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Contribution of the Office of the Commissioner for Human Rights of the Council of Europe

In 2009 and 2010, Commissioner Hammarberg continued to address the main challenges in the protection of the human rights of Roma in Europe through its country and thematic work. In a position paper he published in May 2010, which summarises the findings and recommendations of this work, he highlights the “shameful implementation deficit concerning the human rights of Roma”. In spite of the issue having been put on the agenda of all major international organisations and national governments in Europe for some time, the Roma population - whether citizens, displaced persons or migrants – is worse off than any other group in Europe in relation to key social indicators on: education, health, employment, housing and political participation. Widespread discrimination, anti-Gypsyism, hate speech and violence feed the cycle of Roma disadvantage, marginalisation and segregation in many countries. In recent years, the Commissioner has noted with concern migration of Roma from certain Council of Europe member states to others has given rise to a rise of these phenomena in receiving states.

Reflecting this state of affairs, in 2009 and 2010 the activities of the Commissioner in the area of protecting the human rights of Roma have focused mainly around the following themes:

Discrimination of Roma in the context of migration

In April 2009, the Commissioner published, together with the High Commissioner on National Minorities (HCNM) of the OSCE a study, “*Recent Migration of Roma in Europe*”¹, which provides an analysis of the existing human rights standards concerning migration in Europe and highlights discriminatory practices that Roma migrants still face. It concludes with a set of recommendations for action by member states.

In November 2009, the Commissioner took part in the International Conference on Roma Migration and Freedom of Movement jointly organised in Vienna by the EU Fundamental Rights Agency, the Office for Democratic Institutions and Human Rights and the HCNM of the OSCE, and Commissioner Hammarberg’s Office. At the

¹ Available at:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1625671&SecMode=1&DocId=1494656&Usage=2>

Conference, the Commissioner stressed that the protection of the human rights of Roma on the move in Europe must be placed high on the European agenda.

In February 2010, the Commissioner published a Viewpoint entitled “*European migration policies discriminate against Roma people*”, where he addresses the particularly disadvantaged position in which Roma migrants, including asylum seekers, are placed in many European states, even in comparison with other categories of migrants.

Forcible returns of Roma to places where they are at risk of serious human rights violations

The Commissioner dealt in a particularly extensive manner with forcible returns of Roma, Askhali and Egyptians to Kosovo.² In July 2009, the Commissioner published a report on the human rights situation in Kosovo in which he concluded that the latter did not have the infrastructure to allow for sustainable reintegration of refugees. Of particular concern to the Commissioner was the fact that a number of Roma forcibly expelled from Council of Europe member states (especially Germany, Sweden, Austria and Switzerland) had returned to the lead-contaminated camps of Česmin Lug and Osterode in Northern Mitrovica, inhabited for a decade now by Roma families, including children, with seriously negative effects on their health. Through an additional visit to Kosovo in January 2010, the Commissioner followed-up on the situation, including the closure of the camps and the provision of safe accommodation and decontamination treatment, as recommended in his July 2009 report.

Lack of identification documents and statelessness

The Commissioner has been particularly concerned about the situation of Roma who do not have personal identification documents or civil registration and are therefore stateless or at risk of statelessness, a problem which is particularly acute in the Western Balkans. At the June 2010 Regional Conference “*Providing access of Roma to personal identification documents, a regional challenge*”, organised in Skopje by the current Chairmanship of the Council of Europe’s Committee of Ministers, the Commissioner called for resolute political will to resolve this serious problem which prevents access to basic human rights. In a Viewpoint published in July 2009 and a Human Rights Comment dated August 2010, he further emphasised that governments must adopt clear and workable action plans that include efforts to map out the situation, simplification of legislation and procedures regarding civil registration, provision of free legal aid and waiving of fees, as necessary, for registration proceedings. It was also crucial that countries in the region ratify and implement the relevant international instruments, including the Council of Europe and United Nations conventions pertaining to nationality and statelessness and the United Nations Convention on the Rights of the Child. The Commissioner further emphasised the enhanced role that the ombudsman institutions can play to address the situation.

School segregation

² All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

In a Human Right Comment published in May 2010 ("*Segregated schools marginalise Roma children – the decisions of the Strasbourg Court must be implemented*"), the Commissioner stressed that school segregation and substandard education continue to be a reality for Roma children in many countries in Europe and leave virtually no opportunity for these children to escape poverty and marginalisation later on in life. The Commissioner recalled that important judgments reaffirming the right of Roma children to non-discriminatory schooling have been rendered by the Strasbourg Court in recent years, notably concerning cases in the Czech Republic (*D.H. and Others*), Greece (*Sampanis and Others*) and Croatia (*Oršuš and Others*) and stressed the need for these judgments to be fully and effectively executed

Report on the human rights situation of Roma and Travellers in Europe

Addressing the present lack of a comprehensive, authoritative and updated study covering the human rights situation of Roma and Travellers in all 47 member states of the Council of Europe, at the end of 2009 the Commissioner decided to commission the preparation of a report, to be completed by end 2010. Building upon the Commissioner's extensive work in the field of protecting the human rights of Roma and Travellers, the report will serve as a baseline study and provide updated and reliable information and analysis on which to anchor the on-going work of member states and all organisations concerned in this area.

Country monitoring activities

The protection of the human rights of Roma continued to feature prominently in the Commissioner's country monitoring activities throughout 2009 and 2010. Detailed analysis of different aspects the protection of human rights of Roma are contained in his reports on Bulgaria, Croatia, Hungary, Italy, Serbia, Slovenia and Turkey, published in the reference period and available at the Commissioner's website (www.commissioner.coe.int).