclusions.

<sup>158</sup> AC (2008), *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*. ACFC/31DOC(2008)001, Strasbourg, 5 May 2008, available at: [http://www.coe.int/t/dghl/monitoring/minorities/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/minorities/default_en.asp) (26.8.2009).

doing so, the authorities should provide for ‘adequate participation of the persons concerned in decision making on housing and related programmes designed to improve their socio-economic situation, in order to ensure that the needs of these persons are adequately catered for. Such policies should be adequately funded.’<sup>159</sup>

### 3.4.3. Organization for Security and Co-operation in Europe (OSCE)

It was as early as 1990 when the predecessor to the OSCE, the Conference for Security and Co-operation in Europe, recognised the specific challenges that Roma and Travellers faced in the OSCE region. The Contact Point for Roma and Sinti Issues (CPRSI) was established in 1994 within the Office for Democratic Institutions and Human Rights (ODIHR), and in 1998 the office of the Adviser on Roma and Sinti Issues was instituted. Another OSCE institution giving consistent attention to Roma, Sinti and Travellers is the Office of the High Commissioner on National Minorities (HCNM).

The HCNM’s 2000 *Report on the situation of Roma and Sinti in the OSCE Area* provides a succinct overview of the situation of the Roma, Sinti and Travellers.<sup>160</sup>

The OSCE’s Action Plan on Improving the Situation of Roma/Sinti within the OSCE Area, adopted in 2003, contains a number of recommendations in the field of housing, calling on OSCE Participating States to ‘adopt and implement effective anti-discrimination legislation to combat racial and ethnic discrimination in all fields, including, *inter alia*, access to housing’, clarify property rights, regularise illegal Roma settlements and ensure that Roma housing projects do not foster ethnic and/or racial segregation.<sup>161</sup>

The OSCE has been critical of the participating states’ efforts to translate the action plan into reality for Roma and Travellers. In its September 2008 implementation report, the Office of Democratic Institutions and Human Rights (ODIHR) noted that no breakthroughs could be reported in the overall situation of Roma and that in fact, some cases revealed a regression. Examples from

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<sup>159</sup> AC (2008), *Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs*, ACFC/31DOC(2008)001, Strasbourg, 5 May 2008, available at: [http://www.coe.int/t/dghl/monitoring/minorities/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/minorities/default_en.asp) (9.9.2009) at paragraphs 57-60.

<sup>160</sup> [http://www.osce.org/publications/hcnm/2000/03/31626\\_1161\\_en.pdf](http://www.osce.org/publications/hcnm/2000/03/31626_1161_en.pdf) (10.9.2009).

<sup>161</sup> OSCE (2003) *Action Plan on Improving the Situation of Roma/Sinti within the OSCE Area*, available at: [http://www.osce.org/documents/odihr/2003/11/1751\\_en.pdf](http://www.osce.org/documents/odihr/2003/11/1751_en.pdf) (19.7.2009). See particularly Recommendations 8 and 43-46 of the Action Plan.

different countries suggest that the housing situation of Roma, instead of improving, is declining (e.g. **Bulgaria**, the **Czech Republic**, **Greece**, **Spain**, **Slovakia**, **Romania** and the **United Kingdom**). Roma are being pushed to the margins of society, which leads to residential segregation.<sup>162</sup> Some progress could be observed in relation to the drafting and adoption of national strategies; nevertheless their implementation successful only in a limited number of cases. According to the report, ‘The evident housing crisis of Roma and Sinti in Europe requires clear and coherent policies and measures by states, backed up with adequate financial resources, closely monitored and regularly evaluated.’<sup>163</sup>

#### 3.4.4. Decade of Roma Inclusion 2005-2015

The Decade of Roma Inclusion is an international initiative which aims at improving the socio-economic status and social inclusion of the Roma minority in Europe.<sup>164</sup> Housing is one of the four priority areas (the others being employment, education and health) while income poverty, non-discrimination and gender issues are cross-cutting concerns. Twelve countries participate in the Decade of Roma Inclusion, out of which six (Bulgaria, Czech Republic, Spain, Hungary, Romania and Slovakia ) are EU Member States while a thirteenth one (also an EU Member State: Slovenia), has an observer status, seek to enhance the lives of Roma. Each of these six countries had to develop a national Decade Action Plan on housing.<sup>165</sup> So far, implementation of the plans seems to have made little progress.

#### 3.4.5. Roma and Traveller national policies

One of the positive findings of this study is that all Member States with a sizeable number of Roma and Travellers have recognised the need for specific housing initiatives to ensure equal opportunities and foster social inclusion. Many EU Member States have adopted specific action plans for Roma and

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<sup>162</sup> OSCE, Office for Democratic Institutions and Human Rights, *Status Report 2008 Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area*, available at:

[http://www.osce.org/publications/odih/2008/09/33130\\_1186\\_en.pdf](http://www.osce.org/publications/odih/2008/09/33130_1186_en.pdf) (10.9.2009), p. 30.

<sup>163</sup> OSCE (2008), *Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area*, available at:

[http://www.osce.org/publications/odih/2008/09/33130\\_1186\\_en.pdf](http://www.osce.org/publications/odih/2008/09/33130_1186_en.pdf) (10.9.2009), p. 10.

<sup>164</sup> The Decade’s website is available at: <http://www.romadecade.org/> (19.7.2009)

<sup>165</sup> The participating states’ action plans are available at: <http://www.romadecade.org/index.php?content=70> (20.8.2009). It appears however that the Romanian action plan under the Decade, although already drafted, has yet to be adopted. Similarly, there is no reference the Spanish action plan.

Travellers consisting of specific legislation and accompanying administrative acts, such as **Bulgaria**,<sup>166</sup> **Greece**,<sup>167</sup> **Spain**,<sup>168</sup> **France**,<sup>169</sup> **Ireland**,<sup>170</sup> **Italy**,<sup>171</sup> **Cyprus**,<sup>172</sup> **Lithuania**,<sup>173</sup> **Hungary**,<sup>174</sup> **Poland**,<sup>175</sup> **Romania**,<sup>176</sup> **Slovenia**,<sup>177</sup> **Slovakia**<sup>178</sup> and **UK**.<sup>179</sup>

Action plans/programmes focus on different issues, although there are commonalities. For example, **Bulgaria** focuses on the spatial/town planning

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<sup>166</sup> Bulgaria/ Национална програма за подобряване жилищните условия на ромите в Република България за периода 2005-2015 година [National Programme for Improving the Housing Conditions of Roma in the Republic of Bulgaria] (22.3.2006)

<sup>167</sup> Greece/Ολοκληρωμένο Πρόγραμμα Δράσης για την Κοινωνική Ένταξη των Ελλήνων Τσιγγάνων [Integrated Action Plan for the Social Integration of Greek Roma] (2001)

<sup>168</sup> Spain/ Programa de Desarrollo Gitano [Roma Development Programme] (3.10.1985). Spanish authorities, in the context of the 2008-2010 National Action Plan on Social Inclusion, are drafting a new programme aimed at improving the living conditions of the Roma population.

<sup>169</sup> France/Loi n 2000-614 (5.7.2000)

<sup>170</sup> Ireland/ Housing (Traveller Accommodation) Act 1998 (13.7.1998), as amended

<sup>171</sup> There is no centrally defined strategy but each region has adopted its own policy. See e.g. Italy/ Regione Emilia Romagna/ LR n. 47/88 'Norme per le minoranze nomadi in Emilia Romagna', BUR n. 101 (25.11.1988).

<sup>172</sup> Cyprus/ Απόφαση Υπουργικού Συμβουλίου 51.378 (08.03.2000). This is not an action plan but a decision to offer housing to all Roma moving into the Republic-controlled section of the country who are citizens of the Republic of Cyprus.

<sup>173</sup> Lithuania/Romų integracijos į visuomenę 2008-2010 m. programa (26.3.2008) [Programme for the Integration of Roma into Lithuanian Society 2008-2010]. The programme currently seems to be limited to data collection and does not lay down other specific measures.

<sup>174</sup> Hungary/Parliament Resolution No. 68/2007 (VI.28.); Government Decree No. 1105/2007 (XII. 27.) (both acts relate to Hungary's action plan in the framework of the Decade of Roma Inclusion). Important provisions in relation to Roma housing are included in the Új Magyarország Fejlesztési Terv (ÚMFT) [New Hungary Development Plan (NHDP)], 2007-2013.

<sup>175</sup> Poland/Program na rzecz społeczności romskiej w Polsce [Programme for the Roma Community in Poland](2003).

<sup>176</sup> Romania/Hotarare 430/2001 (25.04.2001) Strategia Guvernului Romaniei de imbunatatire a situatiei romilor [Strategy of the Romanian government for the improvement of the situation of the Roma], as amended.

<sup>177</sup> Slovenia/SOP 2007-01-1762 (30.03.2007) [the Roma Community Act] – On the basis of the Act, a national programme of measures should be adopted, currently under preparation.

<sup>178</sup> Slovakia/Vláda SR (2005) *Dlhodobá koncepcia bývania pre marginalizované skupiny obyvateľstva a model jej financovania* [Long-Term Housing Strategy for Marginalized Population Groups and Its Financing Model].

<sup>179</sup> Legal provisions relating to Traveller accommodation are to be found in a number of laws, such as Mobile Homes Act 1983, Housing Act 2004, Planning and Compulsory Purchase Act 2004. What could most closely be considered a national programme is contained in Circular 1/2006, *Planning for Gypsy and Traveller Caravan Sites* of the Office of Deputy Prime Minister, which provides national guidance on the planning aspects of finding sites for Travellers. The Housing Act (2004), in conjunction with Circular ODPM 1/06, requires councils to assess the needs of Gypsies and Travellers via an Accommodation Needs Assessment process (Gypsy and Travel Accommodation Assessments – GTAAs), and to have a strategy in place setting out how any identified needs will be met as part of their wider housing strategies. This positive duty came into force on 2 January 2007, and it is too early to determine what overall effect this is having, partly, because the current needs estimates are based on inaccurate data derived from the bi-annual caravan counts.

status of the Roma settlements, their regularisation, improvement of their social and technical infrastructure and provision of social housing. In **Hungary**, the focus is on housing integration, the elimination of segregated settlements and the development of new tools for financing the acquisition of housing. In the **Czech Republic** the priorities of the action programme are securing decent housing for Roma, preventing evictions, enhancing social integration and improving access to social housing. In **Greece**, the Integrated Action Plan for Roma covers education, employment, housing and health. ECRI noted in its 2009 report that '[...] a more systematic, gradual and continuous monitoring and assessment of the implementation of the Plan is necessary as the results of this plan are not always easy to establish, especially at the local level. For example, as concerns the housing loan scheme, it appears that the intended beneficiaries have not always benefited from it.'<sup>180</sup> In **Italy**, although measures are taken at regional level, there is as yet no programme at national level in line with the Common Basic Principles of the EU.<sup>181</sup> In the **UK** local authorities were encouraged to use 'Best Value' methodologies since 2003 to encourage site delivery; since then numerous government reports, recommendations and guidelines have followed, aimed at clearing the blockage on site provision, simplifying planning procedures and ensuring that Gypsies and Travellers who wish to reside on sites are facilitated in meeting their accommodation needs.<sup>182</sup>

In regard to these national programmes the Council of the European Union, notes in the introductory document to *Joint Report on Social Protection and Social Inclusion 2009* that although Member States had improved the coverage of Roma-related issues in their National Action Plans, 'in most countries a comprehensive policy framework is still lacking, also due to the non-availability of data and an insufficient knowledge-base.'<sup>183</sup>

Acknowledging shortcomings in the implementation of national action plans, Member States are developing more effective monitoring and evaluation tools,

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<sup>180</sup> ECRI (2009), *Report on Greece (fourth monitoring cycle)*, CRI(2009)31, made public on 15.9.2009, available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-IV-2009-031-ENG.pdf> (17.9.2009) p. 31.

<sup>181</sup> The recent July 2008 guidelines to the implementation of the *Nomad Emergency Decree* can be construed as (potentially) marking a new approach to the issue of Roma and Sinti housing. The background to their adoption however and the way they have been applied until now coupled with the absence of a clear national strategy and a complicated administrative structure create legitimate concerns as to the manner in which they will be implemented. [1].Italy/ Linee guida per l'attuazione delle ordinanze del Presidente del Consiglio dei Ministri del 30 maggio 2008, nn. 3676, 3677 e 3678, concernenti insediamenti di comunità nomadi nelle regioni Campania, Lazio e Lombardia (17.7.2008).

<sup>182</sup> Margaret Greenfields, Race Equality Foundation, Briefing Paper (2009) Gypsies, Travellers and accommodation, available at <http://www.reu.org.uk/housing/files/housing-brief10.pdf> (07.10.2009).

<sup>183</sup> Council of the European Union (2009), *Communication to the European Council*, 7503/09, Brussels, 13 March 2009, available at: [http://ec.europa.eu/employment\\_social/spsi/docs/social\\_inclusion/2009/cons\\_pdf\\_cs\\_2009\\_07503\\_1\\_en.pdf](http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2009/cons_pdf_cs_2009_07503_1_en.pdf), (15.8.2009), p. 6.

for example in **Greece**,<sup>184</sup> **Spain**<sup>185</sup> and **Slovakia**<sup>186</sup>. Such evaluations can be highly critical, but this can only add to the credibility of the Member State concerned in regard to its commitment to improve the action plan and the situation of the Roma. For example, in **Greece**, the assessment of the Action Plan for the 4<sup>th</sup> EU Programming Period notes, *inter alia*, the insufficient examination of existing housing conditions and lack of detection of problems and needs prior to project implementation, insufficient participation of Roma in the decision making process, as well as an insufficient exploitation of European Social Fund resources.

### **Mainstreaming anti-segregation in urban development planning**

In the New Hungary Development Plan (NHDP), equal opportunities appear as a key priority. The National Development Agency in co-operation with other Ministries has produced good practice guides for those applying for NHDP funds. So far such measures have been established in both the field of education and housing. The Ministry of Social Affairs and Labour now requires most towns and cities in Hungary to elaborate an 'Integrated Development Strategy' incorporating an 'Anti-Segregation Plan' in order to be eligible for urban development funds. The development strategy must list all segregated areas with over 50 inhabitants. For all segregated areas with over 100 inhabitants it is also necessary to present measures to combat segregation. Additionally, all urban development included in the strategy must be analysed so as to reveal potential segregational effects. In 2007-2008, 20 out of 23 Budapest districts and nearly 150 towns and cities in the country elaborated Integrated Development Strategies and Anti-Segregation Plans.<sup>187</sup>

Member States that hesitate to collect data disaggregated by ethnic origin often cite problems with constitutional and legal data protection safeguards, as well as the EU Data Protection Directive.<sup>188</sup> However, as the FRA has stressed<sup>189</sup>, such

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- <sup>184</sup> Please see [http://www.euromanet.eu/upload/41/30/Recording\\_of\\_the\\_existing\\_situation\\_of\\_the\\_Roma\\_Population\\_in\\_Greece.pdf](http://www.euromanet.eu/upload/41/30/Recording_of_the_existing_situation_of_the_Roma_Population_in_Greece.pdf) (18.9.2009).
- <sup>185</sup> Fundación Secretariado Gitano (2008) *Mapa sobre vivienda y comunidad gitana en España 2007*, available at: <http://www.gitanos.org/publicaciones/mapavivienda> (17.9.2009).
- <sup>186</sup> Slovakia/Úrad splnomocnenkyne vlády SR pre rómske komunity [Office of the Governmental Plenipotentiary for Roma Communities] (2004) *Atlas rómskych komunit na Slovensku* [Atlas of Romany Communities in Slovakia].
- <sup>187</sup> Szociális és Munkaügyi Minisztérium (2008) *Kormányzati intézkedések a lakhatási szegregáció visszaszorítására*, available at: <http://www.romaweb.hu/romaweb/index.html> (27.03.2009).
- <sup>188</sup> Council and European Parliament Directive 95/46/EC (24.10.1995), OJ L 281, (23.11.1995), p. 31.
- <sup>189</sup> FRA *Annual Report 2008*, available at: [http://fra.europa.eu/fraWebsite/products/publications\\_reports/ar2008\\_part2\\_en.htm](http://fra.europa.eu/fraWebsite/products/publications_reports/ar2008_part2_en.htm) (21.10.2009).

arguments appear to be based on a flawed interpretation of the EU Data Protection Directive, which as the European Commission noted,<sup>190</sup> does not place an absolute ban on the processing of sensitive personal data, but merely demands that certain safeguards be respected. Several FRA reports have repeatedly highlighted the need for the Member States to engage in the collection of ethnically disaggregated data as essential tool for development of evidence-based policies in order to tackle racial discrimination.<sup>191</sup>

The European Parliament (EP) has also emphasised the importance of gathering data on both direct and indirect discrimination in order to ascertain the percentage of national minorities members among those at risk of poverty and social marginalisation, as well as the underlying factors (such as their level of employment, education and so forth) to ensure proper feedback on the effectiveness of anti-discrimination and minority-protection policies.<sup>192</sup> Such data would also be crucial in determining who is a member of such a group and would therefore be entitled to benefit from positive action programmes that need to be implemented for population groups experiencing inequalities of an ‘endemic, structural or even cultural’ character.<sup>193</sup> For example, the Deputy Ombudsmen interviewed in **Greece** highlighted the importance of knowing how many the Roma are and where they live in order to develop and implement effective measures.<sup>194</sup>

Ethnic data collection would also potentially benefit victims of discrimination in complaints proceedings. Noting that the EU Data Protection Directive merely

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<sup>190</sup> European Commission (2006) *The application of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin*, COM (2006) 643, available at:

[http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0643en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0643en01.pdf) (18.8.2009), p. 9. For a more extensive treatment of the topic, see T. Makkonen (2006) *Measuring Discrimination: Data collection and EU Equality Law*, available at:

<http://ec.europa.eu/social/BlobServlet?docId=1687&langId=en> (15.8.2009).

<sup>191</sup> FRA *Annual Report 2008*, available at:

[http://fra.europa.eu/fraWebsite/products/publications\\_reports/ar2008\\_part2\\_en.htm](http://fra.europa.eu/fraWebsite/products/publications_reports/ar2008_part2_en.htm) (21.10.2009).

<sup>192</sup> European Parliament (2005) *Resolution on the protection of minorities and anti-discrimination policies in an enlarged Europe (2005/2008(INI))*, P6\_TA(2005)0228, Strasbourg, 8 June 2005, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:124E:0405:0415:EN:PDF> (17.9.2009), paragraph 53.

<sup>193</sup> European Parliament (2006) *Resolution on non-discrimination and equal opportunities for all - a framework strategy (2005/2191(INI))* P6\_TA(2006)0261, Strasbourg, (14.06.2006), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2006-0261+0+DOC+WORD+V0//EN> (17.9.2009), paragraphs 8 and 9. The Parliament also underlines, that the implementation of positive actions measures is not to be regarded as a form of discrimination, not even a ‘positive’ one. Rather, in certain cases they constitute the only means for restoring a seriously compromised balance and ensure real equality.

<sup>194</sup> Interviews with Greek Deputy Ombudsmen – Human Rights Department and Quality of Life Department – RAXEN NFP Greece (2009) *Thematic study on the housing conditions of Roma and Travellers*.

provides for safeguards in the collection of personal data and does not prohibit it, the EP observed that ‘it is therefore counter-productive to prevent statistics relating to certain characteristics from being gathered under the cover of legislation on the protection of personal data, since in the absence of such data the existence of indirect discrimination becomes impossible to prove.’<sup>195</sup>

The recent European Commission’s *Staff Working Document Community Instruments and Policies for Roma Inclusion*<sup>196</sup> offers an overview of the policies undertaken so far at both the EU and Member State level and concludes that although successful practises exist, most initiatives appear to have a project-driven approach rather than being integrated into a wider, holistic policy. To this end, the European Commission, calling for ‘comprehensive and holistic approaches,’ identifies three crucial factors for the success of Roma inclusion programmes: *effective monitoring; effective cooperation; and effective inclusion.*

### 3.5. The role of public authorities at regional and local level

The research reveals that regional and local authorities do not always implement national action plans through specific local measures or projects. Local authorities play a crucial role in ensuring that the principle of equal treatment is implemented in practice, for example, in the management of social housing or halting sites, the adoption of local housing policies, and the design of town planning/spatial plans. However, the research shows that too often local authorities are influenced by prevailing anti-Roma and anti-Traveller attitudes and prejudice.

