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AD HOC COMMITTEE OF EXPERTS ON ROMA ISSUES¹ (CAHROM)

THEMATIC REPORT ON COMBATING ANTI-GYPSYISM, HATE SPEECH AND HATE CRIME
AGAINST ROMA

(further to the CAHROM thematic visit on combating discriminatory attitudes, racist violence,
hate speech and hate crime against Roma (Budapest, Ózd, Miskolc, Hungary on 4-6
September 2013)

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¹ The term "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as Gypsies.

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I. INTRODUCTION

1.1 Context of the thematic report and visit

The thematic group on combating anti-Gypsyism, hate speech and hate crime against Roma was set up at the request of the Hungarian member of CAHROM, following Hungary's confirmation of its willingness to be a requesting country at the 5th CAHROM meeting (Strasbourg, 14-16 May 2013)². During that meeting, representatives from the Czech Republic, Italy, Norway, Sweden and the United Kingdom confirmed their interest to join this thematic group.

A letter confirming the invitation sent to the CAHROM's group of experts to visit the country was received on 19 July 2013 (see Appendix 1).

The setting up of such a thematic group can be regarded as timely in view of:

- The adoption by the Committee of Ministers of the Council of Europe on 1 February 2012 of a Declaration on the rise of anti-Gypsyism and racial violence against Roma in Europe (see Appendix 4). Indeed, several major incidents have been reported since the adoption of the Strasbourg Declaration on Roma in October 2010;
- The intervention of the Commissioner for Human Rights of the Council of Europe, Mr. Nils Muižnieks, who, at the 4th CAHROM meeting (Strasbourg, 28-30 November 2012), "invited the Committee to address measures for combatting anti-Gypsyism within national Roma integration strategies and, wherever possible, in the context of its thematic work"³. In that context, it should be recalled that the CAHROM has regularly encouraged member states, "wherever necessary, to include an anti-discrimination chapter in their national strategy for Roma inclusion and to finance awareness raising action addressing prejudice and stereotypes against Roma, such as the Dosta! campaign"⁴;
- The Round Table on anti-Gypsyism, organised by the Swedish authorities (the Ministry of Employment), in co-operation with the Council of Europe, in Stockholm on 10 April 2013⁵. The main objective of this round table was to focus on anti-Gypsyism in Europe, share experiences, good examples and discuss possible actions to address the current critical situation and discuss means to work together to combat acts of discrimination and hatred from both decision-makers and civil society. The Swedish authorities informed participants during this meeting that they are currently preparing a "White Paper" on unfair treatment, rights violations and other acts against the Roma in Sweden during the 20th century;
- The Conference on "Right-wing Extremism and Hate Crime: Minorities under Pressure in Europe and Beyond" organised by the Norwegian Ministry of Foreign Affairs in Oslo on 14-15 May 2013. Against a background of rising concern about xenophobic trends, exclusivist ideologies, and crimes committed against minorities, the Conference discussed and formulated recommendations on counter strategies⁶;
- The 6 August 2013 joint call by the European Roma and Travellers Forum (ERTF), the European Network against Racism (ENAR) and the European Roma Grassroots Organisations network (ERGO) for immediate (re)action to stop the escalation of violence against the Roma which gives a non-exhaustive list of incidents, aggressions and intimidation targeting Roma in Europe and

² See paragraph 21 of document CAHROM (2013)17 Report of the 5th CAHROM meeting, available on the CAHROM website (<http://hub.coe.int/web/coe-portal/cahrom1>).

³ See paragraph 52 of document CAHROM (2012)26 Report of the 4th CAHROM meeting, available on the CAHROM website (<http://hub.coe.int/web/coe-portal/cahrom1>).

⁴ See for instance paragraph 6 of document CAHROM (2013)13 Abridged report of the 5th CAHROM meeting, available on the CAHROM website (<http://hub.coe.int/web/coe-portal/cahrom1>).

⁵ The conclusions of this Round table are available in Addendum 2 of this report.

⁶ The Conference report is available in Addendum 2 of this report.

includes a set of recommendations addressed to the Council of Europe, OSCE-ODIHR, and the European Commission.⁷

The thematic visit to Hungary preceded both an international conference entitled “*The hate factor in political speech – where do responsibilities lie?*” co-organised by the Polish Ministry of Administration and Digitalisation and the Council of Europe in partnership with the EEA and Norway grants in Warsaw on 18-19 September 2013, and the No Hate Speech Movement conference “Young people combating hate speech online” organised by the Youth Directorate of the Council of Europe in Strasbourg on 7-9 November 2013 in the framework of its youth campaign combating hate speech online⁸.

Furthermore, the setting up of this thematic group and the organisation of a thematic visit to Hungary, were also of relevance to and tied in with the case law and monitoring activities of the Council of Europe, in particular in the light of the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities, the reports and recommendations of ECRI, the reports of the Commissioner for Human Rights, the advisory work of the Venice Commission, the case law of the European Court of Human Rights and the decisions of the Committee of Social Rights under the revised European Social Charter, including those concerning collective complaints.

The background papers presented by the requesting and partner countries, the extracts from relevant international reports and texts, and the presentations given during the visit appear in Addendum 2 to this thematic report, available from the CAHROM Secretariat.

1.2 Composition of the thematic group

Given their positions at national level, the CAHROM members for Hungary, Italy⁹ and Sweden naturally took part in this thematic group. In view of the very specific topics being addressed by the thematic group, the Czech Republic, Norway and the United Kingdom appointed experts who are not CAHROM members. The list of the experts participating in the thematic group can be found in Appendix 3.

It should be underlined that the members of the thematic group had various professional backgrounds which were complementary to each other: experts from Hungary, Norway and Sweden work on national Roma inclusion policies; the Italian expert works for the anti-discrimination body; the Czech expert had experience in campaigning against racism in the media; and the British expert has experience in relation to the work of the police and hate crime programmes.

1.3 Programme of the thematic visit

The agenda included on the first day meetings with state officials, civil society and various institutions. The second day consisted of a field visit during which the group of experts had the possibility *inter alia* to meet with police officers and Roma police students at the Law Enforcement Vocational School of Miskolc and with local authorities and members of the Roma community in Ózd (Hétes settlement). The morning of the third day was taken up by a debriefing meeting between the experts of the thematic group. The detailed programme of the thematic visit is reproduced in Appendix 2 to this report.

1.4 Terminology

The title of this thematic report “combating anti-Gypsyism, hate speech and hate crime against Roma” has been the subject of a long debate between the experts of the thematic group and deserves some explanation.

1.4.1 Anti-Gypsyism

⁷ The full text and recommendations are available at <http://www.ertf.org/index.php/8-news/178-ertf-enar-and-ergo-united-against-escalation-of-violence-against-roma>.

⁸ No Hate Speech Movement campaign of the Council of Europe: <http://www.nohatespeechmovement.org/>.

⁹ Due to health reasons, the Italian expert had to renounce to take part in the thematic visit in Hungary.

Prior to the organisation of the thematic visit to Hungary, the Hungarian State Secretariat for Social Inclusion suggested to replace “Combating anti-Gypsyism...” by “Combating discrimination...” in the title of both the thematic visit and the final thematic report. This proposal was underpinned by the four following arguments:

- Based on experts’ opinion in Hungary the usage of the term “anti-Gypsyism” is intrinsically derogatory. Since the visit is organised in Hungary we ought to take in account the sensitivity of the eventual participants and their aversion towards the term;
- Even though the thematic visit will be organised on expert level and may not gain public visibility, we have to be mindful of the reaction of the public opinion;
- As the Roma issue enjoys high priority in Hungary and the unequal situation of the Roma population is thoroughly addressed, we reckon that inserting “combating discrimination” in the title would approach the problem through a wider dimension;
- The content of the draft agenda exclusively focusses on Roma specificity, so there is no risk to discuss about anti-discrimination in too general terms.

Whilst the partner countries’ experts had agreed to have a slightly different title for the thematic visit to accommodate the Hungarian authorities’ concerns (i.e. CAHROM thematic visit on combating discriminatory attitudes, racist violence, hate speech and hate crime against Roma), the issue of the final title of the thematic report came back during the debriefing discussion at the end of the thematic visit. The British expert had no strong opinion on this particular issue since the word “anti-Gypsyism” is not commonly used in the UK context. However, the experts from the Czech Republic, Norway and Sweden strongly argued in favour of keeping the original title of the thematic report. The use of the term “anti-Gypsyism” was even a decisive element for Sweden to participate in the thematic group. In the discussion reference was made to the fact that the term “anti-Gypsyism” has been used by various international institutions since 2005 at least¹⁰, as well as in national events, the most recent example being the Round Table on Anti-Gypsyism in Stockholm earlier this year.

In this context the Council of Europe Secretariat also recalled that anti-Gypsyism has been recognised as a specific form of racism in various official texts of the Council of Europe, namely¹¹:

- In the Committee of Ministers’ Recommendation CM Rec (2008)5 on policies for Roma and/or Travellers in Europe, in which the Committee of Ministers recognise[d] the existence of anti-Gypsyism as a specific form of racism and intolerance, leading to hostile acts ranging from exclusion to violence against Roma and/or Traveller communities;
- In ECRI General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma¹² adopted in June 2011, in which ECRI recalls that anti-Gypsyism is “a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination.”¹³;

¹⁰ See Addendum 2 to the thematic report for details and extracts from the Council of Europe glossary on Roma-related terminology.

¹¹ See also Roma-related texts adopted by the Parliamentary Assembly and by the Committee of Ministers, speeches of the Secretary General, the Deputy Secretary General, the Commissioner for Human Rights, and, more recently from the Special Representative of the Secretary General for Roma Issues.

¹² See the text of ECRI General Policy Recommendation no. 13 at [https://wcd.coe.int/ViewDoc.jsp?Ref=CM\(2011\)99&Ver=add2&Language=lanEnglish&Site=CM&BackColorInternet=DBCDF2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM(2011)99&Ver=add2&Language=lanEnglish&Site=CM&BackColorInternet=DBCDF2&BackColorIntranet=FDC864&BackColorLogged=FDC864).

¹³ The ECRI Recommendation also recalls the definition proposed in 2006 by Valeriu Nicolae, the then Secretary General of ERGO (European Roma Grassroots Organisation): “Anti-Gypsyism is a specific form of racism, an ideology of racial superiority, a form of dehumanisation and of institutional racism [...] fuelled by historical discrimination”. The full definition can be found on: <http://www.ergonet.org/antigypsyism.htm>.

- In the Committee of Ministers' Declaration on the rise of anti-Gypsyism and racial violence against Roma in Europe the Council of Europe from 1 February 2012¹⁴, in which the Committee of Ministers stated that as such, anti-Gypsyism is one the most powerful mechanisms of Roma exclusion.

As regards the Hungarian concern about the derogatory meaning of anti-Gypsyism, the Secretariat quoted an extract of the Council of Europe glossary on Roma-related terminology¹⁵ which states: "If anyone objects that we are straying close to "Gypsy" and "Tsigane", which are terms to be avoided (see the entry under "Gypsies"), our answer is that it is – and should remain – a term with a negative connotation. The term "anti-Gypsyism" is addressed not at Roma, but at the majority, and so must be instantly clear to non-Roma. Indeed, the word has echoes of "anti-Semitism" and so connects quickly with the concept of racism, though we must be careful not to over-simplify and draw misleading parallels." In addition, it was recalled that exceptions exist in Europe to the "derogatory" perception of the words "Gypsy" and "Tsigane", such as in France, Portugal, Spain and in the United Kingdom where the respective terms Tsiganes, Ciganos, Gitanos and Gypsies are not pejorative terms and are commonly used by the communities themselves.

