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1, 2014

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Foreword

STEPHAN MULLER

The migration of Roma from Southeast Europe into European Union (EU) Member States or of Roma making use of freedom of movement within the EU easily makes headlines all over Europe. Their actual situation, the reasons for their migration and the (illegal) initiatives of some countries to stop this migration are much less likely to make the headlines.

On the other hand, irresponsible politicians and media outlets in Western Europe make use of racist attitudes within large parts of the population and present the migration of Roma into or within the EU as a major security issue that can endanger the stability of receiving countries and threaten their social security systems. These politicians and media are not only aware that the reality is different and that the migration of Roma to Western Europe does not present a threat to their countries, but are also aware of the fact that Roma can still be easily used as scapegoats and that the presence of Roma from Western Balkan countries or other EU Member States could be (mis-)used in order to limit freedom of movement.

Recently the focus of the public has been on Roma from Romania and Bulgaria. Since 1 January 2014, citizens of Romania and Bulgaria can enjoy freedom of movement within the EU. Across all countries in Western Europe an artificial hysteria has been created that large numbers of Roma from these countries would make use of their right of freedom of movement within the EU and would overwhelm countries in Western Europe with requests for social assistance, housing, education, etc. However, the mass influx never happened.

A similar hysteria was created with regard to Roma from countries such as Serbia, Macedonia or Bosnia and Herzegovina when they made use of the visa-free regime and applied primarily for asylum in Western European countries. While it is difficult to limit the freedom of movement for EU citizens irrespective of their ethnic origin, stopping non-EU citizens from entering the EU, or at least creating obstacles for their freedom, is easier. Consequently, countries in Southeast Europe, following strong pressure from the EU and individual Member States, had to introduce (illegal)

measures to prevent Roma from leaving their home countries and moving to Western Europe.

The public discussion is primarily about how to stop this migration; however, it hardly ever discusses seriously why Roma leave their countries of origin in large numbers. Moreover, we should not forget that we also have a migration of Roma from EU Member States (Hungary and Slovakia) to Canada and the United States or that, 15 years after the end of the conflict, tens of thousands of Roma, Ashkali and Egyptians from Kosovo are still displaced within the countries of the Western Balkans.

The ERRC organised a workshop on Roma Migration – Western Balkans and the EU Visa Liberalisation Dialogue in autumn 2013, inviting experts and scholars working on different aspects of the migration of Roma from countries in the Western Balkans. This edition compiles the contributions from that workshop.

Two complementary articles examine migration patterns in the Western Balkans. Stoyanka Cherkezova looks at the attitudes, motives and profiles of potential migrants from the Western Balkans, both Roma and non-Roma. Julija Sardelič looks at the role of citizenship and citizenship politics within a similar context. Zoran Bikovski and Tefik Mahmut examine the impact of border policy on Roma who face discriminatory treatment when trying to leave their own country and are even prevented from doing so. Also focusing on the states that emerged from the breakup of Yugoslavia, Maylis de Verneuil examines the issues facing Roma in Bosnia and Herzegovina, in particular Romani migration and the issue of statelessness.

While the first group of articles focuses more on the situation in the Western Balkans, others turn their attention to the situation of migrants in target countries for migration. Two articles give an in-depth view of the situation in Naples, Italy. Elisabetta Vivaldi, through an ethnographic exploration, shows the personal histories of Roma living around Naples and places them in the context of Italian policy towards Roma more generally. Barbara Pierro, Emma Ferulano and

INTRODUCTION

Kitti Baracsi show the impact the policy on statelessness has on Roma, highlighting that this is a long-running issue now affecting a new generation. They also highlight the shortcomings of Italian policy in addressing this. Andriani Papadopoulou examines the overall failure of EU Member States to face up to the issues that need to be resolved for Romani migrants in Europe, particularly focusing on Greece. Finally, bridging the gap between the countries of origin and target countries for migration, Ilir Gedeshi, Eralba Cela, and Geron Kamberi look at the motivations for migrants from Albania, mainly to Greece, examining how Romani migrants fare vis-à-vis other migrants.

A third group of articles examines the situation for migrants in Germany and the Netherlands showing the interaction of public discourse, be it political, academic or media discourse, with the development of policies on (Romani) migration. Christina Lee analyses the representation of Romani asylum-seekers in the German media in 2012 and 2013, highlighting the need for the media to act responsibly and the importance of the media's power in

shaping the discourse on an important topic such as freedom of movement. Helene Heuser examines the direct experience of migrants from the Western Balkans and the accelerated asylum assessment procedures that effectively eliminate any possibility for an asylum claim to be successful. Peter Jorna examines the Dutch experience, both in terms of policy development and in the representation of “Romani criminality” in public discourse.

In a call to broaden our approaches in analysing and examining migration, Erzsébet Anita Németh and Csaba Oláh present alternative approaches in migration studies, which could potentially allow for a deeper understanding of migration. They also draw on the role of citizenship and nationhood and how it can impact on Roma, using Hungary as an example.

The ERRC is extremely grateful to guest editor Professor Elspeth Guild, a highly respected expert on migration, who reviewed and commented on all of the articles. We are very thankful to her for her work and her contribution to the quality of the articles.

Potential Romani Migrants from the Western Balkans

STOYANKA CHERKEZOVA¹

This paper investigates the attitudes, motives and profiles of potential Romani and non-Romani migrants from six Western Balkan (WB) countries: Bosnia and Herzegovina, Croatia, Albania, Montenegro, FYR Macedonia and Serbia. The wars in these countries created specific political, social and economic situations. They produced huge waves of migrants, including refugees. There is some continuity today regarding the actual outflows even years after the wars ended. That puts a lot of questions on the table. Among them are: What are the causes for such continuity? Are the reasons for migration different today? Do they differentiate between Roma and non-Roma? Are they specific for WB countries or common for the whole Central and Eastern Europe (CEE) region? The answers are searched for in the migration push factors among Roma and non-Roma potential migrants from WB and other CEE countries.

After the political and economic changes of the late 1980s and the early 1990s, most Central and Eastern European (CEE) countries have become “donors” of immigrants to highly developed economies. Different sources, e.g., papers and official documents, surveys, censuses and current statistics present a picture of significant flows emigrating from CEE. The situation in the countries of the Western Balkans (WB) was specific for three reasons:

- 1) Until the mid-1970s, people from the former Yugoslavia had the opportunity to work and receive residence permits in Europe beyond the “Iron Curtain”. This right also benefited many Roma. Migrant networks were formed in several countries in Western Europe.
- 2) Armed conflicts and political tensions with ethnic and religious “overtones” in the former Yugoslav space resulted in several waves of internal displacements and refugee flows in the early 1990s (and at the end of the

decade after the war in Kosovo). The pre-existing networks were used during these conflicts.

- 3) Most WB countries like Bosnia and Herzegovina, Serbia, Croatia (before 2013), Macedonia, Albania and Montenegro are considered third countries by the European Union. They are the object of common visa regimes. Member States reserve the right to set quotas for certain professions. A visa liberalisation process began in 2009 and affects these countries differently. For Macedonia and Serbia, visa-free access for short stays (up to 90 days) was obtained in 2009 and for Albania and Bosnia and Herzegovina in 2010. This does not ensure a right to a job, but facilitates access by reducing the time and costs involved in preparing documents and in contacting potential employers.

These three elements make the situation of Roma and non-Roma from WB countries considerably different from that of the other CEE countries. Firstly, today the networks formed during the 1970s continue to influence the choice of destination countries for migrants from ex-Yugoslav countries. Secondly, after the restriction of their possibilities for employment and residence (in the late 1970s) people from the former Yugoslavia continued to migrate using the asylum system or resided irregularly in countries like Germany, Italy, Austria, Belgium, France, Spain, the United Kingdom and the Netherlands. This pattern of migration is characterised as specific to Roma and unusual for the rest of the population of the former Yugoslavia and is explained by Roma’s “lack of confidence in the social structure and institutions”.² Nowadays push and pull factors cause migrant outflows but restrictive policies limit the right of movement. The sheer number of asylum applications since the beginning of the transition period (even after the wars) has been so high³ that it is hard to believe this practice is widespread among Roma only.

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2 Yaron Matras, “Romani migrations in the post-communist era: Their historical and political significance”, *Cambridge Review of International Affairs* Number 13:2 (2000), 35.

3 Asylum applications could provide some evidence about migration flows and be interpreted (at least partly) in this context in periods without armed conflicts. The number of asylum applications from WB countries’ citizens between 2001 and 2010 estimated as a proportion of the average population of the respective sending country for the same period is 0.9 % for Bosnia and Herzegovina, 1.8 % for Serbia and Montenegro, 0.1 % for Croatia, 1.5 % for Macedonia and 0.7 % for Albania (calculations are based on Eurostat and OECD statistics).

Macedonia, Serbia, Montenegro and Bosnia and Herzegovina are countries with relatively low income levels (compared to Western European and to other CEE countries). Growth was positive in the period 2000–2008, but the cost of the war and its implications for these economies, including loss of markets, could not be overcome. Unemployment rates are relatively high and persistent. The four countries were among those with the highest share of remittances as a percentage of Gross Domestic Product (GDP) in Europe in 2009 - Bosnia and Herzegovina (12.7 %), Serbia (12.6 %) and FYR Macedonia (4.5 %).⁴ These remittances, in some cases, are transferred by people whom the official statistics recognise as refugees and do not cover as migrants. For example, the intensity of migration from Serbia and Montenegro (3.0 %) is among the lowest. Conversely, flows of persons seeking refugee status are greatest from these countries given the type and size of the population in each of them and continue to be the largest even years after the end of the war. Recently this high number of asylum applications has seriously threatened the visa-free regime for Serbian and Montenegrin citizens in some European countries.

Economic growth after 1993 in Albania cannot compensate for the impoverishment of the population caused by a significant decline in real GDP for several years. Rates of net migration have remained negative. Revenues from abroad in 2009 account for 10.9 % of GDP. The number of residence permits for Albanian citizens abroad is comparatively high and the number of Albanian asylum seekers has remained elevated over the years.

A well-grounded hypothesis could be made that today, similar to other CEE countries, a major factor for emigration from WB countries appears to be the economic situation of the population in terms of income and employment opportunities.

Common to most CEE countries is the intense change during the 1990s transition to a market economy, a decline in employment, mass unemployment and the impoverishment of large parts of the population. For both Roma and non-Roma sensing the distance at home between the “winners” and the “losers”, migration abroad becomes a more desirable alternative.

A second hypothesis is that the level of income and access to job opportunities are major factors common to Romani and non-Romani potential emigrants from CEE countries.

The economic and political shift has unevenly affected certain groups. For Roma the transition set comparatively higher barriers to their reintegration into the labour market than for the majority of the population. They often have health problems, as well as less vocational training and education. They face difficulties when looking for a job in their home country, partly due to discriminatory attitudes of employers towards them.⁵

There are vast differences between official statistics and expert assessments of Romani populations by country and the flows of migrants from this ethnic group.⁶ However, there is no dispute about the increasing number of Romani migrants in wealthier countries, both in Europe and beyond. This needs to be taken into consideration when policies are being elaborated.

This paper explores the attitudes, motives and profiles of potential Romani and non-Romani migrants from six WB countries. It employs data from the joint United Nations Development Programme/World Bank/European Commission (UNDP/WB/EC) Regional Roma Survey 2011, conducted in six WB countries (Bosnia and Herzegovina, Croatia, Albania, Montenegro, FYR Macedonia and Serbia) and in six other countries in CEE (Bulgaria, Hungary, Romania, Moldova,

4 *The International Bank for Reconstruction and Development/The World Bank, Migration and Remittances Factbook 2011*, 2nd ed. (The International Bank for Reconstruction and Development/The World Bank 2011) 26, available at: <http://siteresources.worldbank.org/INTLAC/Resources/Factbook2011-Ebook.pdf>.

5 See: Ilona Tomova, “Transnational migration of Bulgarian Roma”, *Global Connections and Emerging Inequalities in Europe. Perspectives on Poverty and Transnational Migration*, ed. Deema Kaneff and Frances Pine (London: Anthem Press, 2011), 103–124; European Union Agency for Fundamental Rights (FRA) *The situation of Roma in 11 EU Member States: Survey results at a glance*, (Vienna: European Union Agency for Fundamental Rights, 2012), available at: http://fra.europa.eu/sites/default/files/fra_uploads/2099-FRA-2012-Roma-at-a-glance_EN.pdf; Niall O’Higgins, *Roma and non-Roma in the Labour Market in Central and South Eastern Europe*, (Bratislava: UNDP, 2012); Niall O’Higgins and Andrey Ivanov, “Education and Employment Opportunities for the Roma”, in *Comparative Economic Studies*, ACES 48 (2006), 6–19.

6 See: Andrey Ivanov, “Quantifying the Unquantifiable: Historical Determinants of – and Possible Approaches to – the Fluid ‘Roma Identity’”, *Nasselenie Review* Number 3–4 (2012), 80; Tomova, “Transnational migration of Bulgarian Roma”, 104; Cahn and Guild *Recent Migration of Roma in Europe*, 87–88.

Slovakia, Czech Republic) among Roma, as well as non-Roma living close to Romani communities. It is also partly based on some of the key findings from the survey *An Option of Last Resort? Migration of Roma and Non-Roma from CEE countries*. The distribution of the respondents by country is presented in Table A1 in the Appendix. Respondents who declared their intent to move abroad in future are categorised as potential migrants. The terms “Roma” and “non-Roma” (majority) throughout the text denote Romani respondents and non-Romani respondents respectively.

Who Intends to Migrate? Profiles of Potential Migrants

Both Roma and non-Roma declare intentions to migrate more often if they are from a WB country: 27.3 % of Roma from Bosnia and Herzegovina, Croatia, Albania, Montenegro, FYR Macedonia and Serbia planned to move abroad. By comparison, 21.3 % of Roma from the other six CEE countries wanted to migrate. The proportion of non-Romani potential migrants from WB and other CEE countries was 19.3 % and 12.9 % respectively.

The typical profile of a potential Romani migrant from a WB country is a little bit different from the sample averages. Men declared an intention to move abroad (29.7 %) more often than women (25.6 %). However, the proportion of women among potential migrants is larger (54.9 %) since the distribution of the sample by gender reveals a higher proportion of women (59.8 %).

The migration option is chosen in higher proportions by single people (36.4 % of all singles), those separated (32.7 % of all separated) or divorced (28.9 % of all divorced), but these categories make up only a small proportion of the sample. Thus most potential migrants are married or

cohabiting (70.4 %). Potential Roma migrants from WB countries tend to be up to 49 years old (88.4 %);⁷ Muslims (71.0 %); unemployed (50.9 %);⁸ literate (82.3%);⁹ and not very educated,¹⁰ but more educated than on average.¹¹

Previous experience in another country is an important factor in future migration decisions. Roma with such experience much more frequently intend to move again (54.0 %) compared to those who have never previously lived in another country (24.9 %). These experienced former migrants have resided mostly in Germany (58.6 %), Greece (9.2 %), Italy (8.1 %), Austria (6.3 %) and some other European countries. Some of them have been pressured by the authorities of the host country to return to their homeland. Some sources point out that these returns have not been voluntary, since the immigrants had resided in the receiving country for several years and the Roma did not manage to return home with dignity because of exclusionary practices in both the host and home countries.¹² Some of those returned were very young and had lived abroad for a long time, whilst others had been born in the host country. The same sources indicate that re-integration back into their home countries is difficult, since some Roma spoke the language of the host country better than their home language, some did not even speak the language of the home country and some did not possess personal documents. The latter causes additional difficulties for integration and also impedes the right to free movement.

However, it would seem that the above cases are rare. The UNDP/WB/EC data show that a very small proportion (1.8 %) of members of WB Roma households was born in a non-WB country. All respondents with foreign experience willing to move abroad again were born in a WB country (all of them were aged 16 or over). Only 2.4 % of WB Romani households spoke a foreign language (e.g., German, English or Italian) at home. In all households some local language

7 The sample for Module four includes only people aged 16 and over. The proportion of Romani respondents from WB countries is 77.3 % by comparison.

8 The item corresponds to the International Labour Organisation (ILO) definition.

9 The potential migrants are more often more literate than WB Roma are on average - 74.9 %.

10 29.8% of Roma are without formal education; 28.9% have only primary education, i.e. ISCED 1 (International Standard Classification of Education); 40.2 % are with lower or upper secondary education (ISDEC 2 - 3).

11 37.3% of all Romani respondents are with no formal education and 30.1 % are with ISCED 1. These proportions should be taken into consideration only for comparison purposes, since the sample is not weighted by country.

12 Claude Cahn and Elspeth Guild, *Recent Migration of Roma in Europe*, (OSCE, 2nd edition, 2010), 36-37, available at: <http://www.osce.org/hcnm/78034>; European Roma Rights Centre, “*Factsheet: Summit-to-Summit Roma Rights Record*”, 2010; Peter Widmann and Knaus Verena et al., *Integration Subject to Conditions. A report on the situation of Kosovan Roma, Ashkali and Egyptian children in Germany and after their repatriation to Kosovo*. (Prishtina: UNICEF Kosovo, 2010), available at: http://www.unicef.org/kosovoprogramme/RAEstudy_eng_web.pdf.

was spoken. The higher proportion of those keen to move back abroad among experienced ex-migrants is likely to be influenced by other factors (among them the extent of integration in the home country, which could partly be evaluated by the level of income and job opportunities).

Other cases cited of the poor integration of Roma (as well as Ashkali and Egyptians) as a consequence of armed conflicts and their influence on free movement (the impossibility of free movement, in this case) relate to internally displaced persons (IDPs). A small proportion of experienced ex-migrants (8.5 %) may have previously been IDPs, as they declared that they had resided in another WB country (Bosnia and Herzegovina, Croatia, Montenegro, FYR Macedonia, Serbia and Slovenia). Less than half of them (43.6 %) intended to move again.

At first sight, the non-possession of different types of documents does not seem to impede the willingness to migrate. There is a negligible difference between the proportion of Roma who intend to migrate and those who do not according to the possession of identity documents: 98 % of potential migrants possess birth certificates and 91 % have ID cards. The numbers are similar for other Roma who do not intend to move abroad. There is also little difference according to possession of passports: 40.5 % of potential migrants and 36.0 % of others had passports.

The intention to migrate has two components – the desire of the individual to take action and his or her preparedness to fulfil this desire. If one has a desire to migrate it does not necessarily mean that one is ready to do so. Whether one has determined intentions or whether one’s target destination is only hypothetical (dreamt of, but not accepted as feasible) could be judged by how concrete one’s ideas for action are. Part of such a plan is a deadline within which to achieve the aim. The preparedness for future migration can be revealed by the periods within which one intends to fulfil one’s intentions and whether the respondents opt for any action at all.

About 33.5 % of Romani respondents from WB countries who indicated an intention to migrate had virtually no specific intentions but rather had an idea or a dream to do so. This excludes them from the list of potential migrants. Those with passports exhibited a greater preparedness for migration (70.2 % cited a concrete timeframe for their

plans) compared to Roma without such documents (64.0 % knew how soon they would move abroad).

Lack of ID cards influenced the choice of a longer timeframe for preparation before moving: 22.3 % of WB Roma without an ID card responded that they would migrate in less than a year’s time. Roma with an ID card more frequently cited shorter periods (37.3 % cited a period of up to 12 months).

Of all the researched cases, those repatriated from Western European countries (mainly Germany), IDPs and people without personal documents constitute a small proportion of potential migrants and consequently hardly influence the overall picture of potential WB Roma migration. That brings us back to the hypotheses set out in the introduction.

Strategies for Life Improvement

Strategies for surviving and for life improvement can vary depending on personal preferences, capabilities and opportunities. These three pillars of personal choice can be interrelated. For example, a lack of opportunities could bring an individual to lower his or her expectations about the possible solution to a problem and thus could influence his/her choices. An individual could choose a worse (according to his/her value system) possibility, since he/she does not believe that a better option is likely to present itself. Moreover, an individual could even reject a better option and “condemn” it as actually worse.¹³ Elster labels such types of behaviour as “adaptive preferences” and compares them with the fox from La Fontaine’s fable, which claimed that the grape was sour because she could not reach it.

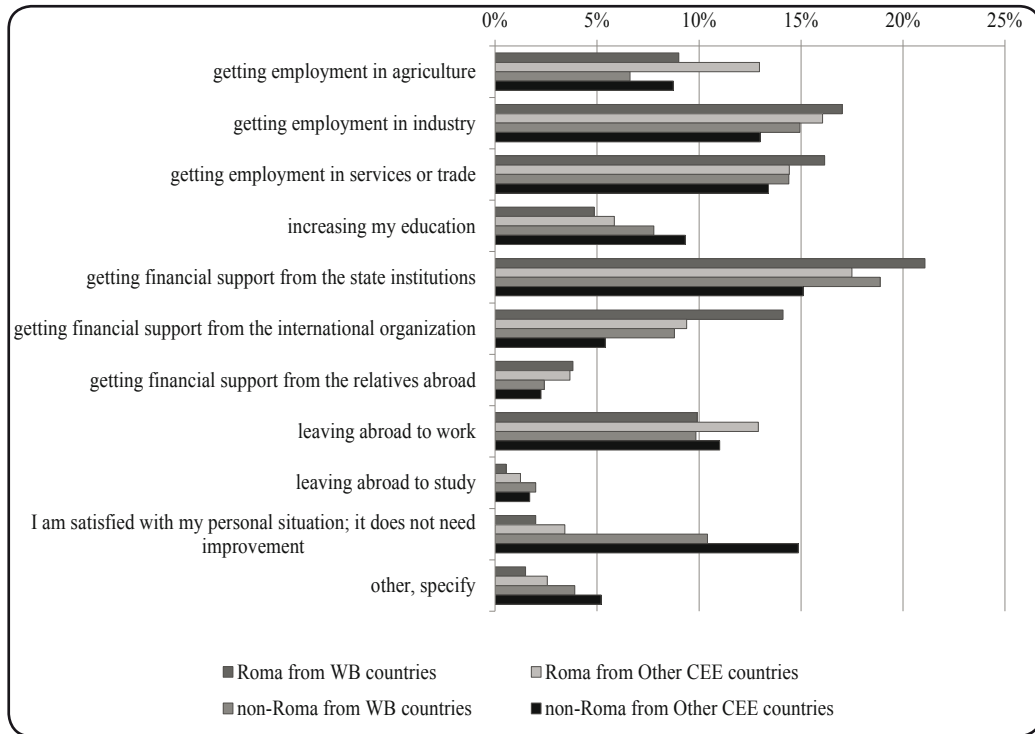
In such a context it is difficult to clearly outline the relationship between a deprived situation (including poor economic or labour market status) and the intention to migrate, because other factors could downplay the importance of income, lack of a job, poor living conditions and so on.

The respondents answered differently about their intentions for migration if the question was formulated in a different way.¹⁴ Each respondent was given the chance to opt for three strategies out of a pre-defined list, including the option to select “others” (up to three possible answers).

13 Jon Elster, “Sour grapes: Utilitarianism and the genesis of wants”, *Utilitarianism and Beyond* ed. Amartya Sen and Bernard Williams (New York: Cambridge University Press, 1982), 219.

14 There are two questions concerning the intention for future migration in UNDP/WB/EC Regional Roma Survey 2011. The first one directly asks whether the person intends to migrate. The second one inserts the migration option as one of the answers among the possible solutions for life improvement.

Figure 1: Which of the following, do you think is the way your personal situation can be improved? Source: author's calculations, UNDP/WB/EC Regional Roma Survey 2011



The major strategies that WB Roma planned to employ to improve their lives were related to poverty reduction actions. Roma, less frequently than non-Roma, indicate that they are satisfied with their personal situation and it does not need improvement. It seems that Roma from WB countries most often choose passive behaviour where someone else takes care of improving their personal situation (e.g., the state or international organisations). They also less frequently choose the option to migrate compared to Roma from other CEE countries. Both Roma

and non-Roma from WB countries choose the option to migrate less often and prefer to find employment in their home country.

Reasons for Migration

Roma from Western Balkan countries were the poorest group among the four surveyed groups. They were also a comparatively homogeneous group in terms of income.

Table 1: Mean household income per the Organisation for Economic Co-operation and Development (OECD) equalised capita per day based on purchasing power parity (PPP) in USD* Source: author's calculations, UNDP/WB/EC Regional Roma Survey 2011

Respondents		Mean Income	Std. Deviation
Roma	Western Balkan countries	7.9	8.0
	Other CEE countries	10.9	30.9
Non-Roma	Western Balkan countries	16.0	11.5
	Other CEE countries	17.0	19.2

* The variable Income per OECD equalised capita per day based on PPP has been used. This is monthly income of the household converted into a daily per capita measure using an OECD modified equivalence scale (1, 0.5 and 0.3) and the 2009 PPP conversion factor derived from the International Comparison Programme 2005 estimates and extrapolated. The variable is constructed by O'Higgins (2012) and Ivanov (2013).

There is a correspondence between mean income level and declared intention to move abroad: The lower the mean income level, the higher the proportion of people willing to migrate. Roma from WB countries who want to move abroad have a lower mean income (7.4 USD in PPP) than those who do not have such intentions (8.08 USD in PPP).

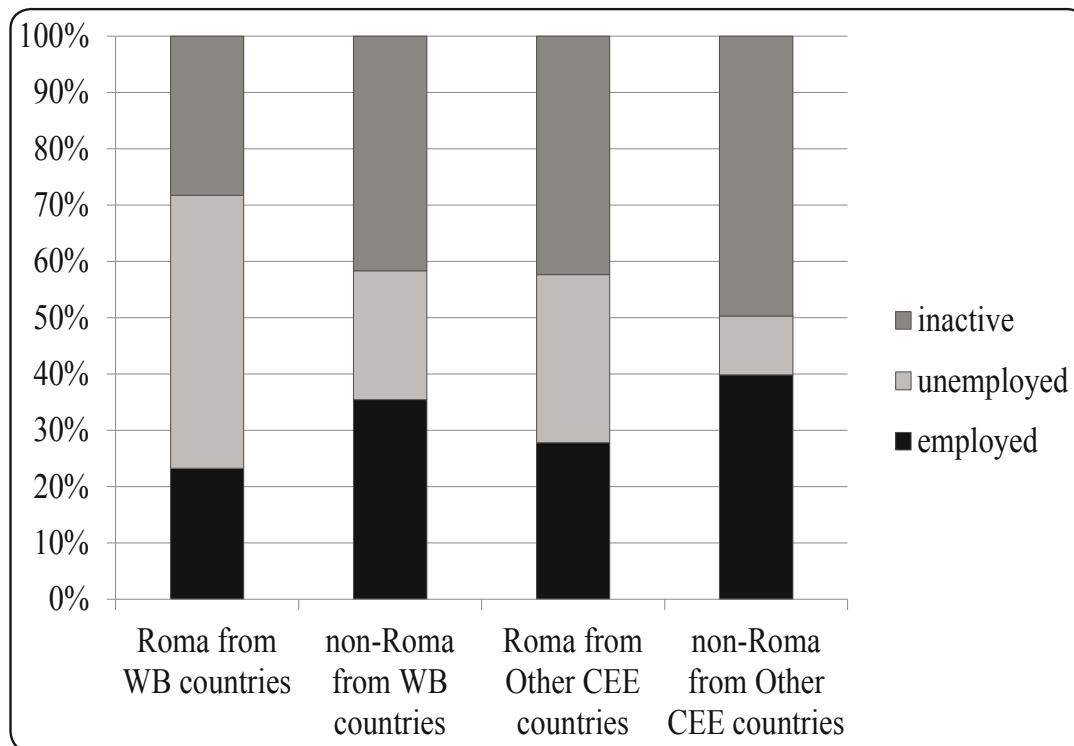
On the other hand, if Roma are given a (hypothetical) choice, they show other preferences: Most would select to stay and work in their home country but also to receive financial support from international organisations. Do they prefer to be passive? Would they stay if they had an opportunity to work?

People adopt different strategies to succeed or to receive a higher income; their strategies depend on their value systems. In WB countries it is Roma rather than non-Roma who state that it is acceptable for them to claim government benefits to which they have no right (17.2 % of Roma and 7.0 % of non-Roma), or to avoid paying taxes (23 % of Roma and 10.9 % of non-Roma). However, a greater proportion of Roma do not consider such behaviour morally acceptable. Security is important for them, which is considered incompatible

with immoral or illegal deeds. The abstract perceptions and values of Roma were confirmed by their individual preferences whenever they decided on different situations: 84.9 % of Roma preferred to have higher standards of living but to work hard to earn that living rather than to live on social assistance and make ends meet with no particular effort. For the majority of them, work was important for success. Job security was also important: 85.8 % of Roma preferred secure, full-time jobs working five days a week to the opportunity to manage their time freely and have insecure employment. Regular labour income was so important for Roma (90.0 % of them) that they were inclined to have secure but unprofitable jobs rather than irregular, lucrative income from insecure work.

It seems more probable that Roma demonstrate passive behaviour because of the impossibility of finding a job in their home country (because they do not believe that the latter can happen). Romani migration intentions are also probably due to the lack of opportunities to find a job in their home country: In 94.7 % of cases, potential migrants pointed to finding a job as one of their three strategies for life improvement.

Figure 2: WB and other CEE countries' population by activity status and by ethnicity, 2011. Source: author's calculations, UNDP/WB/EC Regional Roma Survey 2011

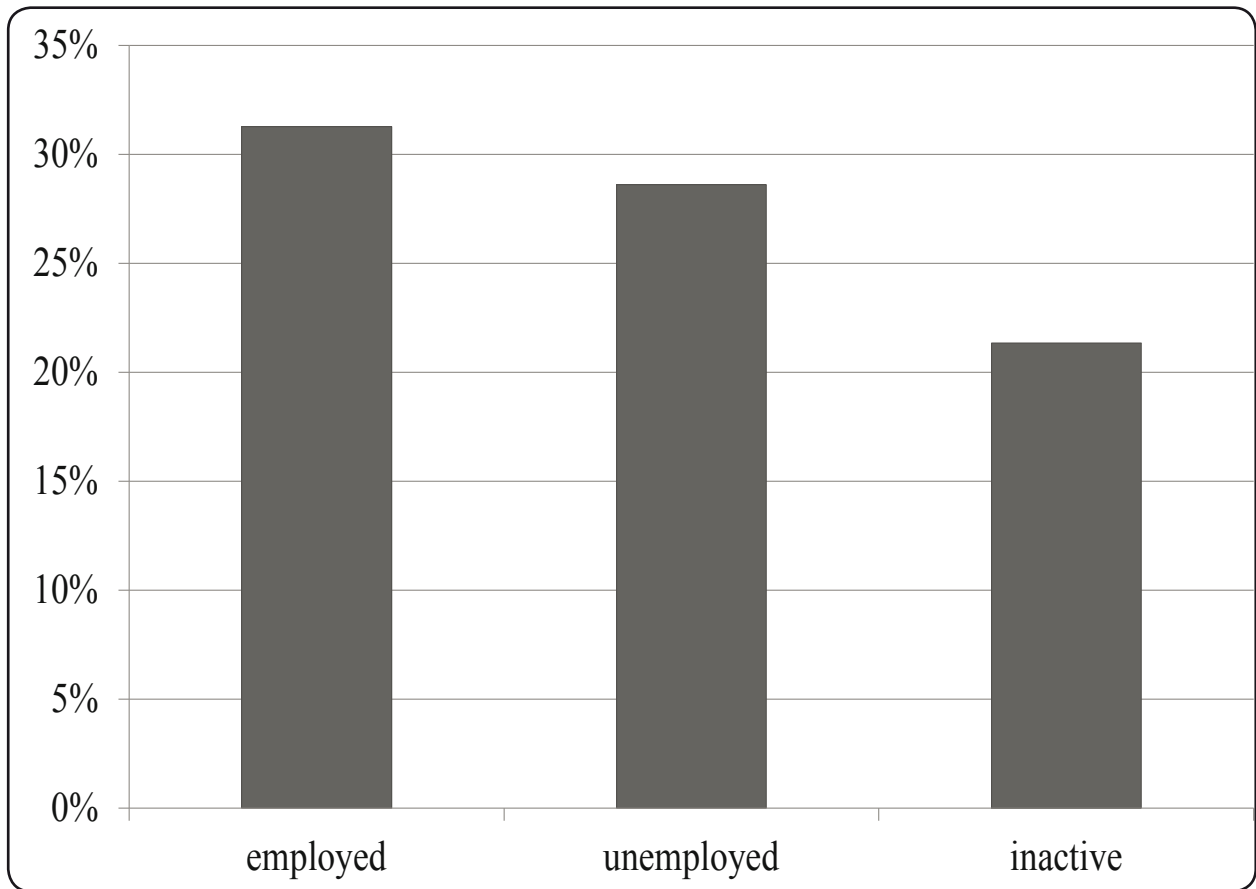


Note: The operational definition for 'unemployed' corresponds to the ILO categorisation.

Almost half of WB Roma are unemployed. This determines the profile of potential migrants. It is slightly more likely for a Romani individual from a WB country to be a potential emigrant if he/she has a part-time or ad hoc job: There is a correlation between the presence of such activity status and

migration intention (Pearson correlation: $r = 0.08$, $a = 0.01$). A higher proportion of employed than of unemployed Roma chose to migrate. These people had a slightly higher income compared to the unemployed and consequently more possibilities to migrate, but not a great deal more than others.

Figure 3: Proportion of potential migrants among WB Roma by activity status, 2011. Source: author’s calculations, UNDP/WB/EC Regional Roma Survey 2011



Note: The operational definition for ‘unemployed’ corresponds to the ILO categorisation.

The status of the labour market does not appear to significantly influence the migration decisions of WB Roma. The reason for this is that the employment of Roma in their home country does not increase their income much: 40.9 % of employed Roma have incomes under or at risk of being below the poverty line¹⁵ and thus fall into the “working poor” category. By comparison, among the unemployed the proportion of people in poverty is 63.3 %. Employed Roma have an average of 9.7 USD in PPP (mean income equalised per day), while the unemployed receive on average 6.6 USD

in PPP. The employment of Roma solves problems regarding extreme forms of penury, but not of poverty in general. The picture is quite different for WB non-Roma, whose incomes increase by a bigger factor if a person has a job: The mean income of WB unemployed non-Roma is 9.8 USD in PPP and for those employed it is 19.5 USD in PPP.

The data confirm that today, similarly to other CEE countries, a major factor for migration from WB countries appears to be the economic situation of the population, i.e.,

15 Calculated according to Eurostat methodology – 60% of the median average income for the respective year in the respective home country.

income and employment opportunities. The push factors for the migration of Roma do not differ considerably from the reasons of millions of migrants who have left their homelands in search of work and a livelihood. The three main declared reasons are “better chances of finding employment”, “better pay/better working conditions” and “better living conditions/social and health care system/political situation”: 88.1 % of WB Roma, 86.9 % of WB non-Roma, 80.9 % of Roma from the other CEE countries and 84.2 % of CEE non-Roma state such motives.¹⁶ Other rarely-cited reasons were better education (7.6 % and 8.4 % of WB Roma and non-Roma respectively; 5.3 % and 8.7 % of Roma and non-Roma respectively from the other CEE countries) and family reasons – to accompany or join family or to get married (selected by 2 to 3 % of respondents depending on their ethnicity and home country). The motive of “less discrimination in other countries” was also rarely chosen: 1.8 % and 10.0 % of Roma from WB and the other CEE countries respectively chose this motive.¹⁷

Conclusion

The liberalisation of labour force movement in Europe with the common Schengen rules does not provide a much greater degree of freedom of migration for work for the citizens of most of the sending countries included in the study. Nevertheless, strong push factors remain that incline many people to choose to travel abroad even with the current restrictive rules.

There is a correspondence between values, life strategies and choices of individuals to migrate, as well as their selection of their reasons for doing so. Due to discrepancies

between their values and reality, Roma are ready to undertake different strategies to improve their lives. The actions chosen often aim at overcoming poverty by means of labour in their home country or abroad.

The hypothesis that the reasons for the migration of Roma do not differ from those of non-Roma was confirmed: Poverty, a lack of jobs and a desire for a better life are the main reasons for all potential migrants. Thus, the widespread stereotypes about Roma migrations, e.g., being part of a nomadic way of life or travelling to abuse the welfare systems of richer countries, are under question. Roma tend to prefer contracted, permanent, full-time and low-paid labour rather than well-paid but temporary jobs. In their countries of origin they often do not have the opportunity for a better (or even any) job. They are often excluded from the labour market in at least two respects: A lot of Roma are unemployed and the employed are often poor. Even if the reasons for migration of Roma and non-Roma are similar, the situation of Roma is worse and the proportion of potential migrants among the Roma is greater.

There are a lot of arguments in favour of the other hypothesis that has been set forth. Today the main push factors in WB countries are of an economic nature similar to other CEE countries. Poverty and exclusion from the labour market are major push factors for migration. Poverty reduction cannot be accomplished only by Roma inclusion in employment. It is important that the issue of the “working poor” category is solved. Measures toward the reduction of an irregular labour market and the expansion of contracted employment are crucial. Policies for reducing disparities between Romani and non-Romani salaries for those with equivalent educational and vocational levels are necessary.

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¹⁶ The results are based on multiple response sets. Each respondent could opt for three motives out of a predefined list. The option “others” was selected by 1 % of the respondents.

¹⁷ One possible hypothesis for the difference between Roma from WB and other CEE countries is related to their sensibility regarding the discrimination issue. The question needs further research to be clarified.

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Appendix

Table A1: Respondents covered in module 4 of the UNDP/WB/EC survey. Source: author’s calculations, UNDP/WB/EC Regional Roma Survey 2011

Country of current residence	Albania	Bosnia and Herzegovina	Bulgaria	Czech Republic	Slovakia	Montenegro	Croatia
Ethnicity of respondents							
Roma	755	766	700	696	732	753	730
Non-Roma	338	360	347	336	331	354	347

Table A1 continued...

Country of current residence	Hungary	Macedonia	Moldova	Romania	Serbia	Total
Ethnicity of respondents						
Roma	742	747	709	725	774	8829
Non-Roma	345	346	332	344	360	4140

Romani Minorities and the Variety of Migration Patterns in the Post-Yugoslav Space¹

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Introduction³

At the end of January 2014, media in different European countries presented a story about a Romani man originally from the post-Yugoslav area now seeking asylum in Berlin. Similar newspaper reports had already appeared previously. They especially emphasised that the number of so-called “bogus” asylum seekers, mostly of Romani origin, had increased after the visa liberalisation process (for the Schengen area) had been finalised for Serbia and Macedonia.⁴ These media reports rarely reflected how the media themselves stigmatised individuals identified as belonging to Romani minorities from the former Yugoslavia, claiming, without providing incontestable evidence, that Roma have been the largest ethnic group seeking asylum. They also did not usually question whether freedom of movement is being obstructed specifically for Romani minorities from the states in question, as was emphasised by the Council of Europe’s former High Commissioner for Human Rights, Thomas Hammarberg.⁵

The debate on the visa-free regime and its correlation with the increased number of asylum seekers reached the European Parliament, which in December 2013 introduced a visa-free suspension mechanism for the Western Balkan states.⁶ However, the January 2014 media reporting on this topic was, to a certain extent, specific. Here the asylum seeker in

question was not simply labelled as Roma, but also had his own personal name and even more unique story. His name was Nazif Mujić and he had, only a few months previously, won the Silver Bear Award for Best Actor at the Berlin International Film Festival for his performance in the movie “An Episode in the Life of an Iron Picker”, directed by Danis Tanović.⁷ However, as Mujić later emphasised, this ephemeral fame did not improve his position as a Romani individual in the long run, nor did it improve the position of his family. Therefore, migration back to Berlin was a last resort and also became “an episode in the life of an iron picker”.

The life story of Nazif Mujić opens wider questions on how the decisions of post-Yugoslav Romani individuals to migrate are made and what macro-societal circumstances can be considered preconditions for such decisions. In this article, I address these broader questions and, similar to some authors analysing intra-EU Romani migration,⁸ I claim that reducing Romani migration to economic conditions (poverty) as well as to culture (i.e., “Romani nomadism”) is an oversimplification. Moreover, based on my fieldwork research, I argue that the patterns of migration of Romani individuals from the post-Yugoslav state (not within the EU) are unique in comparison to the migration of Romani individuals with EU passports. These migrations have been largely influenced by the post-Yugoslav wars, but also by the politics of post-Yugoslav citizenship.

1 This work was supported by funding from the CITSEE project (The Europeanisation of Citizenship in the Successor States of Former Yugoslavia), based at the University of Edinburgh, UK. CITSEE is funded by the European Research Council under the European Union Seventh Framework Programme, ERC Grant no. 230239, and the support of ERC is acknowledged with thanks.

2 Dr Julija Sardelic holds a PhD in Sociology, but in addition to her academic engagement she has a decade long experience in working in grassroots Romani NGOs in different Post-Yugoslav Romani settlements.

3 This paper is based on my research within the CITSEE Project. For more detailed information on the research, see: http://www.citsee.ed.ac.uk/working_papers/files/CITSEE_WORKING_PAPER_2013-31a.pdf and <http://www.citsee.eu/citsee-study/romani-subaltern-context-transforming-post-yugoslav-citizenship-regimes>.

4 “A Surge of Serbs and Macedonians: Germany Seeks to Halt Influx of Balkan Asylum Seekers”, *Spiegel Online International*, 25 October 2012, available at: <http://www.spiegel.de/international/germany/germany-seeks-to-halt-influx-of-balkans-asylum-seekers-a-863345.html>.

5 Thomas Hammarberg, “The right to leave one’s country should be applied without discrimination”, *Council of Europe Commissioner’s Human Rights Comment*, 22 November 2011. Available at: http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=193.

6 “MEPs Adopt Visa Suspension Mechanism”, *Balkan Insight*, 12 September 2013, available at: <http://www.balkaninsight.com/en/article/brussels-to-vote-on-re-introduction-of-visa-regime>.

7 Kirsten Grieshaber, “Actor who won Silver Bear at Berlin Film Festival is back: this time seeking asylum”, *Star Tribune World*, 28 January 2014, available at: <http://www.startribune.com/world/242369081.html>.

8 Maria Carmen Pantea, “Social ties at work: Roma migrants and the community dynamics”, *Ethnic and Racial Studies* Number 36:11(2013), 1726–1744.

This politics has been redefining who could be (fully) included into the citizenry of the newly established post-Yugoslav states, and the predicament of Romani minorities was in many instances (intentionally or not) missing from the forefront of these debates. However, as I show in this article, the fact of how Romani minorities were positioned as citizens in post-Yugoslavia tremendously affected their diverse migration patterns. Moreover, in the next section, I argue that these patterns are not simply connected to their positioning after the disintegration of socialist Yugoslavia, but in fact also have roots in the previous common Yugoslav settings.

The Position of Romani Individuals in the Former Socialist Yugoslavia and their Migration

During the socialist period, most states in Central and Eastern Europe with larger populations of Roma took an assimilationist approach towards their integration as citizens.⁹ Instead of being considered an ethnic group, Roma were usually considered a deviant social group that needed to be assimilated into the working class¹⁰ to become equal citizens. However, although Roma were massively included in the labour process, in many other aspects they were only partially integrated. As Júlia Szalai claims,¹¹ their “integration” into the education system and access to healthcare did not meet the standards of other citizens in socialist Hungary. Thus, even in socialist settings, Roma were only second-class citizens.

On the other hand, socialist Yugoslavia took a different policy towards Romani minorities.¹² In the spirit of the Yugoslav ideology of “Brotherhood and Unity”, Romani minorities were considered an ethnic group rather than a deviant social class.¹³ Some scholars have even argued that policies towards Romani minorities in the former socialist Yugoslavia were more liberal than those in later established post-socialist states.¹⁴ In many parts of Yugoslavia (especially the Socialist Republics of Serbia and Macedonia) Romani cultural life flourished in particular.¹⁵ In addition, official Yugoslav politics supported the international Romani movement, the creation of a Romani elite and its inclusion into the League of Yugoslav Communists (LYC) on the one hand.¹⁶ However, on the other hand, most of the Romani citizens of Yugoslavia did not enjoy the privileges of the Romani elite. Most Romani individuals lived in deprived conditions (e.g., more vulnerable to poverty, substandard housing) in comparison to other Yugoslav citizens.¹⁷ In addition, as some Romani activists have pointed out,¹⁸ Romani minorities were never treated with equal respect as Yugoslav constitutive nations (*narodí*) and nationalities (*narodnosti*). In fact, they were never recognised by the Federal Yugoslav Constitution (1974), which did not refer at all to ethnic groups.¹⁹ In addition, while most of the republican constitutions did include ethnic groups (except for the Bosnian and Montenegrin one), they did not acknowledge Romani minorities as one of those groups; it was only implicitly determined that they belonged to ethnic groups.²⁰ Although the position of Romani minorities was also discussed at the highest political levels, a unified Yugoslav policy on the integration of Romani minorities was never introduced.²¹

9 Aidan McGarry, *Who Speaks for Roma: Political Representation of the Transnational Minority Community* (London, New York: The Continuum, 2010), 25.

10 Zoltan Barany, *The East European Gypsies: Regime Change, Marginality and Ethnopolitics* (Cambridge: Cambridge University Press, 2002), 114.

11 Júlia Szalai, “Conflicting Struggles for Recognition: Clashing Interests of Gender and Ethnicity in Contemporary Hungary”, *Recognition Struggles and Social Movements: Contested Identities, Agency and Power*, ed. Barbara Hobson (Cambridge: Cambridge University Press, 2003), 197.

12 I use the term Romani minorities in plural to acknowledge the diversity of the populations in question in the (post-)Yugoslav space. Besides Roma I also include Ashkali, Egyptians, Bayash Roma, Vlach Roma, Sinti, etc.

13 David M. Crowe, *A History of the Gypsies of Eastern Europe and Russia* (New York: Palgrave Macmillan, 2007), 226.

14 Barany, *The East European Gypsies*, 24.

15 Crowe, *A History of the Gypsies*, 222.

16 Julija Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes. CITSEE Working Paper 2013/31* (Edinburgh: University of Edinburgh, 2013), 5, available at: http://www.citsee.ed.ac.uk/working_papers/files/CITSEE_WORKING_PAPER_2013-31a.pdf.

17 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 5.

18 Orhan Galjuš, “The Last Yugoslavs” (Budapest: European Roma Rights Centre, 1999), available at: <http://www.errc.org/article/the-last-yugoslavs/804>.

19 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 6-7.

20 Tibor Várady, “Minorities, Majorities, Law and Ethnicity: Reflection on the Yugoslav Case”, *Human Rights Quarterly* Number 19:1 (1997), 10.

21 Crowe, *A History of the Gypsies*, 227.

There was also, therefore, no unified plan on how to fully integrate Roma into the ruling working class, which was the most important collective category according to the SFRY Constitution.²² Those who were not included in the working class employed themselves in alternative economic niches, which were tolerated since they were perceived as “traditional Romani crafts”²³ (e.g., trough-making, knife-grinding, trading, etc.) and thus seen as belonging to a “cultural feature” of Roma as an ethnic group. These alternative economic niches of Romani minorities in Yugoslavia also entailed certain migrations within Yugoslav federal borders, but across republican borders. Furthermore, while most of the socialist states had “closed borders”, Yugoslav citizens were able to migrate for work (as *gastarbeiter*), especially to Austria and Germany.²⁴ Many Yugoslav *gastarbeiter* were also individuals identified as belonging to Romani minorities,²⁵ since this was one of the possibilities for them to be equally included into labour processes. However, migration of Yugoslav Roma was not simply a product of economic inequality, but mostly a symptom of how Roma were positioned as Yugoslav citizens. Moreover, most Romani individuals could not have been aware of how their previous migrations and also their position as Yugoslav citizens would affect them after the disintegration of Yugoslavia.

