



Summary Report

**The situation of Roma EU citizens
moving to and settling in other
EU Member States**

November 2009

Conference edition

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DISCLAIMER: This report has been prepared by the European Roma Rights Centre (ERRC) that cooperated with the European Dialogue (ED), the European Roma Information Office (ERIO), the Finnish League of Human Rights (FLHR), the Fundación Secretariado Gitano (FSG) and Fédération nationale des associations solidaires (FNASAT) under a service contract with the FRA. The responsibility for editing, conclusions and opinions lies with the FRA.

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The report forms part of a joint action initiated in 2008 by the FRA, the Office of the Commissioner for Human Rights of the Council of Europe and the OSCE on freedom of movement and migration of Roma.

“A Community national who goes to another Member State as a worker or self-employed person [...] is entitled not just to pursue his trade or profession and to enjoy the same living and working conditions as nationals of the host State; he is in addition entitled to assume that, wherever he goes to earn his living in the European Community, he will be treated in accordance with a common code of fundamental values, in particular those laid down in the European Convention on Human Rights. In other words, he is entitled to say "**civis europeus sum**" and to invoke that status in order to oppose any violation of his fundamental rights”.

Opinion of Advocate General Jacobs delivered on 9 December 1992 -
Christos Konstantinidis v Stadt Altensteig - Standesamt and Landratsamt
Calw - Ordnungsamt - Reference for a preliminary ruling: Amtsgericht
Tübingen – Germany – Case C-168/91

Scope and background of the study

Charter of Fundamental Rights of the European Union

Chapter V Citizens' Rights

Article 45

Freedom of movement and of residence

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.
2. Freedom of movement and residence may be granted, in accordance with the Treaty establishing the European Community, to nationals of third countries legally resident in the territory of a Member State.

EU citizens have the right to move and live anywhere in the European Union provided that they meet certain conditions. This is an important right to achieve European integration and is also included in the European Union's Charter of Fundamental Rights (*Article 45*).

The EU developed 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' to enable Union citizens to exercise this right by cutting back administrative formalities to the bare essentials and by limiting the scope for refusing entry or terminating the right of residence of EU citizens.

Member States have an obligation to transpose Directives in their national legislation. The European Commission noted in its 2008 report on the transposition of the Free Movement Directive that, '[...] 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.'

42% of Europeans believe that the European Union means first of all 'freedom to travel, study and work anywhere in the EU', when asked 'What does the EU mean?'

Eurobarometer 71 (2009) Public opinion in the European Union

Given the importance of the right to free movement and residence the FRA was particularly concerned with information received from National Focal Points of its RAXEN (Racism and Xenophobia) network regarding the situation of Roma EU citizens settling in other EU Member States. In July 2008, following the

violent attacks against Roma in the Ponticelli district of Naples, Italy the FRA published an *Incident Report*.

In order to investigate how EU citizens exercise this fundamental right ‘on the ground’ more thoroughly the FRA¹ launched in 2008 a research project based on qualitative field research. The research was carried out in 2009 in France, Finland, Italy, Spain and the United Kingdom, which provide a wide and contrasting range of features reflecting broadly the experience of Roma EU citizens in ‘receiving’ countries.

Many of the issues raised in this report are relevant for non-Roma EU citizens, as the experiences of Roma provide a good reflection on the consequences of the exercise of the right of free movement and residence for many of the most vulnerable citizens of the EU. In this sense, 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 challenges faced by all citizens on the ground.

‘Although the Roma within the European Union and its neighbouring countries have the same rights and duties as the rest of the population, they in fact form a group that is disadvantaged in several respects and is particularly vulnerable to social exclusion, poverty and discrimination [...]’

Council Conclusions on inclusion of the Roma, 2914th GAC meeting, Brussels, 8 December 2008

According to EUROSTAT estimates by 2008, around 8,000,000 EU citizens were exercising their right to freedom of movement and residence. With a total EU population of 499,794,855, this proportion accounts for approximately 1.6 per cent of the total population. There are no official data on the number of EU citizens exercising their right to free movement disaggregated by ethnic origin.

¹ The research was carried out under a service contract with the FRA by the European Roma Rights Centre (ERRC) that cooperated with the European Dialogue (ED), the European Roma Information Office (ERIO), the Finnish League of Human Rights (FLHR), the Fundación Secretariado Gitano (FSG) and Fédération nationale des associations solidaires (FNASAT).

Why and how do Roma move in the EU?

