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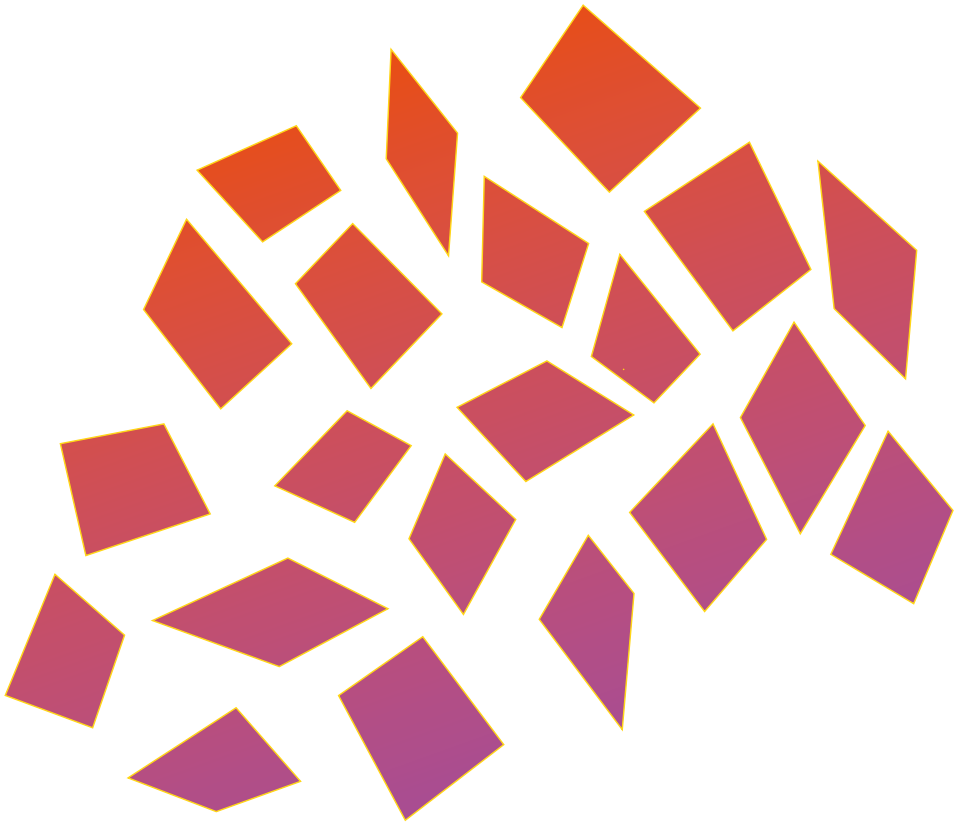

Roma and the enforcement of anti-discrimination law

Justice and Consumers

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Roma and the enforcement of anti-discrimination law

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Directorate-General for Justice and Consumers

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Introduction

The Racial Equality and Employment Equality Directives were adopted 17 years ago, and have been fully transposed in all EU Member States.[1] National legislation transposing them is being actively and effectively implemented to a large extent throughout the EU, ensuring the right of residents to non-discrimination. Yet, it clearly appears that the Roma population of Europe are not benefitting equally from the non-discrimination legal frameworks, and are suffering from a lack of effective enforcement of their rights. The areas of education and housing, which are both covered by the Racial Equality Directive and constitute crucial pillars of every person's life and wellbeing, seem particularly affected by discrimination and a generalised lack of enforcement of non-discrimination rights when it comes to Roma.

This report aims to examine the current situation of the enforcement of non-discrimination law in Europe with regard specifically to Roma and their rights. The report is based on the professional assessment of 27 national non-discrimination experts of the European network of legal experts in gender equality and non-discrimination, and covers all EU Member States, with the exception of Malta. It focuses on five specific questions, hence the structure of five sections:

- What is the general situation of the enforcement of anti-discrimination law for Roma?
- How did the enforcement situation evolve during the period 2011-2015?
- What are the specific points of progress and the deficiencies in this regard in the field of education?
- What are the specific points of progress and the deficiencies in this regard in the field of housing?
- What are the major developments that took place with regard to Roma's anti-discrimination rights in 2016?

The current situation around the enforcement of Roma's non-discrimination rights is varied, not only among the Member States but also within most EU countries. While positive and encouraging developments can be noted, whether in legislation, case law or policy, many setbacks are still taking place, and there is still a wide array of persistent gaps. An overview of the developments that took place during the period 2011-2015 shows a slightly more encouraging picture, however. It can indeed be noted that it is by far the most common picture across the Member States that the enforcement of anti-discrimination law for Roma either improved or remained unchanged in that period compared with the period before 2011. In five of the 27 countries, however, the situation deteriorated during that period, leaving Roma in a more difficult situation with regard to the enforcement of their anti-discrimination rights than before. The reasons for this deterioration were diverse and included issues related to the particularly fragile socio-economic situation of Roma, which has a direct effect on their capacity to enforce their rights. Similar effects were caused by severe cuts in the budgets of equality bodies and decreased social benefits following the economic crisis.

In the specific fields of education and housing, patterns of segregation and discrimination are still very much present across most Member States, despite a number of positive steps in the right direction in quite a few countries. For three Member States, there was a particularly strong incentive to amend the legislation and practice causing segregation of Roma children and pupils in schools, as infringement proceedings were initiated by the European Commission against them (the Czech Republic in 2014, Slovakia in 2015 and Hungary in 2016). Despite the positive legal developments that have taken place in all three countries, as well as some others, concerns and doubts still prevail as to the capacity of these developments to cause real positive change for Roma children.

Steps towards positive change took place in a large number of countries in 2016, allowing some hope for further improvements in the future despite the significant number of challenges that still remain.

1 European Commission, *Joint Report on the application of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('Racial Equality Directive') and of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive')*, COM(2014) 2 Final, Brussels, 17 January 2014.

1 Enforcement of anti-discrimination law: assessment of the current situation for Roma[2]

The current situation around the enforcement of anti-discrimination law regarding Roma unfolds as a story of persisting gaps.

1.1 Overall positive situations

The situation seems to be positive overall in only two Member States (Finland and the Netherlands), where Roma and Travellers are able to – and systematically receive support to – enforce their anti-discrimination rights. In Luxembourg, the situation is more neutral, as the fact that special policies and strategies are missing does not seem to be having a negative impact on the very small Roma population living in the country.

In Germany and Sweden, the situation is more variable but remains generally positive due to a strong and lasting commitment to improve the enforcement of Roma's anti-discrimination rights. Some very specific gaps exist in these countries, however, such as the lack of relevant studies in Germany and of accurate data on Roma in Sweden, as well as the relatively small amount of case law in Germany. Beyond the scope of the directives, the Roma registration scandal which shook Sweden in 2014-15 has been an important factor in drawing attention to the remaining gaps in law and policy in this country.[3]

1.2 Overall negative situations

The overall situation still appears rather negative in the majority of countries due to some persisting gaps in legislation and policy and in the wider political and societal context (Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the UK). In a number of these countries, however, some minor but much appreciated positive developments have taken place. The beneficial role of the strategies adopted under the EU Framework for National Roma Integration Strategies can be highlighted in a few Member States, such as Belgium, Estonia, Greece, and Poland. National anti-discrimination laws, adopted through transposition of the EU Employment Equality and Racial Equality Directives, constitute a stable and reliable frame for addressing issues of Roma discrimination in some other countries (Croatia, France, Poland, Spain, and the UK). In addition, many governmental initiatives have focused on establishing special structures for a better, more inclusive dialogue with and for Roma, for instance in Belgium, Latvia, Poland, Portugal, and Spain. However, these steps have attained only a limited positive impact, and the most important remaining gaps can be summarised as follows.

