



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

28.9.2010

WORKING DOCUMENT

Report on the EU strategy on Roma inclusion

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Livia Járóka

1. Purpose and scope of the report

The report aims to present the necessity of introducing an EU-coordinated policy to foster the integration of Roma EU citizens and to promote an active cooperation between stakeholders, to show the possibility of developing such an instrument and to present specific recommendations to that effect.

The rapporteur will argue that while combating racism and eliminating discrimination is essential in building an inclusive society, anti-discrimination measures alone are insufficient to facilitate the social inclusion of Roma, since their socio-economic exclusion is not exclusively defined by racism or discrimination but also by the interaction of several historic-economic factors. An EU-level approach aiming the alleviation of sub-standard living conditions must therefore focus on eliminating not poverty per se, but a special form of poverty, i.e. the poverty of geographically concentrated post-transitional rural or suburban underclass, to which the majority of the EU's Roma population is directly subject to or indirectly threatened by. In this wise, second and third generational human rights - e.g. the right to employment, housing, health care and education - demand at least as much emphasis as the first generation of rights, i.e. the rights of the person, with an equally firm legal basis.

This report therefore is neither intended to underline or analyse the complex phenomena of ethnicity-based discrimination concerning Roma EU citizens nor to discuss issues of migration.

2. Background - Hereditary deprivation and the ghettoisation of poverty

The nature of poverty has changed dramatically in the past two decades in Eastern-Europe where the majority of European Roma live. Due to the elementary economic concussions following the collapse of communism and the re-structuring of national economies, most Roma - along with their companions of majority origin - suddenly fell out of the labour market and started gradually sliding out of society. With their traditional communities disrupted and at the same time being blocked from social mobility, Roma became the most excluded subgroup of society and therefore almost completely disconnected from national economies¹.

A new and isolated social stratus characterized by deep poverty and the lack of ability to provide its own subsistence or to satisfy even the most basic necessities has thus emerged. It is important to emphasize though that deep poverty is not at all a Roma issue. Only about one third of poverty stricken Eastern-Europeans are Roma and vice versa: only around one third of Roma live in deep poverty. Proportions of those living below or near the subsistence level are similar: the post-communist rural and suburban underclass is neither exclusively nor predominantly Roma.

¹ UNDP 2002 *The Roma in Central and Eastern Europe, Avoiding the Dependency Trap*, A Regional Human Development Report, Bratislava, Slovakia available at: <http://europeandcis.undp.org/home/show/67D586E9-F203-1EE9-BE5BEB0F6A1D4179>

3. The necessity and possibility of a European Roma Strategy

3.1. Economic implications

3.1.1. Demographic dynamism

Compared to the equally excluded majority communities, there is one distinctive attribute of the Roma population, the economic relevance of which must be emphasized: demographic dynamism. Roma and non-Roma populations can be characterized by reverse demographic trends: while the majority society ages rapidly, the proportion of Roma is quickly increasing. In Hungary for example while at present Roma constitute an estimated 6-8% of the total population, - according to some estimations - every 5th-6th newborn baby is Roma and the ratio of Roma within the economically active population will exceed 50% by 2050². It is vital therefore to take into account that on the one hand the proportion of Roma within the active population which carries the social security system on its shoulder is growing steadily, and on the other hand there is a huge potential in the labour market reintegration of the massive unemployed population.

3.1.2. Integration is an economic necessity

The integration of Roma is a necessary investment and is financially profitable in the long run: on a scale of a 20-30 years period - when also the results of educational converts will start to unfold - it is actually cheaper to integrate the Roma population than sustaining their substandard socio-economic conditions. If the employment rate of Roma could be raised to that of the majority, the overall rate of employment would be increased with 5% to 10% depending on the proportion of Roma population in the country. Taking into account its affect on the growth of GDP, national economies themselves would grow triggering a substantial improvement in all the indicators based on the percentage of GDP per capita.

According to most standard economic models - like that of the World Bank³ - increasing labour market participation is indispensable for facilitating economic growth and especially requires the participation of those who are at an economically active age but are unemployed. The proportion of Roma over 50 years of age is generally lower than the European average while that of those below 30 is far higher. Roma therefore comprise a significant and permanently growing percentage of the necessary resource for the increase of labour market participation and - according to modest estimations - could trigger a 4-6 % growth of national GDPs, which is more than any European country spends on national security for example.