Citizenship Politics and Romani Migration in and from the Post-Yugoslav Space

After the disintegration of socialist Yugoslavia, migration patterns connected to individuals identified as belonging

to Romani minorities became even more diverse and were usually connected to the macro-societal changes in the region. In addition, although migration is usually ascribed to Roma as a group,²⁶ migration patterns in the former Yugoslav region show that only some Roma are in a position to emigrate from their place of residence.

Furthermore, migration patterns are also connected to the specific quandary in which Romani minorities found themselves after the disintegration of socialist Yugoslavia in the early 1990s. Their position was marked not only by the post-Socialist transitions, but also by numerous wars and multiple state disintegrations, with new citizenship politics in the newly-established states. As I have argued in my previous work,²⁷ the position of Romani minorities in the post-Yugoslav states was created by their finding themselves between two sides in a conflict; usually a dominant majority and a minority with destabilising territorial claims,²⁸ hence becoming the victims of both sides. In many instances such a position resulted in the forced migration of Romani individuals, who ended up either as internally displaced persons or as refugees in other post-Yugoslav countries²⁹ or in Western European states. Furthermore, due to irregular migration, many Romani individuals ended up as legally invisible persons³⁰ in all the post-Yugoslav states. The position of past Romani migrants was complicated further by the political juggling around citizenship in their new places of residence.³¹ They were not the direct addressees of these debates, but they were disproportionately affected by them.³²

Many individuals were left internally displaced, especially after the Kosovo war. As many as 100,000 Roma, Ashkali

22 Vojin Dimitrijević, “The 1974 Constitution and Constitutional Processes as a Factor in the Collapse of Yugoslavia”, in *Yugoslavia, the Former and Future. Reflections from Scholars from the Region*, eds. Payam Akhavan and Robert Howse (Washington, Geneva: The Brookings Institution in The United Nations Research Institute for Social Development, 1995), 69-70.

23 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 8.

24 Elena Marushiakova and Vesselin Popov, “Gypsy/Roma Migration from 15th Century till Nowadays”, in *Romani Mobilities in Europe: Multidisciplinary Perspectives* (International Conference, 2010), available at: <http://romanimobilities.files.wordpress.com/2010/01/conference-proceedings1.pdf>.

25 *Ibid.*

26 Pantea, “Social ties that work: Roma migrants and the community dynamics”, 1728.

27 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 4.

28 Nando Sigona, “Between Competing Imaginaries of Statehood: Roma, Ashkali, Egyptians (RAE) Leadership in Newly Independent Kosovo”, *Journal for Ethnic and Migration Studies* Number 38:8 (2012).

29 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 16.

30 Tatjana Perić and Martin Demirovski, “Unwanted: the exodus of Kosovo Roma (1998-2000)”, *Cambridge Review of International Affairs* Number 13:2 (2000), 82.

31 Jelena Džankić, “Montenegro’s Minorities in the Tangles of Citizenship, Participation and Access to Rights”, *Journal for Ethnopolitics and Minority Issues in Europe* Number 11:3 (2012), 42.

32 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 10-13.

and Egyptians had to leave their homes in Kosovo.³³ Many migrated to Serbia and Montenegro,³⁴ which at the time of the Kosovo conflict were still one state. However, after the Montenegrin declaration of independence, Romani migrants found themselves in a completely new reality, having difficulties acquiring Montenegrin citizenship due to restrictive rules.³⁵ They had not crossed any internationally recognised borders when they were forced to flee their places of residence, but found themselves under the rules of a new polity when new borders were then created. On the other hand, those Romani minorities who were internally displaced during the war but migrated only within Kosovo's borders were also not adequately protected. After they were attacked both by the majority (Albanian) population, and also by the dominant (Serbian) minority, many were put into camps set up by the international community on land later proven to be contaminated with lead.³⁶ Due to other challenges which were considered more imperative, the plight of Romani minorities remained invisible³⁷ in the Kosovar political arena.

Due to the turbulent changes in the post-Yugoslav region, the position of Romani minorities was usually not at the forefront of discussion and since it was not adequately addressed for decades, their position worsened. This is especially apparent in the vicious circle of those who have found themselves in the position of legally invisible persons.³⁸ Although the position of legally invisible persons was often initially connected to migration (in the Yugoslav space), later on such persons came to represent one of

the most immobile populations due to their lack of personal documents. This immobility and the fact that many Romani individuals were lacking personal documents were addressed during the visa liberalisation processes.³⁹ During these processes many Roma did gain access to their personal documents. However, this did not automatically lead to their equal inclusion into the citizenry. For example, to the present day, individuals who identify as Roma cannot run for the presidency in Bosnia and Herzegovina⁴⁰ (which still has reserved seats only for the constitutive nations of Bosnia and Herzegovina, i.e. Serbians, Bosniaks and Croats) due to the regulations set forth by the Dayton Agreement and the Constitution of Bosnia and Herzegovina. Hence they are almost completely excluded when it comes to commonly considered basic citizenship rights of political participation.⁴¹ This means they cannot raise further official concerns about their position, especially those connected with their access to healthcare and also to education, where they are also usually treated as second-class citizens.⁴² In the court case *Sejdić and Finci v. Bosnia and Herzegovina*, the European Court of Human Rights (ECtHR) decided that Bosnia and Herzegovina is violating the European Convention on Human Rights due to the fact that Roma and Jews cannot run for presidential elections in their own state.⁴³ However, the ECtHR decision has not been implemented so far.⁴⁴

Many Romani individuals, therefore, do engage in alternative ways of improving their own position. As indicated by the sources that I interviewed during fieldwork in Bosnia and

33 Perić and Demirovski, "Unwanted", 84.

34 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 16.

35 Džankić, "Montenegro's Minorities", 54.

36 ERRC, *Abandoned Minority: Roma Rights History in Kosovo* (Budapest: ERRC, 2012), 57 available at: <http://www.errc.org/cms/upload/file/abandoned-minority-roma-rights-history-in-kosovo-dec-2011.pdf>.

37 Gëzim Krasniqi, *Equal Citizens, Unequal 'Communities': Differentiated and Hierarchical Citizenship in Kosovo*. CITSEE Working Paper 2013/27 (Edinburgh: University of Edinburgh, 2013), 20, available at: http://www.citsee.ed.ac.uk/working_papers/files/CITSEE_WORKING_PAPER_2013-27.pdf.

38 PRAXIS, *Legally Invisible Persons in Serbia – Still Without Solution* (Belgrade: PRAXIS, 2011).

39 Simonida Kacarska, *Europeanization Through Mobility: Visa Liberalisation and Citizenship Regimes in the Western Balkans* CITSEE Working Paper 2012/21 (Edinburgh: University of Edinburgh, 2012), 6, available at: http://www.citsee.ed.ac.uk/__data/assets/pdf_file/0003/108912/374_europeanisationthroughmobilityvisaliberalisationandcitizenshipregimesinthewester.pdf.

40 "The Sejdić and Finci Question", *The Economist, The Eastern Approaches*, 9 October 2013, available at: <http://www.economist.com/blogs/easter-approaches/2013/10/bosnia>.

41 Sardelić, *Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes*, 20.

42 *Ibid.*

43 European Court of Human Rights, *Case of Sejdić and Finci v. Bosnia and Herzegovina*, 22 December 2009.

44 European Commission, "Bosnia-Herzegovina – EU: Deep disappointment on Sejdić-Finci Implementation", 18 February 2014, available at: http://europa.eu/rapid/press-release_MEMO-14-117_en.htm.

Herzegovina and other post-Yugoslav states,⁴⁵ many Romani individuals were able to acquire personal identification documents. However, as they realised that this would not give them the opportunity to be included on more equal grounds, they often “decided” to migrate to Western European countries and seek asylum. Most were aware that this would be a short-term solution via migration, since their request for asylum would not be approved. Nonetheless, even such short-term migration would help them survive the extreme cold in the winter and provide access to healthcare and education at least for a short period of time. When the European Parliament gave a green light to the visa waiver suspension mechanism, this also had a counter-effect, stigmatising Romani minorities even further. These minorities were now put into the centre of the debate as scapegoats when there was a need to blame someone lest the freedom of movement of all citizens of the countries involved be jeopardised. Consequently, this allegedly legitimised depriving them of the same freedom of movement other citizens would enjoy.⁴⁶

Another politicised case of juggling between some Western EU Member States (e.g., Germany and France) and post-Yugoslav, non-EU states directly affected a large number of Romani individuals who had formerly held refugee status. Due to repatriation agreements between the aforementioned parties, many Romani individuals were deported to their former post-Yugoslav states of origin.⁴⁷ According to a 2010 Human Rights Watch Report as many as 50,000 Romani individuals were forced to return to Kosovo from Western Europe.⁴⁸ However, for the time being, as some scholars have warned, the politics of return has not been followed by a politics of reintegration.⁴⁹ Moreover, since these individuals had established families in their places of destination, many of their children never knew the language

of the land their parents originated from.⁵⁰ This was seen in the case of the deportation of a French schoolchild, Leonarda Dibrani.⁵¹ Such forced migrations of those who were already integrated within their places of destination resulted in more new challenges and were far from providing solutions. These deportees faced dual forced migration: First they had to flee their places of origin due to war, and then they were forcibly returned to some place that had a completely different reality than the one before the war. In addition, as I was told by some of my interlocutors during fieldwork in different post-Yugoslav states,⁵² the forced return of refugees was, in many instances, also used to return the families of former *Gastarbeiter*. All of this shows that one of the most widespread policies vis-à-vis Romani minorities still involves (forced) migration, since none of the countries involved has the capacity or the will to deal with the complex position of these minorities.

Conclusion

In this article, I aimed to show that the migration patterns of individuals identified as belonging to post-Yugoslav Romani minorities are far more diverse than is usually presented. Similar to other scholarly investigations of Romani migration, I claimed that the reasons for migration cannot be reduced to a one-dimensional analysis finding reasons only in economic hardship and especially not in some innate feature of Romani culture (i.e., nomadism).⁵³ Not all Romani individuals decide to migrate and the “poorest of the poor”, who are often still lacking personal documents, have no means to do so. On the basis of my analysis, I conclude that even when the reason for migration can be manifestly seen in the economic situation of Romani

45 I am especially thankful to all the interlocutors that I interviewed during my fieldwork in 2012 and 2013: representatives and international organisations such as UNHCR, UNDP, OSCE and OSI as well as different representatives of Post-Yugoslav states and Romani and legal NGOs such as Praxis, Your Rights, Lil, Roma National Centrum, Sonce, Legal Centre, CRP Kosovo, Kali Sara and many others.

46 Kacarska, *Europeanisation through Mobility*, 21.

47 Biljana Đorđević, *Politics of Return, Inequality and Citizenship in the Post-Yugoslav Space CITSEE Working Paper 2013/29* (Edinburgh: University of Edinburgh, 2013), 21, available at: http://www.citsee.ed.ac.uk/working_papers/files/CITSEE_WORKING_PAPER_2013-29.pdf.

48 Augustin Palokaj, “Human Rights Watch denounces Roma deportations to Kosovo” *EU Observer*, 28 October 2010, available at: <http://euobserver.com/news/31143>.

49 Đorđević, *Politics of Return*, 22.

50 *Ibid.*

51 “Roma girl Leonarda Dibrani loses France residency bid”, *BBC NEWS*, 28 January 2014, available at: <http://www.bbc.co.uk/news/world-europe-25936784>.

52 Interview with the 33-year old Romani man (identity hidden).

53 Pantea, “Social ties that work”.

minorities, it also has to be taken into account that such economic situations have wider implications, which stem from how Romani minorities are positioned as citizens of their states. As I witnessed during my fieldwork research in different post-Yugoslav states, their positioning is usually still connected to lack of access to the most basic rights

(healthcare, education, employment, etc.), which other citizens belonging to majority populations take for granted. As long as they have no unconditional access to these most basic rights, migration will remain one of the alternative strategies of coping and will continue to be “an episode from the life of an iron picker”.

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Macedonia – Creating a Padlocked Cage for Roma Called “Measures for False Asylum Seekers”

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Liberty and freedom, taking the words in their most concrete sense, consist in the ability to come and go, to choose and to participate. This includes choosing travel destinations and your place of residence as well as exercising your own rights whenever and wherever you want, within the confines of the law.

Freedom of movement as a human rights concept is enshrined in many State constitutions as well as in international instruments for the protection of human rights and fundamental freedoms. However, it has been violated and obstructed by too many State authorities, including a small country that looms large in the legal work of the European Roma Rights Centre (ERRC): Macedonia. This article focuses on obstructions that Romani Macedonian citizens face when they try to exercise their freedom of movement, i.e. their fundamental right to leave their own country, which is guaranteed by the Constitution³ as well as by several international treaties which Macedonia has ratified.⁴

Citizens of Macedonia have enjoyed the right to visa-free travel to the Schengen Zone since 19 December 2009 and since that time have also enjoyed the right to visa-free travel to other EU countries within the Schengen Zone.

Unfortunately, when it comes to Roma from Macedonia and their ability to exercise their rights (even fundamental

ones), opportunities are unequal and rights are violated. Many Macedonian Roma face discrimination and other inappropriate treatment at the hands of border officials when they try to leave Macedonia.

As a response to intensified calls from EU officials⁵ to manage migration “properly”, and threats to suspend visa liberalisation and re-introduce visa requirements, the Macedonian Parliament adopted an amendment to the Law on Travel Documents (LTD) introducing new grounds for refusal to issue a passport or to revoke an existing passport. Article 37 paragraph 1 point 6 of the LTD⁶ stipulates that a person who has been forcibly returned or expelled from another country, due to violating laws on entering and staying in that country, shall not be issued with a passport. If the individual already has a passport it must be confiscated for a period of one year.⁷

This is a direct obstacle to the ERRC’s goal of ensuring that Roma are able to exercise their free movement rights. While the law is neutral on its face as to race and ethnicity, in practice it appears to result in a disproportionate number of Roma being deprived of their passports. The ERRC expressed its concern and has launched an initiative before the Constitutional Court of Macedonia claiming that amendments to the LTD of citizens of Macedonia are

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3 Article 27 paragraph 2, “Every citizen has the right to leave the territory of the Republic and to return to the Republic”, available at: <http://www.constitution.org/cons/macedoni.txt>.

4 Universal Declaration of Human Rights; European Convention on Human Rights (Protocol No.4); International Covenant on Civil and Political Rights.

5 ERRC, *Submission to the European Commission on Macedonia*, May 2012, available at: <http://www.errc.org/article/errc-submission-to-the-european-commission-on-macedonia-may-2012/3991>.

6 Article 37 paragraph 1, line 6 of the Law on Travel Documents (Сл. весник на РМ., бр. 67/92, 20/03, 46/04, 19/07, 84/08, 51/11, 135/11), Rejecting the application for issuance of passport or visa, i.e. seizing of passport and revoking of visa. “The submitted application for issuance of passport or visa shall be rejected and passport or visa will not be issued if: 6) the person is forcefully returned or expelled from another country due to actions contrary to the regulations on entry and stay in the said country. If one of the reasons referred to in paragraph 1 of this Article occurred after the issuance of the passport or the visa, the passport shall be seized and the visa revoked.”

7 *Ibid*; Article 38, paragraph 4.

in conflict with the Constitution of the Republic as well as with international instruments for the protection of human rights and fundamental freedoms.

In its Constitutional Court initiative, the ERRC requested the highest judicial authority of the country to declare certain amendments to the law – allowing for the revocation of passports in the circumstances described above – unconstitutional.

Here is part of what the ERRC argued:

1. We believe that Article 37 paragraph 1 line 6 of LTD is not in line with Article 27, paragraph 2 of the Constitution of the Republic of Macedonia,⁸ which guarantees the right of every citizen to leave the territory of the Republic and to return to the country, except in cases where this right may be restricted i.e. if it is necessary to protect the security of the state, for criminal investigation or for protection of human health (Article 27 paragraph 3 of the Constitution).⁹
2. Contested Article 37, paragraph 1, line 6 of LTD is not in line with Article 54 of the Constitution which provides that the rights and freedoms of man and citizen can be restricted only in cases determined by the Constitution. Conditions such as “forcibly returned or expelled from another country due to actions contrary to the regulations on entering and staying in the said country “ envisaged under Article 37, paragraph 1, line 6 of LPD, restrict the constitutionally guaranteed freedom of movement provided for in the Constitution (Article 27, paragraph 3); therefore, the contested Article of the LTD is contrary to the Constitution of the Republic of Macedonia.
3. Article 2, paragraph 2 of Protocol 4 of the Convention guarantees the right of everyone to leave any country, including his own.¹⁰
Any restriction of the right to leave the country under Article 2, paragraph 2 of Protocol No. 4 to the

Convention must be based on one or more legitimate purposes, including the interests of national security or public safety, for the maintenance of public order, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others in a democratic society (Article 2, paragraph 3 Protocol no. 4) as “necessary in a democratic society”.¹¹

4. Besides the above-mentioned violations, Article 37 paragraph 1 line 6 of the LTD is also inconsistent with other international instruments for the protection of human rights and fundamental freedoms, including Article 12, paragraph 2 of the International Covenant on Civil and Political Rights,¹² and Article 13, paragraph 2 of the Universal Declaration of Human Rights.¹³

The law currently grants the authorities excessive powers to revoke passports, and these powers significantly worsen the situation of Macedonian Roma who wish to exercise their free-movement rights.

Macedonia must respect the rule of law and fundamental human rights. Moreover, given the gravity of the above-mentioned information, Macedonia has to respect the principle of legality and the highest act in its legal framework and system, the Constitution.

The Constitutional Court Decision

The highest judicial authority of the country -the Constitutional Court - ruled on 25 June 2014 that the provisions of the Law outlined above, and challenged by the ERRC, which allowed the authorities to impose severe restrictions on the freedom of movement of Macedonian citizens, are incompatible with the freedom of movement protected in the Constitution.¹⁴

8 Article 27 paragraph 2, “Every citizen has the right to leave the territory of the Republic and to return to the Republic”, available at: <http://www.constitution.org/cons/macedoni.txt>.

9 *Ibid.*

10 Article 2, paragraph 2 of the Protocol 4 of the Convention.

11 *Ibid.*

12 Article 12, paragraph 2 of the International Covenant on Civil and Political Rights, “Everyone shall be free to leave any country, including his own”.

13 Article 13, paragraph 2 of the Universal Declaration of Human rights, “Everyone has the right to leave any country, including his own, and to return to his country”, available at: <http://www.un.org/en/documents/udhr/>.

14 European Roma Rights Centre, “Highest court in Macedonia upholds freedom of movement for all Macedonians, including Roma”; press release, 15 July 2014, available at: <http://www.errc.org/article/highest-court-in-macedonia-upholds-freedom-of-movement-for-all-macedonians-including-roma/4301>.

The Macedonian Government argued that the passport revocation measure was necessary to prevent or minimise the risk of individuals violating the immigration laws of other countries, thus damaging the country's reputation.

However, the Constitutional Court concluded that these reasons were not legitimate. The Constitution sets out an exhaustive list of the grounds for restricting the right to leave the country: national security, public health and the conduct of criminal proceedings. Protecting the country's reputation or the immigration laws of another country does not fall within any of these categories. In addition, the Court stated that such a blanket measure was not proportionate because it imposed excessive limitations on the freedom of movement. Therefore the Court concluded that Article 37 paragraph 2 point 6 and Article 38 paragraph 4 of the Law were unconstitutional and in violation of Article 27 of the Constitution. The Court referred to several human rights instruments and rulings, including the *Stamose v. Bulgaria*¹⁵ judgment of the European Court of Human Rights, concerning a Bulgarian national whose passport had been confiscated by the Bulgarian authorities for a period of two years because he had breached the immigration laws of the United States.

Testing at Border Crossings

Additionally, the ERRC and other local NGOs from Macedonia (notably KHAM from Delchevo) have separately conducted research around this issue in the field. The results vary, but they all point in the same direction: Discriminatory

treatment of Roma by border officials when it comes to their right to leave their own country. Between 2011 and 2013, the ERRC documented the cases of 74 Romani individuals who were prevented from exiting the country as well as 24 cases of passport revocations¹⁶ by Macedonian border officials. Additionally, the ERRC, while working in the field, has become aware of another 50 similar cases.

- 90% of the ERRC's documented cases show that only Roma were asked for evidence to justify why they were travelling (i.e. in cases when Roma and non-Roma were travelling together).
- 60% of Roma involved in these cases were told by border officials that officials had been instructed to restrict the rights of the people concerned. It appears that they were "instructed" to act based on the race of those crossing the border.
- 30% of the Roma concerned were told explicitly by border officials that they could not cross the border due to their ethnicity, that is, they were explicitly told that they could not cross the border because they were Roma.

These practices must change. The situation of the Roma community generally, in times of difficulty and crisis in relation to the respect for human rights in Macedonia, is dramatic and requires systematic solutions.

Let us hope that this article and the above-mentioned activities will raise the concern of at least some responsible agents/stakeholders and that in the near future Roma will be treated equally and not discriminated against.

15 *Stamose v. Bulgaria*, available at: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115160#{"itemid":\["001-115160"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-115160#{).

16 For example, the cover image used for this issue of Roma Rights shows a stamp which indicates that a passport has been checked and the two lines above the stamp indicate that the holder was refused permission to cross the border.

Romani Migration Resulting in Statelessness: The Case of Bosnia and Herzegovina

MAYLIS DE VERNEUIL¹

Abstract:

For different reasons, often linked with migration, tens of thousands of Roma live in Europe with undetermined nationality and no citizenship of any state.² Lacking birth certificates, identity cards, passports and other documents, they are often denied basic rights such as education, health care, social assistance and the right to vote. During the Yugoslav conflicts of the 1990s, some Romani families migrated in and out of Bosnia and Herzegovina, which undermined their access to citizenship of the newly instituted republics. Twenty years later, with the process of EU enlargement, Roma who fled situations of extreme marginalisation are being confronted with forced returns to countries where they are not always considered citizens. In Bosnia and Herzegovina, despite the initiatives and efforts of various national and international human rights organisations, there are still about 5,000 Roma lacking personal identification documents and who are, de facto, in a situation of statelessness.

Introduction

In October 2013, the first census since 1991 took place in Bosnia and Herzegovina (BiH).³ Out of 3.8 million inhabitants, the Roma population is estimated to be roughly between 40,000 and 100,000.⁴ However, it is difficult to assert accurate figures, since Romani individuals often do not dare declare themselves as such. Indeed, they fear negative consequences should they do so, such as being unable to find a job or losing the few social benefits they are entitled to receive and ultimately have more interest in declaring themselves members of the “Constituent Peoples” (i.e., Serbs, Croats and Bosniaks).⁵

In December 2009, the European Court of Human Rights (ECtHR) condemned Bosnia and Herzegovina in the case *Sejdić and Finci* for its discriminatory Election Law.⁶ According to the actual Bosnian law, Roma belong to the others category, defined in the Bosnian Constitution as those who do not declare themselves Bosniak, Bosnian Serb or Bosnian Croat. The others are still denied the right to stand for election to the tripartite Presidency as well as to the House of Peoples

of the Parliamentary Assembly. Despite pressure from the European Union (EU), the Council of Europe (CoE) and other international organisations on the Bosnian authorities to amend the BiH Constitution, no change on this issue has been initiated in four years. Discrimination and access to rights is an ongoing matter of concern for Roma living in BiH and is compounded by the fact that they often face difficulties in obtaining documentation and civil registration.

Last August, the Bosnian film director Danis Tanović opened the 19th Sarajevo Film Festival with the movie *An Episode in the Life of an Iron Picker*,⁷ which features a Romani woman who risks death because she does not have a state-provided health insurance card and consequently cannot be admitted to hospital for emergency care. The film, based on a true story, illustrates the current difficulty for Roma in accessing healthcare, like other basic rights, in BiH. Indeed, in the Federation of Bosnia and Herzegovina, access to health care is specifically linked to employment. Those who are unemployed must register as unemployed with the local employment bureau in order to be

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2 Among the millions of stateless people worldwide, the UN refugee agency estimates that more than 680,000 live in Europe. See: <http://www.unhcr.org/pages/4e12db4a6.html>.

3 In 1991, the population of the Yugoslav Republic of Bosnia and Herzegovina was 4,377,033 individuals. Only 8,864 persons declared themselves to be Roma (while they were most probably much more numerous in reality).

4 Unofficial estimations by the Decade of Roma Inclusion and the Roma Information Centre in Sarajevo, available at: <http://bhric.ba> and <http://romadecade.org/article/bosnia-and-herzegovina/9304>.

5 This is the phrase formulated in the Constitution of Bosnia and Herzegovina. For further references, see European Roma Rights Centre (ERRC), *The Non-Constituents. Rights Deprivation of Roma in Post-Genocide Bosnia and Herzegovina*, (Budapest, February 2004).

6 European Court of Human Rights, *Sejdić and Finci v. Bosnia and Herzegovina*, Applications nos. 27996/06 and 34836/06, (22 December 2009), available at: <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-96491>.

7 Original title in Bosnian language: “Epizoda u životu berača željeza” (2013).

eligible for health insurance. However, anyone who does not register within 30 days of finishing school, losing a job, or moving to a new canton becomes ineligible.⁸ This article will outline in this first part, how, in the Bosnian context, such rules clearly put Roma at a disadvantage.⁹

In the aftermath of the disintegration of Yugoslavia and of the Balkan wars, groups of people fell between the cracks created by new nationality laws and became stateless (this will be outlined below). Although many have since managed to establish their citizenship, members of minority groups, especially Roma, continue to face difficulties obtaining the documents necessary to confirm nationality.¹⁰ The recent accession of BiH to the EU visa liberalisation regime opened the possibility to discriminated individuals to leave countries of which they were not “nationals” and to migrate in search of a better life. Nonetheless, the EU pressured the Western Balkan countries to take “additional measures” in order to curb emigration, notably Romani emigration (see below). As a consequence, some Romani families were sent back to countries newly categorised as “safe”, creating further situations of forced migration and, in some cases, putting them at risk of statelessness.¹¹

The purpose of this article is to survey the causes and consequences of statelessness among the Romani population, highlighting the successive displacements of Roma in and out of BiH and their subsequent lack of legal identity documentation as root causes. In the final part, this paper also identifies initiatives that provide possible solutions for these “people who do not have the right to have rights”.¹²

Statelessness in the Bosnian Context

Since the two world wars and the phenomena of massive displacement of populations, as well as the reshuffling of

state borders, various international standards have been drawn up to protect the right of each person to have a nationality and to avoid statelessness. Notably, the 1954 United Nations (UN) Convention relating to the Status of Stateless Persons defines in its Article 1(1) the term stateless person as a “person who is not considered as a national by any state under the operation of its law”. When it became independent on 6 April 1992, Bosnia and Herzegovina, as one of the successor states to the former Socialist Federal Republic of Yugoslavia (SFRY), inherited its contracted international treaties and conventions, including the above mentioned one and the 1961 UN Convention on the Reduction of Statelessness. BiH has also ratified the 1997 CoE European Convention on Nationality, which includes a separate chapter on statelessness in the context of state succession. BiH is also bound by the core human rights treaties: The right to recognition before the law is guaranteed under Article 16 of the International Covenant on Civil and Political Rights, and the right of children to acquire a nationality, and in particular the need to avoid the statelessness of children, is set out under Article 7 of the Convention on the Rights of the Child.

In BiH, most cases of *de jure* statelessness are merely the result of an absence of legal ties between individuals and the state, resulting in the impossibility of accessing Bosnian citizenship. Despite the obligations outlined in treaties and conventions, there are various socio-economic factors that contribute to many of the cases of statelessness. For example, there are cases where Romani mothers who are unable to pay for maternity care flee the hospital with their new-born child before receiving a birth certificate for the infant. Similarly, for Romani children born at home, it can be prohibitive for the families to procure a birth certificate because of administrative costs or fines. A person without a birth certificate will then be unable to access a personal identity card, health insurance, a passport and other documents, and consequently will be unable to enrol in

8 Cf. the Law on Health Insurance of the Federation of Bosnia and Herzegovina, *Official Gazette of the Federation of Bosnia and Herzegovina*, Numbers 30/97, 7/02 and 70/08, available at: <http://www.fbihvlada.gov.ba/english/zakoni/index.php>.

9 Human Rights Watch, *Second Class Citizens - Discrimination against Roma, Jews, and Other National Minorities in Bosnia and Herzegovina* (New York, April 2012), 42, available at: http://www.hrw.org/sites/default/files/reports/bosnia0412ForUpload_0_0.pdf.

10 The terms ‘citizenship’ and ‘nationality’ are sometimes used interchangeably, but one can distinguish between them. Citizenship is a legal status within the political institution of the state, and includes rights and duties, while nationality denotes informal membership in or identification with a particular nation, characterised notably by common linguistic and cultural elements. In the Western model of nation-state, where the boundaries of the nation and the state coincide, the distinction appears unnecessary, as all citizens are also nationals. The majority of contemporary states are, however, multi-national.

11 Chachipe, *Selective Freedom: The Visa Liberalisation and Restrictions on the Right to Travel in the Balkans* (Luxemburg, June 2012), 6, available at: http://romarights.files.wordpress.com/2012/07/chachipe visa liberalisation_report_270612.pdf.

12 This phrase is from Hannah Arendt, *The Origins of Totalitarianism* (New York, 1951).

school, gain access to healthcare or secure social assistance benefits to which he/she might be otherwise entitled, including social housing. Such persons effectively have no administrative existence, which can also affect the status of their children and grandchildren, eventually resulting in intergenerational exclusion.¹³ Undocumented Roma whose births are not registered in the basic registers of birth and who consequently are not registered as citizens are therefore at risk of statelessness. This is mainly due to a historical tradition of mistrust and marginalisation of Romani communities and a lack of information about their rights and the entitlements they are eligible for.

Despite the implementation of countrywide civil registration projects, the United Nations High Commissioner for Refugees (UNHCR) estimates that around 5,000 unsolved cases of statelessness remain among the Romani families who have migrated or have been forced to migrate to BiH.¹⁴ In the Bosnian context, the disintegration of the SFRY, the war and displacement generated cases of change or loss of citizenship.

Romani Migrations before the Break-Up of Yugoslavia Resulting in Difficulty in Accessing Citizenship

Since 1967, when the state borders opened, citizens of the Socialist Federal Republic of Yugoslavia enjoyed freedom of movement and could travel to Western European countries in order to work. Thus, until 1991, thousands of Roma migrated together with other Yugoslavs for economic reasons.¹⁵

After the disintegration of the SFRY, federal citizenship ceased to exist and each successor state granted citizenship

to those who held its republican citizenship according to the principle of legal continuity. However, the republican citizen registers were in many instances incomplete. Another issue was that many people did not possess the republican citizenship of the state they resided in, which left them in a sort of “legal limbo”, as they then became non-citizens.¹⁶ For example, Roma who were born in one republic and had moved to another to work did not necessarily have proof of their residence in the second republic. That was due to the fact that some Romani individuals were unable to register their property and obtain residence permits because they were living in improvised or substandard housing conditions. Most of these people could not be considered *de jure* stateless since they did possess the citizenship of another post-Yugoslav state.

Some Romani communities notably became *de facto* stateless, or, as the UNHCR refers to this phenomenon, found themselves in the position where they were “at risk” of becoming stateless.¹⁷ Professor Weissbrodt claims that the legal definition of statelessness is too narrow to encompass all the cases of people who are in effect stateless although they are *de jure* citizens of a certain state. That is why he uses the term *de facto* statelessness: “Persons who are *de facto* stateless often have nationality according to the law, but either this nationality is not effective or they cannot prove their nationality.”¹⁸

In this regard, Slovenia was condemned by the ECtHR in the important *Kurić* case for violations of Articles 8, 13 and 14 (respect for private and family life, right to an effective remedy and non-discrimination) of the European Convention on Human Rights for having “erased” about 20,000 individuals from the civil register in 1992 on the basis that they had not applied for citizenship on time, making these individuals *de facto* stateless.¹⁹ The Court found that the

13 Commissioner for Human Rights, *Human Rights of Roma and Travellers in Europe* (Council of Europe Publications, Strasbourg, February 2012), 184, available at: http://www.coe.int/t/commissioner/source/prems/prems79611_GBR_CouvHumanRightsOfRoma_WEB.pdf.

14 UNHCR, *Global Appeal 2012-2013*, 248, available at: <http://www.unhcr.org/4ec23109a.pdf>; and see also UNHCR, 2014 Regional operations profile – Bosnia and Herzegovina, available at: <http://www.unhcr.org/pages/49e48d766.html> and UNHCR, Report on Statelessness in South Eastern Europe, September 2011, available at: <http://www.refworld.org/docid/514d715f2.html>.

15 According to European Social Science History Conference (ESSHC) in the decade 1964-1973 the number of Yugoslav citizens in European and overseas countries had grown from a few thousands to almost 1.5 million. The total of emigrants until 1988 was estimated to 679, 800. See the report “Economic Growth: from Open Labour Market to Fortress Europe”, available at: <http://www.let.leidenuniv.nl/history/migration/chapter9.html>.

16 Julija Sardelić, “Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes”, in *CITSEE Working Paper Series* n° 2013/31 (Edinburgh, Scotland, UK, 2013), 16-17.

17 See UNHCR note on its activities linked with statelessness, available at: <http://www.unhcr.org/3ae68cf74.html>.

18 David Weissbrodt, *The Human Rights of Non-Citizens* (Oxford: Oxford University Press, 2008), 84.

19 European Court of Human Rights, *Kurić and Others v. Slovenia*, Application no. 26828/06, (26 June 2012), available at: <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-111634>.

measures had disproportionately affected Roma and other “new minorities” (Albanians, Bosniaks, Croats, Serbs, etc.) most of whom, at the time of the Yugoslav disintegration, possessed federal citizenship and sometimes the citizenship of another republic, but had permanent residence in Slovenia.

In a different context, Roma who left Bosnia and Herzegovina in the 1980s and 1990s and went to work in Italy, Germany and elsewhere experienced particular challenges when their Yugoslav passports expired. Their Yugoslav documents having become invalid, the lack of proof of residence in one or another republic and the difficulty of obtaining efficient support from the few newly-established embassies hindered them from securing valid residence permits in destination countries and finally rendered impossible their access to citizenship, even if they met the requirements for naturalisation.²⁰ In the meantime, the war in Bosnia and Herzegovina displaced about 2.2 million people (UNHCR estimate), half of whom went abroad, also resulting, in some cases, in a change to or loss of citizenship.²¹

Romani Migrations during the Yugoslav Conflicts Generating Inextricable Cases of Stateless People

During the wars in Bosnia and Herzegovina (1992-1995), Croatia (1991-1995) and Kosovo (1999), many Roma found themselves caught in between the various combatants and had to flee their homes, including fleeing into or out of BiH. They became refugees and internally displaced persons with few prospects of returning to their places of origin without risking reprisal and persecution.²²

Romani returnees experienced more difficulties than other returnees in reclaiming their pre-war possessions and reconstruction of their destroyed properties. There have been many

cases of hostility and violence against Romani returnees, as well as frequent instances of looting of Romani properties, which discouraged many people from exercising their right to return.²³ Within BiH, most of the Romani population used to live on the territory of what is now Republika Srpska. Because they were victims of killings, detention and deportation, notably in the Prijedor region, they are nowadays displaced to the current territory of the other entity, the Federation of Bosnia and Herzegovina. Not only do they have little hope of recovering their lost property, they also face the problem of not being able to provide the proof of residency necessary to access citizenship. Regrettably, the BiH State has not yet set up a national coordination mechanism between its two separate entities for civil documentation and registration.²⁴

The risk of statelessness particularly affects Roma who fled Kosovo in 1999 to come to BiH and lost everything, including their papers. In the meantime, part of the registries of the personal and property status of citizens were relocated and are now administered at different locations in central and southern Serbia, while the remaining registries are administered in Kosovo.²⁵ Unfortunately, there is little co-operation between Kosovo and Serbia on such matters and the cost of the administrative procedures, including long and repeated journeys, can prove too high for many Romani individuals. The volatile security situation also prevents many Romani individuals from travelling to Kosovo and personally filing for documents with different institutions and companies. In addition, service fees for lawyers are extremely expensive and there are very few non-governmental organisations providing free legal assistance for obtaining documents. An additional problem emerges when registries have been destroyed or lost during the Kosovo conflict and individuals have to provide proof in order to re-register in birth registries. The competent authorities often avoid their responsibility to obtain the required evidence, especially when the applicants are Roma,

20 Commissioner for Human Rights, *Human Rights of Roma*, 189.

21 For further reference, see Zehra Kačapor-Džilić and Nermin Oruč, *Social Impact of Emigration and Rural-Urban Migration in Central and Eastern Europe – Bosnia and Herzegovina*, Final Country Report for the European Commission DG Employment, Social Affairs and Inclusion (April 2012).

22 Julija Sardelić, “Romani Minorities Caught in-between: Impeded Access to Citizenship and de facto Statelessness in the Post-Yugoslav Space”, in *CITSEE study blog* (September 2013), available at: <http://www.statelessness.eu/blog/romani-minorities-caught-between-impeded-access-citizenship-and-de-facto-statelessness-post#sthash.8Ikfcx50.dpuf>.

23 Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Bosnia and Herzegovina*, (adopted on 9 October 2008), Strasbourg, 17 & 24, available at: http://www.coe.int/t/dghl/monitoring/minorities/3_fc-nmdocs/PDF_2nd_OP_BiH_en.pdf.

24 The Federation of Bosnia and Herzegovina, Republika Srpska (Brčko District is held in condominium).

25 Praxis, *Persons at Risk of Statelessness in Serbia*, (Belgrade, 2010), 9.

and in the end the entire burden of providing evidence lies with the applicants.²⁶ According to the non-governmental organisation (NGO) Society of Threatened Peoples, there are 2,000 to 3,000 Romani individuals in BiH who originally came from Kosovo and now live in informal settlements with undetermined citizenship status and no possibility of proving their identity.²⁷ Here again, it is very difficult to secure precise figures. Since these people are not recognised before the law, they are “legally invisible” to the authorities and thereby prevented from enjoying any basic rights. As a consequence, although they have been living in BiH for 15 years, some Romani families cannot regularise their situations and gain access to naturalisation. In that sense, there are similarities with the Romani population who fled the Yugoslav wars and migrated to Western Europe.

Fifteen years after the end of the Yugoslav conflicts, tensions remain in the region, and tens of thousands of people are still displaced within south-eastern Europe, fearing repercussions or simply not willing to return to places where they experienced tragedies. In spite of this, from the early 2000s, Western European countries have started to send refugees, people under temporary protection and other migrants back to the Balkan region without any guarantee that their rights, including access to documentation, will be respected.

EU Visa Liberalisation Dialogue, Forced Returns to Western Balkan Countries and the Neglect of Statelessness

In December 2010, Bosnia and Herzegovina benefited from the EU visa-free regime allowing Bosnian citizens possessing biometric passports to travel to and throughout the Schengen area without a visa. The decision to lift the visa obligation was based on an assessment of BiH’s progress in

fulfilling the requirements of their visa liberalisation roadmap in areas including document security, border and migration management, asylum, the fight against organised crime and corruption, and fundamental rights related to freedom of movement. Interestingly, BiH’s obligations included the adoption of a Reintegration Strategy for returnees as well as a Roma Strategy to improve the situation of the Romani population. Moreover, one of the recommendations of the roadmap monitoring report was to simplify procedures providing identity documents for displaced persons and refugees, as well as to facilitate naturalisation.²⁸

Yet, the roadmap also imposed an obligation on BiH to fully implement the Readmission Agreement signed with the European Commission in 2008, and notably to readmit third-country nationals onto its territory. The purpose of the agreement was to introduce rapid and effective procedures for the identification and repatriation of persons who did not, or no longer, fulfil the conditions for entry or residency or presence in EU countries. These agreements apply both to Bosnian nationals and to nationals of other EU states, as well as to nationals of third countries who are in an irregular situation and are stateless.²⁹ Furthermore, among the required commitments for Western Balkan governments in the course of the EU accession process was the commitment to “facilitate the swift return of irregular migrants”.³⁰

In December 2011, the European Commission requested that the countries of the Balkans stop the influx into the EU of asylum-seekers suspected to be economic migrants since countries benefiting from the visa-free regime were supposed to be already respecting human rights and protecting minorities. Human rights NGOs reacted immediately, expressing their concerns regarding the protection of migrants, refugees and asylum-seekers, and calling for respect for international obligations in this matter, but they were not heard.³¹

26 Praxis, *Protection of Rights of IDPs in Anticipation of a Durable Solution* (Belgrade, March 2009), 13-14, available at: http://www.praxis.org.rs/images/praxis_downloads/praxis-report-protection-of-rights-of-idps-in-anticipation-of-a-durable-solution-published.pdf.

27 See the website: <http://gfbv.ba>.

28 European Commission, *Fourth Report on the Post-Visa Liberalisation Monitoring for the Western Balkan Countries* (Brussels, November 2013), 5-6, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0836:FIN:EN:PDF>.

29 ACIPS Association (Alumni of the Center for Interdisciplinary Postgraduate Studies), *Towards the White Schengen List: Implementation of the Roadmap on Visa Liberalisation in Bosnia and Herzegovina* (Sarajevo, November 2009), available at: http://www.acips.ba/eng/uploads/research/acips_vize_eng.pdf.

30 In the *Communication from the European Commission to the European Parliament and the European Council on the Evaluation of EU Readmission Agreements*, (Brussels, 23 February 2011), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0076:FIN:EN:HTML>.

31 Amongst the international obligations contracted by all EU countries is the respect of the principle of freedom of movement, including the right for an individual to leave any country including his or her own, and the right to asylum, which are protected by article 13 of the Universal Declaration of Human Rights (UDHR), article 12 of the International Covenant on Civil and Political Rights (ICCPR), and article 2 of Protocol No. 4 to the European Convention on Human Rights (ECHR), and by article 14(1) of the UDHR and the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

The political decision of the EU member states to consider Western Balkan countries as “safe” countries of origin had some impact on asylum procedures. Notably, since then asylum applications by citizens of these countries are examined in the context of accelerated procedures, generating a high number of negative decisions which are frequently rejected on appeal and ultimately result in forced returns.³² Despite little improvement in the field of human rights in the former Yugoslav countries, EU countries have been accelerating the return of asylum-seekers, including Roma, without taking into consideration the extremely difficult conditions they meet upon their return.³³ Apart from recommendations in roadmap monitoring reports and progress reports there has been no follow-up on statelessness or risk of statelessness issues.³⁴

Hence, it comes as no surprise that Thomas Hammarberg, the former CoE Commissioner for Human Rights, deplored the increase in the number of asylum applications as a symptom of Europe’s failure “to break the cycle of anti-Gypsyism, discrimination and marginalisation of Roma populations”.³⁵ Displaced Roma should enjoy the right to stay in a third country where they became resident and to apply for naturalisation there when they meet the legal requirements. The right to citizenship is the basis of all other rights, especially for minorities, and should not be forgotten by EU policies.

Recommendations and Prospects Ahead

Aware of the risk of statelessness within Romani communities, international organisations such as the UNHCR, Romani associations and NGOs such as Vaša Prava³⁶ have led registration projects focusing on civil registration and access to rights including citizenship.³⁷ Activities generally include public awareness, outreach, counselling and free legal assistance throughout the registration and documentation process.

The projects also aim to change the approach of the Bosnian authorities towards Romani registration through capacity building and advocacy at the local, entity and state level, including recommendations to facilitate administrative procedures and to lower or waive fees.

On the issue of Roma and statelessness in Europe, the former CoE Commissioner for Human Rights has urged measures be adopted by CoE member states, including providing free legal aid for proceedings aimed at securing documentation and waiving fees for civil registration for those in destitution to make it possible to establish personal status through simplified procedures. Such procedures include allowing witness testimonials when no other evidence can be obtained, strengthening the role of Ombudsperson institutions to solve these issues, and adopting clear and workable action plans with Roma participation. Mr Hammarberg also stressed the fact that European host states where children of Romani migrants have been born and have lived for several years should respect their international obligations and do their utmost to provide a secure legal status to these children and their parents. In particular, the Commissioner emphasised that the 1997 European Convention on Nationality and the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession both contain the obligation for States parties to avoid situations of statelessness, to grant nationality to children born on their territories who do not acquire another nationality at birth and finally, to provide their nationality-related decisions and rationales in writing.³⁸

In parallel, the former OSCE High Commissioner on National Minorities (HCNM), Knut Vollebaek, speaking before the OSCE Permanent Council on 17 November 2011, called for participating states to remain committed to tackling the risk of statelessness by addressing the lack of registration and civil documentation in south-eastern

32 Chachipe, “Roma pay the price of visa liberalisation” (Luxemburg, 2012), available at: <http://romarights.wordpress.com/2012/07/03/chachipe-roma-pay-the-price-of-visa-liberalisation-ngo-survey-says/>.

33 Tatjana Perić, “They Do Not Want Us to Return: Bosnia and Herzegovina - Expelled Roma in Former Yugoslavia Testify”, in *Roma Rights* (2002), available at: <http://www.errc.org/article/expelled-roma-in-former-yugoslavia-testify/949>.

34 European Commission, *Bosnia and Herzegovina 2012 Progress Report* (Brussels, October 2012), 20, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ba_rapport_2012_en.pdf.

35 Commissioner for Human Rights, “The right to leave one’s country should be applied without discrimination”, in *Human Rights Comment* (November 2011), available at: http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=193.

36 See Vaša Prava website: <http://www.vasaprava.org>.

37 See UNHCR website: <http://www.unhcr.org/pages/49e48d766.html>.

38 Commissioner for Human Rights, *Human Rights of Roma*, 192.

Europe. Continuing the OSCE-supported Sarajevo Process launched in 2005 to solve the issues of refugees and displaced persons following the Yugoslav wars, the Zagreb Declaration (October 2011) includes recommendations to remove obstacles to civil registration and documentation, particularly for vulnerable people and marginalised groups such as Roma.³⁹ It marks the beginning of a concerted, regional effort to identify and help people at risk of statelessness in Bosnia and Herzegovina, Croatia, Montenegro and Serbia, eventually facilitating access to citizenship for stateless people. In this context, BiH is now working to facilitate the issuance of passports for its nationals residing in Croatia and Montenegro through its embassies in those countries. This should allow affected individuals to apply for permanent residence and regularise their status. They can also benefit from a reduced fee for issuing a Bosnian passport. Nevertheless, even the reduced fee is very high for refugees or stateless people and many cannot afford it. Other support includes an initiative at UNHCR's request in which the Bosnian Ministry for Human Rights and Refugees (MHRR) helped approximately 50 vulnerable individuals acquire the supporting documents required to obtain a BiH passport, such as birth and citizenship certificates.⁴⁰ Probably one of the main hurdles remaining is that the Western Balkan countries still lack co-operation and coordination when it comes to the reciprocal recognition of documents, exchange of information or access to civil registries.

Conclusion

A few years ago, the theme of the integration of stateless persons into an "EU citizenship" was developed in the context of the proposed European Constitution. The idea was that this EU citizenship status would not be contingent upon Member State nationality and would respect international

standards for the prevention of statelessness and the protection of stateless persons.⁴¹ As generous as this proposal appears, the 28 citizenship and nationality laws of the Member States have not yet fused into a unique EU one, and states remain the main players in statelessness avoidance and reduction. Throughout greater Europe, gaps in nationality legislation continue to create situations of statelessness. In this regard, one can welcome the passing of an amendment to the Law on BiH Citizenship by the Bosnian Parliament in November 2013 that simplifies the procedure of naturalisation for refugees and stateless persons, notably reducing the conditions, lowering the minimum period of residency from eight to five years, and facilitating the means of proof, notably by accepting witness testimony when official documents are missing and not available anymore.⁴² Nevertheless, in order to fully implement this amendment, the two Bosnian entities still have to bring their legislation into compliance with state law and harmonise with each other, which could take many more months.