As a conclusion of the debriefing session, the experts of the thematic group agreed to have "anti-Gypsyism" maintained in the title of the final thematic report. However, the title of the thematic visit would also appear on the front page and the Hungarian concerns about the use of this term would be mentioned in the final report.

1.4.2 Hate crime

Hate crimes occur when a perpetrator targets a victim because of his or her perceived membership in a certain [social group](#). Examples of such groups include but are not limited to: [racial group](#), [religion](#), [sexual orientation](#), [ethnicity](#) or [gender identity](#)¹⁶.

"Hate crime" generally refers to [criminal acts](#) that are seen to have been motivated by [hostility](#) against one or more of the types above, or of their derivatives. Incidents may involve physical assault, damage to property, [bullying](#), [harassment](#), [verbal abuse](#) or [insults](#), or offensive [graffiti](#) or letters ([hate mail](#))¹⁷.

A hate crime law is a law intended to prevent bias-motivated violence. Hate crime laws are distinct from laws against [hate speech](#) in that hate crime laws enhance the penalties associated with conduct that is already criminal under other laws, while hate speech laws criminalize a category of speech.

1.4.3 Hate speech

In accordance with the **Council of Europe Committee of Ministers Recommendation 97(20) on hate speech**, "the term "hate speech" shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin".

Further information on hate speech, including applicable Council of Europe and other international and regional instruments, case-law and judgments, examples of national measures and initiatives and case-studies can be found in the **Manual on Hate Speech** published by the Council of Europe.¹⁸

¹⁴ See the text of the CM Declaration at [https://wcd.coe.int/ViewDoc.jsp?Ref=Decl\(01.02.2012\)&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/ViewDoc.jsp?Ref=Decl(01.02.2012)&Language=lanEnglish&Ver=original&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383).

¹⁵ The Roma-related glossary of the Council of Europe is available on the Roma portal under "Tools and texts of reference": <http://hub.coe.int/en/web/coe-portal/roma/>.

¹⁶ Stotzer, R.: "[Comparison of Hate Crime Rates Across Protected and Unprotected Groups](#)", [Williams Institute](#), 2007-06.

¹⁷ Definition by the Home Office, UK Government.

¹⁸ Manual on Hate Speech, Anne Weber, Council of Europe Publishing, September 2009 (page.3).

1.5 Size, composition, language, lifestyle of the groups in question

1.5.1 Hungary

In the 2011 census, 316,000 persons declared themselves to be Roma, about one and half times as many as in 2001 (190,046). According to reliable estimates, however, the Roma population in Hungary is about 750,000. This represents approximately 7% of the entire population of the country.

Three linguistic sub-groups are identified: the Romungros (Hungarian-speaking Roma), the Vlach Roma (bilingual, speaking both Romani and Hungarian) and the Beash Roma group (who speak Hungarian and Beash, a dialect of Romanian). The age composition of the Roma population is substantially younger than that of the non-Roma population. In 2010, the rate of children aged between 0 and 14 amongst Roma was 36.8%, while this proportion within the non-Roma population was 15.4%.

The Roma has an uneven geographical distribution in the territory of the country. In certain counties, Roma can reach 15%. Additionally, territorial differences are extreme at the level of smaller territorial units; in a number of localities and locality groups, the Roma constitute the majority of the population.

More than 60% of Roma live in the countryside, in a rural environment, mostly in segregated residential zones, in rather poor housing conditions. There are some one hundred localities in Hungary which have definitively turned into poor Roma ghettos, while in another two hundred localities, this situation will emerge in the near future as a result of seemingly irreversible processes. Most of the segregated localities and localities on their way to micro-regional ghettoisation are situated in the country's economically depressed north-eastern and south-western regions which are typically characterised by a structure of small localities.

1.5.2 Czech Republic

According to the 1991 census 32,903 people declared themselves of Roma nationality, and 16,630 Czech citizens as having Romani as their mother tongue (Romani variants spoken in the Czech Republic include Northern Central Romani and Lovari). At the next census in 2001 only 11,716 people declared themselves as of Roma nationality, with a further 784 people declaring Roma nationality in combination with Czech or Slovak nationality. The decline in the number of declared Roma can have a number of causes. In the past census counts of Roma were associated with a series of anti-Roma measures which has brought about mistrust on the part of Roma towards any state activities targeted at identifying people of Roma nationality.

Expert estimates which depend rather on identification of members of Roma communities by another person or group (most often by experts or staff of public institutions) put the number at 150,000 to 400,000 Roma in the Czech Republic. The number of Roma has been estimated by the office of the government Interdepartmental Commission for Roma Community Affairs at 150,000 to 200,000. According to the 2010 Gabal and Víšek report the current estimate of the number of Roma in the Czech Republic is 250,000, of whom 80,000 (32%) are designated as socially excluded. According to the study "Promoting social inclusion of Roma in the Czech Republic: a study of national policies" published by Tomáš Sirovátka from Masaryk University in July 2011, the share of Roma in the Czech population is usually estimated at 200,000. This represents approximately 2% of the entire population of the country.

1.5.3 Italy

The Roma, Sinti and Caminanti (hereafter "RSC") people living in Italy are characterized by the heterogeneity as for: groupings; dialects and specific linguistic varieties; and cultures. When considering RSC communities, we are referring to: Italian citizens; citizens from other EU countries, Non-EU citizens; foreigners who were granted asylum or subsidiary protection; (de facto) stateless people, born in Italy from stateless parents.

It is estimated that nation-wide there are 120,000 to 180,000 Roma Sinti and Caminanti people: half of whom (about 70,000) are Italian; and the other 50%, although made up of foreigners, is mostly in Italy, on a permanent basis. The visibility of Roma settlements in the suburbs of large urban areas of North-Central and North of Italy leads to neglect sometimes the important presence of these communities in other areas of the country. In Scampia (Naples), there are over 1,500 Roma people from the former Yugoslavia whose presence dates back to the late eighties (the second generation of Roma people from the former Yugoslavia, though being born in Scampia, is made up of Italians). In Puglia, on the border between Molise and Abruzzo, the Roma community is largely located there on a permanent basis.

In Noto, Sicily, the Caminanti community has been living there since the late fifties (some of them are still "semi-nomadic"). The majority of Sicilian Caminanti of Noto travel through all Italy for around a semester, offering small manual services and coming back in the Province of Noto for the remaining part of the year.

The North of Italy is characterized by a predominance of Sinti. The Sinti (estimated to be around 32,000 people) had been traditionally involved in nomadic labour activities that required them to travel around the country (fairs or circus). Anyway, it is considered that just 3% of them are actually nomadic, because the majority of them have a permanent place where they come back when they do not work.

Regarding the Roma, mainly recently migrated, the precarious conditions of settlements and evictions carried out by local authorities, create a forced nomadic habit linked to their vulnerable condition of marginality.

1.5.4 Norway

No statistics are currently kept in Norway on the basis of ethnic background. However, on the basis of information provided by the Roma and persons who have contact with the Roma, it is possible to estimate the total number of Norwegian Roma registered in the Norwegian National Population Register at approximately 700 persons. Of these, the large majority (over 600) reside in Oslo¹⁹.

The Norwegian Roma population is culturally and socially a part of the Vlach Roma sub-group present in Western Europe²⁰. In addition, during recent years, an increasing number of Roma have arrived in Norway, particularly from Romania²¹. The number of Roma migrants is unknown.

Norwegian Roma are recognized as a national minority group together with four other groups under the Council of Europe's Framework Convention for the Protection of National Minorities, i.e. Kvener/Norwegian Finns (kvener/norskfinner), Romani people (romanifolk/tatere), Forest Finns (skogfinner) and Jews (jøder). Norwegian Roma have been present in today's Norway since the 18th century at least.

The group of 4,000 to 10,000 Romani people²² is now mostly sedentary following past assimilation policies. Their language is called Romani as opposed to the language spoken by Roma called Romanes in Norway. As stated above, Romani people are recognised in Norway as a distinct minority though both Roma and Romani people would fall under the general definition of Roma used at the Council of Europe. There is a certain agreement among experts that Roma and Romani people share a common lineage originated in India. In Norway however they represent two distinct groups with different culture and history and they face different challenges when it comes to dealing with the majority population and the authorities.

¹⁹ These estimated figures are confirmed by Torbjørg Bay's surveys.

²⁰ Source: Ada Engebretsen, 2010.

²¹ The Norwegian government has offered grants (10 million NOK) for humanitarian measures for beggars from the EEA states in 2013. The capital of Oslo is a priority. The government has also initiated a research project to know more about the situation of foreign beggars in Norway. Some Roma migrants in Norway are selling a magazine called "People are people" (*Folk er folk*). "Folk er folk" is also a NGO. "Roma people" (*Romfolk*) is another NGO with their own magazine. The situation of this group of people, who support themselves, among other ways, by means of begging and busking, has also been raised by the Equality and Anti-Discrimination Ombud (LDO), *inter alia*, with regard to the right to free food in connection with food distribution and the possibility of selling magazines.

²² The numbers of Roma and Romani people are estimates. The Norwegian legislation does not permit statistical data based on ethnicity and the Roma and Romani people are against this kind of registration.

1.5.5 Sweden

The Roma population in Sweden, estimated at around 50,000 (0.53% of the total population), is culturally, linguistically, and religiously heterogeneous, made up of different groups such as Kalderash, Lovari, Churari, Kaale, Travellers, Sinti, Arli and Gurbeti.

The earliest Roma groups arrived on the territory of what is now Sweden in the 16th century. Different Roma groups have been arriving in the country over a prolonged period of time, from recent migrant workers and refugees in the 1960s to the latest arrivals of citizens from new EU countries, particularly from Romania and Bulgaria.

Most Roma in Sweden are Swedish citizens or have permanent residence in the country, with the same social rights as provided to other citizens. Nearly all Roma in Sweden speak Swedish.

1.5.6 United Kingdom

There are two distinct population groups in the United Kingdom:

- first, a number of groups who have been living and travelling in the United Kingdom and Ireland for centuries (commonly referred to as Gypsies, Travellers or Gypsies/Travellers) all of whom speak English as their mother tongue²³;
- second, the Roma, the term generally used to refer to people of Roma origin who have migrated from other countries of Europe in recent years, and who are not travellers²⁴.

The 2011 census included a tick box for Gypsies and Irish Travellers in the ethnic origin question for the first time. Census data on ethnicity in England and Wales published in late 2012 by the Office for National Statistics²⁵ show that 58,000 people identified themselves as Gypsies and Travellers. The census also provides detailed information on their geographical distribution in England and Wales.

The available data show that Gypsies and Travellers are among the most disadvantaged minority ethnic groups, particularly in education and health, and also face discrimination, hostility and prejudice.

II. RELEVANT EUROPEAN AND INTERNATIONAL STANDARDS AND REFERENCE TEXTS²⁶

International organisations and non-governmental organisations have adopted various standards on measures to address and combat hate crime, hate speech and other forms of intolerance and discrimination, through conventions, recommendations, case-law, reports and surveys.

