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The Exclusion of Roma and European Citizenship

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In the spring of 2020, as nations around the world began imposing lockdowns on their citizens to slow the spread of COVID-19, the European Court of Human Rights delivered a judgment in the case of Hudorović and Others v. Slovenia. The plaintiffs were residents of two informal Roma settlements in Slovenia. For decades, these settlements had lacked access to drinking water—a right guaranteed by the country’s constitution and provided to non-Roma homes nearby. The plaintiffs asserted that the neglect of their communities violated provisions of the European Convention on Human Rights (ECHR) prohibiting discrimination and degrading treatment, and guaranteeing the right to enjoy one’s family life and home.

In its March 10 decision, the court found that the Roma minority in Slovenia “face greater obstacles than the majority in accessing basic utilities,” yet concluded that “access to safe drinking water is not, as such, a right protected” by the ECHR. Nevertheless, the court acknowledged that failure to address “a persistent and long-standing lack of access” to water and sanitation services could put a state in violation of its obligations to prevent discrimination against disadvantaged groups such as the Roma minority in Europe.

Nongovernmental organizations around Europe have found that the problems highlighted by the Hudorović case are pervasive. In a 2017 report, the European Roma Rights Centre (ERRC), a Roma-led legal advocacy group based in Brussels, found that a “huge number of Roma” all across Europe have limited access to clean drinking water and sewage systems. It concluded that this was “not a coincidence of geography,” but “a matter of societal and institutional discrimination.”

The implications extend from human rights to public health. As the ERRC asked in its response to the Hudorović ruling, how can people who cannot even wash their hands be expected to abide by government directives to protect themselves and others from COVID-19? Many Roma communities throughout Europe, in the newer as well as the oldest member states of the European Union and on the bloc’s periphery, face such predicaments.

Access to drinking water and sanitation are minimum requirements for what could be considered a dignified life. How is it possible that in the middle of Europe—and within the EU, whose member states rank among the highest in the world on human development indexes—there are citizens living in such dire circumstances that these fundamental needs are beyond their reach? And how can the EU, an organization founded on respect for human rights and the rule of law, allow a minority group to be denied basic rights that are provided to other citizens? The inescapable fact is that the position of Roma citizens today reflects historical neglect and the outright racist discrimination that this outcast minority group has long suffered at the hands of many European governments.

CONSIGNED TO THE MARGINS

The term “Roma” (and adjective “Romani”) is commonly used for many minority groups that once were grouped under the derogatory label “gypsies.” In Europe today, most Roma, and especially Romani activists, reject that old name. According to estimates by the European Commission, there are 10–15 million Roma in Europe, 6 million of whom are citizens of the European Union.

In the wake of the formation of European nation-states, Roma remained on the margins as

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a minority without a kin-state of their own (despite linguistic evidence of an ancestral connection to India). There is now a Romani minority in every EU member state except Malta. In 1993, the Council of Europe called the Roma a “truly European minority.” Yet they have not benefited from the oft-stated European values of liberal democracy based on the rule of law and the protection of minorities and human rights. Instead, throughout history, Roma have experienced the darker side of what it means to be a minority in Europe, designated as perpetual outsiders.

Although many history textbooks depicted European Roma as free-roaming nomads living in caravans (and often included stereotypes about criminality), the reality of what was portrayed as a “Romani lifestyle” was much more dire. As a University of Graz project on Romani history showed, in many instances Romani groups were not allowed to settle in various European territories. In Central Europe, after the Thirty Years’ War (1618–48), Roma were forced to live a nomadic life to escape economic deprivation and famine, in addition to persecution. Some Roma who came to these lands, for example the territory of today’s Slovakia, were either expelled with a legal decree or hanged without trial. In what is now Romania, Roma were still enslaved in the nineteenth century, even after the abolition of African American slavery in the United States.

Like the Jews, Roma lost their citizenship under the laws of Nazi Germany before World War II. They suffered a fate similar to that of the Jews during the war: many Roma were sent to concentration camps around Europe, including Auschwitz–Birkenau. It is estimated that more than half a million (some estimates go up to 1.5 million) were killed in what came to be known as the Porrajmos—the Romani Holocaust.