Bosnia and Herzegovina still faces difficulties in fulfilling its international human rights commitments in general, notably the revised strategy for the implementation of Annex VII of the Dayton Peace Agreement on the return of refugees and displaced persons.⁴³ In July 2014, Bosnia and Herzegovina will assume the one-year presidency of the Decade of Roma Inclusion (2005-2015).⁴⁴ Taking into account that one of the Roma Decade objectives is to foster birth registration and access to documentation for Roma and that the Decade Conference held in Skopje in April 2012 was entitled "Addressing the Problems of Persons without Documents and Access to Rights", let's hope that BiH will keep on track toward recognising the right to citizenship for all its long-term residents. After all, this year also marks the 60th anniversary of the 1954 UN Convention relating to the Status of Stateless Persons.

39 See Zagreb Declaration, (27 October 2011), available at: <http://www.osce.org/hcnm/85249>; For further information on the Sarajevo Process, see for example <http://www.osce.org/zagreb/26483>.

40 Stephanie Woldenberg, "Access to Civil Documentation and Registration in South Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration", Report for the OSCE HCNM, (October 2013), 17, available at: <http://www.refworld.org/docid/5280c5ab4.html>.

41 Jasminka Dedić, *Roma and Statelessness*, Study for the European Parliament Committee on Civil Liberties, Justice and Home Affairs, Brussels, (26 June 2007), 13, available at: http://www.europarl.europa.eu/hearings/20070626/libe/dedic_en.pdf.

42 Official version in Bosnian language only (*Dokumenti 9*), available at: https://www.parlament.ba/sadrzaj/plenarne_sjednice/dom_naroda/default.aspx?wsrid=34&wsid=828&langTag=bs-BA&pril=b.

43 The Agreement is available at: <http://www.mhrr.gov.ba/PDF/Izbjeglice/Revidirano%20strategija%20Engleski.pdf>.

44 See: <http://romadecade.org/about-the-decade-presidencies>.

Residence: Nowhere

BARBARA PIERRO,¹ EMMA FERULANO,² AND KITTI BARACSI.³

“The tradition of the oppressed teaches us that the ‘state of emergency’ in which we live is not the exception but the rule.”
(Walter Benjamin)⁴

The Country of Emergency

This paper intends to describe the complex situation of Roma from the former Yugoslav member states who live in Italy in an ongoing legal limbo due to lack of citizenship, both Italian and that of their parents’ country of origin. The paper is the result of an analysis of the previous research findings⁵ as well as the social, political and legal actions realised by the Association *chi rom e... chi no* during their 12-year-long engagement in the neighbourhood of Scampia in Naples. Even now, Italy remains a country of “emergencies” as well as of “camps”, characterised by its widely-known security ordinance about “nomad camps”⁶ and ruled by sectorial and exclusive policies.

In Italy, two years after the publication of the National Strategy for the Inclusion (NRIS) of Roma, Sinti and Caminanti (RSC), in the total absence of any monitoring and evaluation system, only the watchwords have changed

suggesting a certain “rhetoric”. Meanwhile local administrations, in the absence of a national institutional and regulatory framework, make decisions based on periodical internal emergencies in contrast to the guidelines of the NRIS and European policies and recommendations.

In almost every region of the country - with a few, but significant exceptions - there is a lack of long-term strategies and joint policies regarding legal, housing, educational, labour, or health issues in the framework of inclusion through interventions addressing the territories and their inhabitants, including Roma, Italians and foreigners, with situation-based specific actions. Problems related to lack of documents, visas, residence permits and statelessness, social, economic and political discrimination towards Roma communities and the lack of a general integrated approach and policies are long-standing Italian questions that are more serious because of the complex general situation in both Scampia and Naples.⁷

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4 Benjamin, “On the Concept of History” in H. Eiland & M. W. Jennings (eds.) *Walter Benjamin: Selected Writings* (Volume 4: 1938-1940) (Cambridge: Harvard University Press).

5 Among others:

Ferulano, Pierro, contribution to: European Commission for the Rights of the European and ERRC, *Safeguard of rights of Roma children in the Italian system*, (2010) report, covering five European countries, including Italy (Naples, Marotta e Cafiero, 2012);

European Union, Soros Foundation, Fundación Secretariado Gitano, Ministry of Work and Foreign Affairs of Romania *Labour inclusion of Roma people in Europe*, report for the project “EU – Inclusive” 2011;

Braucci, Ferulano, Pierro, “Voci dei nostri giovani” in *Traffici Criminali*, ed. Bollati and Boringhieri (Naples, University of Naples, Faculty of Sociology and Osservatorio anti-camorra), 265 – 280.

Baracsi, Ferulano, *The dead souls - the dilemmas of ethnographic research and intervention in a public project for Roma students, in Scampia, Naples* (conference, Oxford New College, Ethnography and Education Conference, September 2013).

Ferulano, Pierro contribution to Baracsi, “The Labour Market of the Others: Economic strategies in Four Eastern European Roma communities in Campania, Italy”; The research project was developed within the ERSTE Foundation Fellowship for Social Research 2013.

Chi rom e...chi no, Osservazione, *Ambito 7: Extended reflections about Roma, the city and the national policy. Proposal of planning and interventions in the northern periphery of Naples* (proposal, Naples, 2008).

6 Italian Government’s declaration of the “Emergency of nomad camps”, O.P.C.M. 3678, 30 May 2008.

7 According to the last national census in 2011 this is a territory of 70,000 people with mainly characterised by a youthful demography. Compared to the whole city of Naples, there is a high percentage of children from 0 to 6 years and of people not older than 34. The percentage of people with a basic educational qualification in Scampia is 74.5 % versus 80 % for the city of Naples as a whole, and the percentage of people without any basic educational qualification is also higher: 14 % in Scampia, 11 % in Naples. Regarding the percentage of people with secondary educational qualification (high school) it is approximately 22 % in Scampia, while in Naples it is 35.18 %. There is also a high level of unemployment: 42 % in Scampia versus 31 % in Naples as a whole, particularly female unemployment: 74 % in Scampia versus 49 % in Naples as a whole.

Naples falls in between the “good intentions” and “bad institutional practices” and the middle ground is a sea of uncertainties. Roma, their future, the second generation, the city, its transformations, the attempts of minorities made together with activists, lawyers and associations, to trigger processes of “contamination” and to change institutional policies, constantly encouraging Romani people themselves to participate and providing them with instruments for real and conscious participation in these processes as citizens - but of which country? Nobody knows yet.

The Legal Framework: from the National Overview to Local Policies

In Italy from 1948 until now the Romani community has never been recognised as an ethnolinguistic minority, partially because of the impossibility of connecting the community with one particular territory. Until now there have only been proposals for a law about the recognition, protection and social promotion of the Romani, Sinti and Caminanti communities. The most recent proposal is from 2013.⁸ This lack of national-level law leads to the creation of autonomous regional regulations. The only relevant national legislation is the Bossi-Fini law (286/98) concerning foreign nationals. In its application, this law produces serious distortions and violates human rights, especially when it comes to the dreadful state of the majority of Romani immigrants.

The Campania Region – unlike a few other Italian regions – has never adopted any regulations on the “protection of nomad culture”. There was a discussion in 2006 on a proposed new law, but it was never approved.⁹

The lack of a national legal framework partially explains how the emergency approach can still be valid in local discourse and concrete interventions even though Italy is obliged to abandon this approach. Local policies and practices in particular have an ambiguous face that can be described as one of relative tolerance towards irregularity

and informality on the one hand combined with policies of segregation and exclusion on the other.

In 2008 the Italian Government declared a “state of emergency in relation to the settlements of nomad communities” in Campania, Lombardia, and Lazio.¹⁰ The entire day-to-day administration and policies for the Roma communities living in camps in these regions passed to the control of the Prefects.¹¹

The first act of the Commissioner for the Campania Region was to conduct a census on an ethnic basis, surveying the population of camps and settlements. The results of that census still represent the only official data on the presence of Roma (at least for the Campania Region). The operations were coordinated by the Special Commissioners (Prefects), the Italian Red Cross, and the Civil Guard with the support of some NGOs working in the camps; these NGOs¹² also intervened several times during these operations because of evidence of human rights violations.

Even though this process violated their human rights, the behaviour of the majority of Roma living in Cupa Perillo in Scampia during the census was very cooperative as a consequence of the unusual, conspicuous attention and resources paid towards the Roma and camp issues by the public administration, the media and institutions. There was a positive feeling that participation would result in changing and improving their living conditions in terms of the possibilities for their legal regularisation and their right to adequate housing. However, six years later, nothing has happened. The camps are still there, surrounded by illegal garbage dumps; procedures to achieve regular status are still long and complicated; the residence permits obtained for humanitarian reasons during the state of emergency cannot be renewed for more than two years; and not everyone can access this attempt at regularisation due to their complicated legal status. On the other hand, the census created a kind of positive discrimination, an explicit “exceptional status” for Roma living in the camps – an exception inside the exception – from which Roma living in

8 Senate of the Republic, *Rules for the protection and equal opportunities of the minorities of Roma and Sinti*, Bill.4th June 2013, XVII legislature, N. 770.

9 Campania Region VIII Legislature Regional Bill n.168, “Intervention for safeguarding nomad population”, General Registrar n. 168, (2006), Councillor Luisa Bossa.

10 Decree DPCM (21 and 30 May 2008), after extended to other regions.

11 These are territorial branches of the Italian Government that include immigration issues as part of their competences agenda. The subject areas are: Civil Rights, Citizenship, Legal Status of Foreigners, Immigration and Asylum-Seeker Rights.

12 In the informal camps of Cupa Perillo, Scampia, Naples the *Associazione chi rom e...chi no* has been involved in human rights protection endeavours.

houses and other immigrants are excluded. This has produced a social paradox and increased the uncertainty that characterises Roma policies in Italy.

Moreover, along with these ordinances, the language and policies have become even more discriminatory (“nomad” has become a word used to justify applying strong policies or as a possible rationale for the negligence of the public administration). The existence of a total state of “rights suspension” was finally declared by the decision of the Council of State on 16 November 2011 eliminating the Special Commissioners because it did not admit the existence of a “state of nomad emergency”. It also withdrew their special powers and did not permit use of the data collected. In 2012 the Presidency of the Council of Ministers requested the Council of State to lift its decision concerning contracts initiated under the State of Emergency. The Court of Cassation finally upheld the Council of State’s decision in April 2013.

The creation of National Roma Integration Strategies in Italy according to the European framework has given new hope for achieving appropriate Roma policies. The Italian NRIS is quite progressive and recognises the need to abandon the camp approach and find other solutions for housing. On the other hand, it still enables several different housing solutions, taking into account the differences in the target groups, and consequently allows for a wide variety of implications at local level which in reality do not always conform to EU principles.¹³ The European Union (EU), within the framework of its EU 2020 strategy, provides funding for the 2014-2020 period in different fields, including for projects targeting Roma, which are accessible through national agencies. However, in some regions, especially in Campania Region, the real implementation of these projects is currently blocked and was also blocked in the 2007-2013 funding period because of structural failures at the regional and local level. Furthermore, every Italian region has to create an inter-institutional roundtable in relation to the strategy in order to apply the NRIS, but the Campania Region has still not realised this even three years after the publication of the NRIS.

Nowadays, the administrative system regulated by Campania Region and the City of Naples is completely fragmentary and incapable of planning an overall strategy to overcome social, economic, or residential exclusion. Furthermore, the authorities even ignore European and national recommendations - for example, regarding forced evictions - through their own interventions. Local policies addressing Romani communities are generally backward: In fact, most Roma - both EU citizens and those who do not hold EU citizenship - still live in either formal or informal camps, and most of the local public authorities still “invent” and spend money for the maintenance or building of camps or for the placement of Romani people into emergency and temporary refugee areas. The public institutions’ interventions¹⁴ and funding have mainly been spent on basic services, schooling and health services, with questionable results.

On the other hand, when public institutions decide to take action, they impose large restrictions and cause violations of human rights as in the case of a temporary shelter called *Centro di Accoglienza ex Scuola Deledda*, in the neighbourhood of Soccavo, where 120 Roma from Romania live, where the Italian body of Civil Protection’s “technical” management is in force and where one breathes the air of a permanent emergency. *Ex Scuola Deledda* was created eight years ago as a temporary solution to host several Romani families after a forced eviction, but it has become a permanent condition for these people, who were obliged to hand over their passports when they entered and to live together with other families in one shared room without any privacy, heating or kitchen. The situation is absolutely incompatible with European standards. It is a paradox that the centre is considered by the city of Naples as an example of “best practice” and that it is still one of the main beneficiaries of public funds, as confirmed by recent local council deliberations.¹⁵ In spite of these violations of human rights and the inadequacy of the municipal interventions, Naples is still a member of the Alliance of Cities and Regions for Roma Inclusion and apparently collaborates in several EU initiatives. Another recent ordinance adopted by the City of Naples¹⁶ relates to the forced eviction of an informal settlement where 250 Roma

13 For example it enables mono-ethnic housing solutions, justifying this with reference to the special needs of certain Traveller groups, and based on this possibility offered by the document, the authorities respond with similar solutions even to the needs of settled communities.

14 We refer in particular to City of Naples, X Central Department of Welfare – Educational Services, *Servizio Contrasto Nuove Povertà e Rete Emergenze Sociali*, Roma and Citizenship’s Agreements Office.

15 Naples Town Council Resolution n. 421, (07.06.2013) and Executive Decision n. 2, (09/08/2013).

16 Naples Town City Decree 29/1/2014 n.178.

from Romania live. The ordinance ultimately became useless, as the Roma were dispelled by local residents through violent attacks, but it clearly violated international standards because of its lack of preventive consultation with the people living in the area and its lack of alternative solutions in terms of housing or legal protection. The discourse of the ordinance can be summarised by its clause stating that the territory should “be made free of things and persons”.

In 2008, the City of Naples received funds of EUR 7,016,000.00 from the European Union to resolve the housing situation in Cupa Perillo, Scampia. The original project presented by the technical department of the City of Naples in 2010 corresponded to the idea of a “camp”. A group of Romani people, associations (especially *chi rom e... chi no*), professionals, and urban planners from the University of Naples, in accordance with the Department for Social Policies of the City of Naples, held a workshop called “Housing process in Cupa Perillo” which proposed a new way to plan housing for Roma. The challenge is to change the concept of “housing” from its common meaning and to propose an integrated approach that includes education, training, health, income-generating activities, and juridical issues for both Roma and non-Roma. Recently, the City of Naples prepared a new project plan¹⁷ that represents some improvement compared to the old one. However, there are still several critical points in the planning: The dimensions of the dwellings, the mono-ethnicity of the inhabitants, the temporary nature of the settlement and the lower number of places compared to the current Romani population of Cupa Perillo. In the meantime, the Association *chi rom e... chi no* is working to support the active participation of Romani people through a committee open to Romani and non-Romani people, making an alliance with national and international organisations – including the ERRC – and advocating for inclusive housing policies that overcome the “camp approach”.

“Citizens of Nowhere: Lives in a Limbo”

In Italy the absence of a specific regularisation policy regarding the Romani community has been an obstacle for too many and now the problems of the second and third generations to affirm their own identity assume dramatic proportions in the face of the impossibility of obtaining either

Italian citizenship from their parents or a residence permit. In response to the flows of Romani communities as a consequence of the Balkan wars, during the initial period the state recognised them as asylum-seekers, but this was short-lived. Only a few years later, without any justification, the ex-Yugoslav member states were requalified as safe countries. Thereafter individual asylum applications were rejected.

This was evidently a falsification of the reality that also affected Boran, a young boy born in Naples about 22 years ago. His story tells the troubled history that he shares with many other co-sufferers. About 800 people from ex-Yugoslavia live in the informal camps of *via Cupa Perillo*, Scampia, Naples. The life of Roma communities in the neighbourhood of Scampia is connected with the history of this peripheral area, which was created at the end of the 1970s as a natural expansion of the city due to its housing problems. The urbanisation was never completed in terms of services, but after the earthquake in 1980 the houses became inhabited by people and families from the unsafe parts of the city centre of Naples. This internal migration was immediately followed by the occasional immigration of people from Yugoslavia which became a real mass migratory process at the beginning of the ethnic wars in the Balkans in the 1990s. This brought Romani communities to Scampia from Serbia, Kosovo, Croatia, Bosnia and Herzegovina and Macedonia of about 2,000 people. The only official data are from the census carried out in 2008¹⁸ that is still used as the basis of checks carried out by the authorities, although the process of that data collection was strongly problematic in terms of human rights. Furthermore, in the continuously changing situation, these cannot be considered reliable data. This was not a “nomadic” or transitory exodus, as might have happened in other places, but rather a permanent settlement, self-organised, silent, and kept in the shadows by the local and national government and their policies.

According to the testimonies of camp inhabitants and the available photos, 60 % of the Roma who today live in Scampia are family units whose presence dates back to the end of the 1980s or before, and who choose (if it is proper to talk about choice in this context) to root their existence in that territory. The youth population (those aged under 25) represents almost half of the total population. Romani communities are embedded in Neapolitan society, connected to the local informal and illegal labour market, and share

17 Resolution of the City of Naples n.1090, 1091 January 2014 and n.159 of 14 March 2014.

18 Data from the 2008 census by the Prefecture of Naples, Commissioner for the Emergency of Nomad Settlements in Campania Region, O.P.C.M. 3678/08.

alternative “institutions” which organise everyday life in a non-official, out-of-control, informal way.

Boran’s mother, Verdana, born in Vinkovic, Croatia to Kosovar parents, came to Italy at a very young age with her family to try their luck. A few years later Verdana was convicted of “enslavement” by the Court of Naples, later reduced to the crime of “maltreatment of a minor” because she was discovered begging on a street corner in the city with young Boran. Her application for a request-of-stay permit did not receive a positive answer from the local police station and the dialogue with the Croatian embassy to obtain a passport was not simple because of the refusal of embassy staff to speak with someone who did not have that country’s documents and does not speak the Croatian language. Finally, after many troubles and a very long time, Verdana discovered that she is not on the list of the Croatian registry office but on the one of Serbia¹⁹ from which she cannot get a passport without returning. Returning implies the risk of not being able to return to Italy, which would destroy the hope for her and her family’s future.

In the meanwhile Boran became a young boy around the neighbourhood of Scampia.²⁰ He looked for alliances with “unruly” Italian boys like him in order to feel like he was part of the “majority” and to escape life in the camp, where he did not choose to live. So the reformatory of Nisida (Naples) and then the prison of Poggioreale became inevitable stages in the life of this boy, who has had to survive without any resources, running water, facilities for personal hygiene or electricity, looking for a normal life among the rats and rubbish.

In 2004, this quarter of the city was the scene of the so-called “*faida di Scampia*”, a blood feud between *Camorra* families that led to almost 70 murders, drawing mass media and international attention. At that time, Scampia was registered as the neighborhood with the highest per capita proportion of drug dealers to residents in Europe and the fifth-highest in the world, i.e., whole families were involved in the drug market. Young people are the most vulnerable to becoming involved in the drug market and paying the consequences with a prison

sentence or even with their life. People often think that Boran is a Neapolitan (i.e., non-Romani) guy and he has also exploited this identity, which was constructed through many different experiences such as a constant relationship with an NGO, a scholarship as a sound engineer in a Neapolitan theatre, and an engagement to an Italian girl. On top of all of the struggles connected to daily life in the camp, all of these additional issues become too much to carry. Roma guys like Boran often adjust to the local “normality”, they speak the local slang without the possibility of saying “I am one of you”. On the contrary, they have to identify themselves as “I’m not Italian, not Serbian, not Croatian, I’m nothing...”

When he turned 18, Boran, following the citizenship law (91/92), tried to apply for Italian citizenship, but that dream did not last long due to a “diabolical” prevision of the law requiring applicants to prove where their “legal” residence has been from birth until the age of 18. That means having a permit to stay based on the birth certificate and registration requested by their parents on their behalf; these are very difficult items to obtain for those who live in a camp in squalid conditions, who left their countries of origin in difficult conditions and who arrived in Italy to a dearth of inclusive policies and were affected by a restrictive Italian immigration law (286/98).

Without fulfilling the requirement of Italian citizenship, and never having been registered in his parents’ countries of origin’s registry offices, together with the passage of time to apply for citizenship by descent, Boran discovered that he did not have the right to be recognised as a citizen either under Italian or Croatian law. Consequently the only legal path for him to follow was a request for statelessness status.

In June 2009 we registered an appeal with the Civil Court of Naples to assess and decide on the stateless status of Boran. As of July 2014, the process has not yet been finished. The case of Boran and other similar cases which we follow²¹ are the first attempts to define this status for these people, and the courts do not have a well-established knowledge of the topic. Italian law²² is incomplete in this

19 When the ex-Yugoslav republics became independent states, several cities and provinces changed their jurisdiction, passing from one state to another.

20 Scampia is an area that embodies features strongly illustrative of global modernity. It is a metropolitan periphery on the border between the city and the countryside featuring illegal garbage dumps where there is a large drug market and a complex organisation of informal and illegal labour (which is favoured because of the lack of opportunities for training and formal work) and where social conflicts are expressed more through social closure and isolation than through acts of open rebellion.

21 Within our work in the field of human rights protection.

22 Statelessness is regulated by Article 10 of the Constitution and the relevant international law is the New York Convention of 28 September 1954 enforced in Italy by Law No 306 of 1 February 1962.

regard and the relevant interventions must be found in the immigration and asylum-seeker legislation. This is why his case is proceeding gradually. The first real problem is to find the official law that regulates citizenship in the countries of origin of his parents in order to understand if Boran might be able to claim citizenship because of his descent.

After several months of requests and dialogue with the Serbian and Macedonian Embassies (Boran's father is Macedonian) in Italy, the first and so far the only certification received for him says that "Mr Boran...is not on the list of their registry offices" because his birth certificate was not registered in the time established by the law of either country. The judge handling the case changed twice while it was underway, which meant the case had to start over from the beginning. During the process we decided to ask the Italian Ministry of Foreign Affairs to obtain copies of the two laws about citizenship (the Serbian and the Macedonian ones), which finally did arrive. However, we had to recognise that Boran does not meet the requirements to be awarded the citizenship of either of his parents.²³

Meanwhile, in 2012, the Court of Cassation²⁴ intervened with a statement that indicated a change in the procedure of the investigation for stateless status: It had been placed under the jurisdiction of the Court of Rome. This imposes a limitation with regard to access to justice and constitutes an infringement of human rights because it represents a further obstacle for anyone who does not live in Rome. A recent decision by the Supreme Court in the case of another person asking for stateless status found that: "in the acquisition of stateless status there is neither a subjective urgency nor public interest in the immediate decision". That means the position of a person wandering around in the territory where he was born who is considered a foreigner without the legal possibility to work or to sign a lease, facing difficulties to obtain a temporary permit to stay while awaiting a declaration of statelessness²⁵ (in the absence of any other previous permits or personal documents), according to the Italian legal system, is not considered to be an urgent priority.

At the end of October 2013, the case was resumed by the Court of Rome and we are waiting for the case to be heard

again, to start the story all over again. Boran, in the meanwhile, has been accused of a crime and was arrested on a false charge. Although he is now free, who knows if he can really believe he will ever see justice for himself and his mother, or if he believes in their future?

Future Perspectives

Immigration law and the lack of comprehensive policies towards Roma keep entire generations in a legal limbo. Even these days, when we have a European framework for national Roma strategies and an elaborated Italian NRIS, due to the lack of appropriate approaches, to the structural problems of institutions, and to diverse national, regional and local interests, interventions relating to Romani communities in certain contexts continue to take an emergency approach. We have chosen for this study an example which shows how the legal obstacles and the failures of certain interventions intersect with social and economic problems of the discussed communities and with the complex problems of a particular territory, in this case Scampia, Naples. In this intersection we see as particularly dangerous the fact that the most vulnerable groups are the most affected by these failed measures in a context where social and economic deprivation is causing several internal conflicts on the territory.

The legal situation of former asylum-seekers (both Roma and non-Roma) from the former Yugoslav member states should be solved through international co-operation. The EU and its Member States have to deal with the problem of a population who have been present irregularly for decades on its territory. Connected to this question, we see the introduction of a new law on citizenship that would at least solve the situation of those who were born in Italy as important.

Moreover, regarding Roma policies, we see as particularly important the introduction of an appropriate monitoring and evaluation system to prevent the distortions described above and pays more attention to the concrete implementation of the NRIS at regional and local levels. We see that it is also important to revise the NRIS and to achieve a shift in political approaches to this issue: Among others,

23 In the Macedonian citizenship law of 13 November 1992 the case in question is regulated by article 4, section 3 and article 5.

24 Italy's highest court, sent. Cass. 23.1.2012 n.903- 7614/2011.

25 Article 11, paragraph 1, letter c) of D.P.R. (Decree of the President of the Republic) No. 394/99 of 31 August 1999, as modified from the regulation approved by D.P.R. No. 334 of 18 October 2004, provides a special permit issued to foreigners for the acquisition of temporary stateless status for those who are already in possession of a stay permit for other reasons, for the duration of the recognition process.

opening the discussion about the recognition of the Roma as a minority while paying attention to citizens' rights in the case of immigrants and asylum-seekers as well. At the regional level, the establishment of an inter-institutional roundtable would be a crucial step towards the creation of a comprehensive strategy. The City of Naples should also create a long-term strategy in its approach that does not create exceptions for Roma (like the housing project on *via Cupa Perillo* or the *Deledda school*), but instead involves inclusive strategies that provide better living conditions for both Roma and non-Roma, immigrants and Italian citizens alike.

We are observing a human, social and political catastrophe which is producing serious consequences from several points of view, including social cost, security, health, and well-being. The lack of investment into this second generation, who are looking for an identity without any future prospects creates the basis for general unease and inflicts many wounds that are almost impossible to heal. On the other hand, in a context like Scampia there are well-established experiences of peaceful and fruitful cohabitation between Roma and non-Roma and occasions of collective emancipation and active citizenship. Public institutions should take into account the best practices that create concrete opportunities for positive transformations.

We see also some possibilities, even in the current policy framework, that could advance the situation: One would

be to start legal processes for camp inhabitants *en masse*, taking hundreds of cases to court, for example, of requests for citizenship or recognition of stateless status. However the lack of data and available resources block these endeavours. Another important step would be the participation of Roma in advocacy activities. Therefore a fundamental change should be realised in order to empower and facilitate their real participation. The efforts of policy-makers, the public administration and the third sector should unite in order to avoid the loss of these generations, who are being kept in legal voids and social exclusion.

The Association *chi rom e... chi no* is working in cultural and pedagogical processes, advocacy, social activities, and legal support for the empowerment and active citizenship of Romani and non-Romani communities in Naples, particularly in the neighbourhood of Scampia in the informal camps of Via Cupa Perillo. The association combats social, ethnic and gender discrimination and creates relationships between people through innovative projects to overcome prejudices and stereotypes. Some examples are: *La Kumpania – Intercultural Gastronomic Journeys*,²⁶ the first Italian social enterprise that includes Romani and non-Romani women; and *Arrevuoto, Theatrical Pedagogical Project*,²⁷ for both Romani and non-Romani young people.

More information about the association and its projects is available at: chiromechino.blogspot.com.

26 See: www.lakumpania.wordpress.com.

27 See: www.arrevuoto.org.

The Challenge Romani Migration Presents to EU Societies

ANDRIANI PAPADOPOULOU¹

“Misery and poverty are so absolutely degrading, and exercise such paralysing effect over the nature of men, that no class is ever really conscious of its own suffering. They have to be told of it by other people and they often entirely disbelieve them.”
Oscar Wilde²

The notion of absolute misery and poverty³ in Europe finds its perfect representation in the way in which the majority of Roma people live throughout the continent.⁴ The “paralysing effect” referred to in the quote above is one of the factors that sustain the social exclusion of Roma⁵ in Europe and could be one part of the answer to the question as to why Roma, despite their presence in Europe for centuries, have not succeeded in escaping from the margins of society. The exclusion of Roma and their presence in European

society as the absolute “pauper” is the result of centuries-long persecution and systemic discrimination. Despite the fact that all Roma in Europe share, at least in part, this reality, it should be emphasised that under existing legislation, those Roma who have acquired the status of “European citizen”⁶ are accorded different rights than their third-country⁷ counterparts. These rights are political and social, while issues such as movement and residence in another European Union (EU) Member State, under certain conditions,

- 1 Andriani Papadopoulou, Sociologist – Senior Investigator, Human Rights Department, Greek Ombudsman.
- 2 Oscar Wilde, “The Soul of Man under Socialism”, in *Collected Works of Oscar Wilde* (London: Wordsworth Editions, 1997), 1041.
- 3 Photo credit: Andriani Papadopoulou, taken 28 June 2006 in Kalamata, Greece. The photo captures the notion of misery and poverty. The residence of this family was beside the main road leading to the city of Kalamata; it was in view of everyone who passed through the road and their situation was known to all local authorities.
- 4 This is the conclusion that I have personally arrived at on the basis of: a) having performed, for my work as a senior investigator in the Human Rights Department of the Greek Ombudsman in the last decade, dozens of on-site investigations into Romani encampments throughout the Greek territory. In some of these areas the visits were repeated. However, it was determined that the conditions of life of the residents had either not improved dramatically or had worsened. There are reports on findings and official documents that testify as to the conditions in the camps. Included in the sites I visited in Greece are: Attica (Votanikos, Aspropyrgos, Koropi, Halandri, Spata, Ilion.), Korinthia (Zevgolatio), Argolida (Nea Kios, Nafplio, Midea, Ermioni, Kranidi), Arkadia (Tegea) Messinia (Kalamata-Agia Triada, Mpirmpita, Ariochori), Achaia (Riganokampos, Sageika) Krete (Heraclion-Nea Alikarnassos), Rodos (Karakonero, Agioi Apolstoloi, Tsairi, Ktimata Kair), Kos (Aviko), Aitolokarnania (Agrinio, Aitoliko, Messologi) Lefkada (Alikes, Apolpaina), Kefallonia (Krania-Argostoli), Fthiotida (Lamia, Kamilovrisi, Anthili, Atalanti), Biotia (Aliartos) Euboaia (Xalkida, Nea Artaki), Thessalia (Larissa-Nea Smyrni), Karditsa (Sofades), Thessaloniki (Dedroptamos, Agia Sofia) Serres (Pontismeno, Herakleia), Xanthi (Drosoero), Komotini (Hephaistos, Alan Kogiou), Alexandropoli (Avantos).
b) Recent media reports about the conditions of Roma camps in, e.g., Italy, France, Bulgaria and Hungary also testify to the impoverished conditions of the life of Roma in those countries. In addition, studies carried out on issues such as health, housing and employment of Roma also substantiate the fact that living conditions for Roma are worse than for the general population in several European countries. Some of these studies are: Lorenzo Monasta, et al., “Minority Health and Small Numbers Epidemiology: A Case Study of Living Conditions and the Health of Children in 5 Foreign Roma Camps in Italy”, *American Journal of Public Health*, Number 98 (11) (2008): 2035–2041.: Available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2636417/>;
Immigration and Refugee Board of Canada, “Bulgaria: Situation of Roma, including access to employment, housing, health care, and education; state efforts to improve the conditions of Roma (2009 - September 2012)” [BGR104200.E], 19 October 2012, Available at: http://www.ecoi.net/local_link/231231/339702_en.html;
Klara Organová, “Roma in Slovakia”, available at: <http://www.slovakia.org/society-roma.htm#Klara%20Orgovanova>;
European Foundation for the Improvement of Living and Working Conditions, *Living Conditions of the Roma: Substandard Housing and Health* (Dublin: Eurofound, 2012), Available at: <http://www.eurofound.europa.eu/publications/htmlfiles/efl202.htm>.
- 5 Of course not all Roma are poor or living in terrible conditions, and certainly the examples of successful integration (e.g., in Serres-Kimmeria or in Larissa-Nea Smyrni) are not emphasised here since the focus in this paper is on the situation of the Romani population who are in transit or not integrated.
- 6 Treaty on European Union, Article 9 and Treaty of the Functioning of the European Union, Articles 18-25. Directive 2004/38/EC, on *The right of citizens of the Union and their family members to move and reside freely within the territory of the Member States*, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:en:PDF>.
- 7 Directive 2003/109/EC on *Status of non-EU nationals who are long-term residents* and Directive 2003/86/EC on *Family Reunification*, Directive 2011/95/EU on *Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted*.



Two boys in a Romani settlement near Kalamata, Greece.

PHOTOCREDIT: ANDRIANI PAPADOPOULOU.

are also included. However, in the everyday contact between Roma⁸ holding EU status and the public authorities, that status makes little difference, as the prevailing image of Roma obliterates any other differences that may exist as to their nationality, identity, or personal achievements. This paper, by focusing on the impact of the presence of third-country Roma nationals in EU countries, examines the extent to which migration and the convergence of national legislation and policies of EU Member States on immigration and asylum may affect the life chances of Roma in Europe.

Rights and Reality

In the last decade, a consistent and concerted effort has been applied by EU Member States to creating a common immigration policy at the EU level. In this context, a series of

regulations and directives have been adopted by EU Member States for the purpose of regulating the entry, residence, working conditions, and non-discrimination of EU citizens and third-country nationals within EU territory.⁹ The aim is to create a common culture of the rule of law regarding these vital issues for the well-being of people. However, the measures that are adopted at the European level (e.g., the Dublin Regulations, the Schengen Agreement) as well as those directly implemented by some EU Member States bilaterally with neighbouring states (e.g., Greece with Turkey and the EU with other third countries) are aimed at curtailing the movement of refugees and other migrants to the EU mainland. Despite the fact that these negative measures are generally directed toward non-European foreigners who are thought to represent a burden to the EU, they are also applied to prevent the migration of European Roma.¹⁰ In the present state of European society in economic crisis, the attempt of European Roma to

8 For example, the recent evictions and expulsions of Romanian and Bulgarian nationals of Roma origin from France.

9 See also the *European Pact on Immigration and Asylum* adopted by EU MS in 2008 as a politically binding text.

10 By the term European Roma I refer to all Roma in Europe and not only the citizens of EU Member States.

seek, in countries other than that of their origin, opportunities for a safer and better life puts into question the willingness of EU Member States to include them under their protective umbrella of respect for human rights, equal treatment, and non-discrimination. In fact, as is pointed out below, even in EU Member States where there are rules in place for legal entry and/or for legalising the residence of third-country nationals under certain conditions,¹¹ these rules are not made known and are not used for the benefit of Roma. This is due to the predominant conception held of this group, which is that Roma play a regressive role in society.¹²

The spotlight recently placed on Roma, ensuing from the media attention on cases such as the “Little Maria of Greece”,¹³ the expulsion from France of 15-year-old Leonarda Dibrani,¹⁴ and the return of “bogus refugee claimants” from Germany and other states,¹⁵ reinforces this negative conception of the Roma and brings to the forefront the obstacles this group encounters in their attempts to migrate to or reside legally in an EU Member State. Furthermore, the recent lifting of EU restrictions on the migration of

Bulgarian and Romanian citizens led to a new media craze pertaining to fears of possibly damaging effects on wealthier EU countries that may arise with the influx of Roma. Roma are portrayed by mainstream media organisations, by certain high-ranking politicians and by local administration officials as a threat to the social order of these societies. The old myths of Roma as the outcasts *par excellence* are renewed and magnified. In turn, this perception refuels their adverse treatment and the development of misguided policies by state and local administration officials towards Roma. As a result, the general public does not react when unjustified targeting of Roma occurs. The incidents of mass expulsion of Roma (e.g., from France, Italy),¹⁶ the building of walls around Roma neighbourhoods in European cities (e.g., in the Czech Republic, Romania and Slovakia)¹⁷ and the relocation of Roma to unsuitable, remote areas (e.g., in Greece)¹⁸ are increasingly becoming commonplace. Importantly, this stand against the Roma is not seen by any society at large as an essential threat to its democratic nature, which is supposed to be based on the principle of respect for human rights and human dignity. It is for this reason that we

- 11 Provisions for obtaining residence permits for “*Exceptional Reasons*” or “*Humanitarian Reasons*” (e.g., on the basis of long-term, strong ties with the country, for health reasons, because it is in the public interest, to achieve the education of the next generation) exists in the immigration legislation of several EU Member States. In Greece there is such a provision under Article 44 of Law 3386/2005 which is now (in part at least) included in the New Immigration Code (Law 4251/2014, Article 19). If this temporary, yearlong permit for exceptional or humanitarian reasons is issued, it may subsequently be renewed for any of the other reasons prescribed in the immigration law. Also see Belgium Article 9 of the *Foreigners Law* and corresponding humanitarian provisions in, for example, German and Spanish legislation.
- 12 In Greece, there are frequent references in the media as to the “criminality of the Roma”. Here are recent examples from the local press of Messinia (Kalamata):
 “Quarrel with gypsies in Ariochori Messinia”, www.peloponniasiaki.gr (28 March 2012). Journalists in these types of publications, which are produced by the electronic media, do not distinguish between Greek and other Roma. In view of this conception it is very hard to invite foreign Roma to take advantage of provisions they may benefit from, to have them apply to the proper authorities and to have the public servants be open to seeing if their applications meet the requirements stipulated by the law. In addition, the requirements are such that Roma are highly unlikely to fulfil them (e.g., proof of previous legal entry, of a proper home, of insurance coverage, of their children’s school enrolment) There is evidence (e.g., my personal research among the residents of Votanikos) which shows that in order to obtain a residence permit so that they may not be expelled, some Roma may obtain residence permits by side-stepping the official requirements, for example having a residence permit as an agricultural worker in Drama issued by the authorities in Drama, and then be in Athens collecting scrap. The residents in that particular camp resided there for a long time, many for at least seven to 10 years. However, when the camp was demolished in August 2012, we do not know if any irregular residents were given the opportunity to apply for a residence permit for “exceptional” reasons.
- 13 Helena Smith, “Maria case exposes extent of child trafficking in crisis-hit Greece”, *The Guardian*, Friday 25 October 2013, available at: <http://www.theguardian.com/world/2013/oct/25/greece-child-trafficking-maria-bulgaria-roma-dna>.
- 14 Dan Bilefsky, “French Court Rejects Residency Request by Roma Family”, *New York Times*, 28 January 2014, available at: http://www.nytimes.com/2014/01/29/world/europe/french-court-rejects-residency-request-by-roma-family.html?_r=0.
- 15 Bahri Cani, “Deported Roma face tough times in Kosovo”, *Deutsche Welle*, 30 December 2013, available at: <http://dw.de/p/1875y>.
- 16 Corinne Ruff, “French Divided on Roma Expulsion”, *The Internationalist*, 19 November 2013, available at: <http://www.theinternationalist.org/articles/476-french-divided-on-roma-expulsion>.
 Stephan Faris, “The Roma’s Struggle to Find a Home”, *Time*, 23 September 2010, available at: <http://content.time.com/time/world/article/0,8599,2021016,00.html>.
- 17 “Walls are going up again”, *The Economist*, 25 July 2013, available at: <http://www.economist.com/node/21582337>.
- 18 Nikos Roumpis, “Roma face mounting discrimination across Europe”, *The Global Post*, 27 January 2014, available at: <http://www.globalpost.com/dispatch/news/regions/europe/140117/greece-roma-discrimination-europe>.

argue that the situation of Roma in Europe, and by extension Roma migration, presents an essential challenge for EU society: To reflect upon and take action to alleviate the disharmony that exists between the values which are abstractly upheld through common legislation and institution-building and their materialisation in real life.

The nature of this challenge, manifested under the cloak of establishing a balance between the right of a state to regulate the entry of foreigners and the right of people to move,¹⁹ is to confront what is hidden behind the negative stance, the unwillingness and/or the inability of European society to treat Roma as a major and essential part of the social body. For this reason, the migration and in fact the very existence of Roma in Europe generates unease, because it reminds Europeans both of their historically unjust treatment of this group and of their responsibilities towards those who have been forced to live in the margins of society. In other words, it reminds us to attend to what is required in order to build and sustain a democratic society based on the rule of law and the idea of the “common good”.

Regulating the Entry of Foreigners

“Are we then to let them all in?” This question is addressed to everyone who attempts to question, in any manner, the immigration policies and practices of an EU Member State towards Roma. Falsely obliterating the difference between the particular and the general, this question discloses the deep fear that grounds the European immigration framework: The fear of being overtaken by the “other”, even if

that “other” is a vulnerable social group and a constitutive part of its social body. Spearheaded by this fear, EU Member States adopt protectionist policies for the purpose of maintaining the existing vested interests within their territories, without questioning whether that is the desirable or best course of action. Thus, when states try to find a balance between the right of the state to impose restrictions²⁰ and the human rights of the individual,²¹ the scale tips on the side of the former at the expense of the latter. Furthermore, if we consider the additional pressures imposed by influential EU Member States on their weaker counterparts, aimed at convincing them to keep their nationals or other third-country residents within their borders in order for those weaker states to receive some benefits or to be seen as “cooperating”, then the violation of individual rights reaches higher levels, as some decisions of the European Court of Human Rights testify.²²

The basic rules regarding a subject’s right to move and the protection of individual human rights²³ in principle apply equally to all inhabitants in Europe. Similarly, the restrictions that states may impose by law in the exercise of these rights must be deemed as necessary in a democratic society. However, what restrictions are necessary and how a state interprets what it means to safeguard “national security”, “public safety”, “maintenance of public order” or the “protection of the rights and freedoms of others” depends on that state, its political regime or the circumstances at any given time. For the time being, the convergence of these concepts and the development of a common culture of the rule of law have yet to be achieved, at least in practice. Most of the efforts made under the rubric of “safeguarding national borders”,

19 Chetail, V. “Freedom of Movement and Transnational Migrations: A Human Rights Perspective”, in *Migration and International Legal Norms* (London: Asser Press, 2003).

20 Immigration/refugee laws provide for the ways, the conditions and the procedures under which one may enter a state. In the worst case of violation of the existing legislation the in-effect provisions are not abided by and instead, state organs in key positions implement other non-official, unwritten procedures. In these types of situations officials would deny that there has been a violation of rules (e.g. *non-refoulement*) while in fact they are the ones carrying out the violation.

21 Not to be discriminated on the basis of race, religion, ethnicity or even socio-economic status.

22 For an example of such decisions see: Council of Europe Commissioner for Human Rights, *The right to leave a country*, Issue paper, 18 -20, available at: http://www.coe.int/t/commissioner/source/prems/prems150813_GBR_1700_TheRightToLeaveACountry_web.pdf.

23 As provided for in Article 2 of Protocol No. 4 to the Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms: “1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. 3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of order public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. 4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society”. Available at: <http://conventions.coe.int/Treaty/en/Treaties/Htm1/046.htm>.

See also Articles 2,3,7,8 and 12 of the United Nations Convention on the Rights of the Child and Article 13 of the Universal Declaration of Human Rights “(1) Everyone has the right to freedom of movement and residence within the borders of each state. (2) Everyone has the right to leave any country, including his own, and to return to his country”. Available at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

together with the resources²⁴ that are allocated for them, as far as these relate to Roma, appear to be disproportionate and at the expense of the Roma *vis-à-vis* the short-term gains that could ensue for the state. We can only imagine what would have happened if this amount of effort and these resources were utilised in the direction of improving the situation of Roma instead of keeping them out. As things stand today, Romani migrants encounter insurmountable obstacles that prevent a large number of them from utilising the possibilities available in the operating migration framework as to their movement and residence in the European Union.

These obstacles have to do with both the internal weaknesses of the group, resulting from centuries-old social exclusion, as well as the societal, external structures that sustain such social exclusion. However this is something that is not taken into account when laws are adopted or their provisions applied. This can be clearly seen if we compare the access and the benefits that non-Romani migrants are able to obtain compared to Romani migrants.²⁵

The mass migration of European Roma to “safer/better” places in recent times was intensified from the early 1990s onwards due to the social, economic and political changes that occurred and to some degree are still unfolding today in the region of the Balkan Peninsula. Roma who are deemed “third-country nationals”,²⁶ mainly citizens of Western Balkan states, i.e., Serbia, Bosnia and Herzegovina, Montenegro, Kosovo, FYROM and Albania, started to move and today

many of them reside, albeit many of them illegally, in EU Member States. During this period, for example, a large number of Roma mainly from Albania, Serbia, and Kosovo (and from now EU Member States Bulgaria and Romania) moved south to Greece. As third-country nationals, the more favourable provisions that apply to EU citizens regarding movement and security of residence within the EU territory are not applied to them.²⁷

The situation of migrant Roma, for example, Albanian Roma in Greece, is comparatively far worse than the likewise unacceptable situation of their national counterparts. They usually settle in unsuitable places, paying for them with high “rents”,²⁸ or set up their dwellings illegally on public/private lands, at the outskirts of towns, very often near camps established by national (Greek) Roma. The social exclusion and absolute poverty that they faced in their home countries continues to plague them in their new host country. One can only imagine what they must have escaped in order for them to prefer to remain in a host country under such unacceptable conditions. Their situation is compounded by the problem of their symbiosis with their local counterparts and by the constant fear of their persecution/deportation that could occur at any moment.²⁹ An accident such as a fire or a car accident, or a personal altercation, can bring this about.³⁰ On the other hand, local authorities, overwhelmed by the additional demands imposed on them by the influx of more newcomers needing assistance, are unwilling or unable to

- 24 Has our society thought of and/or calculated the economic and social cost (for the victims and for the state) of chartering planes to take them back to a country which many of them see for the first time, for keeping them in a state of illiteracy, and out of the typical labour market? The functionalist approach will say that of course for it to happen there must be some kind of benefit to some sectors of society, but is this acceptable to us?
- 25 In Greece at least, there are no data collected in regards to how many Roma have resided in the country with residence permits or how many have applied for citizenship and have obtained it or have been rejected. In the Ministry of the Interior there are data only in respect to the citizenship of persons (e.g., numbers of Albanian, Bulgarian, Serbian persons) who have applied for such documents. My experience from handling cases for such matters testifies to the fact that very few foreign Roma have sought the assistance of the Ombudsman and this often happens following the suggestion of our staff.
- 26 Not all Roma have the official documents to verify their citizenship. This is part of the problem encountered by Roma due to the circumstances of their life. This is another instance whereby it can be argued that the essential status of the Roma does not make any difference if it cannot be substantiated bureaucratically.
- 27 As has been pointed out already, Roma who are citizens of an EU Member State have different rights than “third-country nationals”. Despite this, in terms of their real life chances it does not make much difference if you are an Albanian, a Bulgarian or a Greek Roma. The responsibility of EU Member States is different, though, as far as their own citizens are concerned.
- 28 In the on-site investigation contacted in Nea Artaki, three to five Albanian Roma families (approximately 25-30 people including children) lived in an old, half-collapsed poultry-farm building. For this habitat each family paid EUR 100 rent to the owner of the building, which of course could not be legally used to house people.
- 29 This enmity was noticed for example in the Aspropyrgos camp and amongst groups that were settled in Koropi. Despite that, different groups of Roma sometimes appear to co-operate if they are to avoid external persecution and the demolition of their huts. For example, residents in Votanikos and Karakonero-Rodos mentioned this to us. Family relations between the groups, when they exist, may enhance such co-operation.
- 30 There are several such incidents e.g. in Zefyri-Attiki, Nea Artaki, Nea Kios.

deal with the problems presented and often, instead of working to resolve them, exacerbate them through their misguided actions.³¹ For example, cutting the supply of drinking water would not make the irregular Roma residents move to another place, but rather would make them find other ways of getting water.³² Similarly, if authorities choose not to facilitate the education of Roma children,³³ there will be a much larger problem to solve in the future, namely that of an illiterate and unskilled group looking to survive by any means possible. Unlike other immigrants who move for the same reasons to EU Member States from very diverse, war-torn or poverty-stricken parts of the world, Roma encounter additional systemic and individual obstacles on the basis of their identity as Roma. Their perseverance and community-based life, which helps them survive, is itself oftentimes considered the cause of their predicament and exclusion.³⁴

There are no reliable data (as it is prohibited to collect them) that show the number of Roma who migrate from the Western Balkans to EU Member States, those who desire to migrate and are prevented from doing so, those who take advantage of the opportunity to travel in the Schengen zone for the period legally provided (i.e., three months), or those who in the end successfully obtain residence permits. Usually, state authorities become aware of the presence of Roma when those authorities have to deal with the fact of their illegal occupation of land or some other activity which is considered to be intrusive/bothersome, or simply because their different appearance and way of life incurs the wrath of non-Roma local residents. Then the official process of what to do with them begins.³⁵ This quest usually ends in their expulsion, irrespective of the length of time for which they have

resided in that particular state. The justification for their removal is usually the irregularity of their presence in the country and/or their bothersome activities.