2.1 At the level of the Council of Europe

The **right to freedom of expression** is enshrined in Article 10, paragraph 1, of the **European Convention on Human Rights (ECHR)**. The exercise of this right, however, has limits given that it carries with it duties and responsibilities for the protection, *inter alia* of the reputation or rights of others, as provided for by the second paragraph of Article 10. In such cases, the European Convention provides

²³ Some Gypsies and Travellers travel, or travel some of the time, but many are sedentary. The most recent biannual caravan count showed that there were about 18,730 Gypsy and Traveller caravans in England in January 2013 (<https://www.gov.uk/government/publications/gypsy-and-traveller-caravan-count-january-2013>. This count covers only England and excludes Scotland, Wales and Northern Ireland). It should be noted that this is a count of caravans and not of people.

²⁴ There are no reliable figures on the number of Roma in the United Kingdom, since ethnic origin is not recorded on entry to the UK.

²⁵

<http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/index.html>; <http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-ethnicity.html>; <http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/rpt-international-migrants.html>.

²⁶ Additional relevant texts and reports which are not quoted below can be found in Addendum 2 to this thematic report.

that proportionate “formalities, conditions, restrictions or penalties”, as are prescribed by law, may limit the right to freedom of expression.

The **European Court of Human Rights (ECtHR)** has emphasised that given that tolerance and respect for the equal dignity of all human beings are the foundations of a democratic, pluralistic society, “as a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance. Concrete expressions constituting hate speech, which may be insulting to particular individuals or groups, are not protected by Article 10 of the Convention.”²⁷

In addition, Article 17 of the Convention provides that no state, group or person may engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms enshrined in the Convention or at their limitation to a greater extent than is provided for therein. Extremist acts as, for example, the public denial of the reality of clearly established historical facts relating to crimes against humanity as those of the Holocaust, have been viewed by the European Court of Human Rights as serious threats to public order which fall into the category of aims prohibited by Article 17.²⁸

Although the ECHR, and its Article 10 in particular which guarantees freedom of expression, remains the incontrovertible reference point, there are Council of Europe reference texts, treaties or instruments. The **European Social Charter**, in the field of economic and social rights, and the **Framework Convention for the protection of national minorities** both contain measures aimed to protect against all forms of discrimination. The **revised European Social Charter** prohibits any discrimination on grounds such as race, colour, religion or national extraction in the enjoyment of the rights it recognizes. The States parties to the Framework Convention, which prohibits any discrimination on the basis of belonging to a national minority, undertake for their part to adopt adequate measures in order to promote full and effective equality between persons belonging to a national minority and those belonging to the majority. The State parties to the Framework Convention also undertake to encourage a spirit of tolerance and intercultural dialogue and to take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity.

The **Additional Protocol to the Convention on cybercrime**, related to the prosecution of acts of racist and xenophobic nature through computer systems, which was adopted on 28 January 2003 and entered into force on 1 March 2006, is of particular importance where it concerns the dissemination of messages of hatred through the Internet. The States parties to this Protocol are committed to adopt such legislative and other measures as may be necessary to establish the following acts as criminal offences under their domestic law, when committed intentionally and without right:

- distributing, or otherwise making available, racist and xenophobic material to the public through a computer system;
- threatening, through a computer system, with the commission of a serious criminal offence as defined under its domestic law, (i) persons for the reason that they belong to a group, distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors, or (ii) a group of persons which is distinguished by any of these characteristics;
- insulting publicly, through a computer system, (i) persons for the reason that they belong to a group distinguished by race, colour, descent or national or ethnic origin, as well as religion, if used as a pretext for any of these factors; or (ii) a group of persons which is distinguished by any of these characteristics;
- distributing or otherwise making available, through a computer system to the public, material which denies, grossly minimises, approves or justifies acts constituting genocide or crimes against humanity, as defined by international law and recognised as such by final and binding decisions of the International Military Tribunal, established by the London Agreement of 8 August

²⁷ Case of *Gündüz v Turkey*, paragraphs 40-41 of the judgment, 04/12/2003

²⁸ Case of *Garaudy v France*, page 23 of admissibility decision, 24/06/2003

1945, or of any other international court established by relevant international instruments and whose jurisdiction is recognised by that Party.²⁹

In addition, it is worth mentioning the following Council of Europe reference documents:

- **The Council of Europe Committee of Ministers Recommendation 97(20) on hate speech³⁰:** Principle no. 2 of this Recommendation states that “the governments of the member states should establish or maintain a sound legal framework consisting of civil, criminal and administrative law provisions on hate speech which enable administrative and judicial authorities to reconcile in each case respect for freedom of expression with respect for human dignity and the protection of the reputation or the rights of others.”
- **The Declaration of the Committee of Ministers on the Rise of Anti-Gypsyism and Racist Violence against Roma in Europe**, in which the Committee of Ministers:
 - i. expresses its deep concern about the rise of anti-Gypsyism, anti-Roma rhetoric and violent attacks against Roma which are incompatible with standards and values of the Council of Europe and constitute a major obstacle to successful social inclusion of Roma and full respect of their human rights;
 - ii. draws the attention of governments of member States to ECRI's General Policy Recommendation No. 13, in particular its paragraph 8 which contains useful guidelines on combating racist violence and crimes against Roma;
 - iii. calls on governments and public authorities at all levels and the media to refrain from using anti-Roma rhetoric, in particular during electoral campaigns, and to condemn vigorously, swiftly and in public, all acts of racist violence against Roma, including threats and intimidation, as well as hate speech directed against them;
 - iv. calls on governments and public authorities at all levels to be vigilant not to use Roma as easy targets and scapegoats, in particular in times of economic crisis, and to conduct in a speedy and effective manner the requisite investigations of all crimes committed against Roma and identify any racist motives for such acts, so that the perpetrators do not go unpunished and escalation of ethnic tensions is avoided;
 - v. welcomes the existing examples of swift reaction from state and local authorities to hate crime and anti-Roma incidents, including legal responses (e.g. amendments of national legislation to protect Roma from harassment and intimidation; prosecution and conviction by national courts of persons committing such crimes, including through the Internet and other media, preventing and condemning extremist organisations inciting or committing such crimes). It stresses the need for effective action to record racist crimes, support victims and encourage the latter to report such racist incidents;
 - vi. recognises the interdependence of inclusion and anti-discrimination; therefore, any strategy, programme or policy developed to improve the situation and integration of Roma should include, in addition to measures promoting the social and economic inclusion of Roma in areas such as education, health, employment and housing, measures combating discrimination and addressing anti-Gypsyism, in line with its Recommendation CM/Rec(2008)5 on Policies for Roma and/or Travellers in Europe. Such measures could include research on the phenomenon and awareness-raising activities among the non-Roma population, conducted in co-operation with Roma organisations, with a view to addressing stereotypes and prejudice towards Roma. In this respect, it underlines the role and responsibility of media and journalists. It also recalls that the Council of Europe *Dosta!* campaign is one of the tools at the disposal of member States and encourages them to use it;
 - vii. underlines the need for all member States to adopt specific and comprehensive anti-discrimination legislation in line with international and European standards; to set up anti-discrimination bodies equipped to promote equal treatment and to assist victims of discrimination; and to ensure that this legislation is effectively implemented.

²⁹ *Manual on hate speech* by Anne Weber (published by the Council of Europe in September 2009).

³⁰ [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec\(97\)20_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec(97)20_en.pdf).

- **ECRI General Policy Recommendations no. 7, 11 and 13:**
 - **ECRI General Policy Recommendation No. 7** on national legislation to combat racism and racial discrimination recommends the prohibition under the criminal law of a wide range of acts including, inter alia, public incitement to violence, hatred or discrimination, public insults and defamation, or threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin. ECRI recommends that member states penalise not only incitement to violence, hatred and discrimination, but also the expression of an ideology which claims the superiority of, or which depreciates or denigrates, a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.
 - **ECRI General Policy Recommendation No. 11** on combating racism and racial discrimination in policing is also relevant, in particular Part III of the Recommendation concerning the role of the police in combating racist offences and monitoring racist incidents. ECRI recommends that member states introduce a systematic and comprehensive monitoring of all incidents that may constitute racist violence.
 - **ECRI General Policy Recommendation No. 13** on combating anti-Gypsyism and discrimination against Roma recalls that anti-Gypsyism is a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination. As such, anti-Gypsyism is one the most powerful mechanisms of Roma exclusion.

2.2 At the level of the European Union

The **FRA 2012 survey** “The situation of Roma in 11 EU Member States³¹”, which provides concrete data regarding the lack of fulfilment of Roma’s rights and provides results of experiences of discrimination perceived by Roma in eleven countries, including the Czech Republic, Hungary and Italy, has also been extensively used as background information to prepare this thematic report. In addition, representatives of the TÁRKI Social Research Institute opened the round table in Budapest highlighting the main results of the FRA survey, as far as Hungary is concerned, with a view to providing participants and the group of experts with a comparative overview of the situation of Roma in Hungary.

Despite the **EU Racial Equality Directive** adopted on 29 June 2000³², the results of the FRA survey shows that more than half of the respondents looking for work said that they have experienced discrimination because they are Roma. The largest shares of discrimination experiences are among Roma in Italy and the Czech Republic (both over 60%). In Hungary the respective figure is slightly over 40%. Paradoxically, the highest awareness levels of existing anti-discrimination legislation among Roma respondents are in the countries where the perceived discrimination is the highest, i.e. Italy and the Czech Republic (between 50 and 55%). According to the FRA survey, Roma respondents in Hungary are more aware of the existence of anti-discrimination legislation (about 46%) than their non-Roma peers 41%), an exception shared with Poland.

III. MANIFESTATIONS OF ANTI-GYPSYISM, HATE SPEECH AND HATE CRIME

Reports from Council of Europe monitoring bodies (ECRI, the Framework Convention for the Protection of National Minorities, and the Commissioner for Human Rights) have been extensively used to prepare this chapter of the thematic report. Some of their conclusions and recommendations are summarised below as they give a general picture of the situation of Roma in the countries participating in this thematic group

³¹ The 11 EU Member States covered by the FRA survey are: Bulgaria, Czech Republic, France, Greece, Hungary, Italy, Poland, Portugal, Romania, Slovak Republic and Spain. The survey is available online at: http://fra.europa.eu/sites/default/files/fra_uploads/2099-FRA-2012-Roma-at-a-glance_EN.pdf.

³² Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>.

when it comes to discrimination and racism, as well manifestations of anti-Gypsyism, hate crime and hate speech against Roma. The detailed answers received by the experts of the thematic group to the questionnaire on issues at stake at national level and the practical responses, where such exist, given by the different stakeholders appear in Addendum 1 of the thematic report.