In interviews carried out for this research respondents noted a variety of problems regarding the allocation and use of available funds indicating that better coordination and monitoring is essential. In **Greece**, for example, a representative of the Greek National Commission for Human Rights said that the main issue is not the low level of funding but rather the ‘correct channelling of the existing resources.’<sup>197</sup> In **Bulgaria**, a representative of the Sofia

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<sup>195</sup> European Parliament (2006) *Resolution on non-discrimination and equal opportunities for all - a framework strategy (2005/2191(INI))*, P6\_TA(2006)0261, Strasbourg, 14 June 2006, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2006-0261+0+DOC+WORD+V0//EN> (17.9.2009), paragraph 18.

<sup>196</sup> European Commission (2008), *Staff Working Document. Community Instruments and Policies for Roma Inclusion*, SEC(2008) 2172, Brussels, 2 July 2008, at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0420:FIN:EN:PDF> (17.9.2009).

<sup>197</sup> Interview with representative of the Greek National Commission for Human Rights, (.02.2009), RAXEN NFP Greece (2009) *Thematic study on the housing conditions of Roma*

Municipality's Public Council noted that there is a lack of coordination between the national and local authorities as well as a lack of financial resources: 'the clearest problem seems to be the lack of coordination between the state and the local authorities due to political conflicts'.<sup>198</sup> In **Ireland**, according to the Pavee Point Travellers Centre, 'The Department of Environment, Heritage and Local Government have always said that finance is not an issue and it consistently said it over the last 15 years and I believe them in that regard. So I do not believe that money is an issue, the problem is the commitment to actually deliver the required units, to practically deliver those units on the ground.'<sup>199</sup> In **Spain**, a report from the *Fundación Secretariado Gitano* (FSG) suggests that the main obstacle to eradicating shanty towns is not inadequate resources, but mostly administrative difficulties and tendency of authorities' to 'evade' their responsibilities.<sup>200</sup> Furthermore, some Roma activists argued that in some cases funding for Roma housing is spent on other projects, for example, in Romania.<sup>201</sup>

A close link and efficient working relationship between national and local government levels is essential for the implementation of national policies 'on the ground', which is often the task of local authorities. In its opinions the Committee of the Regions (CoR) has highlighted the role regional and local authorities can play in carrying out impact assessments of EU funded projects and be allowed more scope in participating in the preparation and implementation of EU policies,<sup>202</sup> as well the crucial role of regional authorities in ensuring territorial cohesion.<sup>203</sup>

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*and Travellers*, p. 51. Similar observations were made in an interview with a Roma respondent, member of the executive board of the 'Network for Combating Discrimination against Roma' (Rom Net) (February 2009). RAXEN NFP Greece (2009), *Thematic study on the housing conditions of Roma and Travellers*. Rom Net is civil society network bringing together municipal bodies for exchange of information on planning and implementation of local administration policies regarding Roma.

<sup>198</sup> Interviews with a representative of the Sofia Municipality's Public Council, RAXEN NFP Bulgaria (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>199</sup> Interview with representative of the Pavee Point Travellers Centre (2.2009), RAXEN NFP Ireland (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>200</sup> B. Edgar (Joint Centre for Scottish Housing Research) (2004) *Policy measures to ensure access to decent housing for migrants and ethnic minorities*, p. 27, quoting from an unpublished report by the Fundación Secretariado Gitano (FSG), available at: [http://ec.europa.eu/employment\\_social/social\\_inclusion/docs/decenthousing\\_en.pdf](http://ec.europa.eu/employment_social/social_inclusion/docs/decenthousing_en.pdf) (19.01.2009).

<sup>201</sup> Interview with Roma activist and former president of the National Agency for Roma, RAXEN NFP Romania (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>202</sup> CoR (2008) *Opinion on the Governance and Partnership at National, Regional and Project basis in the field of Regional Policy*, COTER-IV-017, Brussels, 8-9 October 2008, available at: <http://www.cor.europa.eu> (11.9.2009).

<sup>203</sup> CoR (2009) *Opinion on the Green Paper on Territorial Cohesion*, COTER-IV-020, Brussels, 12-13 February 2009, available at: <http://www.cor.europa.eu> (11.9.2009).

In particular regarding Roma in its 16 June 2004 Opinion, the CoR noted that ‘Local and regional authorities have a crucial role to play in addressing the issues that face Roma people, a fact recognised by representatives of European Roma organisations themselves.’<sup>204</sup>

The CoR<sup>205</sup> has also contributed with its White Paper on Multilevel Government, defining the interaction of different layers of governance as ‘coordinated action by the European Union, the Member States and local and regional authorities, based on partnership and aimed at drawing up and implementing EU policies. It leads to responsibility being shared between the different tiers of government concerned and is underpinned by all sources of democratic legitimacy and the representative nature of the different players involved.’<sup>206</sup>

Council of Europe bodies have also stressed the role regional and local authorities have to play in addressing the housing predicament of Roma and Travellers. The *Congress of Local and Regional Authorities* (CLRAE) has repeatedly highlighted the role of these authorities in fighting poverty and achieving social inclusion.<sup>207</sup> It has issued two important resolutions on Roma in 1995 and 1998, highlighting its concerns over the complacent attitude of local authorities over acts of violence and discrimination against Roma and also urging them to develop closer links with their Roma and Traveller communities.<sup>208</sup>

Along similar lines, the Advisory Committee overseeing the implementation of the Framework Convention on National Minorities observed that sub-national forms of government can play an important role in creating the necessary conditions for the effective participation of persons belonging to national

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<sup>204</sup> CoR (2004) *Opinion on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on establishing the guidelines for the second round of the Community Initiative EQUAL concerning transnational co-operation to promote new means of combating all forms of discrimination and inequalities in connection with the labour market, ‘Free movement of good ideas’* COM(2003) 840 final, available at: <http://www.cor.europa.eu/> (17.8.2009), at section 1.4.

<sup>205</sup> It should be noted that in the past CoR has criticised the EU for failing to explicitly adopt a local and regional dimension in its various initiatives, See CoR (2007) *Opinion on the European Transparency Directive*, CONST-IV-008, Brussels, 13-14 February 2007, available at: <http://www.cor.europa.eu> (11.9.2009).

<sup>206</sup> CoR (2009) *Own-Initiative Opinion of the Committee of the Regions on the Committee of the Regions’ White Paper on Multilevel Governance*, Const-IV-020, Brussels, 17 and 18 June 2009, available at: <http://www.cor.europa.eu> (11.9.2009).

<sup>207</sup> CLRAE Resolution 87 (2000) *on the role of local and regional authorities in the provision of social services* and CLRAE Recommendation 154 (2004) *on fighting severe poverty in towns: the role of local authorities*, both available at: [http://www.coe.int/T/Congress/Default\\_en.asp](http://www.coe.int/T/Congress/Default_en.asp) (18.8.2009).

<sup>208</sup> CLRAE Resolution 16 (1995) *Towards a Tolerant Europe: the contribution of Roma* (Gypsies) and CLRAE Resolution 44 (1997) *Towards a tolerant Europe: the contribution of Roma*. Both available at: [http://www.coe.int/T/Congress/Default\\_en.asp](http://www.coe.int/T/Congress/Default_en.asp) (18.8.2009).

minorities<sup>209</sup> in decision making during the development of comprehensive policies. At the same time, the Advisory Committee recommends that States ensure that local authorities comply with anti-discrimination legislation in housing issues, as well as provide them with both financial and institutional support (in the form of e.g. specialised institutions at all administrative levels dealing with minority issues).<sup>210</sup>

The Council of Europe's Committee of Ministers provided important guidance on aspects of policy initiatives as well as the role of local authorities. In its Recommendation Rec(2008)5 *on policies for Roma and/or Travellers in Europe*, the committee recommended that 'States should involve regional and local authorities from the earliest stages of developing the strategy, and ensure their commitment to its effective implementation. Regional and local authorities should develop action plans to implement national strategies at local and regional level.' The committee also opined that local authorities, by means of a 'process of institutional development', should become more receptive to the problems faced by Roma and Travellers.<sup>211</sup> In an earlier recommendation, the committee called upon Member States to ensure that decisions adopted by regional and local authorities would not have a discriminatory effect on Roma and Travellers' access to housing; should such instances of discrimination be ascertained, then 'effective, proportionate and dissuasive sanctions' should be imposed on those responsible.<sup>212</sup>

The European Committee of Social Rights has stressed in both conclusions and collective complaints decisions the need for social policies to be adopted. It has repeatedly emphasised that although national authorities might, in accordance with their legislation, delegate powers to local authorities and other entities, this should be accompanied by the necessary safeguards to ensure that relevant policies are adequately implemented.<sup>213</sup> The ECSR noted that as national authorities bear the ultimate responsibility for policy implementation, they should as a minimum supervise and regulate the measures taken by local authorities. National authorities should also be able to show that both

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<sup>209</sup> In some EU Member States Roma are defined as a national minority.

<sup>210</sup> AC (2008) *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*. ACFC/31DOC(2008)001, Strasbourg, 5 May 2008, available at: [http://www.coe.int/t/dghl/monitoring/minorities/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/minorities/default_en.asp) (26.8.2009)

<sup>211</sup> Rec(2008)5 *on policies for Roma and/or Travellers in Europe*, adopted by the Committee of Ministers on 20 February 2008, available at: <https://wcd.coe.int/> (18.8.2009)

<sup>212</sup> Rec(2005)4 *on improving the housing conditions of Roma and Travellers in Europe*, adopted by the Committee of Ministers on 23 February 2005 available at: <https://wcd.coe.int/> (18.8.2009)

<sup>213</sup> ECSR (2006) *European Social Charter (revised) Conclusions 2006 – Vol. I*, available at: <http://www.coe.int/t/dghl/monitoring/socialcharter/> (11.9.2009), p. 10

themselves as well their subordinate authorities have taken practical steps in furtherance of the adopted policies.<sup>214</sup>

### **Funding for basic infrastructure in Roma settlements in Slovenia**

In 2005 the central government's Office for Local Self-Government and Regional Policy issued calls for tender under the 'Implementation Programme of Assistance to Municipalities in Solving Urgent Problems of Communal Infrastructure'. Of approximately 2.5 million EUR allocated, over two million were issued to municipalities between 2005 and 2008. The main objective of the programme is to provide funds for the development of the basic infrastructure of Roma settlements. The projects supported within the programme include, among others, the construction of access roads to settlements, the provision of electricity, the construction of waterworks and sewage systems and land purchases in order to regularise unauthorised Roma settlements.<sup>215</sup>

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<sup>214</sup> ECSR, Decision on the Merits, ERRC v. Italy, Collective Complaint No. 27/2004, (7.12.2005), paragraph 26. See also European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Collective Complaint No. 39/2006, (5.12.2007), paragraph 79.

<sup>215</sup> More information available at: [http://www.svlr.gov.si/fileadmin/svlr/srp.gov.si/pageuploads/Novice/aktualno/porocilo-razpisa-2007\\_1.pdf](http://www.svlr.gov.si/fileadmin/svlr/srp.gov.si/pageuploads/Novice/aktualno/porocilo-razpisa-2007_1.pdf) (21.10.2009).

## 4. The housing situation of Roma and Travellers

International human rights standards set norms for *adequate housing*: According to the UN CESCR's *General Comment no. 4*,<sup>216</sup> the minimum criteria for determining the adequacy of housing are security of tenure, availability of public utilities, affordability, habitability, accessibility,<sup>217</sup> location and cultural adequacy. The research for this report reveals that many Roma and Travellers live in housing conditions that do not correspond to the EU principle of equal treatment and non-discrimination.

Results from the Agency's EU-MIDIS<sup>218</sup> survey shows that Roma looking for accommodation to buy or rent in the public or private housing sector experience discrimination on grounds of their ethnic origin. The level of **experienced** discrimination in the seven Member States, in which Roma were surveyed in the past 12 months (Fig. 2) show that approximately one in ten (11 per cent)<sup>219</sup> Roma respondents indicated that they had experienced this type of discrimination across the seven Member States in the previous 12 months. Seventy per cent of those indicated that such discrimination had occurred more than once. Approximately one in five of these respondents (22 per cent) indicated that they had suffered high repetition of discrimination (i.e. five incidents or more). This finding suggests that there may be a particularly vulnerable group of Roma who is prone to repeated discrimination requiring a targeted response at local and regional level. This highlights the need to pay particular attention to 'groups within groups' who are most at risk of repeated occurrence.

Among the other aggregate groups that were surveyed, 11 per cent of North Africans, 7 per cent of Sub-Saharan Africans, 7 per cent of Central and East Europeans, 3 per cent of those with a Turkish background, 2 per cent of those with a Russian background and 2 per cent of those from the former Yugoslavia indicated they were discriminated against at least once in this area in the last 12 months.

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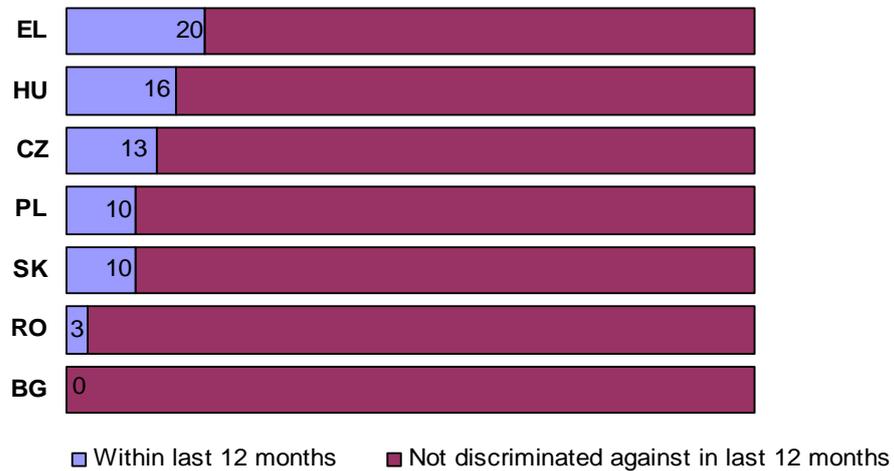
<sup>216</sup> CESCR (1991) *General Comment 4, The right to adequate housing*, (Art. 11 (1) of the Covenant), available at: [http://www.unhcr.ch/tbs/doc.nsf/099b725fe87555ec8025670c004fc803/469f4d91a9378221c12563ed0053547e?OpenDocument#\\*%20Contained%20i](http://www.unhcr.ch/tbs/doc.nsf/099b725fe87555ec8025670c004fc803/469f4d91a9378221c12563ed0053547e?OpenDocument#*%20Contained%20i) (16.7.2009).

<sup>217</sup> The issue of accessibility is discussed in the Section Multiple Discrimination and Housing.

<sup>218</sup> FRA (2009) *Housing discrimination against Romain selected EU Member States: An analysis of EU-MIDIS data*, p. 8 More information on EU-MIDIS at [http://www.fra.europa.eu/fraWebsite/eu-midis/index\\_en.htm](http://www.fra.europa.eu/fraWebsite/eu-midis/index_en.htm) (03.10.2009).

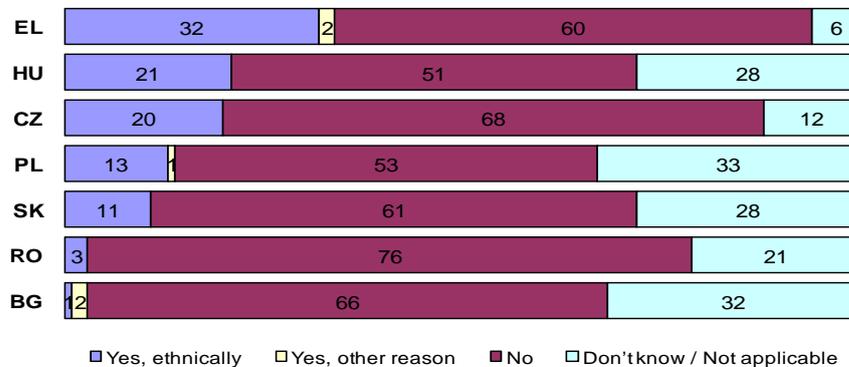
<sup>219</sup> The total number of respondents in the seven Member States reporting incidents was 304 (unweighted).

Fig. 2 EU-MIDIS: Experiences of discrimination in housing in the last 12 months (%)



EU-MIDIS, Q. CC2

Fig. 3 EU-MIDIS: Thinking about the last five years, have you ever been discriminated against when looking for a house or apartment to rent or buy by people working in a public housing agency, or by a private landlord or agency? (%)



EU-MIDIS, Q. CC1

Widespread prejudice and negative attitudes towards Roma were also recorded in the 2008 Eurobarometer Survey.<sup>220</sup> ‘When it comes to the Roma, who collectively form the largest ethnic minority in the enlarged EU, the average ‘comfort score’<sup>221</sup> drops to 6.0 when respondents are asked how they would feel

<sup>220</sup> Special Eurobarometer 296 (2008) *Discrimination in the European Union: Perceptions, Experiences and Attitudes*, available at: [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_296\\_sum\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_296_sum_en.pdf) (28.09.2009)

<sup>221</sup> Respondents were asked two questions with the intention of uncovering their attitudes to different groups. These questions required the respondent to say how comfortable they would be having someone from these groups either as a neighbour or in their country’s highest political office, using a scale from 1 to 10 where 10 represents being ‘totally comfortable’.

if their neighbour was a Roma. Around a quarter (24%) of Europeans would feel uncomfortable having a Roma neighbour: a striking difference to the level of comfort with a person from a different ethnic origin in general (where only 6% would feel uncomfortable).<sup>7</sup>



Source: Special Eurobarometer 296

Travellers are also affected by racial discrimination and harassment. For example, in the **United Kingdom** in the 2006 Commission for Racial Equality (CRE) inquiry covering England and Wales some housing associations reported evidence of racial harassment against Gypsies and Travellers, while others indicated that the majority of numerous incidents of racial harassment against Gypsies and Irish Travellers living in conventional housing went unreported.<sup>222</sup>

## 4.1. Security of tenure

Security of tenure is the cornerstone of the right to adequate housing. According to the Committee on Economic, Social and Cultural Rights, ‘Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.’

<sup>222</sup> Commission for Racial Equality (2006) *Common ground equality, good race relations and sites for Gypsies and Irish Travellers: Report of a CRE inquiry in England and Wales*, p. 203 available at [http://83.137.212.42/sitearchive/cre/downloads/commonground\\_report.pdf](http://83.137.212.42/sitearchive/cre/downloads/commonground_report.pdf) (28.09.2009).