The **lack of data** emerges as one of the major deficiencies in improving the enforcement of anti-discrimination law regarding Roma. Information is particularly scarce about the situation of Roma in general in Austria, Belgium, Estonia, and Spain. More specifically, the adequate addressing of Roma issues might be hindered in Belgium and Croatia, for instance, by the fact that data is not disaggregated by ethnicity, or in Ireland by the fact that no data is collected on Roma in the official census, although some data do exist on the Irish Traveller population. A generalised absence of accurate data has different consequences in different national contexts. It may, for instance, signify that there is not sufficient knowledge specifically about the discrimination experienced by Roma, such as in Denmark, or about the discrimination cases related to Roma, as is the case in Slovenia. Finally, the lack of adequate, comparative, relevant and up-to-date information also severely affects the correct implementation of

2 The assessment throughout this report is based on the professional opinions of the non-discrimination experts of the European network of legal experts in gender equality and non-discrimination.

3 The final court decision was delivered by the Svea Court of Appeal on 28 April 2017, No. T 6161-16, *Taikon and others v. Swedish State through the Chancellor of Justice*.

policies specifically designed for Roma, such as in Italy and Spain. As such, a lack of data can make it difficult not only to adopt relevant and useful policies and programmes, but also to properly monitor their outcomes and adequately update them according to the gaps and needs arising.

Challenges regarding case law further delay the enforcement of Roma's anti-discrimination rights. In a large number of countries, major case law is missing or relatively scarce (Austria, Belgium, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Germany, Latvia, Lithuania, Poland, Romania, and Slovakia). Specifically in 2015, there were no significant Roma discrimination court cases in 14 Member States (Austria, Belgium, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Latvia, Lithuania, Luxembourg, Poland, and Spain), while only one significant case could be reported in each of the following countries: Croatia, Ireland, the Netherlands, Portugal, Slovakia, Slovenia, and the UK.

The fact that Roma rarely bring forward cases of discrimination to the competent national authorities is an apparent issue of concern particularly in Austria, Belgium, Croatia, the Czech Republic, Lithuania, Poland, and Slovakia. There are various legal and socio-economic reasons for this phenomenon of **underreporting**. Firstly, barriers arise on the victims' side. In several countries, Roma are still often not aware of their rights and lack the necessary information about anti-discrimination proceedings to bring forward cases (Belgium, Croatia, the Czech Republic, Latvia, Portugal, and Slovakia). In a few countries, language barriers and illiteracy constitute further obstacles to improved rights awareness, such as in Croatia and Cyprus. Lack of financial means further weakens the position of Roma in a number of countries such as Belgium, Croatia, Cyprus, the Czech Republic, Portugal, Slovakia, and Spain. Specifically in Croatia, the difficulty of obtaining quality free legal aid can be emphasised as an important factor hindering the access of Roma to justice. Other factors that contribute to the low numbers of cases brought before the justice system by Roma include distrust in public institutions (as in Belgium, Latvia, and Slovakia) and fear of the consequences (as in Belgium and the Czech Republic). Issues related to (lack of) citizenship constitute a barrier in Croatia, while the consequences of the lack of legal recognition of traditional Roma marriages for employment benefits prevail as major obstacles in Spain. Secondly, there are also barriers of an institutional nature. Public institutions and especially courts might lack adequate and accurate information and training in anti-discrimination law and in the specific challenges of Roma, as can be noted in the Czech Republic, Poland, and Slovakia. Cuts and gaps in the budgets of equality bodies limit their ability to offer the extra support necessary for Roma to counterbalance the barriers that face victims in bringing forward cases (in Greece, Ireland, Poland, and Slovakia). In Slovakia, it can also be noted that the general length of anti-discrimination cases also acts as a deterrent. Finally, in some countries such as Hungary, even when legal action in individual cases succeeds and litigation is relatively proactive, the framework for executing the decisions might prove to be inadequate, leaving discriminators with a merely abstract obligation to terminate discriminatory situations.

Another type of difficulty arises regarding the **role of the national equality bodies**. It may be noted that Roma and their specific concerns are not explicitly treated as a priority issue in 18 Member States (Austria, Bulgaria, the Czech Republic,[4] Denmark, Estonia, Finland, Germany, Hungary,[5] Ireland, Lithuania, Luxembourg, Poland – as far as the Ombud is concerned, the Netherlands, Romania,[6] Slovakia, Slovenia, Spain, and Sweden). The absence of special attention to Roma issues causes concerns regarding the enforcement of their anti-discrimination rights in a few countries, including Austria, Bulgaria, Denmark, Lithuania, Poland – as far as the Plenipotentiary for Equal Treatment is concerned, Slovakia, and Slovenia). Equality bodies can of course sometimes give priority to Roma issues only symbolically, as is the case with the Lithuanian Ombudsperson, where this priority approach has not always been followed up with systematic and visible activities. The efficiency of a pledge to prioritise Roma issues can also be undermined due to budget cuts and lack of sufficient resources, as in Cyprus for instance.

4 However, the Czech Ombudsman seems to concentrate a significant part of its activity on Roma.
5 However, the Hungarian Equal Treatment Authority mainly acts retroactively. Due to the structural characteristics of discrimination in Hungary, a large amount of the complaints received by the authority come from the Roma minority.
6 Although the Romanian equality body does not explicitly indicate that the rights and situation of Roma are a priority issue, it does in practice focus on these issues more than on any other.

Finally, the structural issues that Roma are constantly faced with are so considerable in several countries that legal developments alone will not be sufficient to induce a lasting positive transformation in the absence of a strong **political will** and governmental perseverance to treat Roma issues as a consistent governmental priority in the long term. Such structural issues can be noted in Austria, Belgium, Bulgaria, Estonia, Greece, Hungary, Lithuania, Croatia, Romania, and Slovakia).

2 Assessment of the enforcement of anti-discrimination law for Roma 2011-2015

The enforcement of anti-discrimination law regarding Roma in the period 2011-2016 shows a scattered, mixed picture among EU Member States. No single major trend appears to which the great majority of states adhere.

	Evolution of enforcement of non-discrimination law for Roma 2011-2015		
	Improved	**Deteriorated**	**Unchanged**
Austria	Improved		
Belgium			Unchanged
Bulgaria			Unchanged
Croatia	Improved		
Cyprus		Deteriorated	
Czech Republic	Improved		
Denmark			Unchanged
Estonia			Unchanged
Finland	Improved		
France			Unchanged[7]
Germany			Unchanged
Greece			Unchanged
Hungary		Deteriorated	
Ireland		Deteriorated	
Italy			Unchanged
Latvia			Unchanged
Lithuania	Improved		
Luxembourg			Unchanged
Netherlands			Unchanged
Poland			Unchanged
Portugal	Improved		
Romania	Improved		
Slovakia		Deteriorated	
Slovenia			Unchanged
Spain	Improved		
Sweden			Unchanged
UK		Deteriorated	

2.1 Unchanged situations

According to the national experts' assessment, the situation has **not changed** in most of the countries in this five-year period compared with the period up to 2011. Two main strands of reasoning underpin this assessment.