One argument that may be raised is that all foreigners who enter and reside in a country under similar conditions receive the same treatment.³⁶ However, numerous cases over the years have demonstrated that this is not so, and that due to the particular difficulties some Roma face (illiteracy, lack of skills and deplorable living conditions), their treatment is different. Roma do not have the same access to the labour market as other migrants. How many Romani women, for example, could be employed as babysitters, nurses, or caregivers for older people in community centres, hospitals, hospices³⁷ or in organisations that could use their various language and/or other skills so that they may prove that they have a regular income in order to obtain a residence permit? Romani women may have the skills to obtain a job but no official recognition of their credentials. This is one of the basic factors that would prevent someone from applying for a particular type of residence permit (e.g., as a domestic worker, or as an exclusive nurse-caregiver/medical assistant).³⁸ Compounding the aforementioned weaknesses of the group, additional justifications for this differential treatment are the deeply-held stereotypes and myths about Roma that hinder their access to employment even in these types of traditional jobs for immigrants.

Categories of Foreigners

The existing common EU-wide legislative framework allows for the differentiation of migrants into the following three

31 The case of the old Sofades settlement or of the Atalanti Roma relocation.

32 The case of the Roma in Kranidi Argolidas.

33 For example, in the Sofades old Roma establishment.

34 They are accused of not wanting to integrate, that they do not want to send their children to school and that they do not want to change some of their customs, such as early marriages.

35 For example, this occurred in Votanikos, Greece. Despite the fact that the Albanian-nationality Roma had lived there for more than a decade, and despite the fact that there had been several high-level meetings, all of which involved public services, in order to find a way to smoothly integrate them into society, eventually their camp was dismantled overnight; their fate after that is unknown (i.e., there is no information about how many of them were deported and how many were dispersed and still live in Athens).

36 European Union: Council of the European Union, Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on *Common standards and procedures in Member States for returning illegally staying third-country nationals*, 16 December 2008, OJ L 348/98-348/107; 2008/115/EC, available at: <http://www.refworld.org/docid/496c641098.html>.

37 These categories of work are indicative of the types of residence permits many immigrant women request.

38 In my experience in handling immigrant cases for the last decade I know of no such case.

main categories: a) refugees and/or asylum-seekers³⁹ b) immigrants⁴⁰ and c) foreigners without papers⁴¹ or recognised legal status of residence in an EU state. This is a hierarchical differentiation whereby there are corresponding rights according to the category to which one belongs. In this scheme, refugees are entitled to more privileges than immigrants, and “*sans-papiers*” are entitled to a lot less than immigrants. Nevertheless, from the point of view of Roma, the basic issue is to what extent they may, under the conditions in which they live and travel, fulfil the requirements for inclusion into any of the aforementioned legal migrant statuses, provided of course that they overcome the original barrier of leaving the country of origin and of crossing over the border into the host country.

Irrespective of the categories persons may fall under when they migrate, they must comply with the specific requirements integral to that category. Thus, if one is claiming refugee status, she/he must be able to prove “*a well-founded fear of being persecuted*.” For a Romani individual who has come from a Western Balkan state or from a newly-acceded European state, it is very hard to substantiate such a fear for himself and/or for his family. Suffice to say that avoiding war, or warlike frictions in an area, or escaping conditions of life-threatening poverty, does not entitle someone to claim refugee status, since in order to claim refugee status one must prove that the threat encountered is directed against his life *per se* by the forces of the state and is not a general threat of death or sickness as a natural consequence of war or poverty. The most that a person may expect when she/he migrates under such a general threat is temporary settler

status and short-term protection. Similarly, according to EU law, international protection (termed *subsidiary protection*)⁴² is usually granted to someone who is “*e) a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm as defined in Article 15, and to whom Article 17(1) and (2) do not apply, and is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country*”. Moreover, the status of “asylum-seeker” is usually not granted until the final decision on her/his application is made, i.e., while his/her application is pending. Depending on how effective or how organised a state is, this procedure may last anywhere from a few days to a few years. In the intervening period, the asylum-seeker may reside and work legally. When the final decision is made, if it is negative, the individual and his/her family will have to go, irrespective of the time they have resided in the host country or the ties they have developed there.⁴³

On the other hand, if a person is requesting a residence permit under the national immigration law of an EU Member State, she/he must then present evidence that is able to fulfil the set requirements for entry into the country, including retaining a job and having a stable income, home and health insurance coverage, as well as prospects for sustaining them. It is no accident, then, that even high-level EU state officials consider that “*the foreign Roma [...] are incapable of integrating into society and should go home*”.⁴⁴

39 As is provided by the Refugee Convention and all the national/international laws/provisions which ensue from it, the Amsterdam Treaty, Council Regulation (EC) 343/2003, Council Regulation (EC) No. 2725/2000, Council Directive 2005/85/EC of December 1, 2005, Council Directive 2004/83/EC, Dublin-II regulation.

40 The Treaty of Lisbon, Regulations and Directives, National Immigration Laws on differentiation of categories of residence permits, Council Directive 2003/86/EC of 22 September 2003, *On the right to family reunification*, Council Directive 2003/109/EC of 25 November, 2003, *Concerning the status of third-country nationals who are long-term residents*, Council Directive 2009/50/EC of 25 May 2009, *On the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*, Directive 2000/43 (race) and Directive 2004/113 (gender).

41 Treaty of Lisbon, Directive 2008/115/EC, Schengen Regulation.

42 Council Directive 2004/83/EC the Council of the European Union of April 29, 2004 *On minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted*, available at: http://www.emnbelgium.be/sites/default/files/publications/council_directive_2004_eg_eng.pdf; Also Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on *Standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted*, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF>.

43 Some EU Member States (including Greece) have in place provisions for the legalisation of residence in cases when the foreigner may prove long-term residence or strong ties with the country. The question remains whether Roma are aware of this, if they are given the opportunity to take part in these procedures and if they are able to fulfil the minimum requirements for inclusion in these processes.

44 This was reported as having been said by the French interior minister in response to the expulsion of the 15-year-old Romani girl from Kosovo; see Celestine Bohlen, “What’s Missing in Roma Debate? Voices of Roma,” *New York Times*, 11 October 2013: “Last month, Manuel Valls, the Minister of the Interior, said flatly that the foreign Roma — distinct from France’s estimated 350,000 native Gypsy, or “traveller,” population — are incapable of integrating into society and should go home. He was swiftly denounced by another cabinet minister who accused him of stigmatizing an entire ethnic group.”

Furthermore, there are additional requirements (that of good knowledge of national language and culture), for obtaining a “long-term residence permit”⁴⁵ that will provide the opportunity for its holder to migrate in the EU region in search of work. As has already been mentioned, some EU states, including Greece, have also adopted provisions that could enable foreigners to stay in the country for “exceptional” or “humanitarian reasons”. The question, then, is: Given the aforementioned weaknesses of the group, to what extent do the Roma have access to these procedures and what treatment do they receive if they try to take advantage of these favourable provisions?

In addition, persons who lack proof of their citizenship or who cannot present official documents about their identity, birthplace, country of origin, etc., are “invisible” or non-existent to the state.⁴⁶ They are usually persons who enter an EU territory without a visa and who reside in illegal encampments. Under existing legislation, they have no chance to legalise their stay in the country. Of course these are the poorest people with the least skills to obtain work in the typical labour market; people who cannot provide the conditions for a basic standard of living for themselves, and who cannot escape from the situation they are in on their own. These are often young women and men who, while underage, have already formed their own families, migrate as a group, and repeat in their normal, everyday life the methods of survival taught them by their forebears. These persons, who are the weakest of all, are under persecution everywhere they go because of the presumed demands their very existence may place on a given state.

The liberalisation of visa procedures, as it occurs between EU Member States and states that are either in the process of joining the EU or have applied for membership, may offer temporary relief to some Roma by making the crossing of borders and staying in destination countries easier, provided that the obstacle of getting safely through check points has been overcome. Nonetheless, this does not solve the problem of acquiring stable residency in an EU state. For this reason, this liberalisation

seems to accommodate the tourism and entrepreneurial/commercial exchanges between states better, not the needs of vulnerable citizens.

Protecting Individual Rights

The gradual expansion of the protection of human rights to third-country nationals, which ensues through the use of the EU Charter of Fundamental Rights, the judgments of the European Court of Human Rights (ECtHR) and the pronouncements of the European Committee of Social Rights (ECSR) in specific fields such as detention, protection of family life and especially in regards to the obligation of the state to comply with the prohibition of *non-refoulement* does not seem at present to provide adequate protection to Roma. For this to happen, an essential change must occur so that the decisions of these bodies concerning concrete violations of individual rights are transferred through changes in legislation, changes in policies and changes in practices for the whole society. A decision, for example, of the ECtHR about illegal expulsion or demolition of Roma camps must become a general rule so that the concrete violation to which it relates will not be repeated in another case.

The right of a person to leave a country “without unjustified obstacles” constitutes one of the basic human freedoms and for this reason is included in the major international and European legal instruments for the protection of individual rights.⁴⁷ This is especially so when the reason for leaving a country is to avoid persecution or “inhuman or degrading treatment”.⁴⁸ Furthermore, Article 13 of the Universal Declaration of Human Rights stating that “Everyone has the right to leave any country, including his own, and to return to his country” would not make any sense unless that individual has the possibility to enter another. That this must be done according to some rules does not negate that possibility.

The right to move is essential, because, like education, it may lead to the satisfaction of other rights. It is true that at the level of international law there is no recognised

45 Directive 109/2003 Concerning the status of third-country nationals who are long-term residents, available at: http://www.integrim.eu/wp-content/uploads/2012/12/Directive-2003_1091.pdf.

46 For the problem of unregistered persons in Greece the Greek Ombudsman has issued a special report which may be accessed at: http://www.synigoros.gr/resources/dhmotologhsh-roma-ek8esh_teliko.pdf 29-31.

47 Article 2 of Protocol No. 4 to the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, available at: <http://conventions.coe.int/treaty/en/treaties/html/046.htm>.

48 Article 3 of the *European Convention on Human Rights*, available at: http://www.echr.coe.int/documents/convention_eng.pdf.

right to migrate.⁴⁹ However, states must not overemphasise their power to impose restrictions on people's movement. Rather, they must demonstrate that the restrictions they impose are just and necessary in a democratic society.⁵⁰ We must always take into consideration that restrictions which are unnecessarily imposed are fundamentally restrictions on the development and growth of the individual and prevent opportunities in his or her life. When this type of violation of human rights is considered the norm, then any expansion or development of such violations could lead down more dangerous paths (e.g., widespread racist actions) which European society would surely not want to experience again.

What, then is to be done? How are European states to deal with the presence in their territories of individuals who appear not to conform to the established rules of entry, residence or bureaucratic organisation of life and who, for these reasons, appear at least temporarily to be a perceived burden or to pose a threat to social cohesion?

This article is not going to analyse the issue of the availability of resources, of the need or not for nation states, borders, or the social-political divisions we are all aware of. The minimum European states can do is to truly apply the rules that are already in place.⁵¹ The goal is simple: To consider how, within the existing system and the valid legislative European framework, the life chances of Roma may improve everywhere they are present. When an EU Member State forces out a group of Roma, the members of this group do not return to or stay in their country of origin. Usually they migrate to another EU state. Thus, there must be cooperation amongst European states. Taking the “*not in my backyard*” stance most likely means that the problem will be passed onto another state. A starting point in the path to change the treatment of Roma in Europe may be to consider how much it costs us to keep Roma excluded and living in desolation today.⁵²

Starting in the middle of things and assuming responsibility for all Roma who are residing in their territory now,

European states must undertake every effort to integrate them. If the subjects of a state are fully integrated, the necessity or desire to escape will decrease. However, integration may not ensue without access to education and labour and access to these basic rights cannot result without an end to early marriages, which in turn will lead to the access of Romani women to key functions in society.

Real improvement in the life of the most vulnerable people does not follow from the development of ideal schemes of life or grand changes, but by applying, without prejudice and in the spirit of the letter and the motive of the law, the rules that are in place. Improvement of these rules, of course, may follow as society advances. However, life and societal changes do not happen without our involvement. Each one of us, irrespective of our identity as Roma or non-Roma, from the position in which we operate, may contribute to the social integration of the “others” in our midst and thus to the betterment of our society. This may mean that those of us who are in a position to pressure for changes at the decision-making level must do so by ensuring that these changes are directed towards ending the social exclusion of Roma; similarly, all of us should make a concerted effort so that there are no separate schools for Romani pupils and that the standards of education are the same for all, which means all children, from all backgrounds and social statuses, should study together and be taught and be treated alike inside and outside the classroom; it may also mean that in exercising our duties as public servants, as private employers, etc., we apply the rules justly and objectively, always treating the people we serve with respect, irrespective of their particularities. This means that we must resist operating on the basis of stereotypes which will lead us to consider categories or groups of people in a negative way. For those of us who are not Roma, I think it would greatly change our stance in life if we could envision ourselves in the position in which, as portrayed above, most Roma are in our society today: What would we want to happen if it was we who were born in a Roma camp or raised in a Romani family?

49 Certainly in the socio-political discourse about the need of people to migrate there are arguments that support the idea of developing such a legal right. For the time being though this is not the case in our legal framework. See the *United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* and L. Bosniak, “Human Rights, State Sovereignty and the Protection of Undocumented Migrants under the International Migrant Workers Convention”, in ed. Bogusz, B., Cholewinski, R., Cygan, A. and Szyszczak, E, *Irregular Migration and Human Rights: Theoretical, European and International Perspectives*, (Martinus Nijhoff Publishers, 2004).

50 See for example European Court of Human Rights cases *Abdulaziz, Cabales and Balkandali v. UK* (1985) and *Berrehab v. Netherlands* (1988).

51 Irrespective of how just these rules are in an ideal or an ethical-philosophical model.

52 Not only in economic but in social, personal and ethical terms.

The Pursuit of “Happiness”

ELISABETTA VIVALDI¹

An “Ethnographic” Introduction to the Data

During the past few years, while completing my academic studies in Italy and the UK, I decided to dedicate my full attention to the situation of Roma, in particular, Roma belonging to groups residing in the area where I live in Naples, Italy. The choice was based principally on a personal decision, more than mere academic curiosity, as it is connected with my own ethnic affiliation with groups coming from the former Yugoslavia and fleeing war zones.

The Roma who arrived in the 1990s from the former Yugoslav Republics reminded me of the “Yugoslav refugees” (*profughi jugoslavi*) who had previously arrived from Istria as a result of the tragic events that provoked the death, displacement, deportation and relocation of numerous individuals during the timeframe of the Second World War, especially in the areas now at the border with Italy that were severely affected by geopolitical changes between the First and the Second World Wars. Literature (and in particular ethnography) on/by Romani refugees from Istria, Dalmatia (Croatia), Slovenia and other neighbouring areas has been neglected for a long time and the traumatic stories (and evidence) recalled by the victims, often through oral storytelling, have too often remained unheard.² In Italy there are, however, families of “Istrian refugees” who preserved (often within the family) the

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”

Thomas Jefferson,
United States Declaration of Independence

memory of such tragic events and the related relocation process.³ Some people such as myself felt a personal sympathy today towards these segments of the population who were facing such situations just a few decades after my grandparents and uncles had.

The initial sympathy for my Romani peers from Serbia gradually settling in the area where I live in Scampia turned later into empathy and the wish to understand them, to listen to them and to share know-how with them in a participatory way. This process was also accompanied by the hope that one day there would be further possibilities to share our achievements with the external community, still too unaware about the Roma, so as to exchange experiences, histories and practices that could contribute to the enrichment, enlightenment and progress of individuals belonging to “non-Romani society” by allowing them to gain information from direct sources.

Scampia, the Research Context and Romani “Migration Tales”

A Romani group migrated to Naples in the 1990s who self-define as Serbian Roma. They now live in the 8th Municipality of Naples, in the neighbourhood of Scampia, where Roma live in a settlement also known to its residents and

- 1 Double LM degree, thesis in Economic Anthropology, title: “*Conflitti Etnici e Migrazioni nella ex-Yugoslavia: il caso dei Rom di BiH*” [Ethnic conflicts and Migrations in former-Yugoslavia: the case of Roma from BiH] at University of Napoli “L’Orientale” 2005. LLM (Master of II Level) in Human Rights, Faculty of Laws, University of East London, dissertation title: “Institutional and civil society discrimination against Roma in Italy: from former Yugoslavian war zones and post-Dayton pronouncements to the Italian ‘Nomad Emergency’” 2009.
- 2 [Interview to Mirko Levak, a Kalderash Rom from Marghera] *Giorno della Memoria*, Intervista a Mirko Levak un rom kalderash di Marghera. Porrajmos”: la persecuzione nazista dei “rom” e dei “sinti” in *Patria Indipendente* (24 January 2010), available at: http://www.anpi.it/media/uploads/patria/2010/1/13-16_INTERVISTA_LEVAK.pdf.
- 3 G Soravia, “Zingare, comunità Enciclopedia dell’ Italiano” in *Treccani.it L’enciclopedia italiana*, (2011), available at: [http://www.treccani.it/enciclopedia/comunita-zingare_\(Enciclopedia_dell%27Italiano\)/](http://www.treccani.it/enciclopedia/comunita-zingare_(Enciclopedia_dell%27Italiano)/).

local pro-Romani NGO workers as the Old Camp. There are around 100 families/ 800 people living there.⁴

This “nomad camp” is located in via Cupa Perillo, in an urban area between the roads via Aldo Moro coming from the town of Mugnano di Napoli, via Galileo Galilei and viale della Resistenza in the Municipality of Scampia.

The distinctive feature of this settlement is the high-speed road Strada Comunale Asse perimetrale Melito-Scampia passing overhead, supported by huge traffic pillars. Underneath these pillars several Romani families live in self-made housing which they define using the Italian term *baracca* (shack). The hygienic conditions of the camp are very poor as it does not have primary services; water and electricity are gained through illegal connections.⁵

The Old Camp can be divided into three areas: The central part, known as the roundabout/pink houses part, the left side, and the right side.

Another distinguishing characteristic is that on the left side of the entrance road (viale della Resistenza) right after “the pink elementary school” there is another sub-camp called the Muslim Camp. On the right side of the road there is a state-owned rubbish plant where some dismantlement activities are undertaken. Finally, the main road is separated in two by a brick traffic divider; on both sides, mountains of rubbish are piled up precluding the freedom of movement of pedestrians and vehicles.

At first glance it is possible to recognise potentially harmful and toxic waste that has been savagely discarded at the margins of the road, such as leftover paints, oils and household items, sometimes also accompanied by the decomposing bodies of dead animals, often rats.

The name Old Camp draws attention to the fact that there is also a New Camp not too far from Scampia, in Secondigliano, on the Circumvallazione Esterna road.

The New Camp is a legal settlement built by the local institutions and also inhabited by other former Yugoslav, mostly Serbian, families, who are related to the ones living in Scampia.

Upon arrival in the city of Naples, groups of Roma from the former Yugoslavia spontaneously settled in a cross-point area between Scampia, Piscinola and Secondigliano, under the bridge of via Zuccarini, where there is now a subway station indicating the stop of Piscinola-Secondigliano. They remained there, in the middle of the street, until one summer day in 1999 a road accident occurred and a local girl from Scampia, hit by a vehicle driven by a Romani person temporarily there to visit his extended family, lost her life. The incident provoked the resentment and reprisal of a local mob that indiscriminately attacked the Romani encampments in the area, set fire to their shelters and properties, and intimidated all the Romani population into leaving the area immediately.⁶

Due to this tragic event, on 24 July 2000 around 700 inhabitants of the most-affected area shifted to the New Camp (divided into sub-camps A and B) and benefited from containers supplied with water, electricity and toilets.⁷

Perhaps due to a shortage of funds at first, or due to political indecision later, not all the Roma were relocated to this “Village of Solidarity”.⁸ Some families, in fact, remained in Scampia in a sort of accommodation limbo and still today inhabit the same Old Camp in via Cupa Perillo, which was probably created between 20 and 30 years ago.⁹

Research participants confirmed they had moved to Naples not only because of the conflict that erupted in former Yugoslavia, but also to better their quality of life and economic situation.

My husband called me and said: ‘C’mon come, come to Italy’... And what will I do there in Italy? I heard that many of our people had been there and knew how life is. So when he said ‘What to do? Over there you can work and if you don’t you can go begging...your kids don’t have to, they can go to school, it will be easier for you and the children’

4 C Miele “La popolazione rom nel Comune di Napoli dagli anni ‘80 ad oggi”, 15-22, in Ed. G. Zoppoli, F Saudino, *I rom in comune studio sul Comune di Napoli e i rom che ci vivono i Quaderni del Barrito* (2012).

5 Berenice-Compare-Lunaria-OsservAzione, *Segregare Costa. La spesa per i “campi nomadi” a Napoli, Roma e Milano* (Rome, 2013), 8, available at: http://www.lunaria.org/wp-content/uploads/2013/09/segregare.costa_.pdf.

6 Miele, “La popolazione rom nel Comune di Napoli dagli anni ‘80 ad oggi”, 18.

7 *Ibid.*

8 Berenice-Compare-Lunaria-OsservAzione, *Segregare Costa. La spesa per i “campi nomadi” a Napoli, Roma e Milano*, 8.

9 Miele, “La popolazione rom nel Comune di Napoli dagli anni ‘80 ad oggi”, 19.

[...] *And they have not seen their father for three years, they were crying for him all the time, to see their father, I took the decision to come here. When I arrived, I came directly here; I did not even have a bed sheet. I asked what is this? Not even electricity, I was without electricity there for three years and here too! What is this?! Here, not only did I not have electricity but also nothing to cover myself. Nothing at all!*¹⁰ [*Sofia, Serbian Romani woman aged 36, (January 2012)*].

Before the conflict erupted in the 1990s and then terminated with the collapse of the former Socialist Federative Republic of Yugoslavia (SFRY)¹¹ it was possible for Roma from the Republics of the SFRY to travel abroad to Austria, Germany, France, Belgium, Switzerland and Italy. Their migration at that time was mostly related to work or leisure activities. Numerous Romani families would often visit their relatives residing abroad in Northern or Western Europe, or simply take seasonal trips to keep up with their entrepreneurial activities (purchasing and selling goods, transporting materials from country to country, trading and profiting on their expertise and good knowledge of the neighbouring lands). Many workers of Romani origin used to be employed in the metallurgic and mining sectors, hired by foreign enterprises and industries.¹²

According to Italian records, the first wave of Romani immigrants coming from the central-southern regions of the Yugoslav Federation began arriving in Italy between the 1950s and the 1980s. The intent of these Romani migrants from the SFRY was mostly connected with survival or improving their living conditions and earning a living rather than any intrinsic “nomadic vocation”.¹³

More recently, in the 1990s the events related to the eruption of the conflict(s) and later the postwar conditions, together with other personal reasons such as family ties, motivated Romani families to relocate to Italy. Nonetheless, legal quibbles when accessing documents deeply preoccupied the

Roma, not only in the new, emerging independent republics but also in the countries receiving these migratory flows. One of the most significant problems consisted in contacting the newly-appointed delegations in charge after the collapse of the former SFRY.¹⁴ Often the decisions taken to tackle Romani problems were affected by atavistic stereotypes on the part of non-Roma mainstream society and even carried out through manipulative press agencies labelling the Romani groups who were fleeing war zones as “hordes” of “nomads”.¹⁵

With the first outbreak of hostilities between the societal components of the former Yugoslavia, a huge number of Roma departed. Entire segments of the population, primarily relatives and extended family members, left their homelands to attempt migration, mostly in camper vans. In the very beginning, Romani families left mainly with tourism permits and would convert these to a request for asylum only after they had expired. However, the first families of migrants who moved towards the west were familiar with the places they wanted to reach; they usually followed migration trends in order to reach known places or locations where other relatives were based.

When the conflicts began to explode, some Roma together with many other former Yugoslavs of different origins realised it was necessary to request “temporary protection” or “exceptional leave to remain” (in accordance with the regulations of the host country) to attest to the impossibility of their return to an unstable and dangerous country. SFRY had now collapsed, along with its diplomatic representations. Roma were left totally alone to deal with their problems and a number of extremely intricate international bureaucratic quibbles.

With respect to Italy and its past institutional decisions and policies, it should be considered that Roma from the former SFRY sought asylum because they feared “an imminent

10 Quotes from interviewees are from the author’s own interviews.

11 Socijalistička Federativna Republika Jugoslavija (1945-1992).

12 T.A. Acton, “A Romani Resettlement: Bosnia Refugee Rom in England”, in *the Patrin Web Journal* (1996).

13 G. Campani, F. Carchedi, “Migranti, rifugiati e nomadi dai Balcani” in eds. G. Campani, F. Carchedi, G. Mottura *Migranti, Rifugiati, e Nomadi: Europa dell’Est in Movimento* (Torino: L’Harmattan Italia, 1998), 26.

14 Senato della Repubblica, *Rapporto conclusivo dell’indagine sulla condizione di Rom, Sinti e Caminanti in Italia, XVI Legislatura*, 22.

15 The term “horde of nomads” is used in different periods by the press, see also: B. Spinelli, “Zingari le radici dell’odio”, *La Stampa*, 29 August 2010, available at: http://www.cdbchieri.it/rassegna_stampa_2010/zingari.htm; Libero, *Bologna: Lega, basta orde di zingari molesti davanti ospedale Maggiore*, Adnkronos, Bologna, 12 February 2013, available at: <http://www.liberoquotidiano.it/news/cronaca/1182403/Bologna--Lega--basta-orde.htm>; *La Stampa*, *Politica, Bologna, ronda anti-rom della Lega*, 13 February 2013, available at: <http://www.lastampa.it/2013/02/13/italia/politica/bologna-ronda-anti-rom-della-lega-zTJImbnYSMKuwDp614DIGJ/pagina.html>.

tragedy, therefore they requested protection”.¹⁶ In the 1990s Italy underwent changes both in migration trends and in relation to the origins of those migrants. It was a country ill-prepared to deal with these tremendous changes. A very intense migration wave from the former SFRY occurred and, in response, camps were set up by the Ministry of the Interior through the Communes. However, the organisation of these lodgings was not satisfactory.

In addition, in the specific case of Italy Roma have had to deal with different pieces of immigration legislation over the past two decades, encountering numerous obstacles and changes determined by the Law Decree Turco-Napolitano No. 286 25/07/1998; Martelli’s Law L.39/1990, Law No.390/1992 defining “Temporary Protection” for former Yugoslavians, and the Law Bossi-Fini No. 189 30/07/2002. Furthermore, Roma were also subjected to specific Regional laws that gave support to the enactment and maintenance of camp settlements and other locally-based decisions.

When I was in Bulgaria I lived in a house not in a camp...I cannot tell you that I am doing well here, but it has become a habit...The reason why I am still here is that if I leave this place I have nothing left, I have no job and nothing for me, so I stay with the hope that better times will come for us. Better remain here; my mother died and I have only my father. All my family is here in Italy”.
[Gloria, Bulgarian Romani woman aged 29, (Dec. 2011)]

The acquisition of Italian citizenship remains a difficult process for many individuals born in the Italian Peninsula to non-Italian parents, as the official legislation, regulated by the Ministry of the Interior, establishes that in the majority of cases this right can be obtained only through *ius sanguinis* and not through *ius solis* (see Law No. 91 05/02/1992 and the related DPR No. 572 12/10/1993 and No. 362 18/04/1994).¹⁷

When I turn 18, I will get my Italian citizenship and I will get married here at the local Commune. I wouldn’t like to go away as I have never seen Serbia...not even in a photograph! If one day they want to send me away I will start a big war because it is not right! I was born here as you were born here and having “Italian blood” doesn’t make you any different. It is as if you were born here, grew

up here and all of a sudden they send you away from “your land”. As that would not be right for you, it is also not right for me, it doesn’t matter that my family is “Serbian”, I was born over here!
[Luna, Romani girl born in Italy, aged 17 (Mar. 2012)].

Particularly for Roma who inhabited illegal or tolerated settlements, trying to apply for citizenship on the basis of their residence can constitute a problem because it might be unacceptable to document their continuous presence on the state’s territory if their location is not considered official.¹⁸ After a long wait, some families attempt new migratory paths or embark upon a return when the conditions seem to be more profitable at the chosen destination point.

I was born in Germany but I abandoned the idea of German citizenship because I am not going to live in Germany - I got the Serbian one. I have been living in Italy since 2002... I like it but I like the house I have in Serbia even more. I have been to Belgium, Germany, France, Spain but I am in Italy now... I would prefer for my kids to grow up here in Italy where they were born but if my parents decide to return to Serbia I will follow them. I have never been there and I do not know what I will find when I go there... I am excited but not scared! I will go live ... in a house...
[Saša, Serbian Rom born in Germany, aged 19 (Jan. 2012)].

Some families in recent years, especially after the 2008 Nomad Emergency Decrees (which have now been declared illegal), decided to move again, reaching Belgium, Germany or France or returning to Serbia. The reason for this is often a search for a better and higher quality of life.

In February 2008 Silvio Berlusconi began his electoral campaign on the promise to start a policy of “zero tolerance against Roma, criminals and clandestines”.¹⁹ In April 2008 his coalition won the elections and a new Italian government was formed with Berlusconi as Prime Minister (*Forza Italia* party) together with Gianfranco Fini flanked by Gianni Alemanno (*Alleanza Nazionale*/National Alliance party) and with Umberto Bossi and Roberto Maroni (*Lega Nord*/Northern League party). Fini was appointed Speaker of the Lower Chamber of Parliament, Alemanno the first right-wing mayor of Rome since Mussolini,

16 G. Campani, F. Carchedi, “Migranti, rifugiati e nomadi dai Balcani”, 22.

17 Farnesina, Ministero degli Affari Esteri [Ministry of Foreign Affairs], *Cittadinanza* [citizenship], available at: http://www.esteri.it/MAE/IT/Italiani_nel_Mondo/ServiziConsolari/Cittadinanza.htm.

18 *Ibid.*

19 La Repubblica, *Rom e clandestini tolleranza zero, Berlusconi lancia il suo programma*, 11 February 2008, available at: http://rassegna.governo.it/rs_pdf/pdf/H3T/H3T6R.pdf, 6 - 7.

Bossi Minister for Reforms and Federalism and Maroni as Minister of the Interior.

Based on a *Decree of the President of the Council of Ministers (DPCM) Law No 225/92*, on 21 May 2008, the Italian Government enacted the Nomad Emergency legislation.

Even though Law 225/92 referred to emergency circumstances arising from natural disasters, and therefore its text did not directly mention “situations arising from coexistence between ethnic groups”²⁰ it was used to allow public authorities to derogate in practice from every provision of law applicable under normal circumstances.²¹

The state of emergency allowed extraordinary measures in matters of security that targeted both Roma and Sinti settled in Italy. Hence the “security package” proposed by the Government and composed of a *Nomad Emergency Decree*, three *Implementing Orders* (30 March 2008) and the *Guidelines* for its realisation (17 July 2008) authorised the enforcement of operations carried out by a number of institutions such as the police, the army and the Red Cross. The task was presumably the collection of personal data (fingerprints and photographs) of all the camp inhabitants, including minors, to perhaps allow the creation of a database.²² At first, however, no public information was provided as to which agency or office would store the files and how they would utilise them, including in order to comply with *Data Protection Directive 95/46/EC*.²³

On 28 June 2008, Maroni declared that the fingerprinting plan was a “solution for inadequate housing and rising

crime rates”²⁴ but the government did not fully clarify how the measures would achieve these established aims.²⁵

At the end of June 2008 in Naples, members of the police fingerprinted and photographed almost every individual aged 14 and over in the camps. The inhabitants reported a double fingerprinting operation: “the first was a normal picture which appeared on the census forms the second photograph was taken while the residents were holding a sheet of paper with a number written on it” (Memorandum to the European Commission, 2009:16).²⁶ Deep concern over the situation faced by Roma and Sinti communities living in Italy was expressed by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe.²⁷

They took pictures and fingerprints and told us they were needed to provide documents, a visa to stay, (permesso di soggiorno), ID cards and all these necessary things so that those who don't yet have them can receive documents... Some people got them, some did not... As I see it, few remained here, because some people left. They left Italy and travelled abroad to reach other countries. They are not here anymore.
[Gloria, Bulgarian Romani woman, aged 29 (Dec. 2011).

The Nomad Emergency Decrees and Census were declared illegal,²⁸ in fact, by Judgment No 06050 published on 16 November 2011. Italy's highest administrative court, the Council of State, ruled that the declaration of the Nomad Emergency had been unfounded and unsubstantiated, and hence the decree of the President of the Council of Ministers was illegitimate.²⁹

20 ERRC, OSI, COHRE *Security a la Italiana, fingerprinting, Extreme Violence and harassment of Roma in Italy*, OSI and ERRC (8 July 2008) 7-18, available at: http://www.soros.org/initiatives/brussels/articles_publications/publications/fingerprinting_20080715.

21 *Ibid.*

22 The Observer, “*Italy's Roma face fingerprinting*”, 2 July 2008, available at: <http://observers.france24.com/content/20080702-roma-fingerprinting-database-italy-berlusconi-gypsy-community>; Mohácsi V., “*Viktória Mohácsi on Roma fingerprints database*”, ALDE, 8 July 2008, available at: <https://www.youtube.com/watch?v=bzC7bhB1i8>.

23 European Parliament, *Parliamentary Questions*, 19 March 2012, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2012-003404&language=EN>.

24 Maroni in ERRC, OSI, COHRE, *Security a la Italiana, fingerprinting, Extreme Violence and harassment of Roma in Italy*, OSI and ERRC, 19.

25 ERRC, Open Society Institute, OsservAzione, *Memorandum to the European Commission, Violation of EC Law and the Fundamental Rights of Roma and Sinti by the Italian Government in the Implementation of the Census in “Nomad Camps”* (4 May 2009) 3; 28.

26 Interview at the Camp Cupa Perillo, Naples, 24 March 2009, in ERRC, Open Society Institute, OsservAzione *Memorandum to the European Commission* (4 May 2009), 16.

27 *Ibid.*

28 European Parliament, *Parliamentary Questions*, 19 March 2012; [Leggioggi.it](http://www.leggioggi.it), Consiglio di Stato, sez.IV, 16 November 2011, n.6050 Sull'illegitimità del Piano Maroni del 2008 e la nomina dei Commissari delegati, 16 November 2011: available at: <http://www.leggioggi.it/allegati/consiglio-di-stato-sez-iv-16-novembre-2011-n-6050/>.

29 Amnesty International, Italy, *Briefing to the UN Committee on the Elimination Racial Discrimination 80th session*, (February 2012), 8, available at: <http://www.amnesty.org/es/library/asset/EUR30/001/2012/en/2363af2-73bc-44c9-bf21-63b00d539bca/eur300012012en.pdf>.

In reality, at the time of these interviews, none of the core objectives pointed out by the Ministry of Interior had been accomplished, at least not at the Old Camp of Scampia (e.g.: “To resolve the grave situation of hygienic, sanitary and socio-environmental degradation existing in the illegal settlements as well as in the authorised camps; to promote the rule of law and better living conditions for the concerned communities by ensuring access to social, health and education services; to safeguard public security and the people living in these settlements”).³⁰ The camp remained exactly the same as it was in 2008 (and even before).

Some families felt it necessary to travel abroad to countries deemed to be able to provide better living conditions and hope, especially for their children. The youths interviewed showed sadness for having to leave the place where they were born and to which they are attached.

Today is a special day for me because I must leave. I am travelling to Belgium. I have been to Germany, Italy and Belgium. In Belgium I stayed three years, in Germany one and a half years. In Belgium I have my uncles, my cousins, my father and my brother. Here no one will remain, only my auntie. I will definitely miss this place because I was born here; I grew up in this camp! I am a bit scared to change my life all over again but it will be better living in a house, in an apartment, instead of a baracca [shack]. [Giorgio, Romani boy born in Italy, aged 14 (May 2012)].

A Brief Conclusion

More than two decades after their arrival in Italy, these research participants of Romani origin settled in Scampia,

Naples still live in an illegal but tolerated camp settlement and many of them were even born on Italian territory.

This article examines some documentary sources and press releases that might clarify the situation and the harsh living conditions faced by this community. However, the narratives collected during this ethnographic exploration represent the most significant and precious contribution to my research.

The personal stories are, in fact, essential instruments to place Roma at the centre of a discourse that directly relates to them, beginning with a war-related migration and expanding later in new directions with the younger generations. I therefore claim the importance of several of the themes which emerge throughout their stories, such as: attachment to the location and fear of removal, disregarded expectations, the fear of being fingerprinted, hopes for a better future and living standard and their wish to keep the family together.

In their narratives, the Romani participants explained that they moved (or will move) to re-join and reunite with their family, to protect their own life (or that of their loved ones), to pursue their happiness and to benefit from their full rights which they feel they are currently not being fully granted (such as the ones indicated as first³¹ and second³² generation human rights - to seek better living conditions, to find a job, to empower themselves and to increase their well-being and economic possibilities).

The decisions related to attempting to migrate are therefore very much connected with the situation faced in their country of residence and with the local /national policies enacted to effectively support all individuals (and their families) in the fulfilment of their human rights,³³ civil liberties³⁴ and equal dignity.

30 *Ibid.*, 7.

31 The first generation of rights means “civil” or political” rights, such as: the right to life; to property; to be equal before the law; to receive a fair and public hearing where one is innocent before proven guilty; the right to move and reside anywhere within one’s country; the right to seek asylum; the right to be protected against torture and cruel punishment or against arbitrary exile or arrest, etc.

32 The second generation of rights means “social” or “economic” rights, such as: the right to an education that promotes tolerance and understanding; the right to food, clothing, housing, medical care, and necessary social services, the right to security in the event of unemployment, sickness, disability, widowhood, or old age; the right to enjoy remuneration and standards of living adequate for the health, well-being, and dignity of citizens and their families, etc

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Romani Migration: Is it a Poverty-Coping Method?

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Introduction

During the last two decades the phenomenon of migration has been at the very core of the political, economic and social changes occurring in Albania. By the end of 2012, about 1.4 million people or about one-third of the Albanian population, were estimated to be living abroad, mainly in Greece and Italy.⁴ Smaller numbers were spread throughout different European countries as well as the USA, Canada and Australia. No other country in Central and Eastern Europe has been similarly affected by migration within such a short timeframe. Migration has turned Albania into a “country on the move”, as characterised by Carletto et al.,⁵ or into a “sort of laboratory for studying new migratory processes”, according to Russell King.⁶

The general flow of international migration from Albania has also included different ethnic groups such as Greeks, Aromanian/Vlachs, Macedonians, Montenegrins and Roma.⁷ Each of these groups has a specific model and distinct experience

of migration.⁸ Migration to a country of origin has helped some of these groups, such as Greeks, Vlachs, Macedonians and Montenegrins, to improve their living standards, often beyond what the average Albanian achieves. The ease in obtaining entrance visas, the language and family ties in their countries of origin have allowed these groups to enjoy more advantages from migration.⁹ On the other hand, the international migration of Roma is a poverty-coping method that allows many families to subsist in the short term. Nevertheless, it cannot get them out of the poverty and social exclusion cycle in the long term.¹⁰

This paper is organised in three main parts, followed by its conclusions. The first part talks about the international migrations of Albanian Roma and describes some of the main characteristics of this phenomenon. The second part illustrates Albanian Roma migrants’ employment, living conditions, income, remittances and how they are used. The employment of Roma in jobs that increasingly require fewer qualifications in the informal sector produces subsistence-level incomes

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- 5 Calogero Carletto et al., “A Country on the Move: International Migration in the Post-Communist Albania”, *International Migration Review* Volume 40/4 (2006): 767-785.
- 6 Russell King, “Albania as a laboratory for the study of migration and development”, *Journal of Southern Europe and the Balkans*, Volume 7, Number 2, (2005): 133-155.
- 7 In Albania there is no consensus on the number of Roma in the population. According to the 2011 Census data, the Romani population in Albania was 8,301 persons, or 0.3% of the general population. Meanwhile, a UNICEF project showed that the Romani population was 14,564 persons or 0.5% of the general population. A recent study of UNDP (2012), study based on estimates by the Roma association Amaro Drom, claims that 40,478 Roma are living in Albania. The figure of this assessment differs significantly from the first two, but at the same time it is much smaller than previous estimates provided by Roma associations that ranged from 120,000 to 150,000 persons.
- 8 Julie Vullnetari, *Albanian Migration and Development: State of the Art Review*. IMISCOE Working Paper Number 18, (Amsterdam: 2007); Ilir Gëdeshi and Elira Jorgoni, *Social Impact of Emigration and Rural-Urban Migration in Central and Eastern Europe. Albania* (2012).
- 9 Hermine De Soto et al., *Poverty in Albania. A Qualitative Assessment* (Washington D.C.: The World Bank, 2002).
- 10 Hermine De Soto, Sabine Beddies and Ilir Gëdeshi, *Roma and Egyptians in Albania: From social exclusion to social inclusion* (Washington D.C.: The World Bank, 2005).

only and leads to illiteracy, stress and insecurity in the future. The remittances of Romani migrants are inadequate and unable to break the poverty cycle of their families in Albania. In their case, migration recycles migration, an issue which is addressed in the third part below. The paper is based on quantitative and qualitative data from different studies conducted by the Centre for Economic and Social Studies (CESS) and financed by the World Bank (WB), Soros Foundation, UNDP and UNICEF during 2002 - 2012.

Romani International Migration

When the post-socialist transition started, Roma began migrating internationally, for short and long terms.¹¹ This phenomenon is widespread in some Romani settlements, mainly in south and central Albania, from which 30 to 60 % of the families have migrated.¹² International migration is one of the main mechanisms for reducing poverty and social exclusion for many Romani families.¹³ This occurs as a result of remittances by migrants, which constitute one of the main income sources for Romani families, distinguishing the “very poor” from the “poor”.¹⁴ Astrit, a Romani man from Rrapishta, states: “If we didn’t migrate abroad, we would be finished.”¹⁵

SHORT-TERM MIGRATION

Short-term migration is directed mainly towards Greece and Kosovo. Roma from southern Albania who have human, financial and social capital mainly migrate to Greece. Many of them migrate on work visas and work on the collection of agricultural products, mainly in the border areas (or even farther away).¹⁶ Other Roma migrate with Schengen visas, but finding work often is not guaranteed and the salaries are lower compared to those who migrate with work visas. Arben, a Romani man from Narta Village in Vlora, states: “Two weeks ago, my parents migrated to Kalamata, Greece to work

picking olives. They stay at the house of my uncle, who is a migrant in Greece for many years, but up to now they did not find a job...?”.

Roma from Elbasan, Pogradec and Korça collect used clothes in Greece and sell them in Albania, while in Kosovo, those who migrate are the Roma who do not possess such capital. Men usually work collecting scrap metal, while women and children beg. Arben shares the same experiences: “I was in Prizren [Kosovo] and used to collect scrap materials and whatever I could find all day long. I used to make five to 10 Euros per day, but some days I did not make anything. I was there with my wife and children. They used to beg?”.

Short-term migration diversifies the sources of income and can diminish extreme poverty, but it is incapable of helping Romani families escape the poverty cycle. This is highlighted by Hekuran from Zvezda village in Korça, whose boys migrate to Greece: “The three boys of mine keep going to Greece. But when the job is over they come back here again. What would they do there? Here they live with the money they have generated and saved through their work. This money is spent during the winter season and then they return again to Greece?”.

LONG-TERM MIGRATION

Short-term and long-term migrations are interrelated. A UNDP study showed that 42 % of Roma had migrated several times for short terms before settling permanently in Greece.¹⁷ Through short-term migration, the Roma established social connections with Greeks through their employment. The repetition of the cycle reinforced these social networks and increased the knowledge and experience of the migrants, thus facilitating their long-term migration.

Data show that 79 % of Albanian Roma have migrated to Greece, 17 % to Italy and 4 % to France, the United Kingdom, Germany and other states.¹⁸ Roma from southern and central Albania migrate to Greece, while some of the

11 Claire Auzias, *Les Poetes de Grand Chemin. Voyages avec les Roms des Balkans* (Paris: Éditions Michalon, 1998).

12 In 2011, for example in Zinxhiraj, Gjirokastra, there were around 56 Roma families, while around 82 other (non-Roma) families migrated from this area and are living in the suburbs of Ioannina, Greece.

13 Hermine De Soto et al., *Poverty in Albania. A Qualitative Assessment* (Washington D.C.: The World Bank, 2002).

14 De Soto et al, *Roma and Egyptians in Albania*.

15 All interviews quoted in this paper are realised by CESS within the framework of the project “Roma migration. Can we maximize its benefits?”, funded by Open Society Foundation for Albania. These interviews were realised during 2012 in Albania, Greece and Italy.

16 Julie Vullnetari, “Beyond Choice or Force: Roma Mobility in Albania and the Mixed Migration Paradigm”, *Journal of Ethnic and Migration Studies*, Number 38:8, (2012).

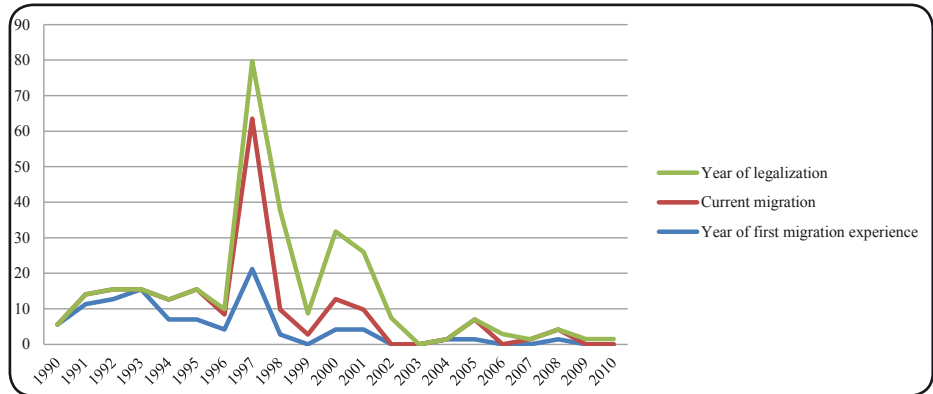
17 Ilir Gëdeshi and Juna Miluka, *Needs Assessment Study on Roma and Egyptians Communities in Albania* (Tirana: UNDP, 2012).

18 *Ibid.*

Roma from western Albania migrate to Italy. Greece was the preferred migration country due to its geographical proximity, the opportunities for crossing the border illegally, its low cost of living and its opportunities for employment in the informal sector. Avni, a Romani man who worked in Athens, explains: “Here in Greece no one asks for a license or any other thing in order to work for scrap material, while in Italy, if you do not have a license, you cannot work.” Social networks have played an important role in the migration process as they assist in securing accommodation, food and employment for the migrant, lowering the cost and reducing the risks.

every year with a regular visa taken from the Greek consulate in Gjirokastra. We used to work in Greece for two to three months during summer and in winter we returned to Albania (...), but since the war in 1997, we stayed on this side as we were afraid for our children.”