Information and data collected by RAXEN show that Roma and Travellers living in informal settlements, squats and many living in accommodation with fixed short-term or no firm rental agreements lack security of tenure. The number of Roma and Travellers living in informal settlements or unauthorised housing in the EU is unknown, but there is evidence of the persistence of this phenomenon despite measures taken to eradicate it. Forced evictions are a constant threat to persons living in such conditions. For example, in **Slovakia**, the *Mid-Term Development Strategy of the Romany Ethnic Minority in the Slovak Republic* defines unsettled land ownership as one of the principal reasons behind housing problems.<sup>223</sup> In **Bulgaria**, according to a 2002 report<sup>224</sup> 70 per cent of the houses in urban Roma neighbourhoods were illegally built. In **Greece**, a 1999 Report<sup>225</sup> prepared by the Public Enterprise of City Planning and Housing (DEPOS-ΔΕΠΙΟΣ) recorded approximately 63,000 Roma living in unregulated encampments and 10,570 'nomadic' Roma. In **France**, the Council of Europe Commissioner for Human Rights noted in 2008 that most Roma groups live in squalid shantytowns, often without access to water or power.<sup>226</sup> In **Ireland**, the 2007 Annual Count of Traveller Families found 7 per cent of the total 8,099 Traveller families living in unauthorised accommodation.<sup>227</sup>

There is a paucity of official systematic data regarding the number of evictions from informal accommodation affecting Roma and Travellers. Information collected by RAXEN NFPs from various state agencies, academic research and NGOs indicates that there is evidence of evictions across the 24 EU Member States studied. For example, in **Ireland** the NGO Pavee Point received information from 33 local authorities showing that between August 2001 and August 2002 471 Traveller families were served with eviction notices without always being offered alternative accommodation.<sup>228</sup> In the **United Kingdom**, according to the Commission for Racial Equality, a number of local authorities<sup>229</sup> have recorded data on evictions and this, according to an NGO,

<sup>223</sup> Information available on the website of the Ministry of Labour, Social Affairs and Family at <http://www.employment.gov.sk/DIS/dis/index.php?SMC=1&id=165> (13.03.2009).

<sup>224</sup> Институт 'Отворено общество' (2002) *Minority Protection in Bulgaria: an Assessment of the Framework Programme for Equal Integration of Roma in Bulgarian Society and the 'Integration of Minority' Component of the Programme 'People are the Wealth of Bulgaria'*, p. 23.

<sup>225</sup> Δημόσια Επιχείρηση Πολεοδομίας και Στέγασης - ΔΕΠΙΟΣ (1999), Μελέτη Σχεδίου Προγράμματος για την αντιμετώπιση των άμεσων οικιστικών προβλημάτων των Ελλήνων Τσιγγάνων, Αθήνα.

<sup>226</sup> Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008 CommDH(2008)34, available at: [http://www.unhcr.org/refworld/country,,COECHR,,FRA\\_4562d8b62\\_492a6da72\\_0.html](http://www.unhcr.org/refworld/country,,COECHR,,FRA_4562d8b62_492a6da72_0.html) (03.10.2009).

<sup>227</sup> Ireland/Department of Environment, Heritage and Local Government (2008) *The Annual Count of Traveller Families*, available at: <http://www.environ.ie/en/Publications/StatisticsandRegularPublications/HousingStatistics/FileDownload,15291,en.XLS> (20.01.2009).

<sup>228</sup> Information provided by Pavee Point Travellers Centre, March 2009.

<sup>229</sup> See Commission for Racial Equality (CRE) (2006) *Common ground, equality, good race relations and sites for Gypsies and Irish Travellers*, available at:

seems to be the case also for some Police Directorates in **Greece**.<sup>230</sup> In **Belgium**, the equality body (CEOOR) has received complaints by Traveller groups and Roma related to evictions from illegal halting sites or inadequate housing.<sup>231</sup> One country where credible evidence suggests that such evictions seem to be very limited is **Poland**.<sup>232</sup>

Legislative provisions regarding forced evictions can also create problems. For example, in **Ireland** the Irish Traveller Movement highlighted in 2007, regarding the Housing (Miscellaneous Provisions) Act of 2002, the lack of a requirement that notice has to be given before an eviction takes place, and the fact that non-compliance can lead to arrest: 'The law sends out the message that nomadism is not supported by the state and in practice it has meant that Travellers are no longer able to pursue nomadism for fear of imprisonment, and confiscation of their family home'.<sup>233</sup>

Security of tenure is normally not an issue for homeowners as long as they are able to repay any mortgage payments. However, many Roma and Travellers cannot afford to buy a house and are often not eligible for a mortgage. There is little data on home ownership among Roma, but the existing information shows that it varies greatly among EU Member States. For example, in **Poland**, it is estimated that between 10 and 20 per cent of Roma own their homes, mainly bought from the municipal authorities.<sup>234</sup> In Ljubljana, **Slovenia**, 50 per cent of Roma are estimated to live in the houses they own.<sup>235</sup> A positive example of improving home ownership among Roma is to be found in **Spain**, which implements a housing policy that promotes home-ownership through state-subsidies in preference to the provision of rented social housing. It is estimated that around half of the Roma homeowners acquired their house through this

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[http://83.137.212.42/sitearchive/cre/downloads/commonground\\_report.pdf](http://83.137.212.42/sitearchive/cre/downloads/commonground_report.pdf) (11.9.2009), pp. 173-175.

<sup>230</sup> See Greek Helsinki Monitor (GHM) / Centre on Housing Rights and Evictions (COHRE) et al. (2006) *Greece: Continuing Widespread Violation of Roma Housing Rights*, available at: [http://www.cohre.org/store/attachments/greece\\_roma\\_report\\_october\\_2006%20GHM%20%2B%20COHRE.doc](http://www.cohre.org/store/attachments/greece_roma_report_october_2006%20GHM%20%2B%20COHRE.doc), (11.9.2009), p. 38.

<sup>231</sup> RAXEN NFP Belgium (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>232</sup> Interviews with among others the representative of the Polish Roma Union (4.03.2009) and the OSCE/ODIHR Senior Adviser on Roma and Sinti Issues (5.03.2009), in RAXEN NFP Poland (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>233</sup> Irish Traveller Movement (2007) *Discussion document progressing the provision of accommodation to facilitate nomadism*, p. 4.

<sup>234</sup> Interviews with the Polish Roma Union, OSCE/ODIHR, and the Roma Consulting and Information Centre Association in Poland in RAXEN NFP Poland (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>235</sup> M. Komac, M. Medvešek (eds.) (2005) *Simulacija priseljevanja v ljubljansko urbano regijo: analiza etnične strukture prebivalstva Mestne občine Ljubljana*, Ljubljana: Inštitut za narodnostna vprašanja, pp. 187-203, available at: [http://www.inv.si/DocDir/projekti/simulacija\\_priseljevanja\\_v\\_lj.pdf](http://www.inv.si/DocDir/projekti/simulacija_priseljevanja_v_lj.pdf) (31.03.2009).

policy.<sup>236</sup> In **Ireland**, Traveller families are much less likely to own a house compared to households in the general population; it is reported that only 21.1 per cent Traveller families own their home compared to 74.6 per cent for the general population.<sup>237</sup>

### Supporting Roma to become home owners

The Housing Programme for Social Integration (HPSI) run by the regional government of the Autonomous Community of Navarra in Spain helps families living in substandard housing and in slums to buy their own home. This initiative is carried out in cooperation with NGOs that help beneficiaries to adapt to a new social environment. It is funded by the Navarra Department of Housing which, depending on family income, provides up to 45 per cent of the property cost while the rest is financed through a mortgage repaid by the beneficiaries. So far 800 families, including 320 Roma families (40 per cent of the beneficiaries), have participated in HPSI.

*FRA (2009), Case Study: Improving Roma Housing, Spain*

Social housing in its broad sense, namely low rent housing provided by public authorities or non-profit associations, provides better security of tenure and is often the most affordable form of accommodation. Many Roma and Travellers live in social housing across the EU, but there are exceptions, for example in **Greece**, where social rental housing does not exist, and in **Bulgaria**, where a 2004 UNDP report<sup>238</sup> notes that only about 15 per cent of Roma live in public housing,<sup>239</sup> although compared to only one per cent of non Roma in social housing the figure is quite high. On the other hand, in **Finland**, most Roma are

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<sup>236</sup> See Fundación Secretariado Gitano (FSG) (2008) *Mapa sobre vivienda y comunidad gitana en España 2007*, available at: <http://www.gitanos.org/publicaciones/mapavivienda> (22.12.2008).

<sup>237</sup> Centre for Housing Research (2008). *Traveller Accommodation in Ireland: Review of Policy and Practice*, p. 30, available at: [http://www.housingunit.ie/fileupload/Publications/Traveller\\_Accommodation\\_in\\_Ireland\\_-\\_Review\\_of\\_Policy\\_and\\_Practice\\_54631618.pdf](http://www.housingunit.ie/fileupload/Publications/Traveller_Accommodation_in_Ireland_-_Review_of_Policy_and_Practice_54631618.pdf) (20.01.2009).

<sup>238</sup> UNDP (2004) *Vulnerable Groups in South Eastern Europe Dataset*, available at: <http://vulnerability.undp.sk/> (30.03.2009); UNDP (2002) *Avoiding the Dependency Trap Dataset*, available at: <http://vulnerability.undp.sk/> (30.03.2009).

<sup>239</sup> Privatisation reduced the stock of public housing from seven per cent in 1990 to three per cent in 2001: Bulgaria/Министерство на регионалното развитие и благоустройството (2004) *Национална жилищна стратегия на Република България*, available at: <http://www.mrrb.government.bg/index.php?lang=bg&do=law&type=4&id=220> (29.03.2009). See also: S. Tsenkova (2005) *Trends and Progress in Housing Reforms in Southeast Europe*, Paris: Council of Europe Development Bank, available at: [http://www.coebank.org/upload/Brochure/EN/Housing\\_reforms\\_in\\_SEE.pdf](http://www.coebank.org/upload/Brochure/EN/Housing_reforms_in_SEE.pdf) (29.03.2009).

housed in state-subsidised public housing<sup>240</sup> and in **Poland**, it is estimated that at least 80 per cent of Roma live in social ‘communal’ housing.<sup>241</sup>

There are instances of Roma evictions after the privatisation of social housing, particularly in city centre areas that become attractive after urban regeneration projects, leading to the eviction of the old tenants, and thus ‘exporting poverty’<sup>242</sup> to other areas. In **Portugal**, after an urban development project, the municipality of Porto reportedly evicted Roma without providing adequate housing alternatives.<sup>243</sup> Similar cases have also been reported in the **Czech Republic**<sup>244</sup> and **Slovakia**.<sup>245</sup>

Roma and Travellers without access to other forms of housing may build houses or makeshift accommodation without permission, often on public or private land they do not own, without any security of tenure under constant threat of eviction. Mass forced evictions of informal settlements are often carried out without a court order and appeals against administrative actions do not suspend the eviction. For example, in **Italy**, NGO and media report that persons living in informal settlements are regularly forcibly evicted by authorities who also destroy their homes and at times their personal belongings. This affects a large number of persons, as out of 167 settlements identified in 2008, 124 were unauthorised.<sup>246</sup> In May 2008 a number of mass forced evictions and demolitions of Roma camps were carried out in Milan and Rome.<sup>247</sup> During field research on another FRA project related to Roma, a respondent from the Federation of Rom and Sinti<sup>248</sup> commented that ‘In Milan, during the last two years, there has been a policy of continuous evictions, mainly targeted at the Romanian Roma community, without official announcements and viable alternatives.’ In **Greece**, there are numerous reports of mass forced evictions of

<sup>240</sup> Finland/Ympäristöministeriö (1996) *Romaniväestön asunotilanne 1990-luvun puolivälissä*.

<sup>241</sup> This is the estimate of ownership by the representative of the Polish Roma Union (interview for the purpose of this report, 04.03.2009) - RAXEN NFP Poland (2009) – *Thematic study on the housing conditions of Roma and Travellers*.

<sup>242</sup> C-Press (2008) ‘Cigányok és szegények: kiszorítás a belvárosból,’ available at: [http://portal.c-press.hu/index2.php?option=com\\_content&do\\_pdf=1&id=3476](http://portal.c-press.hu/index2.php?option=com_content&do_pdf=1&id=3476) (27.03.2009).

<sup>243</sup> M. Malheiros (2007) *Report on the Measures to Combat Discrimination. Directives 2000/43/EC and 2000/78/EC. Country Report Portugal. State of Affairs up to 8 January 2007*, p. 33 and p. 44, available at: [http://www.migpolgroup.com/multiattachments/3430/DocumentName/ptrep05\\_en.pdf](http://www.migpolgroup.com/multiattachments/3430/DocumentName/ptrep05_en.pdf) (03.10.2009).

<sup>244</sup> FRA (2009) *Case Study: Living Together, Czech Republic*.

<sup>245</sup> Milan Simecka Foundation, Centre on Housing Rights and Evictions, European Roma Rights Centre (2006) *Forced evictions in Slovakia 2006: Executive summary*.

<sup>246</sup> Ministero dell'Interno (2008) *Censimento dei campi nomadi*, available at: [http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala\\_stampaspeciali/censimento\\_nomadi/index.html](http://www.interno.it/mininterno/export/sites/default/it/sezioni/sala_stampaspeciali/censimento_nomadi/index.html) (15.03.2009).

<sup>247</sup> European Roma Rights Centre, Open Society Institute, the Centre on Housing Rights and Evictions, Romani Criss and the Roma Civic Alliance (2008) *Security a la Italiana: Fingerprinting, Extreme Violence and Harassment of Roma in Italy*, available at: <http://www.erc.org/cikk.php?cikk=3050>, p. 24-25 (29.09.2009).

<sup>248</sup> Interview with the Federation of Rom and Sinti, Italy, 14.04.2009.

Roma, while the Ombudsman has repeatedly emphasised the prohibition of the compulsory evacuation of Roma settlements without prior indication of an adequate place for safe and legal settlement, at least of an equal quality to the evacuated site.<sup>249</sup> The Council of Europe Commissioner for Human Rights in a letter to the Greek Interior Minister in 2006 noted, '[...] I met with a family whose simple habitat had been bulldozed away that same morning. It was obvious that the 'procedures' for making them homeless were in total contradiction to human rights standards [...]. I was also disturbed to notice that non-Roma people appeared on both sites during my visit and behaved in an aggressive, threatening manner to the extent that my interviews with some of the Roma families were disturbed.'<sup>250</sup>

## Security of tenure for Travellers in halting sites

Halting sites are a type of Traveller specific accommodation that allows them to continue a lifestyle which has already been affected by changes in land use, urbanisation and practical as well as administrative barriers – such as boulders, barriers, prohibition orders and trespass legislation. Permanent halting sites have sanitary facilities, waste collection and often an allocated address, while transient halting sites usually provide limited facilities. The absence of a sufficient number of authorised permanent or even transient halting sites often leaves Travellers with no alternative than to occupy, even without permission, a pitch on a public site, thus risking eviction, a serious problem for many Travellers.<sup>251</sup> Tolerance for unauthorised pitching of caravans varies. For example, in the **Netherlands**, caravans illegally pitched on a halting site may be tolerated for a time depending on the municipality or the housing corporation controlling the site, yet always under the threat of eviction.<sup>252</sup>

The information provided by RAXEN shows that halting sites are still not available in sufficient numbers in the five EU Member States with a substantial Traveller community (**Belgium, France, Ireland, the Netherlands and the United Kingdom**). For example, in **Belgium**, according to ENAR there were 28 official encampment sites in Flanders and Brussels in 2003.<sup>253</sup> In the **United**

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<sup>249</sup> The Greek Ombudsman *2nd Annual Report as National Equality Body (2006)*, available at: [http://www.synigoros.gr/diakriseis/pdfs/12\\_10\\_EqualTreatmentReport2006.pdf](http://www.synigoros.gr/diakriseis/pdfs/12_10_EqualTreatmentReport2006.pdf) (02.05.2009).

<sup>250</sup> Available at: <https://wcd.coe.int/ViewDoc.jsp?id=1100661&BackColorInternet=FEC65B&BackColorIntraNet=FEC65B&BackColorLogged=FFC679> (10.10.2009).

<sup>251</sup> For instance, see the Pavee Point media monitoring for numerous cases of evictions in Ireland: <http://pavee.ie/mediamonitor/?tag=accommodation> (29.09.2009).

<sup>252</sup> RAXEN NFP The Netherlands (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>253</sup> ENAR (2002) *Garder la distance ou saisir des chances – Roms et gens du voyage en Europe occidentale* [Keeping the distance or grabbing opportunities – Roma and Travellers in Eastern

**Kingdom** the needs assessment survey<sup>254</sup> of the Northern Ireland Executive found that in 2008, 5 per cent of Travellers lived on transient sites, 5 per cent on co-operated sites and 21 per cent on serviced sites. In **England**, the twice yearly Caravan Count conducted by local authorities showed at the latest available count on 19 January 2007 a total of around 16,000 Gypsy and Traveller caravans, of which three quarters are on either privately or publicly owned authorised sites. Of the caravans on unauthorised sites, some 2,252 were on unauthorised developments (i.e. land owned by Gypsies and Travellers themselves, but developed without planning permission) and 1,286 on unauthorised encampments (where land is not owned by the people camping on it).<sup>255</sup> In **France**, according to information provided in the RAXEN NFP study by the end of 2008, 17,365 caravan places had been provided across 729 sites, representing just over 40 per cent of those planned for by the departmental Traveller programmes. The estimated level of provision compared to needs ranges from 20 per cent in Provence-Alpes-Côte d'Azur (and a total absence of provision in Corsica), to 71 per cent in Basse-Normandie and Poitou-Charentes.<sup>256</sup>

There is often local opposition to the development of new halting sites. For instance, in the **United Kingdom**, the Independent Task Group on Site Provision and Enforcement for Gypsies and Travellers stated in 2007: 'It is clear that delivering more sites will not be easy. [...] The most significant stumbling block is opposition from members of the settled community, fuelled by negative perceptions of living near to a Gypsy or Traveller site.'<sup>257</sup>

In some cases existing regulations can create obstacles to Travellers using sites. For example, in **Belgium**, in the Brussels Capital-Region the *permis d'urbanisme* [urban license] for parking a caravan is valid for six months to ten years, but, once issued, cannot be extended.<sup>258</sup> Applications for planning

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Europe], available at: [http://cms.horus.be/files/99935/MediaArchive/pdf/roma\\_fr.pdf](http://cms.horus.be/files/99935/MediaArchive/pdf/roma_fr.pdf) (12.09.2009).

<sup>254</sup> United Kingdom/Northern Ireland Housing Executive (2008) *Travellers' Accommodation Needs Assessment in Northern Ireland*, p. 21, available at: [http://www.nihe.gov.uk/travellers\\_accommodation\\_needs\\_assessment\\_2008.pdf](http://www.nihe.gov.uk/travellers_accommodation_needs_assessment_2008.pdf) (21.10.2009).

<sup>255</sup> Department for Communities and Local Government (2007) *The Road Ahead: Final Report of the Independent Task Group on Site Provision and Enforcement for Gypsies and Travellers*, p. 8, available at: <http://www.communities.gov.uk/documents/housing/pdf/roadahead.pdf> (29.09.2009).

<sup>256</sup> RAXEN NFP France (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>257</sup> Department for Communities and Local Government (2007) *The Road Ahead: Final Report of the Independent Task Group on Site Provision and Enforcement for Gypsies and Travellers*, p. 39, available at: <http://www.communities.gov.uk/documents/housing/pdf/roadahead.pdf> (29.09.2009).

<sup>258</sup> Ordonnance du 29.08.1991 de la Région de Bruxelles-Capitale / Ordonnantie van 29.08.1991 van het Brussels Gewest and décision du gouvernement de la Région de Bruxelles-Capitale / Besluit van de Brussels Hoofdstedelijke Executieve van 26.11.1992 betreffende de stedenbouwkundige vergunningen van beperkte duur

permission for Traveller sites are less likely to be approved than those for other types of development. However, in the **United Kingdom**, the introduction in 2006 of new planning procedures through the ODPM Circular 01/2006<sup>259</sup> brought positive changes, as noted by the Independent Task Group on Site Provision and Enforcement for Gypsies and Travellers: '[...] Research carried out by De Montfort University showed that, in the six months following the Circular coming into force, there was a significant rise in the number of planning appeals allowed for Gypsy and Traveller sites – from around 35 per cent allowed in the six months prior to implementation, to around 54 per cent allowed thereafter.'<sup>260</sup>

In **France**, Law No. 2000-614 of 5 July 2000 on the reception and housing of Travellers (often referred to as the 'second Besson Law') aims to improve the provision of halting sites for Travellers in cities of more than 5,000 inhabitants through incentives and financial support. The law also allows cities that provide such halting sites to prohibit Travellers from parking elsewhere. However, in 2003 a new law subsequently allowed cities with less than 20,000 inhabitants to request their exemption from this obligation (Law No. 2003-710 of 1 August 2003 for Town Planning and Urban Renewal). In practical terms this means that Travellers face great difficulties in finding legal halting places outside large cities. In 2008 the Council of Europe Committee of Ministers<sup>261</sup> noted in regard to the provision of Traveller accommodation that '[...] local authorities and the state have failed to take into account to a sufficient degree the specific needs of this community for a considerably long period. [...] The government has acknowledged the delay in the implementation of the departmental schemes for the reception of Travellers and estimates that there is a deficit of around 41,800 places. The delay in implementing the above-mentioned act is regrettable, since it compels Travellers to make use of illegal sites and therefore exposes them to the risk of forcible eviction under the 2003 Act on internal security.' In its response the French government argued that substantial progress has been made with 64 million EUR allocated for the construction of sites for Travellers in 2007, compared to 42 million EUR in 2006, while half of the total of 41,840 sites planned for the country have received a state subsidy and 32 per cent are already functioning.