Firstly, the situation might have remained the same simply due to the lack of any changes in legislation or in case law that may be perceived to be significant. In a few countries such as Germany and Sweden,

7 Although the situation of Roma in general has worsened during this period, this is not due to the enforcement of non-discrimination law.

a stable and adequate legal framework existed already before 2011, and did not require major changes. In other countries, the gaps that already existed before 2011 have still not been filled and major issues persist. Such situations include, for instance, the lack of institutional and public awareness in Estonia, the lack of administrative initiatives in Greece, the absence of regular monitoring mechanisms to follow up on legislative and policy implementation in Italy and the lack of comprehensive anti-discrimination policy to accompany and ensure the implementation of legislation in Slovenia.

Secondly, in some countries the situation may be perceived to be stagnating overall, as improvements were achieved regarding some aspects of the enforcement of anti-discrimination law, but without having contributed (yet) to a generally better situation for Roma in practice. Such situations can be noted in Belgium and Bulgaria, for example.

2.2 Improved situations

Experts assess that Roma are able to benefit from a slightly **improved** enforcement of anti-discrimination law overall in only eight countries: Austria, Croatia, the Czech Republic, Finland, Lithuania, Portugal, Romania and Spain. Clear and stable progress took place only in Finland and – at a slower pace – in Romania. The reasons for progress in these eight countries are complex and manifold, but can be loosely grouped as follows.

Firstly, in some countries, anti-discrimination legislation is in general better enforced, giving rise to positive effects for Roma. For example, the national equality bodies are perceived to be more efficient in two countries: through reforms in Spain and through gradually increased internal capacity in Romania. In three countries, the Czech Republic, Finland and Romania, legal professionals gained a better understanding and an increased knowledge of anti-discrimination standards. Legislative amendments targeted specific gaps in some countries, covering the adequate remedies in Romania and the availability (but still not the quality) of free legal aid in Croatia. After a series of serious cuts in previous years, budgets and funding for anti-discrimination enforcement have finally been increasing again in Lithuania and Portugal.

In a second group of countries, significant positive change was brought about by the activities of some committed national authorities. For example, in Finland, specialised legal stakeholders have been working together to bring charges and intervene in Roma discrimination cases. The Czech equality body is considered to have played a pivotal role by devoting major efforts to raising awareness about the unlawful discrimination Roma are faced with, which has led to an increased volume and quality of case law. In the specific national context of Croatia, the importance of the European Court of Human Rights' judgment in *Oršuš* needs to be noted,[8] as well as the substantive legal changes that were introduced on the basis of this case.

Thirdly, Austrian NGOs have increasingly stepped in to fill some of the data gaps on Roma discrimination that hinder enforcement.

Lastly, government policies mattered in Austria, Lithuania and Portugal, but had a substantial impact only in Croatia, where implementation was regularly monitored and was systematically made publicly available.

8 ECtHR, *Oršuš and Others v. Croatia* (Application no.15766/03) Grand Chamber judgment of 16 March 2010, available at: http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=864619&portal=hbkm &source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649.

Croatian monitoring of the National Strategy for Roma Inclusion

The Croatian National Strategy for Roma Inclusion (2013-2020)[9] and the Action Plan for the implementation of the National Strategy (2013-2015)[10] are both binding for the Government in the sense that they both prescribe goals and measures that need to be adopted in order to improve the position and situation of the Roma minority in Croatia, and their integration into the Croatian community. The results of the implementation of these documents can be monitored through the annual implementation report which is issued by the Government.[11]

2.3 Deteriorated situations

The situation around the enforcement of anti-discrimination law has worsened for Roma since 2011 in Cyprus, Hungary, Ireland, Slovakia and the UK. In three of these countries (Cyprus, Ireland and Slovakia), their fragile socio-economic situation has a particularly negative impact on their ability to enforce their anti-discrimination rights. In **France**, although the enforcement of anti-discrimination law has not changed as such, the general situation of Roma has clearly deteriorated, in particular due to a policy of systematic expulsions of non-national Roma pursued by the Government since 2012.

Cuts in social policies in the aftermath of the economic crisis have further increased the precarious socio-economic position of Roma in Cyprus and Ireland. More specifically, in Ireland the sharp decrease in the budget of the equality body had a disproportionate effect on Roma. In the United Kingdom, cuts to the availability of legal aid were introduced in 2013, together with a sharp increase in the fees required to bring tribunal proceedings. Although these changes do not seem to have had a disproportionate impact on Roma in particular, they have certainly affected the enforcement of anti-discrimination law in general. In some countries, it can be further noted that case law remains particularly scarce, for example in Slovakia, or that the number of cases being brought has been decreasing during the relevant period, as in Ireland.

Another major issue arose around the lack of political will to implement a stable and lasting respect for the principle of non-discrimination, noted in Hungary and Slovakia. In Hungary, for instance, the negative political environment quietly tolerated situations where court decisions were not followed up by the necessary actors or when local authorities adopted measures and practices that aimed to drive away the Roma population. Under such circumstances, legal victories may have appeared to be successes, but they were unable to achieve profound positive change in the long term.

9 Croatia, National Strategy for Roma Inclusion for the period 2013-2020, available at: https://pravamanjina.gov.hr/UserDocsImages/arhiva/Nacionalna%20strategija%20za%20ukljucivanje%20Roma%20za%20razdoblje%20od%202013.%20-%202020.pdf.

10 Croatia, Action Plan for the Implementation of the National Strategy for Roma inclusion for the period 2013-2015, available at: https://pravamanjina.gov.hr/UserDocsImages/arhiva/15012016/Akcijski%20plan%20za%20provedbu%20NSUR%20za%20razdoblje%202013-2015.pdf.

11 Croatia, Report on the Implementation of the Action Plan for the implementation of the National Strategy for Roma Inclusion for the period 2013-2015, available at: https://pravamanjina.gov.hr/UserDocsImages/arhiva/Izvjesce%20o%20provedbi%20Akcisjkog%20plana%20za%20provedbu%20NSUR%202014.pdf.

3 Education: Specific points of progress and deficiencies

The education field remains an area where important challenges persist in achieving equality for Roma. Some patterns of segregation exist in the field of education in 15 of the EU Member States examined, for instance with Roma children being placed in 'special' classes for children with intellectual disabilities, or being enrolled together in schools with limited resources and inadequate premises. In five other countries, no such systemic patterns can be noted, although important individual cases of specific discriminative practices have occurred.[12]

	Patterns of segregation in education	
	Yes	**No**
Austria	Yes	
Belgium	Yes	
Bulgaria	Yes	
Croatia	Yes	
Cyprus	Yes	
Czech Republic	Yes	
Denmark		No
Estonia		No
Finland	Yes	
France		No
Germany		No
Greece	Yes	
Hungary	Yes	
Ireland		(Individual cases)
Italy		(Individual cases)
Latvia		(Individual cases)
Lithuania		(Individual cases)
Luxembourg		No
Netherlands		No
Poland	Yes	
Portugal	Yes	
Romania	Yes	
Slovakia	Yes	
Slovenia	Yes	
Spain		No
Sweden		(Individual cases)
UK	Yes	

In general, the situation of Roma children, pupils and students remains challenging across Europe, despite some positive legal developments in this area in around half of the countries (Austria, Croatia, the Czech Republic, Finland, France, Greece, Hungary, Poland, Portugal, Romania, Slovakia, Spain, and the UK). In an additional six countries, no legal developments took place, although important policy steps were taken towards further equality in this field (in Estonia, Latvia, Lithuania, the Netherlands, Slovenia,

12 For further information on the specific patterns of segregation, please see: I. Chopin, C. Germaine (2016*), A comparative analysis of non-discrimination law in Europe 2016*, Chapter 2.2.2.4, http://www.equalitylaw.eu/downloads/3987-a-comparative-analyses-of-non-discrimination-law-in-europe-2016-pdf-1-2-mb.

and Sweden). The majority of Member States showing no specific signs of progress were the ones where Roma were not in any case faced with systemic issues of educational discrimination (Denmark, Germany, Ireland, Italy, and Luxembourg). However, in Belgium, Bulgaria and Cyprus, specific patterns of segregation were noted without any specific points of progress.