That tragedy was rarely recognized by postwar governments, which often continued to exhibit anti-Roma attitudes. Many socialist states with large Roma populations treated them as a “deviant” social group that needed to be assimilated into the working-class citizenry. In 1993, Czech President Václav Havel, who had been a leading dissident under communism, said Roma rights would be a litmus test for civil society, and more broadly for the transformation of postsocialist states into liberal democracies.

Despite this history of discrimination, it was not until the 1990s that EU institutions started treating Roma as an ethnic minority deserving of human rights protections. The shift coincided with rising expectations that the EU would expand to include the postsocialist states of Central and Eastern Europe. The 1993 Copenhagen Criteria for accession emphasized that countries aspiring to join the EU would be required to prove that they had institutions that could guarantee the rule of law, human rights, and protection of minorities.

Since a large proportion of Roma in Europe are citizens of postsocialist states, their status became a focus of attention before the EU’s two rounds of enlargement in 2004 and 2007. Roma had drawn little geopolitical interest until then, but they were now seen as a minority that could make potentially destabilizing territorial demands. Other minorities were demanding kin-states of their own in the region, including Hungarians in Romania and ethnic groups in the former Yugoslav territories.

According to EU estimates, there are 2.6 million Roma living in Bulgaria and Romania, which both joined the EU in 2007, and 1.5 million in the several postsocialist countries that joined the EU in 2004, with the highest numbers in Hungary, Slovakia, and the Czech Republic. Roma constitute the smallest minority group in most European countries, often representing less than 1 percent of the population as recorded in the census. But they are typically undercounted, because many who are Roma do not identify as such due to a justified fear of persecution. Despite being relatively few in number, the Roma are overrepresented as victims of discrimination, according to a Eurobarometer survey conducted in 2019.

As multiple studies have shown, Roma have been particularly vulnerable to hate crimes since the collapse of socialism. Anti-Roma pogroms have been documented in most postsocialist countries. Racially motivated killings in northeast Hungary in 2008 and 2009 are among the most heinous hate crimes against Roma that have occurred in the European Union (though some have also taken place in older member states).

This history of violent persecution was one of the reasons the EU included protections for Roma among the conditions that candidate countries had to meet in its most recent rounds of enlargement. Candidates for accession had to report on progress
they had made in enacting antidiscrimination legislation and implementing other measures to protect their Roma minorities. (The same conditions apply to current candidate countries in the Western Balkans.)

However, countries that already belonged to the EU were not required to show that they had implemented minority protection policies for Roma. This was the case even for Spain, where over one million people identify themselves as members of the Gitano community, as the Spanish Roma are known. Nor was France or the United Kingdom required to demonstrate having safeguards for Roma rights in place—even though gross human rights violations against Roma have occurred in both countries, once considered exemplars of human rights in the EU. There was an assumption that protection of human and minority rights was lacking only in the former socialist countries. But in fact, the rights of Romani citizens and migrants were also regularly violated in, and sometimes by, older EU member states.

**Migration Panic**

Minority and human rights protection was high on the EU’s agenda during the accession process for its eastward enlargement in large part because of fears among older member states that they would experience massive westward migration of Roma if their rights as citizens in their own postsocialist states (including rights to economic opportunity) were not guaranteed. Although there was no evidence that Roma would be more inclined than other postsocialist citizens to leave their home countries in the east, the western EU member states made strenuous efforts to curtail Roma mobility. Even before the enlargements in 2004 and 2007, countries such as Finland and the UK took measures implicitly intended to limit the right to asylum for potential Romani migrants from countries such as the Czech Republic and Slovakia.

At the turn of the millennium, the UK reached an agreement with the Czech Republic allowing British immigration officers to be stationed at the Prague airport with the right to decide who would be barred from boarding UK-bound planes for allegedly failing to meet entry requirements. Their primary objective soon became clear. Roma were barred from the flights more often than other Czech citizens were, based on the perception that they were likely to file spurious claims for asylum. The ERRC and others challenged the policy, alleging that it violated the UK’s obligations under international treaties concerning the treatment of refugees. In 2004, an appellate committee of the British House of Lords ruled in the case, *Regina v. Immigration Officer at Prague Airport*, that the policy was inherently and systemically discriminatory against the Roma on racial grounds.