3.1 Hungary

ECRI³³ underlined that Roma children are substantially over-represented in the child protection system, and thereby exposed to a risk of rejection by their own community, while still being subject to discrimination by members of majority society on the basis of the latter's perceptions of them as Roma. Access to employment and to public places, difficulties to obtain land property are also areas of concern mentioned by the Equal Treatment Authority during the thematic visit in Hungary. The Equal Treatment Authority provided the following data concerning Roma-related discrimination cases:

	2008	2009	2010	2011
Number of Roma related complaints received	112	104	128	118
Number of violations	4	3	6	6
Settlements	3	6	6	3
Ex-officio procedures	0	3	1	0
Rejection by ruling ³⁴	15	16	17	13

In October 2009, the Commissioner for Human Rights of the Council of Europe, following an official visit to Hungary, had written to the Prime Minister of Hungary to share his concerns about the public use of anti-Roma, hate speech by certain public figures and the lack of strong condemnation of and effective measures against a reoccurrence of such incidents. During his visit, he had appealed to all party leaders to exclude such language from any political debates and to ensure that no xenophobic or anti-Roma statements be made in the forthcoming election campaign. The Commissioner encouraged the Hungarian authorities to reflect further and to adopt urgent measures in order to fully protect the human rights of all members of minorities affected by intolerant, hate speech and to align legislation and practice with the European Convention on Human Rights and the Court's case law. He referred in his letter to ECRI Study published in 2005 and to ECRI Declaration on the use of racist, anti-Semitic and xenophobic elements in political discourse. In this declaration, ECRI stressed that political parties can play an essential role in combating racism, by shaping and guiding public opinion in a positive fashion. It has suggested the following, useful practical measures:

- Self-regulatory measures which can be taken by political parties or national parliaments;
- The signature and implementation by political parties of the Charter of European Political Parties for a Non-Racist Society³⁵ which encourages a responsible attitude towards problems of racism, whether it concerns the actual organisation of the parties, or their activities in the political arena;
- The adoption and implementation of provisions penalising the leadership of any group that promotes racism, as well as support for such groups and participation in their activities;
- Effective implementation of criminal law provisions against racist offences (including those establishing racist motivation as an aggravating circumstance) and racial discrimination, which are applicable to all individuals;
- The establishment of an obligation to suppress public financing of organisations which promote racism, including public financing of political parties.

The Hungarian expert of the thematic group provided information regarding social surveys and anti-Roma messages and highlighted that anti-Roma public and political speech can take various forms in Hungary from incitement to hatred or discrimination, to reiterating stereotypes or generalisations about criminality. Sometimes anti-Roma messages are implicit. However, the most frequent anti-Roma declarations in the Hungarian public discourse are linked to stereotypes, namely that the Roma inflict threat to public safety.

³³ See ECRI report on Hungary (fourth monitoring cycle) adopted on 20 June 2008 and published on 24 February 2009: http://hudoc.ecri.coe.int/XML/ECRI/ENGLISH/Cycle_04/04_CbC_eng/HUN-CbC-IV-2009-003-ENG.pdf.

³⁴ In other cases informing the client was sufficient, as proceedings were not requested or the case belonged to another authority.

³⁵ <http://www.coe.int/T/F/Com/Dossiers/Evenements/2005-ecri/charte.asp>.

It is also commonly believed that the phenomenon of “Gypsy crime” exists, that inclination to commit crime is both genetically and culturally coded in the Roma people and that committing crime is considered by the Roma community as legitimate and not immoral. Gender related prejudices are also common, namely that Roma women are prostitute and that incest is very frequent within the Roma community. Roma people are also generally considered as worthless to be integrated.

According to a 2011 survey of the most renowned Hungarian Social Survey Institute - TÁRKI, the public opinion, stereotypes, and prejudices related to the Hungarian Roma population are deeply embedded and hardly have shifted since the change of regime. Nevertheless, there are examples of positive stereotypes as well, for example the Roma are naturally gifted and talented in music, art and trade, or the Roma families have stronger traditional values than the non-Roma ones. The cohesive power of the Roma community is also appreciated in the public opinion in Hungary.

3.2 Czech Republic

The main problems of Roma communities identified by ECRI³⁶ are the separation of Roma communities from mainstream society in discrimination in the fields of education, employment and housing. Little progress has been made in concrete terms in recent years towards improving either the living conditions of Roma or their integration in Czech society. While some welcome steps have been taken to remove previous formal barriers existing in the field of education, the disadvantages experienced by Roma in these fields are still very real. Segregation in schools remains a fact of life and access to employment is much more difficult for Roma. Removal of Roma children from their families: the overall number of children in institutional care in the Czech Republic is very high, and there is a disproportionately high number of Roma children in this situation despite judgements of the European Court of Human Rights condemning such practices³⁷.

3.3 Italy

According to ECRI³⁸, most Roma in Italy experience severe marginalization and discrimination in terms of access both to housing and to other social rights. The general climate regarding Roma is strongly negative: many stereotypes and prejudices exist concerning them, which are sometimes reflected in, and even reinforced by, the attitudes and policies adopted by politicians. ECRI noted that although Italian legislation covers a large number of offences that could be classed as racism or racial discrimination, in 2007 the government argued that there was a need for firm action to deal with an exponential increase in discrimination based on grounds covered by ECRI's mandate.

3.4 Norway

ECRI³⁹ took note that Romani people and Roma are also reported to experience discrimination when trying to gain access to campsites. Furthermore, they are reported to sometimes meet with difficulties when trying to report these cases to the police.

3.5 Sweden

According to the ECRI⁴⁰, the main problems faced by Roma are the mutual lack of trust between Roma and the majority population and the Roma's withdrawal into their own community because of their history.

³⁶ See ECRI report on the Czech Republic (fourth monitoring cycle) adopted on 2 April 2009 and published on 15 September 2009: http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_04/04_CbC_eng/CZE-CbC-IV-2009-030-ENG.pdf.

³⁷ See document CAHROM (2012)18 Thematic report on inclusive education of Roma children as opposed to special schools.

³⁸ See ECRI report on Italy (fourth monitoring cycle) adopted on 6 December 2011 and published on 21 February 2012: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Italy/ITA-CbC-IV-2012-002-ENG.pdf>.

³⁹ See ECRI report on Norway (fourth monitoring cycle) adopted on 20 June 2008 and published on 24 February 2009: http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_04/04_CbC_eng/NOR-CbC-IV-2009-004-ENG.pdf.

⁴⁰ See ECRI report on Sweden (fourth monitoring cycle) adopted on 29 June 2012 and published on 25 September 2012: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Sweden/SWE-CbC-IV-2012-046-ENG.pdf>.

ECRI stresses that this is particularly damaging to Roma, since it makes it harder to adopt measures jointly, undermines Roma confidence in the effectiveness of measures taken by the authorities (even if they have been consulted) and tends to create a certain resentment among the majority population regarding efforts to improve the situation of Roma.

ECRI recommended to Swedish authorities to ensure that the Instrument of Government provides individuals with adequate protection against all racial discrimination. They should study any new case-law concerning Article 12 of Chapter 2 of the Instrument of Government to determine whether this provision may need to be amended to cover grounds of discrimination coming under ECRI's mandate but not specifically listed: language, religion and nationality, although the Discrimination Act covers some of these criteria. ECRI also recommended to Swedish authorities to amend the Instrument of Government to enshrine the possibility of taking temporary special measures with respect to certain groups to guarantee them enjoyment and exercise of their human rights and fundamental freedoms in conditions of equality.

3.6 United Kingdom

ECRI⁴¹ indicated that Gypsies/Travellers, migrants and asylum seekers are among those groups regularly presented in a negative light in the mainstream media, and in particular in the tabloid press, where they are frequently portrayed, for example, as sponging off British society, making bogus claims for protection or being troublemakers. Civil society actors have, in some cases, observed direct links between minority groups targeted by the media and minority groups targeted in violent attacks. Statements by some mainstream politicians may have stigmatised certain groups, such as refugees, asylum-seekers or migrant workers.

ECRI expressed its deep concern that hostile reporting in the media, and especially virulent anti-Gypsy reporting and editorials in the tabloid press, exacerbate these problems. Representatives of Gypsies and Travellers have indicated that the Press Complaints Commission has failed to take action in such cases. In addition, there are high levels of hostility towards and prejudice against Gypsies and Travellers that still appear to prevail in many areas, especially against the background of an acute shortage of land for sites and sometimes fears about perceived differences in norms of social behaviour⁴².

IV. LESSONS LEARNT, CONCLUSIONS AND GOOD PRACTICES IDENTIFIED

4.1 Lessons learnt by the group of experts regarding the organisation of the thematic visit

Partner countries' experts welcomed the opportunity given by the Hungarian authorities to meet during the thematic visit with a large variety of interlocutors: representatives from various ministries (Ministry of Human resources/State Secretary for Social Inclusion, Ministry of Public Administration and Justice, Ministry of National Defence) and from several institutions (Equal Treatment Authority, Media Authority, TÁRKI Social Research Institute, Pécs University Department of Romology, Wallenberg Committee).

The opportunity given to the group of experts to visit places far away from the capital where usually international meetings take place, namely the Hétes settlement in Ózd and the Law enforcement vocational school in Miskolc, was also much appreciated as it gave the opportunity for experts to collect information from the field and from local actors and Roma community members, although partner countries' experts would have liked to meet with more representatives from NGOs with focused knowledge on (combating) anti-Gypsyism, hate speech and hate crime.

⁴¹ See ECRI report on the United Kingdom (fourth monitoring cycle) adopted on 17 December 2009 and published on 2 March 2010: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/United_Kingdom/GBR-CbC-IV-2010-004-ENG.pdf.

⁴² Two-thirds of local authorities indicate that they have had to deal with tensions between Gypsies and Travellers and other members of the public; 94% of these indicate unauthorised encampments as one of the main problems in this respect; 46% cite planning applications and enforcement; and 51% refer to general public hostility; and public resistance to providing additional sites has been identified as the most significant consequence of these tensions.

The presence of Dr. Zoltán Kovács, State Secretary for Social Inclusion, and his introductory statement at the round table, as well as the participation of Mr Attila Stojka, Head of Department of Inclusion Development at the same State Secretariat, in the debriefing meeting during the last day of the visit, demonstrated the authorities' interest in the CAHROM thematic visit and was considered by the experts as a good practice for future similar events.

Looking back at the experience of the thematic visit, the group of experts wish to highlight the following:

- The host country, whilst obviously in a privileged position to present its policy and experience in more detail, should not too predominantly occupy the agenda and leave sufficient space for partner countries' experts to present their national situation and experience;
- Whilst the agenda of the thematic visit initially reflected most earlier recommendations made by the CAHROM regarding the organisation of thematic visits, including a list of specific questions for each agenda item to frame the round table discussion, the fact that more than one Hungarian speaker introduced each agenda item resulted in leaving little time for exchanges with and presentations by partner countries.

The group of experts would like therefore to suggest for the organisation of future thematic visits, especially round tables, the following:

- Speakers should be limited to one person per topic and not be all from the host country;
- Each partner countries' expert should be given the opportunity to be a speaker for one of the sessions so as to ensure that each participating country in the thematic group is being given a balanced role in the agenda;
- The moderator of the round table should ensure that presentations are not too lengthy and give space for interactive discussions between participants from the host country and partner countries' experts;
- Presentations and discussions should stick as much as possible to the specific list of questions previously identified by the group of experts;
- Sufficient time should be awarded to the experts to discuss the topic and work on the draft thematic report (e.g. during the last day debriefing session).

The group of experts would like also to recall that **CAHROM thematic reports and visits are not a monitoring exercise but a peer to peer exchange of experience**. Partner countries' experts felt at some point during the roundtable discussion and in the way that the field visit was conducted, that this had not been clearly understood by all Hungarian interlocutors who seemed to approach the question of hate crime and hate speech through a wider, less focused dimension, directing therefore partner countries' experts to refocus the debate with their questions.

As prerequisites for ensuring an interactive exchange of experience, the designated expert(s) from the requesting country should be fully involved during the thematic visit at an equal level with partner countries' experts; and participants from the host country should be well briefed about the thematic working methods of the CAHROM and show some curiosity regarding the situation in partner countries by putting questions to partner countries' experts.