3.1 Positive developments

Relevant new legislation or important legislative amendments were introduced in Croatia, the Czech Republic, France, Greece, Poland, and Slovakia, and significant **draft legislation** is pending in Hungary and Romania. The majority of these legislative developments targeted the specific national acts on education (in Croatia, the Czech Republic, Greece, Hungary, Romania, and Slovakia), with the aim of decreasing the incidence of segregation of Roma children in education through various means. In Croatia, for instance, amendments were introduced to create an obligation for schools to provide special assistance and to prescribe a new procedure for children's placement in classes to prevent intentional segregation.[13] In Greece, Education Priority Zones were set up, while a number of legislative amendments have recently been adopted in the Czech Republic. However, in Hungary and Slovakia, the proposed measures, which had the declared positive objective of decreasing segregation and which were introduced following the initiation of infringement proceedings by the European Commission, might actually lead to further discriminatory practices.[14]

Czech Republic amends its School Law to fight Roma segregation

Following the initiation of infringement proceedings by the European Commission in September 2014,[15] the Czech School Law was reformed in 2015, with the aim of reversing the segregation of Roma children and pupils, who had traditionally been placed in 'special classes' or 'practical schools' for children and pupils with intellectual disabilities. In 2015, legislative amendments were adopted,[16] stipulating that children and pupils have an enforceable right to adequate support at school. Most importantly, these amendments link the provision of additional funding to the specific needs of the child instead of basing it on a medical diagnosis. There are some expectations that these amendments should, in time, enable a further step towards inclusive education and away from the segregation of Roma.

In some countries, relevant amendments were also made to legislation other than education acts. In France, for instance, lower-level ministerial instructions were adopted with the aim of ensuring the integration of Travelling children in schools. In Hungary, the anti-discrimination legislation was amended specifically to strengthen the protection against segregation in education.

The importance of **case law** regarding discrimination against Roma in education can be particularly highlighted in Croatia, Greece and Slovakia. In addition to a few relevant decisions from national courts, such as the Croatian case presented below, the series of judgments from the European Court of Human Rights[17] are of course of crucial importance in this area, in particular in Croatia and in Greece.

13 Croatia, Primary and Secondary Education Act, 15 July 2008, Official Gazette 87/2008, 86/2009, 92/2010, 105/2010, 90/2011, 5/2012, 16/2012, 86/2012, 94/2013, 152/2014, *Zakon o odgoju i obrazovanju u osnovnoj i srednjoj školi,* available at http://www.zakon.hr/z/317/Zakon-o-odgoju-i-obrazovanju-u-osnovnoj-i-srednjoj%C5%A1koli.

14 For further details, please see subsection 2 below.

15 For further details, please see textbox below, pp. 13-14.

16 Czech Republic, Act No. 82/2015.

17 See for instance ECtHR, judgments in *Sampanis and Others v. Greece*, (application no. 32526/05); *Lavida and Others v. Greece*, (application no. 7973/10); *Ioanna Sampani and Others v. Greece*, (application no. 59608/09); and *Oršuš v. Croatia*, (application no. 15766/03).

Croatian court awards damages in case of Roma discrimination in education

In 2013, a Croatian county court confirmed the decision of the first instance court, which had found direct discrimination against Roma students on grounds of their ethnicity. The two claimants were studying at the Varaždin Business School, but were denied access to training at a company, although the training was a mandatory part of their education. The claimants filed a discrimination claim against the company and its owner before the Varaždin Municipal Court. The court found that the applicants had faced discrimination because of their Roma ethnicity, prohibited the defendants from undertaking any further discriminatory actions and awarded compensation of HRK 8 000 (EUR 1 066) to each applicant.

Following the appeal of both defendants, the County Court in Varaždin, as the appellate court, confirmed the findings of the first instance judgment, but reduced the compensation awarded to HRK 5 000 (EUR 666) to each applicant. The court held that, having regard to all the circumstances of the case, the lack of any serious consequences, the gravity of the violation and the purpose of compensation, the awarded sum was reasonable.[18]

Some efforts have been made in a few countries to collect **better data and information** on Roma education. These included ministerial initiatives for collecting information about diverse aspects of Roma children's quality of education in Latvia. In Hungary, the ability to collect ethnic data to monitor the placement of children with slight intellectual disabilities in special schools was introduced in 2014 as a measure to counter the disproportionate numbers of Roma children enrolled in such schools.

Special **policies and programmes** on Roma education can be considered relevant in the Czech Republic, Estonia, Finland, Lithuania, Poland, Portugal, Slovenia, and the UK. Some of these were general, nationwide inclusion programmes, including counselling for teachers in Estonia and a detailed set of special materials and funding provided by the National Board of Education in Finland to improve Roma language education and the situation of Roma pupils in schools. Similarly, special educational support services are provided by local authorities in the United Kingdom. The positive role of special school mediators, assistants who provide support for Roma children and their families can be emphasised in Austria, Poland, Portugal, and Slovenia. In Portugal, for instance, posts have been created for socio-cultural mediators (some of Roma origin), who liaise between families and schools.

Series of infringement proceedings to end school segregation of Roma

In 2007, the European Court of Human Rights delivered its landmark decision in *D.H. and others v Czech Republic*, finding that the placement of Roma children in special classes and schools adapted for children with intellectual disabilities based on culturally biased tests amounted to discrimination on the ground of ethnic origin, in violation of the Convention.

Since then, the European Commission has launched infringement proceedings against three EU Member States, the Czech Republic (2014), Slovakia (2015) and Hungary (2016), for failure to correctly implement the Racial Equality Directive (2000/43/EC), due to different situations of systemic discrimination and segregation of Roma children in schools. The Commission raises a number of concerns related to Hungarian legislation on equal treatment and education, and to administrative practices there. The situation facing Roma children in Hungary is one of disproportionate over-representation in special schools for children with intellectual disabilities, with a considerable degree of segregation within mainstream schools.

18 County Court of Varaždin, *L.I. and Ž.B. v. Brankad.o.o.*, Gž.3684/12, 2 April 2013.

In the Czech Republic, three years after the infringement proceedings were launched and 10 years after the landmark decision of the ECtHR, some positive changes can be noted in legislation, such as the reform package adopted in February 2015 to amend the Schools Act and the additional amendments adopted in 2016. In practice, however, some barriers still remain before all Roma children in the Czech Republic gain inclusive and equal access to education.