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<sup>259</sup> United Kingdom Office of the Deputy Prime Minister (ODPM), Circular 01/2006, available at <http://www.communities.gov.uk/documents/planningandbuilding/pdf/circulargypsytraveller.pdf> (29.09.2009)

<sup>260</sup> Department for Communities and Local Government (2007) *The Road Ahead: Final Report of the Independent Task Group on Site Provision and Enforcement for Gypsies and Travellers*, p. 14, available at <http://www.communities.gov.uk/documents/housing/pdf/roadahead.pdf> (29.09.2009)

<sup>261</sup> Resolution CM/ResChS(2008)7 Collective Complaint No. 33/2006 by the International Movement ATD Fourth World against France, available at <https://wcd.coe.int/ViewDoc.jsp?id=1318029&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75> (03.10.2009)

On 17 April 2008, a complaint<sup>262</sup> was introduced by the European Roma Rights Centre (ERRC) against France before the European Committee of Social Rights of the Council of Europe on the grounds that *inter alia* Travellers in France are victims of injustice with regard to access to housing, social exclusion and forced eviction as well as residential segregation, substandard housing conditions and lack of security of tenure. The ECSR declared the complaint, which is currently pending, admissible on 23 September 2008.

Data on the number of Travellers living on unofficial sites is scarce. In **Ireland**, in 2007 the number of Traveller families living in unregulated (unauthorised) accommodation was 7 per cent of a total 8,099 Traveller families recorded.<sup>263</sup> In the **United Kingdom**, a 2006 report of the Commission for Racial Equality (CRE) found that the significant shortage of authorised transit and permanent sites has led many Travellers to pitch illegally.<sup>264</sup> According to the latest available evidence 12 per cent of around 15,000 caravans in the United Kingdom are on unauthorised sites where Gypsies and Irish Travellers own the land but have no planning permission and a further 16 per cent are on unauthorised encampments, where Gypsies and Irish Travellers do not own the land and planning consent has not been given for use as a halting site.<sup>265</sup>

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<sup>262</sup> Complaint No. 51/2008, *European Roma Right Centre (ERRC) v. France*.

<sup>263</sup> Ireland/Department of Environment, Heritage and Local Government (2008) *The Annual Count of Traveller Families*, available at: <http://www.environ.ie/en/Publications/StatisticsandRegularPublications/HousingStatistics/FileDownload,15291,en,XLS> (20.01.2009).

<sup>264</sup> Commission for Racial Equality (2006) *Common Ground, Equality, good race relations and sites for Gypsies and Irish Travellers, Report of a CRE inquiry in England and Wales*, London: CRE, p. 2, available at [http://83.137.212.42/sitearchive/cre/downloads/commonground\\_report.pdf](http://83.137.212.42/sitearchive/cre/downloads/commonground_report.pdf) (29.09.2009).

<sup>265</sup> See CRE webpage *Gypsies and Irish Travellers: The facts* available at [http://83.137.212.42/sitearchive/cre/gdpract/g\\_and\\_t\\_facts.html#one](http://83.137.212.42/sitearchive/cre/gdpract/g_and_t_facts.html#one) (03.10.2009).

### Halting site for travelling Roma and Sinti

In 2002, a new model for fostering coexistence between the local population and travelling Roma and Sinti was developed in Upper Austria. A halting site with suitable infrastructure (including sanitary facilities for up to 25 caravans) was established. This measure was funded by the municipality of Braunau and the association Ketani was consulted. The initial costs of establishing the site amounted to 147,000 EUR, and the yearly running costs are between 8,000 and 9,000 EUR, of which 5,000-6,000 EUR are obtained through rental income from the site itself. The management of the halting site is administrated by the intercultural Roma and Sinti NGO network (RoSi).<sup>266</sup>

## 4.2. Access to public utilities and infrastructure

According to the Committee on Economic, Social and Cultural Rights, ‘An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency service.’ The CERD elaborates further on housing related to Roma, recommending States to take special measures to ensure non-discrimination. States should also, for example, involve Roma in housing projects and act firmly against discriminatory practices in housing by local authorities as well as private owners. States must also, according to the CERD counter ‘local measures denying residence to and unlawful expulsion of Roma, and [...] placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.’ The committee moreover calls for States to take the necessary steps to ensure ‘Roma nomadic groups or Travellers camping places for their caravans, with all necessary facilities.’<sup>267</sup>

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<sup>266</sup> Statement by the province of Upper Austria included in : Austria/Bundeskanzleramt (2009) *Rückmeldung zum Informationsersuchen Focal Point – Fragenkatalog Housing Conditions of Roma and Travellers; österreichische Gesamtstellungnahme*, unpublished manuscript, and G. Kücher (2006) *Fahrende Roma und Sinti in Österreich im beginnenden 21. Jahrhundert*, Vienna, master thesis, pp. 14-31, statement on request by the mayor of Braunau/Inn (25.03.2009).

<sup>267</sup> CERD (2000) General Recommendation No. 27, *Discrimination against Roma*, paragraphs 30-32, available at:

The evidence collected in the context of this research indicates that these conditions are not always met, as many Roma and Travellers lack such sustainable access to public utilities and services. For example, in **Poland**, regional data from 2001 for the Świętokrzyskie Voivodship showed that 85 out of 125 apartments studied had no running water.<sup>268</sup> In **Slovakia**, a 2004 study<sup>269</sup> shows that only 19 per cent of Roma settlements had sewage, 41 per cent had access to gas supply and 63 per cent had access to water supply, although 91 per cent had access to mains power supply. One out of five lacked public road access. In **Romania**, a 2007 report notes that Roma are far more disadvantaged compared to other ethnic groups in access to public utilities: 75 per cent have no access to gas supply (others 21 per cent), 72 per cent have no access to sewage (others 15 per cent), 73 per cent have no running water in the house (others 10 per cent), 12 per cent have no home power supply (others 1 per cent) and 14 per cent use waste for heating their homes or do not heat them at all (others 2 per cent).<sup>270</sup>

Informal settlements constructed without a legal permit are often not connected to public utilities, e.g. mains electricity, running water, sewage system, etc, or served by public transport. Cases of particularly bad housing conditions and lack of infrastructure can be observed throughout the EU. For example, in the city of Komotini, **Greece**, according to a 2007 media report, around 350 Roma families lived in tin shacks served by two water outlets; 60 of their children were hospitalised in November 2007 with hepatitis A, and efforts to relocate the families in nearby areas were opposed by non-Roma local residents.<sup>271</sup> A 2009 UN report<sup>272</sup> indicates that settlements in which Roma were relocated in 2000 still lack basic facilities and public utilities. The report cites the example of the Spata settlement, near Athens, housing twenty families in prefabricated housing units provided by authorities, which have no mains power supply, running water

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[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/11f3d6d130ab8e09c125694a0054932b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/11f3d6d130ab8e09c125694a0054932b?Opendocument) (12.10.2009).

<sup>268</sup> L. Zakrzewski (2002) *Report: 'Social Mapping of the Roma in Świętokrzyskie Voivodship 2001'*, Kielce: Office for Economic Policy and Regional Development, p. 36.

<sup>269</sup> M. Jurásková, E. Kriglerová, J. Rybová (2004) *Atlas rómskych komunit na Slovensku 2004*, Bratislava: Úrad vlády SR. Some data are available at the webpage of the OPGRC: <http://romovia.vlada.gov.sk/3554/list-faktov.php> (29.09.2009).

<sup>270</sup> G. Badescu, V. Grigoras, C. Rughinis, M. Voicu, O. Voicu, (2007) *Roma Inclusion Barometer*, Bucharest: Open Society Foundation, p. 33.

<sup>271</sup> D. Damianos, 'Ο μαχαλάς της ηπατίτιδας', in Ta Nea (21.12.2007), available at: <http://www.tanea.gr/Article.aspx?d=20071221&nid=6939324&sn=&spid=876Official> (22.06.2009).

<sup>272</sup> United Nations General Assembly, Human Rights Council, A/HRC/10/11/Add.3, 18 February 2009 *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development* report of the independent expert on minority issues, Gay McDougall, p. 15, para. 53-55, available at: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.11.Add.3.pdf> (12.07.2009).

or regular garbage/waste collection services, using instead generators and two water storage tanks.<sup>273</sup>

There is some evidence to indicate that the situation is better in some Member States, for instance, in **Slovenia**, where 51 per cent of Roma households have access to mains power supply and 75 per cent have running water.<sup>274</sup> Similarly, in **Spain**, 80 per cent of Roma housing is reported to be of satisfactory level in terms of facilities and services.<sup>275</sup>

In some Member States there are differences in the access to public services and infrastructure between various Roma groups. For example, in **Slovenia**, it is reported that 'autochthonous' Roma living in settlements have less favourable access to public amenities than urban 'non-autochthonous' Roma.<sup>276</sup> Similarly in **Sweden**, some communities with predominantly immigrant and minority population (including Roma) – like Nackta in Sundvall – have limited access to utilities, and especially waste removal.<sup>277</sup>

In some cases access to public utilities is regulated in an ad hoc manner, for example, in **Bulgaria**, where, according to a 2007 survey carried out by the Open Society Institute,<sup>278</sup> 29 per cent of Roma interviewed in the survey claimed that unpaid electricity bills by individual consumers may result in entire neighbourhoods being cut off.

Access to public transport of Roma neighbourhoods and settlements largely depends on their location and size. In **Hungary**, for instance, while access to public transport in segregated urban areas may be similar to that of other city areas in the case of smaller settlements, there are problems with segregated areas of larger settlements and isolated small villages.<sup>279</sup> In **Spain**, limited access to public transport is a problem for Roma neighbourhoods and

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<sup>273</sup> United Nations General Assembly, Human Rights Council, A/HRC/10/11/Add.3, 18 February 2009, *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development* report of the independent expert on minority issues, Gay McDougall, p. 15, para. 53-55, available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G09/111/77/PDF/G0911177.pdf?OpenElement> (29.09.2009).

<sup>274</sup> N. Babič Ivaniš, Š. Urh, V. Klopčič, M. Adamič (2006) 'Raziskava izobraževalnih in poklicnih interesov Romov', in: N. Žagar, V. Klopčič (eds) *Poklicno informiranje in svetovanje za Rome – PISR*, Črnomelj: Zavod za izobraževanje in kulturo, pp. 210-212.

<sup>275</sup> Fundación Secretariado Gitano (FSG) (2008) *Mapa sobre vivienda y comunidad gitana en España 2007*, available at: <http://www.gitanos.org/publicaciones/mapavivienda> (22.12.2008).

<sup>276</sup> Slovenia/Urad za narodnosti (2004) *Poročilo o položaju Romov v Republiki Sloveniji (2004)*.

<sup>277</sup> DO (2008) *Diskriminering på den svenska bostadsmarknaden – En rapport från DO:s särskilda arbete under åren 2006-2008 kring diskriminering på bostadsmarknaden*.

<sup>278</sup> A. Пампоров, Д. Колев, Т. Крумова, И. Йорданов (2008) *Ромите в България: Информационен справочник*, София: Институт 'Отворено общество'-София, p. 46, available at: <http://www.osi.bg/downloads/File/RomaGuideFinal.pdf> (30.03.2009).

<sup>279</sup> Database on deprived micro-regions at: [http://www.nfu.hu/tervezesi\\_dokumentumok](http://www.nfu.hu/tervezesi_dokumentumok) (21.05.2009).

settlements.<sup>280</sup> Similarly, in **Romania**, results of the Roma Inclusion Barometer show that the percentage of Roma stating that public transport is ‘absent’ or ‘works badly’ in their area is higher (50 per cent) than in the case of non Roma (31 per cent).<sup>281</sup>

There are a number of good examples of halting sites for Travellers with good infrastructure, suitably located to provide good access to health, education and other local services. However, the limited number of halting sites can lead to overcrowding with potential health risks. In **Belgium, France, Ireland** and the **United Kingdom**, the access of Travellers on public sites to water, electricity, public transport and sewage is reportedly still problematic. For instance, in **Belgium**, although the official sites in Flanders have generally good access to public utilities, across the country illegal sites lack or have bad quality services, particularly waste removal.<sup>282</sup> In **France**, access to water and electricity is granted only temporarily, even for Travellers who settle permanently on sites they own.<sup>283</sup>

### 4.3. Affordability

According to the Committee on Economic, Social and Cultural Rights ‘Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.’

The evidence collected shows that across the EU many Roma and Travellers find it difficult to pay the monthly rent for adequate private housing and, given their unemployment rates, few will be able to furnish banks with evidence of stable employment for a mortgage. Even in cases where the opportunity arises to purchase property at low cost, as in the example of former communist bloc EU Member States during the process of housing privatisation in the transition to democracy, many Roma could not afford to buy their homes or sold it to cover other needs with serious negative consequences in the long run regarding their chances of securing adequate housing.

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<sup>280</sup> Fundación Secretariado Gitano (2008) *Mapa sobre vivienda y comunidad gitana en España 2007*, available at: <http://www.gitanos.org/publicaciones/mapavivienda> (22.12.2008).

<sup>281</sup> G. Badescu, V. Grigoras, C. Rughinis, M. Voicu, O. Voicu, (2007) *Roma Inclusion Barometer*, Bucharest: Open Society Foundation, p. 32.

<sup>282</sup> Vlaams Minderheded Centrum (2006) *Standplaatsenbeleid: analyse en aanbeveling*, available at: <http://www.vmc.be> (15.03.2009).

<sup>283</sup> Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008 CommDH(2008)34, Strasbourg, 20 November 2008, available at: <http://www.unhcr.org/refworld/country,,COECHR,,FRA,4562d8b62,492a6da72,0.html> (03.10.2009).

Roma and Travellers risk becoming attractive clients of unscrupulous landlords who charge excessive rent for substandard accommodation. For example, in the **Czech Republic** in Usti nad Labem, following the privatisation of state-owned houses inhabited mostly by Roma, rent was disproportionately raised, although the properties were in bad condition, leading many tenants to accumulate large debts to the new owner, who charged high interest rates.<sup>284</sup>

Even a low rent, for example in social housing, can be difficult to pay regularly for someone with a very low income. If authorities neglect to take measures to help tenants pay their rent, large debts can be accumulated leading to evictions. For example, according to a Milan Simecka Foundation report, in some Roma neighbourhoods in **Slovakia** authorities tolerated the irregular payment of rent and utilities long enough to allow debts to grow considerably, as for example in Lunik IX, the Roma neighbourhood of Kosice, where debts grew to one billion Slovak crowns.<sup>285</sup>

Positive initiatives supporting Roma in improving the planning of their family budget have also been reported. For example, in **Slovakia**<sup>286</sup> and in the **Czech Republic**<sup>287</sup> the ‘special receiver’ mechanism can be applied to those entitled to a housing benefit who do not use it appropriately; authorities can appoint a municipality (or any person) as the ‘special receiver’ of the benefit paying debts and overdue payments for rent and utilities, thus preventing evictions. However, local authorities may not be willing to use this measure as it may entail an additional administrative burden for them thus allowing accumulated debts to grow leading to forced evictions.<sup>288</sup>

In some cases the availability of housing subsidies may not be communicated effectively. In **Poland**, for instance, Roma activists complained that officials in charge do not inform Roma of available housing subsidies.<sup>289</sup>

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<sup>284</sup> M. Brož, P. Kintlová, L. Toušek (2007). *Kdo drží černého Petra. Sociální vyloučení v Liberci, Plzni a Ústí nad Labem*. Praha: Člověk v tísni – společnost při České televizi, available at: [http://www.integracniprogramy.cz/index.php?option=com\\_content&view=article&id=525:kd-o-dri-erneho-petra-socialni-vyloueni-v-liberci-plzni-a-usti-nad-lbaem&catid=482:analyzy-a-vyzkumy&Itemid=272](http://www.integracniprogramy.cz/index.php?option=com_content&view=article&id=525:kd-o-dri-erneho-petra-socialni-vyloueni-v-liberci-plzni-a-usti-nad-lbaem&catid=482:analyzy-a-vyzkumy&Itemid=272) (15.04.2009).

<sup>285</sup> Milan Simecka Foundation, Centre on Housing Rights and Evictions, European Roma Rights Centre (2006) *Forced evictions in Slovakia 2006: Executive summary*, p. 5.

<sup>286</sup> Slovakia/Zákon č. 599/2003 Z. z. o pomoci v hmotnej núdzi a o zmene a doplnení niektorých predpisov (11.11.2003).

<sup>287</sup> Czech Republic/Ministerstvo práce a sociální věci (2000) *Metodický postup při sociální práci se skupinou neplatičů nájemného a úhrady za plnění poskytovaná v souvislosti s užíváním bytu (ceny služeb a energií)*. Ministerstvo práce a sociálních věcí ČR, komentář č.5/2000. Available at: [http://epolis.cz/download/pdf/materials\\_13\\_1.pdf](http://epolis.cz/download/pdf/materials_13_1.pdf) (21.09.2009).

<sup>288</sup> RAXEN NFP Czech Republic (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>289</sup> Interview with Roma Consulting and Information Centre, 02.02.2009, RAXEN NFP Poland (2009) *Thematic study on the housing conditions of Roma and Travellers*.

Exceedingly strict qualifying conditions for housing allowances can also affect the ability of low income tenants' to afford regular rent payments. For example, in the welfare reform 2003/2004, **Slovakia** introduced a flat-rate housing benefit regardless of the actual cost, which can be considerably higher than the benefit. In addition, only about half of the households<sup>290</sup> entitled to social benefit receive a housing benefit, arguably due to its strict conditions, which many Roma cannot satisfy, namely the requirement<sup>291</sup> to pay rent and bills regularly or have a debt repayment agreement with the owner.

Reports also point to allegations that in some cases Roma and Travellers pay disproportionately high charges for utilities. For instance, in **Slovakia**, the Milan Simecka Foundation reported cases of Roma tenants in social housing receiving excessive utility bills.<sup>292</sup> In the **United Kingdom**, the CRE raised concerns about the comparatively high cost of utilities on Traveller sites.<sup>293</sup> Travellers in **France** do not normally qualify for housing subsidies, as caravans are not considered as a form of housing, but reportedly some CAF offices (Caisse d'allocations familiales) [Family Allocations Office] do provide Travellers with interest free or low interest loans, in order to buy or refurbish caravans.<sup>294</sup>

### Making it affordable to purchase a home

*'Our previous house was dangerous. In the new house, everything is fine. Without this programme, there is no way we could have moved out.'* – Roma beneficiary

The Housing and Social Integration Programme (HSIP) in Hungary is a complex governmental programme intended to improve the social integration of Roma. In the village of Kerecsend the objectives of HSIP – housing and social integration – were achieved by purchasing three new 'nest-houses' in integrated areas, as well as renovating old ones in segregated areas. Young Roma families moving into 'nest-houses' agreed to pay rent. In addition they

<sup>290</sup> By the end of 2008, 92,082 households were entitled to receive housing benefit from a total of 153,516 households receiving social benefits; source: Slovakia/Ústredie práce, sociálnych vecí a rodiny (2009) *Štatistiky: Nezamestnanosť a sociálne dávky Február 2009*, available at: <http://www.upsvar.sk/rsi/rsi.nsf/0/E95AC40BA6F6159EC12575660031E9E7?OpenDocument> (25.03.2009).