The group of experts appreciated the efforts of the Hungarian authorities, including their financial support for the organisation of the field visit to the north-eastern part of Hungary and for providing quality interpretation throughout the thematic visit. Whilst they collected a lot of information on examples of Roma inclusion projects in the fields of education, employment and housing, during the field visit, the experts considered that it was sometimes difficult to keep the focus on the main topic of this thematic exercise, with the notable exception of the meeting with the director, trainers and Roma students of the police academy in Miskolc which was of great interest for all members of the thematic group and Hungarian participants in the thematic visit.

With a view to sharing as much as possible information about each country, a detailed questionnaire was addressed to the requesting and each partner country to prepare a background document for the thematic visit and the future thematic report. It is essential that replies to this kind of questionnaire are addressed to the CAHROM Secretariat and be shared among the members of the thematic group in advance of the thematic visit.

4.2 Conclusions of the thematic group of experts and good practices identified

During the meetings in Budapest and the field visit in Ózd and Miskolc, the group of experts received a lot of information concerning the situation in Hungary regarding discriminatory attitudes against Roma, some of them also addressing hate speech, hate crime and other manifestations of racism. The legal and policy frameworks, several programmes and actions developed in the field and the role of the media and equality bodies in ensuring respect for human rights were also presented and discussed, helping the experts to draw the following conclusions.

Recognition of anti-Gypsyism as a specific form of racism

Racism directed towards Roma is deeply rooted in Europe; it is persistent both historically and geographically; in many countries, it is systematic and accepted by virtually the whole society and is often accompanied by acts of violence.⁴³

Despite its official recognition as a specific form of racism by the Council of Europe, most of the countries in Europe, like Hungary, are still reluctant to use this terminology. Experts agree that there is a real challenge concerning racism and violent attitudes; therefore state authorities have the duty to respond, in cooperation with civil society.

The phenomenon is not decreasing despite Roma inclusion policies and their funding.⁴⁴ Many Roma associations at local, national and international levels consider that their communities are more affected by discrimination and more severe forms of racism (anti-Gypsyism) compared to some years ago, and this across Europe. Many actors emphasise a trend in which racist and xenophobic discourses are increasingly seen as legitimate by European societies. According to ECRI reports and recommendations to member states of the Council of Europe, authorities need to intensify measures to combat and prevent racism and racial discrimination against Roma, including local and regional authorities. In that context the European Alliance of Cities and Regions for Roma Inclusion may provide opportunities for sharing experiences and best practices, upon request from local and regional authorities.

Leaving aside the lively debate between the group of experts on the use of the term anti-Gypsyism (see chapter 1.4.1 above), the group of experts acknowledged that there is, generally speaking, a lack of official data that could bring grist to the mill of those who affirm that there has been an increase of anti-Gypsyism in recent years. The importance of the transparency of state institutions about data collected, the quality of training and the role of the civil society were underlined by the group of experts.

A particular focus should be given to the situation at local and regional levels where racism and discriminatory attitudes are often more acute. Racism and discrimination by local authorities should not be tolerated by national authorities under the pretext of decentralisation. Some experts of the thematic group indicated that they had missed information about the role of Hungarian municipalities in addressing hate crime and racism during the field visit.

Good practices identified: In **Sweden**, the phenomenon of anti-Gypsyism as a specific form of racism has been recognised by the authorities. A Round Table on anti-Gypsyism was organised by the Swedish

⁴³ See intervention of the Executive Secretary of ECRI at a joint OSCE/Council of Europe/EUMC international conference on the implementation of policies/action plans for Roma, Sinti and Travellers and measures against the anti-Gypsyism phenomenon in Europe held in Warsaw in October 2005.

⁴⁴ See the Declaration of the Committee of Ministers of the Council of Europe on the Rise of Anti-Gypsyism and Racist Violence against Roma in Europe adopted in February 2012.

authorities (the Ministry of Employment), in co-operation with the Council of Europe, in Stockholm on 12 April 2013, the conclusions of which appear in Addendum 2 to this report. In **Italy**, within the regular "Week of Actions Against Racism", being promoted since 2005, in conjunction with the International Day for the Elimination of All Forms of Racial Discrimination, set by the United Nations on March 21 of each year, UNAR also plans actions specifically directed to combat "anti-Gypsyism" phenomena⁴⁵.

Preventing, reporting and monitoring anti-Gypsyism, hate speech and hate crime (including in the media and public discourse)

The Hungarian interlocutors provided the group of experts during the visit with a wide range of information concerning their anti-discrimination legislation and the work of the Equal Treatment Authority. The **Equal Treatment Authority (ETA)** was established in 2005 and is based in Budapest, but its administrative procedure is extended to municipalities, and therefore incoming complaints are handled at local level. The project **Social Renewal Operative Programme (SROP)** (line 5.5.5.: fighting against discrimination, raising social awareness) was launched in 2009 and provides the possibility for lawyers specialised in equal treatment to receive complainants at local level. Complainants are entitled to get free professional assistance, and their applications are assisted and forwarded to the ETA. The SROP 5.5.5 programme also involves a lecture series designed by law enforcement personnel. The target group of the course is broad: participants can be those exposed to discrimination (mainly Roma) or those who work to assist people subjected to discrimination.

Part of the SROP programme is a 30-hour accredited training course launched in 2010, based on material developed by law enforcement personnel, and held over more than 70 training sessions. The broad target groups for such training are: both those members of "at-risk" groups (e.g. if their Roma origin is linked to discrimination) and those who work with such persons. The training courses are run in a barrier-free environment in Budapest and several locations in each county by trainers qualified in law, sociology, socio-political studies and economics; the trainers in law work for the authority. In 2012 the Authority rolled out 31 accredited legal literacy and sensitisation training sessions across the country, 15 to 25 participants per course. The SROP programme also allows research, the goals of which are perceived to be achieved by ETA through several methods. One focuses on three at-risk groups in the adult population: the Roma, people with disabilities and those above the age of 65.

The experts of the thematic group welcomed information about the SROP project which answers the need to pay particular attention to vulnerable groups such as Roma communities who often live in remote areas and are sometimes illiterate, as well as the need to set up in member states, where this does not exist, local agencies of the Ombudsman or similar institutions competent to monitor discrimination by local authorities to ensure a larger reporting and monitoring of discrimination, racism and hate crime. They also underlined the need for the Equal Treatment Act to be swiftly implemented and its application closely monitored. A more systematic and comprehensive monitoring of all incidents that may constitute racist violence could be introduced.⁴⁶ Hungarian authorities indicated that they intend to pursue their efforts to inform the general public about the content and scope of the Equal Treatment Act.

In 2011, the Chief Police Commissioner in Hungary adopted a **decree on cooperation between the police and local self-governments of the Roma minority** in order to preserve, develop and enhance this cooperation. The purpose of the cooperation initiative is to establish relationships without prejudice and conflict between the police and the Roma minority, with a special focus on **prevention of crime** (and protection of potential victims), on addictions and on the awareness-raising role of communication.

The police have established a central working party responsible for keeping contact with ethnic groups. It has different regional working parties. The members are police officers appointed by their superiors. The leader of the central working party is the chief of the Law Enforcement General Directorate of the Hungarian National Police Headquarters. The police keep under review all complaints submitted by the

⁴⁵ National strategy of the Italian Government for the inclusion of Roma, Sinti and Caminanti communities (page 41).

⁴⁶ See ECRI conclusions adopted on 8 December 2011 on the implementation of its recommendations addressed to Hungary at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Hungary/HUN-IFU-IV-2012-008-ENG.pdf>.

Roma population or non-governmental human rights organisations, which specifically concern discriminatory police action against Roma persons. On a regular basis the working party on minorities informs the National Roma Self-government about complaints submitted, the criticised police procedures and results of investigations of complaints.

In addition, a national conference is held annually with the participation of professionals working in the field of minority issues. The working party helps the law enforcement secondary schools to recruit and to organise visits during which young people of Roma origin may become acquainted with the profession. They keep contact with leaders of the local Roma self-governments in order to find out about opportunities for joining the police force. The national ethnic liaison officer is appointed by the Chief Police Commissioner, and the regional ethnic liaison officer is appointed from the members of the working party by the chief of the regional law enforcement authority. They take part in ethnic meetings and forums, and keep in touch with the Roma social organisations and foundations. The working party and the liaison officers organise an evaluation meeting and consultation once a year. According to the decree, police programmes raising awareness on security issues will be extended to the schools and local institutions of settlements with large Roma populations.

Victims of hate crime and violent attitudes often do not report to the police. Experts of the thematic group are of the opinion that, in addition to the above, **community mediators** could help bringing in contact Roma victims with the relevant institutions since Roma are too often scared to report to the police. They could also help obtaining a more realistic picture of the number of cases of hate crimes.

Good practices identified: In **Hungary**, the Social Renewal Operative Programme (SROP) provides free legal assistance at local level and the cooperation between the police and Roma local self-Governments for its role concerning prevention and awareness-raising (see above). In Italy, the Observatory for Security against Discriminatory Acts (OSCAD) that was established for the purpose of guaranteeing the right to security of persons belonging to social groups at risk of discrimination, such as Roma and Sinti, is made up of the directors of the central investigative services of the National Police and the Carabinieri Corps dealing with hate crimes. They cooperate with UNAR, the National Office against Racial Discrimination. OSCAD can receive and support reports of hate crimes, also made anonymously, doing effective investigations and initiating immediate and targeted operational interventions. This is their added value on hate crimes since an equality body like UNAR does not have such power by law. OSCAD also offers, with UNAR collaboration, greater awareness and training among police forces, institutions and the general public on the importance to counter any form of discrimination and helps prevent vulnerable persons from being involved in antisocial behaviour or being victimised or even recruited by organised crime groups. Such a model brings a strong added value to the work of Equality Bodies in case of hate crimes and racial violence. UNAR has also set up a centre for monitoring the media which aims to identify any articles containing discriminatory material and to report them systematically to the relevant parties. The Chamber of Deputies' Observatory on Xenophobia and Racism is another institution dealing with such issues in Italy. In Sweden, data on anti-Roma hate crime are collected. From 2008 onwards, the anti-Roma motive is presented separately in the Swedish National Council for Crime Prevention's yearly report on hate crime. The Expo Foundation, monitors, among other things, hate crime/hate speech against Roma by studying and mapping anti-democratic, right-wing extremist and racist tendencies in society. In the United Kingdom, there have been a range of campaigns at local and national levels to combat hate crime, many are brought together on the police-owned web facility True Vision. The police and local partnerships are currently finalising a range of materials specifically aimed at encouraging reporting from the Gypsy and Traveller communities. The creation of a specific office in the **Czech Republic** to deal with crimes and support the victims has contributed to improving the situation and to increasing the role of municipalities. The In Iustitia organisation reports on hate crimes and assists the victims by offering them free legal aid.

Fighting discrimination and racism in the context of Roma inclusion policies/strategies

The Hungarian Parliament adopted, in June 2007 a resolution on the Decade of Roma Inclusion Programme Strategic Plan for 2007-2015. This Resolution explains the background to the Strategic Plan

and sets out a series of tasks to be accomplished in the fields of education, employment, housing, healthcare and equal treatment (non-discrimination), as well as culture, media and sports. In parallel, the Resolution requests other concerned parties (such as NGOs, local authorities and Roma minority self-governments) to make every effort towards the implementation of the Plan; the mass media to contribute to its dissemination and to the promotion of positive changes in social attitudes towards the Roma; and members of the Roma population to take an active role in initiating and participating in steps taken at all levels to improve their daily lives. The Hungarian government also adopted a comprehensive National Social Inclusion Strategy 2011-2020 and an action plan for the period 2012-2014 on Extreme Poverty, Child Poverty and the Roma. The National Social Inclusion Strategy addresses the question of discrimination in Chapter VI: Involvement, awareness-raising, fight against discrimination.