In both Slovakia and Hungary, legislative steps have been taken following the initiation of the infringement proceedings, to amend the legal framework and thereby counter the situations of segregation and discrimination in education. As is noted below, however, some concern and doubt exist regarding the ability of these amendments to achieve the desired aim.

3.2 Remaining challenges

The volume and character of the remaining challenges overshadow these moderately promising developments. Specific deficiencies in legislation were identified in around a third of countries (Bulgaria, Cyprus, the Czech Republic, Germany, Hungary, Italy, Poland, Romania, Slovakia and Spain), while policy gaps and socio-economic issues prevailed in 14 countries (Belgium, Croatia, Denmark, Estonia, France, Greece, Ireland, Latvia, Lithuania, the Netherlands, Portugal, Slovenia, Spain, and the UK).

A worrying trend might emerge from practices in a few countries, where **legislative amendments** could become a source of negative impact. Both in Hungary and Slovakia, for example, there are amendments to national acts on education that aim to decrease segregation, although they might in practice lead to a rise in the number of segregated schools and classes. The discriminatory character of these amendments is difficult to prove on the basis of a strictly legal analysis, as they are worded in a positive manner. Serious concerns arise, however, when they are interpreted in the specific national legal and societal circumstances. One example is the creation of a legal basis for the provision of education based on both religious conviction and national minority status in Hungary, where experience and statistics may give rise to concerns about the ways in which this legal basis is likely to be used. Similar concerns have been caused by the series of amendments adopted in 2015 to the Slovakian Schools Act with the aim of eliminating the segregation of children and pupils from 'socially disadvantaged environments'.

Amendments to the Slovakian Schools Act

On 30 June 2015, the Slovakian Schools Act[19] was amended by Act No 188/2015 with regard to the education of children and pupils coming from 'socially disadvantaged environments'. The amendments were presented as aiming to eliminate the segregation of Roma children in education. However, there may be concerns that, instead of achieving that aim, they will in fact perpetuate the *status quo* of segregation of Roma children and pupils.

Following these amendments, Section 29(11) of the Schools Act now authorises primary schools with approval from the school founder to establish a 'specialised class' for the education of those pupils who are 'not likely to successfully manage the content of education in the corresponding year, in order to compensate them for the lacking content of education'. A child can only be placed in such a class for a period of 'unavoidable need', and for no more than one school year. This new provision does not specify the criteria for determining the 'unlikeliness' of 'successfully manag[ing] the content of education', such as whether purely subjective or also objective circumstances are to be considered.

The amendments also introduced a provision to the Schools Act, stipulating that children and pupils from 'socially disadvantaged environments' (defined as those 'whose educational needs stem

19 Act No. 245/2008 Coll. on Education (Schools Act) (*zákon č. 245/2009 Z. z. o výchove a vzdelávaní (školský zákon) a o zmene a doplnení niektorých zákonov*).

exclusively from their development in a socially disadvantaged environment'), cannot be placed in special schools or special classes (i.e. for children with disabilities or a health disadvantage).[20] The amendments further stipulate that the education of such children must be pursued through 'individual conditions', meaning the adjustment of both the organisation and the education environment, as well as the use of special methods and forms of education.[21] Children from socially disadvantaged backgrounds are to be placed into classes 'together with other children or pupils', with the exception of zero grade classes,[22] and 'specialised classes' pursuant to the newly-enacted Section 29(11) (see above).[23]

These amendments do not challenge the division between 'normal' and 'special' schools and classes, and the legislation currently in force still retains the concept of a child who is unable to meet the demands of the system, instead of pursuing the concept of adjusting the system to meet the different needs of different children. Furthermore, the newly enacted legislation does not attempt to remedy the crucial problem of the misdiagnosis and stigmatisation of Roma children as intellectually disabled.

Specific **legislative gaps** can be identified in Bulgaria, the Czech Republic, Romania, and Poland). In Romania, neither the Law on National Education[24] nor the anti-discrimination act contains a definition of segregation in education, although the previous education act, which was repealed and replaced in 2011, did contain such a definition.[25] This omission may weaken Roma's protection against discrimination and segregation in education.[26] Although the Bulgarian Protection Against Discrimination Act does explicitly prohibit and define segregation in education, the definition is inadequate as it requires the state of separation to be 'forced'.[27] This definition therefore causes a barrier in effective protection against segregation, affecting Roma in particular. Finally, the fact that anti-discrimination legislation fails to recognise segregation explicitly as a form of discrimination can lead to specific difficulties, for example in obliging local authorities to take active steps towards desegregation, as can be seen in the Czech Republic and Poland. Thus, in the Czech Republic, the previous 'practical schools' where many Roma children and pupils were traditionally placed are being turned into mainstream schools following recent reforms. However, these schools often remain Roma-only as long as there is no positive duty for schools to desegregate.

Another category of challenge arose in three countries around the differences within the **legal framework** for various minorities, which often ensure – legally or in practice – a slightly weaker standing for Roma. For example, this might cause them difficulties in exercising their right to education in their own language, such as in Croatia and Sweden.

The **absence of reliable data** on the situation of Roma in education hinders the development of adequate legal and policy responses. The lack of information was mentioned as being especially problematic in Austria, Croatia, Cyprus, Denmark, Greece and Romania.

Policy concerns included the lack of cultural sensitivity within the education system in Estonia and Italy as well as the lack of financial and/or human resources in a number of countries (Austria, Belgium, Croatia, Greece, Ireland, Lithuania, Slovenia, and the UK).

20 Slovakia, Schools Act, 245/2008, Section 107(2), as amended.
21 Slovakia, Schools Act, 245/2008, Section 107(1), as amended.
22 Zero grade classes can be established pursuant to Section 60(4) of the Schools Act, as amended.
23 Slovakia, Schools Act, 245/2008, Section 107(3), as amended.
24 Romania, Law 1/2011 on National Education (*Legea Educației Naționale*), 10 January 2011.
25 Romania, Education Law 84 of 1995, published as amended by Law 151/1999, republished in *Monitorul Oficial*, No. 370/3 August 1999, Articles 5(48) and 8.
26 The Romanian Government attempted to fill this legislative gap in 2016 through the adoption of a public policy on desegregation. For further information, see textbox below p. 23.
27 Bulgaria, Protection Against Discrimination Act (*Закон за защита от дискриминация*), adopted 2003, in force as of 2004, as last amended on 30 December 2016, Additional Provision §1.6.

The **poor socio-economic situation** of Roma has a major undermining effect in providing Roma children a better education and an improved life perspective. It needs to be noted that extreme poverty (in Belgium, Latvia, Poland, and Romania), poor living and housing conditions (in Belgium, Bulgaria, Cyprus, Italy, and the UK) as well as the lack of language proficiency (in Belgium, Croatia, Cyprus, Ireland, Poland, and Slovenia) remain significant barriers for Roma in accessing and completing quality education.

4 Housing: Specific points of progress and deficiencies

Roma are faced with an even more critical level of discrimination in the field of housing compared with the field of education, and some patterns of segregation can be noted in 21 countries in this field. Without any systemic patterns of segregation being noted, there are considerable individual cases of specific discriminatory practices in an additional two countries.