<sup>291</sup> Slovakia/Zákon č. 599/2003 Z. Z. o pomoci v hmotnej núdzi (11.11.2003).

<sup>292</sup> Milan Simecka Foundation, Centre on Housing Rights and Evictions, European Roma Rights Centre (2006) *Forced evictions in Slovakia 2006: Executive summary*, p. 6.

<sup>293</sup> Commission for Racial Equality (2006) *Common Ground: Equality, good race relations and sites for Gypsies and Irish Travellers: Report of a CRE inquiry in England and Wales*, London: CRE.

<sup>294</sup> Interview with Gypsy Study Association, RAXEN NFP France (2009) *Thematic study on the housing conditions of Roma and Travellers*. See Fondation Abbé Pierre (2006) *Les Cahiers du mal-logement de la Fondation Abbe Pierre: Les difficultés d'habitat et de logement des «Gens du Voyage»*, Janvier 2006 [Foundation Abbé Pierre, *The notebooks of ill-housing of the Fondation Abbé Pierre: the housing difficulties of the French Travellers*], available at: [http://www.fondation-abbe-pierre.fr/pdf/cahier\\_gdv.pdf](http://www.fondation-abbe-pierre.fr/pdf/cahier_gdv.pdf) (10.9.2009).

agreed to pay an additional amount which went towards savings to buy themselves a new house. This means both that they are able to purchase their own homes in the future, but also that the scheme is sustainable allowing new families to move into the 'nest-home'. In Szomolya, ten families were relocated from 'cave houses' to modern accommodation in the village, a clubhouse for the local Roma association was purchased and several other support actions were carried out, including training and follow-up work with relocated families.

*FRA (2009), Case Study: Combating Roma residential segregation, Hungary*

## 4.4. Habitability

According to the Committee on Economic, Social and Cultural Rights 'Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well.'

The Agency, in its previous form, as the EUMC, noted in its 2005 report '*Migrants, Minorities and housing: Exclusion, discrimination and anti-discrimination in 15 EU Member States*',<sup>295</sup> (covering 15 EU Member States) several cases of particularly bad housing conditions, especially in informal Roma settlements. Despite efforts in many Member States to improve the quality of housing, RAXEN reports show that little progress has been made so far. This has also been noted by reports from international organisations, including the Council of Europe.

Evidence provided by RAXEN shows that overcrowding is a common problem. For instance, in **Bulgaria**, the 2004 United Nations Development Programme (UNDP) survey showed that on average Roma lived in 0.76 rooms per household member, compared to 1.58 rooms per majority household member, while the average size of Roma housing units was 15m<sup>2</sup> compared to 34m<sup>2</sup> for majority population households.<sup>296</sup>

Housing conditions in general can be very poor in informal settlements, where, accommodation is in tents or huts made of plastic, recycled cardboard and other

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<sup>295</sup> EUMC (2005) *Migrants, Minorities and housing: Exclusion, discrimination and anti-discrimination in 15 EU Member States*; available at :

<http://www.fra.europa.eu/fraWebsite/attachments/CS-Housing-en.pdf> (29.09.2009).

<sup>296</sup> UNDP (2004) *Faces of Poverty, Faces of Hope*, p. 16, available at: <http://vulnerability.undp.sk/DOCUMENTS/bulgaria.pdf> (30.03.2009).

collected materials. In **Italy**, the conditions in Roma camps were described by NGOs<sup>297</sup> as appalling. In its 2007 report on **Portugal**, ECRI stated that it ‘ [...] deplors the fact that a large number of Roma still live in difficult, if not very difficult conditions, despite the progress made in this area in recent years [through the Re-housing Programme].’<sup>298</sup> In **Greece**, the Greek Ombudsman 2008 Annual Report cites the description of the situation in informal settlements by a mayor in the Athens metropolitan area: ‘Roma live in tragic conditions right next to dumps, in shacks, without water and electricity, without basic hygiene, among rodents, and at the mercy of extreme weather conditions and phenomena, affected by epidemic diseases, mainly caused by the trash they are paid to collect and remove from all areas of Attica.’<sup>299</sup>

### Improving the habitability of Roma homes

The government of Hungary’s Housing and Social Integration Programme (HSIP) as implemented in Kerecsend included renovation of Roma houses in life-threatening conditions as well as the renovation of public places by building pavements and restoring streets, laying a main gas pipeline, cleaning the public wells, building a new playground and renovating public places in the central areas of the village. The way the renovations were carried out was creative in being demand- and resource-driven. After a survey on the conditions of the houses, the renovations were not carried out solely by experts; beneficiaries with previous experience in the construction industry were temporarily employed to undertake the work by themselves. Where the residents were in a position to complete only minor repairs to their homes they were only provided with the building materials.

*FRA (2009), Case Study: Combating Roma residential segregation, Hungary*

### Revitalisation Project

The revitalisation project in Koblenz, Germany, referred to as ‘Unterer Asterstein’, aimed to improve the housing conditions and quality of life in a socially disadvantaged neighbourhood. The project’s target group were 260 mainly socially disadvantaged tenants, 50 per cent of whom were Sinti families. The City of Koblenz and the non-governmental local housing

<sup>297</sup> European Roma Rights Centre, Centre on Housing Rights and Evictions, osservAzione, Sugar Drom (2008) *Written comments concerning Italy for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 72nd session*, p.13, available at: <http://www.osservazione.org/documenti/CERD-Report-2008%20IT.pdf> (15.03.2009).

<sup>298</sup> European Commission on Racism and Intolerance (2007), *Third Report on Portugal*, p. 28, available at: [http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle\\_03/03\\_CbC\\_eng/PRT-CbC-III-2007-4-ENG.pdf](http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_03/03_CbC_eng/PRT-CbC-III-2007-4-ENG.pdf) (11.03.2009).

<sup>299</sup> Ombudsman case No.16048/2007; The Greek Ombudsman *Annual Report 2008*, p.40, available at: [http://www.synigoros.gr/annual\\_2008\\_gr.htm](http://www.synigoros.gr/annual_2008_gr.htm) (02.10.2009).

company Koblenzer WohnBau GmbH were in charge of this project. The project was approved in December 2000, and revitalisation began in the summer of 2003. The total cost amounted to 11.1 million EUR, funded within the scope of the national ‘Social City’ programme. Funding was provided in equal parts by the state government of Rhineland-Palatinate and the housing company Koblenzer WohnBau.<sup>300</sup>

## 4.5. Location

According to the Committee on Economic, Social and Cultural Rights ‘Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.’ States must also, according to the CERD, counter ‘local measures denying residence to and unlawful expulsion of Roma, and [...] placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.’<sup>301</sup>

Evidence from the RAXEN thematic studies shows that many Roma and Travellers live in locations that do not satisfy these conditions, particularly in informal settlements. For example, in **Spain** a 2006 study shows that less than half (41.9 per cent) of the neighbourhoods where mostly Roma individuals live had access to vocational training centres in their areas, which is very low in comparison with the non-Roma population.<sup>302</sup> In the **United Kingdom**, research carried out in 2001/02 by the Centre for Urban and Regional Studies at the University of Birmingham on the extent and quality of local authority Gypsy/Traveller sites in England shows that the majority of Traveller sites were located over 1 km from a post office, and over a third over 1 km from access to

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<sup>300</sup> Bauforum Rheinland-Pfalz (2004) *Mehrfamilienhäuser der 20er bis 60er Jahre – Sanierungsbeispiele aus Rheinland-Pfalz*, available at: <http://bauforum.rlp.de/download/mfh.pdf> (25.03.2009).

<sup>301</sup> CERD (2000) General Recommendation No. 27, *Discrimination against Roma*, paragraphs 31, available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/11f3d6d130ab8e09c125694a0054932b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/11f3d6d130ab8e09c125694a0054932b?Opendocument) (12.10.2009)

<sup>302</sup> Centro de Investigaciones Sociológicas (2006) *Encuesta sociológica a los hogares de la población gitana*, available at: [http://www.cis.es/cis/openem/ES/1\\_encuestas/estudios/ver.jsp?estudio=7820&cuestionario=9034&muestra=14325](http://www.cis.es/cis/openem/ES/1_encuestas/estudios/ver.jsp?estudio=7820&cuestionario=9034&muestra=14325) (16.01.2009).

public transport, while around half of all sites suffered from problems from adjoining land or activities to some extent.<sup>303</sup> In order to facilitate the planning and development of good quality sustainable halting sites in the **United Kingdom**, the Communities and Local Government Department published a useful Good Practice Guide entitled *Designing Gypsy and Traveller Sites*<sup>304</sup> in 2008, where particular attention is paid to the issue of location in accordance with Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites. Beyond drawing attention to issues of health and safety in selecting a location for a site the Guide stresses that, ‘as with any other form of housing, poorly located sites, with no easy access to major roads or public transport services, will have a detrimental effect on the ability of residents to seek or retain employment, attend school, further education or training, obtain access to health services and shopping facilities. Furthermore, easy access to local services, and to social contact with other residents in the community, should help deal with the myths and stereotypes which can cause community tension and instead encourage a greater sense of community with shared interests.’

Criteria for the allocation of social housing can influence the quality, as well as the location of the accommodation offered. For example, in Pilsen, **Czech Republic**, local authorities allegedly offered to those they identified as Roma, based on their name, accommodation only in certain locations.<sup>305</sup> In Bolzano, **Italy**, the local Sinti and Roma living in social housing are concentrated in one area.<sup>306</sup> In **Sweden**, a local official stated in 2002 that his town ‘cannot accept more gypsies’ because ‘the concentrated housing in an already socially sensitive residential area leads to nearly uncontrollable problems’.<sup>307</sup>

Roma and Travellers living in informal settlements on the periphery of towns and cities have poor access to public services, employment and schools. For instance, the RAXEN NFP reported that in Daugavpils, **Latvia**, many Roma

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<sup>303</sup> United Kingdom/Office of the Deputy Prime Minister (2003) *Local Authority Gypsy/Traveller Sites in England*, pp. 75-93, available at: <http://www.communities.gov.uk/documents/housing/pdf/138832.pdf> (16.01.2009).

<sup>304</sup> Available at: <http://www.communities.gov.uk/documents/housing/pdf/designinggypsiesites.pdf> (01.10.2009).

<sup>305</sup> M. Brož, P. Kintlová, L. Toušek (2007). *Kdo drží černého Petra. Sociální vyloučení v Liberci, Plzni a Ústí nad Labem*. Praha: Člověk v tísni – společnost při České televizi, available at: [http://www.integracniprogramy.cz/index.php?option=com\\_content&view=article&id=525:kd-o-dri-erneho-petra-socialni-vyloueni-v-liberci-plzni-a-usti-nad-lbaem&catid=482:analyzy-a-vyzkumy&Itemid=272](http://www.integracniprogramy.cz/index.php?option=com_content&view=article&id=525:kd-o-dri-erneho-petra-socialni-vyloueni-v-liberci-plzni-a-usti-nad-lbaem&catid=482:analyzy-a-vyzkumy&Itemid=272) (15.04.2009).

<sup>306</sup> European Roma Rights Centre, Centre on Housing Rights and Evictions, osservAzione, Sucar Drom (2008) *Written comments concerning Italy for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 72nd session*, p.13, available at: [http://www.osservazione.org/documenti/CERD-Report-2008%20IT\\_.pdf](http://www.osservazione.org/documenti/CERD-Report-2008%20IT_.pdf) (15.03.2009).

<sup>307</sup> DO (2008) *Diskriminering på den svenska bostadsmarknaden – En rapport från DO: ssärskilda arbete under åren 2006-2008 kring diskriminering på bostadsmarknaden*.

families live far from schools or administrative services.<sup>308</sup> In **Slovakia**, Roma beneficiaries of a public housing project noted: 'It's too far. You cannot just walk to the village when you need something. If at least there would be a sidewalk; now we must walk on the main road, where there are cars. Four or five months ago a car killed a boy there.'<sup>309</sup>

Often informal settlements and halting sites, and in some cases also social housing, are close to environmental hazards, as reported for **Bulgaria, Greece, France, Romania and Slovakia**. In **Ireland**, a 2008 report highlighted that 82.5 per cent of halting sites or group housing schemes for Travellers had some form of environmental hazard nearby (electricity pylon, telephone mast, dumps, major roads, industrial pollution).<sup>310</sup> In the **United Kingdom**, 2001/02 data show that around half of all sites were located in undesirable areas, 26 per cent next to motorways or major roads, 13 per cent next to railways, 12 per cent next to rubbish tips and 8 per cent next to industrial or commercial activity.<sup>311</sup> In **Italy**, regional legislation often prescribes explicitly that camps and transit areas should facilitate access to education, health and social services and participation in the area's social life.<sup>312</sup> However, as the RAXEN thematic study shows, these conditions are rarely implemented in practice.

#### Urban rehabilitation in Budapest

The programme took place in an area of the 8th district of Budapest, known as Magdolna Quarter. The programme's aims are social rehabilitation and urban redevelopment in a deprived, segregated area of Budapest with an overrepresentation of Roma. The programme aims to break the self-perpetuating cycle of social exclusion of residents, and the subsequent social downgrading, of the area. Unlike other 'gentrification-type' renewals, it attempts to retain the presence of the current residents. In order to achieve that, a complex programme was designed, including the physical development of houses and public spaces together with the development of conditions enabling

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<sup>308</sup> Interview with the regional bureau of Roma NGO 'Nevo Drom' in Daugavpils and Daugavpils region - RAXEN NFP Latvia (2009) – *Thematic study on the housing conditions of Roma and Travellers*.

<sup>309</sup> Interview with a Roma respondent, Slovakia, 17.03.2009, FRA (2009), *Case study: Roma housing projects in small communities, Slovakia*.

<sup>310</sup> K. Treadwell-Shine, F. Kane and D. Coates (2008) *Traveller Accommodation in Ireland: Review of Policy and Practice*, Dublin: Centre for Housing Research.

<sup>311</sup> United Kingdom/Office of the Deputy Prime Minister (2003) *Local Authority Gypsy/Traveller Sites in England*, pp. 75-93, available at: <http://www.communities.gov.uk/documents/housing/pdf/138832.pdf> (10.10.2009).

<sup>312</sup> Regione Piemonte / LR n. 26, 'Interventi a favore della popolazione zingara' (10.06.1993), available at: [http://www.comune.torino.it/stranieri-nomadi/nomadi/normativa/regionale/legge\\_26.pdf](http://www.comune.torino.it/stranieri-nomadi/nomadi/normativa/regionale/legge_26.pdf) (15.03.2009).

people to escape the cycle of social exclusion, such as education, employment and community building<sup>313</sup>.

## Segregation

According to the Committee on the Elimination of Racial Discrimination, ‘while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. [...] The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue [...]’.<sup>314</sup>

Segregated settings include Roma/Traveller-only settlements and settlements with a predominantly Roma/Traveller population. Types of such settings can include neighbourhoods of capitals, regional centres, small towns and villages, as well as informal settlements, camps and halting sites. The location of such settlements can be central, peripheral and remote.<sup>315</sup>

Information provided by RAXEN and other sources suggests that localities or settlements inhabited either exclusively or to a large extent by Roma are encountered in several Member States, such as in **Bulgaria, the Czech Republic, Greece, France, Cyprus, Hungary, Italy, Lithuania, Portugal, Romania, Slovenia, Slovakia and Spain**. For example, in **Slovenia**, the state-established Expert Group for Solving Spatial Issues in Roma Settlements reported in 2007 that two thirds of Roma settlements in the country were physically separated from non-Roma settlements.<sup>316</sup> In **Italy**, the policy of placing Roma and Sinti in ‘nomad camps’ continues to segregate Roma and

<sup>313</sup> RÉV8 (2007) *Budapest-Józsefváros Magdolna Negyed Program I. Jelenlegi állásáról és monitoring vizsgálatáról*, available at:

[http://www.rev8.hu/csatolmanyok/proj\\_dokok/proj\\_dokok\\_21.pdf](http://www.rev8.hu/csatolmanyok/proj_dokok/proj_dokok_21.pdf) (27.03.2009).

<sup>314</sup> Committee on the Elimination of Racial Discrimination (CERD) (1995) General Comment 19, *Racial segregation and apartheid (Art. 3)*, available at:

[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/18c91e92601301fbc12563ee004c45b6?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/18c91e92601301fbc12563ee004c45b6?Opendocument) (8.10.2009).

<sup>315</sup> According to a definition of social segregation as ‘spatial separation of the population according to their social or socio-economic position’ (Sako Musterd, *Social and Ethnic Segregation in Europe: Levels, Causes and Effects*, Journal of Urban Affairs, 2005).

<sup>316</sup> J. Zupančič (2007) ‘Romska naselja kot posebni del naselbinskega sistema v Sloveniji’, in: *Dela*, No. 27, pp. 215-246, available at: [http://www.ff.uni-lj.si/oddelki/geo/Publikacije/Dela/files/Dela\\_27/12\\_zupancic.pdf](http://www.ff.uni-lj.si/oddelki/geo/Publikacije/Dela/files/Dela_27/12_zupancic.pdf) (29.05.2009).

Sinti from the majority Italian population.<sup>317</sup> Fragmented data on segregation in **Spain** indicates important regional variations; while the highest percentage of residential segregation is found in Galicia (34 per cent), it is significantly lower in Asturias (13 per cent), the Balearic Islands (13 per cent) and Cantabria (10 per cent).<sup>318</sup>

In several Member States many Roma live in mixed areas with other ethnic minorities or immigrants. In **Sweden**, the Ombudsman against Ethnic Discrimination has described such areas as socio-economically deprived, mainly of lower housing quality and with a particularly high representation of certain groups, including Roma.<sup>319</sup> A Swedish Roma activist interviewed by the RAXEN NFP argued that ‘Roma are directed to such segregated areas.’<sup>320</sup> A similar situation was reported in **Belgium**, where Roma live in poor areas with a high concentration of immigrants, (such as in Molenbeek, Schaerbeek, etc),<sup>321</sup> in **Denmark** and in **Portugal** (e.g. Cucena neighbourhood in Seixal, Pedreiras in Beja, Quinta da Torrinha in Lisbon or Margens do Arunca in Pombal).<sup>322</sup> In some cases well intentioned policies aimed at improving Roma and Traveller housing may effectively perpetuate or even create segregation. For instance, in **Cyprus**, a specially designated prefabricated settlement for Roma was located in a remote location.<sup>323</sup> Similar outcomes were also reported in other places, including **Slovakia**<sup>324</sup> and **Hungary**.<sup>325</sup>

Segregation can also be related to social conflicts and tensions. For example, in the **United Kingdom**, the results of a CRE inquiry<sup>326</sup> carried out in 2004 show that over two-thirds (67%) of local authorities in England and Wales have had to deal with tensions between Gypsies or Irish Travellers and other members of the public; for 94 per cent of these authorities unauthorised camps are one of the

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<sup>317</sup> European Roma Rights Centre, Centre on Housing Rights and Evictions, osservAzione and Sucar Drom (2008) *Written comments concerning Italy for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 72<sup>nd</sup> session*, available at: <http://www.errc.org/db/02/C9/m000002C9.pdf> (10.10.2009).

<sup>318</sup> Fundación Secretariado Gitano (2008) *Mapa sobre vivienda y comunidad gitana en España 2007*, available at: <http://www.gitanos.org/publicaciones/mapavivienda> (22.12.2008).

<sup>319</sup> DO (2008) *Diskriminering på den svenska bostadsmarknaden – En rapport från DO:s särskilda arbete under åren 2006-2008 kring diskriminering på bostadsmarknaden*, available at: <http://www.do.se/Material/Gamla-ombudsmannens-material/Rapporter> (01.10.2009) .

<sup>320</sup> Interview with a Roma activist (28.05.2009); RAXEN NFP Sweden (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>321</sup> Regional Integration Center FOYER Brussels (2004) *De Roma van Brussel* [The Roma in Brussels].