One of the key aspects of national Roma inclusion strategies should be indeed the human rights perspective and the fight against discrimination and racism against Roma as highlighted by the Swedish expert. Several of the national strategies designed for Roma Inclusion which were submitted to the European Union fail to address these aspects despite the **Council of Europe Recommendation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe** which states under Chapter II. Aim: A national and/or regional strategy should aim at ensuring equality and integration of Roma and/or Travellers in social, economic and political life, promoting community empowerment and capacity building, increasing awareness and understanding of Roma and/or Traveller culture and lifestyle among the rest of society, and ensuring respect for Roma and/or Traveller identity and effective protection from direct and indirect discrimination and segregation and from racism.

In its recommendations to member states ECRI often recommends that authorities ensure that national policies and legislation in favour of the Roma community are understood and applied at local level where the hostility towards Roma is often more acute. The experts have noticed that ethnic tensions do not necessarily appear in geographical areas where the Roma community is the largest. Indeed, racism is often based on misconceptions and ignorance. The more inter-ethnic relations there are, the less ethnic tensions exist. This has been somehow acknowledged by Hungarian interlocutors which indicated that the level of discriminatory attitudes and racist violence varies between various parts of Hungary: as an example, the director of the police academy in Miskolc told the group of experts that the inclusion of young Roma in his police academy is somehow easier since the population is used to see many Roma around. It would be less easy, both within the Academy and with regard to the majority population in the Western part of Hungary where the Roma population is lower. This is why the inclusion of young Roma in the police academy might be somehow more difficult.

Though this was not the main focus of the thematic visit, it is also worth mentioning, in view of their inclusion in the database on Roma-related policies and good practices, some of the projects facilitating Roma inclusion in **Hungary**: the START project (2012-2015), developed at national level and financed in part by the European Union (Structural Funds), focuses on environmental employments in order to promote job creation for immigrants (80% are Roma). Training activities, adaptability measures, complementary activities and integration processes are key words of this Programme. Concerning housing and local development, a total of 40 blocks of houses with 150 flats had been re-furnished and the Roma community contributed on the works. This measure implied a better and effective motivation among the members of the Community. In addition, the Hungarian Ministry of Human Resources has financed and developed the TKKI project with the aim of promoting employment, training, social inclusion, vocational training and cultural activities. The participation of Roma parents in pre-school activities for Roma children was another positive aspect identified during the field visit.

Good practices identified: In **Sweden**, the government ensures specific funding for Roma inclusion and institutions, such as equality bodies (Ombudsmen) which have the duty to give effect to anti-discrimination laws. In Hungary, the allocation of European and State funding for Roma at regional and local levels is conditioned on desegregation commitments in the fields of housing and education.

Combating hate speech, racist propaganda in politics and public discourse

ECRI has often expressed concern about an increasing use of racist and xenophobic discourse, targeting inter alia Roma, by high profile government members and politicians at national and local levels⁴⁷. The group of experts noted, however, some interesting initiatives that have been taken to curb the expression of racist and xenophobic propaganda in politics, particularly in Hungary, Norway and the United Kingdom.

In Hungary, Jobbik, the Movement for a Better Hungary, which has been described by scholars, different press outlets and its political opponents as extremist, anti-Semitic, and anti-Roma is Hungary's third largest party. It won 47 seats in the Hungarian Parliament in 2010. In 2012, after a Jobbik member of parliament had made hateful remarks, the Parliament amended the House Rules. The presiding chairman of the parliament now has a stronger disciplinary authority: he/she may launch an offensive against hate speeches made by members of parliament and may suggest the exclusion of the politician for the remaining time of the meeting of that day, as well as the imposition of fines if the representative uses offensive expressions directed at national, ethnic, religious groups or individuals.

Experts agree that the basic precondition is political will, where politicians clearly declare their intent to combat anti-Gypsyism and prevent populist rhetoric fuelled of stereotypes and abstain from hate speech towards Roma. Political will also means in practice to publicly condemn acts against Roma as a target group. In this way politicians, as public figures, can give a clear signal to the majority population that anti-Gypsyism and hate speech targeting ethnic groups are unacceptable. Political leaders on all sides should take a firm and public stance against the expression of racist and xenophobic attitudes in both words and deeds. As an example provided by the Hungarian expert, Hungarian Prime Minister Viktor Orbán has repeatedly reaffirmed his position that the Hungarian Government rejects every statement that hurts human dignity. He emphasised the principle of “zero tolerance” against all forms of anti-Roma or anti-Semitic manifestations and atrocities. He said that “every minority in Hungary is protected, including the national minorities, but also the Roma and the Jewish minorities”⁴⁸.

Experts of the thematic group recalled that it is also equally important that political parties act swiftly to address any acts of racism or discrimination at local level by members of their political parties. ECRI recommends that authorities put in place means of supervising municipal actions to ensure that local authorities act in accordance with constitutional guarantees of equality and non-discrimination, and that they implement national strategies and policies aimed at improving the integration of Roma⁴⁹.

The group of experts believes that improvement concerning hate speech would be obtained when political parties would take a strong stand against any forms of racism, discrimination and xenophobia and all agree to take steps to counter the use of racist and xenophobic discourse in politics, both by applying the existing criminal legislation and by adopting additional measures. A greater political leadership in the fight against all manifestations of racism and racial discrimination is needed in most European countries.

Good practices identified: In Norway, at the initiative of the Equality and Anti-discrimination Ombud (LDO), in the course of the 2007 municipal elections, all main political parties represented in Parliament signed a pledge to refrain from racist or xenophobic discourse, and discourse that might stigmatise other vulnerable groups. Effective measures to combat hate speech and discrimination against ethnic minorities through preventive actions have been proposed by parliamentary groups in the United Kingdom. A group of parliamentarians are currently working across all national political parties to provide guidance to prospective candidates in acceptable behaviour during pre-election periods. For **Hungary**, see above.

Legal and policy frameworks, including civil, penal, and criminal law

Concerning the legal framework, the Hungarian interlocutors stressed during the visit that the Government has recently paid particular attention to the fight against racism and xenophobia and that the

⁴⁷ See for example ECRI reports on Italy, Norway and the United Kingdom.

⁴⁸ Speech by Viktor Orbán at the 14th Plenary Assembly of the World Jewish Congress, Budapest, 5 May 2013.

⁴⁹ See for instance ECRI recommendations addressed to the Czech Republic: http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Czech_Republic/CZE-IFU-IV-2012-027-ENG.pdf.

current **anti-discrimination law** is in harmony with European Community law as it contains consistent, comprehensive and detailed anti-discrimination provisions. In addition to its general provisions, this legislation deals with the enforcement of equal treatment in different areas. The law prohibits both direct and indirect discrimination. Across the entire country the Equal Treatment Authority is empowered to deal with individual cases, which are to be used as precedents in other cases. The Authority also issues general information and launches training and research programmes in order to promote the realisation of equal treatment in all aspects of public life. In addition, violent action, cruelty, and coercion by threat made on the basis of the victim's actual or perceived national, ethnic, religious status or membership in a particular social group are punishable under article 174/B of the Hungarian Criminal Code. This article was added to the Code in 1996.

In May 2011, the rules of the Criminal Code have been tightened regarding "uniformed crime". The Hungarian courts have ruled that the far-right paramilitary organisation Hungarian Guard (*Magyar Garda*), which had been established in August 2007, cannot exist as a legal entity. The Government enforces this decision by penalising participation in the disbanded organisation. The Government penalised the use of non-official uniform-like clothing to avoid intimidation by paramilitary groups. The ban on the use of such attire by paramilitary groups is intended to catch similar organisations.

Council of Europe monitoring bodies emphasised that, when combatting hate crime, hate speech and other forms of intolerance, states should allocate adequate resources. They should swiftly investigate and effectively sanction such incidents, and provide access to justice and the right to remedy when appropriate, while at the same time fulfil their obligations under international human rights law to respect, protect and promote fundamental rights and freedoms, including protection against violence and discrimination, of all persons without distinction.

With a view to combating effectively racism, hate speech and hate crime against Roma, it is essential that authorities keep the adequacy of the criminal law provisions against racist expression under review, taking into account international standards in this respect, including international recommendations on criminal law provisions. Generally speaking, more vigorous implementation of criminal law provisions relating to the fight against racism is needed.

In addition, further human and financial resources should be allocated to measures aimed at ensuring that the investigation and prosecution of racist crimes are carried out in a thorough and systematic manner. Concerning the application of the relevant criminal law provisions, authorities should improve the implementation of existing criminal law provisions against racism and racial discrimination, with particular emphasis on the provisions against racially motivated violence and incitement to racial discrimination and violence⁵⁰.

Particular caution must be exercised by (criminal) prosecution authorities in dealing with hate speech cases. Practice in several European countries has shown that it may be very difficult to attain the level of proof required under criminal law. Rather than lowering this level, which could seriously limit the exercise of freedom of expression, it is suggested that authorities give careful consideration to ascertaining whether sufficient evidence has been collected before a prosecution is ordered. This, of course, depends on whether or not the prosecuting authorities in the member States have a certain degree of discretion in this respect. It might be advisable to concentrate efforts on strong cases where prosecution is likely to result in a conviction.

In the area of hate speech, there is a real danger that suspects present themselves to the public as "martyrs" or "victims" or, in the event of an acquittal, that they present the outcome of the case as a victory for their views. It is recommended that national guidelines be established which could serve as a basis for a co-ordinated prosecution policy in this field.

Criminal sanctions in this sphere should strictly respect the principle of proportionality, not only as a general principle of law governing any imposition of sanctions, but also as a requirement flowing from

⁵⁰ See also ECRI recommendations addressed to Italy in this respect.

Article 10, paragraph 2, ECHR.⁵¹ Authorities should also reduce existing obstacles to court proceedings in cases of agitation against a national or ethnic group committed via the press or broadcast media⁵².

Good practices identified: in the United Kingdom, there is a strong legislative framework, including specific racially aggravated offences and enhanced sentencing legislation which instructs courts to enhance the sentence for any convicted offender who is proven to have been motivated by hostility based on, amongst others, race; incitement offences to criminalise the stirring up of hatred based on, amongst others, race; the Equality Act 2010 provides protection for all individuals based on protected characteristics, including ethnicity and a statutory duty on public authorities to have due regard to the need to combat unlawful discrimination and promote equality of opportunity and good relations between people from different groups in carrying out their functions. Racist attacks in the Czech Republic are harshly punished according to the Czech law. Racist attacks against individuals or groups are prosecuted as crimes of violence against an individual or a group of people, dangerous threatening, stalking, defamation of nation, race, ethnic or other groups of people and instigation of hatred towards a group of persons or of restriction of their rights and freedoms. The racial motivation for many crimes is also directly included in the law as the so-called qualified merits of the case with increased sentences. These crimes include murder, bodily harm, torture and other inhuman and cruel treatment, illegal confinement and restraint, abduction, extortion, damaging another person's property or abuse of powers of a public official. Apart from these crimes, which directly punish racist attacks, the racial motive constitutes an aggravating circumstance for all other crimes, which justifies higher sentences for the perpetrator. In **Hungary**, the Criminal Code was recently amended and now criminalises intimidation through the use of uniforms. The racist motive is recognised as an aggravating circumstance.