'In Romania I expect to eat one meal a day; in Finland I expect to eat three meals a day. That's the difference'.

Interview with a Roma man, Finland, 09.05.09

'We, the Roma, exist but do not exist; for the important things we do not count [...].Here I have been treated well, I never thought people would treat me so well'

Interview with a Roma woman, Spain, 02.03.09

'I've never experienced any form of discrimination. The reasons for us coming here were purely economic. We're EU citizens and as such, we have the right to go anywhere in the EU without being watched over by national or international authorities just because we're Roma'

Interview with a Roma woman, United Kingdom, 30.03.09

Research shows that poverty and racism are the main factors 'pushing' Roma to leave their countries of origin, with poverty being the main factor mentioned by Roma respondents. A defining aspect of the experience of poverty in countries of origin is unemployment, but segregation and a feeling of 'not belonging' are also key push factors.

Factors 'pulling' Roma to certain destination countries include their assumed prospects for finding work and improved living standards. However, as the responses show, these aspirations can also involve 'rose-tinted' notions of how much better life in destination countries is likely to be. The research found that there is a tendency for Roma to migrate mainly from specific areas in their countries of origin.

Regarding age patterns, the research found that mostly young adult men and women tend to move; while children accompany parents in some instances and are 'left behind' in others. Multiple discrimination can affect specific groups compounding the exclusion and inequality Roma face because of their ethnic origin with that which they experience as women, children, older people or people with disabilities. The experience of Roma women can be very different from that of Roma men, reflecting gender inequality within the Roma population, as well as gender inequalities in the destination Member States. However, the research found that the gender relations were sometimes positively affected by a more 'liberal' social environment in the destination country.

Key findings

The research has documented a wide variety of experiences. There are those for whom exercising freedom of movement and residence has worked very well. They have found new opportunities and integrated very successfully into society to the benefit of both themselves and their destination countries. At times, they have been positively welcomed and actively integrated. However, there are also those with few positive experiences of movement and few prospects for transforming this in a positive way.

Although precise figures are not available, it seems that the numbers of Roma EU citizens moving to other Member States and their countries of origin vary markedly. Responses to their arrival also varied and the research identified elements of a '*moral panic*' discourse, particularly associated with stereotypes about 'Gypsy criminality' by media, and some opinion and political leaders in a number of countries.

More generally, the research found that Roma are more likely to be relatively integrated in Member States that have established experience of integrating migrant groups and minorities, including, of course, Roma and Traveller minorities. They are less likely to be integrated in societies which are – or perceive themselves as – ethnically homogeneous.

The impact of the economic crisis and the rise of violent attacks against Roma in some of the countries of origin and destination are noticed throughout the research. Some respondents argued that the economic crisis had compounded the socio-economic reasons for leaving their country of origin. Others said that rising unemployment, as well as a growing xenophobia and racism predicated upon the notion that migrant populations are 'taking our jobs and resources', may adversely affect their situation in some destination countries.

Across the countries studied respondents identified a problem that prevents them from being integrated into the society of the host Member State: the difficulty in finding employment in the formal labour market of their chosen destination country. In some cases this may have an impact on their possibility to access residence registration because this exclusion prevents them from fulfilling the basic criteria to enjoy the right to free movement, namely employment or sufficient resources.

Registration of residence is crucial, particularly for socially disadvantaged EU citizens, such as the Roma, to allow them access to social assistance and labour market integration measures, including, for example, support in seeking employment, as well as vocational or language training.

The situation of Roma in destination countries

Experiences with border controls

'When we arrived on a plane in August 2008 and got to the [United Kingdom] border and immigration control, the official simply looked into our passports and that was it. We are EU citizens, so there was no need for them to make any deeper checks'.

Interview with a Roma family, United Kingdom, 12.04.09

In the interviews carried out for this research Roma respondents who cross the so-called Schengen borders (to date in Ireland, Bulgaria, Romania and the United Kingdom) described their experiences broadly in positive terms. However, some had experience with “ethnic profiling” linked to corrupt practices when *leaving* and when *returning* to their own countries. The respondents were aware of their general right to move, but less aware of the rights and obligations concerning the establishment of residence beyond the initial three month period for EU citizens in another Member State.