<sup>322</sup> RAXEN NFP Portugal (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>323</sup> RAXEN NFP Cyprus (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>324</sup> See FRA (2009), *Case Study: Roma Housing projects in small communities, Slovakia*.

<sup>325</sup> FRA (2009) *Case Study: Combating Roma residential segregation, Hungary*.

<sup>326</sup> Commission for Racial Equality (2006) *Common Ground: Equality, good race relations and sites for Gypsies and Irish Travellers*, available at: [http://83.137.212.42/sitearchive/cre/downloads/commonground\\_report.pdf](http://83.137.212.42/sitearchive/cre/downloads/commonground_report.pdf) (02.20.2009).

chief problems; 46 per cent point to planning applications and enforcement; and 51 per cent speak of general public hostility. Community tensions mainly take the form of complaints by local residents to the council (61%) and hostile media coverage (43%). The CRE report notes with regard to media responsibility: ‘Inflammatory media stories about unauthorised encampments and developments lead, at best, to tensions between those living on sites and in neighbouring communities, and, at worst, result in attacks on Gypsies and Irish Travellers. Anti-social behaviour by a minority of Gypsies and Irish Travellers has reinforced negative stereotypes, to the great detriment of other members of these groups.’ The most significant overall consequence of these tensions is public resistance to providing any more public or private sites, and increasing segregation.

In some cases problems can also arise in efforts to place Roma in integrated housing. For example, in **Poland**, media reported that in the implementation of an integration programme by the City of Pulawy following the placement of Roma in a block of flats, non-Roma families complained that having Roma as neighbours constituted ‘undue hardship’.<sup>327</sup>

Roma living in segregated settlements may be more susceptible to violent racist attacks. According to NGO reports since the beginning of 2008, nine Roma have died as a result of shootings, petrol bombing and other violent attacks in segregated Roma settlements in **Hungary**.<sup>328</sup> Reportedly, one of the features of the attacks is that the victims often lived at the edge of segregated settlements enabling perpetrators to escape quickly.<sup>329</sup> As the FRA reported in 2008, in **Italy** segregated Roma camps were attacked in Ponticelli, Naples.<sup>330</sup> In 2009, in **Romania**, NGOs protested against the harassment of Roma living in segregated settlements in Harghita county.<sup>331</sup> In Belfast, **Northern Ireland**, there were media reports about racist attacks on a cluster of apartments housing more than 100 Romanian Roma.<sup>332</sup>

There is, however, also evidence of changes in public opinion following open debate and improved communication. An innovative consultation exercise –

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<sup>327</sup> H. Bednarzewska (2006) ‘Sąsiedzi żyją jak pies z kotem’, in: *KurierLubelski.pl* (20.01.2006), available at: <http://www.kurierlubelski.pl/module-dzial-viewpub-tid-9-pid-22512.html> (29.03.2009).

<sup>328</sup> European Roma Rights Centre (2009) *Attacks against Roma in Hungary January 2008-September 2009*, available at: <http://www.errc.org/db/04/2C/m0000042C.pdf> (10.10.2009).

<sup>329</sup> N. Thorpe (2009) ‘Hungary Roma mourn “gang victim”’, in *BBC News*, <http://news.bbc.co.uk/2/hi/europe/8189746.stm> (07.08.2009).

<sup>330</sup> European Union Agency of Fundamental Rights (2008) *Incident Report: Violent Attacks against Roma in the Ponticelli district of Naples, Italy*, available at: [http://fra.europa.eu/fraWebsite/attachments/Incid-Report-Italy-08\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/Incid-Report-Italy-08_en.pdf) (19.06.2009).

<sup>331</sup> Romani CRISS (2009) *Protestul organizatiilor de romi din Miercurea Ciuc - 30 iulie 2009*, [http://www.romanicriss.org/informare\\_mars\\_MC%20doc.pdf](http://www.romanicriss.org/informare_mars_MC%20doc.pdf) (10.10.2009)

<sup>332</sup> P. Morrison (2009) ‘Attacks continue on Romanians in Northern Ireland’, in *ABC News* (06.18.2009), <http://abcnews.go.com/International/wireStory?id=7870299> (10.10.2009).

‘deliberative poll’<sup>333</sup> – on Roma policies in **Bulgaria** showed that respondents expressed less support for separate Romani neighbourhoods and increased support for measures that would help Roma obtain adequate and legal housing.<sup>334</sup> In the course of this process, the number of those supporting negative attitudes, such as ‘Roma should live in separate neighbourhoods’, declined from 43 per cent to 21 per cent and support for punitive measures, such as ‘building a wall around the ghetto’ also declined from 12 per cent to 7 per cent.<sup>335</sup>

A number of positive initiatives combating segregation can also be identified. For example, in **Hungary** funding for local authorities is linked to the development of Integrated Urban Development Strategies including anti-segregation plans.<sup>336</sup> According to the 2005 Housing and Social Integration Programme (HSIP) local authorities are supported to implement housing projects which specifically aim to eliminate Roma ghettos and foster housing integration of Roma and non-Roma.<sup>337</sup> Additionally, the 2003 Act on Equal Treatment and the Promotion of Equal Opportunities<sup>338</sup> specifically addresses the issue of housing segregation.<sup>339</sup> Some good practices were also reported in **Spain**, in the Autonomous Communities of Andalusia and Madrid, where

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<sup>333</sup> Deliberative Polling® is an attempt to use television and public opinion research in a new and constructive way. A random, representative sample is first polled on the targeted issues. After this baseline poll, members of the sample are invited to gather at a single place for a weekend in order to discuss the issues. Carefully balanced briefing materials are sent to the participants and are also made publicly available. The participants engage in dialogue with competing experts and political leaders based on questions they develop in small group discussions with trained moderators. Parts of the weekend events are broadcast on television, either live or in taped and edited form. After the deliberations, the sample is again asked the original questions. The resulting changes in opinion represent the conclusions the public would reach, if people had opportunity to become more informed and more engaged by the issues. More information at <http://cdd.stanford.edu/polls/docs/summary/> (02.10.2009).

<sup>334</sup> Институт ‘Отворено общество’ – София (2007) *Deliberative Poll® Supports Integration of the Roma in Bulgarian Society*, available at: [http://www.osi.bg/downloads/File/Deliberative%20Poll\\_ENG.pdf](http://www.osi.bg/downloads/File/Deliberative%20Poll_ENG.pdf) (30.03.2009).

<sup>335</sup> Институт ‘Отворено общество’ – София (2007) *Deliberative Poll® Supports Integration of the Roma in Bulgarian Society*, available at: [http://www.osi.bg/downloads/File/Deliberative%20Poll\\_ENG.pdf](http://www.osi.bg/downloads/File/Deliberative%20Poll_ENG.pdf) (30.03.2009).

<sup>336</sup> *Új Magyarország Fejlesztési Terv (ÚMFT)* [New Hungary Development Plan (NHDP)]; see Szociális és Munkaügyi Minisztérium (2008) *Kormányzati intézkedések a lakhatási szegregáció visszaszorítására*, available at: <http://www.romaweb.hu/romaweb/index.html> (27.03.2009).

<sup>337</sup> FRA (2009) *Case Study: Combating Roma residential segregation, Hungary*.

<sup>338</sup> Hungary/Act No. CXXV. of 2003.

<sup>339</sup> The act lays down specific typologies of housing related situation where the postulate of equal treatment will also be breached regarding persons with protected characteristics that are discriminated against, directly or indirectly, in terms of state or local housing aids, preferences or interest subsidies; in the process of selling or letting of publicly owned flats and building plots; denied the issuing of or setting conditions for permissions of construction administration based directly or indirectly on any of the protected characteristics. The act also provides that housing-related provisions cannot aim at the involuntary segregation of population groups with any of the protected characteristics.

integrated housing is provided to residents of informal settlements, including Roma.<sup>340</sup>

In **Greece**, according to the Rom Net representative, the municipality of Aghia Varvara in the Greater Athens area is a good example of how home ownership can combat spatial segregation. Many Roma, about 8-10 per cent of the total population, managed to purchase land cheaply during previous decades in this small, working class suburb of Athens, gradually building homes in a poor but non-segregated environment. Today the social services of this municipality are well-developed despite the current financial restrictions offering assistance to all residents, including immigrants (some Albanian Roma amongst them). A Rom Net representative interviewed by the RAXEN NFP suggested that Roma land ownership should be the key for any viable housing solution and gradual integration of the Roma into local societies. The 2009 UN-HRC report cites this example noting that ‘the municipality of St. Varvara, provides a positive example of integration of the Roma community into mainstream society without spatial or social segregation, and with a wide participation in local life.’<sup>341</sup>

### **Integrated housing in Ostrava**

In 1997 after floods devastated housing in Ostrava, Czech Republic, a civic initiative working together with local and national authorities developed the Coexistence Village, a new type of housing providing high-quality rented accommodation for 30 poor families who had lost their homes in the floods. Ten of these families were Roma, ten were non-Roma and the final ten were mixed: this balance is maintained. The beneficiaries participated actively in the preparation, construction and management of the Coexistence Village, resulting in the emergence of an integrated multi-ethnic community with a strong sense of ownership and responsibility for their village.

*FRA (2009), Case Study: Integrated Urban Living in Ostrava, Czech Republic*

### **Re-housing Roma in central locations**

Roma settlements are often located on the periphery of cities and towns. One notable exception is a project involving the construction of social housing in

<sup>340</sup> FRA (2009) *Case Study: Improving Roma housing, Spain* and Advisory Committee on the Framework Convention for the Protection of National Minorities (2008) *Second Opinion on Spain, adopted on 22 February 2007*, p.5, available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4858d97a2> (19.05.2009).

<sup>341</sup> United Nations General Assembly, Human Rights Council, A/HRC/10/11/Add.3, 18 February 2009, ‘Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development’ report of the independent expert on minority issues, Gay McDougall, p. 16-17, para. 59, available at: <http://daccess-ods.un.org/TMP/4203667.html> (02.10.2009).

Val'kovňa, Slovakia, supported by the Housing Development Programme of the Ministry of Construction and Regional Development of the Slovak Republic. The site for construction of the new housing for local Roma falls within the central zone, in close proximity to the municipal office and between the centre of the hamlet of Val'kovňa and several Roma family houses. Additionally, the municipality opted for the higher quality build of public housing (known as 'common-standard housing'), rather than the lower-standard dwellings, which are often built for Roma and are seen as a symbol of their 'inferior' status. According to a Roma beneficiary, their housing situation has improved: 'It is much better than before. It was uneasy to live together in one flat with parents-in-law and have only one room for my family.'

*FRA (2009), Case Study: Roma Housing Projects in Small Communities, Slovakia*

### **Overcoming spatial and social segregation**

The project Città Sottili in Pisa, Italy, was designed to overcome spatial and social segregation. Two dimensions were deemed particularly central to its success, namely education and social support. Firstly, minors were integrated into the mainstream education system and vocational training was offered to adults. Secondly, social support and assistance was offered to the families involved to allow them to identify suitable private accommodation, and adjust to their new neighbours and surroundings (including familiarity with local schools, health centres, and local government offices). The project started in 2002 and by 2007 had successfully moved more than 400 people out of camps to public residential houses, private accommodation and transitory reception centres. Four camps had been able to close and about 200 children were regularly attending school (with significant improvements in their performance, enabling some to go on to secondary school, a situation that had hitherto been extremely rare)<sup>342</sup>

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<sup>342</sup> A. Sconosciuto, A. Minghi (2007) (eds.) *Le città Sottili – Programma della Città di Pisa con la comunità rom del territorio- Sintesi del Programma 2002-2007*, Società della Salute Zona Pisana - Comune di Pisa - Azienda USL 5 di Pisa. Available at: [http://www.anci.it/Contenuti/Allegati/presentazione\\_citta\\_sottili\\_2007.doc](http://www.anci.it/Contenuti/Allegati/presentazione_citta_sottili_2007.doc) (07.10.2009).

## 4.6. Cultural adequacy

According to the Committee on Economic, Social and Cultural Rights, ‘The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing.’<sup>343</sup>

Some publicly provided housing for Roma and Travellers has been noted as culturally inadequate, failing to take into account the specificities of Roma and Traveller culture. For example, Gypsy/Traveller cultural requirements suggest that access to a toilet should be clearly separate from any area where food is prepared. However, in the **United Kingdom**, research in 2001/02 found that 45 per cent of amenity units were arranged in such a way that the toilet was accessible directly from the kitchen area, while 34 per cent had direct access to the toilet compartment from the outside (the arrangement said to be preferred by many Gypsies and other Travellers).<sup>343</sup>

New housing projects need to take into account issues of cultural adequacy on the basis of input by beneficiaries to avoid any misconception of the needs of Roma and Travellers. For instance, in **Slovakia**, within a government-supported project to build a Roma settlement in Nalepkovo, the Faculty of Architecture of the Slovak University of Technology team designed a house made of wood and intended to reflect Rom needs and cultural traditions. However, the design, based on a rather romantic conception of Roma culture, did not correspond to their practical needs. According to a Roma respondent, ‘The inhabitants of the wooden house are desperate, all the rooms in the house are triangular, so they are unable to furnish it properly; they would have to buy made-to-measure furniture, but they do not have money for that.’<sup>344</sup>

The provision of Traveller accommodation needs to take into account the preference of some Travellers for living collectively in small extended family groupings either on specifically designed halting sites or in group housing schemes reflecting their cultural needs and choices.<sup>345</sup> However, few Travellers are currently provided with this option. For instance, in the **United Kingdom**,

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<sup>343</sup> United Kingdom/Office of the Deputy Prime Minister, *Local Authority Gypsy/Traveller Sites in England*, July 2003, available at:

<http://www.communities.gov.uk/documents/housing/pdf/138832.pdf> (17.9.2009), p. 45.

<sup>344</sup> Interview with a Roma respondent, 17.03.2009, Nalepkovo, Slovakia, as cited in FRA (2009) *Case Study: Roma housing projects in small communities, Slovakia*.

<sup>345</sup> Centre for Housing Research (2008) *Traveller-Specific Accommodation: Practice, Design and Management*, available at [http://www.chr.ie/fileupload/Publications/Traveller\\_Specific\\_Accommodation\\_-\\_Practice,\\_Design\\_and\\_Management\\_66183539.txt.pdf](http://www.chr.ie/fileupload/Publications/Traveller_Specific_Accommodation_-_Practice,_Design_and_Management_66183539.txt.pdf) (29.09.2009).

in Northern Ireland only 5 per cent of Travellers live in group housing,<sup>346</sup> although in a recent needs assessment survey<sup>347</sup> more than two fifths (41%) of those in housing need said that they would prefer grouped accommodation. In **Ireland**, the government issued in 2002 specific guidelines for Traveller group housing.<sup>348</sup> Official data covering 2000 to 2009 show that around one fifth of Traveller families live in Traveller specific accommodation (including both group housing and halting sites).<sup>349</sup>

The inability of some Roma and Travellers to pursue their traditional lifestyle and access housing adequate to their culture has forced them to change their lifestyles unwillingly. Research in the **United Kingdom** suggests that many Travellers feel constrained by the lack of available legal transit sites and one of the main reasons Travellers give for discontinuing travelling is the stress of increased law enforcement. Travellers moving into settled accommodation can experience 'isolation' and 'dislocation' from their extended family, while for many older Travellers, lack of freedom and a feeling of confinement was a source of real distress, with sites often referred to as 'prisons' or 'reservations'.<sup>350</sup> In **Luxembourg**, the *Code de la Route* [Code of the Road] does not allow stopping at the roadside or living in a caravan;<sup>351</sup> besides, there are two other legal acts, the immigration law of 28.03.1972 and the law forbidding 'door to door sales' of 16.07.1987, which affect indirectly Roma and Sinti. Consequently all 250-500 Sinti and Roma estimated to live in Luxembourg are sedentary.<sup>352</sup>

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<sup>346</sup> United Kingdom/Northern Ireland Housing Executive (2008) *Travellers' Accommodation Needs Assessment in Northern Ireland*, p. 21, available at:

[http://www.nihe.gov.uk/travellers\\_accommodation\\_needs\\_assessment\\_2008.pdf](http://www.nihe.gov.uk/travellers_accommodation_needs_assessment_2008.pdf) (11.09.2009).

<sup>347</sup> Northern Ireland Housing Executive (2008) *Travellers' Accommodation Needs Assessment in Northern Ireland*, available at:

[http://www.nihe.gov.uk/travellers\\_accommodation\\_needs\\_assessment\\_2008.pdf](http://www.nihe.gov.uk/travellers_accommodation_needs_assessment_2008.pdf) (29.09.2009).

<sup>348</sup> Available at:

<http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload.18187.en.pdf> (29.09.2009).

<sup>349</sup> Department of Environment, Heritage and Local Government (various years) *The Annual Count of Traveller Families*, available at:

<http://www.environ.ie/en/Publications/StatisticsandRegularPublications/HousingStatistics/FileDownload.15291.en.XLS> (20.01.2009).

<sup>350</sup> P. Van Cleemput (2007) *Health Impact of Gypsy Sites Policy in the UK*, Cambridge: Cambridge University Press.

<sup>351</sup> Luxembourg/Code de la Route (01.06.2009), available at:

<http://www.mt.public.lu/transports/circulation/code/index.html> (01.10.2009).

<sup>352</sup> A. Reyniers (1990) 'Les Tsiganes au Grand-Duché de Luxembourg' in: *Etudes Tsiganes*, Vol. 3, pp. 52-55, and K. Waringo (2002) 'Luxembourg, Deine Zigeuner' in: *D'Letzebuurger Land*, 1907.2002.

### **Developing culturally appropriate housing**

The settlement 'Sucar Plaza' ('Beautiful Square' in the Sinti language) in Guastalla, Italy, is quite different from a camp or equipped halting site, both in terms of structure and management. 'Sucar Plaza' is home to six related families and occupies an area measuring 62.5m x 64m for a total of 4,000 square metres, divided into six separate plots. There is one plot per family. Each measures 530 square metres and is structured as follows: a pre-fabricated house of 60 square metres; paved space of 230 square metres; and a private garden area of 240 square metres. The living spaces in the house (bedrooms, kitchen, living room) and patios are designed in such a way that structural modifications can easily be made in order to adapt to the changing needs of each family and to cater for their social and cultural needs. There is provision for workshops, as the project intends to promote the occupational skills and economic independence of the residents of the settlement. There are also shared spaces such as a mosque and a market. It is thought that the key to the success of the project was the division of responsibility between the Technical Office of the Municipality of Guastalla and the Sinti families. This was in place from the outset of the planning stage, with the assistance of cultural mediation services through Opera Nomadi which was in constant dialogue with the municipality and Sinti activists.<sup>353</sup>

### **Assessing Traveller accommodation needs**

The 'Cambridge Model' of Gypsy/Traveller accommodation needs assessment (CNA) developed by Cambridgeshire County Council and other public authorities in the United Kingdom went beyond a simple assessment of accommodation needs. Rather it took a multifaceted approach to incorporate consideration of service needs and more general living needs of Gypsies and Travellers. These include an assessment of health and demographics, school attendance, as well as access to other services and issues. The interviewers were Travellers trained by a local college as 'community interviewers'. Former interviewers highlighted the importance of the CNA, the links and contacts they made as part of the initiative and the skills gained in relation to interviewing which in some cases led to further employment opportunities.

*FRA (2009), Case Study: Cambridge Model of Traveller Needs Assessment, United Kingdom*

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<sup>353</sup> More information available at: <http://sucardrom.blog.tiscali.it/> (10.10.2009).