Sanctions

Several Council of Europe reference texts recommend the adoption of effective and proportionate sanctions⁵³. A number of sanctions (financial penalties, imprisonment, disciplinary measures, community work, ineligibility for public office, dismantlement of extremist groups, etc.) exist in member States' legislation for individuals, groups or institutions that embark in racism and discrimination against a specific ethnic group. However, these sanctions are often not dissuasive enough and are not always implemented strongly enough where the victims are Roma.

One of the obstacles identified by the experts was the lack of powers of certain authorities (e.g. the School Inspectorate in the Czech Republic) to sanction entities that do discriminate or segregate. In some other cases, financial penalties are not sufficiently high to discourage employers from discriminatory practices (e.g. the Czech State Labour Inspection Office).

Proposed solutions include intercultural training and the education of civil servants on anti-discrimination policies and the application of the principles of good administration in their daily work, as well as to provide civil servants with intercultural training; the drafting of operating procedures, which comply with the principles of good administration; the publication of regulations for civil servants in order to ensure maximum transparency in services provided for citizens (e.g. through websites, bulletin boards and other means of information); the on-going monitoring of attitudes of service users and service providers in terms of compliance with the principles of good administration; the strengthening of the capacity and powers of authorities in charge of ensuring non-discrimination (anti-discrimination bodies, school inspectorates, labour inspection offices, etc.), to enable them to prevent, monitor and sanction entities that engage in discriminatory behaviour.

⁵¹ Explanatory Memorandum of Recommendation No.R(97) 20 of the Committee of Ministers to member states on hate speech.

⁵² See ECRI recommendations addressed to Sweden where it says that consideration should be given to allowing a complainant to bring a private action if the Chancellor of Justice decides not to prosecute a case and allowing the Chancellor of Justice to appeal against a jury's decision that there is no case to answer.

⁵³ See ECRI General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma, Recommendation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe and Recommendation No.R(97) 20 of the Committee of Ministers to member states on hate speech.

The nature of the sanction which may be imposed is a further relevant factor for determining the proportionality of interferences with media freedom. In particular criminal law sanctions are generally likely to have deterrent effects and may thereby risk discouraging the media from discussing matters of public interest. The application of such sanctions must therefore be treated cautiously.

The Hungarian expert gave several examples of recent sanctions and case-law:

- On 5 August 2012, a Jobbik party member organised a demonstration in Devecser. After the announcement of the demonstration on 30 July 2012, the local police station both informed and communicated with the Roma Local Government of Veszprém county and the local government representatives of minorities. The members of the Immediate Action Police and the Police Station of Veszprém county participated in maintaining the security. After the event only two persons prosecuted unknown people at the police station. The Crime Investigation Department of the Veszprém county Police Station pursues investigation against unknown offenders accused of committing violence against a member of community as laid down in the Criminal Code.
- In Cegléd, on 18 August 2012, the police were notified that children in the neighbourhood could not sleep because of the noise of exploding firecrackers. The Police reported two people, for owning devices presenting danger to public safety and confirmed the identity of 26 others. After processing the data collected and interviewing eye witnesses, the police launched an investigation into unknown perpetrators with the well founded suspicion of gang vandalism. In the case of Cegléd, national police chief Jozsef Hatala has ordered an investigation into whether or not officers acted correctly during recent tension between Roma and other locals.
- From January 2008 to August 2009, a series of nine arson attacks against Roma claimed the lives of six people and seriously injured five others. Four men were taken into custody on 21 August 2009; two of the four were accused of the six murders while the other two were accused of perpetrating attacks. In early August 2013, the major perpetrators were life sentenced and racist motive was recognised as an aggravating circumstance. The Hungarian Ministry of Human Resources announced its intention to compensate the survivors of the attack and their families.

In 2011, the Hungarian government presented a new legislation aimed at punishing vigilantes wearing uniforms and engaging in unauthorised law-enforcement activity. This new legislation will strike on those wearing uniforms without permission or clothing that resembles official uniforms. Intimidating others by attempting to impose order is now punishable with as much as 3 years in prison if the action threatens a specific community. Hungarian interlocutors indicated that to date, no one has been arrested or charged based on this new provision. They consider that this new provision has been an effective deterrent.

Good practices identified: The United Kingdom hate crime policy adopts a human rights approach, recognising the right for everyone to live free from targeted abuse but rejecting any hierarchy of these rights. This is backed up by a strong legislative framework providing severe sanctions to perpetrators, but also providing a positive duty on public bodies to promote good relations between people from different groups. In the Czech Republic, the criminal law sanctions each crime with racial undertone mostly with deprivation of liberty from some months up to the exceptional imprisonment of 30 years or even life sentence. In Sweden, a new penalty, compensation for discrimination, was introduced for infringements of the Discrimination Act, with the aim to facilitate the provision of higher levels of compensation to victims of discrimination. Compensation for discrimination is designed both to compensate for the abuse represented by an infringement and to act as a deterrent against discrimination. Within the penal code the sanctions for the penal provisions that target behaviour that may be described as hate crime, it is stipulated that a person, depending on the case, can be sentenced to pay a fine or to imprisonment for not more than six months, or, if the offence is grave, to imprisonment for not more than two years.

Role of the police and recruitment of Roma in the police

In Hungary, since 2004, the Ministry of Internal Affairs has organised **free camps for Roma secondary school students** in order to assist them in studying and eventually working for the law enforcement authorities. On average, approximately 40% of camp participants go on to be admitted into one of the police schools.

In order to recruit Roma people into the police, the Ministry of Internal Affairs regularly provides **information to Roma secondary schools and organises conferences on becoming a police officer** with the support of the Fraternal Association of European Roma Law Enforcement Officers. In cooperation with the Association, a best practice dossier will be compiled, presenting the methods adopted by European law enforcement authorities in effectively handling minority issues.

A **police scholarship programme for Roma people** has been running since 1996. The aim of the programme is to inspire Roma children and young people to choose careers in the police. As part of the programme, regional police headquarters give support for Roma children in secondary education. A similar programme supported by the National Police Headquarters exists for Roma youth participating in higher education. Since the last semester in 2012/2013, similar scholarship programmes have been launched by the Hungarian Prison Service HQ and by the National Directorate General for Disaster Management.

Communication and conflict resolution training courses (focusing mainly on the social inclusion of women, minorities and other disadvantaged social groups) have been provided for police staff. Furthermore, training courses on the identification of racism are provided for the staff, vocational training schools for the police continuously include in their training programmes minority-related curriculum elements, in particular communication with minorities, the issue of tolerance, violations committed against minorities (the following are main curriculum elements: social and communication skills, legal and administrative skills, measures resulting in the restriction of personal freedom, protection of public order).

In June 2011, an **intercultural training course** was organised for officials of the police force within the International Law Enforcement Academy (ILEA) in Budapest. The course specifically focused on communication with minorities and enhancing tolerance in the police force. Knowledge of Roma ethnography is part of the curriculum of secondary and higher education for police officers.

As part of the **STEPSS Programme (Strategies for Effective Police Stop and Search)**, which was an international initiative financed by the European Commission and the Budapest Open Society Institution Foundation, police officers and civilians jointly examined how effective police identity checks are, and whether the checks affect certain social groups. The purpose of the programme was to involve experts in minorities to survey the legal background, to find alternative solutions, and to improve the relationship and communication between the police and minorities.

In addition, the Ministry of Internal Affairs has launched a **regional project (Good Practices of Community Conflict Management in the Central Eastern European Region – GPCCM-REG)** involving EU Member States in the Central Eastern European region (Bulgaria, the Czech Republic, Hungary, Romania and Slovakia) reacting to local conflicts that have recently occurred in certain communities/ locations in these Member States between groups of Roma and non-Roma residents. The project aims to identify the kinds of local conflict between groups of residents mostly affecting citizens' everyday feelings of comfort and security, and best practice in managing and resolving such conflicts with a view to empowering parties involved and other local actors to prevent and resolve such conflicts at local level by using local resources.

On 25 October 2012, at the International Training Centre of the Hungarian Ministry of Internal Affairs, training was organised by OSCE Office for Democratic Institutions and Human Rights for law enforcement officials in the field of hate crime. Participants were officials of the National Police Headquarters, criminal investigators and coordinators from county police headquarters and recently nominated line managers.

One of the most interesting aspects of the field trip in Hungary was the visit to the Police Academy of Miskolc in which 5% of the recruited students are of Roma ethnic origin. More than 700 students have graduated from this Centre and all the programmes facilitate the coexistence and the integration between the Roma community and the society. Roma trainees were conscious of the challenge of being a police officer, both within the majority society and within their Roma community. They however expressed great motivation to pursue this career.

Whilst the experts of the thematic group were impressed by the quality training provided by the Police Academy, they underlined that specific guidance on responding to hate crime against Roma was missing in the training curriculum. Hungarian authorities explained that the trainees are not entitled to decide upon the motive of the crime committed. Training curriculum of police officers with higher rank though includes a specific guidance on responding to hate crime.

Good practices identified: In **Hungary**, the Police Academy of Miskolc is a positive example in terms of training and recruiting Roma police officers. It ensures equality and non-discrimination based on innovative training methodologies. In 2009 the Commissioner for Human Rights had already welcomed positive measures adopted or under way by the Hungarian government aimed at integrating the Roma minority into the public sector, such as through the recruitment of 67 Roma by the police force and the aim to increase this number to 300 by 2013. The determination shown by the Hungarian government to make possible the prompt recruitment of 200 Roma graduates into the public services was another positive step that may serve as an example to other Council of Europe member states. In Norway the Government is supporting measures to improve the level of trust between police and vulnerable groups, involving for example immigrants' organisations. In the United Kingdom, the hate crime programme has overseen the development of training and advice to professionals. One such example is the new police guidance which was approved by the UK College of Policing in July 2013. This document contains specific guidance on responding to hate crime against Gypsy, Roma and Traveller communities.

Education, training and awareness-raising activities

Education and awareness-raising activities have a great potential to nurture social consciousness, tolerance, and understanding across ethnic, cultural and religious boundaries. They also play a role in reminding the population of crimes of the distant past and mistakes of the more immediate past.

Officials working within local administration should be trained in order to raise awareness and combat prejudices. The group of experts can but recommend organising training for police officers, legal advisers, prosecutors and judges on issues pertaining to the implementation of criminal legislation addressing racism and racial discrimination and on the content and implementation of the civil and administrative provisions. Such training should be systematically conducted when new legislation is introduced.

Awareness-raising campaigns need to be carried out on the problems of racism and intolerance faced by the Roma community, not only in the capital and the large cities, but also and particularly, in small local communities and less populated regions. Such campaigns should target all sectors and ages of the population.

As pointed out by the Czech expert who does not believe in European-wide campaigns, awareness-raising activities should be adapted to the national/local context and to specific target groups in order to be most effective. The tools addressing prejudices and stereotypes towards Roma developed under the Council of Europe Dosta! campaign that has not yet been taken up at national level by any of the participating countries of this thematic group - except Italy - could be of help in this regard. The No-hate speech youth movement campaign is another example of campaign, though it requires further adaptation to national contexts according to the views of some members of the thematic group.

