

can and cannot be an 'independent adviser' – therefore they cannot be referring to the 'complainant'. This means that 'a person who is a party to the contract or the complaint' in section 147(5)(a) cannot be the complainant – it can only refer to others (such as the employer or a fellow worker) named in the contract or complaint. It follows that 'a person who is acting for a person within paragraph (a)' in section 147(5)(d) cannot be the complainant's lawyer. Interpreting section 147(5)(a) as including the 'complainant' goes against the logic of section 147(3)(c) and would make section 147 meaningless. The intention was to preserve the situation as it existed under the old legislation, and that is what section 147 does.

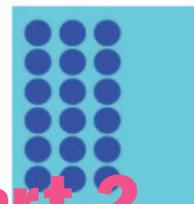
Advisers who have concerns should consider the two positions. It is likely that there will be litigation about this at some point in the future but, at present, while the government's approach is certainly the desirable one, great care must be taken and legal advisers in any doubt may want to take advice from their own professional organisations.

- 1 See: www.equalities.gov.uk/equality_bill.aspx.
- 2 See: www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/.
- 3 Available at: www.equalities.gov.uk/equality_act_2010/equality_act_2010_what_do_i_n.aspx.
- 4 Available at: www.equalities.gov.uk/pdf/110406%20Pre%20Employment%20Questions.pdf.
- 5 Available at: www.equalities.gov.uk/news/civil_partnership.aspx. The consultation closed on 23 June 2011.
- 6 Available at: www.lawsociety.org.uk/productsandservices/practicenotes/compromiseagreements/5033.article.
- 7 See: www.equalities.gov.uk/equality_act_2010/faqs_on_the_equality_act_2010/compromise_contracts.aspx.



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Using EU law to tackle anti-Roma discrimination – Part 2



In Part 1 of this article (November 2011 *Legal Action* 21), **Marc Willers** and **Siobhán Lloyd** examined the experience of Roma taking cases to the European Court of Human Rights (ECtHR) and the European Committee of Social Rights.¹ In this article, the authors consider how Roma may be able to use EU law and institutions in order to assert and secure their rights.

Introduction

Article 21 of the Treaty on the Functioning of the European Union (TFEU) (formerly article 18 of the Treaty Establishing the European Community) provides that every EU citizen has the right to move freely within the EU, subject to certain limitations (discussed in more detail later in the article): see 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, known as the Freedom of Movement Directive. In July 2010, the French President, Nicolas Sarkozy, announced that the French government had decided to dismantle a large number of sites, which had been set up by Roma from Eastern Europe, and repatriate Roma to their countries of origin. The sites were characterised as being the source of 'illicit trafficking, profoundly unfit living conditions, the exploitation of children for the purposes of begging, prostitution or crime'.² Over the ensuing weeks, 355 Roma camps (199 of which were inhabited by Bulgarians and Romanians) were dismantled; 881 Romanians and 98 Bulgarians, the vast majority of whom were Roma, were repatriated between 28 July and 27 August 2010.³

The treatment of Roma in France illustrates the difficulties and discrimination they face when trying to assert those rights which are protected by EU law. Despite these difficulties, there has been little, if any, reported EU litigation concerning Roma to date. This article focuses on EU law and explains how Roma may be able to use it and the EU institutions to assert and secure their rights.

Relevant EU institutions

European Commission

Each EU member state is responsible for the implementation of EU law into its own domestic legal system. The European Commission ('the commission') is

responsible for ensuring that member states correctly apply EU law. The commission has the power to take action against member states in response to a complaint or indication of an infringement of EU law. It can either take action itself to try to bring the non-compliance to an end or it has the option of referring the matter to the European Court of Justice (ECJ).⁴

The first stage of the non-compliance procedure is a pre-litigation phase known as 'infringement proceedings'. The purpose of this phase is to enable the offending member state to conform voluntarily to a requirement of EU law. Normally, a formal letter of notice is sent to the member state. It is then given time to submit its observations on compliance. After receiving these submissions, the commission may deliver a reasoned opinion on the infringement. If the member state fails to comply with the opinion within the period that the commission lays down, the commission may then decide to refer the matter to the ECJ. If it does, the second stage begins and the ECJ will consider the alleged infringement and deliver a judgment (TFEU article 258).⁵