## 4.7. Roma and Travellers from other EU Member States

Data and information on the housing situation of Roma living outside their country of origin is limited. Roma and Traveller housing policies of Member States mostly concern citizens, although recently in **Spain** reference to ‘*Eastern Roma*’ was included in the Catalan Regional Plan, *Pla Integral del Poble Gitano a Catalunya* [Comprehensive Plan for Roma people in Catalonia].<sup>354</sup> In **France**, housing policies may not apply to Roma EU citizens or to third country nationals. In **Greece**, the Integrated Action Plan provides housing support only for Greek Roma citizens.<sup>355</sup> In **Slovenia**, non-citizen Roma, even holders of permanent residence permits, cannot apply for non-profit rental housing.<sup>356</sup>

According to research conducted in the context of a 2009 FRA study<sup>357</sup> on the enjoyment of the freedom of movement and residence right by Roma EU citizens, access to public or social housing and housing support is rarely available to Roma from other EU Member States who are not employed or self-employed. Given their difficulties in finding work, due to lack of marketable skills, lack of knowledge of the language or ethnic discrimination, many end up living in substandard housing, in camps or homeless.

For example, in **Italy**, evidence from a 2008 FRA incident report<sup>358</sup> shows that Roma, mainly from Romania and the countries of the former Yugoslavia, live mostly in ‘authorised’ or ‘unauthorised’ camps in unsuitable locations, often without access to potable water, power and sewage. The policy of offering camp accommodation to Roma stems from an erroneous conception of Roma as ‘nomads’. However, according to a 2008 survey,<sup>359</sup> 75 per cent of the Roma surveyed had lived in their current place of residence for at least four years and on average duration of residence in a camp was roughly 7.5 years. In **Finland**, media reported in 2008 on the case of Romanian Roma living in tents under a

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<sup>354</sup> Catalunya/Acord GOV/114/2009 (30.06.2009).

<sup>355</sup> RAXEN NFP Greece (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>356</sup> Slovenia/SOP: 2003-01-3312 (19.06.2003).

<sup>357</sup> The study will be publicly available in November 2009 on the FRA’s website: [http://www.fra.europa.eu/fraWebsite/home/home\\_en.htm](http://www.fra.europa.eu/fraWebsite/home/home_en.htm).

<sup>358</sup> FRA (2008) *Incident Report: Violent attacks against Roma in the Ponticelli district of Naples, Italy*, available at [http://fra.europa.eu/fraWebsite/attachments/Incid-Report-Italy-08\\_en.pdf](http://fra.europa.eu/fraWebsite/attachments/Incid-Report-Italy-08_en.pdf) (03.10.2009).

<sup>359</sup> Survey conducted by Soletterre/Axis Market Research on a sample of 286 people living in Roma camps in Milan, Pavia, Reggio Emilia, Rome and Turin published on Il Sole 24 Ore (22.05.2008): *Come vivono i Rom e i Sinti nella società italiana?*; available at: <http://sucardrom.blogspot.com/2008/05/come-vivono-irom-e-i-sinti-nella.html> (16.07.2008).

bridge following eviction for failure to pay rent.<sup>360</sup> In **Ireland**, according to media reports in 2007, a group of 86 Romanian Roma were living in an informal encampment near Dublin's main orbital motorway. The families were eventually removed from the site and assisted to repatriate.<sup>361</sup> In **Spain** a 2006 report by the Catalan government refers to Roma EU citizens living in overcrowded conditions with inadequate access to public utilities.<sup>362</sup> A 2008 study covering Andalusia, Catalonia, Murcia and Valencia found several families living in rented flats or abandoned buildings without access to public utilities, e.g. water, power and sewage.<sup>363</sup>

Additionally, conditions in accommodation provided to Roma asylum seekers from non-EU Member States is not always satisfactory, for example in **Germany**, particularly regarding children.<sup>364</sup>

## 4.8. Impact of housing conditions on education, employment and health

Inadequate housing affects the enjoyment of other economic and social rights. Residential segregation in particular can negatively affect employment chances, access to and attainment in education, health and access to healthcare.

Regarding education, UNDP research in **Slovakia** shows that, '[...] the worst education structure was found amongst the inhabitants of segregated settlements. In these communities there was a much higher rate of incomplete primary education – up to 44.2 per cent – while the rate for Roma living in mixed settlements was about half of this (23.5 per cent). Furthermore, segregated-settlement inhabitants were much less likely to have completed primary and especially secondary education (8.5 per cent compared with 18-19

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<sup>360</sup> *Helsingin Sanomat* (02.02.2008), as reported in RAXEN NFP Finland *Thematic study on the housing conditions of Roma and Travellers*.

<sup>361</sup> See Pavee Point press release available at: [http://www.paveepoint.ie/news/press\\_july\\_07\\_13.html](http://www.paveepoint.ie/news/press_july_07_13.html), and media articles <http://www.independent.co.uk/news/world/europe/ireland-deports-roma-after-standoff-over-roundabout-458753.html> - <http://www.irishtimes.com/newspaper/ireland/2007/0726/1185229890587.html> (20.05.2009).

<sup>362</sup> Generalitat de Catalunya, Departament de Benestar i Família (2006) *Gitanos procedents de l'Europa de l'Est a Catalunya*, available at: [http://www.gencat.net/benestar/publica/pdf/Tripa\\_gitanos.pdf](http://www.gencat.net/benestar/publica/pdf/Tripa_gitanos.pdf) (06.02.2009).

<sup>363</sup> R. Martínez (coord) (2008) *La población rrom del Este Europeo en el Arco Mediterráneo. El largo camino hacia la inclusión social*, Cartagena: ASPROSOCU, available at: <http://www.cepaim.org/data/Ressources/observalungo.pdf> (27.02.2009).

<sup>364</sup> UNICEF (2007) *Zur Lage von Kindern aus Roma-Familien in Deutschland*, p. 16, available at: [http://www.unicef.de/fileadmin/content\\_media/presse/fotomaterial/Roma\\_Konferenz/UNICEF\\_STUDIE\\_Ergebnisse\\_Deutschland.pdf](http://www.unicef.de/fileadmin/content_media/presse/fotomaterial/Roma_Konferenz/UNICEF_STUDIE_Ergebnisse_Deutschland.pdf) (23.03.2009).

per cent).<sup>365</sup> In **Slovenia**, schools are located far from the segregated Roma settlements.<sup>366</sup> In the **United Kingdom**, according to 2001/02 data, 68 per cent of Traveller sites were located more than a kilometre away from primary schools.<sup>367</sup> In **France**, the equality body, HALDE, issued a deliberation<sup>368</sup> in 2009 on *inter alia* refusals to enrol Traveller children in schools, noting the lack of cooperation from a number of municipalities.

Regarding employment, a 2005 study in **Hungary** showed that there were no workplaces in approximately 200 villages populated mainly by Roma, nor was there adequate public transport to enable commuting to work.<sup>369</sup> In **Bulgaria**, according to a 2007 study,<sup>370</sup> job applications from persons living in certain areas could be rejected *a priori*.

Regarding health, evidence has been provided in previous sections of this report about the serious risks faced by those Roma and Traveller living in substandard accommodation, especially in informal settlements.

### Improving employment through housing integration

Through the programme of the Institute for Re-housing and Social Integration (IRSI), the regional government of the Autonomous Community of Madrid aimed to abolish slums in Madrid, Spain, by moving dwellers into integrated accommodation rented from the Institute. The programme accompanies the participating families in their social integration by setting up centres offering a variety of resources in the areas to which they had been relocated. Since 1999, over 5,000 Roma individuals have found employment through the institute. The Institute has realised that finding a regular source of income through employment is crucial for the successful integration of the families. Unfortunately, the number of job placements significantly decreased after 2007, from 822 successful beneficiaries to 588 in 2008. Furthermore, many of

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<sup>365</sup> UNDP (2006) *Report on the Living Conditions of Roma in Slovakia*, p. 63, available at: <http://europeandcis.undp.org/home/show/75D267A1-F203-1EE9-BF9FD7C36EDC47B5> (10.10.2009).

<sup>366</sup> J. Zupančič (2006) 'Funkcije in problemi romskih naselij v luči boljše družbene integracije Romov', in: V. Klopčič, N. Žagar (eds) *Poklicno informiranje in svetovanje za Rome - PISR*, Črnomelj: Zavod za izobraževanje in kulturo, p. 56-74, available at: [http://www.zik-ernomelj.eu/images/stories/dokumenti/pistr/zbornik\\_pistr.pdf](http://www.zik-ernomelj.eu/images/stories/dokumenti/pistr/zbornik_pistr.pdf) (29.05.2009).

<sup>367</sup> *Local Authority Gypsy/Traveller Sites in England*, Office of the Deputy Prime Minister, July 2003, available at: <http://www.communities.gov.uk/documents/housing/pdf/138832.pdf> (17.9.2009), p. 75.

<sup>368</sup> HALDE, Deliberation No. 2009-143.

<sup>369</sup> F. Babusik (2005) *Az esélyegyenlőség korlátai Magyarországon. Státusz, etnicitás, kirekesztődés az egészségügyben és a szociális szférában*, Budapest: L'Harmattan.

<sup>370</sup> G. Angelov, L. Bogdanov (2006) *Roma Integration in Bulgaria: Necessary Reforms and Economic Effects*, Sofia: Open Society Institute, p. 28, available at: <http://www.osf.bg/cyeds/downloads/Roma%20inclusion%20-%201%20April%202007-EN.pdf> (13.05.2009).

these jobs are temporary positions.

*FRA (2009), Case Study: Improving Roma Housing, Spain*

## 4.9. Multiple discrimination and housing

Both EU equality directives (2000/78/EC and 2000/43/EC) note in their preambles that ‘the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.’ The 2007 European Commission report ‘*Tackling multiple discrimination: practices policies and laws*’<sup>371</sup> uses the term multiple discrimination to refer to a situation ‘where a person can be subject to discrimination on more than one ground’ (such as a Traveller man with a disability or an elderly Roma woman). According to this report, **Austrian, German and Romanian** law contain specific provisions on how to handle multiple discrimination and a limited amount of case law has emerged from **Denmark, Ireland, Latvia, Sweden and the United Kingdom**.

Concepts related to multiple discrimination are intersectional and compound discrimination.<sup>372</sup> Compound discrimination occurs when someone is discriminated simultaneously on two or more grounds, thus discrimination on one ground is ‘added’ to discrimination on other ground(s); intersectional discrimination refers to a situation where two or more grounds simultaneously interact with each other in an inseparable way.

The particular vulnerability of women, children, old people and persons with disabilities among Roma and Travellers is evident in the data and information collected, but clearly future research specifically focused on the particular aspects of multiple, compound and intersectional discrimination is necessary.

Women can be particularly affected by the location of Roma settlements that may pose safety risks. Their dependence on men can also be reinforced by

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<sup>371</sup> European Commission (2007) *Tackling multiple discrimination: practices policies and laws*, available at: <http://ec.europa.eu/social/BlobServlet?docId=776&langId=en> (03.10.2009) <http://ec.europa.eu/social/main.jsp?catId=158&langId=en&pubId=51&type=2&furtherPubs=yes> (04.08.2009).

<sup>372</sup> See for example T. Makkonen (2002) *Multiple, Compound and Intersectional Discrimination: Bringing the Experiences of the Most Marginalized to the Fore*, Institute for Human Rights, Åbo Akademi University available at <http://web.abo.fi/institut/imr/norfa/timo.pdf> (03.10.2009) and Gay Moon (2002) *Multiple discrimination – problems compounded or solutions found?* available at <http://www.justice.org.uk/images/pdfs/multiplerediscrimination.pdf> (03.10.2009).

gender pay gaps and lower employment rates. Furthermore, as the main family caregivers, women are affected by health problems in their families.<sup>373</sup>

Roma and Travellers with a physical disability living in geographically isolated housing might face limited access to school, fewer opportunities to seek and find employment, and inadequate access to health care. According to the *Cambridge Sub-Region Traveller Needs Assessment 2005-2010*, carried out in the **United Kingdom**, 11 per cent of the 313 Gypsy/Traveller respondents reported difficulties with physical arrangements or access, including a lack of access to some sites for persons with disabilities.<sup>374</sup> In **Spain**, a respondent from the Association Romi of Spanish Roma Women explained that in some cases the needs of Roma with disabilities were initially not taken into account when re-accommodating Roma families, for example by placing these families in an apartment without a lift.<sup>375</sup>

Similar to the experiences of people with disabilities, elderly Roma and Travellers may not be able to access public services due to the geographical location of their dwellings. Problems concerning the physical accessibility of Roma and Traveller settlements and sites may also create a serious obstacle to regular health care and emergency services for the elderly in the event that they require medical attention.

In some cases, difficulties experienced in moving in and out of the dwelling, as well as difficulties in moving within the dwelling mean that elderly Roma and Travellers and those with disabilities have to leave their camp or settlement instead of being cared for by their own families, depriving them of their social support networks. In the **Netherlands**, a respondent from Nijbod consultancy reported that members of Traveller families who are elderly or have disabilities are traditionally looked after at home by their families. However, as families cannot adapt caravans to their needs they are being forced to move into nursing homes, which separates them from their community.<sup>376</sup>

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<sup>373</sup> EUMC, CoE, OSCE (2003) *Breaking the barriers – Romani Women and Access to Public Health Care* available at <http://fra.europa.eu/fraWebsite/attachments/ROMA-HC-EN.pdf> (03.10.2009).

<sup>374</sup> R. Home and M. Greenfields (2006) *Cambridge Sub-Region Traveller Needs Assessment 2005-2010*, as referenced in the FRA (2009) *Case Study: Cambridge Model of Traveller needs assessment, United Kingdom*.

<sup>375</sup> According to the same respondent, in all the cases the problem was eventually resolved with a delay of between six months and two years. Interview with the *Asociación de Mujeres Gitanas Españolas Romi* [Association Romi of Spanish Roma Women], Madrid, 17.03.2009, RAXEN NFP Spain (2009) *Thematic study on the housing conditions of Roma and Travellers*.

<sup>376</sup> Interview with Nijbod consultancy – RAXEN NFP The Netherlands (2009) *Thematic study on the housing conditions of Roma and Travellers*.

In **Spain**, a respondent from the Fundación Secretariado Gitano argued that elderly Roma often face difficulties in securing a mortgage, due to their age.<sup>377</sup> However, respondents both in **Spain** and in **Slovakia** reported that elderly persons and people with disabilities with regular state pensions are preferred by landlords.<sup>378</sup>

A particularly interesting innovative project was identified by the RAXEN NFP in **Finland**. The *Aged Project*<sup>379</sup> (2005-2007), implemented by the Finnish Romani Association, included a survey of the living conditions of elderly Roma and services supporting their independence, which was published in 2008.

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<sup>377</sup> Interview with Fundación Secretariado Gitano, Navarra, Spain, 02.02.2009, FRA (2009) *Case Study: Improving Roma Housing, Spain*.

<sup>378</sup> FRA (2009) *Case Study: Improving Roma housing, Spain* and FRA (2009) *Case Study: Roma housing projects in small communities, Slovakia*.

<sup>379</sup> More information about the project available at: [www.romaniyhdistys.fi](http://www.romaniyhdistys.fi) (10.10.2009).

## 5. Conclusions

The findings of this report on the housing circumstances of Roma and Travellers in the EU have come from a number of sources. Evidence, including good practices, has been collected by the FRA's RAXEN network from 24 EU Member States with a substantial Roma and/or Traveller population, covering the period 2000-2009. Additional research covered specific case studies of 'good practice' in six Member States and further data has been added from the FRA's EU-MIDIS survey of Roma in seven EU Member States with the most significant numbers of Roma population, namely Bulgaria, the Czech Republic, Greece, Hungary, Poland, Romania and Slovakia.

The right to adequate housing and the right to protection from unlawful forced eviction have received increased attention in recent years and are the object of several normative texts. In addition to specific legal instruments within the United Nations and the Council of Europe systems, the European Union's Racial Equality Directive 2000/43/EC provides protection to Roma and Travellers against discrimination in the field of housing. Yet, as this report has shown, forced evictions, including unlawful evictions, of Roma and Travellers still occur in several Member States, discrimination against Roma and Travellers in access to accommodation is rampant, and in general the level of housing for Roma and Traveller people is far below anything considered 'adequate'.

### The evidence

International and European bodies, including under the United Nations and the Council of Europe, have frequently held that Roma and Travellers regularly see their right to housing violated, either through discrimination, the non-provision of structurally and culturally adequate housing or forced evictions. This study confirms these findings.

Many Roma and Travellers in the EU live in substandard conditions which fall far below even the minimum criterion of adequate housing, sometimes in squalid shanty towns and camps, often in segregated and environmentally hazardous areas, with poor access to public services, employment and schools, and often without adequate access to public utilities such as water, electricity or gas. Many Roma and Travellers live in overcrowded conditions, with considerably less space per person than national averages, where many dwellings are in a state of considerable disrepair.

## Segregation

Segregation, regardless of the type of settlement, is evident in many Member States, sometimes as a result of government policy and sometimes as the result of economic pressure, local government or private action or the hostility of non-Roma populations. Racial segregation severely limits the enjoyment of equal access to education, employment and health care for many Roma and Travellers. There is also growing evidence that segregation makes Roma and Travellers more susceptible to violent attacks. Instances of Member States openly combating segregation are rare, while some housing projects targeting Roma and Travellers maintain or further their isolation and segregation.

## Lack of security

Lack of security of tenure is a particularly acute problem for Roma and Traveller communities living in informal settlements or in rented accommodation. Persons living in informal settlements are particularly vulnerable to forced evictions, which often take place in the absence of adequate alternative accommodation, without regard to due process and without prior consultation. Some individuals or groups find themselves subjected to serial or repeated incidents of forced eviction.

Migrant Roma groups in various Member States, including citizens of other EU countries and third country nationals, often live in informal conditions and are particularly vulnerable to forced eviction. It should be noted that national policies relevant to the housing of Roma and Travellers often apply only to those who are citizens of the particular Member State, to the exclusion of those coming from other Member States or third country nationals. In only very few instances have Member States legalised informal Roma and Traveller communities, thereby ensuring their security of tenure.

Whilst there is evidence that many Traveller families are happy to live in small extended family groupings on specifically designed halting sites, it is also clear that publicly provided halting sites for Travellers are not available in sufficient numbers. In general, living in informal settlements built on land not owned by the persons in question, or built without adequate planning permission, or living in abandoned buildings is commonly the last resort caused by the lack of any other housing alternatives.

## Poverty and social exclusion

Poverty and social exclusion play a role in placing Roma and Travellers in a vulnerable position in respect of housing and accommodation, affecting practically every aspect of the housing available. Many Roma and Travellers do not own homes due to their impoverishment as well as lack of steady income. Those renting housing have increasing difficulties in affording their housing. Tenants of both private and social housing unable to cover their rents or utilities may face evictions. The existing mechanisms available to local authorities to work with Roma and Traveller families to keep up with housing payments are underutilised or manipulated, with authorities resorting instead to eviction as a final solution.

In some cases, the housing available to Roma and Travellers is more expensive than standard accommodation, which makes it particularly unaffordable for impoverished Roma and Travellers. This may be due to their accommodation in informal rental housing for which landlords charge exorbitant rates, or because of increased user fees for utilities in publicly provided halting sites compared to standard housing, due to the involvement of a mediating party such as a site landlord between the utility providers and the beneficiaries.

Market-oriented housing policies – such as privatisation of state-owned housing, rent increases, reduction of social housing or urban development projects – have had a particularly negative effect on Roma. Because of lack of awareness, poverty and sometimes the active efforts of officials and the private sector, market-oriented housing policies have frequently caused Roma to lose housing or to replace housing they had for markedly inferior housing.

## Access to social housing

In some countries Roma and Travellers live in social housing in disproportionate numbers compared to their proportion of the population as a whole. However, social housing in most countries is unable to meet the demand. Moreover, the criteria for the allocation of social housing are often unclear, too restrictive and in some cases reportedly discriminatory. With regard to state sponsored housing subsidies and benefits, the conditions for receiving housing allowances appear to be increasingly restrictive, with a notable impact on Roma and Travellers. Only rarely do relevant policies recognise Roma priorities in measures to improve the accessibility of housing. Travellers in some countries face particular barriers to accessing housing allowances because their chosen accommodation, such as a caravan, does not meet the definition of a house.