The FRA's EU-MIDIS survey² explored whether Roma respondents, surveyed randomly in seven Member States, who had travelled within the last 12 months outside their own country had been stopped at border crossing when coming back to their country of origin, and whether they considered that they had been singled out for stopping specifically on the basis of their minority background. Only a few of the Roma surveyed had travelled outside their own country (in Bulgaria 8%, in the Czech Republic 5%, in Greece 6%, in Hungary 7%, in Poland 11%, Romania 14% and in Slovakia 12%) and of those 58% in Bulgaria, 80% in the Czech Republic, 48% in Greece, 60% in Hungary, 24% in Poland, 80% in Romania and 61% in Slovakia stated that they were stopped. Of those stopped 25% in Bulgaria, 48% in the Czech Republic, 31% in Greece, 9% in Hungary, 44% in Poland, 6% in Romania and 41% in Slovakia considered that they were singled out because of their ethnic background. The fact that four of the five destination countries included in the present report (the exception is the United Kingdom) are in the Schengen area and without external land/sea border

² EU-MIDIS interviewed Roma people in seven EU Member States (Bulgaria, Czech Republic, Greece, Hungary, Poland, Romania and Slovakia). According to the results of the survey, the Roma in these countries are predominantly incumbent minorities; that is, national citizens who were born in the countries where they were surveyed (97%-100%). The proportion of 'immigrants' among the Roma is by far the highest in the Czech Republic, where 12% of interviewees indicated that they were born outside of the country (including elsewhere in the former Czechoslovakia – which means the Slovak Republic). For more information see http://fra.europa.eu/fraWebsite/eu-midis/index_en.htm.

controls dramatically decreases the likelihood of experiencing this type of problem.

The research showed significant variations in experiences of life in destination countries regarding employment opportunities, as well as access to, housing, health care, education and social welfare. Employment crucially affects all other areas of social life: If Roma can secure employment in the formal labour market, they are more likely to be able to register their residence and have better access to services, including, crucially, housing; if this is not possible, they encounter a series of barriers starting with being unable to register their residence, which restricts access to social assistance and integration support. In this case Roma EU citizens do not fulfil the conditions to exercise their right to freedom of movement and residence.

Registration of residence

'In the case of Romanian Roma, if they do not have a document [the residence certificate] they can not pay for the water, they can not make a contract for the supply of electricity and can not be entered into employment pathways [...]. In this way these people do not exist.'

Interview with an official of the Province of Naples, Italy, 05.03.09

Inability to conclude registration of residence in the destination country has a 'domino effect' on the enjoyment of key civil, political, economic and social rights, for example the right to vote in local and European elections, accessing national health systems and public housing, etc.

Difficulties with registration of residence are encountered by those unable to secure employment in the formal economy, since a condition of the Free Movement Directive for securing the right of residence, beyond three months, is to be 'workers or self-employed'; or to have 'sufficient resources, as well as comprehensive sickness insurance, to ensure that they and their family members do not become a burden on the social services of the host Member State'.

The Free Movement Directive allows Member States to introduce more favourable provisions. For example, Spain transposed the Free Movement Directive by Royal Decree 240/2007 omitting any reference to 'sufficient conditions' and establishing an unconditional right of residence for Union citizens. This approach greatly facilitates the social inclusion of EU citizens (Roma, as well as non-Roma).

Apparently Roma have more difficulties in fulfilling the requirements for the exercise of the right to free movement and residence. This makes residence and integration difficult for many Roma EU citizens. The European Commission Report on the application of the Directive noted that 12 Member States had

transposed the notion of ‘sufficient resources’ incorrectly or ambiguously, including Italy and Finland. Problems relate mostly to defining the minimum amount that would be regarded as ‘sufficient’, and failure to take the decision on the basis of personal circumstances.

‘Roma criminality’ and work in the informal economy

‘I don’t like begging. I didn’t beg in Romania, I only had to learn to do it here [in Finland] because I couldn’t find another job. There is no work for Roma women here. What else can I do?’

Interview with a Roma woman, Finland, 06.05.09

Although respondents did not make any specific references to criminal victimisation or engagement in illegal activities, media sources have often made references to ‘Roma criminality’, usually in the context of trafficking or petty crime. Given the paucity of relevant criminal justice data disaggregated by ethnic origin, such references raise important questions as to the validity of this type of information and its impact on Roma stereotypes and prejudice. In light of the vulnerability of the Roma to criminal victimisation, particularly in regard to trafficking, further investigation based on robust and reliable information is therefore necessary.

The research found that economic activity in the informal economy and other activities, such as begging, are common among Roma given their difficulties in accessing the formal labour market. The widespread evidence of involvement in begging and informal economic activity raises profound questions. First, to what extent Roma actually want to be engaged in such activities and second how should authorities react, especially when these activities represent the only obvious means of subsistence.