	Patterns of segregation or discrimination in housing	
	Yes	**No**
Austria	Yes	
Belgium	Yes	
Bulgaria	Yes	
Croatia	Yes	
Cyprus	Yes	
Czech Republic	Yes	
Denmark		No
Estonia		No
Finland	Yes	
France	Yes	
Germany		(Individual cases)
Greece	Yes	
Hungary	Yes	
Ireland	Yes	
Italy	Yes	
Latvia	Yes	
Lithuania	Yes	
Luxembourg		No
Netherlands	Yes	
Poland	Yes	
Portugal		(Individual cases)
Romania	Yes	
Slovakia	Yes	
Slovenia	Yes	
Spain		No
Sweden	Yes	
UK	Yes	

The most common issue across the Member States is poor-quality housing, which can be noted in 15 countries (Belgium, Bulgaria, Croatia, Cyprus, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia, and Spain). In Spain, for instance, following the economic crisis in 2008 and the ensuing social policies, many Roma have been unable to pay their mortgages and have been forced into substandard housing. Another common issue faced by many Roma is that of evictions, which is an issue of concern in Belgium, Bulgaria, Cyprus, France, Hungary, Italy, Romania, Slovakia, and Spain. In Bulgaria, it is particularly worrisome that the European Court of Human Rights' decision in *Yordanova and Others v. Bulgaria* from 2012 has still not been implemented. Mass evictions of Roma, such as that which was at stake before the Court in *Yordanova*, without respect for the inhabitants' rights protected in particular by Article 8 of the Convention, are still taking place in Bulgaria. Finally, in addition to Roma living in segregated areas (particularly in Austria, Belgium, Croatia, France, Hungary, Italy, Lithuania, Romania,

Slovakia, and Slovenia), the shortage of mobile home sites is a specific issue of concern in Belgium, France, the Netherlands, and the United Kingdom. For instance, in the Netherlands, Roma and Travellers often live in specific designated trailer camps, of which there seems to be a general shortage.[28] The Dutch equality body, the Netherlands Institute for Human Rights, has found in a series of decisions that municipal policies amounting in practice to the disappearance of trailer camps constitute discrimination on the ground of ethnic identity.[29]

Despite these general trends, there has been a small number of positive developments in the past few years.

4.1 Positive developments

The small number of Member States where any positive measures can be noted gives rise for concerns in this context. Positive steps have been taken as regards legislation and its application in Belgium, the Czech Republic, Finland, Hungary, Poland, and Slovakia, while progress was made in the policy field in an additional six countries (Croatia, Greece, Italy, Lithuania, Portugal, and Spain). In more than a third of the Member States, patterns of segregation can be noted without any specific points of progress at all (Austria, Bulgaria, Cyprus, France, Ireland, Latvia, the Netherlands, Romania, Slovenia, Spain, and the UK).

Significant **legislative developments** took place in four countries (Belgium, the Czech Republic, Poland, and Slovakia). These included some major general developments, such as the entry into force of the Equal Treatment Act in Poland in 2011, finally offering protection in all fields of the Racial Equality Directive, a draft bill on land readjustments in Slovakia to settle ownership and usage rights, and the expected drafting of a Law on Social Housing in the Czech Republic. In contrast, steps were taken at a regional level in Brussels-Capital Region (Belgium) towards improving the safety and quality of itinerant homes through the recognition in 2012 of Traveller dwellings as decent housing. However, this progress has been halted, as the necessary executive order defining the specific rules for such homes has still not been adopted.

New major **case law** can be highlighted in Hungary, where several local authorities' efforts to restrict Roma's access to social housing have been successfully challenged.

Hungarian court decision on Municipality's discriminatory social housing policy

In 2015, the municipality of Miskolc started to systematically terminate the social housing tenancies of persons living in a highly segregated, less well-off part of the town called the 'Numbered Streets' without taking any measures to provide the tenants with alternative housing and thus exposing them to the threat of homelessness. In its decision of July 2015, the Equal Treatment Authority found that the practice amounted to discrimination on the grounds of social status, financial situation and Roma origin.[30]

The Authority ordered the municipality to develop two action plans for the relocation of the tenants in adequate housing, and to stop the discriminatory practice until the action plans were adopted. In addition, the Authority imposed a fine of HUF 500,000 (EUR 1,670) on the municipality.

28 The lack of systematic data makes it difficult, however, to correctly evaluate the number of Roma and the specific needs for trailer camps.
29 See for instance Netherlands Institute of Human Rights decisions Nos 2015-6, 2016-19, 2016-22, 2016-71, and 2016-72.
30 Equal Treatment Authority, EBH/67/22/2015, 15 July 2015, http://egyenlobanasmod.hu/article/view/ebh-67-2015.

The municipality requested a judicial review of the decision, and on 25 January 2016[31] the Metropolitan Administrative and Labour Court rejected the municipality's request and upheld the Authority's decision in every aspect. Examining the apparently neutral practice of the municipality, the Court noted that, due to the composition of the population in the Numbered Streets, the municipality's actions clearly affected persons belonging to a number of disadvantaged protected groups (Roma, the indigent, those with a disadvantageous social status), and therefore the supposedly neutral motives of the municipality were irrelevant.

The substantial **role of the equality body** can be noted as a positive development in Croatia, as it undertook considerable efforts to raise awareness among Roma about their specific anti-discrimination rights regarding housing, to study the general housing conditions of Roma and to collect data on their ability to exercise their rights. Similarly, the French equality body intervened in eviction cases and published a related report in 2013.[32]

The majority of the reported positive steps have been taken in the **policy** field, with new policies or programmes to improve the housing situation of Roma in 10 countries (Belgium, Croatia, the Czech Republic, Greece, Finland, Italy, Lithuania, Portugal, Slovakia, and Spain). Their coverage ranged from national or regional to local levels. These policies and programmes covered measures to improve the living and housing conditions of Roma (in Croatia, the Czech Republic, Greece, Italy, Portugal, Slovakia, and Spain), to legalise homes (in Croatia), to establish more caravan sites (in Belgium) and to ensure a fair process in public housing for Roma applicants (in Finland).

4.2 Remaining challenges

Progress in the housing situation of Roma is undermined by *persistent large-scale gaps*. Deficiencies in legislation and its application can be identified in 15 countries (Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Finland, France, Greece, Ireland, Italy, Latvia, Poland, Romania, Slovakia, and Slovenia), while some shortcomings related to policy can be found in another three countries (Denmark, Lithuania, and Portugal). The gaps identified in legislation and policy can be loosely grouped as follows:

Legislative issues can be noted in five countries. These issues have most often concerned a specific gap or absence in legislation, such as in Cyprus, where the lack of legislation specifically covering Roma housing can be noted as a significant gap, or in the Czech Republic, where specific legislation concerning social housing is needed, as is a formal recognition of segregation as a type of discrimination. In Greece, guarantees to ensure better participation and legal remedies for Roma are missing in any decisions affecting housing, while Italy lacks a clear prohibition against geographical segregation and forced evictions. By contrast, in Ireland, legislation which criminalises nomadism is still in force despite harsh criticism, including from the UN Committee on the Rights of the Child.[33]

Issues around case law can be noted in eight countries. The most common issue of concern arises due to the lack or scarcity of relevant case law, as in Austria, Croatia, Cyprus, Finland, Latvia, Portugal, and Slovakia, possibly as a result of severe underreporting. As noted above, it is particularly concerning that ECtHR case law regarding evictions of Roma has not been implemented in Bulgaria.

One specific issue which causes some concern in a few countries is the lack of access or limited access to **housing support**, such as social housing or cash benefits. This creates major obstacles for Roma, in

31 Hungary, Metropolitan Administrative and Labour Court, 6.K.33.048/2015/17, 25 January 2016, available at: http://birosag.hu/ugyfelkapcsolatiportal/anonim-hatarozatok-tara through the search function.