Figure 1. Year of first migration experience, current migration and legalisation in the destination countries (in %). Source: CESS, 2012



DIFFERENT PHASES OF MIGRATION

Romani migration has developed in three phases (Figure 1). The first phase (1990 - 1995) is related to the downfall of the socialist system, the immediate opening of the country’s borders and the drastic economic reforms of the transition. These reforms were accompanied by massive unemployment for Roma, which in some settlements amounted to 80 - 90 %.¹⁹ The data show that almost 19 % of Roma migrated illegally during this period. Social capital with Greek Roma in Greece played an important role in finding a job and accommodation and ensuring safety.²⁰ Bashkim, a Romani man from Korça, says: “Initially I met the head of the neighbourhood, who was a Greek Roma (...) He saw that I was a family person and helped by finding me accommodation and a job ...”.

The second phase (1996 - 2001) is related to the collapse of pyramid schemes in late 1996, and the resulting political, economic and social chaos. Almost 65 % of Roma migrated during this period. Fatmir, a Romani man from Zinxhiraj village in Gjirokastra, states: “We used to migrate

The third phase (2002-2010) is also related to the worsening economic and social situation of Romani families. According to the survey, almost 16 % of Roma migrated during this phase.

MOTIVES FOR MIGRATION

Romani migration has been largely driven by economic motives. Data show that the most important reasons have been economic ones, such as unemployment (45 %) and the desire for improved living standards (26 %) (Figure 2). These economic factors represent about three-quarters of the reasons for Romani migration.²¹ At the beginning of the post-socialist transition – as a result of the collapse of many state-owned industrial and agricultural enterprises, discrimination and low skills – the level of Romani unemployment reached 80 to 90 %. Even to this day, almost 50 % of Roma surveyed declare they are unemployed.²² As a consequence, during the transition period Roma moved from a position of relative well-being to extreme poverty.²³ In the early 2000s a WB study, based on self-assessment by Romani families of their material

19 Hermine De Soto and Ilir Gëdeshi, “Dimensions of Romani Poverty in Albania”, *Roma Rights*, Number 1, (2002).
 20 Giorgos Mavrommatis, *Roma in Public Education*, RAXEN and ANTIGONE (National Focal Point for Greece) (Athens: November 2004).
 21 Ilir Gëdeshi and Juna Miluka, *Needs Assessment Study on Roma and Egyptians Communities in Albania* (Tirana: UNDP, 2012).
 22 Fondacioni Shoqëria e Hapur për Shqipërinë, *Dekada e romëve dhe situata e romëve në Shqipëri, 2012* (Tirana: 2013).
 23 Hermine De Soto et al., *Poverty in Albania. A Qualitative Assessment* (Washington D.C.: The World Bank, 2002).

needs, found that 75 % of Romani households were “very poor”.²⁴ Almost 10 years later, a UNDP study showed that their poverty level had not been reduced (Table 1). Instead, the gap between the majority of the population and the Roma was even greater.²⁵ Hence Romani migration is primarily motivated by economics and is a form of

“survival migration”. It is the main mechanism to cope with the extreme poverty of the family.

Besides economic factors, Roma emphasise the “fear of violence” (9 %) associated with the political and social chaos in the aftermath of the failure of financial pyramid schemes in

1997 and the ensuing events. Romani migration reached its maximum intensity during the period between 1997 and 2001. In addition, these events transformed Romani migration from short-term to long-term and from individual to family migration. Avni, a Romani man from Shkalle village in Saranda, states: “I came to Greece even before. I used to come at intervals since 1993; but when the 1997 war started, we were near the border and left with our whole family because they threatened us. We were afraid because even children took up weapons.”

In Albania, economic factors prevail even in the migration of the majority population. The question is: Why is Romani migration different? When we compare the reasons for Romani migration to those of the majority population we find that “unemployment”, “fear of violence”, and “lack of prospects in Albania” are much more present in the former group (Figure 3). Factors such as “work is not satisfactory”, “social protection”, “individual education”, or “funding of education of

Table 1. Self-assessment of family’s socioeconomic conditions. Source: CESS, 2012

Assessment of Socioeconomic Conditions	2003	2011	Socioeconomic Category
Cannot afford food	40	27.3	Very poor
Cannot afford daily necessities	35	50.4	Very poor
Can afford food, but not clothing	7	6.1	Poor
Cannot afford daily necessities	14	14	Non-poor
Have enough money to save	4	2.1	Relatively Prosperous
Total	100	100	

Figure 2. Main reasons for Romani migration. Source: CESS, 2012

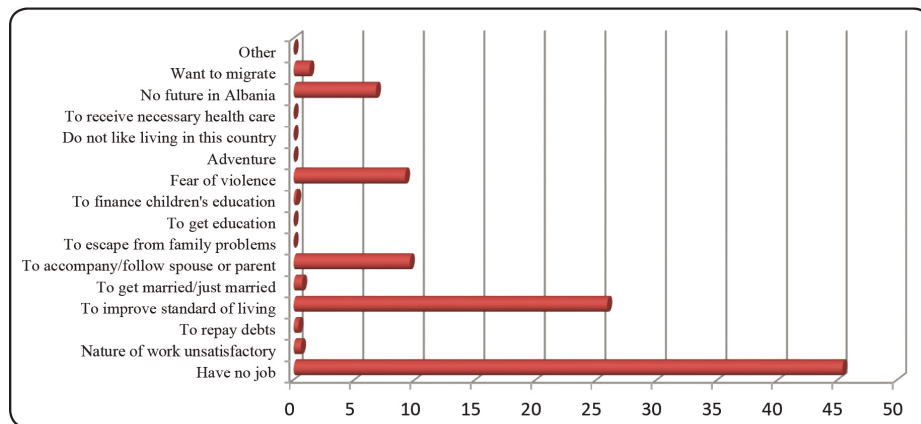
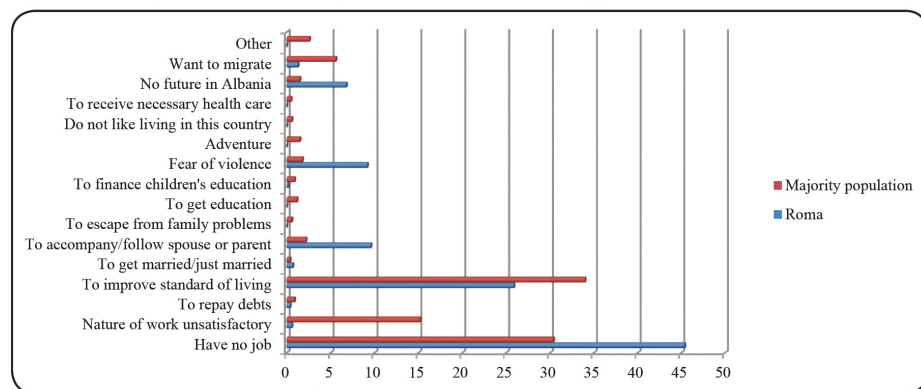


Figure 3. Comparison of main causes of migration in Romani and majority populations. Source: CESS, 2012; ETF, 2007



24 De Soto et al, *Roma and Egyptians in Albania*.

25 Ilir Gëdeshi and Juna Miluka, *Needs Assessment Study on Roma and Egyptians Communities in Albania* (Tirana: UNDP, 2012).

26 Hermine De Soto et al., *Poverty in Albania. A Qualitative Assessment* (Washington D.C.: The World Bank, 2002).

children”, “adventure”, etc. (although irrelevant even to Albanians), are not at all present with Roma. The reasons for the migration of “*the poorest of the poor*”, - to use the phrase employed by De Soto *et al*²⁶ - compared to the majority population, are “unemployment”, “fear of violence” and “no future in Albania”.

PROFILE OF ROMANI MIGRANTS

The profile of Albanian Romani migrants shows that they are predominantly younger and more educated than the Romani population in Albania. Amnesties and other forms of status regularisation in Greece and Italy, mainly during 1995 - 2002, stabilised the Romani migrant population in these countries. Data show that more than 90 % of Romani migrants have realised family reunification. The average size of Romani migrant households is 4.9 persons, usually consisting of a husband, wife and three children. Most migrants (84 %) speak the language of their destination country “fluently” or “well”.²⁷

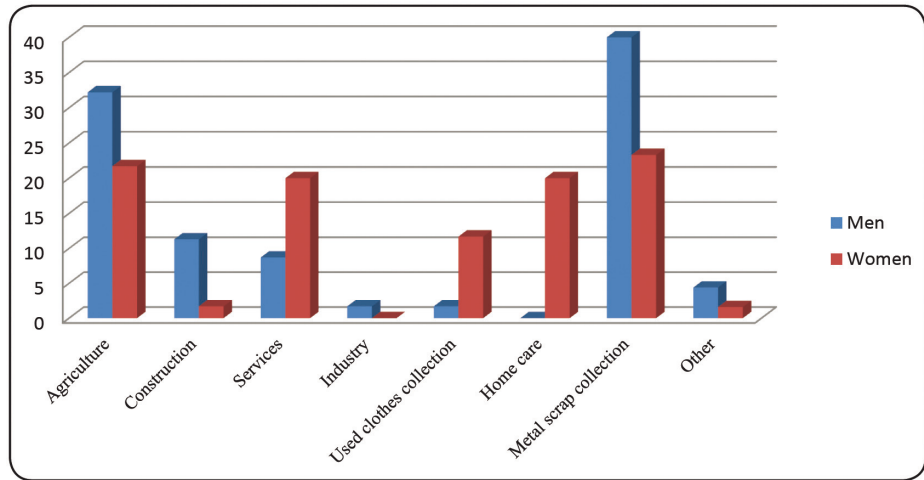
Informal Labour, Income, Remittances and Living Conditions

INFORMAL LABOUR

The main forms of labour for Romani migrants in Greece are scrap metal collection (36 %), agriculture (30 %), services (12 %), construction (8 %), domestic help (7 %) and collection of used clothes (5 %). Just under 64 % of Roma work in the informal sector. There exists a labour-sector

division by gender among migrants. Men mainly work in scrap metal collection, agriculture and construction, while women work mainly in agriculture, domestic help, collection of used clothes or begging.²⁸ Distinctions exist between the countries of migration. Compared to Greece, the Romani men who migrate to Italy work mainly in construction and services, while women work mainly in domestic help (cleaning, elderly care, etc.).

Figure 4. Employment sectors of Romani migrants, divided by gender (in %). Source: CESS, 2012



Strong distinctions also exist between Romani groups.²⁹ Meçkars, who during the socialist period were farmers, work in agriculture. Agriculture produces low but stable incomes. Many of these Roma have been employed by Greek farmers for long periods and often work as a family. Some people come every day to the Omonia³⁰ (the village square) to find a job. Bujar, a Romani migrant working in Greece, describes his experience: “*Here we deal with agriculture. When there is stuff to do we go and work, when there isn’t we just stay and wait. To find a job we go out every day to the square over there from six o’clock and wait until eight o’clock in the morning. Then we leave if nobody is coming to take us for any daily work (...)*”. On the other hand, Karbuxhs and Cergars work mainly on scrap metal and used clothing collection in Athens, Thessaloniki and other big cities.

27 Ilir Gëdeshi and Juna Miluka, *Migrimi i romëve. A mund të maksimizojmë përfitimet e tij?* (Tiranë: Fondacioni Shoqëria e Hapur për Shqipërinë, 2012).

28 *Ibid.*

29 In Albania Roma are divided in groups, which are distinguished by language, by the way in which they came to Albania, by their professions and their way of living. These are the Karbuxhs, Meçkars, Cergars, Bamills and Kurtofs.

30 *Omonia* is a central location in a city/village where those looking to find work gather to meet employers, usually for part-time work for a daily wage. It is named after the square in Athens where similar employee-employer activity occurs.

In the first years of Romani migration, education played an important role in employment and in improving social status. Mavrommatis³¹ notes that the Albanian Roma who migrated to Greece in the early 1990s (unlike the Greek Roma, who were illiterate) had eight years of elementary education. They were initially employed by Greek Roma and worked in construction or as assistants in commercial activities. Progressively they were integrated into the Greek society and economy, were legalised and started to work for non-Romani entrepreneurs. This educational advantage was lost during the following years due to the increase in illiteracy and the lack of qualifications of Albanian Roma.³² This concern is expressed also by Xhemal, an elderly Romani man from Gjirokastra: “*I have worked as a tractor driver on a farm and completed eight years of schooling, while my children and nephews do not attend school. They are in Greece, some in Ioannina and some in Larissa*”.

The data show that there is a strong positive correlation between educational level and labour sector. Thus, about 88 % of those engaged in scrap metal collection are illiterate. Almost half of Roma engaged in agriculture are illiterate and half have a primary or secondary education. By contrast, more educated Roma are employed in construction and services.³³

Meanwhile, a comparison of the survey data to the study of De Soto *et al*³⁴ shows that in recent years employment has shifted from construction and agriculture to scrap metal collection. As a consequence, an increasing number of Roma work in the informal sector. This change in the type of employment is followed by a lowering of their qualifications and an increase of emotional stress affecting their long-term economic safety. The main factors impacting this employment shift are the crises of the construction and agriculture sectors, new flows of Albanian Romani migrants with lower levels of education and professional skills, and the increase in scrap metal prices. Agim, a Romani man from Zinxhiraj, Gjirokastra, explains: “*I migrated in 1997 with my family. We worked in agriculture, with tomatoes,*

cultivation, etc. (...) From 2006 we started to collect scrap metal as there was no more work in the agriculture sector.”

The data show that none of the migrant Roma has completed any professional training or training on the job. On the contrary, the migration process has been followed by a lowering of their skills. As a consequence, even in the future the majority of Roma will continue to work in unqualified jobs, mainly in the informal sector and earning a lower salary.

INCOME AND LIVING CONDITIONS

The main source of income for Romani families is from unqualified jobs in the informal sector (64 %). The average size of the Romani family is 4.9 members and on average 1.8 persons – mainly the husband and wife - provide the income. The average monthly income of Romani families is EUR 838 and around 84 % of this is used for daily expenses. The main source of income in the family is the husband, who provides around 58 % of the family income.

According to the survey, the average expenses of a Romani family amount to EUR 701 per month. These expenses are mainly used for food, clothing and housing. Although saving is one of the main objectives of migration,³⁵ 52 % of the Albanian Romani families in Greece could not save during 2011.

A comparison of the financial indicators of Romani and Albanian families in Greece (Table 2) shows that the income of Romani families is 2.26 times lower than that of Albanian families. This is due to the low income from unqualified work, mainly in the informal sector.

Many of the migrant Romani families, mainly in Greece, live in conditions that are often more difficult than in Albania.³⁶ The data show that 38 % of the interviewed Roma in Greece live in huts, 21 % in old houses and 41 % in simple houses. The Roma living in huts are settled in camping sites lacking

31 Giorgos Mavrommatis, *Roma in Public Education*, RAXEN and ANTIGONE (National Focal Point for Greece) (Athens: November 2004).

32 Studies show that during the post-socialist transition, the educational level of Roma worsened. According to the Roma Mapping data, in 2011 40.4 % of Roma aged 10 years old and above were illiterate (Gedeshi & Jorgoni, 2012). In the meantime, a study of the Soros Foundation (2013) showed that 81.2 % of Roma in Albania have no profession.

33 Ilir Gëdeshi and Juna Miluka, *Migrimi i romëve. A mund të maksimizojmë përfitimet e tij?* (Tiranë: Fondacioni Shoqëria e Hapur për Shqipërinë, 2012).

34 De Soto, *Roma and Egyptians in Albania*.

35 Nicolaas de Zwager, Wolfgang Gressmann and Ilir Gëdeshi, *Market Analysis: Albania – Maximizing the Development-Impact of Migration-related Financial Flows and Investment to Albania* (Vienna: August 2010).

36 Alphia Abdikeeva and MRG partners, *Roma Poverty and the Roma National Strategies: The Cases of Albania, Greece and Serbia*, Minority Rights Group International (London: September 2005).

the necessary infrastructure (potable water, sewage, electricity, bathrooms in the house, etc.). The lack of these basic elements of daily infrastructure causes health problems (especially for children and pregnant women), hinders many Romani families from maintaining their hygiene and makes school attendance difficult for children, resulting in increased child illiteracy.

Table 2. Indicators of income, expenses and savings of Romani and Albanian families in Greece (in EUR). Source: CESS, 2012; CESS, 2010

Indicator	Roma (2012)	Albanian (2009)
Monthly average of family income	838	1.897
Monthly average of family expenses	701	1.310
Monthly average of family savings	137	587
Yearly average of family savings	1.644	7.044
Average family size	4.9	3.2
Average number of persons providing income	1.78	1.8

Note: These data should be interpreted with caution. The data on Albanian migrants have been taken from a survey performed in December 2009, when the consequences of the Greek economic crisis had just begun to be felt. In 2012 the income, expenses and savings of the Albanian families in Greece were lower.

In the Vetanikorkefos camp, in the middle of Athens, where several dozen Romani families from Albania live, there is no potable water, electricity or sewage system. Bujar, an informal Romani leader says: *“This camp was established 15 years ago and we are all Roma from Elbasan. We have no water here. No one will bring water here, so we use our scooters and take it from somewhere else (...) There is no electricity and we use generators. We have built our bathrooms ourselves, with two boards. We suffer here, living like dogs.”* In Ioannina the Albanian Romani camps are positioned in the suburbs of the city airport and near a sewage-processing plant. Skender, a Romani man from Zinxhiraj, Gjirokastra, states: *“Here we have the plant processing sewage, and the bad smell comes from there. They have told us to go or we will be sick.”*

As a consequence, the educational level of migrant Romani children, especially those living in camps in Greece, is low. Data show that 43 % of Romani children aged from seven to 18 years old there are illiterate (compared to 36 % in Albania). Meanwhile, only 33 % of Romani children aged from seven to 18 years old are enrolled in the school system (compared to 35 % in Albania).³⁷

DISCRIMINATION

Cases of human rights violations and discrimination against Roma exist even in the destination countries

for migration. Vullnetari notes that Romani migrants in Greece face triple discrimination: as Roma, as Albanian and as foreigners.³⁸ Under these conditions, Romani migrants attempt to hide their identity. Mimoza, a Romani woman working in Florence, Italy, states: *“Romani women from Albania also work in houses, take care of children, bringing the children to and from kindergarten, but they do not declare that they belong to the Romani. Even I did not say that I am Roma.”* Meanwhile, in Greece there are cases when Romani families have been expelled from their settlements without being provided with compensation or housing alternatives. In July 2005 around 70 Romani families living in Votanikos, Athens were expelled by force without being informed in advance and without being provided with alternative housing.³⁹

THE ROLE OF REMITTANCES

Remittances are important to the livelihood of Romani families because they spend them on basic family consumption items. They are the determining factor in a family’s economic situation because remittances distinguish the “very poor” from the “poor”.⁴⁰ Meanwhile, the data show that only 33 % of Romani families send remittances, mainly through informal channels. Almost 74 % of the migrants sending remittances sent this money in small amounts during the year. More than four-fifths of the migrants send the remittances to their “parents”.

37 Ilir Gëdeshi and Juna Miluka, *Migrimi i romëve. A mund të maksimizojmë përfitimet e tij?* (Tiranë: Fondacioni Shoqëria e Hapur për Shqipërinë, 2012).
 38 Julie Vullnetari, “Beyond Choice or Force: Roma Mobility in Albania and the Mixed Migration Paradigm”, *Journal of Ethnic and Migration Studies*, Number 38 (8), (2012).
 39 Alpha Abdiqeva and MRG partners, *Roma Poverty and the Roma National Strategies: The Cases of Albania, Greece and Serbia*, Minority Rights Group International (London: September 2005).
 40 Hermine De Soto, Sabine Beddies and Ilir Gëdeshi, *Roma and Egyptians in Albania: From social exclusion to social inclusion* (Washington D.C.: The World Bank, 2005).

The average size of remittances (EUR 425 per year) is small and reflects the low income of Romani migrants. This represents 3 % of the average yearly income of the Romani migrants who send remittances. Compared to the majority population, Roma send fewer remittances and the average size of these remittances is smaller (Table 3). The economic crisis, especially in Greece, has visibly reduced the remittances of migrants. Thus, 33 % of Romani migrants state that during 2011 they sent fewer remittances compared to 2010.

Table 3. Remittances of Romani and Albanian families in Greece (in EUR).
Source: CESS, 2012; CESS, 2010

Indicators	Roma (2012)	Albanian (2009)
Percentage of families sending remittances	32.6%	72.9%
Yearly remittances of families sending them (in EUR)	425	2095
The rate of remittances to yearly family income	3.1%	9.2%

Reshit, an old Romani man from Gjirokastra complains: *‘I am old and live only with my wife, as my children are in Greece for 10 years. They do not take care of us because they eat from recycling bins too. They live in Ioannina’*. Xhevria, a Romani woman from a village in Durres whose children are in Greece and Italy, states: *‘They have not sent money for six months. They are unemployed there and the family is large. My older son has a family of five, the younger one of four. What can they do?’*.

The data show that the majority of remittances are used to fulfil the daily consumption needs (50 %) of the families (food, clothing), to improve their living conditions (buying furniture for the house - 11 %) and their health (11 %). Beyond these needs, remittances are used for savings (10 %), construction or purchase of houses (5 %) and education (5 %). Only a few families use remittances to invest in business activities (4 %).⁴¹ The use of migration remittances reduces the extreme poverty of many Romani families, who benefit from them in the short-term, but because new jobs are not created, remittance use consequently reinforces poverty and social exclusion in the long term.

Potential Migration

Romani migration in Europe has become a major controversial political issue, and several studies have been

commissioned from international organisations to analyse the trends of this phenomenon.⁴² Despite the lack of quantitative data, many EU countries are afraid of a “Roma invasion” from the Balkans.⁴³ What do the data on Roma in Albania reflect?

The potential migration of Roma from Albania is lower than that of the majority population. The UNDP study shows that only 31 % of Roma aged between 18 and 40 want to migrate from Albania. This is lower than the figure for the majority population, which in 2007 stood at 44 %.⁴⁴ On the one hand, this is explained by the economic crisis the neighbouring countries are facing, especially Greece. On the other hand, it is explained by the low human, social and financial capital that the Romani families possess. However, the potential migration of Albanian Roma could increase if their employment and socioeconomic situation were to deteriorate.

Artan, an informal Romani leader from Baltëz village in Fier states: *‘Recently the wish for migration is lower (...) and this is due to the economic crises in Greece. Even the persons that migrated 10-15 years ago have started to consider returning.’* Skender, an informal leader from Llakatundi village in Vlora says: *‘The youth want to migrate (...) but it is clear that there are no jobs. If there were jobs, the parents would borrow money and send them, but they don’t as there are no jobs in Greece’*. Fadil, a Romani man from Levan village in Fier, also describes his experience: *‘I went to Greece as a tourist... I stayed in Ioannina three days and in Athens four days. It was not worthy staying there and I returned. There are no jobs.’*

The preferred countries of potential migration for Albanian Roma are Greece (73 %), Italy (16 %) or another EU country (11 %). The majority of Albanian Roma (81 %) wish to migrate with their family for a short period of time, while the jobs they wish to do following migration are collection of scrap material and used clothes, agriculture, construction, home care and begging. On the one hand this illustrates their very low professional and educational level, and on the other hand it reflects the jobs they do in Albania.

41 Ilir Gëdeshi and Juna Miluka, *Needs Assessment Study on Roma and Egyptians Communities in Albania* (Tirana: UNDP, 2012).

42 Jean-Pierre Liégeois, *Roms et Tsiganes* (Paris: La Découverte, 2009)

43 Saimir Mile, “L’immigration des Roms en France - entre préjugés, craintes et chances”, *Le Courrier des Balkans*, (2005).

44 European Training Foundation, *The contribution of human resources development to migration policy in Albania* (Torino: December 2007).

Potential migration expresses a tendency, the realisation of which is conditioned by the human, financial and social capital possessed by the individual. De Soto *et al*⁴⁵ note that the poorest of the poor have less possibility to migrate. As a consequence, despite the wish of Roma for international migration, the questions are: Do Roma have the conditions to migrate? Are they able to finance their travel outside the country? Do they have a guaranteed job? Do they have sufficient information about the target country? Do they possess the necessary documents? Or, is this just a wish motivated by poverty and the difficult conditions they live in? For this reason, we created an indicator to measure the “propensity to migrate”, which is based on the capability to finance travel outside the country, the information respondents have about the destination country, the possession of the necessary documents and whether they plan to migrate within the next six months or two years. Based on this indicator, only 9.5 % of Roma have the possibility to migrate.

In the absence of these conditions, some Romani families, often under the influence of speculators, have aimed at securing asylum in France, Germany, Belgium, Sweden, Luxembourg or any other EU country.⁴⁶ Arben, a leader of a Romani association in Tirana, explains: “*Now even Greece has unemployment and poverty. This is the reason Roma do not go to Greece but migrate to other countries of Western Europe. But for migrants it is difficult to go to Europe without asking for asylum. Who will approach them? They will not be approached like they are in Greece because there*

is a lack of communication, the laws are stricter and the informal sector is limited. This is why the Roma ask for asylum...”.

CONCLUSION

International migration is one of the main mechanisms used by Albanian Roma to cope with poverty and social exclusion. Major forms of migrant labour are scrap metal and used clothes collection, agriculture, services and construction. Romani migrants work mainly in unskilled or low-skilled jobs in the informal sector that provide a low income and do not allow migrants’ families to escape poverty. Many migrant families live in huts or old houses in segregated settlements often lacking the necessary infrastructure and many of their children do not attend school, resulting in increased illiteracy. In addition, Romani migrants working in the informal sector are not included in social security schemes. This leads to further economic insecurity in the future and also to emotional stress.

Only one-third of Romani migrants send remittances home and the average size of these remittances is very small. Remittances are mainly used to meet the daily consumption needs of Romani families instead of being saved or invested. This use of remittances prevents the extreme poverty of families benefiting from them in the short term, but because new jobs are not created, poverty and social exclusion continue in the long term.

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45 Hermine De Soto et al., *Poverty in Albania. A Qualitative Assessment* (Washington D.C.: The World Bank, 2002).

46 For example, in July 2012, 40 Roma families from Albania settled in the small city of Albi, near Toulouse and asked for asylum in France. In November 2013, some families were settled near the train station in Lyon, France.

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Blitzverfahren - German Asylum Procedures for Roma from Western Balkan Countries

HELENE HEUSER¹

Background: Discourse on “False Asylum Seekers”

Since 2012 there has been a real hysteria about the rise in the number of asylum seekers from Western Balkan countries, a rise which has actually been quite moderate proportionally. The overall number of applications for asylum dropped from 166,951 in 1995 to only 28,018 in 2008 and has risen again since then to 64,539 in 2012.² This shows that today the number of asylum seekers coming to Germany is quite low compared to 1995; only two-fifths of the number at that time. However, the official discourse currently talks about rising flows.

Regarding Roma from Western Balkan countries a special debate was initiated by the Federal Minister of the Interior Mr Friedrich in October 2012. He stated in an official press release of the Federal Ministry of the Interior: “The increasing asylum abuse is not acceptable. The massive inflow of Serbian and Macedonian citizens has to be stopped immediately.”³ This aggressive rhetoric was adopted by some of the media.⁴ Throughout the debate the use of the term “Roma” was avoided more and more often, but when such debate is about poor migrants from Serbia or Macedonia, the majority thinks of Roma anyway. Furthermore, if the term “Roma” were used, then the public might notice that this is not only about “economic refugees”, but also about a minority group which may also have other asylum-relevant reasons to seek protection in Germany.

Moreover, these refugees are officially accused by the Refugee Department⁵ of asking for asylum only because

of the financial support that is given to them while the asylum procedure is underway. This generalised allegation of “asylum cheat” is a modern form of anti-Romani racism and ties in with old antiziganistic thinking, such as the image of Roma as thieves.

My experience from counselling refugees from Macedonia and Serbia in particular stands in contrast to that generalisation and has shown that people have many varying reasons for migration; some reasons are asylum-relevant, while others need more appropriate legal options for moving to Germany.

There are young people who have grown up or were born in Germany as children of war refugees who speak German fluently, studied in German schools and had a social network in Germany until they were expelled after the end of the Yugoslavian war. After their return to the successor countries, some of them found no access to the newly created post-Yugoslavian nations, but German migration policy does not provide any opportunities for them to come back to Germany. Others have relatives in Germany, but the very restrictive notion of the nuclear family (parents and their minor children only) does not allow for their reunification. Some are internally displaced refugees who have not been able to return to their homes after the war (especially those from Kosovo). There are also ill people coming to Germany because they cannot find any adequate health support in their country of origin, as well as people without adequate housing who are fleeing the winter, violence, etc.

However, all of these different people from the Western Balkans asking for asylum in Germany do share some

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2 Ministry for Migration & Refugees (Bundesamt für Migration und Flüchtlinge), *Zahlen zu Asyl*. Available at: http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/statistik-anlage-teil-4-aktuelle-zahlen-zu-asyl.pdf;jsessionid=3601A739A5FCB81487DE6B418E7F08AA.1_cid359?__blob=publicationFile.

3 “Der zunehmende Asylmissbrauch ist nicht akzeptabel. Der massive Zustrom serbischer und mazedonischer Staatsangehöriger muss unverzüglich gestoppt werden.“ BMI: 6.691 *Asylanträge* 09/2012, 12 October 2012.

4 See for more details the discourse-analysis of Christina Lee in this Journal.

5 Bundesamt für Migration und Flüchtlinge (BAMF): “Mit einem weiteren Anstieg der Zugangszahlen aus den Balkanstaaten ist zu rechnen. Denn nach einer Entscheidung des Bundesverfassungsgerichts erhalten Asylbewerber erhöhte Leistungen.“ available at: http://www.bamf.de/Shared-Docs/Anlagen/DE/Publikationen/Entscheiderbrief/2012/entscheiderbrief-09-2012.pdf?__blob=publicationFile.

common ground: 90 % of them are Roma.⁶ The source of this number might be questionable (Germany does not allow the collection of data on ethnic grounds),⁷ but the internal statistics of our refugee counselling office show that even 100 % of the counselled refugees, mainly from Serbia and Macedonia, were identifying themselves as Roma.⁸

That the Romani minority suffers from a wide range of structural discrimination in the countries of the Western Balkans has been demonstrated by various reports from international organisations.⁹ This seems to suggest that this minority might also have asylum-relevant reasons to flee from their countries of origin to Germany. The new amendment to the asylum procedure law in December 2013 has clarified that an accumulation of different measures (e.g., small, regular forms of discrimination) may also constitute political persecution: Measures which are so grave that a person is affected by them in a way that is similar to a grave violation of fundamental human rights.¹⁰ This law shows that the structural discrimination of a minority group such as the Roma may constitute a right to get asylum for a member of that minority who was fleeing

to Germany because he or she was regularly a victim of discrimination, for example in relation to jobs, housing, access to schools and healthcare.

Instead of verifying the cases carefully, the German administration and government are hindering fair asylum procedures and denying the possibility of any grounds for refugee applications (see below). Also, German jurisprudence does not accept that the cumulative, massive violation of the economic, social and cultural rights of Roma fulfils the conditions necessary to acquire refugee status.¹¹

The refusal to acknowledge refugee status for these Roma is systematic. It justifies the political will of the German government to declare Serbia, Macedonia, and Bosnia and Herzegovina as safe countries of origin (see below) and to suspend visa liberalisation (see below) Rather than the special protection by law and by policies needed to fight against anti-Romani racism, German officials are baiting in a polemical way and refusing protection to a minority which was once persecuted by Nazi Germany¹² and which is massively discriminated against all over Europe to this day.

6 Bundesregierung, 26.11.2012 (Drucksache 17/11628) auf Kleine Anfrage der Fraktion Die Linke (Drucksache 17/11417); UNHCR, *Asylum Trends 2012*, 9, available at: <http://www.unhcr.org/5149b81e9.html>. “According to the German Federal Office for Migration and Refugees, 92 per cent of all asylum applicants in Germany originating from Serbia (and Kosovo: S/Res/1244 (1999) are of Roma origin.”

7 See http://www.migration-boell.de/web/diversity/48_2281.asp; see also in this Journal Christina Lee.

8 *Asylerberatung* Erstaufnahme-Einrichtungen Berlin, <http://www.awo-mitte.de/index.php/asylerstberatung>.

9 E.g.: Karin Waringo, *Serbien – ein sicherer Herkunftsstaat von Asylsuchenden in Deutschland?* (April 2013), Pro-Asyl, is quoting for Serbia: the US Department of State, *Country Reports on Human Rights Practices for 2011*: Serbia; European Parliament: *Enlargement report for Serbia*, March 29 2012; PACE, *The honouring of obligations and commitments by Serbia* January 2012; ECRI report on Serbia; European Commission, *Serbia 2012 Progress report* October 10 2012; Commissioner for Human Rights of the council of Europe etc.; www.coe.int/ecri: Report on Serbia 2011; Chachipe, available at: <http://romarights.wordpress.com/visa-liberalisation-vs-asylum/>; www.errc.org/ (german translation, available at: <http://fnrw.de/news/publikationen/item/1145-bericht-zur-situation-serbischer-roma-die-im-ausland-asyl-beantragt-haben>); research-group from Germany to Serbia, available at: http://www.proasyl.de/de/news/detail/news/roma_in_serbien_von_wegen_sicherer_herkunftsstaat-1/ and also European Commission report available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0472:FIN:EN:PDF>.

10 § 3 a) Asylverfahrensgesetz (AsylVfG): “(1) Als Verfolgung im Sinne des § 3 Abs. 1 gelten Handlungen, die 1. aufgrund ihrer Art oder Wiederholung so gravierend sind, dass sie eine schwerwiegende Verletzung der grundlegenden Menschenrechte darstellen, insbesondere [], oder 2. in einer Kumulierung unterschiedlicher Maßnahmen, einschließlich einer Verletzung der Menschenrechte, bestehen, die so gravierend ist, dass eine Person davon in ähnlicher wie der unter Nr. 1 beschriebenen Weise betroffen ist. (2) Als Verfolgung im Sinne des Abs. 1 können unter anderem die folgenden Handlungen gelten: 1. die Anwendung physischer oder psychischer Gewalt, einschließlich sexueller Gewalt, 2. gesetzliche, administrative, polizeiliche oder justizielle Maßnahmen, die als solche diskriminierend sind oder in diskriminierender Weise angewandt werden [.]”

11 E.g. Judgment of the Administration Court of Augsburg: “[...] at the moment no informative basis is indicating that members of the ethnic group of Roma are exposed to state or non-state persecution.”

Reinhardt Marx, “Sozialrechtliche Diskriminierung als Fluchtgrund - Zum Begriff der Diskriminierung und seiner flüchtlingsrechtlichen Relevanz”, ASYLMAGAZIN Number 7-8 2013;

VG Augsburg, Urteil vom 06 November 2013 - Au 6 K 13.30339: “Unabhängig davon bestehen aufgrund der derzeitigen Auskunftslage keine Anhaltspunkte dafür, dass Angehörige der Volksgruppe der Roma gezielter staatlicher oder nichtstaatlicher Verfolgung ausgesetzt sind, vgl. VG Augsburg, U.v. 22.2.2013 - Au 6 K 12.30380”.

12 See for example: <http://romani.uni-graz.at/rombase/index.html>.

Blitzverfahren

DISCRIMINATORY SHORT PROCEDURES

For Serbian and Macedonian asylum applicants, a special procedure was developed at the Refugee Department in autumn 2012 and is being applied to this day: The so-called *Blitzverfahren*, officially named “absolute direct procedures”. Minister Friedrich has gloated about these “procedures that take the shortest time and in accordance with the rule of law”. It is doubtful, though, that these extreme shortcuts are in accordance with German and European asylum and administration procedural law or with German constitutional law.

“Absolute direct procedure” means the applicant’s interview is held on the same day the refugee asks for asylum (or two days later at the latest) and that the decision on whether protection is accorded or not is submitted within one week.¹³ This system was introduced during the winters of 2012 and 2013 specifically for applications from Serbia and Macedonia.

Since the 1990s it has been a general official aim to speed up asylum procedures. This is also declared in the Asylum Procedure Law, which states that the interview should be on the day of the application.¹⁴ Because of the importance of decent preparation for the interview (see below) such “direct” interviews must be criticised in general. However, in practice this fast procedure has not been generally applied. At the moment the whole procedure from application to rejection takes an average of seven months for all other nationalities, except for Serbians and Macedonians: For them it takes only a few days.¹⁵

In and of itself, a lengthy procedure is not necessarily better for the applicant. Nevertheless, it is questionable why

these short procedures have only been introduced for Western Balkan countries and not for others.

The discrimination of a certain nationality by the state administration may only be justified by objective reasons, according to the German Constitution.¹⁶ One objective reason might be that the procedures for Serbs and Macedonians are considered futile and are going to be rejected in any case. However, this claim has to be made by the German Parliament through a law declaring these countries in particular to be safe countries of origin (see below), and not by the German administration on its own, which should examine each individual case in an impartial way.

This official treatment of Macedonian and Serbian Roma as false asylum seekers stokes dangerous prejudices: Racist resentment of these migrants is now coming from employees of other institutions who are treating Serbian and Macedonian Roma with a particular reluctance, e.g., at the Social Services Departments, at refugee camps or at the Aliens Department, where one case became known of a Roma couple who were forced to abandon their applications for asylum because of an official’s racist taunts.¹⁷ The Macedonian and Serbian Roma have also been accused by other asylum-seekers of clogging the asylum system because the Refugee Department has explained to other asylum-seekers that they must wait longer for their asylum requests to be decided because the files of the Macedonian and Serbian Roma were being handled as a priority.¹⁸

This criticism of discriminatory direct procedures for Serbs and Macedonians becomes even more well-founded when we look at the poor quality of the interviews which are conducted within these shortcuts.

13 *Absolute Direktverfahren* BAMF: “Anhörung möglichst am Tag der Antragstellung, spätestens am nächsten/ übernächsten Tag. Zudem zeitnahe Entscheidung und Zustellung, d.h. möglichst binnen einer Woche”, available at: http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Entscheiderbrief/2012/entscheiderbrief-09-2012.pdf?__blob=publicationFile.

14 § 25 Absatz IV, S. 1 - 3 AsylVfG: “Bei einem Ausländer, der verpflichtet ist, in einer Aufnahmeeinrichtung zu wohnen, soll die Anhörung in zeitlichem Zusammenhang mit der Asylantragstellung erfolgen. Einer besonderen Ladung des Ausländers und seines Bevollmächtigten bedarf es nicht. Entsprechendes gilt, wenn dem Ausländer bei oder innerhalb einer Woche nach der Antragstellung der Termin für die Anhörung mitgeteilt wird. Kann die Anhörung nicht an demselben Tag stattfinden, sind der Ausländer und sein Bevollmächtigter von dem Anhörungs - termin unverzüglich zu verständigen”.

15 vgl. die quartalsweisen Kleinen Anfragen der Fraktion DIE LINKE. zu ergänzenden Informationen zur Asylstatistik, zuletzt auf Bundestagsdrucksache 17/11221, Frage 4)

16 Artikel 3 Absatz I, II Grundgesetz (GG): “(1) Alle Menschen sind vor dem Gesetz gleich. (3) Niemand darf wegen seines Geschlechtes, seiner Abstammung, seiner Rasse, seiner Sprache, seiner Heimat und Herkunft, seines Glaubens, seiner religiösen oder politischen Anschauungen benachteiligt oder bevorzugt werden. Niemand darf wegen seiner Behinderung benachteiligt werden”.

17 Experience at the refugee counselling office. The case was supported by the lawyer Berenice Böhlo and was brought to the attention of the Berlin Senator for Integration, Dilek Kolat.

18 Complaints at our refugee counselling office in Berlin.

DEFICIENT INTERVIEWS

The interview is the basis of the administrative decision on a request for asylum. Applicants have to explain through a substantial presentation and by submitting evidence why they cannot return to their country of origin. A decent preparation for this very demanding interview, e. g., through legal and asylum-procedure counselling which is supposed to be provided by EU Member States¹⁹ is not possible in so short a time (interview on the same day as the application, which is often the day of arrival in Germany).²⁰

In my experience, preparation is very important for Roma who may have asylum-relevant reasons to flee. Often they have internalised permanent discrimination as normal because it has been practiced over generations. Also, the general discourse about them as being purely economic refugees leaves its marks on their self-esteem. However, for these interviews it is necessary to point out that extreme poverty results from systematic exclusion from education, work, housing and healthcare.

An analysis of 35 protocols of interviews has shown that the practice of interviewing within the *Blitzverfahren* also lacks any minimal quality standards:²¹ The average duration of an interview was 40 minutes. The 25 formal questions about name, family, origin etc. already take approximately 30 minutes. In my experience from preparing applicants for their interviews, I can say that it is impossible to tell a flight story within 10 minutes and difficult for interviewers to create a sensitive environment in which stressed or traumatised people can express themselves.

It has also been revealed that even if the applicant mentioned health problems that could lead to a stay of deportation and the awarding of humanitarian leave to remain,²² the interviewers did not ask any further questions about these problems even though a full clarification of the facts must be undertaken, especially when an application is rejected as *obviously unfounded* (more below).²³

It was also striking that married couples were interviewed together. This is problematic because one partner might feel less free to talk in front of the other (for example, about gender-specific persecution).²⁴ This also constitutes a concrete violation of the European Asylum Procedure Directive.²⁵

In normal procedures the interviewer offers a retranslation of what he has recorded at the end of the interview. The retranslation is important because the applicant has the opportunity to check whether everything important has been recorded without any mistakes. Of the analysed protocols none had been retranslated.

Another reason for this lack of quality might be that officers from the army and police have been ordered to handle asylum files. It is doubtful that these officers can be competent decision-makers regarding asylum questions. This recruitment of officials from other authorities seems to be formally in accordance with the EU Asylum Procedure Directive,²⁶ but it remains problematic that these new staff members have only completed a short introductory course of one week²⁷ in the complex field of asylum law, asylum procedure and interviewing techniques, including the interviewing of traumatised persons.

19 Article 19 I *Asylum Procedure Directive of the EU* (2013/32/EU).

20 Violations can give rise to government liability: Kay Heilbronner, *Asyl- und Ausländerrecht*, (Stuttgart: 2013).

21 From the lawyer Bérénice Böhlö, member of the working group *Rom_nja Bleiberecht!* Refugee Council Berlin.

22 § 60 Absatz VII, Satz 1 Aufenthaltsgesetz (AufenthG).

23 Reinhard Marx, *Kommentar zum Asylverfahrensgesetz*, 7. Auflage, 2009, § 30, Rn 72.

24 A case happened in Berlin, supported later by a lawyer of our working-group *Romn_nja Bleiberecht!*

25 Artikel 15, 2013/32/EU: "Anforderungen an die persönliche Anhörung (1) Die persönliche Anhörung findet in der Regel ohne die Anwesenheit von Familienangehörigen statt, soweit nicht die Asylbehörde die Anwesenheit solcher Angehörigen zwecks einer angemessenen Prüfung für erforderlich hält".

26 Artikel 14 (1) Absatz 3, 2013/32/EU: "Ist es der Asylbehörde wegen einer großen Zahl von gleichzeitig eingehenden Anträgen auf internationalen Schutz von Drittstaatsangehörigen oder Staatenlosen in der Praxis unmöglich, fristgerecht Anhörungen zum Inhalt jedes einzelnen Antrags durchzuführen, so können die Mitgliedstaaten vorsehen, dass diese Anhörungen vorübergehend von Bediensteten einer anderen Behörde durchgeführt werden. In diesen Fällen erhalten die Bediensteten dieser anderen Behörde zuvor eine entsprechende Schulung, die sich auch auf die Gegenstände in Artikel 6 Absatz 4 Buchstaben a bis e der Verordnung (EU) Nr. 439/2010 erstreckt. Personen, die die persönliche Anhörung von Antragstellern nach Maßgabe dieser Richtlinie durchführen, müssen außerdem allgemeine Kenntnisse über die Probleme erworben haben, die die Fähigkeit des Antragstellers, angehört zu werden, beeinträchtigen könnten, beispielsweise Anzeichen dafür, dass der Antragsteller in der Vergangenheit möglicherweise gefoltert worden sein könnte".

27 See for example: http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/stellungnahmen/PRO_ASYL_Populismus_aus_dem_Bundesinnenministerium_Nov_2012_endg.pdf.

We cannot but conclude that these procedures are devoid of any serious administrative examination. They are no more than a farce maintaining a superficial image without having any content. The result is always a decision that has been clear from the beginning: A rejection of the request as “obviously unfounded”.

REJECTION AS OBVIOUSLY UNSUBSTANTIATED

After the interview the decision must be issued within one week. The responses are 100 %²⁸ negative and submitted with the addition that they are “obviously unsubstantiated”.²⁹ Compared to a simple rejection as “unfounded”, this qualitative rejection requires, according to the Constitutional Court, “raised standards” for the procedure and the examination because of the consequences of this kind of rejection.³⁰

The consequences of such rejection are reduced recourses to the courts and other restrictions of rights: In some cases it is impossible to receive a residence permit for any other reason after one’s asylum application is found to be “obviously unfounded”.³¹ The period within which an action must be brought against this decision is reduced to one week³² (and to get legal counselling in that short a time is difficult). The deadline to leave the country is also only one week.³³

“Raised standards” in a procedure require special attention to the investigation of the facts. The actual situation of the interviewed person has to be fully investigated.³⁴ Analysis of the protocols has shown that the interviewers did not check any details, even if a person mentioned

circumstances that were possibly relevant. A good example was given in a case in which the interviewed person stated that she was ill and the interviewer ignored that statement totally. If any kind of procedural error occurs, then these higher procedural standards have not been met and a rejection as “obviously unfounded” is no longer justified.³⁵ As we have seen above, the Blitzverfahren and its interviews are systematically lacking in any quality control, so they in particular cannot achieve such “raised standards”.

Furthermore, an objective legal examination of the interview and any other possible insight must show that an individual asylum application is “really evidently without any basis”.³⁶ As this should also be the standard for normal rejections, the law and the jurisprudence have developed examples of cases which must be refused as obviously unsubstantiated. For Roma, three such examples are applied: (1) there is no collective persecution in the country of origin of this group; (2) the flight is only for economic reasons; (3) there is only a situation of general emergency in the country of origin. Given the well-known human rights situation of Romani people, refusals on these grounds are surprising.

The course of these procedures and their results are only coherent in light of a general presumption that these applications are unfounded in any case and this is exactly what the Refugee Department has officially instructed: Officials should act on the presumption that an application for asylum by Serbians and Macedonians is basically futile.³⁷ The decision as to what the result of the administrative procedure will be is therefore made in advance. The application cannot be considered in an individual, objective and impartial way any more. This violates not only the stipulation of

28 Officially protection is given to 1% (*Entscheiderbrief* 9/2012), maybe under § 60 VII AufenthG (health reasons); France and Austria have much higher protection rates, Switzerland and Belgium 10% in 2013.

29 *Offensichtlich unbegründet*: § 30 AsylVerfG: “(1) Ein Asylantrag ist offensichtlich unbegründet, wenn die Voraussetzungen für eine Anerkennung als Asylberechtigter und die Voraussetzungen für die Zuerkennung der Flüchtlingseigenschaft offensichtlich nicht vorliegen. (2) Ein Asylantrag ist insbesondere offensichtlich unbegründet, wenn nach den Umständen des Einzelfalles offensichtlich ist, dass sich der Ausländer nur aus wirtschaftlichen Gründen oder um einer allgemeinen Notsituation oder einer kriegerischen Auseinandersetzung zu entgehen, im Bundesgebiet aufhält. (3) [.]”