European Court of Justice

The ECJ is responsible for:

- reviewing the legality of the acts by the institutions of the EU (such as the commission or the European Central Bank) (TFEU article 263);
- ensuring that member states comply with their obligations under the Treaties (TFEU article 260); and
- interpreting EU law at the request of the national courts through the preliminary reference procedure (TFEU article 267).

The courts within member states are responsible for determining matters of EU law within their jurisdiction. However, the national courts may and sometimes must make a reference for a preliminary ruling to the ECJ

concerning the interpretation or validity of EU law (national courts must make a reference for a preliminary ruling where there is no judicial remedy under domestic law: article 267). The ECJ will only make a ruling on that point of law and the judge in the national court will remain competent for the original case. Effectively, the decision of the ECJ becomes binding not only on the court which made the preliminary reference, but also on other courts across member states: article 104(3) of the Rules of Procedure of the Court of Justice provides that: 'Where a question referred to the court for a preliminary ruling is identical to a question on which the court has already ruled, or where the answer to such a question may be clearly deduced from existing case-law, the court may, after hearing the Advocate General, at any time give its decision by reasoned order in which reference is made to its previous judgment or to the relevant case-law.' Even though it is for the judge to decide whether to make a preliminary reference, the procedure is the only mechanism through which citizens of the EU are able to seek clarification of EU law.

Relationship between EU and Council of Europe

Membership of the Council of Europe is a prerequisite of EU membership. As such, the 27 member states of the EU are bound to comply with the European Convention on Human Rights ('the convention'). Generally speaking, when interpreting human rights protection under EU law, the ECJ will look to the ECtHR for inspiration and guidance. There is clearly effort on the part of both the ECJ and the ECtHR to promote harmony and avoid conflict between the two jurisdictions.

Individuals are not yet entitled to bring cases against the EU itself before the ECtHR where it is alleged that one of the EU's institutions has breached their human rights protected by the convention. Instead, they must either complain to their national courts, which can then refer the case to the ECJ using the preliminary reference procedure; or complain about the EU indirectly to the ECtHR when bringing a case against a member state.

The Lisbon Treaty came into force on 1 December 2009. It provides for the EU to be a party to the convention in its own capacity; and article 17 of Protocol No 14 to the convention allows for the EU to accede to the convention. Nevertheless, it has not yet been determined when accession will take place and negotiations are ongoing about how it will actually work in practice.⁶ When the EU has acceded to the convention, individuals may be able to bring an action against the EU before the ECtHR, where a complaint is made that

the EU has failed to observe the convention (see, for example, *Bosphorus v Ireland* App No 45036/98, 30 June 2005).

Relevant EU law EU Charter of Fundamental Rights

In 2000, the EU and its member states adopted the Charter of Fundamental Rights of the EU ('the charter'). At that time, it amounted to a non-binding declaration of the list of human rights to which the member states ascribed. The list includes all the civil and political rights contained in the convention as well as economic, social and cultural rights. By way of example, it is worth noting that:

- article 7 protects the right to respect for one's private and family life, home and communications;
- article 19 prohibits collective expulsions;
- article 21 makes provision for a free-standing right of non-discrimination; and
- article 24 provides that children shall have the right to such protection and care as is necessary for their well-being.

When the Lisbon Treaty came into force in 2009, the charter became a legally binding document with which EU institutions are bound to comply; and with which EU member states must also comply when they implement EU law (see article 51 of the charter). Protocol 30 to the Lisbon Treaty on the application of the charter to Poland and the UK (and the Czech Republic) seems to give those member states an 'opt out' but it is questionable whether it will have any substantive effect.