It is particularly worth mentioning, referring to the call of previous Commissioner for Human Rights, Thomas Hammarberg, for setting up of a European Truth Commission, that authorities of some countries have engaged in a process of building trust and confidence between the Roma communities and authorities, by apologising for past mistakes. This includes the White Paper under preparation in Sweden or the public apologies for assimilation and forced sterilisation in Norway. In the Czech Republic, a proposal to compensate Romani women who have been illegally sterilised is ready. However, this document has not been approved yet by the Government's Cabinet.

Good practices identified: The White Paper on unfair treatment, rights violations and other discriminatory acts against the Roma during the 20th century, which is currently being prepared in **Sweden**, is a

promising good practice. In Malmö, in response to certain resentment among the majority population regarding efforts of the authorities to improve the situation of Roma, a new information centre has been set up to provide information for and about Roma. It works actively with Roma, in a climate of trust, to help them develop skills that they have been unable to acquire at school or in the workplace and thus determine their own future rather than just being subjected to it. Similar Roma inclusion models with the municipal structure are currently being developed with state funding in four other Swedish municipalities. The public apologies of the Government of **Norway** for the assimilation policy towards the Romani people, including sterilization without informed consent, and the collective and individual compensation schemes that followed constitute another good practice. In 2004 the Norwegian Government established a fund of 75 million NOK to this end. The fund is administered by a foundation composed of Romani people representatives and an observer from the authorities. The Norwegian authorities have reported that the fund has an annual return of 3.7 million NOK, which is allocated to activities aimed at developing Romani language, culture and history. The government of Norway is also in the process of starting a research project to know more about what actually happened to Norwegian Roma before, during and after World War II, especially concerning the Roma Holocaust (*Samudaripen/Pharrajimos*). UNAR's implementation of the Dosta! campaign in **Italy** is considered as a good practice in terms of variety of actions, funding and impact at local and regional levels.

Some experts of the group have also highlighted the need to work with Roma on criminality aspects. The probation and Mediation Service of the **Czech Republic** works together with the Rubikon Centre project to implement the "Roma mentor" project, which aims to reduce the risk of re-offending and the social exclusion of persons who have been given an alternative punishment or sanction and who, at the same time, belong to the Roma minority. Mentors are trained representatives of the Roma minority population who work in the field with their Roma clients and act as intermediaries between them and the justice system and who, for the duration of the alternative punishment, provide their clients with practical assistance and advice. The aim of this service is to motivate clients successfully to conclude their alternative punishment and to reduce the risk of re-offending. The Roma mentor improves the client's legal awareness and ability to understand the seriousness of the situation and helps the target group to learn how to deal with situations legally. In 2012, 132 Roma completed the 100 hour Roma mentor course, of whom 70 subsequently actively performed this function in the field. Their activity is partly funded from the state budget and partly from the European Social Fund.

Role of civil society

Following discussions held during the thematic visit, the group of experts' conclusions were quite similar to those of the Working Group "Civil Society: Troublemakers or Problem-Solvers?" held during the Conference in Oslo earlier this year. Whilst some organisations are part of the solution by combating negative stereotypes and countering manifestations of hate, others are part of the problem by actively promoting extremist views, and even encouraging individuals to commit acts of violence.

In various countries it was observed that civil society organisations fulfil a watchdog role by monitoring and reporting on incidents of hate speech – even at the highest levels of politics. Positive examples of monitoring hate speech and prejudices against Roma in the media by civil society organisations, in particular Roma ones, could be found in the Czech Republic and Italy.

Combating extremists groups and racist speech by sometimes high profile politicians require a great deal of courage. Those who do receive pressure, sometimes threats and are described as trouble-makers. Therefore, civil society associations and news servers involved in such activities deserve support, including financial, from human rights institutions and equality bodies.

The group of experts had, however, during their visit in Hungary the impression that the Roma civil movement was not playing this monitoring role sufficiently. In too rare cases, civil society actors have emphasised their concern that some mainstream political parties have made little or no effort at all to distance themselves from the Hungarian Guard or racist statements, sending at least an implicit message to the broader public that there is nothing disquieting in its stance. A news server such as Romea.cz does not exist in Hungary despite similar levels of racism and hate speech encountered at national and

regional levels. Most of this monitoring work seems to be done by the non-Roma civil society movements. Civil society can supplement the efforts of public bodies and help to increase Roma involvement in society by, for example, working with Roma organisations and helping to bridge the trust gap between Roma and public authorities. Those civil society organisations having broader experience in combating racism, hate speech and hate crime should assist and associate Roma organisations, where necessary, to develop this knowledge.

The group of experts agreed that state institutions should provide the legal and policy framework necessary for civil society organisations, and Roma ones in particular, on the one hand to carry out their watchdog role by monitoring hate speech and media outlets' performance in providing news coverage that is both inclusive and non-discriminatory, and on the other hand to provide assistance to victims of discrimination and hate crime.

The group of experts believes that **regular consultation and active involvement of Roma civil society** are keys to address discrimination, hate crime and anti-Roma phenomena. The Swedish expert indicated that it is very important to take into account the role of the municipalities and civil society to recognise the problem of discrimination and to develop programmes and policies with an integrated approach so as to reach a real inclusion of Roma. The Swedish National Roma Inclusion Strategy, based on proposals from the Delegation for Roma Issues, an independent investigation appointed by the Government (2006-2010), is a tool developed to reach Roma integration within 20 years. He emphasised that reaching social integration and equality take time. The Hungarian expert also focused on the importance of working closely in cooperation with NGOs on preventive actions and education to avoid prejudices and violent actions against Roma and stressed the difficulty of drawing the line between hate speech and the respect of freedom of expression. In this respect, the group of experts recalls Article 10 of the European Convention on Human Rights⁵⁴ and Principle no. 5 in the Appendix to Recommendation No.R(97) 20 of the Committee of Ministers to member states on hate speech⁵⁵.

Good practices identified: The government of the United Kingdom has provided grants to civil society organisation in excess of £2.1 million in 2011 and 2014, to help them to provide services to victims of hate crime. Many of these cover all forms of hate crime, but one grant provided around £90,000 to the Society for the Promotion and Advancement of Romani Culture (SPARC) to enable them to support Gypsy and Traveller victims of hate crime. In addition to SPARC, one group called Friends Families and Travellers sits on the government's Hate Crime Advisory Group to ensure that policy reflects the needs of Gypsy and Traveller communities. In the Czech Republic, the role of the ROMEA association, made up of volunteers, and its news server Romea.cz play an important role in revealing discriminatory attitudes at national and regional levels, monitoring movements of far right groups and by giving Roma people the possibility to speak up. ROMEA has become a valid interlocutor for mainstream media, police and security forces, as well as a useful source of information for international organisations. In Sweden, Roma NGOs are given the opportunity to provide grassroots and valuable information regarding discrimination and hatred against their communities during regular consultations with the government and the Equality Ombudsman. In Italy, several associations recently set up a network to prepare six-monthly reports on racism in the media. In 2008-2009, Roma and Sinti associations had monitored the portrayal of Roma in the press and on TV and had organised a meeting with journalists and media directors to share their concerns about biased media coverage.

⁵⁴ ECHR Article 10, Para. 1: Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ECHR Article 10 Para. 2: The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

⁵⁵ "National law and practice should allow the competent prosecution authorities to give special attention, as far as their discretion permits, to cases involving hate speech. In this regard, these authorities should, in particular, give careful consideration to the suspect's right to freedom of expression given that the imposition of criminal sanctions generally constitutes a serious interference with that freedom. The competent courts should, when imposing criminal sanctions on persons convicted of hate speech offences, ensure strict respect for the principle of proportionality".

Role of the media

The media can play a very important role in either perpetrating negative stereotypes or challenging them. Some experts underlined the often too negative role of media which, by repeatedly giving prominent coverage to extremist groups and populist statements or publishing polls demonstrating anti-Roma attitudes among the majority population, was contributing to the overall rise of anti-Gypsyism.

Some media's reporting of crimes was also regarded as being biased, especially when journalists mention systematically ethnicity when the accused is a member of the Roma minority. Others argued that the media should not be necessary blamed for reproducing racist statements, which in some cases accurately reflect social attitudes.

The Czech expert stressed the key role of the media in the processes of combating hostility and discrimination and sensibilising the society. The important role of media to promote the fight against prejudices through campaigns is fundamental to improve the situation.

ECRI considers that the media should not give room for the dissemination of hate propaganda and stigmatising images of the Roma and that authorities should strengthen their efforts to counter the dissemination of racist propaganda, including instances of racist expression committed through the Internet, by bringing those responsible for any offences to justice including on the Internet⁵⁶.

Structures like the Council for Radio and Television Broadcasting in the Czech Republic play an important role in this regard, as it monitors television and radio stations for this type of activity and can also apply sanctions for violation of the rules. In contrast, room should be made for minority broadcasts and programmes presenting the lives of minority populations, including the Roma, their culture and customs, without this information being simplified and taken out of context. It is very important that objective and realistic images of the Roma be sent to the general public and examples of good practice presented in the form of successful integration projects, which deserve to be extended to other parts of the country.

The group of experts believes that more efforts should be made by competent authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that the method of reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups. Civil society organisations should further engage in social media tools as a counterweight to right-wing extremist propaganda. These tools lend themselves to opportunities for satire and parody, allowing civil society organisations to expose the ignorance that underlies messages of hatred and intolerance⁵⁷. The Czech expert of the thematic group gave several examples of the kind.

On various occasions during the thematic visit, the group of experts highlighted the need for diversity training and cross-cultural educational exchanges within different target groups, including media professionals, journalism students, police and security forces, and the judicial branch.

Good practices identified: in the Czech Republic, several campaigns have been conducted to address hostility of the population towards Roma. The Government and ROMEA civic association have offered to work with media for a more objective reporting about Roma. In **Norway**, legislation was recently amended to define statements on social media as "made in public".

⁵⁶ See for example ECRI recommendations addressed to Norway and Sweden.

⁵⁷ For example, in a survey carried out in Hungary in February 2007, 68% of the respondents said they would not accept in Hungary immigrants and refugees from Pyresia, a fictitious country.

Appendix 1 : Official letter of invitation



Invitation letter.pdf

Appendix 2 : Agenda of the thematic visit, Budapest, Hungary, 4-6 September 2013



Agenda ofCAHROM
thematic visit to Hung

Appendix 3 : List of experts of the thematic group and participants in the thematic visitHungary (requesting country):

Ms Eszter Helga Andits, Strategic and International Division, State Secretariat for Social Inclusion, Ministry of Public Administration and Justice

Czech Republic (partner country):

Mr Lukáš Houdek, Coordinator of media campaign against racism and hate violence, Office of the Government of the Czech Republic, Agency for Social Inclusion

Italy (partner country):

Mr Pietro Vulpiani, National Office against Racial Discrimination (UNAR), Department for Rights and Equal Opportunities, Presidency of the Council of Ministers

Norway (partner country):

Ms Kristina Strædet Gitmark, Senior Adviser, Department of Sámi and Minority Affairs, Ministry of Government Administration, Reform and Church Affairs

Sweden (partner country):

Mr Andrés Zanzi, Deputy Director, Division for Discrimination Issues, Ministry of Employment, Government Offices of Sweden

United Kingdom (partner country):

Mr Paul Giannasi, Police Superintendent, Hate Crime Programme, Ministry of Justice

Council of Europe:

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