

Recommendation 1557 (2002)¹

The legal situation of Roma in Europe²

1. Nearly ten years ago in its Recommendation 1203 (1993) on Gypsies in Europe, the Parliamentary Assembly stressed the need for special protection for Gypsies and condemned the various forms of discrimination suffered by them in the member states of the Council of Europe. Although international organisations, national governments, local authorities and non-governmental organisations have made great efforts, the aims set by this recommendation have been achieved to a restricted extent.

2. The Assembly recalls the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 1987, the European Charter for Regional or Minority Languages of 1992, the Framework Convention for the Protection of National Minorities of 1995 and the revised European Social Charter of 1996.

3. Today Roma are still subjected to discrimination, marginalisation and segregation. Discrimination is widespread in every field of public and personal life, including access to public places, education, employment, health services and housing, as well as crossing borders and access to asylum procedures. Marginalisation and the economic and social segregation of Roma are turning into ethnic discrimination, which usually affects the weakest social groups.

4. Roma form a special minority group, in so far as they have a double minority status. They are an ethnic community and most of them belong to the socially disadvantaged groups of society.

5. Most Roma are currently faced with a rather severe economic situation in most of the member countries of the Council of Europe. Despite efforts in the social field, the market economy, especially the neo-liberal version of it, has marginalised disadvantaged social groups including Roma even in the most developed European countries. In central and eastern Europe the economic and political transition has aggravated their socially disadvantaged situation.

6. From a legal point of view, the Romany community is still not regarded as an ethnic or national minority group in every member state, and thus it does not enjoy the rights pertaining to this status in all of the countries concerned. Roma must be treated as an ethnic or national minority group in every member state, and their minority rights must be guaranteed. The Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages exist and must be applied.

7. The nature and direction of Roma migration has changed recently, as its illegal aspect has grown markedly, and even former transit countries have become final destinations. Ethnic conflicts and civil wars over the last ten years in certain parts of Europe have intensified the phenomenon of Roma migration. This migration is still not higher than the average migration trend from central and eastern Europe, but it attracts greater public attention because of its specific nature, as it is usually not an individual, solitary enterprise, but a family affair for the smaller or larger Romany families. In the meantime, several states have adopted formal rules or systematically implemented practices which are clearly aimed at preventing Roma from entering these countries, and are directly or indirectly discriminatory with respect to Roma.

8. It is necessary to adopt a series of confidence-building and advisory measures aimed at helping Romany migrants from central and eastern Europe already living in the countries of western Europe, and to prevent their further marginalisation. At the same time, it is also necessary to provide effective support for the reintegration of those Romany migrants who return to their homeland.

9. Roma, as full citizens of the country in which they reside, have to have the same rights and obligations as others. The right of Roma to move around must be recognised. The majority population and Roma share responsibility in society to an asymmetrical measure in the light of their capacities and their economic, political, cultural and social resources. The majority population must accept Roma into society without assimilating them, and support Roma as a disadvantaged social group. Roma have to accept the rules governing society as a whole, and they can be called upon to be more active in handling their own problems, but this must be associated with appropriate conditions, encouragement and incentives provided by the state.

10. Member states of the Council of Europe should encourage Roma to set up their own organisations and participate in the political system as voters, candidates or members in national parliaments. Incentives should be provided to mainstream political parties to include Roma on their electoral lists, in electable positions. States are encouraged to devise and implement policies aiming at the full participation of Roma in public life, and at all levels of administration, as well as the strengthening of democratic Romany constituencies. Romany communities, organisations and political parties should be given the full opportunity to take part in the process of elaborating, implementing and monitoring programmes and policies aimed at improving their present situation.

11. The situation of Romany women needs to be improved, because they play a determinant role in improving the living conditions of Romany families. These women suffer from a triple discrimination, as Roma, as women and also as persons belonging to a socially disadvantaged group.

12. The Assembly encourages awareness-raising among media professionals of their particular responsibility in building dialogue between Roma and the majority population, fighting against discrimination in society, making the majority population more familiar with the culture of Roma and the efforts made by them to improve their situation, and reporting the positive examples concerning the integration of Roma into society.

13. The Assembly recognises that there is a need to strengthen, clarify and harmonise the work of:

a. European multilateral organisations, such as the Council of Europe, the Organisation for Security and Co-operation in Europe, and the European Union, in their activities concerning Roma;

b. several bodies of the Council of Europe dealing with elaborating and monitoring initiatives, reports, recommendations and programmes concerning the situation of Roma in Europe.

14. The convention preparing a common future constitution for the European Union, has asked civil society to make remarks and proposals. Romany communities and organisations should not miss the opportunity of expressing their views.

15. The Council of Europe can and must play an important role in improving the legal status, the level of equality and the living conditions of Roma. The Assembly calls upon the member states to complete the six general conditions, which are necessary for the improvement of the situation of Roma in Europe:

a. to resolve the legal status of Roma:

i. to recognise Romany individuals as members of an ethnic or national minority group;

ii. to acknowledge the minority group status of Romany communities;

iii. to guarantee individual and community minority rights for Roma;

iv. to provide for Roma, legally residing in the country in which they live, with the full opportunity to obtain an identity card, in the countries where it exists;

v. to sign, ratify and fully implement the Framework Convention for the Protection

of National Minorities and the European Charter for Regional or Minority Languages;

vi. to provide Roma with the social rights protected by the revised European Social Charter;

b. to elaborate and implement specific programmes to improve the integration of Roma as individuals and Romany communities as minority groups into society and ensure their participation in decision-making processes at local, regional, national and European levels:

i. to elaborate and implement policies designed to deal with the problems of Roma, which are comprehensive and related to economic, social and cultural factors;

ii. to strengthen the dialogue between Romany individuals, Romany communities and other groups in society;

iii. to involve representatives of Roma at all stages of the decision-making process in developing, implementing and evaluating programmes aimed at improving the conditions of Romany individuals and communities. This involvement should not be limited to consultation only, but should take the shape of a real partnership;

iv. encourage the presence of Romany members in national parliaments and encourage the participation of elected Romany representatives in the regional and local legislature process and executive bodies;

v. to foster interregional co-operation with a view to handling the problems faced by Roma, with their active participation;

vi. to strengthen the systematic and regular monitoring process of the implementation of recommendations and specific programmes aimed to improve the legal situation and the living conditions of Romany individuals and communities;

c. to guarantee equal treatment for the Romany minority as an ethnic or national minority group in the field of education, employment, housing, health and public services. Member states should give special attention to:

i. promoting equal opportunities for Roma on the labour market;

ii. providing the possibility for Romany students to participate in all levels of education from kindergarten to university;

iii. developing positive measures to recruit Roma in public services of direct relevance to Roma communities, such as primary and secondary schools, social welfare centres, local primary health care centres and local administration;

iv. eradicating all practices of segregated schooling for Romany children, particularly that of routing Romany children to schools or classes for the mentally disabled;

d. to develop and implement positive action and preferential treatment for the socially deprived strata, including Roma as a socially disadvantaged community, in the field of education, employment and housing:

i. to ensure long-term budgetary support for developing income-generating programmes for the socially disadvantaged groups, including Roma;

ii. to ensure that housing programmes announced by governments are available for all socially disadvantaged families, including Romany families;

iii. to ensure budgetary support and assist Roma communities with technical training to upgrade the existing Romany settlements;

iv. to make use of the Council of Europe Development Bank to finance integrated projects, developed in partnership with the Roma communities concerned, in order to improve their living conditions

and to facilitate their economic independence;

e. to take specific measures and create special institutions for the protection of the Romany language, culture, traditions and identity:

i. to help and promote the teaching of the Romany language;

ii. to encourage Romany parents to send their children to primary school, secondary school and higher education, including college or university, and give them adequate information about the necessity of education;

iii. to make the majority population more familiar with Roma culture;

iv. to ensure that educational textbooks include material on the Romany history and culture;

v. to recruit Roma teaching staff, particularly in areas with a large Romany population;

f. to combat racism, xenophobia and intolerance and to ensure non-discriminatory treatment of Roma at local, regional, national and international levels:

i. to enact and enforce comprehensive anti-discriminatory legislation in the member states with regard to Roma;

ii. to ratify Protocol No. 12 to the European Convention on Human Rights, if they have not already done so, as a matter of priority;

iii. to set up conflict prevention and management bodies at regional and local levels;

iv. to enact and enforce comprehensive anti-discrimination legislation in the member states, in harmony with European Council Directive 2000/43/EC
"implementing the principle of equal treatment between persons irrespective of

racial or ethnic origin”, as the benchmark guidelines on anti-discrimination law in all European states;

v. to give considerable support to non-governmental organisations protecting individual and Roma community minority rights;

vi. to pay particular attention to the phenomenon of the discrimination against Roma, especially in the fields of education and employment;

vii. based on reliable statistical data, to fight against racial discrimination and protect Roma against the abusive and involuntary collection of data;

viii. to strengthen the monitoring system on discrimination against Roma at local, regional, national and international levels;

ix. to ensure that the full scope of the rights envisaged in the European Convention on Human Rights, as well as the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol, are applied to Roma without discrimination;

x. to pay particular attention to the problems faced by Roma in the field of acquisition or loss of citizenship, border-crossing decisions and policies;

xi. to ensure that the rules applied and policies implemented in the field of migration control are not discriminatory towards Roma migrants.

16. The Assembly recommends that the Committee of Ministers:

i. support the initiative of setting up a European Roma consultative forum, democratically established, that can articulate and transmit the voice of Romany individuals and communities and serve as an advisory body to the Committee of Ministers, the Parliamentary Assembly of the Council of Europe and institutions of the European Union;

ii. set up the institution of a European ombudsman for Roma to deal with the violation of the individual and community minority rights of Roma;

iii. establish a European Roma study and training centre, affiliated to the European Youth Centre of the Council of Europe, which needs to be set up with a small staff to facilitate the efficient exchange of positive experiences concerning the integration of Roma at local, regional and national levels in the member states and to promote the co-ordination of the training of Romany and majority specialists;

iv. consider recruiting Roma staff in the Secretariat of the Organisation;

v. create a European solidarity fund for Roma financed by voluntary contributions from the member states of the Council of Europe and other international multilateral organisations;

vi. draw up an additional protocol to the European Convention on Human Rights on the rights of persons belonging to minorities;

vii. strengthen monitoring mechanisms and support to a greater extent the implementation of the initiatives and recommendations enumerated by existing international texts.

1. *Assembly debate* on 25 April 2002 (15th Sitting) (see Doc. 9397, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Tabajdi; Doc. 9417, opinion of the Committee on Migration, Refugees and Demography, rapporteur: Mr Cilevičs; and Doc. 9424, opinion of the Committee on Culture, Science and Education, rapporteur: Mrs Rupprecht).

Text adopted by the Assembly on 25 April 2002 (15th Sitting).

2. The term "Roma" used in this report always refers to the "Gypsy", "Sinti" and "Traveller" categories.