As a consequence individuals now have the right to complain that EU law, or national legislation that implements EU law, breaches the charter. Complaints relating to a member state's compliance with the charter, when implementing EU law, can be brought before the national courts (which can then seek guidance from the ECJ on the correct interpretation through the preliminary reference procedure).

Racial Equality Directive

In 2000, the EU adopted Council Directive 2000/43/EC, known as the Racial Equality Directive. It is the key piece of EU legislation which is designed to combat racial or ethnic discrimination. It emphasises that the principle of equality means that individuals should not be subject to less favourable treatment due to their racial or ethnic origins and it prohibits discrimination in the areas of employment, education, social protection, including social security and health care, and access to and the supply of goods and services, which includes housing. Article 3(1) of the Racial Equality Directive provides that:

... this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to: ... (h) access to and supply of goods and services which are available to the public, including housing.

The Directive:

- required the creation of equality bodies and specialised judicial or administrative procedures to promote equal treatment in each member state where they did not previously exist;
- stipulated that member states should ensure that associations or other legal entities have the possibility of engaging in such procedures in support for or on behalf of individual victims;
- reversed the burden of proof, requiring only that the complainant bring forward facts 'from which it may be presumed' that discrimination has occurred, thus requiring the defendant to prove that the principle of equal treatment has not been breached (article 8(1));
- gave the following definitions:
 - direct discrimination is defined as where 'one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin' (article 2(2)(a));
 - indirect discrimination is defined as occurring where 'an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary' (article 2(2)(b)).

In March 2010, the EU Agency for Fundamental Rights (FRA) published a report entitled, *The impact of the Racial Equality Directive. Views of trade unions and employers in the European Union*, in which it was noted that employers and trade unions displayed a limited understanding of the relevance of the Directive to Roma and that few respondents conceptualised their Roma populations as being a minority ethnic community protected by the Directive.⁷ This lack of understanding is very worrying and is mirrored by a similar lack of awareness on the part of Roma.⁸

Freedom of Movement Directive

The right of EU citizens and their family members to move and reside freely within the territory of the EU is enshrined in TFEU article 21 and is implemented by the Freedom of Movement Directive. The right is qualified. The Freedom of Movement Directive provides that citizens of the EU have the right to reside in any other member state for up to three

months without any conditions or formalities other than that they must possess a valid passport or identity card (article 6(1)). Most EU citizens have the right to remain for longer if they are workers or self-employed (article 7(1)(a)) or have sufficient resources not to become a burden on the host member state (article 7(1)(b)).⁹ Students and family members of EU citizens are also able to reside for longer than three months if they fulfil relevant criteria.

Member states are only able to restrict freedom of movement and residence on the grounds of public policy, public security or public health (article 27(1)). However, the Freedom of Movement Directive sets out procedural safeguards. Article 27(2) provides:

Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned ... The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted.

The European Commission has found problems with the transposition of the Freedom of Movement Directive:

*The overall transposition of Directive 2004/38/EC is rather disappointing. Not one member state has transposed the Directive effectively and correctly in its entirety. Not one article of the Directive has been transposed effectively and correctly by all member states.*¹⁰

Using EU law to combat discrimination against Roma

While there has been little, if any, reported EU litigation concerning Roma to date, there is clearly scope for Roma and their advisers to use the provisions of the charter, the Racial Equality Directive and the Freedom of Movement Directive in order to counter discrimination in a number of key areas in the future. Access to housing and freedom of movement within the EU provide two obvious examples.

Access to housing

In October 2009, FRA published its report, *Housing conditions of Roma and Travellers in the European Union*.¹¹ In short it found that:

- racism is a serious obstacle to the enjoyment of adequate housing by Roma;
- Roma are denied access to social housing

- through measures that are directly or indirectly discriminatory against them;
- few, if any, member states can legitimately assert that their domestic legislation provides the full ambit of protection against housing rights violations, forced evictions and discrimination foreseen under international and European legal instruments;
- very few Roma know that laws exist which prohibit discrimination in relation to ethnicity with regard to the provision of housing;
- where they are aware of their rights, many Roma do not wish to come forward to complain for a variety of reasons;
- Roma children of families who are exposed to forced evictions have great difficulties in attending school;
- those living in secluded settlements are most likely to attend segregated schools;
- Roma living in segregated communities or in substandard conditions have only limited access to public services and social networks;
- living in segregated areas makes it more difficult to find and secure work;
- substandard living conditions have severe consequences on health, particularly for women and children.