32 France, Defender of Rights, *Anticipation et accompagnement de l'évacuation des campements illicites*, June 2013, available at: https://www.defenseurdesdroits.fr/fr/outils/anticipation-et-accompagnement-de-levacuation-des-campements-illicites.

33 UN Committee on the Rights of the Child (2016) *Concluding observations on the combined third and fourth periodic reports of Ireland*, 29 January 2016, CRC/C/IRL/CO/3-4, at para 17, available at: http://www.refworld.org/docid/56c17f574.html.

particular in Ireland, Poland, Romania and the United Kingdom. In Ireland and the United Kingdom, this is mainly a policy issue and is linked with cuts in benefits, such as the benefit cap in the UK, which was introduced in 2013 and was lowered in 2016, affecting Roma as well as other socially disadvantaged groups. In Poland and Romania, however, the established legal criteria for housing support seem to have a disproportionately negative effect on Roma in accessing these benefits. In Poland for instance, the Housing Allowances Act requires beneficiaries to pay their rent on time, which is problematic for many Roma who are unemployed (approximately 90%) and in debt.

The **conflictual attitude of local authorities** is often an additional barrier to a quicker improvement of the housing situation of Roma, particularly as housing often falls within their competences rather than those of the national authorities. Local planning regulations or local legislation might try to deter Roma from settling in a municipality, for example in Belgium and France, or it may try to establish urban planning in an ethnically segregating manner, such as in Slovakia. Authorities may also try to force them out of one specific place. This was the case in Lithuania, where, on several occasions, the City of Vilnius evicted the inhabitants of a particular Roma settlement (Kirtimai), without providing any alternative housing solutions. Recently, however, the position of the City has been evolving, with the adoption in April 2016 of the Vilnius Kirtimai Roma Community Integration to the Society Programme of 2016–2019. This aimed to provide social housing options for the inhabitants of the settlement.[34] In some local contexts, complete inaction prevails, as no action whatsoever is taken to improve the housing and living conditions of Roma, leading to gradually deteriorating living conditions in Roma settlements. In Slovenia, for instance, the competence to improve the infrastructure within Roma settlements belongs to the municipalities according to the Roma Community Act,[35] while the state is competent to intervene if a municipality fails to address issues around irregular settlements. This power is never invoked, however, leading to a situation where both levels of government avoid taking responsibility for improving the situation.

Similarly to the field of education discussed above, the **lack of adequate information and data** on the housing situation of Roma, and more precisely on the character and volume of housing discrimination cases, further hinders the introduction of efficient legislative amendments and policies. The absence of data can be considered to be a significant challenge specifically in the field of housing in Denmark, Portugal, Slovakia, and Slovenia.

The lack of awareness about anti-discrimination legislation proved to be controversial in Finland, where a 2014 study showed that both Roma themselves and private landlords were of the impression that the prohibition of ethnic discrimination does not apply to the private housing market.[36]

In a **wider, socio-economic framework**, situations of general housing shortage or of a lack of available social housing can both be mentioned as additional factors with a potentially negative impact on Roma housing, as is the case in Sweden and Portugal, for example.

34 Lithuania, *Vilnius Kirtimai Roma Community Integration to the Society Programme 2016-2019*, available in Lithuanian at: http://www.vilnius.lt/vaktai2011/Defaultlite.aspx?Id=3&DocId=30278696.

35 Slovenia, Roma Community Act *(Zakon o romski skupnosti v Republiki Sloveniji),* adopted on 30 March 2007, available at: www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO4405.

36 Being Different In Everyday Life – Survey On Roma's Experiences Of Discrimination (*Erilaisena Arjessa – Selvitys Romanien Syrjintäkokemuksista*), Helsinki 2014, available at: https://www.syrjinta.fi/documents/10181/10850/52878_romaniselvitys_verkkoon+(1).pdf/584516fc-d3a7-4f88-8ecc-c8b2271ebf41, page 40.

5 Major developments in 2016

Major developments in 2016 indicate a continuous transformation regarding the enforcement of Roma's anti-discrimination rights. Significant developments took place in 15 countries: Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, France, Hungary, Italy, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Sweden, and the UK. These changes can be summarised as follows.

5.1 Legal developments

Important legal developments took place in Bulgaria, the Czech Republic, France, Hungary, the Netherlands, Slovakia, Slovenia, and Sweden). In a number of countries, significant legislative changes were introduced with a direct impact on Roma for the enforcement of anti-discrimination law (in Bulgaria, the Czech Republic, Hungary, Slovakia, and Slovenia). These developments included some amendments to the Czech School Law, introducing an obligatory year of preschool for all children, as well as the long-awaited abolition in France of some highly-criticised legislation (see textbox below). The adoption of a new anti-discrimination law in Greece in December 2016 (Law 4443/2016), despite not specifically targeting Roma, may have an indirect effect on Roma and will certainly have an impact on the enforcement of anti-discrimination law in general. Of particular importance is the extension of the mandate and competences of the Ombudsman, which is the equality body with extensive and specific experience of investigating violations of the human rights of Roma. The Ombudsman will no longer be limited to monitoring non-discrimination and equal treatment in the public sector, but will cover the private sector as well.

France abolishes highly criticised limits on Travellers' freedom of movement

Law No. 69-3 of 3 January 1969 relating to the status of Travellers[37] created a derogatory status for Travellers and an obligation for citizens with no permanent domicile who are travelling on French territory to hold special travelling identity papers that must be validated at the local office of the Ministry of the Interior (*préfecture*) within 48 hours of arriving in the department and that can be checked by the police at any time.[38] In recent years, this law was severely criticised, and calls for its repeal have multiplied.

Some of the provisions of this Law, limiting the right of Travellers and other citizens with no permanent domicile to register on electoral lists and providing criminal sanctions for the failure to have one's travelling identity papers validated at the *préfecture*, were quashed by the Constitutional Council on 5 October 2012.[39] However, the obligation to hold these special identity papers and the right of the police to inspect them have remained in force.

On 22 December 2016, however, the Bill relating to Equality and Citizenship was adopted by Parliament, abrogating Law 69-3 altogether.[40] Thus, the derogatory status of Travellers, which limited their right to choose a town of elective residence and which required them to carry special internal passports and regularly report to local authorities, has been abolished.

37 In France, the term Travellers (*gens du voyage*) is used to designate the travelling community of French citizens while the term 'Roma' is used to designate migrants from EU countries, generally Romania and Bulgaria, who do not have French citizenship.

38 France, Law No. 69-3 of 3 January 1969 relating to the status of Travellers *(Loi No. 69-3 du 3 janvier 1969 relative à l'exercice des activités ambulantes et au régime applicable aux personnes circulant en France sans domicile ni résidence fixe)*, available at: http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000317526&fastPos=1&fastReqId=1998342744&categorieLien=cid&oldAction=rechTexte.

39 France, Constitutional Council, decision No. 2012-279 of 5 October 2012, available at:http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2012/2012-279-qpc/decision-n-2012-279-qpc-du-05-octobre-2012.115699.html.

40 France, Law No. 2017-86 of 27 January 2017 relating to equality and citizenship, adopted on 22 December 2016, available at: https://www.legifrance.gouv.fr/affichLoiPubliee.do?idDocument=JORFDOLE000032396041&type=general&legislature=14.