Respondents suggested that many of those involved in begging would rather be regularly employed, as begging is regarded as ‘deviant’ behaviour in most destination countries and is sometimes, and in some forms, unlawful. During the research public and official responses to the presence of Roma often focused negatively on such Roma activities, while paying less attention to the barriers to accessing formal employment, such the low levels of education and skills due to historic discrimination or lack of language skills.

Policies and measures

The findings of the research show that beyond information measures by the European Commission there is generally little evidence of specific initiatives to inform citizens about their right to free movement within the EU and integrate EU citizens. This lack of policy response is arguably worrying in the case of the

Roma considering that they are generally acknowledged as one of the most vulnerable groups in the EU.

More positively, Member State policy on ethnic minority equality in general and Roma equality in particular can provide a structural context for work with Roma EU citizens. This can be positive or negative depending on the context. For example, the integration of support for Roma EU citizens into a progressive and well-developed policy for national Roma in **Spain** is a useful model. In the **United Kingdom**, the experience of Roma from other Member States is given context by general policies on minority ethnic groups and immigrants and specific policies on ‘Gypsies and Travellers’. In contrast, policy in **Italy** tends to lump all Roma and Sinti together – national citizens, EU citizens and third country nationals – in a way that might infringe fundamental rights.

Good Practice

The research identified good practice particularly at local level and where local authorities have engaged constructively with Roma and Traveller issues and/or have engaged with the issues of Roma from other EU Member States. Such good practice works particularly well when it articulates the aspirations and experiences of the Roma with those of citizens in the ‘host communities’ , and when interventions take a holistic approach targeting interrelated issues, such as employment, housing, education, etc. simultaneously.

Civil society interventions have worked best when there is a relatively strong constructive partnership between public authorities and NGOs. The more active the partnerships – the ‘joined up working’ between all different sectors and tiers – statutory, voluntary and community as well as supranational, national, regional and local government - the more likely a programme is to deliver a positive, holistic and inclusive service to Roma EU citizens. It also underlines that vertical and horizontal synergies are vital – none of these interventions work in isolation.

The research also suggests that small, local initiatives may be as important as large-scale ones. They engage at the level of real families exercising freedom of movement rather than more abstract notions of ‘Roma’, however negatively or positively framed. At this micro level local citizens and authorities get to know and engage with individual Roma families as people with a consequent increase in empathy and solidarity.

Conclusions

Many of the issues raised in this report are not Roma specific. But 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 challenges faced by all citizens on the ground.

Roma are exercising their right to freedom of movement and residence rights in the context of significant push and pull factors. All the evidence is that this movement is likely to continue. Push factors in countries of origin involve a combination of poverty and racism. Unemployment is a defining aspect of the experience of poverty in sending countries. Pull factors include aspirations for improved living standards - particularly the prospect of finding employment in both formal and informal economies.

The research identified a disturbingly negative Roma-specific dynamic. First, responses to the arrival of Roma EU citizens are often negative. Second, specific anti-Roma policy responses have also been identified. Third, existing policy and practice can impact negatively on Roma exercising freedom of movement, even when this is unintended.

The experience of Roma that have moved to another Member State varied widely across the various destination countries regarding housing, health care, education and social welfare. There was a continuum of experiences of integration across the research, ranging from those that were wholly positive to those that involved profound immiseration. The positive experiences of meaningful, incremental integration and social mobility in destination Member States can be regarded as best practices. However, the exclusion of many Roma EU citizens in the society of their Member State of origin and in their host Member State creates insurmountable barriers to formal employment and the ability to prove 'sufficient resources', which has a domino effect on their ability to register, and, as a consequence, to access key civil and political, economic and social rights. This raises profound questions about the effectiveness of inclusion policies.

Broadly, exclusion from social assistance impacts disproportionately on women, children, the old and persons with disabilities. The existing policy responses show little sensitivity to issues of gender equality or other issues of multiple discrimination. Clearly as the response to the situation of Roma from other Member States is developed, there is a need to integrate sensitivity to gender, age, disability and other issues within the overall strategies of support and resourcing.

The European Union and its Member States need therefore to adopt targeted policies that are based on integrated rights- and equality-based standards promoting social cohesion and delivering on the promise of '*Civis Europaeus sum*'.