30 BVerfG 67, 43 (56).

31 § 10 Abs. 3 S. 2 AufenthG, § 30 AsylVfG, available at: www.asyl.net/fileadmin/user_upload/beitraege_asylmagazin/AM2009-10-03-Mueller.pdf

32 § 36 Absatz 3 AsylVfG.

33 § 36 Absatz I AsylVfG.

34 Reinhard Marx, *Kommentar zum Asylverfahrensgesetz* 7. Auflage, 2009, § 30, Rn 72.

35 Reinhard Marx, *Kommentar zum Asylverfahrensgesetz* 7. Auflage, 2009, § 30, Rn 72.

36 Bundesverfassungsgericht (BVerfG) 67, 43 (56); Reinhard Marx, *Kommentar zum Asylverfahrensgesetz* 7. Auflage, 2009, § 30.

37 BAMF *Entscheiderbrief* 9/2012: “von einer grundsätzlich aussichtslosen Asylantragstellung auszugehen“.

raised standards for rejection as obviously unsubstantiated but also clearly violates European law³⁸ and German administrative procedural law.³⁹ Moreover, German constitutional law is in question, because the described *Blitzverfahren* resemble simplified short procedures that are usually held only for applicants from legally-declared *safe countries of origin*.

Western Balkan Countries as Safe Countries of Origin

The former minister of the interior, Mr Friedrich, wished to declare Serbia and Macedonia safe countries of origin.⁴⁰ The new government of Conservatives (CDU) and Social Democrats (SPD) has fixed this legislative project in their coalition agreement and added Bosnia and Herzegovina to it.⁴¹ Currently the legislation procedure is ongoing and has been widely criticised, e.g., for suddenly adding Albania and Montenegro to the list.⁴²

The possibility to state that a specific country is generally secure and that the right to asylum is restricted on that ground is provided for by the German Constitution.⁴³ It is a general presumption that in such countries no persecution occurs. Three conditions must be fulfilled in each country that shall be defined as a safe country:⁴⁴

- 1) Based on the legal situation (formal material law and procedures), political persecution and inhuman and humiliating abuses are eliminated;

- 2) The practice of the authorities and courts conforms to the formal legal situation;
- 3) The general political situation seems to ensure that neither political persecution nor inhuman and humiliating abuses are taking place.

The Parliament has to base its decision on an investigation of these facts, but it also has a certain scope for evaluation and prognosis. Formally the legal situation for minorities in Western Balkan countries that have adopted legal frameworks for anti-discrimination law seems to be ameliorated. Still, in practice a lot of Roma are living in existential misery and suffering from both non-state and official discrimination and violence.

Once the law putting a certain country on the list of Safe Countries of Origin is adopted by the Parliament, the Constitutional Court is only allowed to review this decision as to its comprehensibility.⁴⁵ Only if the outcome of that overall evaluation decides that the Parliament's decision was not based on good reasons⁴⁶ can the law be annulled.⁴⁷ If an administrative court has doubts as to the legality of a law defining a country as safe, it has to submit the case to the Constitutional Court.⁴⁸ This scenario would take years and the annulment of the law is unlikely due to the scope of evaluation undertaken by Parliament.

The consequence for applicants coming from “safe countries” is that they undergo very simplified procedures at the Refugee Department. Their application for asylum

38 Art. 10 III a) dir. 2013/32/EU “III. Mitgliedstaaten stellen sicher, dass die Asylbehörde ihre Entscheidung über einen Antrag auf internationalen Schutz nach angemessener Prüfung trifft. Zu diesem Zweck stellen die Mitgliedstaaten sicher, dass a) die Anträge einzeln, objektiv und unparteiisch geprüft und entschieden werden.”; see also analysis of Pro Asyl 11/2012, available at: http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/stellungnahmen/PRO_ASYL_Populismus_aus_dem_Bundesinnenministerium_Nov_2012_endg.pdf.

39 Principle of objectivity and neutrality: § 21 *Verwaltungsverfahrensgesetz*.

40 Karin Waringo, *Serbien – ein sicherer Herkunftsstaat von Asylsuchenden in Deutschland?* 4/2013, Pro-Asyl.

41 See http://www.spd.de/linkableblob/112790/data/20131127_koalitionsvertrag, p 109.

42 See www.proasyl.de/de/news/detail/news/aus_drei_mach_fuenf_taeuschung_im_gesetzgebungsverfahren/.

43 *sichere Herkunftsstaaten*. Art 16 a) III GG: “(3) Durch Gesetz, das der Zustimmung des Bundesrates bedarf, können Staaten bestimmt werden, bei denen auf Grund der Rechtslage, der Rechtsanwendung und der allgemeinen politischen Verhältnisse gewährleistet erscheint, daß dort weder politische Verfolgung noch n Ausländer aus einem solchen Staat nicht verfolgt wird, solange er nicht Tatsachen vorträgt, die die Annahme begründen, daß er entgegen dieser Vermutung politisch verfolgt wird.“ Different from *safe third countries*: Art 16 a) II GG.

44 Michael Sachs, *Grundgesetz Kommentar*, 2. Auflage 1999, Art. 16 a), Rn 91; BVerfG 94, 115 (143); also about sources of information.

45 BVerfG 94, 115 (133).

46 BVerfG 94, 115 (133).

47 Art 139 Absatz V Bundesverfassungsgerichtsgesetz.

48 BVerfG 94, 115 (133).

is presumed futile and must be treated in the procedure as “obviously unfounded”.⁴⁹ The similarity between this modified procedure and the current *Blitzverfahren* for Serbians and Macedonians analysed above is evident.

The difference is that the rules for the current procedures were introduced by the state administration (the Government) on its own. That stands in contrast to the constitutional stipulation that the Parliament⁵⁰ has to decide on the law declaring the safety of a country, as such laws concern fundamental rights. This division of labour between the legislature, the executive and the judiciary has even been clarified by a decision of the Constitutional Court.⁵¹ The administrative/governmental introduction of the *Blitzverfahren* only for certain countries, which is equivalent to procedures for “safe countries”, breaches fundamental principles of democracy, namely, the sovereignty of the people and the separation of powers⁵² (in this case between the executive and the legislative branches).

Suspension of EU Visa-Liberalisation

A similar trick to the declaration of the countries of the Western Balkans as safe, secure countries is the plan to suspend visa liberalisation for the Western Balkan EU enlargement countries. On the initiative of Germany and other EU Member States, the European Parliament decided in July 2013 that Member States may ask the European Commission to allow a temporary re-introduction of the visa obligation in cases of a “sudden and substantial” rise of unfounded applications for asylum.⁵³

This procedure avoids the participation of the German Parliament, which normally decides about the general unfoundedness of asylum applications of a specific country by voting on a law (see above). Furthermore, the European Parliament no longer participates in deciding whether visa liberalisation for a specific country is to be suspended. The European Parliament has given that responsibility to the European Commission, which decides about such suspension at the specific request of a Member State.

Even if the concept of “safe countries” has consequences for refugees other than the closing of the border to them through the visa system, the conditions to define the country as safe, so that asylum applications are without any hope of succeeding, are similar.

This becomes especially questionable when we recall the long discussion between the Council of the EU, the European Parliament and the European Court of Justice (ECJ) about the introduction of a common list of “safe countries” into the EU Asylum Procedure Directive. The controversy there was also about the lack of participation by the European Parliament. In the end, the concept of “safe countries” was skipped at the EU level, but each Member State still individually has that possibility. Now the EU is again deciding on the safety of specific countries, through the notion of visa re-introduction for “safe countries”.

It is also important to note that the suspension of the visa obligation is the most positive, noticeable step during the EU admission process for the population of the

49 § 29 a) AsylVfG: “(1) Der Asylantrag eines Ausländers aus einem Staat im Sinne des Artikels 16a Abs. 3 Satz 1 des Grundgesetzes (sicherer Herkunftsstaat) ist als offensichtlich unbegründet abzulehnen, es sei denn, die von dem Ausländer angegebenen Tatsachen oder Beweismittel begründen die Annahme, dass ihm abweichend von der allgemeinen Lage im Herkunftsstaat politische Verfolgung droht.”

50 Together the *Bundestag* and *Bundesrat*.

51 BVerfG 94, 115 (133).

52 Art 20 II, III GG: “(2) Alle Staatsgewalt geht vom Volke aus. Sie wird vom Volke in Wahlen und Abstimmungen und durch besondere Organe der Gesetzgebung, der vollziehenden Gewalt und der Rechtsprechung ausgeübt.

(3) Die Gesetzgebung ist an die verfassungsmäßige Ordnung, die vollziehende Gewalt und die Rechtsprechung sind an Gesetz und Recht gebunden.”

53 Interinstitutionelles Dossier, 16.7.2013, Rat der EU: 2011/0138 (COD): Änderung der Verordnung (EG) Nr. 539/2001 des Rates zur Aufstellung der Liste der Drittländer, deren Staatsangehörige beim Überschreiten der Außengrenzen im Besitz eines Visums sein müssen, sowie der Liste der Drittländer, deren Staatsangehörige von dieser Visumpflicht befreit sind: “[] einem erheblichen und plötzlichen, zu einer besonderen Belastung des Asylsystems führenden Anstieg - über einen Zeitraum von sechs Monaten - im Vergleich zum selben Zeitraum des Vorjahres der Zahl der Asylanträge von Staatsangehörigen eines in Anhang II aufgeführten Drittlands mit geringer Anerkennungsrate im Vergleich zum selben Zeitraum des Vorjahres oder zum letzten Sechsmonatszeitraum vor Einführung der Befreiung von der Visumpflicht für die Staatsangehörigen dieses Drittlands.”

Western Balkan countries. For Serbia (not including Kosovo), Montenegro and Macedonia this was declared in 2009 and for Albania and Bosnia in 2010. At the same time, conventions on repatriation which facilitate the expulsion of Western Balkan nationals from EU countries back to the Western Balkan countries were signed.⁵⁴ To reverse the visa suspension three years later is an unfair deal and endangers the European “strategic goal”⁵⁵ of enlarging the EU to include the former Yugoslav countries. To rebuild a border in the middle of Europe in the 21st Century represents a step backwards.

Conclusion: “White Schengen”

We have seen that false and empty asylum procedures have resulted in a 0 % recognition of requests from Western Balkan Roma in Germany (the lowest rate European-wide). These numbers now provide perfect grounds for legalising the Biltzverfahren through the declaration of “safe countries of origin” and for suspending visa liberalisation. These measures are focused on locking Romani people out of the EU and helping to build a space which has been called by some the White Schengen.

54 Karin Waringo, *Serbien – ein sicherer Herkunftsstaat von Asylsuchenden in Deutschland?* 4/2013, Pro-Asyl.

55 Europäischen Gipfel von Juni 2003 in Porto Carras bei Thessaloniki.

Counting on Confusion: Romani Asylum-Seekers in the German Media, 2012-2013

CHRISTINA E. LEE¹

“Since the European Union began allowing visa-free travel for Serbs and Macedonians, there has been a sharp increase in Roma from the Balkans applying for asylum. Despite the difficulties, Germany remains the Promised Land for those in the slums of Skopje and Belgrade” – Der Spiegel

“64 % of Germans would oppose having Sinti and Roma as neighbours, finds a study from the Technical University of Berlin - although they possibly already have Sinti and Roma as neighbours, without knowing it.” – Die Welt³

“But who are these people, who often seem so foreign and different?” – Bild⁴

Introduction

Despite being present throughout Europe for hundreds of years, the last few years have seen an uptick of news coverage in the EU depicting the Roma, Ashkali, and Egyptian communities as mysterious (and for the most part, unwelcome) newcomers who are arriving in mass numbers from the south. Noticing the appearance of several such characterisations in German media, it seemed especially pertinent to ask, first, what numbers are the size descriptions in the media based on? The notorious difficulty of collecting accurate statistics regarding the Romani community is well known. In addition, the German authorities have special, restrictive rules governing the collection of ethnically disaggregated statistics, so given numbers are often anecdotal or unofficial. One concern was therefore that such projections may be vulnerable to the same stereotypes and exaggeration that surround the Romani community in general. Could this confusion of numbers and stereotypes impact the public perception of visa liberalisation policy in the Western Balkans?

In order to begin shedding some light on this question, a small-sample discourse analysis was conducted using news articles that discussed Romani migrants from the Western Balkans to see what predominant themes and attitudes were prevalent. In the course of this investigation, it appeared that some unofficial numbers of Romani

asylum-seekers had in fact been provided to the public, adding to an already confusing situation the spectre of “special” treatment for Balkan Roma.

In addition, this perception of an influx of poor, benefits-seeking Romani migrants became the backdrop for a campaign to limit welfare benefits, revoke the Balkan visa-free regime, and initiate “abbreviated procedures” measures exclusively for asylum seekers from former Yugoslav countries. These events lead to the troubling conclusion that the media’s lack of scrutiny of these numbers may have provided the justification that the government needed to take steps to prevent Roma from remaining in Germany. Seen in that context, this paper explains this worrisome situation and concludes with the question of whether the government and the media have an obligation to act more responsibly under international human rights law.

Romani Migrants in the German Media, 2012-2013

As a starting point for enquiry, a simple search was conducted for news articles relating to the migration of Roma from Western Balkan countries to Germany from 2012 to November 2013. Narrowing the results to just news articles (rather than, say, blog posts) and correcting for other factors,⁵

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2 Özlem Gezer, “Trip to the Promised Land: Balkan Roma Dream of Life in Germany”, *Spiegel Online*, 13 November 2012.

3 Freia Peters, “Sinti und Roma: ‘Niemand hat der Hetze Einhalt geboten’”, *Die Welt*, 5 November 2013. (All translations mine unless otherwise noted).

4 Maximilian Kiewel, “Die Wahrheit über Armuts-Einwanderung In Deutschland: BILD-Reporter zu Besuch im Roma Haus”, *Bild*, 4 March 2013.

5 I have limited this discussion to prominent mainstream newspapers and purposely excluded the numerous articles which discussed exclusively Roma from EU countries such as Romania, Poland and Bulgaria. Additionally, I excluded opinion pieces. Further research may be useful to determine if similar stereotypes to those of Balkan Roma carry across to Roma from within the EU (a hypothesis I find probable).

I found around 22 articles as a starting point and conducted an analysis using coding software looking for reoccurring themes, words and sentiments. Although there were articles that were neutral or even supportive towards Roma, three themes dominated: Roma as a large, growing population in Germany; Roma as “false” asylum-seekers; and Roma as connected to social problems.

SIZE

The use of words and descriptions indicating large amounts of people were prevalent throughout a majority of the articles. For example, in 15 of the articles (68 %) language was used describing large sizes, with many employing terms like “influx” and “flood,” even in the title. For example, “A Surge of Serbians and Macedonians,”⁶ “More and More Roma Move to Germany,”⁷ and “Poverty Migration: Dortmund Anticipates Costs in the Millions for Roma”⁸ were the titles of three articles from respected German news sources. It is well-known that titles often over-simplify the greater content of the article; however such titles convey a broad sense of the characterisation carried out in the body of many of the articles examined, i.e., that Germany is being overrun by migrant Roma from the Balkans.

In the Balkans, winter approaches - and in Germany Serbian and Macedonian Sinti and Roma seek asylum by the thousands. Now politicians are calling for an end to the visa-free regime.⁹ (*Emphasis mine.*)

German Interior Minister Hans-Peter Friedrich (CSU) notes that there are two major countries behind the growing influx: “The increasing misuse of asylum is not acceptable. The **massive influx** of Serbian and Macedonian nationals must be stopped immediately;... A spokesman for BAMF told Focus Online that **many of these applicants are Roma**, who reported discrimination, but also a bad economic situation in their homeland.”¹⁰ (*Emphasis mine.*)

North Rhine-Westphalia is also struggling to handle an **influx of asylum seekers, many of whom are also Roma**, but from the non-EU members Macedonia and Serbia. Some conservative German politicians blame this for the recent increase in welfare benefits for refugees.¹¹ (*Emphasis mine.*)

In total, throughout the 22 articles, expressions conveying the large numbers of Roma were used 45 times, with “influx” alone being used 17 times.

“FALSE” ASYLUM

The German news media appeared to be overwhelmingly of the opinion that Romani migrants may face some discrimination in their home countries, but that the real underlying impulse to seek asylum in Germany is economic in character. In many cases the media have received such information directly from government officials. A number of the articles used the German word *Armutseinzwanderung* (“poverty migration”) to describe the migration of Roma to Germany, and 11 articles mentioned economic migration as a reason why Roma fail (or should fail) to receive asylum. This effectively characterises the Roma as “false” asylum seekers, since economic hardship is not a reason to gain refugee status under the 1951 Convention Relating to the Status of Refugees.¹²

German Interior Minister Hans-Peter Friedrich (CSU) wants asylum seekers from Serbia and Macedonia to receive smaller funds and sped-up procedures. “Anyone who comes out of a safe country of origin should in the future receive a reduced cash payment,” the minister told the newspaper *Die Welt*. Mostly in concern are the Romani applicants. They are considered “economic refugees” who are not politically persecuted. German authorities reject the majority of their applications.¹³

6 D.S.L., “A Surge of Serbs and Macedonians: Germany Seeks to Halt Influx of Balkan Asylum Seekers”, *Spiegel Online*, 25 October 2012.

7 O. Kämper, “More and More Roma Moving to Germany”, *Deutsche Welle*, 9 September 2012.

8 Jan Hauser, “Armutseinzwanderung: Dortmund rechnet mit Millionenkosten für Roma“, *Frankfurter Allgemeine Zeitung*, 21 February 2013.

9 Stephanie Höppner, “Zuwanderung: Aus Serbien ins Deutsche Sozialsystem?“ *Deutsche Welle*, 12 October, 2012.

10 Susanne Kläiber, “Rasanter Anstieg von Asylanträgen: Friedrich will ‘massiven Zustrom’ von Serben Stoppen“, *Online Focus*, 12 October 2012.

11 Jörg Diehl, “Poverty and Crime: Conditions Little Better for Roma Immigrants in Germany”, *Spiegel Online*, 19 October 2012.

12 Article 1(a)(2) outlines the bases for refugee status under the convention, which are race, religion, nationality, membership in a particular social group or political opinion. United Nations General Assembly, *Convention Relating to the Status of Refugees*, 1951, available at: <http://www.unhcr.org/3b66c2aa10.html>.

13 DPA, “EU droht Balkanländern mit Visazwang“, *Online Focus*, 12 October 2012.

Notably, the President of the *Bundesamt für Migration und Flüchtlinge* (BAMF - the Federal Office for Migration and Refugees) himself even spoke to some newspapers, confirming that a majority of the applicants were Roma only interested in receiving social services.

BAMF President Manfred Schmidt believes they [the Roma] are attracted by the superior health service and the prospect of social benefits. “They make no bones about it in the consultations we carry out,” he told *Deutsche Welle*. To him, the reason for the sudden rise in applications is perfectly clear - in July, the German Constitutional Court ruled that the standard benefits for asylum seekers must be raised significantly.¹⁴

If the President of the German office responsible for refugees, an expert, is willing to characterise an entire ethnic group and pre-judge all asylum applications arising from them as unfounded, it should come as no surprise when the public does the same.

SOCIAL PROBLEMS

A little more than half of the articles (12) linked a rise in the number of Roma with unsatisfactory results for Germany or with social problems. For example, the *Deutsche Welle* article “Out of Serbia into the German Social System?” examines the problem of misuse of the asylum system and the resulting pay-out of funds to people who may be misusing the system to supplement their income.¹⁵ Another piece, entitled, “The Truth about Poverty Migration in Germany - *BILD* Reporter Visits a Roma House” shows an intrepid reporter visiting an overcrowded residence rank with a “urine stink” to interview residents and their neighbours, who offer their suspicion that their Romani neighbours may be involved in prostitution. From the title, it would seem these individuals are meant to be portrayed as “typical” Romani migrants despised by their anonymous neighbours.

Residents, who out of fear wish to remain anonymous, paint a rather different picture. “Each week a mini-bus stops here holding new Romani women. They are then

sent straight on the street [to hustle] - and those who don’t want to are openly beaten on the street.¹⁶

An article from *Der Spiegel* with quite a leading headline, “Poverty and Crime: Conditions Little Better for Romani Immigrants in Germany” casually associates crime problems with Roma - again, without referring to statistics or factual evidence but relying on rumours and hearsay.

Police in Duisburg believe there is one particular house where a number of children live who are sent out daily in groups to steal things. According to the State Interior Ministry, break-ins and thefts at cash machines have risen sharply, a development blamed largely on the Southern European immigrants.¹⁷

NEUTRAL OR POSITIVE VIEWS

However, not all of the articles made such assumptions; with eight out of the 21 presenting either relatively neutral reporting about Roma-related events or integration efforts or even actively challenging stereotypes. For instance, the article “Poverty’s the Problem, Not the Roma” from *Deutsche Welle* discussed stereotypes against Roma and questioned the numbers:

How many Roma exactly come from south-eastern Europe to Germany is not being registered anywhere. In the town of Mannheim, for instance, there’s been talk of 60 to 70 % of all immigrants being Roma, explains Daniel Strauss, head of the organisation of German Sinti and Roma in Baden-Württemberg. Strauss used micro-studies and statistics from their countries of origin to check this perception. According to his findings, only 8 to 10 % of those who have come here are Roma.¹⁸

In total, seven articles (33 %) mentioned uncertainty about the numbers of Roma, or acknowledged that official statistics were in doubt. Other articles mentioned uncertainty, but proceeded to offer numbers anyway, like this section from *Bild*.

How many Roma live in Germany today really, nobody knows. The German Police Union estimates that

14 Kämper, “More and More Roma Moving to Germany” (2012).

15 Hoppner, “Zuwanderung: Aus Serbien ins Deutsche Sozialsystem?” (2012).

16 Kiewal, “Die Wahrheit über Armuts-Einwanderung In Deutschland” (2013).

17 Diehl, “Poverty and Crime: Conditions Little Better for Roma Immigrants in Germany”, (2012).

18 A. Grunau “Integration: Poverty’s the Problem, Not the Roma”, *Deutsche Welle*, 24 September 2013.

200,000 Roma have gone underground in the past year in the capital alone.¹⁹

What the Statistics Reveal

A MASSIVE INFLUX OF ROMANI ASYLUM SEEKERS?

The question of numbers turns out to be a complex one. One could argue that the topic of Romani migrants arose more frequently in the German media in the past two years as a result of an apparent increase in migration from both within and outside the EU. On the one hand, citizens of Romania and Bulgaria, which entered the EU during the 2007 enlargement, have had limited employment access to Schengen and now have unrestricted freedom of movement from January 2014. Meanwhile, countries from the Western Balkans were granted a more liberal visa regime starting in 2009, under which short-term travel restrictions into the Schengen zone were lifted for citizens possessing biometric passports.²⁰ Thus, during this time there were three (legal) possibilities for Roma to enter Germany from the above countries: 1) from EU countries; 2) as biometric passport holders from the visa liberalisation states; 3) as asylum-seekers. In addition, there is the ongoing possibility of illegal entry.

Given these enhanced chances for entry, it is plausible that Romani migration has increased in the past few years from any of these sources. However, given Germany's complex relationship with collecting ethnic data,²¹ one could not say how many Roma came during this time, how many remained, and to which of the above groups they belonged. One practical concern, then, is that the public may not be able to differentiate between Roma from EU countries such as Bulgaria and Romania and those migrating or seeking asylum from Western Balkan countries - groups which have different rights and issues. Further, it may be possible to abuse this confusion and public fear, conflating the

same groups of Roma multiple times to argue for lengthened restrictions for Romania and Bulgaria and withdrawal of travel privileges for Western Balkan non-EU states.

Putting this complication aside, the numbers that are available do demonstrate an increase in asylum-seekers from Serbia, Kosovo, Bosnia and Herzegovina, and Macedonia in 2012, levelling off in 2013. BAMF, Germany's Federal Agency for Migration and Refugees, releases the numbers of foreigners and asylum-seekers in Germany based on national origin and only occasionally differentiates them by race or ethnicity. According to the agency, for the year 2013 asylum seekers from Serbia and Macedonia represented a combined proportion of 17.2 % (or 17,667 cases) of Germany's total asylum claims (other Western Balkan countries were combined under "various").²² This represents an increase in cases but a decrease in the over-all percentage from 2012, when one out of four asylum claims originated in the former Yugoslavia, with Serbia, Kosovo, Bosnia and Herzegovina and Macedonia accounting for some 16,900 cases (at the time, 26% of total claims).²³ These numbers, of course, represent only the applicants. Despite being the third-biggest sender country of asylum-seekers for 2013, Serbia is not in the top five for accepted claims. With only a total of 24.9 % of all asylum claims being accepted in 2013, it is unclear how many, if any, accepted cases originated from the Western Balkans.²⁴

A glimpse of insight may be gained from a *Bundestag* inquiry promulgated by the leftist *Die Linke* party. In response to a *Kleine Anfrage* (little inquiry), the government provided an ethnic breakdown of asylum claims from the Western Balkans for the months of November and December 2012. In those months some 10,218 persons sought protection and identified themselves as Roma originating from the countries of Serbia, Bosnia and Herzegovina, Macedonia and Montenegro, representing 91 % of applicants. The total number of individuals

19 Kiewal, "Die Wahrheit über Armut-Einwanderung In Deutschland", (2013).

20 See also: Chachipi, *Selective Freedom: The Visa Liberalisation and Restrictions on the Right to Travel in the Balkans*, (June 2012), available at: http://romarights.files.wordpress.com/2012/07/chachipe_visa_liberalisation_report_270612.pdf.

21 An overview of countries not collecting ethnic statistics can be found here: Patrick Simon "Ethnic Statistics and Data Protection in the Council of Europe Countries", 2007, *European Commission against Racism and Intolerance*, available at: http://www.coe.int/t/dghl/monitoring/ecri/activities/themes/Ethnic_statistics_and_data_protection.pdf.

22 BAMF, *Aktuelle Zahlen zu Asyl*, 6, December 2013, BAMF, available at: http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/statistik-anlage-teil-4-aktuelle-zahlen-zu-asyl.pdf?__blob=publicationFile.

23 UNHCR *Asylum Trends*, 12, 2012 UNHCR, available at: <http://www.unhcr.org/5149b81e9.html>.

24 BAMF, *Aktuelle Zahlen zu Asyl*, 9.

whose refugee claims were accepted from all the above countries, both Romani and other, was zero.²⁵

WHEN SHOULD ETHNIC STATISTICS BE RELEASED?

In the absence of a *Bundestag* inquiry, statistics on ethnicity and race are normally considered sensitive in the German system due to the country's special history of persecuting individuals on an ethnic basis (among others). As a result, researchers have extreme difficulty in determining, for example, the number of Black Germans accepted to university, or the number of Asian persons employed by the government. If Germany's unique history in relation to the persecution of minorities is cited as the reason for the severely limited ability of state authorities to collect (let alone release) such data, which could be crucial in proving discrimination, then one would think the federal government would be especially careful in regard to the Romani community, a group tragically targeted during the Holocaust. Even without this historical context, the information gained from asylum interviews may not always be accurate – it is not unheard of for individuals to falsely self-identify as endangered groups in order to gain a better shot at asylum.

Nevertheless, statements appearing in the media from BAMF asserted that the majority of asylum applicants from the Western Balkans were Romani, to the level of between 80 and 90 %, and those numbers have evidently also been reported to the UNHCR.²⁶ Why promulgate ethnic statistics in the case of Western Balkan states and not, for instance, with the Russian Federation, where a good number of applicants may be from the Chechen minority? Upon inquiry, the Press Secretary of the BAMF confirmed that while they do not officially collect such statistics, they have personal experience from individual case interviews and from this experience can estimate the number of Romani applicants as being around 90 %.²⁷ This does not answer the question of why they would release

sensitive personal data on ethnicity for Roma in particular, and does not clear up the suspicion that the decision by the BAMF to release ethnic data seems extremely arbitrary, at best.

Accelerated Procedures

With the justification of increased numbers of asylum applicants originating from the Western Balkans, the German government has introduced accelerated procedures for the second time since 2012 for citizens of these countries after declaring them “safe countries”. In the coalition agreement between the majority governing party, the Christian Union (CDU), and the Social Democratic Party (SPD), this justification was spelled out (interestingly, immediately following a discussion of why welfare benefits must be limited in response to “poverty migration”).

Against the background of rapidly increasing entry numbers in the asylum area, we particularly focus - also in the interest of those seeking protection - on the shortening of working time for asylum procedures... We want the Western Balkan countries Bosnia and Herzegovina, FYR Macedonia and Serbia designated as secure origin countries in the sense of 29(a) of the Asylum Procedures Act to enable working more quickly on the baseless asylum applications from members of these states and to bring their residence in Germany more quickly to an end.²⁸

As pointed out by a coalition of non-governmental organisations (NGOs), the consequence of this agreement is to classify all asylum applications by people from these newly-pronounced safe countries as “manifestly unfounded,” a decision that will “undoubtedly affect applications by persons of Romani origin.”²⁹ Pro-Asyl, a German NGO, called the decision “totally at odds with reality.”³⁰

25 Deutscher Bundestag, *Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Agnes Alpers, weiterer Abgeordneter und der Fraktion, DIE LINKE*, (31 January 2013), 24, available at: <http://dipbt.bundestag.de/dip21/btd/17/122/1712234.pdf>.

26 For instance, footnote 14 in the above-cited UNHCR (2012) document states, “According to the German Federal Office for Migration and Refugees, 92% of all asylum applicants in Germany originating from Serbia (and Kosovo: S/Res/1244 (1999)) are of Roma origin.”

27 Email correspondence with Christine Germann, BAMF: 15 November, 2013.

28 CDU, CSU and SPD, *Deutschlands Zukunft gestalten- Koalitionsvertrag*, 108-109, December 2013, available at: <http://www.tagesschau.de/inland/koalitionsvertrag136.pdf>.

29 European Council on Refugees and Exiles, *NGOs Sceptical about plans of Germany's coalition government on migration and asylum*, 6 December 2013, available at: <http://ecre.org/component/content/article/70-weekly-bulletin-articles/526-ngos-sceptical-about-plans-of-germanys-coalition-government-on-migration-and-asylum-.html>.

30 Pro-Asyl, *Schwarz-Rot Koalitionsvertrag*, Press Release, 27 November 2013, available at: http://www.proasyl.de/de/presse/detail/news/koalitionsvertrag_steht/.

The juxtaposition of the release of ethnic-based statistics regarding Romani asylum seekers against the position that Balkan states are inherently secure countries from which all originating claims are manifestly unfounded or “baseless” presents an odd picture. In 2013, Serbia’s Universal Periodic Review had no less than seven recommendations pertaining to improvement of the situation of Roma, with one coming from Germany.³¹ The *World Report* recently released by Human Rights Watch remarked that in 2013 “the situation of ethnic minorities remains precarious - especially for Roma.”³² In the European Roma Rights Centre’s submission to Macedonia’s Universal Periodic Review, they noted that persons in Romani, Ashkali and Egyptian communities continue to be disproportionately targeted by hate speech and violence and also experience discrimination in the areas of education, employment and freedom of movement.³³ Moreover, neighbouring countries such as Switzerland and Belgium continued to grant asylum to Romani asylum seekers from the region in 2013.³⁴

As a justification for limited access to asylum procedures, climbing numbers of applicants is a weak one in the face of possible human rights abuses. The number of asylum seekers to Germany from the Russian Federation was the highest of any single country this year, and this has not (yet) been used as a justification for limiting access to asylum, nor would anyone suggest such abbreviated procedures with Syrian refugees (the second-largest group). It is a big leap - and not in touch with Germany’s own evaluations of human rights in the Balkans - to suggest there would be no valid claim to asylum originating from there. It is also very problematic under the Refugee Convention to essentially disregard individual experiences in favour of making broad, unverified characterisations of countries as “safe”.³⁵

Conclusion – the Media’s Responsibility

The preceding sections provide, in a limited way, some alternatives to the German government’s narrative that a massive spike in “false” asylum seekers necessitates special procedures for Western Balkan countries and eventually the ceasing of the visa liberalisation scheme. It is worrisome that the German media for the most part did not question such claims, instead choosing to broadcast government claims in alarming headlines and shakily-proven “hit” pieces describing Roma criminality, poverty, and duplicity. It is especially disappointing (considering the traditional role of the media in shining a spotlight on the discrimination and poor treatment of minorities) that in many cases journalists merely quoted government officials without researching the validity of their claims.

This might be lazy journalism, but did the journalists have any responsibility to do otherwise? Professionally speaking, there are ethical standards for the press. The Society of Professional Journalists, in its professional code of ethics, suggests that journalists “test the accuracy of information from all sources” and “diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing.” In addition, they suggest that journalists should “make certain that headlines... do not misrepresent. They should not oversimplify or highlight incidents out of context.”³⁶ The application of these standards could have necessitated checking the actual numbers of accepted Romani asylum seekers living in Germany, resulted in less inflammatory headlines, or prompted journalists to either question or omit unsubstantiated rumours of criminality among Romani persons. Likewise, Reuters, in their *Handbook of Journalism*, advises that journalists “avoid sensationalism” and “stay on alert for spin and other forms of media manipulation” when reporting about people.

31 Human Rights Council. *Report of the Working Group on the Universal Periodic Review – Serbia*, 22 March 2013, available at: http://www.upr-info.org/IMG/pdf/a_hrc_23_15_e.pdf.

32 Human Rights Watch. *World Report 2014 - Serbia Chapter*, 21 January 2014, available at: <http://www.hrw.org/world-report/2014/country-chapters/serbia>.

33 European Roma Rights Centre and National Roma Centrum, *Parallel Report by the European Rights Centre and National Roma Centrum, Concerning Macedonia*, January 2014, available at: <http://www.errc.org/cms/upload/file/macedonia-un-upr-submission-24-june-2013.pdf>.

34 Pro-Asyl Press Release (2013).

35 In the UNHCR’s refugee handbook, the point is reiterated continuously that circumstances giving rise to a valid refugee claim are always dependent on the individual case. See, e.g., para. 52, “Whether other prejudicial actions or threats would amount to persecution will depend on the circumstances of each case...” and para. 53, “an applicant may have been subjected to various measures not in themselves amounting to persecution (e.g., discrimination in different forms), in some cases combined with other adverse factors (e.g., general atmosphere of insecurity in the country of origin). In such situations, the various elements involved may, if taken together, produce an effect on the mind of the applicant that can reasonably justify a claim to well-founded fear of persecution on ‘cumulative grounds’”. UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status*, 1979/1991, available at: <http://www.unhcr.org/3d58e13b4.html>.

36 Society of Professional Journalists. *SPJ Code of Ethics* (1996), available at: <http://www.spj.org/ethicscode.asp>.

They also warn journalists to “be sensitive to unconscious stereotyping and dated assumptions,” taking particular care against “typecasting minorities”.³⁷ Headlines such as “Poverty Migration: Dortmund Anticipates Costs in the Millions for Roma” fly in the face of such basic professional standards.

Aside from ethics promoted by professional associations, there are also international treaty obligations relating to the media’s responsibility. Under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), state parties like Germany undertake to fight propaganda attempts, specifically those which “justify or promote racial hatred and discrimination in any form.”³⁸ The Committee for this convention, CERD, has specifically touched on media obligations as regards Roma in their General Recommendation 27. According to the recommendation, state parties have the obligations:

36. To act as appropriate for the elimination of any ideas of racial or ethnic superiority, of racial hatred and **incitement to discrimination** and violence against Roma in the media, in accordance with the provisions of the Convention.

37. To encourage awareness among professionals of all media of the **particular responsibility to not**

disseminate prejudices and to avoid reporting incidents involving individual members of Roma communities in a way which blames such communities as a whole.³⁹ (*emphasis mine*)

In addition, the document specifically instructs states to take measures to prevent discrimination towards Romani asylum seekers.⁴⁰

These recommendations place responsibility on states, as opposed to media organisations, for preventing the distribution of ethnic-based stereotypes. In this case, where state functionaries were often the individuals making the claims in the first place, it would seem that the government has a responsibility to ensure that speculation about newcomers does not bleed into racist propaganda - which arguably has occurred in several of the examples seen in the analysis (such as the article blaming local crime on the Romani population). Particularly where the result of the media campaign against “false asylum seekers” has been to justify accelerated procedures and other measures that may violate the human rights of Roma from the region and limit their access to humanitarian protection under the Refugee Convention, it may be worth it for Germany – and its media - to reflect on whether they are adhering to their legal and ethical obligations as regards public discourse.

37 Reuters, *Handbook of Journalism*, April, 2008, available at: http://handbook.reuters.com/index.php?title=Reporting_about_people.

38 UN, *International Convention for the Elimination of All Forms of Racial Discrimination*, at Art. 4, 21 December 1965, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>.

39 Committee on the Elimination of Racial Discrimination, *CERD General Recommendation XXVII on Discrimination Against Roma*, 4-5, 16 August 2000, available at: <http://www.refworld.org/pdfid/45139d4f4.pdf>.

40 *Ibid.*, 1.

Romani Migration in the EU: the Dutch Case of Setting Boundaries

PETER JORNA¹

Introduction

In this article I will focus on the connections between the increasing discrimination, stereotyping and criminalisation of Roma on the one hand and migration processes in Europe on the other. The case of the Netherlands will be considered and where possible I will take the Visa Liberalisation Dialogue in the European Union (EU) relating to the Western Balkans into account. I will also address critically the representations of “Roma criminality”, currently also in vogue in the Netherlands by dealing with media expressions and political discourse.

To this end, I am drawing upon my earlier contribution for the Council of Europe and in particular the European Committee of Crime Problems (CDPC) in relation to its Draft Opinion on “criminalisation of begging, legislation and practices in this regard, as well as the impact of criminalisation of begging on the human rights situation of Roma”.² At the time I was asked by the CDPC to provide information on the Netherlands as the CDPC had been instructed by the Committee of Ministers “to analyse legislation and practices in member States”. As a result, the Parliamentary Assembly of the Council of Europe (PACE) recommended that the Committee of Ministers take various steps to counter these tendencies.³

Whether such steps have indeed been taken is questionable, but it is not the subject of the present contribution. For the sake of this thematic issue of the ERRC’s *Roma Rights Journal* on migration, I want to make the following three observations relating to tendencies in the Netherlands.

Firstly, this paper makes observations regarding the tempo at which the Roma issue has merged - since 2013 - with the migration issue in general. Initially linkages between these two issues showed up in the Dutch public discourse only once in a while, but they became rapidly blurred in anticipation of the so-called “doomsday” (1 January 2014). Romanian and Bulgarian migrants especially became the “talk of the town” in the Netherlands. Should the two countries be granted free movement in the EU, without restrictions such as labour licences, and allowed into the Schengen Area? Was not an exodus to be expected, especially a Roma one from the remote towns and slums of the east into the west?

Secondly, the Roma issue abroad clearly triggered the urgency of the Roma issue at home. For many years the Dutch authorities and national politicians perceived the Roma issue in their backyard as negligible: The issue was not substantial enough and responsibilities for it were referred to the local level.⁴ The Roma integration issue, however, (re)appeared on the national political agenda in 2009 and has stayed on the radar ever since.⁵

Thirdly, the Dutch approach to Roma that has been enacted since then was initially received with surprise in European circles, but gradually seems to be accepted by and even attractive to other Member States. Basically, the Dutch government submitted a general set of policy measures to the European Commission (EC) which was mainstreamed relating to the four socioeconomic EC domains but targeted Roma explicitly through its own national priorities on Security and Justice.⁶

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2 Email correspondence with Kristian Bartholin, Criminal Law Division, Action against Crime Department, DG Human Rights and Rule of Law, Council of Europe: 25 July 2012.

3 Parliamentary Assembly of the Council of Europe, *Recommendation on Roma migrants in Europe, 2003* (2012), Strasbourg.

4 Minister of Foreign Affairs Maxime Verhagen, “Opening Speech at the 26th meeting of the Council of Europe’s Committee of Experts on Roma and Travellers (MG-S-ROM)” in ed. Henriëtte Emaar, *Education and Training for Roma and Sinti in the Netherlands, Conference and Site Visit 5-7 November 2008*, The Hague, (Utrecht, FORUM, 2008), 14, available at: http://www.forum.nl/international/Archive/Projects/Roma_and_Sinti.

5 See my description of this process in more detail: Peter Jorna, “Active Citizenship/Rights Awareness”, in *Netherlands, FRANET National Focal Point, Social Thematic Study, The situation of Roma, 2012*, Art. 1, Dutch knowledge centre on discrimination (Rotterdam), 34-40, available at: <http://fra.europa.eu/sites/default/files/situation-of-roma-2012-nl.pdf>.

6 Ministry of the Interior and Kingdom Relations, The Hague, *Policy measures in the Netherlands for the social inclusion of Roma*, 16 December 2011, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf.

In this article I will build upon these three observations. First, starting with the migration issue in general in the Netherlands, I will subsequently try to clarify how the importance of the Roma issue was triggered by developments in Europe and continue with a short description of the kaleidoscopic picture of the Roma issue in the Dutch backyard. Finally, the public and political discourse on this issue in the Netherlands will be examined. Some conclusions will be drawn in the final section.

Migration Worrying the Netherlands

The Dutch seem to be more preoccupied not so much with the Western Balkans as with the Central and Eastern European countries. The virtual checkpoint for complaints against immigrants from countries that joined the EU in 2004 and 2007 is the controversial and internationally renowned *Klachten Meldpunt tegen MOE-landers*. Installed in early 2012 on the internet by Geert Wilders' influential right-wing Party of Liberty, this initiative soon became an everyday term: *Polen Meldpunt* (Polish Complaints Point), named after the largest group of labour migrants.⁷

In 2013, this attention shifted to Bulgaria and Romania. The mayor of Rotterdam, for example, expressed his concerns after visiting these countries: "In Romani neighbourhoods thousands are living in deplorable conditions. All hell will break loose when they will become mobile and

come to my city".⁸ When a Bulgarian fraud affair associated with social benefits was discovered and a TV channel showed a news item about remote (Romani) villagers with Dutch MasterCards, the public was shocked.⁹ Immediately, the Dutch government undertook action in co-operation with other Member States, questioning the tenability of the principle of the free movement of persons.¹⁰ Not amused, the EC's Vice-President obliged Member States "to come up with the facts".¹¹ In summer 2013, large-scale pickpocketing, mainly by gangs of Romanian origin, took place during a mass event (the Canal Parade, Gay Pride Week, Amsterdam, 5 August), resulting in *snelrecht* (quick-fire justice - an immediate court appearance).¹² Another media sequence started shortly thereafter, when the Dutch Deputy Prime Minister Asscher (for Social Affairs and Employment, and Integration) published a letter together with a renowned British think-tank director, classifying migration flows with a "Code Orange Alert".¹³ High-level expert meetings on labour migration took place in The Hague, organised by the Dutch together with the Romanian Minister and Embassy on 9 September and 11 October 2013.

In relation to the Western Balkans, the Netherlands closely followed other Western EU Member States in saying it was in favour of reversing the short-stay visa liberalisation that had been operational since 2009.¹⁴ In this process Germany, the UK and France were leading, followed by the Benelux countries (Belgium, Netherlands and Luxembourg), Austria and Sweden. A safeguard clause designed in 2011 was heavily

7 After a year of its operation, Geert Wilders' Party of Liberty (PVV) called the online point "a great success". PVV reported 40,000 complaints relating to nuisance, public drunkenness and parking problems, but also complaints that housing and jobs were supposedly being snapped up by Polish, Romanian and Bulgarian migrants. In total 175,000 reactions were posted online, the majority being spam and hate mails (see *Algemeen Dagblad*, available at: <http://www.ad.nl/ad/nl/1012/Nederland/article/detail/3362672/2012/12/13/PVV-Polenmeldpunt-groot-succes.dhtml> - this "service" is still on line, renamed Complaints Point/nationalities <http://meldpuntoverlast.eu/nationaliteiten/polen/>).

8 Wierd Duk, "Ahmed Aboutaleb bezorgd over komst duizenden Roma" (Ahmed Aboutaleb concerned about thousands of Roma coming over), *Elsevier*, 21 November 2012, available at: <http://www.elsevier.nl/Nederland/nieuws/2012/11/Ahmed-Aboutaleb-bezorgd-over-komst-duizenden-Roma-ELSEVIER355188W/>.

9 Brandpunt, "Gratis geld uit Holland" (Money for free from Holland), KRO broadcasting, 21 April 2013, available at: http://brandpunt.incontxt.nl/seizoenen/2013/afleveringen/21-04-2013/fragmenten/gratis_geld_uit_holland.

10 The Ministers of Justice/Interior of Germany, Austria, UK and the Netherlands (April 2013), available at: http://docs.dpaq.de/3604-130415_letter_to_presidency_final_1_2.pdf.

11 Viviane Reding, "Topic discussed as lunch item" (Justice and Home Affairs Council, Luxembourg, Agenda, 6-7 June 2013), available at: http://europa.eu/rapid/press-release_MEMO-13-500_en.htm#PR_metaPressRelease_bottom.

12 Media coverage by national and Amsterdam newspapers, see for example: <http://www.amsterdamherald.com/index.php/rss/934-20130807-quickfire-justice-46-pickpockets-arrested-amsterdam-gay-pride-courts-police-crime-tourism-netherlands-dutch-justice>.

13 Lodewijk Asscher and David Goodhart, "EU free movement faces 'orange alert'", *The Independent*, 17 August 2013, available at: http://www.dutchnews.nl/columns/2013/08/eu_free_movement_faces_orange.php.

14 Daphne Grahtwohl, "EU plans to tighten Visa rules", *Deutsche Welle*, 22 October 2012, available at: <http://www.dw.de/eu-plans-to-tighten-visa-rules/a-16323184>.

criticised by experts and civil society organisations.¹⁵ In the end, backed up by a tight majority within the European Parliament (September 2013), the German Minister of the Interior got full support within the European Council for allowing members of the Schengen area to reactivate visa requirements in countries presenting a migration risk.¹⁶

One of the reasons behind questioning short-stay visa liberalisation was the fear of rising numbers of asylum-seekers and over-stayers. The Dutch, however, clearly encountered no boom in applications and accounted for a small proportion (2011: 2 %) of the total amount of applications from this region when compared to neighbouring countries such as Germany (36 %) and Belgium (20 %) or up north (Sweden: 18 %).¹⁷ This might be explained by the fact that already in 2010 the Dutch government had introduced an Accelerated Asylum Procedure allowing for finishing off applications within three weeks and consequently putting full interviews with due consideration for any relevant issues under constraints. In this respect the Netherlands came close to Austria, where Asylum Procedures were tightened too and the number of applications dropped despite Austria's proximity to the Balkans.¹⁸ Compared with Germany and the talk about possible "chain migration", the minority of "Yugoslavs" (former guest labourers, asylum-seekers and their offspring) in the Netherlands is relatively small (76,000).¹⁹

Finally, the pragmatic attitude of the Dutch government in the visa dialogue might be illustrated by an example from a different, then geopolitically quiet, region: The case of the Republic of Moldova, as recently presented by the Minister of Foreign Affairs in the Dutch Parliament in order to express agreement

with the EC proposal to liberalise the visa arrangements with that country.²⁰ The government "considers the Eastern Partnership instrumental to political and economic rapprochement with the EU". Stimulating mobility and visa liberalisation is "in the interest of the Netherlands because of its investments in this particular region", the minister continued. Migration is considered "legal, creating no problems relating to conditions of residence, organised crime, etc."²¹ When it might come to a possible "migration urge" the main destiny for (seasonal) labour migration from Moldova is the Russian Federation (80 %) and, within the EU, Italy. Western European countries are cited as "not attractive" because of their geographical position and differences in terms of language and culture. "Unjust asylum requests" are not to be expected and "the Romani population is smaller than in the Western Balkan countries". In the end, the "safety brakes" which were built in at the European Council meeting (5 December 2013) - in case of a "sudden increase of illegal presence, asylum applications or resisting returns" - were considered sufficient guarantees in this case.²²

Europe Triggers the Dutch Roma Issue

The Romani population in the Netherlands is relatively small and until 2009 not much had been said about possible linkages between Roma elsewhere in Europe and here at home. The "Romanian street kid musician" case (2007-2008) in the municipality of Den Bosch was given a face ("Marta") after exposure by the media and discussions in the parliament. The Minister of Youth and Family Affairs was asked whether this phenomenon could be categorised as "child labour" and what to do about it.²³

15 In the Netherlands: the Dutch Committee of Experts on international immigration law, refugee and criminal law (the Meijers Committee), *Letter to the EP Parliamentary Committee on Civil Liberties, Justice and Home Affairs relating the EC proposal in 2011 (COM (2011) 290 final)*, 11 December 2011, Utrecht, with copies to the European Commission, Permanent Representatives of the Member States, Dutch Senate, Dutch House of Representatives, Dutch Minister for Immigration and Asylum and various NGO's, available at: <http://www.statewatch.org/news/2011/dec/eu-meijers-committee-visas.pdf>.