The study confirmed that:

There are also clear instances when law or policies act specifically to limit or infringe the right to adequate housing by Roma and Travellers. Examples include Italian laws which segregated Roma and Sinti in substandard camps for nomads and make them targets of discriminatory or violent treatment, or laws regulating halting and evictions in France, Ireland or the United Kingdom (page 96).

Similarly, in its report, *Standards do not apply. Inadequate housing in Romani communities* (December 2010), the European Roma Rights Centre (ERRC) noted that its research had found that:

- many Roma lack security of tenure and live in substandard and overcrowded housing conditions;
- local authorities continue to forcibly evict Roma or threaten them with forcible eviction and destruction of their property; and
- Roma face a series of specific obstacles, including burdensome rules, restrictions and discriminatory practices which impede their access to social housing.¹²

Housing of Roma in Italy

The concerns raised by both the FRA and the ERRC over access to adequate and secure housing were exemplified by the events that occurred in Italy in 2008.

On his visit to Italy in June 2008, the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, noted that many Roma live in camps with substandard living conditions.¹³ He also noted with concern that on 21 May 2008, the Italian Cabinet approved an emergency decree entitled *Declaration of the state of emergency in relation to settlements of the nomad communities in Campania, Lazio and Lombardia*. The prefects of these areas were empowered to adopt eviction measures and identify areas where new settlements could be built. Roberto Maroni, the Interior Minister, announced proposals to fingerprint Roma and stated that all irregular Roma camps, of which there were thought to be 85 around Rome alone, would be closed. The pronouncements were accompanied by strong anti-Roma rhetoric.

During the first four months of 2010 there were 61 forced evictions of Roma reported in Milan. Many of them ended up homeless.¹⁴ The ERRC has lobbied the commission to commence infringement proceedings over violations of rights protected in the charter and the Racial Equality Directive. In particular, the ERRC has complained that the adoption of measures explicitly calling on local authorities to target Roma and to fingerprint them amounts to direct discrimination, which is prohibited by article 2(1) of the Racial Equality Directive. In addition, the ERRC argue that action taken by the authorities breaches article 3(1)(h) of the Racial Equality Directive (see above), as it amounts to discrimination in access to social housing. However, the authors understand that the commission has not instigated infringement proceedings to date.¹⁵

Freedom of movement and Roma

In recent years, Roma from countries such as the Czech Republic, Slovakia, Bulgaria and Romania, like many other Europeans, have tried to exercise their Freedom of Movement Directive rights and move to other member states.

In its report, *The situation of Roma EU citizens moving to and settling in other EU member states* (November 2009), FRA noted that: 'At member state level, there is no specific policy framework guiding the inclusion and integration of Roma EU citizens who have exercised their right to freedom of movement and residence ...' (page 34) and that: '... research shows that often the incorrect application of the Free Movement Directive by national authorities at different levels of administration that are not appropriately trained can be responsible for the de facto withdrawal of certain rights and entitlements, particularly in the area of social assistance ...' (page 32).¹⁶

In conclusion FRA noted that:

The case of Roma EU citizens settling in other EU member states raises questions in terms of wider debates on anti-discrimination and integration and the meaning of EU citizenship and associated rights as a broad concept. The case of the Roma serves as a litmus test: the consequences for some of the most vulnerable citizens in the EU are an important indicator of the practical daily challenges faced by all citizens (page 9).

FRA's observations were brought into sharp focus by events in France and Denmark in 2010.