## The wider impact of inadequate housing conditions

The research findings indicate the close relation between access to housing and access to other economic and social rights, in particular education, employment and health. For example, segregated or insecure settlements mean inadequate or interrupted access to schooling, and sub-standard housing makes e.g. homework difficult. Living in segregated sites means fewer opportunities to learn about work opportunities, to find work locally, or to use public transport to get to work. Inadequate standards of housing lead to poor health and higher incidences of diseases; segregated sites mean more difficult access to medical facilities. Therefore, without adequate housing, it is far more likely that Roma and Travellers will meet obstacles to staying in school, have difficulty finding and maintaining employment, and suffer health problems. Access to adequate housing is thus of the highest importance for the general social inclusion of Roma and Travellers.

## Racism and discrimination

This study confirms that racism is a serious obstacle to the enjoyment of adequate housing by Roma and Travellers. Public officials initiate targeted evictions of Roma and Travellers, and local authorities deny their access to social housing through measures that are directly or indirectly discriminatory against Roma and Travellers. Across the EU, private citizens organise campaigns for the expulsion of Roma and Travellers, sometimes fuelled by inflammatory media reports. In addition, as EU-MIDIS survey data indicate, Roma clearly perceive themselves to be regularly discriminated against by private landlords when they try to rent or buy housing. Because of racism and discrimination, Roma and Travellers have a severely limited choice concerning housing and accommodation and they are exposed to lower quality dwellings.

## Multiple discrimination and exclusion

The limited evidence available suggests that certain categories of people within Roma and Traveller communities are more likely to experience problems with regard to housing, and that housing projects and policies do not take account of their particular needs. These include women, elderly people and the disabled. There is a widespread lack of awareness about this issue among policy makers and a significant part of the civil society sector. However, it is possible to draw only cursory conclusions regarding the relationship between multiple discrimination and the housing situation of Roma/Travellers due to a lack of

data disaggregated by ethnicity and other characteristics such as gender, age or disability.

## Problems of law at the national level

Despite a comprehensive legal framework at the international or regional level, it is evident that much work remains at the national level to ensure adequate protection to Roma and Travellers against housing rights violations. Few, if any, Member States can legitimately assert that their domestic legislation provides the full ambit of protection against housing rights violations, forced evictions and discrimination foreseen under international and European legal instruments. Protections against housing discrimination which do exist are underutilised. They rely on victims knowing that they can come forward with complaints and their subsequent willingness to actually do so. Yet the findings of the FRA's EU-MIDIS survey clearly identify both a general lack of awareness among Roma of the available legal protections and complaint mechanisms, and unwillingness to file complaints, for a variety of reasons. The effectiveness of the legal protections in place is therefore highly questionable.

There are also clear instances when law or policies act specifically to limit or infringe the right to adequate housing by Roma and Travellers. Examples include Italian laws which segregated Roma and Sinti in substandard camps for nomads and make them targets of discriminatory or violent treatment, or laws regulating halting and evictions in France, Ireland or the United Kingdom.

## Policy effectiveness and resources

The European Union is increasingly turning its attention to the Roma and Travellers within its borders. The European Parliament and the European Commission have been monitoring the developments until now and have put forward initiatives and guidance for the next steps to be taken, including in the area of housing. The Council of the European Union has also specifically addressed the issue of the social inclusion of Roma and Travellers.

At the same time, many Member States have already or are currently implementing Roma and Traveller specific housing programmes. Certain of these States are also members of the Decade of Roma Inclusion, through which they confirm their commitment to addressing the numerous problems facing the Roma, including in the area of housing. Many examples of positive initiatives in this area are presented throughout the pages of this report.

At a practical level, the obligations incumbent on Member States regarding the right to housing cannot be adequately met without channelling significant

resources, and can only be achieved progressively. The current economic crisis may therefore pose a barrier in this regard. However, while the availability of resources is often noted to be a barrier to improving the housing situation of Roma and Travellers, the lack of success of some housing initiatives is not simply due to reasons of lack of funding. For instance, new housing developments built for Roma in segregated settings is not an issue of funding but an issue of the absence of political will to provide integrated, adequate housing.

### Three barriers to be overcome

Existing policies in many Member States have not yielded significant improvement so far. The lack of success of programmes to address housing needs can be attributed to three main problems:

The first is the overwhelming lack of available disaggregated data. Developed in a data vacuum, most policies and programmes are mere policy announcements and do not lay down strict timetables, set benchmarks, indicators or provide for impact assessment mechanisms. In the absence of comprehensive data on housing needs, even successful pilot programmes will eventually fail. Some programmes exist largely in planning documents, with no penalties for non-implementation.

The second problem relates to the willingness of the local authorities to embrace and implement available programming options. In most Member States decision-making power for housing lies with local authorities. Thus, local authority bodies hold extensive power in determining access to social housing, implementation of national housing programmes and drafting of city plans and zoning restrictions. Central authorities frequently bestow the primary role in implementing Roma and Traveller housing programmes upon local authorities. While a sound choice in principle, this approach ignores the harsh reality that the local authorities themselves are often the reason for the programmes' ineffectiveness. Central authorities seem to be markedly reluctant to take any kind of action against recalcitrant local authorities, even when such a course of action is prescribed under domestic law.

Thirdly, as the recent EU-MIDIS data indicates, Roma and Travellers appear to be largely unaware of the recourse available to them in countering discrimination. Indeed, many of them indicated that regardless of the existence of remedies, they did not believe that these could ever be effective. The limited number of complaints the national equality bodies have received is a testament to this. A proactive approach to raising awareness in this area is clearly required.

## 6. Opinions

According to its Regulation the European Union Agency for Fundamental Rights is entrusted with formulating opinions for the European Union institutions and the Member States in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights.

EU institutions, Member States and local authorities should all work with Roma and Travellers to ensure that the principle of equal treatment and non-discrimination is applied effectively in the area of housing throughout the European Union.

The active participation of Roma and Travellers in planning, implementation and review of housing policies at all levels – EU, national, regional and local – is essential. Their participation should reflect the heterogeneous nature of these groups and address the concerns of particular groups within them, for example women, children, the elderly and persons with disabilities.

The relevant Council of Europe Recommendation Rec(2005)4 of the Committee of Ministers *on improving the housing conditions of Roma and Travellers in Europe* provides useful guidance on standards of Roma and Traveller housing.

### 6.1. European Union institutions

The European Union should strengthen its position on the provision for positive measures for groups generally recognised as excluded or disadvantaged, such as Roma and Travellers, to ensure that they are able to access rights, such as housing, equally, and to afford particular attention to aspects of multiple and intersectional discrimination, as suggested in the European Parliament's Resolution on non-discrimination and equal opportunities for all (2005).

The development of a comprehensive European Union Framework Strategy on Roma and Traveller Inclusion with a strong housing component could reinforce and improve coordination at national level. The EU Council Conclusions and the Common Basic Principles on the Inclusion of the Roma constitute a strong foundation for the development of such a strategy based on the principle of targeted mainstreaming. The *European Commission's Staff Working Document Community Instruments and Policies on Roma Inclusion* and the European Economic and Social Committee's opinion on Roma integration provide concrete guidance and important insights in that process.

Following from the Common Basic Principles of Roma Inclusion, the European Commission should consider to condition the allocation of European Union Structural Funds related to housing on Member States' adoption and implementation of comprehensive action programmes based on equal opportunity and desegregation plans, with particular attention to the situation of Roma and Travellers. National efforts to assist Roma using the Structural Funds should be complementary to other programmes and action plans, including in particular PROGRESS (Community Programme for Employment and Social Solidarity), as well as the National Action Plans within the Decade of Roma Inclusion, and others.

The European Commission should continue to support the collection of comparable disaggregated data and the development of indicators and benchmarks related to the implementation of housing rights and impact of policies working closely with Eurostat and national statistical offices.

## 6.2. Member States

As underlined by the Council in its Conclusions on the 'inclusion of the Roma', EU Member States should make full use of European Union instruments, including legal instruments (e.g. Racial Equality Directive, Framework Decision on Racism and Xenophobia), financial instruments (European Social Fund, European Regional Development Fund, European Agricultural Fund for Rural Development, Instrument for Pre-Accession) and coordination instruments (Open Method of Coordination) whenever they develop or implement policies aiming at Roma inclusion.

Member States and specialised bodies, such as the equality bodies, should intensify their efforts to raise awareness and disseminate information regarding anti-discrimination legislation, as provided in the Racial Equality Directive, and the possibilities for redress, targeting particularly potential victims of discrimination in access to housing.

Member States should ensure that the specialised bodies, e.g. equality bodies, are properly resourced so as to be able to perform their important function effectively ensuring that they have the mandate and resources to effectively address housing discrimination. These could include vesting such bodies with quasi-judicial powers enabling the imposition of effective and dissuasive sanctions, awarding damages to the victims of discrimination and bestowing the power to initiate discrimination complaints on their own.

Member States should provide for the regular collection of usable and meaningful data, disaggregated by ethnicity and other factors, regarding the housing situation of Roma and Travellers. The collection of such data should be

accompanied by all necessary safeguards, laid down *inter alia* by the EU Data Protection Directive.

Member States could consider adopting positive measures, as foreseen in Article 5 of the Racial Equality Directive, regarding Roma and Travellers housing.

Member States should apply consistently the principle of equal treatment and non-discrimination in housing policies or measures, including those supported by Structural Funds.

In Member States, where there is a lack of adequate halting sites for Travellers, authorities should refrain from sanctioning persons who are forced to stop illegally until such time as enough halting sites are available.

Member States should ensure that the implementation of relevant action plans are adequately and independently monitored and assessed to provide useful feedback for follow-up action.

Member States should make efforts to resolve the issue of residential and spatial segregation, and take urgent action to resolve the problem of informal settlements adopting, where possible, a consensus based approach that facilitates social inclusion. Member States should provide all informal settlements and sites with access to potable water, electricity, waste removal, and public transportation, as soon as possible.

Member States should explore how to strengthen multilevel governance approaches, based on the effective partnership with all relevant stakeholders, such as national level coordination bodies for Roma, social inclusion policies, where relevant, regional Roma coordinators, local and regional authorities, private companies, other specialised bodies and NGOs active in the field; the work of such civil society organisations would benefit from state financial support.

# ANNEXES

## Methodology

Research for this project was commissioned to the ERRC<sup>380</sup> and Pavee Point Travellers Centre<sup>381</sup> under the overall guidance and coordination of the FRA. Research was conducted by the National Focal Points (NFPs) of the RAXEN network in their respective countries. The ERRC and Pavee Point conducted additional research on selected cases in six EU Member States. Both the NFP research and the research for the case studies included desk research, as well as a component of qualitative fieldwork research.

The research conducted by RAXEN NFPs took place in 24 EU Member States: Belgium, Bulgaria, the Czech Republic, Denmark, Greece, Spain, France, Germany, Ireland, Italy, Cyprus, Latvia, Lithuania, Hungary, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Sweden and the United Kingdom. Estonia, Malta and Luxembourg were excluded from this research due to very small number of Roma and Travellers in these countries; however their situation is also covered in the comparative report. The RAXEN NFP for Luxemburg contributed by providing some valuable information.

Data and information, including evidence of good practice in the form of laws, policies, practical measures or specific projects covering the period 2000-2009, were collected through desk research according to specific common guidelines proposed by the ERRC and Pavee Point and finalised and approved by the FRA. Important data and information referring to previous years were also included to allow a good understanding of the issues involved.

RAXEN NFPs conducted a minimum of five interviews with representatives of competent national, local or regional authorities and civil society organisations, including representative Roma/Traveller organisations. The semi-structured interviews were based on common questionnaires proposed by the ERRC and Pavee Point and finalised and approved by the FRA to ensure comparability.

Research carried out for the six case studies by the ERRC and Pavee Point Travellers Centre was conducted in ten locations: Ostrava, the Czech Republic; Kerecsend and Szomolya, Hungary; South Dublin and Meath County Councils, Ireland; Valkovna and Nalepkovo, Slovakia; the Madrid and Navarra autonomous regions, Spain; and Cambridge in the United Kingdom.

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<sup>380</sup> Tatjana Peric, Tara Bedard, Rob Kushen, Ostalinda Maya, Julianna Kiss, Theodoros Alexandridis, Catherine Twigg, Malcolm Langford, Marek Hojsik.

<sup>381</sup> Ronnie Fay, Martin Collins, Stephen O'Hare, Marie Claire Van Hout.

The case studies represent a variety of local and regional initiatives related to Roma and Traveller housing: integrated urban living of Roma and non-Roma in the Czech Republic, the effects of a governmental Roma housing programme in Hungary, Traveller participation in the implementation of Traveller Accommodation Programmes and related decision making bodies in Ireland, elimination of Roma ghettos in small municipalities in Slovakia, integration of slum dwellers in standard housing in Spain, as well as peer training for the assessment of Traveller accommodation needs in the UK.

The case study research is based on desk research and ten interviews for each case with Roma/Traveller individuals, representatives of local authorities and representatives of civil society organisations, including representative Roma/Traveller organisations. The semi-structured interviews were based on common questionnaires to ensure comparability: 103 persons were interviewed in total, including 45 Roma/Travellers beneficiaries.

One of the major methodological challenges related to the paucity of official statistical and other data on Roma/Travellers in general and especially in the field of housing. In some cases, the lack of information was due to data protection legislation. This question again raises the issue of the necessity of collecting relevant data relating to Roma and Travellers – including their housing conditions – that would, at the same time, respect both the law and the communities' concern about the protection of their personal data.

## Council of the European Union: Conclusions on Inclusion of the Roma<sup>382</sup>

Roma people are disproportionately affected by social exclusion, prejudice and discrimination. Roma communities have been part of European societies for centuries, often marginalised and sometimes persecuted. Over the last two decades, it is apparent that the socio-economic situation of many Roma people has stagnated or even deteriorated in a number of EU Member States. Many Roma people experience unemployment, low income, reduced life expectancy and poor quality of life. This represents a human tragedy for the individuals concerned as well as an immense loss for society as a whole. Moreover, far-reaching exclusion entails social instability and represents a problem in economic terms.

Therefore, the issue of addressing the problems which affect Roma people is increasingly recognised as being extremely urgent in both ethical and practical terms. The European Union recognises there is a need for more active and effective policies concerning Roma inclusion. The practical delivery of these policies rests above all with the Member States and, in particular, with regions and municipalities. Although the numbers and socio-economic conditions of the Roma in individual Member States vary greatly, there are several common denominators. Moreover, experience from several Member States shows that there are general policy approaches which have proved to be useful and can thus be recommended to others.

### **Principle No 1: Constructive, pragmatic and non-discriminatory policies**

Policies aiming at the inclusion of Roma people respect and realise the core values of the European Union, which include human rights and dignity, non-discrimination and equality of opportunity as well as economic development. Roma inclusion policies are integrated with mainstream policies, particularly in the fields of education, employment, social affairs, housing, health and security. The aim of these policies is to provide the Roma with effective access to equal opportunities in Member State societies.

### **Principle No 2: Explicit but not exclusive targeting**

Explicit but not exclusive targeting of the Roma is essential for inclusion policy initiatives. It implies focusing on Roma people as a target group but not to the exclusion of other people who share similar socio-economic circumstances.

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<sup>382</sup> Council of the European Union, Council Conclusions on Inclusion of the Roma, 2947th Employment, Social Policy, Health and Consumer Affairs Meeting, Annex to the Annex, Luxembourg, 8 June 2009.

This approach does not separate Roma-focused interventions from broader policy initiatives. In addition, where relevant, consideration must be given to the likely impact of broader policies and decisions on the social inclusion of Roma people.

**Principle No 3: Inter-cultural approach**

There is a need for an inter-cultural approach which involves Roma people together with people from different ethnic backgrounds. Essential for effective communication and policy, inter-cultural learning and skills deserve to be promoted alongside combating prejudices and stereotypes.

**Principle No 4: Aiming for the mainstream**

All inclusion policies aim to insert the Roma in the mainstream of society (mainstream educational institutions, mainstream jobs, and mainstream housing). Where partially or entirely segregated education or housing still exist, Roma inclusion policies must aim to overcome this legacy. The development of artificial and separate 'Roma' labour markets is to be avoided.

**Principle No 5: Awareness of the gender dimension**

Roma inclusion policy initiatives need to take account of the needs and circumstances of Roma women. They address issues such as multiple discrimination and problems of access to health care and child support, but also domestic violence and exploitation.

**Principle No 6: Transfer of evidence-based policies**

It is essential that Member States learn from their own experiences of developing Roma inclusion initiatives and share their experiences with other Member States. It is recognised that the development, implementation and monitoring of Roma inclusion policies requires a good base of regularly collected socio-economic data. Where relevant, the examples and experiences of social inclusion policies concerning other vulnerable groups, both from inside and from outside the EU, are also taken into account.

**Principle No 7: Use of Community instruments**

In the development and implementation of their policies aiming at Roma inclusion, it is crucial that the Member States make full use of Community instruments, including legal instruments (Race Equality Directive, Framework Decision on Racism and Xenophobia), financial instruments (European Social Fund, European Regional Development Fund, European Agricultural Fund for Rural Development, Instrument for Pre-Accession) and coordination instruments (Open Methods of Coordination). Member States must ensure that use of financial instruments accords with these Common Basic Principles, and make use of the expertise within the European Commission, in respect of the

evaluation of policies and projects. Peer review and the transfer of good practices are also facilitated on the expert level by EURoma (European Network on Social Inclusion and Roma under the Structural Funds).

**Principle No 8: Involvement of regional and local authorities**

Member States need to design, develop, implement and evaluate Roma inclusion policy initiatives in close cooperation with regional and local authorities. These authorities play a key role in the practical implementation of policies.

**Principle No 9: Involvement of civil society**

Member States also need to design, develop, implement and evaluate Roma inclusion policy initiatives in close cooperation with civil society actors such as non-governmental organisations, social partners and academics/researchers. The involvement of civil society is recognised as vital both for the mobilisation of expertise and the dissemination of knowledge required to develop public debate and accountability throughout the policy process.

**Principle No 10: Active participation of the Roma**

The effectiveness of policies is enhanced with the involvement of Roma people at every stage of the process. Roma involvement must take place at both national and European levels through the input of expertise from Roma experts and civil servants, as well as by consultation with a range of Roma stakeholders in the design, implementation and evaluation of policy initiatives. It is of vital importance that inclusion policies are based on openness and transparency and tackle difficult or taboo subjects in an appropriate and effective manner. Support for the full participation of Roma people in public life, stimulation of their active citizenship and development of their human resources are also essential.

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## RAXEN National Focal Points

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Bulgaria	Project 1 EOOD
Czech Republic	People in Need
Denmark	Documentation and Advisory Centre on Racial Discrimination
Germany	European Forum for Migration Studies (EFMS)
Estonia	Legal Information Centre for Human Rights
Greece	Hellenic League for Human Rights (HLHR) and Research Centre for Minority Groups (KEMO)
Spain	Movement for Peace and Liberty (MPLD)
France	Centre d'Etudes des Discriminations, du Racisme et de l'Antisemitisme (CEDRA)
Ireland	Philip Watt and Karla Charles (Independent Experts)
Italy	Co-operation for the Development of Emerging Countries (COSPE)
Cyprus	EDEX – Education Excellence + Symfiliosi + Cyprus Sociological Association
Latvia	Latvian Centre for Human Rights (LCHR)
Lithuania	Institute for Social Research (ISR)
Luxembourg	International Network for Studies in Technology, Environment, Alternatives, Development (CEPS/INSTEAD)
Hungary	Institute for Legal Studies of the Hungarian Academy of Sciences (HAS) + Institute of Ethnic and National Minority Studies of the HAS
Malta	Jesuit Centre for Faith and Justice (JCFJ)

The Netherlands	Art. 1
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Slovenia	Peace Institute – Institute for Contemporary Social and Political Studies
Slovakia	People against Racism (PAR) + Center for the Research of Ethnicity and Culture
Finland	Finnish League for Human Rights
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