Opinions

The Agency formulates evidence based opinions in order to support the European Union institutions and the Member States when taking measures or formulating courses of action within their respective spheres of competence to fully respect fundamental rights. In this context based on its extensive research on the difficulties encountered by Roma EU citizens moving to other Member States of the EU, the FRA provides the following opinions.

As the European Parliament stated in April 2009 ‘the EU and the Member States have a shared responsibility to promote the inclusion of the Roma as Union citizens with a view to enabling the Roma people to fully benefit from the incentives provided by the EU’ (European Parliament resolution of 2 April 2009 on problems and prospects concerning European Citizen).

While opinions of the FRA assume a specific focus at European, national and local authority levels, an integrated, co-operative and co-ordinated partnership approach across vertical and horizontal levels of governance is essential for the effective design and implementation of policies and measures. Many of the opinions are not Roma-specific.

European Union institutions

The European Commission should - utilising the structure of the Integrated EU Roma Platform - develop a Framework Strategy on Roma Inclusion, which sets common minimum standards and indicators for social inclusion policies targeting Roma across the European Union.

The European Commission should consider conditioning the allocation of certain European Union Structural Funds on the development and implementation of effective Roma inclusion policies targeting also Roma EU citizens from other EU Member States.

Member States

Member States must ensure that any measures taken that impact directly or indirectly on EU citizens of Roma origin are in compliance with principles laid out in the EU Charter of Fundamental Rights and in conformity with the Racial Equality Directive that explicitly prohibits direct and indirect discrimination.

Member States must ensure the correct transposition of the Free Movement Directive as noted in the recent European Commission report and in line with the Guidelines adopted by the Commission on 2 July 2009.

Member States should facilitate the fundamental right of free movement and residence by developing proactive, inclusion-oriented national policies. This should be done through a consultative process taking into account the

experiences and the concerns of local authorities, civil society and EU citizens themselves.

Member States should carry out regular surveys aimed to collect data disaggregated by citizenship, gender, age, ethnic origin in order to monitor the level of inclusion in the host societies of EU citizens that have exercised their right to free movement.

Member States should remove practical barriers experienced by EU citizens concerning registration processes, through measures ensuring consistency in registration processes and requirements at the local level;

Member States should ensure that all children within their territory have full and equal access to compulsory education, regardless of administrative status, by removing any residence requirements from school registration processes.

Member States should ensure that expulsions of EU citizens are not ordered for non-compliance with residence registration.

Member States should fully conform with their legal obligation to ‘disseminate information concerning the rights and obligations of Union citizens and their family members on the subjects covered by this Directive, particularly by means of awareness-raising campaigns conducted through national and local media and other means of communication’ (Article 34 of the Free Movement Directive).

Member States should publish and widely disseminate in cooperation with civil society organisations information in simple language and translated in the national language(s) of other EU Member States, as appropriate, including minority languages, such as Romani, on the rights of EU citizens residing on their territory and the relevant requirements and processes for realising those rights – including any sending country-specific considerations.

Member States should develop and/or improve Roma inclusion policies and measures targeting in particular the needs of EU Roma citizens from other EU countries by:

- Fully and effectively participating in the Integrated EU Roma Platform;
- Supporting and promoting the development of a common Framework Strategy on Roma Inclusion at EU level;
- Making more innovative use of the Structural Funds and, in particular, the European Social Fund to support the inclusion of the Roma coming from other Member States and combat discrimination against them.

Local Authorities

In close cooperation with national governments local authorities should examine and repeal any measures and policies that are not in line with the Free Movement Directive.

In close cooperation with national governments local authorities should urgently take action to encourage and assist EU citizens to disengage from informal work and find employment in the formal labour market, including forms of self-employment.

Local authorities should develop and publicly display information on local processes and requirements for registering residence. This information should be made available in the national language(s) of other EU Member States, as appropriate, including minority languages, such as Romani.

Local authorities should widely communicate the benefits linked to registration and conduct campaigns to promote registration at the local level. Civil society organisations should be an important partner in this regard.

Local authorities should allow and strongly encourage EU citizens, including Roma, to make use of vocational, language and other training programmes to improve their employability. In addition, they should ensure that registered EU citizens have equal access to social municipal housing.

Local authorities should develop and implement interventions specifically supporting the integration of Roma EU citizens in the local labour market. In developing and implementing such interventions authorities should actively engage with beneficiaries and closely liaise with local employment agencies, civil society organisations and local employers.

European Union Agency for Fundamental Rights

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It can be accessed through the FRA website (<http://fra.europa.eu>).

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