France

The position of migrant Roma in France, referred to in the introduction to this article, serves to highlight the problems they face when seeking to exercise their rights under the Freedom of Movement Directive. France has been returning migrant Roma to Romania and Bulgaria in significant numbers since 2007 when the two states joined the EU. The French authorities argue that many of these returns are voluntary but the Council of Europe's Commissioner for Human Rights questioned this assertion in his 2008 report on France.¹⁷

In any event the return of migrant Roma seemed to gather pace in the summer of 2010 following the events that unravelled after a young Romani man was shot dead by police. The shooting provoked anger among the local Roma community. Following acts of public disorder, committed by members of that community, the French President, Nicolas Sarkozy, convened a meeting of the French Council of Ministers to discuss problems caused by their behaviour. In a press release published immediately after the meeting, the President concluded that: 'the state of lawlessness which characterises the Roma population who have come from Eastern Europe and now live on French territory is totally unacceptable'.¹⁸

One of the decisions taken by the French Council of Ministers was to evacuate all illegal encampments within the following three months. Shortly thereafter the then Minister for Immigration, Integration, National Identity and Mutually-Supportive Development, Éric Besson, announced a bill making 'aggressive begging' a reason to expel people from France.¹⁹ Hundreds of Roma were repatriated to Bulgaria and Romania. The government claimed that those who had broken the law were being expelled but that many had chosen to leave voluntarily and that they were compensated by the payment of €300 per adult and €100 per child.

The political pronouncements and action taken by the French authorities provoked outrage across Europe. The EU Justice Commissioner, Viviane Reding, threatened to initiate infringement proceedings against France. This followed the publication of a leaked circular from the Interior Ministry on 30 August 2010. The circular was signed by the head of the Interior Minister's Private Office on 5 August 2010 and had been sent to regional prefects ordering them to take steps to dismantle 300 camps/illegal settlements, prioritising those of Roma.²⁰ However, the threatened infringement proceedings were withdrawn in October 2010 after France had given the EU assurances that it would ensure an effective and non-discriminatory application of EU law in line with the treaties and the charter.²¹

However, this was not a satisfactory outcome for those who were returned. The actions of the French government had arguably contravened not only the Freedom of Movement Directive but also both article 19(1) (which prohibits collective expulsions) and article 21 of the charter (which prohibits discrimination on the grounds of race, ethnicity or national minority).

The political reality seems to be that the commission is reluctant to bring infringement proceedings against member states (even in the face of what would seem to be clear breaches of the Freedom of Movement Directive and anti-discrimination provisions in EU law). Although the commission's condemnation of the French government's actions may dissuade other member states from breaching EU law, the fact remains that Roma may achieve more satisfactory outcomes on an individual level if they are able to persuade national courts to apply EU law or to make preliminary references to the ECJ.

In fact, some French courts have refused to authorise the expulsions of Roma. In Lille, an administrative court annulled several deportation orders as there were insufficient grounds to justify them. The only crime the Roma had been charged with was illegally occupying the land (an offence which was normally punished with a fine) and the court had been compelled to follow the judgment of a superior court, which had found that the illegal occupation of land was not enough to be characterised as a threat to public order.²²

Denmark

On 6 July 2010, following statements made by Copenhagen's mayor calling on the Danish government to adopt measures to rid the city of 'criminal Roma', which had been reported in the Danish media, 23 Roma from other EU

member states were arrested for trespassing or stationing caravans and erecting tents without permission.²³ The justice minister Lars Barfoed is alleged to have reacted to the arrests by describing the Roma as being illegal residents and pledging strong police action against them.²⁴ The Roma were then deported, without any apparent investigation into their alleged criminal activity, and were banned from entering Denmark for two years. However, subsequently those deportation orders were overturned by the Ministry of Immigration, Refugees and Integration Affairs, following a judgment of the Danish Supreme Court in which it held that the expulsion of EU citizens for petty offences such as trespassing was disproportionate and violated Denmark's obligations in respect of the Freedom of Movement Directive.²⁵

Future challenges

In the future the authors expect that Roma will take the initiative and challenge decisions in national courts which violate EU law. Although the circumstances in which Roma might bring such challenges are difficult to predict, the authors think they are very likely to be brought against eviction and deportation decisions.