3.1.3. The cost of non-inclusion

Hence, by not prioritizing the economic inclusion of Roma, Member States are wasting a significant amount of financial asset, let alone social benefits. Losses include:

² CEMI 2006 *Macro Balance and Growth*. Central European Management Intelligence, Budapest, available at: http://www.cemi.hu/data/uploadfile/hu_246/phpM2c9oh.Makro%20egyens%C3%BAly%20%C3%A9s%20gazdas%C3%A1gi%20n%C3%B6veked%C3%A9s.pdf

³ DE LAAT, Joost ed. 2010 *Economic costs of Roma exclusion*. World Bank, available at: [http://siteresources.worldbank.org/EXTROMA/Resources/Economic Costs Roma Exclusion Note Final.pdf](http://siteresources.worldbank.org/EXTROMA/Resources/Economic%20Costs%20Roma%20Exclusion%20Note%20Final.pdf)

- The indirect cost of lost GDP - as a result of social exclusion unemployed Roma fail to produce any domestic product;
- Social assistance and welfare benefits as well as the social and healthcare insurance provided by the state to those in poverty;
- Higher health costs due to substandard living conditions and lack of prevention;
- Wasted education expenditure - the cost of segregated and/or low standard schools that fail to provide quality education is wasted money, moreover, special-needs schools require higher costs;
- Extra safety costs, due to the higher crime rates caused by social exclusion and economic deprivation;
- The administrative cost of supervising the flow of welfare expenditure⁴.

In brief, it is important to realise that the social inclusion of Roma is not merely a moral obligation, but also an economic necessity, and the overall integration of Roma is essential not because of some kind of charity, but it is the strict financial interest of all the Member States.

3.2. Legal implications

3.2.1. Not compromising but complementing anti-discrimination legislation

There is a lot to achieve regarding anti-discrimination, considering the wide-spread anti-gypsyism and the insufficient application and implementation of existing regulations. They either don't cover certain areas, such as multiple discrimination or they prove to be inadequate when implemented. A good example for the latter is the low level of awareness about the anti-discrimination legal frame, which results in the astoundingly few number of lodged complaints.

The rapporteur argues however, that even if ethnicity based discrimination - as defined in EU Directives 2000/43⁵ and 2000/78⁶ - could be eliminated before now, the social and economic exclusion of most Roma would still remain, given the multiplicity of interconnected factors generating it⁷ (such as serious geographic disadvantages, low levels of education, the emergence of a new type of labour demand, or the collapse of centrally planned and regulated economies attracting a multitude of low skilled or unskilled labour force) and the - often physical - barriers blocking social and economic integration (such as the distance of accessible workplaces, the lack of transportation and infrastructure, or inadequacy of local educational systems in disadvantaged regions). Hence anti-discrimination measures and fighting racism are - although indispensable - by themselves not enough to overcome the

⁴ MARCINČIN A. and MARCINČINOVÁ E. *The Cost of Non-Inclusion - The key to integration is respect for diversity*. Open Society Foundation, Bratislava, available at: http://www.romadecade.org/files/ftp/Publications/2_cost_of_non_inclusion.pdf

⁵ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

⁶ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:NOT>

⁷ BABUSIK F. and ADLER J. 2002 Romákat foglalkoztató vállalkozások, in: *A romák esélyei Magyarországon*, Kávé Kiadó - Delphoi Consulting

historic and economic lag of the Roma minority⁸. Your rapporteur is convinced that it is necessary to complement the existing equality legislation and address the specific needs of Roma - and non-Roma in a similar situation - at the EU level on an equally firm legal basis formulating a clear obligation towards the stakeholders.

3.2.2. Socio-economic integration is a matter of fundamental rights

The rapporteur believes that the strategy aiming the socio-economic integration and reintegration of Roma will however not at all compromise but rather complement the transposition or implementation of anti-discrimination laws. Moreover, given the extent of social and economic exclusion of Roma, the overall integration is essentially an issue of fundamental rights. A significant proportion of European Roma face such substandard conditions - almost totally disconnected from the economy, resulting in their exclusion from their basic human rights - that fostering social inclusion cannot be viewed within the frameworks of general policy rectifications, but must be handled as bridging one of the hugest gap in the fulfilment of constitutional and human rights in Europe.

The EU-level effort to alleviate the poverty and social exclusion of European Roma must therefore place its primary emphasis on the fulfilment and promotion of second and third generational human rights to replenish the legally enforceable first generation of human rights, e.g. rights connected to human dignity, political rights and further rights of the person.

3.2.3. Legal "grey zone"

Most EU actions regarding the socio-economic situation of Roma - except those in connection with instruments defined by the Treaties, such as directives and regulations - belong to the category of soft law. Resolutions, reports, declarations, conclusions and communications of the EU's three major institutions therefore constitute a legal "grey zone" between non-law and positive law⁹.

Several intergovernmental initiatives have been developed in the last few years. International organizations, such as the Council of Europe or the OSCE have drawn up good proposals and progressive ideas, but the result is at least doubtful. The rapporteur believes that the primary conclusion to be drawn from these initiatives is that rotund political slogans will never become reality without clear obligations and therefore soft law is deficient in fostering the social inclusion of Roma: rules and norms without normativity in this case may be effective, but not efficient.