Similar restrictions imposed by western EU member states on freedom of movement, unofficially targeted at Roma, continued after the 2004 and 2007 EU enlargements, despite the EU Freedom of Movement Directive adopted in 2004. According to this directive (as well as the EU Charter of Fundamental Rights), EU citizens have the right to move to and reside for up to three months in any member state not their own, without limitation. Governments had welcomed ease of mobility for EU citizens because it was seen as conferring economic benefits. But a number of member states used the perceived threat of massive economic migration (including by Roma) as an excuse to curtail this right for Bulgarian and Romanian citizens when their countries were admitted to the EU in 2007.

The last of these labor market restrictions were lifted on January 1, 2014. The British tabloid media predicted a massive inflow of the newest EU citizens to the UK. The tabloids often claimed that migrants from Eastern Europe were predominantly Roma and would come to the UK either to claim higher social welfare benefits (as so-called welfare tourists) or to do low-skilled, informal work—which, it was argued, would lead to lower wages for British citizens. In 2015, the British television network Channel 4 aired a documentary series, “The Romanians Are Coming,” featuring Romani EU citizens who migrated to the UK and struggled to make a living. Supporters of a British exit from the EU also drew on fears of a Roma influx in the campaign ahead of the 2016 Brexit referendum.

The right of member states to restrict “benefit tourism” was expressly affirmed in a 2014 ruling by the Court of Justice of the European Union, *Dano v. Jobcentre Leipzig*. The court held that citizens of one EU member state cannot claim social welfare benefits in another if they have not worked in the second country. Although the case concerned “economically inactive” Romanian migrants in Germany, it gave British Prime Minister David Cameron an opening, even before Brexit, to propose legislation that would limit the rights of non-British EU citizens to welfare benefits in the UK during their first four years in the country.
Although EU member states may limit welfare eligibility, the Freedom of Movement Directive prohibits them from deporting an EU citizen solely on the basis of economic inactivity. Deportation is permissible only for mobile EU citizens who present a threat to public order or public health. Yet this limitation did not deter French President Nicolas Sarkozy from issuing a 2010 decree targeting informal Romani settlements. In what came to be known as l'affaire des Roms, the decree resulted in mass expulsions of almost 10,000 Roma who were Bulgarian and Romanian EU citizens.

In response to these expulsions, Viviane Reding, the European commissioner for justice, fundamental rights, and citizenship, issued a sharply worded statement “on the Roma situation” in Europe. She acknowledged the right of member states to “ensure public order,” but criticized the “openly discriminatory and partly inflammatory” rhetoric used by some governments, declaring that “nobody should face expulsion just for being Roma.” In the fall of 2010, the European Commission started an infringement proceeding against France for violating the freedom of movement of Romani EU citizens. But the proceeding was soon called off after France presented the Commission with a program for Roma integration, even though it did not include a clear plan for implementation.

In the same year, the European Court of Human Rights allowed another (non-EU) country to present a plan for integration of Romani citizens without showing how it would be implemented. In the case of Orsůš and Others v. Croatia, the court ruled that two Croatian public schools had discriminated against Romani schoolchildren by placing them in Roma-only classes apart from their Croatian peers. But Croatia merely had to present a plan for addressing this educational segregation, without demonstrating actual results. The issue arose during Croatia’s EU accession process. By the time it joined the EU in 2013, several Roma-only classes were still in place.

INTEGRATION SCHEMES

Developments such as the Croatian educational segregation case and l'affaire des Roms made it clear that the 1991 Copenhagen Criteria for accession had failed to ensure that the rule of law, human rights, and minority protections were held to the highest standards in an enlarged EU. This was not due solely to the failure of the postsocialist EU member states and candidate countries to fully adhere to the conditions of membership; it had also become evident that long-established EU members were just as prone to violating the rights of Roma. If the EU was to be truly a union of all of its citizens, the European Commission clearly would need to monitor the efforts that member states made to integrate their Romani citizens.