Evictions

Roma who are threatened with forced eviction from camps and are not offered suitable alternative accommodation may be able to challenge a decision to take such action on the ground that it breaches their rights protected by the convention.

In addition, Roma facing such a threat could use EU law and argue that their rights protected by article 7 of the charter (right to respect for family life and the home) will be violated if they are made homeless. They could also argue that their children's rights protected by article 24 of the charter will be violated in the event of an eviction, given the impact that an eviction would have on their well-being and particularly the difficulties that they will have in accessing education and health care without a fixed abode.

If the threat of eviction is accompanied by anti-Roma rhetoric, then the Roma concerned could also contend that a decision to evict breaches article 21 of the charter (non-discrimination) as well as article 3(1)(h) of the Racial Equality Directive (prohibition on discrimination in access to housing).

Deportation

Roma threatened with group, or mass, deportation can challenge a decision to take such action on the ground that it would breach article 4 of Protocol No 4 to the convention (prohibition on collective

expulsions) (the ECtHR made a ruling on the collective expulsion of a group of Slovak Roma asylum-seekers from Belgium in *Conka v Belgium* App No 51564/99, 5 February 2002; (2002) 34 EHRR 54).

In addition Roma facing such a predicament could challenge a decision to remove them from a member state on the grounds that it violates both the Freedom of Movement Directive and article 19 of the charter (which also prohibits collective expulsions). Where a member state argues that deportation is justified on the grounds of public policy or public security, Roma could argue that the measure being taken is disproportionate under article 27(2) of the Freedom of Movement Directive, especially in cases where they are accused of committing petty crimes.

Conclusion

As demonstrated in the last article, Roma have contributed a great deal to the evolution of the anti-discrimination jurisprudence of the ECtHR. There is no doubt that the EU is committed to tackling the inequalities and discrimination faced by Roma. In order to further that commitment, the commission launched *An EU framework for national Roma integration strategies up to 2020* in April 2011.²⁶ The framework sets goals for Roma inclusion in education, employment, health and housing across the EU and member states are expected to submit a national Roma inclusion strategy which specifies how they will contribute to the achievement of these goals by the end of 2011.

However, the commission appears to be reluctant to initiate infringement proceedings against member states that violate EU law and instead tends to rely on political pressure in order to achieve compliance. While that pressure may secure changes in legislation, it seems that Roma must themselves take cases to national courts in order to combat the discrimination and breaches of EU law that they encounter as individuals.

Clearly, in order for the inequalities and discrimination faced by Roma across the EU to be addressed they must be informed of their rights. Lawyers and activists must raise the awareness of Roma and be prepared to assist them to challenge discriminatory policies and practices wherever they arise. This appears to be the only way that the actions of member states like France and Italy will be subject to judicial scrutiny and be judged against the principles of EU law.

1 The term 'Roma' used in this article should be read as including Roma, Sinti, Kale, and other related groups in Europe, including ethnic minorities that identify themselves as Romani,

Gypsies and Irish Travellers.