In a few countries, national or international case law and decisions by equality bodies have had a significant impact on the enforcement of anti-discrimination rights for Roma (in the Czech Republic, France, Hungary, the Netherlands, Slovakia, Slovenia and Sweden).

5.2 Institutional and policy developments

Institutional transformation affecting the dialogue with and the inclusion of Roma has taken place in Belgium, Cyprus, Estonia, France and Poland. Such transformations have included new platforms set up at a national level in Belgium, Cyprus and Estonia, and at a regional level in France. In contrast, the Polish Council for Counteracting Racial Discrimination, Xenophobia and Related Intolerance was abolished in April 2016, leaving the two other relevant institutions either with decreased funding (the Ombudsperson) or in a marginalised situation following an institutional merger (the Government Plenipotentiary for Equal Treatment).

Belgium launches its National Roma Platform

In May 2016, on an initiative of the Belgian national contact point for Roma, Social Integration, a federal public service, launched the Belgian National Roma Platform.[41] The platform is supervised by a pilot committee composed of staff of the federal and regional administrations, NGOs active at a local level and UNIA, the inter-federal equality body). The aim of this platform is to foster a dialogue between relevant stakeholders and Roma communities in Belgium, with the fight against discrimination as its common theme.

This new platform is expected to bring about crucial improvements to the Belgian processes for the national strategies and policies relevant to Roma by involving them directly in dialogue, which has not been done previously. Four thematic meetings focusing on healthcare, education, housing and employment were planned in order to discuss what is currently working and missing in Belgium in terms of the protection of the rights of Roma. The aim of the project is to draft recommendations aimed at political decision-makers in order to better assess the national strategy for Roma integration.

Major changes in policies were also noted in Cyprus, France, Hungary, Italy, and Portugal. These included an important historical recognition towards Roma, when the French President recognised for the first time the responsibility of the country in the persecution and internment of French Travellers during the Second World War, as well as some specific issues regarding the continuation and funding of afterschool programmes for underprivileged children in Hungary. In addition, some new projects and scholarships were launched in Cyprus, Italy and Portugal.

Romania establishes public policy on desegregation in education

In December 2016, the Ministry of National Education and Scientific Research issued its public policy on desegregation in education, composed of two parts: one order adopting the Action Plan on School Desegregation, and one framework order prohibiting school segregation in primary and secondary education.[42] The following criteria are listed as protected grounds: ethnic origin, mother tongue, disability and/or special educational needs, socio-economic status of the families, residence environment and educational achievement of the beneficiaries.

41 More information is available at: http://www.mi-is.be/fr/themes/pauvrete/integration-des-roms/plateforme-nationale-belge-pour-les-roms.

42 Romania, Ministry of National Education and Scientific Research, Order no. 6158 adopting the Action plan on school desegregation, and Framework order no. 6134 for prohibiting school segregation in primary and secondary education from 22 December 2016, available at: http://edu.ro/politici-publice-%C3%AEn-educa%C8%9Bie-pentru-prevenirea-combaterea-%C8%99i-interzicerea-segreg%C4%83rii-%C8%99colare.

Segregation in education on grounds of ethnic origin is defined in Article 4 of the framework order as 'physical separation of kindergarten children, preschoolers or pupils (in primary and secondary education) belonging to an ethnic group in the educational unit/group/classroom/building/last two rows/other facilities, so that the percentage of the kindergarten children, preschoolers or pupils belonging to the ethnic group from the total of the pupils in the educational unit/group/classroom/building/last two rows/other facilities, is disproportionate when compared to the percentage of the children belonging to that ethnic group in the total population of that specific age in the educational cycle in that specific administrative-territorial unit.' As an exception from the prohibition of ethnic segregation, the framework order allows classes or schools to enroll 'mostly or only' children or pupils of an ethnic group, 'with the purpose of teaching in the mother tongue of that group or in a bilingual system.'

Finally, it may be noted that the effects of crucial **political developments** such as Brexit on ethnic minorities, including Roma, remain unclear and are causing some uncertainty in the specific national context of the United Kingdom.

6 Conclusions

The existing legal frameworks prohibiting discrimination on grounds of racial or ethnic origin across the EU Member States do not explicitly single out or exclude Roma in any way, yet in practice it is clear that national Roma communities in Europe constitute one of the most discriminated-against groups in Europe. Whether looking specifically at fields such as education and housing or more generally at their living conditions, patterns of segregation, discrimination and unequal opportunities are highly present and require substantial further action.

In recent years, many EU Member States have tried to remedy the situation by taking some steps towards fairer and more equal conditions for Roma, whether these have been legislative amendments in the fields where Roma are the most exposed to discrimination, or policies to improve their general living conditions. Changes in the approach taken by some public actors and in the level of national or local political will have also brought about some improvements that are worth highlighting. It needs to be noted, however, that these changes are often driven by external pressure from international monitoring bodies, national or international court decisions or infringement proceedings initiated by the European Commission. The sincerity among politicians and public actors when taking action against discrimination and stereotyping of Roma, and their true willingness to bring about positive change in this regard, may therefore be questioned.

Despite the positive developments of these past few years, many gaps and challenges remain across the various fields and among the countries of the EU. Some of these gaps are overarching and have a general impact, to different degrees, in most fields and in many countries. The issues concerned include the lack of adequate and relevant data, persistent practices and policies that (may) have a disproportionate effect on Roma and a general lack of political will at a national and/or local level. Specific challenges arising in many countries include different forms of segregation in education as well as situations of low-quality housing without access to basic living conditions. Finally, case law is scarce or missing in a large number of countries, due to severe underreporting of discrimination in general and more specifically by Roma. This situation is magnified by an often-generalised lack of trust in authorities, low awareness of rights and a lack of means to access justice to a higher degree than other sections of the population. Despite this situation of underreporting on the national level, the positive influence of international case law and in particular that of the European Court of Human Rights, where several Roma cases have been heard, needs to be noted. Similarly, the gradually developing case law of the Court of Justice of the EU in this field is highly welcome and encouraging.

It is also crucial to note the existence of deeply rooted structural and institutionalised discrimination against Roma throughout many countries in Europe, which is directly and inextricably linked to political will and general public awareness. It appears, for instance, that in some countries local politicians win elections when they arrange and carry out evictions of Roma settlements, whether the rights and dignity of the Roma inhabitants are respected or not. Under such circumstances, it is quite clear that changes in law – if they were to take place – would not be sufficient to concretely and effectively improve the situation of Roma. Action of a far deeper and more extensive nature would be necessary to achieve real change. Such action could usefully aim to raise awareness and knowledge among different actors in society who have an impact on the lives of Roma, such as teachers, doctors, employers and landlords. Only such long-term action could eventually defy the far-reaching and deep-rooted stereotypes and intolerance against Roma and their (perceived) way of living, which still prevail to a large extent among the general public. For this same reason, profound change is also needed at a political level in many countries, where hate speech against Roma is common and is only rarely met with an adequate response.

Finally, let us note that, in some Member States, some good practices do exist both in legislation and in policies, as has been highlighted throughout this report. In and of themselves, however, such practices are not sufficient to bring about real change. It is crucial, therefore, to communicate about such practices,

to share and exchange among the Member States and to multiply and improve the few sporadic positive developments that are taking place, so as to find common solutions and ways forward.

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