These developments prompted the European Commission to create an EU Framework for National Roma Integration Strategies up to 2020 (NRIS). The framework took effect in 2013, requiring all EU member states (except Malta, which reported having no Romani residents), regardless of when they had joined the bloc, to produce a national Roma integration strategy. This was supposed to be a viable plan focused on housing, education, employment, and access to health care.

The structure of the framework was not entirely original. It was based on a previous initiative, the Decade of Roma Inclusion 2005–2015, which had been joined by international organizations including the Council of Europe, the Organization for Security and Cooperation in Europe, and the United Nations Development Program, as well as some European states (not exclusively EU members) and nongovernmental organizations. The name echoed that of the International Decades of the World’s Indigenous Peoples (1995–2004 and 2005–14), yet it did not have the same status as the Indigenous Decades, which had been established as a global commitment by a 1993 UN General Assembly resolution.

Much like the NRIS, the Roma Decade scheme called for tracking action plans and the progress that states were making with integration, particularly in education, housing, and health care access. But there were also major differences between the two schemes. The EU framework emphasized the importance of measurable results, as well as the active participation of Romani civil society groups in the design and implementation of national integration plans.

Since the framework was announced, the EU’s Fundamental Rights Agency (FRA) has published several reports showing that the results have been mixed at best, as have several think tanks and NGO coalitions. At worst, the Roma have remained on
the fringes of their countries, faced with absolute poverty, inadequate housing, few employment opportunities, and little chance for a dignified life. As the Hudorović case showed, some still lack access to basic necessities like drinking water and sanitation, living in extreme poverty of a kind usually associated with the global South.

The FRA has also reported increasing incidents of hate crimes and discrimination against Roma in EU member states, notably Hungary. Although there has been progress in the inclusion of Romani children in education systems, the number of segregated Roma-only classes, and even schools, has risen in some areas over the past decade, particularly in Hungary, the Czech Republic, and Slovakia. But instances occur in most EU member states.

Efforts to encourage the participation of Romani civil society organizations in integration programs and other initiatives have also had mixed results. Romani political leaders and activists have been included in drafting integration policies. But in many instances, national authorities took their involvement as an opportunity to shift responsibility for implementing the policies onto Romani groups, without providing them with appropriate resources. By deeming Roma to be an unintegrated minority, governments have downplayed any responsibility to treat them as citizens.

THE BLIND SPOT

The Alliance against Antigypsyism, a civil society coalition, has warned that all the national Roma integration strategies have the same blind spot: they fail to recognize the antigypsyism—anti-Roma racism—that is deeply embedded in state institutions. Antigypsyism has been further normalized by leading political figures in some European nations over the past few years, including Hungarian Prime Minister Viktor Orbán and former Italian Interior Minister Matteo Salvini.

Romani and pro-Roma civil society groups formed the Alliance against Antigypsyism in 2017, defining this form of racism as a phenomenon that is not exclusive to the extreme right but is also evident in mainstream political discourse and the state system. In February 2019, the European Parliament adopted a resolution on the “need for a strengthened post-2020 strategic EU framework for national Roma inclusion strategies and stepping up the fight against antigypsyism.” Soraya Post, a Swedish member of the European Parliament from 2014 to 2019 who is of partial Romani parentage, was at the forefront of advocating for the resolution.

As the EU’s NRIS framework drew to an end in December 2020, the new year presented an opportunity to draft new EU policies to combat antigypsyism. The COVID-19 pandemic and government responses to it had worsened existing systemic inequalities faced by Romani minorities across Europe, including access to basic public services. Policies for Romani integration will become truly inclusive only when political leaders go beyond addressing antigypsyism and reconsider the fundamental premises on which citizenship in Europe is based. They must ask which elements of citizenship legislation, as well as other previous policies, ended up excluding Roma—people who are citizens of highly developed states that celebrate human rights. Rather than stereotyping Roma as an exceptional minority that is unable to find a place in modern societies, there needs to be a discussion about the future of European citizenship itself, and how it can live up to the stated EU ideals of equal rights and protections for all, including marginalized minority groups.