- 2 See: *Recent rise in national security discourse in Europe: the case of Roma*, Parliamentary Assembly of the Council of Europe, 5 October 2010, Doc 12386, available at: <http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12386.pdf>. See also, BBC 'France to shut down illegal Roma camps and deport migrants', 29 July 2010 at: www.bbc.co.uk/news/world-europe-10798440.
- 3 See *Recent rise in national security discourse in Europe: the case of Roma*, note 2 above.
- 4 *Official title: Court of Justice of the European Union*.
- 5 See: http://ec.europa.eu/eu_law/infringements/infringements_en.htm.
- 6 See: www.coe.int/lportal/web/coe-portal/what-we-do/human-rights/eu-accession-to-the-convention.
- 7 Available at: www.fra.europa.eu/fraWebsite/attachments/Racial-equality-directive_conf-ed_en.pdf.
- 8 *Data in focus report: the Roma* (01, EU Minorities and Discrimination Survey, 2009), FRA, available at: http://fra.europa.eu/fraWebsite/eu-midis/eumidis_roma_en.htm.
- 9 The freedom of movement of Bulgarian and Romanian workers may still be restricted by other member states until 2014. Although Bulgarian and Romanians have the right to travel, they may need a work permit to work in some member states. This was provided for in Bulgaria and Romania's accession agreements with the EU.
- 10 *Report from the Commission to the European Parliament and the Council on the application of 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*, COM(2008) 840, 10 December 2008, p3, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0840:FIN:en:PDF>.
- 11 Available at: http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2009/pub-cr-roma-housing_en.htm#.
- 12 The report studied the housing conditions of Roma in Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Romania, Serbia and Slovakia and is available at: www.errc.org/cms/upload/file/standards-do-not-apply-01-december-2010.pdf.
- 13 *Memorandum by Thomas Hammarberg Commissioner for Human Rights of the Council of Europe following his visit to Italy on 19–20 June 2008*, CommDH(2008)18, 28 July 2008, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1309811>.
- 14 See the ERRC letter to the Commissioner for Human Rights, 5 May 2010, available at: www.errc.org/cikk.php?cikk=3589.
- 15 *Memorandum to the European Commission: violations 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, available at: www.soros.org/initiatives/justice/litigation/ec-v-italy-20100910/memorandum-to-the-european-commission-20090504.pdf.
- 16 Available at: http://fra.europa.eu/fraWebsite/attachments/Roma_Movement_Comparative-final_en.pdf.
- 17 *Memorandum by Thomas Hammarberg Council of*

Europe Commissioner for Human Rights following his visit to France from 21 to 23 May 2008, CommDH(2008)34, 20 November 2008, para 149, available at: www.statewatch.org/news/2008/nov/coe-france-draft-en-report-08.pdf. See also the ERRC's observations in its submission to the EU dated 27 August 2010, available at: www.errc.org/cms/upload/file/france-ec-legalbrief-27-august-2010.pdf.

- 18 See note 2 above. Referred to in *Recent rise in national security discourse in Europe: the case of Roma*, note 2 above, section B para 6.
- 19 Sylvain Aubry, 'The Porrajmos: the "Gypsy Holocaust" and the continuing discrimination of Roma and Sinti after 1945', *The Holocaust in History and Memory*, vol 3, 2010, p101.
- 20 See the *Guardian*, 'Orders to police on Roma expulsions from France leaked', 13 September 2010 at: www.guardian.co.uk/world/2010/sep/13/sarkozy-roma-expulsion-human-rights.
- 21 See note 18 above, pp101–102.
- 22 'Roms: un tribunal annule quatre arêtes de reconduite à la frontière', *Le Monde*, 27 August 2011 and 'La Moitié des reconduites forcées sont illégales', *Le Monde*, 31 August 2010. Referred to in European Parliament resolution of 9 September 2010 on the situation of Roma and on freedom of movement in the European Union (2011/C 308 E/12) at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:308E:073:0078:EN:PDF>.
- 23 *Mass arrests and deportations of Romani EU citizens in Copenhagen condemned, the ERRC, 12 July 2010*, available at: www.errc.org/cikk.php?cikk=3603 and *Parallel report July 2010 to the UN Committee on the Elimination of Racial Discrimination*, Danish Institute for Human Rights, paras 59–60, available at: www.2ohchr.org/english/bodies/cerd/docs/ngos/DIHR_Denmark_77.pdf.
- 24 See *Mass arrests and deportations of Romani EU citizens in Copenhagen condemned*, note 22 above.
- 25 *Danish authorities reverse decisions in Roma expulsions*, the ERRC, 18 April 2011, available at: www.errc.org/cikk.php?cikk=3833.
- 26 Available at: http://ec.europa.eu/commission_2010-2014/redoing/pdf/news/1_en_act_part1_v11_en.pdf and see: www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/122100.pdf. The framework was adopted by the Council of the European Union on 19 May 2011.



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