16 Euractiv, "Legal wrangling looms over EU plan to suspend visa-free travel", press release, 16 September 2013, available at: <http://www.euractiv.com/justice/eu-countries-adopt-protection-me-news-530453>.

17 Erste Stiftung and European Stability Initiative, *Saving visa free travel: Visa, asylum and the EU roadmap*, (1 January 2013), 3 and 6, available at: http://www.esiweb.org/pdf/esi_document_id_132.pdf. (No data yet for 2012-2013).

18 *Ibid.*, 12-13 and 15-17.

19 Thomas Hessels, Directie Coördinatie Integratiebeleid Minderheden, Ministerie van Justitie, "Voormalige Joegoslaven in Nederland" (Former Yugoslavians in the Netherlands) in *Demografische Trends* (Den Haag: Centraal Bureau voor de Statistiek, 2005), 98-103.

20 Letter of the minister of Foreign Affairs to the House of Representatives, The Hague, *New European Commission proposals, fiche 5: Changing visa arrangements with Moldova*, (20 December 2013), 22 112, nr. 1762, 3.

21 *Ibid.*, 6.

22 *Ibid.*

23 The minister of Youth and Family, The Hague, *Written Questions from and Answers to the House of Representatives on Child Labour*, 16 September 2007, 29355 and 29365.

Nevertheless, it was not yet up to the central government to take up the issue, but it was up to the municipalities “to put the policy tools already at their disposal into practice”. These tools are Youth Care, Child Custody, the Council of Child Protection, the Act on Obligatory Education and the Police. Child Protection was put into action and in larger cities restrictive measures against performing music on the streets, begging and selling magazines of the homeless were incorporated into local by-laws (*Algemene Plaatselijke Verordening*).

It did not take long, however, before the central government got involved and Roma issues at home and abroad were explicitly linked. Urged by a group of mayors of 10 municipalities with relatively substantial Romani communities the Minister for Integration Issues wrote a letter titled “the Roma approach”, arguing, *inter alia*, that “the great mobility and close family ties of the Roma (within the Netherlands and in Europe as a whole) magnify existing problems”.²⁴

The Mayors’ lobby, united in the “Platform of Roma Municipalities” (2009),²⁵ also asked the government to “look into ways of registering the movements of Roma, both within the Netherlands and internationally, given their unusually high degree of mobility”.²⁶ Although this delicate request could not count on the minister’s sympathy, the mayors were ultimately taken seriously and got financial support for the next three years to the amount of EUR 180,000 for meetings and EUR 600,000 for educational projects.²⁷

In addition to this, a parliamentary majority requested a “European paragraph”, as “the number of Roma coming to the

Netherlands was already increasing [...], according to police information, [...] from Bulgaria and Romania especially”.²⁸ The minister promised to get in touch with his colleague in the Security and Justice Ministry, as well as with the police.

Dossiers were then accumulating and scaled up. The “Roma issue” started to show up more substantially and explicitly in politically sensitive monitors, such as the *Nationaal Dreigingsbeeld* (National Threat Description) by the national police and on Human Trafficking by the national rapporteur.²⁹ The second National Threat Description foresaw that exploitation of Bulgarian and Romanian Roma (children) in begging and prostitution would be on the rise in the Netherlands as soon as neighbouring countries such as Belgium tightened up countermeasures.³⁰

Additionally, in a specific chapter on types of criminal organisations, Dutch Roma criminals as well as those from abroad were discussed briefly - the other types of criminal organisations being of Traveller and of West-African backgrounds.³¹ A first (unpublished) study on criminality relating to itinerant Roma minors explored a case of begging in the Netherlands “with indications of youth prostitution”.³²

The National Rapporteur on Human Trafficking upgraded the Roma topic in her Seventh Report (2009) as compared to the Fifth Report (2007). In a distinct paragraph on Roma, their activities in public spaces were summed up in a manner that clearly echoed the aforementioned ministerial letter: “magazine selling, making music for money, begging or engaging in robbery or pickpocketing”.³³

24 Letter from the minister for Housing, Communities and Integration on The Roma Approach, 26 June 2009; Kamerstuk 31 700 XVIII, nr. 90, 4. For comments in English see: Peter Jorna, *Statement for the Committee of Experts of the Council of Europe: Ministerial Letter to Parliament ref. Approach towards Roma in the Netherlands*, 7 October 2009, available at: <http://www.forum.nl/international/Publicatiedetail/NewsListId/11/NewsItemId/106>.

25 After earlier Dutch policy initiatives relating other groups at risk and proportionally to a large extent present in a municipality, such as Dutch “Antillean-municipalities” (22), Dutch “Moroccan-municipalities” (22).

26 *Ibid.* 9.

27 The House of Representatives, The Hague, *Consultations of the Committee of Integration with the ministers of Integration, and Youth and Family, as well as the state secretary of Education*, 8 October 2009.

28 *Ibid.*

29 With the *Nationaal Dreigingsbeeld* the Police monitors organised crime and reports every four year publicly to the government and parliament (first report in 2008). The National Rapporteur on human trafficking and sexual violence started in 2002 (first report accessed on 12-09-2007) and reports to the government and parliament as well.

30 Korps Landelijke Politiediensten, *Nationaal Dreigingsbeeld 2008, georganiseerde criminaliteit* (Zoetermeer, KLPD, Oktober 2008), 74.

31 *Ibid.*, 231-232.

32 Klostermann, “A study in criminal investigation training, relating criminality issues with itinerant Roma minors”, (Police Academy, Apeldoorn: 2008).

33 Bureau of the National Rapporteur on Human Trafficking (BNRM), *Human Trafficking*, (The Hague: BNRM, 2009), 105-108.

Moreover, the Rapporteur acquired direct input from the ground: Social workers observed children coming and going “without being registered but given accommodation by their fellow countrymen, being active in an area other than where they resided and making sure not to stay too long in one place”. Youth Care The Hague, for example, suspected connections with human trafficking and the “possibility of a gang”.³⁴

The fact that human trafficking in the Netherlands has tended to involve Roma had also been noted before but was neglected by institutions and public authorities.³⁵ Quite a few examples of Roma trafficked from Bulgaria and Albania to the Netherlands have been extensively described by investigative journalism.³⁶ However, only at this point did the phenomenon become prominent in both the media and political discourse. A news sequence in 2009-2010 showed several cases of human trafficking among Roma from abroad, indicating that this phenomenon was not limited to minors and to the Greater Urban Area, but expanded to include adults spotted in Amsterdam (in the Windows in the Red Light District) and medium-sized cities nearby, even up north and in sex clubs in the country side.³⁷

The central government took up the Roma issue, but the shape of a “European paragraph” only emerged in 2011 as part of the Dutch contribution to the European Commission in the Framework of the National Strategies for the

Social Inclusion of Roma communities up to 2020. The Ministry of Integration Issues was coordinating and the Security and Justice Department took the lead. In close co-operation with the police and the Platform Roma Municipalities a programme was designed, aiming “to combat organised crime in general and the exploitation of Romani children by members of the Romani community”.³⁸ Another objective was to “target the new influx of Roma from other EU countries as well”.³⁹ The latter part was legitimised by referring to the above-mentioned tendencies and supported by a new research programme on mobile banditry launched with significant media exposure in December 2011.⁴⁰

Eventually, probably because the government decided (in spring 2012) to do away with the last remains of its classic “minority policy”, the Safety and Justice Programme (2011-2013) shifted towards an approach called “multi problem families”, with pilots in four Roma municipalities.⁴¹ The Police Academy was commissioned to develop tools for tackling these kinds of problems.⁴² Its handbook was published on 14 March 2013 on the occasion of a well-attended conference for 150 professionals from all institutional layers of society and presented to the Minister.⁴³

At European level, too, the Netherlands succeeded in pushing forward, acquiring credit from the EC for agenda-setting

34 *Ibid.*, 105.

35 Peter Jorna, Member for the Netherlands of the Committee of Experts on Roma and Travellers (MG-S-ROM/CoE), *Advise to the Commissioner for Human Rights ref. his Preliminary Report on the Human Rights situation of Sinti, Roma and Travellers in Europe* (Utrecht: FORUM, 2005), 7, available at: <http://www.forum.nl/international/Publicatiedetail/NewsListId/11/NewsItemId/68>.

36 Ruth Hopkins, *Daily newspaper NRC, Weekend Magazine, May 2003*; Ruth Hopkins, *Ik laat je nooit meer gaan. Het Meisje, de vrouw, de handelaar en de agent, (I'll never let you go. The girl, the woman, the trader, the police)* (Breda: De Geus 2005), 79-123.

37 Netwerk TV, “on illegal prostitution in Hotels”, 9 November 2009, available <http://tvblik.nl/netwerk/9-november-2009>; Jaap Stam, “Justice rounds up human trafficking gang in Red Light District”, *De Volkskrant*, 8 May 2010, available at: <http://www.volkskrant.nl/vk/nl/2664/Nieuws/article/detail/1003333/2010/05/08/Justitie-rolt-bende-vrouwenhandelaren-Wallen-op.dhtml>; Personal Information from Fier Frysland Network Human Trafficking Friesland - Groningen – Drenthe: October, November 2010.

38 Ministry of the Interior and Kingdom Relations, The Hague, *Policy measures in the Netherlands for the social inclusion of Roma*, 16 December 2011, 2, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf.

39 *Ibid.*

40 Walter Hilhorst, projectleader Knowledge enforcement Roma, “Roma zonder Grenzen” (Roma without Borders) (powerpoint presentation for the Conference on Itinerant Criminal Gangs, organised by the Centre of Information and Research on Organised Crime/CIROC, Utrecht, 14 December 2011), available at: <http://www.ciroc.nl/presentaties.php>.

41 EC Justice, “Carrot and Stick” in *Roma stories around the EU, Country the Netherlands*, available at: http://ec.europa.eu/justice/discrimination/files/roma_stories_2013/netherlands_en.pdf.

42 Hilhorst, W. Et al., *Aanpak multi-problematiek bij gezinnen met een Roma-achtergrond. Een kennisfundament voor professionals*, (Approaching multiproblems of families with a Roma background. A knowledge fundament for professionals) (Apeldoorn: Politie Academie, Maart 2013), available at: http://www.vng.nl/files/vng/nieuws_attachments/2013/20130315-roma-multi-problematiek.pdf.

43 *Handout Working with multiproblem families with a Roma background*, (The Hague: VNG 2013), 14, available at: http://www.vng.nl/files/vng/nieuws_attachments/2013/20130405-congres-roma.pdf.

- within the Inclusion Framework - of sensitive themes like human trafficking, early marriage and child abuse. Illustrative of this was the Dutch announcement of the European Working Group on Child Abuse on the occasion of the 8th EU Platform on Roma Inclusion, this time focusing on Children and Youth. Since then five more countries have joined the Dutch initiative: Poland, the Czech Republic, Romania, Bulgaria and new EU member Croatia.⁴⁴ The Dutch claimed this initiative as a success, giving in, however, to the EC's request to add monitoring to its Roma strategy and to broaden its scope in terms of groups and policy domains.⁴⁵

Into the Dutch Backyard

For stakeholders at home as well as in European circles it might have been predictable that the Dutch government opted for an integrated set of general policy measures - a "national strategy light".⁴⁶ What was surprising was its European dimension and the explicit, rather targeted component - the Justice programme.⁴⁷ In fact, however, the Dutch government, despite its changing political compositions since 2003, had already practiced for many years a targeted approach towards Sinti, Roma and Travellers. To understand the specifics of these domestic policies, it is necessary to have a bird's eye view of the Dutch "backyard" and its patchwork of "Roma" communities.

Parts of the overall Sinti, Roma and Traveller population had been recognised by the government as victims of World War Two: The descendants of Sinti and Roma living in the Netherlands in 1940-1945 have been invited to submit individual claims and project proposals to the Reparation Fund under the responsibility of the Ministry of Welfare (from 2000 to

2014). This segment, estimated to number 5,000 Sinti and Roma, lives predominantly in mobile homes located in approximately 80 Dutch municipalities.⁴⁸ Another segment living in mobile homes are the approximately 23,000 Travellers whose locations one can find all over the country (in nearly 75 % of all 400 Dutch municipalities) and who have encountered a tough law enforcement policy since 2003 under the Framework for Combating Criminality in so-called Free Places (*Vrijplaatsen*) or "no-go areas".⁴⁹ In terms of accommodation, one might reasonably perceive the situation in the Netherlands as being more comfortable than France (for the *Gens du voyage*), the UK or Ireland (for the Gypsy-Travellers). On the supply side (provision of sufficient campsites and pitches), however, municipalities and housing corporations are quite reluctant to support and maintain this lifestyle any longer, freed as they are from central obligations after the repeal of the Caravan Act in 1999.

In addition to these two segments, another group of Roma who were settled after a Dutch legislative procedure (a General Pardon in 1977) have been offered housing and social facilities in 10 municipalities. Nowadays these Roma communities, who once roamed with their caravans throughout Europe (many of them originally from the former Yugoslavia and stateless), number approximately 3,000. The Roma Approach was written for this segment in particular (in 2009) and the Dutch EU contribution was initially designed for them (2011).⁵⁰ The issue of statelessness among Roma in the Netherlands is mainly related to Roma from former Yugoslavia, either among the General Pardon group (of 1977) or among an unknown number of former asylum-seekers.⁵¹ It is estimated that about 1,000 Roma are unable to regularise their status relating to residence permits and statelessness (either *de jure* or *de facto*).⁵²

44 Dutch National Roma Contact Point, Ministry of Social Affairs and Employment, Q and A intervention at Opening session (The 8th European Platform for Roma Inclusion, Brussels, 27 June 2013), Agenda available at: http://ec.europa.eu/justice/events/roma-platform-2013/index_en.htm.

45 The Minister of Foreign Affairs, Letter to the House of Representatives on new European proposals, concerning the Roma fiche, 28 August 2013, 22 112, nr 1675, 5.

46 See Peter Jorna, *The Dutch position on the EU Roma Framework reconsidered*, June 2011, available at: http://academos.ro/sites/default/files/biblio-docs/89/dutch_position_on_the_eu_roma_framework_reconsidered_june_2011.pdf#.

47 Ministry of the Interior and Kingdom Relations, *Policy measures in the Netherlands for the social inclusion of Roma*, 16 December 2011, 2, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf.

48 Jos Overbekking, *Sinti en Roma in Nederland, inventarisatie* (Den Bosch: Stichting Zet/stichting Rechtsherstel Sinti en Roma, 2007), 36.

49 Ministry of Infrastructure and Environment, The Hague, *Freeplaces on Campsites*, Monitor 2010, (31 August 2012).

50 See page 4, footnote 23 respectively page 2, footnote 6.

51 See Henriëtte Emaar, "Facts and Figures: Numbers and Geographical Distribution Appendix", 56, in *Education and Training for Roma and Sinti in the Netherlands* (Utrecht: FORUM, 2008), available at: <http://www.forum.nl/international/Publicatiedetail/NewsListId/36/NewsItemId/642>.

52 Médecins du Monde Netherlands, *Being Stateless makes one feel desperate. The situation of stateless Roma in the Netherlands* (Amsterdam, 2010).

Other Roma segments - in Dutch society since the EU enlargement - are, of course, hard to describe in numbers. A first rough guess estimated there were 2,000 Roma after a quick scan of 10 municipalities (larger cities such as The Hague, Rotterdam and Eindhoven not included).⁵³ After 2004, labour migration from Central and Eastern European countries to the Netherlands grew significantly, the ethnic Roma component being a *tabula rasa*. Of the current 320,000 labour migrants from Central and Eastern European member states, Polish citizens (generally not ethnic Roma ones) form the largest segment (80 %). Bulgarians (18,000) and Romanians (14,000) have been on the rise since 2009 and the unskilled among them are considered “footloose” (not attached to Dutch society). Recent qualitative studies do try to map the ethnic component, asking additional questions related to self-identification (4 % said they were Roma) and knowledge of the Romani language (12 % reported such knowledge).⁵⁴ Nowadays, the city with the largest (floating) Roma population is probably Rotterdam: Out of 8,000 Bulgarians in total, a “substantial part is Roma” (4,000 or more).⁵⁵

So, just like any other Member State, the Dutch government deals with a variety of estimates⁵⁶ as to Romani population numbers, depending on when they immigrated, their (in)formal resources, and the focus of official investigations: Anywhere “from a few thousand”⁵⁷ up to 40,000, with an eye on international definition standards.⁵⁸ In fact, the Dutch Monitor – as the EC insisted after its critical assessment in 2012⁵⁹ – focuses on the first (5,000) and third (3,000) segments of the overall Sinti, Roma and Traveller population.

The Dutch government decided that the monitoring should be a qualitative one, leaving the quantitative component aside, using the argument of data protection restrictions. The baseline monitoring describes the position of Roma and Sinti in society in the domains of education, employment, housing and healthcare, also taking into account various crosscutting issues such as security, discrimination, statelessness and relationships with the authorities.⁶⁰

After the implementation of the Monitoring (January - June 2013) it took a while (pending the ministerial letter to the parliament) before the government released the Monitoring results (December 2013). The Minister for Social Affairs and Employment (and Integration), in collaboration with the Minister for Security and Justice and the State Secretary for Education, was brief when it came to planning measures related to the observed problems at home, but was very outspoken on Europe.⁶¹ At this point the government stressed the importance of multilateral networks: the European Multi-disciplinary Platform against Criminal Threats (EMPACT), the National Roma Contact Points Network (EC) and the European Working Group on Roma Child Abuse. The letter concludes by stating that the situation of the Roma in Romania and Bulgaria gives “reason for concern” and is “an important push factor”. Another, more influential report by the Centre of Information and Research on Crime (CIROC), on itinerant (mobile) bands from Eastern and Central Europe operating in the Netherlands, clearly had an impact on the letter.⁶²

53 Jos Overbekking, *Nieuwkomers onder Roma in Nederland. Een orientatie*. (Stichting Rechtsherstel Sinti en Roma, 2010, unpublished).

54 Mérove Gijsberts, Marcel Lubbers, *Nieuw in Nederland. Het leven van recent gemigreerde Bulgaren en Polen*. (The Hague: Sociaal Cultureel Plan Bureau/ SCPB, July 2013).

55 Telephone interview and email correspondence with the Eurocity/Urbiscope program management (22 May 2013).

56 Ministry of the Interior and Kingdom Relations, The Hague, *Policy Measures in the Netherlands for the social inclusion of Roma*, 16 December 2011, 1, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf.

57 Mérove Gijsberts, Jaco Dagevos, ed., *Jaarrapport Integratie 2009* (The Hague: Sociaal Cultureel Plan Bureau, 2009).

58 Claude Cahn and Prof Elspeth Guild, *Recent Migration of Roma in Europe*, Appendix 1, 87 (Strasbourg/Warsaw: OSCE/CoE, 2008); cf. European Commission, *Communication on an EU Framework for National Roma Integration Strategies up to 2020*, Annex 1, 16 (Brussels: 2011).

59 European Commission, Brussels, “On the Netherlands”, 2.18, 43-44, in *Measuring the impact of the equal treatment approach on the situation of Roma people is necessary*, EC Staff Working Document, SWD(2012) 133 final, annex to the EC Communication *National Roma Strategies: a first step in the implementation of the EU Framework* [COM(2012) 226 final], available at: http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2013/netherlands_en.pdf.

60 Bard Briels et al., “Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid” (Baseline Monitor. Experiences and opinions by Roma, Sinti and professionals on the social inclusion of Roma and Sinti in the domains of education, employment, housing, health and safety) (Utrecht: Movisie, 2013).

61 The Minister of Social Affairs and Employment, The Hague, *Letter to the House of Representatives on the Inclusion Monitor of Sinti and Roma*, 3 December 2013, 32 824, nr. 46.

62 Prof Diena Siegel, *Mobil banditisme. Oost- en Centraal-Europese rondtrekkende criminele groepen in Nederland* (Apeldoorn: Politie & Wetenschap, Juni 2013), on line available in Dutch at: <https://www.zoek.officielebekendmakingen.nl/blg-255775.pdf>; annex nr. 255775 to the Parliamentary document *The letter of the minister of Safety and Justice to the House of Representatives on the Combat of Organised Crime*, 9 October 2013, 29 911 Nr. 85.

On Media and Political Discourse

The influence of the research on mobile banditry has been crucial in the Dutch discourse, both when it began (2011) and when it was completed (2013).⁶³ The results became the talk of the town the day they were presented at a conference at Utrecht University (18 September 2013).⁶⁴ Several media outlets published articles referring to the report. A weekly magazine, having interviewed the country's leading cultural criminologist first-hand, published a scoop with a full story entitled "The Gypsy Taboo".⁶⁵ The story spread like wildfire abroad and was quoted by populist Belgian and British Members of the European Parliament as an illustration of a (presupposed) relationship between culture and criminality.⁶⁶ The article echoed in the Dutch Parliament as well: "There are many Roma roaming through the Netherlands. They have caused EUR 250 million of damage (to industry and commerce). There is also mention of high-impact crime".⁶⁷

One month later, in his letter dealing with the CIROC research, the Minister of Security and Justice tried to appease these heightened sentiments: "Roma get no more and no less attention than anyone else. The EUR 250 million damage to citizens and industries that was noted by a member

of your House is not caused by the Roma only, but by all mobile bands put together".⁶⁸ The minister concluded that "insights into how family clans operate internationally lead to an efficient approach in order to dismantle such an infrastructure". In a follow-up, the same Christian Democratic Member of Parliament, pushed forward his views again, favouring the term "Roma criminality", arguing that "this flag, indeed, covers the cargo", and legitimising his terminology by referring to "its use in scientific circles".⁶⁹ Similar interventions equating "gypsies" with criminality have been made in parliament by Wilder's Party for Liberty (PVV).⁷⁰

The research programme on mobile banditry was followed by other studies such as a Master's thesis by a Police Academy scholar that also drew full media coverage, as it indicated a presupposed inherent connection between Roma culture, prostitution and human trafficking.⁷¹ Currently another CIROC study focuses on "Irish Travellers in the Netherlands", commissioned by the police.⁷²

Roma continued to be exposed in the Dutch press and on TV: with pieces from abroad ("Maria, the Blonde gypsy child in Greece") alternating with items at home (criminality among Dutch Roma youth) that are mixed up with international dimensions ("begging networks").⁷³

- 63 The launch of the programme and the subsequent media exposure at the end of 2011 triggered Geert Wilder's Liberty Party to initiate the *Meldpunt* (see above).
- 64 Prof Diena Siegel, "Mobile banditry: East and Central-European itinerant criminal bands in the Netherlands" (Power Point Presentation, CIROC/University of Utrecht, 18 September 2013), slide 11, available at: http://www.ciroc.nl/presentaties/presentatie_siegel130918.pdf.
- 65 Harrie Lensink, "Het Zigeuner Taboe", *Vrij Nederland*, 18 September 2013, available at: <http://www.vn.nl/Archief/Politiek/Artikel-Politiek/Het-zigeunertaboe.htm>, for a deliberation (in English) of this article: Audrey Graanoogst, "Dutch underestimate Roma gangs", *NL Times*, 19 September 2013, available at: <http://www.nltimes.nl/2013/09/19/dutch-underestimate-dangers-roma-gangs/>.
- 66 Personal observations at the Joint Public Hearing of the Committee on Civil Liberties, Justice and Home Affairs, and Committee on Women's Rights and Gender Equality, *The EU Framework for National Roma Integration Strategies*, Brussels, (18 September 2013).
- 67 The House of Representatives, The Hague, *Consultations of the Committee of Safety and Justice with the minister on the supervision and law enforcement in public space*, 18 September 2013, 28 684, nr. 396, 12.
- 68 The Minister of Safety and Justice, The Hague, *Letter to the House of Representatives on the combat of organised crime*, (9 October 2013), 29 911, nr. 85, 4.
- 69 The House of Representatives, The Hague, *Consultations of the Committee of Safety and Justice with the minister on the combat of organised crime*, (27 November 2013), 29 911, nr. 90, 7.
- 70 The House of Representatives, The Hague, *Consultations of the Permanent Committee Social Affairs and Employment with the Minister on Integration policies*, (12 March 2014), 32824, nr. 55, page 13.
- 71 Annemiek Dul, MA, *Broederschap of pimpship? : een onderzoek naar de invloed van de interne dynamiek van de Roma gemeenschap op de aanwezigheid van mensenhandel* (Brotherhood or pimpship? : research on the influence of the internal dynamics of the Roma community on the presence of human trafficking), Universiteit Utrecht / Korps Landelijke Politiediensten, (26 June 2013), available at: <http://dspace.library.uu.nl/handle/1874/285047>; Perdiep Ramesar en Martijn Roessingh, "Roma cultuur maakt slachtoffers" (Roma culture creating victims), *Trouw*, 18 October 2013, available at: <http://www.trouw.nl/tr/nl/4492/Nederland/article/detail/3529220/2013/10/18/Romacultuur-maakt-slachtoffers.dhtml>;
- Servaas van der Laan, "Prostitutie en mensenhandel onderdeel van Roma cultuur" (Prostitution and human trafficking part of Roma culture), *Elsevier*, 18 October 2013, available at: <http://www.elsevier.nl/Buitenland/nieuws/2013/10/Prostitutie-en-mensenhandel-is-onderdeel-van-Romacultuur-1392985W/>.
- 72 Personal information (interview by researcher 13 May 2014)
- 73 Nieuwsuur, "Honderden Roma betrokken bij criminaliteit" (Hundreds of Roma engaged in criminality), *NRT/NOS*, 23 January 2014.

Certainly, counterbalancing comments, from a scientific point of view as well as by commentators, also appeared in the Dutch press, criticising the stereotyping and the presupposed causality between culture, criminality and prostitution, and raising concerns about rising Gypsy-phobia or antigypsyism.⁷⁴ All in all, however, the CI-ROC research caused a breakthrough in its use of provocative terms (“Roma criminality”), breaching codes on being reticent to discuss these issues in ethnic terms (“the Gypsy Taboo”) and implying a message of “putting it bluntly”, without restraints and without excuses, when it comes to sensitive and complex topics.

My contribution to this particular thematic ERRC Journal is not the proper framework or vehicle to deal with such research scientifically and in depth. It would be highly recommendable to do so, as English translations of the publications discussed above are now available. I do, however, want to share some comments, however brief, regarding the statements that were uttered several times in public by the leading “mobile banditry” researcher in the Netherlands relating the supposed non-co-operation of civil society organisations, including Roma ones, and the supposed reasons for that (“image-protection”).⁷⁵

First of all, relevant and well-respected studies on topics related to these issues are widely available, published by accessible, professional organisations maintaining good contacts with their international and Dutch counterparts working on these problems at home and abroad.⁷⁶ Secondly, some Romani organisations did talk with the Dutch research team (such as *Amalipe* in Bulgaria) while others preferred not to do so.⁷⁷ One may judge and discuss such

decisions, but clearly there is a great deal of (dis)trust and critical (self)-reflection involved here.

Cynical criticism from academia about civil society, however rare, feeds political populism - even within Dutch political centrist parties such as the Christian Democrats. The many myths about Roma (migrants) are further fuelled by this portrayal of the improper behaviour of a small minority of Roma as typical (“Roma criminality”, “mafia”). Recently, long term quantitative and qualitative research carried out in their countries of origin as well as in the receiving Member States has revealed quite a different picture: The majority of Romani migrants are seeking work, preferably a legal and secure job. Many of them fear deportation and therefore do not seek social services.⁷⁸

Final Remarks

So far, the Western Balkans is not in vogue in the discourse in the Netherlands. This can change rapidly, however, as we have seen with the shift from the fixation on Poles (2012) towards a fixation on migrants from countries associated with Roma such as Bulgaria and Romania (2013) and recently with the growing tensions in previously relatively quiet regions (Moldova, Ukraine). New EU Member State Croatia is vigilantly monitored by the Netherlands, as the Dutch authorities are of the opinion that the European Commission should not make the same mistakes of political *laissez-faire* as it did earlier when it loosened controls over the other new Member States too quickly. This, however, should not legitimise an EU border policy undermining the right to leave one’s country – a right which has been placed under pressure for quite

74 Dr Huub van Baar, “Roma zijn de gehate buitenstaanders zoals de joden ooit” (Roma are the hated outsiders like the Jews before), *De Volkskrant*, 10 October 2013, and “Onderzoeken deugen niet” (Researches are not reliable), *Trouw*, 26 October 2013; respectively Natasha Gerson, “Pleegoud-ers al bij voorbaat verdacht” (Foster parents suspect in advance), *de Groene Amsterdammer*, 13 November 2013.

75 Prof Diena Siegel, *Mobiel banditisme: Oost- en Centraal-Europese rondtrekkende criminele groepen in Nederland* (Apeldoorn: Politie & Wetenschap, June 2013), 18, on line available in Dutch at: <https://www.zoek.officielebekendmakingen.nl/blg-255775.pdf>; Pauw & Witteman, *Vara Broadcasting*, 19 September 2013; Embassy of Romania, “EU Liberalization of the Labour Market: From Challenges to Opportunities” (Workshop, The House of Europe, The Hague 11 October 2013).

76 Amalipe Centre for Interethnic Dialogue and Tolerance, *Preventing early marriages*, (Tarnovo), 2011, available at: <http://www.amalipe.com/files/publications/ranni%20brakove%20last.pdf>; ERRC, *Breaking the Silence, Trafficking within Romani Communities*, (Budapest, 2011), available at: <http://www.errc.org/article/breaking-the-silence-trafficking-in-romani-communities/3846>.

77 Valeriu Nicolae, “Deeply embedded anti-Gypsyism – the case of a research team from Utrecht University”, Blog, (6 June 2012), Policy Centre for Minorities and Roma, available at: <http://www.policycenter.eu/pc-blog/ro/blog/deeply-embedded-anti-gypsyism-%E2%80%93-the-case-of-a-research-team-from-utrecht-university/>.

78 Stoyanka Cherkezova, Ilona Tomova, *An Option of Last Resort? Migration of Roma and Non-Roma from Central and Eastern Europe*, Roma Inclusion Working Papers (Bratislava, UNDP Europe and the CIS, Bratislava Regional Centre, 2013), available at: <http://europeandcis.undp.org/blog/2014/01/14/roma-migration-an-option-of-last-resort/>.

a few years already, in the Western Balkans in general and for the Former Yugoslav Republic of Macedonia in particular, especially in relation to Roma.⁷⁹

The Netherlands will be challenged to differentiate between Roma-related issues at home and abroad, steering between the local and (inter)national levels and maintaining a balance

between the setting of boundaries and the creation of constructive prospects – the two parameters of Roma policies in the Netherlands. Measuring the progress and impact of the equal treatment approach in the Netherlands with regard to the situation of Roma and Sinti in Dutch society is highly recommended (as assessed by the EC), as major gaps have been identified in education, employment, housing and healthcare.

⁷⁹ Human Rights Commissioner of the Council of Europe, “EU border control policies negatively affect human rights”, press release, 6 November 2013; Commissioner of Human Rights, *The Right to leave the country*, Issue Paper, (October 2013), Council of Europe.

Expanding the Analytic Lens - Potential Approaches in Migration Studies

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Our era might be equally characterised by prosperous nationalism and growing global interconnectedness. One of the places these two phenomena intersect is migration. Migration, especially since the Cold War, has involved conflict-laden connotations due to various sociohistorical factors. Until that time, through the establishment of the welfare state, Western European nation states had reached their peak and subsequently faced an urgent demand for foreign labour power. The 1990s coincided with growing globalisation, while migration was also intensified by the mass movement of people flooding to Western Europe from the former communist countries of Central and Eastern Europe.

Border policies and visa regimes developed new forms; therefore, migrants are now subjected to a systematic investigation process in which they are identified as legal residents only on the grounds of labour market activity or membership of a proven persecuted group. Not surprisingly, in public and political rhetoric migrants are often depicted as a potential source of danger to the cohesion of the political community, as rivals in the labour market, as alien parasites on the body of the welfare system, or are frequently portrayed as an uprooted cultural “Other”.

The social sciences seek to refute all these taken-for-granted descriptions of migration by throwing light upon certain aspects of it. Our overall aim with this article is to give an overview of possible approaches in migration studies in order to offer a comprehensive analytical frame to migration. Summarising one analytic approach, intersectionality by Crenshaw, we advocate a thick, multicomponent description of the subject, which in our opinion should be a baseline in theorising migration. Through a brief introduction of the famous theoretical concept of transnationalism by Shiller and Wimmer, we aim to further complicate the seemingly static picture of migration and reframe migration towards a more dialectical and fluid phenomenon.

Since the EU plays a key role in the shaping of the framework on migration issues, we find it crucial to introduce this

aspect into the picture as well. In our interpretation, citizenship is one of the basic concepts related to migration. After the discussion of citizenship, a Hungarian case will exemplify how a political community and a nation can split up, resulting in the creation of an “otherness” that becomes a security issue in the ever-changing, low-impact European Union framework. However limited, by summarising these approaches in migration studies our paper seeks to expand the analytic lens that may hold the potential for fostering a more profound discussion of Roma migration.

Intersectionality

Romani migrants are depicted as a homogenous group that varies by virtue of the patterns and motives of their migration; accordingly, undocumented persons, asylum-seekers, refugees and cosmopolitan-like migrants are differentiated. However, the latter is a frequently neglected category of migrants since they occupy a significant position in the globalised economy and culture. Indeed, if the dominant factor in the categorisation of migration is one’s disadvantageous socioeconomic class position while other aspects of life are more or less ignored, we might assert that cosmopolitans are not migrants. In most of the cases, besides socio-economic class position, ethnicity is taken into account in the description of Romani migrants. However, this *a priori* juxtaposition, as a filtering process, precludes taking into consideration other cultural and social aspects, like gender, ethnic sub-group affiliation, religion, ability, sexual orientation or even educational background. On top of that, it fails to notice the interconnectedness between these aspects; various axes of identity do not exist independently, but rather interact and mutually reinforce each other and thus, one’s position in society. As a consequence, Romani migrants are described as monolithic, homogeneous bodies of people with more or less commonly shared and pretty much one-sided attributes, while misconceptions persist about their social reality. Intersectionality is an analytic tool through which the identities, the lived experiences and the subjugated positions of subjects can be mapped

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through the intersections of the axes of identity.² It takes into account the vectors of power relations surrounding the field and correlates the sites of identity. By employing intersectionality, not only can multiple dimensions of subjectivity and their intersections in shaping subjects' social positions be elucidated, but also the myth of intra-group homogeneity might be nullified. Until we construct identity in a more complex fashion and identify the intersection of the multiple vectors that ultimately shape migrants' positions in a given structure, then migrants' lived experiences and their inner stratification cannot be grasped either by scholars or in respect of policy-making.

Transnational Aspects of Migration

Globalisation theories and methodological nationalism are the two extremes of the analytical and methodological spectrum in social sciences, offering valid frames and tools to grasp social phenomena. However, both of them tend to cut off those issues that are outside their scope. Transnationalism might be an attempt to overcome the duality of local-global; nevertheless, it reflects and includes some aspects of the agency of each. In their rich piece, Andreas Wimmer and Nina Glick Schiller³ provide a deep insight into the legacy of methodological nationalism in migration studies in post-war social sciences. Asserting that the concept of methodological nationalism was evolved in parallel with the Western nation-building process, it determined how migration studies were conceived of; the stability of the nation-state was at stake, since the nation-state, by definition, is the fusion of the political state as the legitimised power of sovereign governance over a territory and the nation as a racially and culturally homogenous community. Therefore, the supposed cultural homogeneity, political sovereignty, security and solidarity of the nation-state are endangered by the emergence of migrants in the state territory. Methodological nationalism treats the nation-state as a taken-for-granted container of the social and, therefore, defines the units of analysis solely within its boundaries.

Besides several analytical shortcomings, three other distinct inadequacies are emphasised by Wimmer and Schiller. Firstly,

methodological nationalism ignores nationalist assumptions as bases of modern societies. Secondly, it considers the boundaries of the nation-state as adequate limits of the analysis. Finally, it strengthens the dichotomy between the local and global, since those social phenomena that are outside the nation-state are not included in the units of analysis.

Overcoming the inefficiencies of this mainstream conceptual framework, transnational migration scholarship questions the vision of society as a “discrete and bounded entity with its own separate economy, culture and historical trajectory”⁴ and considers societies as a constitution of networks of social relations that, through economic practices, political involvements, cultural representations and/or religious affiliation, link social actors across borders. Migrants, in this interpretation, build social ties that transcend the geographic and cultural limits of the nation-state. While recognising the importance of the nation-state, the transnational paradigm asserts that social life is not restricted by it; rather, it is constituted by transnational connections and social formations as frameworks of social and cultural belongings, identifications and attachments. By putting an emphasis on transnational bonds, a transnational view of migration enables us to study migrants as socially embedded actors of more than one locality.

Transnational ties are not equal to globalised bonds - they refer to simultaneous embeddedness in multiplex social fields. These multithreaded networks allow migrants to act in a transnational arena through various social, political, economic, cultural and religious practices. Migrants in a transnational approach embody and (in parallel) import identities, ideas and practices across borders and, therefore, create a dialectical relationship between sending and receiving countries to varying degrees. According to a transnational migration view, the myth of the “uprooted migrant” cannot be a valid notion when migrants keep multiple ties to their home countries.

To what extent can groups of Romani migrants be considered transnational migrants? Studying Romani migrants from a transnational approach not only enriches the theory

2 Crenshaw K., *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, (University of Chicago Legal Forum, 1989) 139-67. Reprinted in ed. David Kairys, *The Politics of Law: A Progressive Critique*, 195-217, 2nd ed. (Pantheon, 1990).

3 Glick Schiller, N. and Wimmer, A., *A Methodological Nationalism and Beyond Nation State Building, Migration and the Social sciences*, (Global Networks, 2002) 301-334.

4 Glick Schiller, N. Basch, L. and Blanc-Szanton, C. *Towards a Transnational Perspective on Migration: Race, Class, Ethnicity, and Nationalism Reconsidered*. (New York: New York Academy of Sciences, 1992).

of transnationalism through fresh questions, but at the same time further dissolves the antagonism between methodological nationalism and global theories into a coherent analytical frame. Giving an adequate answer to the above far-reaching question requires the study of the scale of their embeddedness primarily in their sending countries, which largely touches upon the question of citizenship.

Citizenship

Since migration also challenges the cultural and political embeddedness of citizenship in various ways, it could be worth examining the role of citizenship in relation to policies and practices on migration within the European Union. “The “history” of citizenship has often been narrated by dominant groups who articulated their identity as citizens and constituted strangers, outsiders, and aliens as those who lacked the properties defined as essential for citizenship.⁵ The two-fold character of citizenship is that it is simultaneously inclusive and exclusive. On the one hand it provides equal rights to everybody who fulfils the requirements needed for citizenship (mostly meaning territorial or kinship-based relations) and on the other hand excludes all those who lack them.

According to Brubaker,⁶ closure, in general, can occur in two different ways: 1) on the threshold of interaction, and 2) on the basis of inside interaction. The main difference between the two depends on how barriers are defined” “In the former case initial participation is restricted through barriers to entry or selective admission; in the latter continued participation is controlled through institutions such as probation or performance review. Closure against noncitizens is exercised mainly on the threshold of interaction.” The emphasis here is put on territoriality. While citizens have an unconditional right to reside on, leave or re-enter the territory of a state, in the case of noncitizens this right is always conditional. Closure is premised on defining and identifying strangers, outsiders: “Outsiders may be defined and identified residually, as nonmembers, or directly, as bearers of some disqualifying attribute.”

The European Union as a Political Unit

Within the European Union, citizenship is granted and regulated by Member States. However, all citizens are considered citizens of the European Union as well. The question is what rights citizens get from the EU beyond the ones already provided by nation-states. Shaw⁷ points out that even before the Maastricht Treaty, free movement rights were guaranteed not only for workers and their families, but also for those fitting into other categories. It seems that the actual role of European citizenship is much more to strengthen the European Union as a political unit than it is to provide extra rights for its citizens. Member States, however, still enjoy a much more extensive governing authority in all policy areas, which is also true in cases where EU law takes precedence over Member State law. The main reasons for this can be found in the blurred distinction between EU law and soft law recommendations and the very limited sanctions EU institutions can operate with in cases of non-compliance. In addition to this, the different histories of the Member States and the different degrees of their authority within the European Union are differentially subordinated to the *acquis*. Member States have differential access to fundamental rights, such as free movement.

Constitutional Framework and Cultural Divide in one of the Member States

Besides the aforementioned structural problems of the European Union, the internal problems of the Member States also account for some of the difficulties the union has to deal with, often deriving from the lack of social cohesion within Member States. The Hungarian Constitution is a good example of how the 19th-century concept of nation is being reinforced, resulting in the exclusion of minorities from the cultural “nation”.

When speaking about “us”, the preamble of the Hungarian Constitution makes references both to the political nation of Hungary and to Hungarian nationhood. Given that there is no clear differentiation between these two different (though to some extent certainly overlapping) categories, the political

5 Isin, E., *Being Political: Genealogies of Citizenship* (Minneapolis: University of Minnesota Press, 2002).

6 Rogers Brubaker, “Citizenship as Social Closure”, in *Citizenship and Nationhood in France and Germany* (Cambridge, Mass. Harvard University Press 1992).

7 Shaw, Jo, *The Transformation of Citizenship in the European Union* (Cambridge: Cambridge University Press, 2007) 36 – 51.

community of the country is being used interchangeably with the Hungarian nation. However, the parts of the Constitution referring to Hungarian nationhood (in other words, to ethnic Hungarians) are not or would not be necessarily applicable to the citizens. At the same time when speaking about ethnic Hungarians as “we” it can exclude those citizens of the country who belong to an ethnic minority. The following excerpt provides an example of both cases:

*The nationalities living with us form part of the Hungarian political community and are constituent parts of the State. We commit to promoting and safeguarding our heritage, our unique language, Hungarian culture, the languages and cultures of nationalities living in Hungary, along with all man-made and natural assets of the Carpathian Basin.*⁸

This part of the preamble makes it clear that minorities in Hungary belong to the “Hungarian political community”. The main voice of the Constitution, however, which also prevails in the part cited, is the voice of the ethnic Hungarians who simultaneously belong both to the cultural and to the political nation. Minorities are not considered part of “us”, they are only “living with us”. Hence, minorities rather occupy a liminal position within the nation. As Hungarian citizens - but not being recognised as part of the cultural nation the Constitution of the country speaks for - minorities can and many times do represent a threat to the unity of the nation.

Lack of Social Cohesion

Securitisation has played a pivotal role in policymaking, interpreting the need for regulations as national interests. One of the main roles of governments is often seen as providing safety for their citizens - safety from outside threats; in most cases: “Public order securitisation is [...] generally directed at individuals rather than categories or groups of migrant. But it can also take on powerful racist overtones, for example with the expulsion of Romanian Roma from Italy, and be linked to the even higher order of national security in the case of politico-religious preachers, particularly Islamic ones”.⁹

The need for a greater degree of social cohesion was also addressed in the Lisbon Agenda between 2000 and 2005. Migrants were discussed as being among those social groups

less likely to have access to social resources and employment and more likely to face social exclusion and disadvantage. However, there were no resources and there was no institutional space available for consideration of migrants’ needs. Migrants were considered as “the excluded”, or “most marginalised” along with women, the long-term unemployed, young people, etc. This certainly created a situation in which issues related solely to migrants could not be addressed, or at least did not play a significant role in resolving the problems. Shaw points out that even in 2005 “the focus was not on integration of migrants but on creating ‘circular migration’, offering highly conditional ‘rights’ of limited return for migrants from co-operating countries.”

Conclusion

In this paper we have given a short overview of possible approaches to migration. By pointing out the shortcomings of certain theoretical frameworks, such as methodological nationalism, we also put an emphasis on the need for a multidimensional view when addressing such a complex issue. The transnational dimension of migration calls our attention to the importance of multiple localities and multithreaded networks in migration studies. Instead of considering migration as a social phenomenon which results in disembeddedness both in the sending and the receiving countries, we should rather see it as a process that contributes to simultaneous embeddedness in multiplex social fields. Roma migrants are often considered a group of people whose most common attribute is that they all belong to the same ethnic group. Intersectionality, however, takes into account the interconnectedness of different attributes and social realities.

We have drawn attention to structural problems of the European Union, which is, due to the different degrees of its authority in the Member States and the limited opportunities of the European Union to sanction non-compliance, often unable to resolve problems. By highlighting the ambiguities of nation states - in respect of providing equal rights to the minorities living on their territories, we have demonstrated that the construction of “the other” can often be derived from the idea that it is the majority of the country who grants equal rights to others. In the Hungarian example, the

8 The Fundamental Law of Hungary, available at: <http://www.kormany.hu/download/4/c3/30000/THE%20FUNDAMENTAL%20LAW%20OF%20HUNGARY.pdf>.

9 Shaw, *The Transformation of Citizenship in the European Union*, 12 – 13.

Constitution of Hungary uses the voice of ethnic Hungarians, clearly distinguishing the category of “us” from that of “the others”. This lack of social cohesion, therefore, is not only a European problem, but rather a national one, which is present in the Member States of the Union.

Although it has characteristics in common with other social issues, migration should be examined in its complexity while focusing both on the structural problems and regulatory mechanisms of the European Union and of its Member States.

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Report from the Belgrade Workshop on Romani Migration and Visa Liberalisation

MANUEL SPORNBERGER

From 27 – 29 November 2013 the European Roma Rights Centre (ERRC) invited international experts, researchers and activists to a workshop on “Roma Migration: Western Balkans and the EU Visa Liberalisation Dialogue”, in Belgrade, Serbia. Fifteen experts from nine different countries, based both in the Western Balkans and in EU states, presented their work. Contributions from the audience (around 40 participants) during the discussions showed various comprehensive approaches to the issue of Roma migration from different perspectives.

1ST PANEL

Julija Sardelić presented her work on the **situation of Roma in post-Yugoslavia**, talking in particular about citizenship policies and reasons for migration. Since many Roma were refused citizenship in their country of residence, they had no access to fundamental rights; this became a main push factor for their migration. The audience commented that while Roma were not directly targeted by citizenship legislation, they were the most affected by it. Sardelić further argued that the poorest Roma do not migrate, as they lack money, information and documents; it is the slightly better-off, who are still living in poor conditions and looking for a higher standard of living, who can migrate.

Roma activist Dejan Markovic followed up with a presentation about the **migration situation from a Balkan perspective**. He criticised the migration and visa policy of the EU, including the criminalisation of asylum-seekers, as well as discrimination and ethnic profiling of Roma at the Serbian border. He argued that the Schengen zone is only for white people (“White Schengen”). He further stated that the employment situation for Roma was better during communism. After communism the majority were better off, but the situation of Roma did not change positively and if anything Roma have become further marginalised since then.