3.2.4. Transcending soft law

Following the argumentation of standard legal theories nevertheless, community soft law regarding Roma is thus the prefiguration and feedstock of legislation to-come, to which the legal community committed itself by issuing the related quasi-legal instruments. Embodying the gradual normativity of international law, soft law represents a grade of liminality pointing

⁸ DE SCHUTTER, O. and VERSTICHEL, A. 2005 The Role of the Union in Integrating the Roma: Present and Possible Future in *European Diversity and Autonomy Papers* EDAP 2/2005

⁹ BOYLE, A. E. 1999 Some Reflections on the Relationship of Treaties and Soft Law, in: *International & Comparative Law Quarterly* 48 pp. 901-913. Cambridge

from unregulated to regulated conditions, from subjective to objective, from general to specific, from non-formal to formal, and from ambiguous to predetermined. Hence soft law can only exist parallel with hard law and will subsequently gain its effectivity by follow-up legislation¹⁰.

The European Union as a "sui generis" legal entity can provide the necessary leverage to force the participants comply with their own pledges. After the entry into force of the Treaty of Lisbon, the European Union has a variety of viable instruments - from macroregional cooperation to enhanced cooperation- by which concerned Member States can commit themselves in fostering the social inclusion of Roma. By a clear mandate from the European Council, with the self-commitment of interested and devoted Member States and with the acquiescence of others the European Roma Strategy can come into existence.

Based on the findings of the study related to this report, the rapporteur will present specific recommendations in the draft report concerning the framework and structure of such a cooperation as well as the role of EU institutions, Member State governments, local authorities and stakeholder bodies such as the Roma Platform or the newly established Task Force of the European Commission on Roma inclusion.

4. Priorities and principles for the EU strategy on Roma inclusion

4.1. Explicit but not exclusive targeting

In all policy areas targeting the social inclusion of Roma, a clear distinction must be made between general and ethno-specific issues. Most aspects of education, employment, health care, housing and economic development regarding Roma must be included into the mainstream policies, whereas issues of racial discrimination, culture and identity must naturally be treated in connection with ethnic origin. Projects explicitly targeting the Roma minority are only reasonable if the disadvantage it intends to tackle is clearly and principally ethnicity-related.

From the above reasoning pronouncing that ethnicity and ethnicity-based discrimination is only one of the major factors - such as low qualification and territorial exclusion - determining the socio-economic deprivation of European Roma, it follows that the exclusion can be best grasped by reckoning them not as an ethnic group but as an economic target audience. In line with Principle No 2 and No 4 of the Common Basic Principles on Roma Inclusion declaring "explicit but not exclusive targeting" as well as "aiming for the mainstream" the EU strategy must focus on these common economic features of socially excluded Roma instead of trying to address all the social issues that any single group of the remarkably heterogeneous European Roma population suffers from. Notwithstanding such country or region-specific issues as the availability of halting sites for travellers or the lack of personal documentation in some countries, the social and economic conditions and the demands of Roma communities themselves are extremely similar in all countries.

The rapporteur believes that a common European solution is needed for a common European

¹⁰ MALANCZUK, P. and AKEHURST M. B. 1997 *Akehurst's modern introduction to international law*, Routledge, London

problem, irrespective of the diversity of additional and collateral concerns in specific regions affecting specific subgroups of Roma. The social and economic exclusion of Roma requires a strategy on its own, not excluding of course the subsequent or parallel development of independent policy responses to independent controversies.

4.2. Facing the territoriality of exclusion

Another important feature of the social exclusion affecting Roma is the strong territorial dimension of poverty and marginalization. The geographic distribution of social disadvantages is not uniform throughout the Member States, but poverty and social exclusion is concentrated in underdeveloped micro-regions which in many of the new Member States are predominantly inhabited by Roma. Exclusion from economic and social development has a predominantly territorial nature and these dropped behind areas hamper social development in its entirety. Intra-regional disparities are in many cases higher than those between the regions and the polarization is deepening, since economic and social interventions are concentrated in the dynamic centres causing the further decline of the excluded periphery.

The most disadvantaged regions and micro-regions lack the necessary financial resources to provide their own contribution to the Community funding that they are in principle eligible for and most often lack the administrative capacity and human resources to make good use of the funding. These regions therefore enter the competition for EU and budgetary sources with an irrevocable disadvantage and it is necessary to pick them out from the underdog position and to target their specific needs through an equivalent, complex and intensive program.

An all-European crisis map needs to be established therefore, which measures and surveys those micro-regions within the EU where communities are hardest hit by poverty and social exclusion. These crisis areas can and should be identified by the following attributes:

- o Accessibility of workplaces
- o Distance of city centres
- o High rate of unemployment
- o Inadequate public services
- o Inappropriate environmental conditions
- o Lack of nearby companies and enterprises
- o Lack of proper infrastructure
- o Low income
- o Low level of education
- o Low-level human resources
- o Poor or relatively expensive transport infrastructure
- o Social tensions

The rapporteur believes that complex and holistic development programs with a cross-sector integrated approach are needed, which make immediate intervention possible in these underdeveloped areas, which struggle with serious structural disadvantages.