Research on Serbian migrant returnees was then presented by Slobodan Cvejić. His work points out that, especially in 2010/2011, many Serbian Roma were returned from Western European countries such as Germany, Sweden and

Switzerland. Furthermore, he emphasised the major problems and challenges returnees have to face, e.g., families being split up, children not being able to speak Serbian, or the difficulty of finding employment. He was critical of the fact that strategies for returned migrants have never been properly implemented. The fact that some returnees must not re-enter the EU for five years was seen as particularly negative.

In the general discussion the audience and the speakers agreed that the EU’s role is quite problematic, as it considers Western Balkan countries to be “safe countries”. This should mean that human rights are respected in such countries, but on the other hand the EU itself is forcing these states to violate certain rights. When Germany recognised Serbia as a “safe country”, the number of asylum applicants dropped, but today Serbia is still second behind Afghanistan. The panel concluded that today’s shorter procedures in dealing with asylum seekers in many countries prevents many from migrating in the first place, as they fear being returned immediately and being left in a worse condition upon return.

2ND PANEL

Barbara Pierro and Emma Ferulano from the NGO *Associazione chi rom e... chi no* and Kitti Baracsi started this panel with a presentation about the **situation in a Roma camp in Naples**. They showed the main problems Romani migrants face in “camp country”, using the example of one boy from a camp whose life involves poor education, no chance in the labour market and frequent evictions. Besides these major challenges, Roma in Italy also lack civil and political rights. There is no effective Roma empowerment and local NGOs work on a very small scale. They concluded that Roma from the Balkans cannot access the same opportunities as Roma from inside the European Union.

Spanish researcher David Berna then talked about the **situation of Roma in Spain**. He stated that a wave of new Romani immigrants in the 1990s led to conflicts between Spanish Roma and Balkan Roma. The reason for this conflict among the Roma was the competition on the labour market and for social care. Although all Roma in Spain have access to basic

rights like housing, education and healthcare, they are struggling to find their place in society. Berna argued that the Balkan Roma's image has had a negative impact on the *Gitanos* and explained how these two Roma groups are perceived differently within Spanish society.

The third presentation was given by Helene Heuser who is a researcher and activist at the Berlin Refugee Council. She gave an insight into the **German asylum policies regarding Roma migrants** from the Western Balkans. To stop the wave of so-called “false asylum-seekers”, Germany has introduced shorter asylum procedures for Serbs and Macedonians. These so-called *Blitzverfahren* take only two days and include an interview of not more than 45 minutes. In contrast, an average asylum procedure takes about seven months. Heuser also stressed that there are no national standards for these procedures and most applicants are rejected through a questionable judgment of “obviously unfounded”. She argued that these new procedures are highly problematic, as they allow no space for the presentation of asylum-relevant stories. Thus the recognition rate of asylum-seekers from Macedonia or Serbia in Germany is extremely low in comparison to neighbouring countries such as Austria or France. Although the number of Roma among these asylum-seekers is unclear, state sources controversially (as it is not allowed to collect ethnic data such as this in Germany) speak of up to 90 % of them as Roma.

The audience added that different procedures for people of different nationalities can be both dangerous and discriminatory. Heuser also proposed possible solutions to ensure fairer procedures: changes in immigration law, more regulations, a higher annual number of allowed migrants and longer comprehensive interviews for asylum applicants.

3RD PANEL

Andriani Papadopoulou, from the Greek Ombudsman's office, presented her experience of the **Roma migrant situation in Greece** and talked about the challenges Roma migration presents to EU societies in general.

She stated that the vast majority of young Romani migrants in Greece do not attend school. This makes them highly vulnerable to human trafficking and thus many Romani children are exploited in Athens and other big cities. Moreover, early marriages and giving birth at a very young age are also widespread phenomena among Roma in Greece. According

to her the issues relating to Romani migration are of an ethical, political, economic, and social nature.

The next two presentations, by activist Zoran Bikovski together with ERRC lawyer Tefik Mahmut and by researcher Simonida Kacarska, covered the **situation of Roma asylum seekers and migrants from Macedonia**, focusing on the visa liberalisation dialogue.

According to the speakers, government measures adopted after the visa liberalisation have led to the discovery of many “false asylum seekers” from Macedonia applying in EU countries. Mahmut criticised frequent ethnic profiling at the Macedonian border. Since Roma are considered to be potential asylum-seekers they are denied permission to leave the country and registered in a database when they try to do so. Bikovski talked about a case where Roma wanted to cross the border to work in Montenegro but were not allowed to do so. When his local NGO published a video of this, the Roma were then invited to cross. In his view, Romani NGOs should make use of public pressure more often to reach their goals. They presented an upcoming ERRC project on this issue of a testing case at the Macedonian border to prove discrimination in order to possibly litigate and also undertake advocacy afterwards.

Kacarska spoke of the problematic and hypocritical role of the European Union on the same matter. Although the EU advertises tolerance and equality as its values, at the same time they are forcing south-eastern European countries to keep their problems within their borders. She added that Roma are being further stigmatised in Macedonia as it is stated there that visa requirements might be reintroduced because of them. Actually, the EU countries already have the capability to reintroduce visas in cases of sudden waves of migration. On the other hand a new law in Macedonia penalises “false” asylum-seeking and is leading to even more ethnic profiling of Roma. The panel concluded that the denial of the right to asylum restricts the freedom of movement.

4TH PANEL

Sinisa Volarevic, working with Group 484 in Serbia, opened the panel by presenting his **research on Romani migrants from Serbia**. His data show that nowadays people still have reasons to migrate, mostly economic ones. His presentation dealt with seasonal labour migration as well as the post-visa liberalisation monitoring mechanism.

In his work he tried to figure out possible solutions for seasonal labour migration, while warning that regulations could make the workers vulnerable to their employers.

Research by Ilir Gedeshi, Eralba Cela and Geron Kamberi on the **migration of Albanians to Greece and Italy** was then presented by Geron Kamberi. Their data show that migration always has some kind of economic nature. In Albania, unlike in other countries, it is the poorest Roma who decide to migrate. According to Kamberi, Roma migration is largely not successful in addressing poverty. Low standards of living don't often change if there is a lack of education or the skills that are needed to break out of poverty. The specific situation for Albanian migrants in Greece is particularly bad and if these migrants return it becomes even worse. After he presented his paper, the participants discussed what could make Roma migration a poverty-coping method or way of escaping poverty. Mr Kamberi stated that education and employment are essential to solve migrant poverty.

Stoyanka Cherkezova talked about quantitative research she conducted on **major questions of Romani migration**. She examined the main reasons and expectations of people who migrate from Central or Eastern Europe to Western Europe. Her data emphasise that Roma are aware of the general conditions and the social benefit system in other countries. While discrimination, therefore, is a push factor, less discrimination is not a pull factor. She also stated that the experiences of immigrants in their host countries are not necessarily positive. They often remain unfulfilled due to discrimination and an overall lack of education and employment skills. When it comes to employment, Cherkezova's research shows that many migrants - especially Roma - have to go for unregistered work. Furthermore, she found that most Roma are targeting job opportunities, not social benefits.

5TH PANEL

The final panel was opened by Peter Jorna, a Dutch consultant on Roma issues, who provided an insight into the **situation of Roma migrants in the Netherlands**. As the Roma issue has only come up there in the media and in politics during the last five years, there is a shortage of accurate expertise and general knowledge about the several Sinti, Roma and Traveller groups in Dutch society, generally all referred to as Roma, who settled there at different periods of time (before and after the Second World War). Local and central authorities consider the Roma subgroup

which immigrated in the 1970s as the main target for policies within the inclusion framework of the EU. More recent Roma migrants (from Romania and Bulgaria) are targeted by the authorities for performing street music, begging, selling magazines and pickpocketing. This last activity in particular reinforces an already-existing negative picture of the Roma, Sinti and Travellers. Recent Dutch criminological research on "mobile banditry" has received a lot of attention in the media and in politics. The speaker pointed out that Sinti, Roma and Traveller organisations and empowerment are almost non-existent in the Netherlands and are not supported by the government. He called for a focus that would be less narrow-minded than the current focus on law enforcement. Furthermore, there is a need for qualitatively and quantitatively disaggregated data on Roma.

Elisabetta Vivaldi presented her research on **Serbian Roma who migrated to Naples** in the 1990s. While her paper focused on a specific camp, she also pointed out the main issues concerning Romani migrants in Italy. She stated that the majority of Romani migrants face problems such as poverty, marginalisation and discrimination. In general she described their condition as one of "ill-being". Due to Italy's eviction policy, Roma are frequently relocated and cannot find continuity in their lives. A part of the community in Naples has also moved, leaving behind others in inhumane conditions. The individuals she interviewed did not want to leave their homes, but their standard of living in Serbia forced them to find another place to live. According to her research, their expectations and hopes for improvement after moving were often not fulfilled. Some community members have even moved again in recent years, for example to Germany, France, or back to Serbia.

The final presentation was given by Berlin-based lawyer Christina Lee, who spoke about the **role the media play in creating stereotypes against Roma migrants**. She discussed media responses to Romani migration using the example of Germany and concluded that the media's role is highly problematic. Lee argued that the lack of general information about this issue frequently leads to fabricated, non-evidence-based statements that create a negative picture of Roma. This leaves a whole community affected by media reports about the activities of a few individuals. The speaker heavily criticised news outlets for failing their moral responsibility as media sources. Shock factors are rather used than facts, even though they only serve to spread fear and stereotypes.

How to Litigate Strategically: Challenging Restrictions on the Rights of Roma in the Western Balkans to Leave their Countries

ADAM WEISS¹

A is Roma. He is poor and living with his wife and young son in a (non-EU) Western Balkan country where they are citizens. A is sick and his little boy is sick. They need short-term medical treatment that they cannot get in their country. They know that if they claim asylum in Western Europe they can get treatment; indeed, someone in their community suggested this to them. The family fly to a Western European country (they do not need a visa) and claim asylum upon arrival. They are seen by doctors. Meanwhile, their asylum claim is processed very quickly and in just over a month they are forced to return to their country of origin, but this was enough time for them to get treatment. Upon return, their passports are automatically revoked for a fixed period.

S is Roma. She lives in the capital city of a Western Balkans country, of which she is a citizen, and she wants to visit her sister, who is studying in the capital city of a neighbouring Western Balkan country. Neither of these countries is in the EU. She books a ticket to travel by coach. At the border, the coach is stopped by the border guards of her own country. The border guards enter the coach and ask 10 people to get off the coach. Eight of them are Roma. They are all asked to prove that they have an address where they will be staying whilst abroad, along with proof of sufficient means and health insurance. S produces all of this, including a formal invitation letter from her sister, a travel insurance policy taken out expressly for the trip and ample cash in both currencies. The border guards are suspicious. They say to her: “*You aren’t going to stay with your sister, are you? You’re on your way to ask for asylum in Germany*”. S insists that this is not the case, but the border guards do not believe her. They tell her she is prohibited from getting back on the bus. They place a stamp in her passport with a notation indicating that she has been prohibited from leaving.

Incidents like these are common: the legal team² at the European Roma Rights Centre (ERRC) is regularly asked if it can litigate such cases. These two incidents represent the two principal ways in which Roma are prevented from leaving their countries of origin in the Western Balkans: either border guards prevent them from doing so at the border itself (exercising discretion they may or may not have under domestic law), or laws automatically provide for the revocation of passports of failed asylum seekers and others perceived of having abused immigration rules in countries to which they have travelled. It also seems likely that A and S have been victims of human rights violations (namely, Article 2 of Protocol 4 to the European Convention on Human Rights). In one case, the European Court of Human Rights questioned whether preventing someone from breaking the immigration laws of a foreign country was a legitimate aim for the purposes of revoking his passport and condemned the revocation of his passport in those circumstances because it was disproportionate.³ In a raft of other cases the European Court has condemned similar restrictions on the freedom of movement.⁴ So the law is relatively clear; but how do we build a litigation strategy to ensure that domestic legislation and border guards’ behaviour are in line with the ECtHR case law?

The ERRC’s objective⁵ in this area is to “*Combat discrimination in the implementation of laws giving rise to the right of cross-border movement, including free movement within the European Union*”. (There is a second, related objective in this area: “*Ensure that any returns of Roma to their countries of origin take place following due process and with adequate assistance on return*”. This is more about the responsibilities of the sending country, but stripping failed Romani asylum-seekers of their passports does not inspire confidence about whether returnees will receive adequate assistance in their countries of origin.) Adapted to

1 The author is the Legal Director of the ERRC.

2 The author is particularly grateful to Andrea Colak (ERRC Legal Consultant) and Tefik Mahmut (ERRC Legal Trainee) whose ideas about how strategically to litigate these cases have contributed significantly to this article.

3 The case referred to was *Stamose v Bulgaria*, judgment of 27 November 2012.

4 For a full discussion of the lawfulness of this practice under the European Court’s case law but also under the UN system and EU law, see Elspeth Guild, *Issue Paper: The right to leave a country*, Council of Europe Commissioner for Human Rights, (October 2013), available at: http://www.coe.int/t/commissioner/source/prems/prems150813_GBR_1700_TheRightToLeaveACountry_web.pdf.

5 As set out in the ERRC’s *2013-17 Programme Strategy*, available at: <http://www.errc.org/cms/upload/file/programme-strategy-2013-2017.pdf>.

this context, the strategy is to use litigation to stop legislators and border guards in the Western Balkans from discriminating against Roma by refusing to let them leave the country.

Two kinds of cases appear at first glance to be strategic (that is, likely to result in judgments which will help the ERRC reach its strategic objective in this area). Both are strategic, but neither will quite do the job, alone or together:

1. **Cases that allow legislation to be declared incompatible with human rights.** Legislation often appears to be the root cause, whether it is legislation on passport revocation (which automatically resulted in A's family's passports being revoked) or legislation that leaves border guards too much discretion to stop Roma from leaving the country (which may be what happened to S). The ERRC is already litigating one such case: An "initiative" in Macedonia seeking a ruling from the Constitutional Court that the provisions requiring the automatic revocation of passports in cases such as A's are incompatible with the Constitution.⁶ Such a finding would limit the tools available to the authorities to prevent Roma from leaving the country, but do not in fact strike at the root, because such a finding will probably not target the discriminatory nature of the law. In particular, an abstract review of the constitutionality of a law that is neutral on its face as to race and ethnicity is not likely to result in a finding of discrimination. New laws will emerge – or current discretionary practices will intensify – to target Roma more creatively, requiring new rounds of litigation. The ERRC has already had disappointing experiences elsewhere: Domestic courts declare legislation that is discriminatory incompatible with human rights, but authorities continue to apply it anyway.⁷
2. **Cases that target border guards who discriminate.** S could easily bring a case against the Interior Ministry because of the border guards' actions. The border guards may have acted outside of the discretion given to them,

depending on what national law says; or they may have abused the discretion they had under national law. The ministry may have to pay damages. S may even be able to prove that the border guards discriminated against her. This is a particularly clear case, because 80% of the people taken off the bus were Roma: in such circumstances the burden should normally shift to the ministry to prove that there was no discrimination.⁸ However, will S be able to convince the other Roma pulled off the bus to help her? If not, how can she prove that everyone else was Roma? Even in the best possible scenario, the authorities can claim that these border guards were just a few bad apples. Other border guards might change their behaviour, but perhaps only to make the discrimination less obvious.

Either of these cases or both will make some difference, but there is a piece missing to ensure the change the ERRC is committed to achieving. The ERRC's objective is to "combat discrimination" in this area. Successful litigation must expose the extent of the discrimination and lead a court explicitly to condemn it and put in place remedies to eradicate it. The following, taken alone or in combination, should help get us there:

- a. **Freedom of information requests.** The authorities may (but likely do not) hold data about the number of Roma who are prevented from leaving the country, as compared with non-Roma. The authorities may also have documents (internal memos, correspondence with EU Member States or the Commission) suggesting that these practices target Roma. Freedom-of-information laws may allow the authorities to argue that they can withhold such information, and this might lead to a round of freedom-of-information litigation, which may be useful or may be a distraction from the overall strategic goal. It may also be possible to ask courts to require the authorities to disclose this information in the course of litigation in order to cope with the burden of proof. Failure to produce the information might result in a finding of discrimination.⁹

6 For more information, visit: <http://www.errc.org/article/errc-challenges-discrimination-of-roma-at-the-border-before-the-constitutional-court-of-macedonia/4248>.

7 For example, the Italian courts struck down state-of-emergency legislation that permitted the authorities to evict Romani settlements with no formal notice, but the authorities continue that practice anyway. See: <http://www.errc.org/article/milan-authorities-continue-evicting-roma/4254>.

8 See, e.g., Article 8(1) of EU Directive 2000/43: 'Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment'.

9 See, *mutatis mutandis*, E.B. v France, judgment of the Grand Chamber of the European Court of Human Rights of 22 January 2008, § 74 (where a lesbian seeking to adopt was refused on the ground that the child would lack a paternal referent: 'the Government, on whom the burden of proof lay (see, *mutatis mutandis*, *Karner v. Austria*, no. 40016/98, §§ 41-42, ECHR 2003 IX), were unable to produce statistical information on the frequency of reliance on that ground according to the - declared or known - sexual orientation of the persons applying for adoption, which alone could provide an accurate picture of administrative practice and establish the absence of discrimination when relying on that ground').

- b. **Data collection.** In *D.H. v Czech Republic*, the data collected to show discrimination resulting from the misplacement of Romani pupils in special schools was unofficial, yet nonetheless persuaded the Grand Chamber to find a violation.¹⁰ Similar evidence gathering could be done in these circumstances, although it might prove difficult: Unlike pupils, Roma prevented from leaving the country are not all gathered in one place.
 - c. **Testing.** Discrimination testing, particularly in relation to the practice of stopping people from leaving their country of nationality, could also be done: Similarly situated Roma and non-Roma could try to leave the country under similar circumstances to see what happened. This could give rise to separate litigation on behalf of the testers, assuming they have standing under the anti-discrimination laws of the countries concerned (they do in Serbia).¹¹ There are cost and ethical implications, of course.
- The theory of change through strategic litigation in this situation therefore looks something like this:
- **Pre-litigation activities:** Make freedom-of-information requests; carry out other forms of data collection; set up a testing scenario; and/or prepare complaints based on individual cases.
 - **Litigation activities:** Constitutional and human rights complaints questioning the compatibility with human rights of legislation that allows or requires authorities to restrict free movement rights; administrative complaints in individual cases (using evidence gathered); civil complaints lodged on behalf of testers under the anti-discrimination law.
 - **Litigation outcomes (in order of preference):**
 1. Judgments condemning direct discrimination against Roma resulting from legislation and/or practices concerning restrictions on the right to leave the territory accompanied by strong remedial schemes with judicial oversight (e.g., data collection about the race of those refused the right to leave, training for border officials).
 2. Judgments condemning the legislation that allows or requires the authorities to stop Roma (and others) from leaving the country, and so limiting the tools available to the authorities to restrict this right.
 3. Judgments condemning individual incidents, with strong penalties deterring future discrimination.
 - **Behavioural change:** Legislators severely limit the legal means available to border guards and others to stop Roma from leaving the country; border guards and other police no longer restrict this right in general and no longer target Roma in particular.

¹⁰ *D.H. v the Czech Republic*, judgment of 13 November 2007, § 191.

¹¹ The Supreme Court of Serbia confirmed this in the *Krsmanovac* case, summarised in English by the Equal Rights Trust, available at: http://www.equalrightstrust.org/ertdocumentbank/550014425_2__PILI%20Project%20-%20Serbia%20National%20Case%20Law%20Template.pdf.

Case Summary and Commentary

ADAM WEISS

European Court of Human Rights, *Zhou v Italy*, Application no. 33773/11 of 24 January 2014 (only available in French).

Facts

The applicant, a Chinese national, moved to Italy with her partner and child. She had a second child and both children were sent to live with their grandparents in China. She had a third child, at which point her partner left her. She did not seek medical treatment during her pregnancy and was hospitalised urgently with serious health problems at the time of the birth, including ischemia (restricted blood flow). Social services began looking after mother and son.

The applicant eventually found work and the child was placed, during the day, with a foster family. After three months the foster family indicated they no longer wished to look after the child. Without consulting social services, the applicant decided to leave the child with neighbours during the day whilst working. Social services found out about this and referred the matter to the public prosecutor.

The prosecutor began court proceedings to have the child freed for adoption. The court granted custody of the child to social services, to be placed with a foster family. The applicant had visitation rights twice a week, but these were suspended following a psychological examination of the child, which concluded that the visits were inappropriate and upsetting and that the child had not built any bonds with the mother. The appellate court overturned that decision, but the applicant was unable to visit her son for 10 months. The lower court, following a further examination, freed the child for adoption. The applicant appealed, asking in particular that she be allowed to continue to see the child; the child's guardian asked that the appeal court exceptionally allow for a "simple adoption" (which would allow the child to continue to have a relationship with his mother), as opposed to a full adoption. The appeal court refused and confirmed the decision to free the child for adoption. In appeal court's

view, a situation of abandonment could exist where the behaviour of the parents compromised the healthy and balanced development of the child's personality.

Findings

- 1) The application was admissible. The Italian government had claimed that the applicant had failed to exhaust domestic remedies by not appealing the decision of the appellate court. However, this would not have been effective: The appellate court had found that a simple adoption was not possible in a case such as this.
- 2) There was a violation of Article 8 of the European Convention on Human Rights (right to respect for family life). The question was whether the authorities had taken all the necessary and adequate steps that could be expected from them so that the child could enjoy a normal family life within his own family. They had not. The authorities had not done enough to facilitate contact between the applicant and her child. In terms of the adoption, the burden was on the Respondent State to examine carefully the effect that the adoption would have on the parent and child and to examine other solutions. The child was neither exposed to a situation of violence, nor to a situation of physical or psychological ill-treatment. While the applicant was not able to look after her child, her behaviour was not considered harmful. The authorities ought to have taken concrete steps to allow the child to live with his mother before starting a procedure to free him for adoption. The role of the social protection authorities was to help people in difficulty, to guide them in their actions and to advise them, including in relation to the kinds of social benefits and social housing available to them. The courts took into account the applicant's difficulties without realising that they could be overcome with targeted social assistance.
- 3) The State was ordered to pay the applicant €40,000 for non-pecuniary damage and €5,655.83 for costs and expenses.

Commentary: Relevance of the Case to Roma Rights

The applicant in this case was not Roma, but a similar story about a Romani family would not be surprising. The ERRC published a report in 2011 about the overrepresentation of Romani children in state care in six EU Member States, including Italy: Although Roma only made up about 0.23 % of the total population, they made up over 10 % of the populations of 22 children's homes the ERRC's researchers visited.¹ Even more may be living in foster homes, and many Romani children, like this child, may end up being freed for adoption in inappropriate circumstances. Reducing the overrepresentation of Romani children in state care remains one of the ERRC's objectives. The idea of Romani children in state care (institutions or foster homes) being freed for adoption, which this case suggests may happen quite frequently, raises the spectre of a "stolen generation" of Romani children (comparable with what happened in Australia).

The *Zhou* judgment is not ground-breaking from a legal perspective: The Court has found in the past that poverty alone cannot be the basis for removing a child from her/his parents² and that there must be particular safeguards in place before a child is taken away from her/his parents and freed for adoption.³ It is, however, a useful reminder and powerful summary of the law in this area. The burden is on the Respondent State to show that that they have considered the impact of freeing the child for adoption on the parent and child and have explored alternative options (§ 55). Perhaps most importantly for Romani children (who are often taken into care because of their family's poverty)⁴

the Court says quite explicitly that '*the role of social-protection authorities is to help people in difficulty, to guide them in the steps they take and advise them, among other things, about the different kinds of social benefits available, the possibilities for securing social housing and other possibilities for overcoming their difficulties*' (§ 58). The Court was quite specific that before starting court proceedings to free the child for adoption, other routes should have been explored. This judgment should be at the fingertips of everyone working with Roma who are at risk of having their children taken into care.

The applicant was a Chinese immigrant. It is unclear if her poverty was related to her immigration status (or indeed what her immigration status was). It was also unclear whether there was a need to take into account cultural specificities or language issues when examining her situation. It may be fair to ask whether the authorities would have taken similar action had the applicant been an Italian citizen belonging to the ethnic majority population. Given states' positive obligations to protect Roma, a "particularly vulnerable" group under the Court's case law, it could be argued that intervening in Romani families (whether simply to take the children into care or going so far as to free them for adoption) would not only violate Article 8 (the right to respect for family life) but also Article 14 (prohibition on discrimination when securing Convention rights). States and lawyers should also take note of the very high amount the Italian authorities were ordered to pay the applicant (€40,000 in non-pecuniary damages). While this was undoubtedly related to the very severe nature of the violation (freeing for adoption), it sends a strong signal about how the European Court of Human Rights see such cases.

1 *Life Sentence: Romani Children in Institutional Care*, available at: <http://www.errc.org/cms/upload/file/life-sentence-20-june-2011.pdf> (page 35 for data on Italy).

2 See, e.g., *Wallona and Walla v Czech Republic*, judgment of 26 October 2006; *Moser v Austria*, judgment of 21 September 2006.

3 *X v Croatia*, judgment of 17 July 2008, § 47.

4 See *Life Sentence*, page 39 ('*Romani parents at risk of child removal and child protection workers in the Czech Republic, Hungary and Romania reported that poverty among Romani families is the most common reason for child removal*').

Book Reviews

***Gypsies and Travellers in Housing: the Decline of Nomadism*, by David Smith and Margaret Greenfields.**

Bristol: Policy Press, 2013.

In 1988 a Salford local paper described a group of journalists' encounter with two Traveller families who were about to move into the just-built local campsite: "In an exclusive interview with three Traveller women [...] we discovered their thoughts about Salford, their present life here and their hopes for the future". This kind of sensational "exclusivity" was by no means foreign to the public discourse on Travellers of that time, and it reveals the widespread voyeuristic approach toward "discovering" Gypsies and Travellers' "thoughts about Salford", "our" locality. Since the 1968 Caravan Act, state pressure on local authorities to sedentarise nomadic populations has intensified, providing the majority with an additional motivation for that kind of approach: From that moment on, Gypsies and Travellers might well have become neighbours.

Smith and Greenfields' book focuses on that sedentarisation process, adopting an opposite approach. The study aims to "examine the decline of nomadic lifestyles among Britain's Gypsy and Traveller population and 'rehumanise' the debate" (p 1). The thorough and intimate knowledge that the authors gained from analysing the Gypsy and Traveller Accommodation Needs Assessments (GTAAAs), as well as from interviews and focus groups, provides them with a precious empirical source for avoiding mystification and "dehumanisation" in all forms. Moreover, the rich and well-articulated theoretical and historical framework sheds an accurate light on the empirical analysis and is essential in contextualizing it. These two parts, theory/history and data analysis, provide a solid ground for putting forward a series of informed policy recommendations in the conclusion.

The structure of the book is clear, allowing for a smooth reading. In the foreword, Okely highlights the most meaningful findings of the study against the background of Britain's current political discourses and institutional practices addressing Gypsies and Travellers. The first two chapters

discuss theoretically (Chapter 2) and historically (Chapter 3) the relationships between Gypsy and Traveller populations and their housing conditions. The historical chapter is particularly innovative, as it is one of the first detailed, comprehensive overviews of local histories of Gypsies and Travellers across Britain. For this reason, highlighting more clearly the connections between the theoretical and historical framework and the subsequent empirical part would have given the study a more solid and harmonious shape. Chapter 4 discusses the research design and presents the data on which the study is based. The next five chapters discuss the main finding of the study, including personal motivations for moving into housing (Chapter 5) and the consequences of this on Gypsy and Traveller individuals and families (Chapter 6).

Chapter 7 discusses the relations between Gypsies, Travellers and "gorjers", i.e., non-Gypsies and non-Travellers, focusing on "the complexity of neighbourhood dynamics [and on] the shifting and overlapping nature of kin and friendship patterns at the micro-level" (134). The analysis suggests that, while sedentarisation is rather imposed than chosen, living in proximity with other travelling families is often a preferred option, due to the often-conflictual relations with "gorjers". This may contradict top-down and well-intended assumptions about knowing what communities need. This argument is discussed more in-depth in Chapter 8, entitled "Recreating community", which is an in-depth analysis of micro strategies of adaptation, resistance and resilience. Through a rigorous thematic analysis of interviews and focus groups, the authors discuss several themes including "cultural resilience", which is "the capacity to develop adaptive trajectories and maintain minority lifestyles and practices in spite of adverse changes designed to limit and oppress those lifestyles" (165). The two pivotal analytical dimensions are gender and age, the latter largely discussed in Chapter 9, "Young people in housing". The

accent on young people allows an examination of broader issues such as the role of marriages and inter-marriages in choosing housing solutions (Chapter 8); masculinity as a dominant feature of assertive responses to racism (Chapter 7); and gendered views of their own identity among young Gypsies and Travellers (Chapter 9). The conclusion hosts seven precious policy recommendations, in brief 1) involving Gypsies and Travellers in monitoring processes; 2) reviewing homelessness strategies regularly in order to meet the needs of Gypsies and Travellers; 3) reconsidering current approaches to “mainstreaming” of services meeting the needs of Gypsies and Travellers; 4) outreach and support agencies’ engagement with Gypsies and Travellers who move into housing; 5) a consistent and formal monitoring of incidents of racist abuse against Gypsies and Travellers; 6) supporting Gypsy Roma and Traveller History month; 7) actively promoting Choice Based Lettings (CBL).

Thanks to its in-depth empirical analysis, theoretical contextualization, and instructive historical framework, this book is an excellent resource for putting the housing trajectories of Britain’s Gypsies and Travellers in perspective. Yet, I would not recommend it only to those interested in British contexts, but to everyone concerned with social change among urban(ised) communities over the last 40 years. Besides references to other groups such as Australian homeless people (p 139), Finnish Roma (p 163)

and American Roma in California (p 62), the authors discuss conditions of urban marginality that, at least since the 1970s, can be found in several peripheries across Europe and beyond. We are told that “two-thirds of participants across all study areas estimated that their economic conditions had worsened since moving into housing” (p 111) and that consequences of relocation include a “feeling of confinement” and “asthma” (p 113).

One of the most important findings of this study is that “the main ‘push’ factor in the transition from nomadism to sedentarisation has been policy relating to accommodating Gypsies and Travellers on one hand, and legislation concerning the management of unauthorised encampments on the other” (p 158). Since over the last 40 years policies for the urban poor have increasingly moved from offering economic and social provisions to concentrating on individual behaviours and attitudes – following Thatcher’s philosophy that “economics are the method; the object is to change the heart and soul”¹ – Smith and Greenfields show clearly what the consequences of that move are today. They also add to this a nuanced analysis of the ways in which housed Travellers and Gypsies try to adjust, resist and/or circumvent their new housing conditions, in many cases maintaining their traditional lifestyle.

This book was reviewed by Giovanni Picker (CEU-IAS)

Gypsies and Travellers: Empowerment and Inclusion in British Society, Joanna Richardson and Andrew Ryder, eds.

Bristol: Policy Press, 2012.

Roma often find themselves cast as passive subjects in paternalist social policy or helpless victims of discrimination. The volume edited by Joanna Richardson and Andrew Ryder, in contrast, offers a comprehensive overview of the struggles of British Roma, Gypsy, and Traveller organisations to influence policies affecting their lives and to challenge deeply entrenched forms of racism.

The book focuses on contemporary history often contrasting the policies of the New Labour Government (1997-2010) with those of the present Conservative-led coalition promoting its “Big Society” programme of decentralisation and philanthropy. Covering several aspects of Gypsies’

and Travellers’ lives, the volume is divided into policy areas, namely: housing, health, education, social policy, economic inclusion, justice, history education, participative research and media representation. In addition, the first chapter provides a useful introduction to the contested relations amongst Roma, Gypsies, and Travellers’ identities. The last chapter offers a thorough critique of the European Union Framework for National Roma Integration Strategies measured against the principle of inclusive policy development.

All the authors have been involved in the discussed struggles in some form, several of them being of Romani, Gypsy, or Traveller origin. As a result, the studies go well

1 Interview with *Sunday Times*, 3 May 1981.

beyond purely academic debates and sterile policy analyses. Policies are assessed from the perspectives of diverse lived experiences in light of the debates amongst activists and policy makers. Hence, essentialising categories suggesting that ethnicity or “chosen lifestyle” cause social differences are thoroughly debated and refuted.

Another unique insight of the volume relates to the ideology of “going local” and “empowerment” – embraced not only by the present United Kingdom government, but also by the European Commission. The authors convincingly demonstrate that localism, which appeals to notions of individualism, free market and *laissez-faire* social policy further marginalises Gypsies, Roma and Travellers since in most local communities they lack the resources and the support of the local majority to initiate and implement effective local social policies.

Rather, it is proposed that strong and central measures towards equality should be matched with processes of public persuasion and education. For example, chapter eight provides a fascinating overview of the struggle for such a measure: the Gypsy Roma Traveller History Month. The authors analyse the origins and the debates within Gypsy Roma Traveller organisations and academics on the recognition of Gypsy Roma Traveller history and culture, as well as the manifestations and disputes after the Gypsy Roma Traveller Month was adopted in 2008.

The volume is an indispensable resource for Roma and pro-Roma activists, policy-makers, and scholars in Europe and beyond willing to learn from the struggles, debates, achievements, and failures of the British Gypsy, Roma, and Traveller organisations in the last two decades.

This book was reviewed by Márton Rövid

Social Benefits and Migration: A Contested Relationship and Policy Challenge in the EU, Elspeth Guild, Sergio Carrera and Katharina Eisele, eds.

Brussels: CEPS 2013.

Immigrants and welfare benefits are a politically explosive mix. The EU legal rules on welfare for migrants are often numbingly obscure, even for legal experts, and so difficult to explain to politicians and pundits who invoke or ignore them in heated arguments about migrants receiving welfare. This collection brings together writings from experts keen to bridge the gap and quick to point out the missing piece preventing them from doing so: Quantitative and qualitative data about the use of benefits by migrants in the EU Member States. It is an excellent collection for anyone interested in these issues.

It is also – but much less obviously – an important read for those interested in Roma rights. These essays are not about Roma, and yet Roma are a leitmotif in this volume. They are mentioned explicitly several times as a target for Western European governments’ obsession with EU migrants abusing benefits systems. They are implicitly present throughout the volume; for example, the essay dealing with asylum-seekers and refugees mentions “the tripling in 2011 of asylum applications from nationals of Serbia and Montenegro” in

Luxembourg, which persuaded that government to reconsider how much financial support it offered asylum-seekers.¹ Similarly, social benefits are not one of the thematic priorities the European Roma Rights Centre (ERRC) has identified for its strategic work, but they are a leitmotif running through the ERRC’s current (2013-17) programme strategy,² which cites problems with “social assistance” in relation to housing, identity documents and women’s and children’s rights.

The countries this volume of essays tends to focus on are Germany, the Netherlands and the UK. While these are not the Western European countries where Roma rights issues are the most urgent (things appear to be much worse in France and Italy, where the ERRC is currently focusing its work in Western Europe), in those three countries access to social assistance is a critical Roma rights issue.

The essays cover five groups of migrants living in the EU: (1) EU citizens outside their Member State of underlying nationality; (2) non-EU citizens covered by the EU immigration

1 It seems most of these were Roma. See Europa Forum, ‘Le Luxembourg faisant face à un afflux massif de demandeurs d’asile en provenance des Balkans occidentaux, souvent des Roms, le député Ben Fayot invoque une approche européenne vis-à-vis des Roms’, 20 October 2011, available at: <http://www.europaforum.public.lu/fr/actualites/2011/10/schmit-chd-demandeurs-asile-roms/>.

2 Available at: <http://www.errc.org/cms/upload/file/programme-strategy-2013-2017.pdf>.

directives; (3) Turkish nationals; (4) nationals of non-EU countries bordering the Mediterranean which have agreements with the EU; (5) asylum-seekers, refugees and others in need of international protection. Roma make up a significant proportion of the first and fifth groups, and perhaps the second and third as well. Helpfully for those worried about the rights of Romani EU citizens, two essays touch on the rights of the first group: One deals with the mismatch between, on the one hand, the political rhetoric in Germany, the Netherlands and the UK about EU migrants accessing welfare and, on the other, the evidence available; the other provides an easy-to-understand discussion of the complex topic of EU migrants' access to means-tested social *security* (as opposed to pure social *assistance*) benefits. The latter essay by a European Commission official sets out his view that EU citizens residing in another Member State (for example, Romanian Roma in Britain) should get access to residence-based social security benefits (e.g., an income top-up for poor elderly people) under EU law. His views were – as he predicted they might be – at least in part contradicted by the Court of Justice of the EU in its recent judgment in Case C-140/12 *Brey*. The issue is crucial for the poorest EU-citizen Roma living in other Member States and will be further explored in future CJEU cases.

There is also an essay on the statistical case (or rather, the lack of one) for proving that generous welfare systems attract migrants. It strikes at a theme common to all of the

essays: a lack of disaggregated data about social benefits that would allow for an evidence-based debate. Given that the UK does not even collate data about the *nationalities* of benefits claimants, it seems unlikely that data about Roma migrants in particular, and their access to social benefits, will ever be available. That is unfortunate from the ERRC's perspective, since securing the collection of disaggregated data by governments about how Roma fare in various aspects of life is a challenge the ERRC has set for itself; but the reader of these essays might also feel some relief, sensing the potential misuse politicians will make of that data, whatever its content.

In Germany, the Netherlands and the UK it is fair to say that restrictions on Roma migrants' access to social benefits are one of the foremost problems facing (migrant) Roma. Once the more significant problems (mass forced evictions of Roma in particular) are resolved in other Western European countries where there are migrant Roma populations (notably France and Italy), restrictions on social benefits will undoubtedly also emerge as the major legal problem there as well. This volume will provide anyone working with Roma with key background information to help launch litigation and advocacy strategies to tackle this issue.

This book was reviewed by Adam Weiss

***Vzdelanie ako limit? (Education as a limit?)* by Sergej Danilov.**

Open Society Foundation, Bratislava, 2013 - Published in Slovak.

“Everyone is different, also us – Roma; we are not a homogenous group. Everyone has different interests, we come from different backgrounds; everyone has the right to be whomever he wants. And if I had an interest as well as other Roma – because there are many of them who are interested in studying and changing their lives – they should not be judged according to their belonging to a minority or an ethnic group but they should be given an equal chance as is given to students, pupils from the majority society.”

This is the main message delivered by Ilona, the principal character of the publication *Education as a Limit?* by Sergej Danilov. In this factographical reportage, the author has used the experience and knowledge in the field of human rights (and especially Roma rights) that he has gained as a human rights activist and journalist. The inspiration to write the publication has its

roots back in 2010 when he wrote about this story as a journalist. His reportage was nominated for the Slovak Journalists' Award 2010 and the story of Ilona was later given by the *Financial Times* as an example of the problems faced by Roma in terms of access to employment.

The publication follows the personal story of Ilona (a fictive name for a real character). Ilona is a young Romani woman holding a Master's degree in a pedagogical combination, history and pedagogy. She is also a holder of a certificate in advanced English. During her studies at university, she was working part-time as a teacher's assistant. After finishing her Master's degree, she decided to broaden her knowledge and to study special pedagogy. The educational history of Ilona suggests that a successful career as

a teacher should have followed. The reality was completely different, though – the title of the book speaks for itself.

Sergej Danilov offers a detailed insight into the career struggles of a young Romani woman who, despite obtaining various degrees and certificates, has been unable to find any sort of teaching employment - be it as a teacher, assistant teacher or a special pedagogue position. Since 2006, Ilona has participated in several job interviews which all ended with the same result - rejection. The author often shows the absurdity of the justifications for these rejections - underqualification, overqualification, lack of monetary resources. However, as Danilov argues, for those numerous rejections there is only one real reason: Open discrimination on the basis of Ilona's Romani ethnicity.

The stereotypes about Roma include those about education and employment, namely, that Romani children are not interested in studying; Romani parents do not care about the education of their children; Roma do not want to work, etc. This publication offers a clear example of the contrary. Even though there are many young Romani people who would like to work, a glass ceiling still exists in society: The majority population (even those who are unqualified) is given precedence, often in breach of the right to equal treatment. On the other hand, state and regional institutions whose duty it is to apply and/or to protect the right to equal treatment clearly fail to do so, either because of a lack of will or because of a lack of expertise.

Education as a Limi? is divided into six main chapters. The first chapter is introductory - readers can find out more about Ilona, her sister Maria (who shares a very similar fate) and the substance of the problem faced by Ilona. The second chapter (with an indicative title - 'Institutional Ping-pong') focuses on the reactions of the various institutions and organisations Ilona approached after she had been rejected in job interviews several times. The list is extensive - the Office of the Government, the Ministry of Education, the Parliament, the Plenipotentiary for Romani Communities, the Equality Body,

the Regional School Office, the School Inspection Authority, the courts and several NGOs. Ilona was treated like a "hot potato" by almost all of them.

In the third chapter, the author analyses the reasons for all the previous rejections. He highlights the fact that Ilona, who has proper qualifications to work as a teacher, was rejected while under-qualified candidates - a bakery assistant, a former *au pair* or a person with a Bachelor's degree, were preferred. The official reasons for such a selection were Ilona's over-qualification or lack of money. The fourth chapter follows closely the court proceedings based on an unsuccessful anti-discrimination claim filed by Ilona and analyses the reasoning of the courts' decisions. The fifth chapter describes the activities of a Slovak MP, Miroslav Beblavý, who tried to help Ilona and other people who find themselves in similar situations by proposing amendments to existing legislation.

The last chapter gives a constructive critique of the Slovak Equality Body – Slovak National Centre for Human Rights. Danilov points out the obvious inactivity of the Equality Body, which fails in its role of a protector of those who claim their right to equal treatment has been violated. In 2009 and 2010, there were about 1,500 motions a year filed to the Equality Body concerning potential discrimination. The institution offered help in four cases each year, which means there is about a 0.23 % probability that a motion filed with this body will be considered legitimate.

Education as a Limi? is one of a very few publications which give a detailed description of the discrimination and other problems faced by Roma in Slovakia in their access to employment. It can serve as a case study, as a library about cases of discrimination, or as a tool for fighting stereotypes. Even though it focuses on the story of an individual, similar stories and problems to this one can be found very frequently. The issue is definitely not country-specific.

This book was reviewed by Michal Zálešák

I Met Lucky People: The Story of the Romani Gypsies, by Yaron Matras.

UK: Allen Lane, 2014.

I Met Lucky People: The Story of the Romani Gypsies is a 2014 book from Manchester-based Professor Yaron Matras. The author, a prominent scholar and Roma rights advocate, aims at providing a relatively comprehensive account of Romani culture and Romani historical patterns.

The book opens with a simple yet challenging question: "Who are the Romani People?" From the answer to this question the reader can get a hint of the impressive diversity of this ethnic group through some of the author's personal experiences with them, gathered over a broad span

of time and with a wide geographical focus. In the first chapter, designed to stir curiosity and doubt in the reader, Mr Matras begins an exploration of various aspects of Romani society, focusing on its language, customs and traditions. As may well be expected, the author often stresses the fact that Romani society and culture is composed of several different layers, built during centuries-long migrations and the copious contacts they have had with countless nations and cultures, all inextricably intertwined. This is a crucial aspect in understanding one of the unique features of the “Romani People” and helps the non-Romani reader to understand that, actually, there may not be a single “Romani People” with a caravan of very recognisable cultural and physical traits, but rather that there are countless groups and sub-groups, all diversified because of the different paths they have followed through history.

After having provided a relatively broad experience of Romani culture, the author then analyses the history of this ethnic group, always making clear that most of what is known belongs to speculative science and assumptions based on linguistic studies or blurry yet concrete historical documents. It should be noted that the account of Romani history provided here is a Europe-based one, meaning that it has a European point of view. So the Romani history account provided focuses on the first documents targeting what we now call Roma, found in the most eastern European outposts and, through the decades and then centuries, we can follow a migration path and Romani diffusion throughout the continent. It is particularly interesting and important to discover how deeply rooted discrimination towards Romani people has been, with draconian measures put in place and tailored just to persecute this particular ethnicity since the High Middle Ages. It is also interesting to

see how racism towards Roma began, leading to centuries of persecution which reached their peak (to date) with the Roma Holocaust/Porraimos during World War II. It is striking and disturbing to acknowledge that these very measures are extremely similar – although adapted to their particular historical contexts) to the ones put in place by modern European states and institutions, showing a sort of *fil rouge*, or common thread, that helps us understand something about Romani people and also, unfortunately, about majority societies.

Very interestingly, the book closes with reflections on the role of Romani people and their culture in today’s world, focusing on Romani participation (or lack thereof) in politics and in institutions and programmes designed, on paper, to assess their particular needs and eradicate discrimination while bringing Romani people towards the still-debated goal of social inclusion.

In the conclusion Matras provides interesting reflections on the difficulties of working on and studying Romani culture, history and people. Furthermore, he inserts the Romani people into today’s cosmopolitan and globalised world.

All in all, *I Met Lucky People* is a comprehensive and easy-to-read compendium of Romani people, history and culture. A must-read for those who are willing to challenge their pre-existing ideas as well as for those who are eager to discover a unique story that explains much about today’s Europe and its entire people. For those who become hooked by this book and see it as a starting point, the rich selected bibliography will help them to learn more about Europe’s hidden shame.

This book was reviewed by Marcello Cassanelli

Weapons, not Lessons: Remembering Professor Piero Colacicchi (1937-2014)

Piero Colacicchi left us too soon, on August 11, 2014. His memory will stay with me forever, and remind me of the need to fight for social justice, which was engrained in his thinking and actions for Roma rights, anti-psychiatry, and the rights of detainees. He was a Professor at the Academy of Fine Arts in Florence, his hometown. When I first met Piero in spring 2007, he told me that during WWII he had helped his parents, the painters Flavia Artlotta and Giovanni Colacicchi, hide Jews and help partisans in their house in Florence. This was Piero's essential personal ground for opposing social injustice. He was one of the pioneers in the fight for Roma Rights in Italy – contributing to the first volume concretely denouncing Roma racial segregation (i.e. Brunello (ed.) *L'urbanistica del disprezzo*, Manifestolibri, 1996).

Since that time, he regularly collaborated with the ERRC and other organisations by writing reports and open letters, public statements, and other documents against Italian state

racism across government departments and local offices. His radical personal engagement, coupled with sincere kindness and continuous learning (I remember his bookshelves could hardly hold his hundreds of books) have always reminded me of Pierre Bourdieu's definition of the sociologist's task, i.e. "to furnish weapons, rather than teach lessons" (at the Conference of the AFEF, Limoges, October 30, 1977). His language was never haughty, let alone pedantic, and always rooted in his own social experience.

Piero gave a lot of weapons to fight against racism and injustice, especially to the Roma of Italy, at whose side he struggled for over twenty-five years, for as long as his health allowed him. He wanted to inspire enlightened analyses and actions opposing oppression in all its forms, and especially coming from the state. May we be able to keep those weapons, and pass them on to the next generations.

Written by Giovanni Picker

EUROPEAN ROMA RIGHTS CENTRE

The European Roma Rights Centre (ERRC) is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

The ERRC has been the recipient of numerous awards for its efforts to advance human rights respect of Roma: The 2013 PL Foundation Freedom Prize; the 2012 Stockholm Human Rights Award, awarded jointly to the ERRC and Thomas Hammarberg; in 2010, the Silver Rose Award of SOLIDAR; in 2009, the Justice Prize of the Peter and Patricia Gruber Foundation; in 2007, the Max van der Stoep Award given by the High Commissioner on National Minorities and the Dutch Foreign Ministry; and in 2001, the Geuzenpenning Award (the Geuzen medal of honour) by Her Royal Highness Princess Margriet of the Netherlands;

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