

# Combating Institutional Anti-Gypsyism

## Responses and promising practices in the EU and selected Member States

Sergio Carrera, Iulius Rostas & Lina Vosyliūtė

### Abstract

The notion of ‘anti-Gypsyism’ aims to refocus public policies addressing Roma discrimination in order to place responsibility for combating structural, historically-embedded and systemic forms of racism, discrimination and exclusion towards Roma squarely on state institutions and actors. This report examines the ways in which policies and funding combat ‘anti-Gypsyism’ in the European Union and selected Member States and assesses the added value of the ‘anti-Gypsyism’ concept, with particular reference to its institutional forms. It explores ways in which these institutional forms could be combated by identifying some ‘promising practices or experiences’ found in five selected EU Member States (Germany, Romania, Spain, Sweden and the UK). These ‘promising practices’ include reactive and proactive measures organised around four main themes: i) national, regional and local institutional responses; ii) training and education activities; iii) access to justice and effective remedies; and iv) media, public attitudes and political discourse.

The report further draws conclusions and provides a set of policy recommendations for EU and national policy-makers to effectively combat anti-Gypsyism. The authors highlight that discussions on anti-Gypsyism should focus not only on its definition, but on the actual outputs of current national and EU policies and a more robust application of EU rule of law and fundamental rights monitoring and reporting mechanisms.

A key proposal put forward is to expand the scope of the EU Framework for National Roma Integration Strategies to become the *EU Framework for National Roma Inclusion and Combating Anti-Gypsyism* and to equip it with the necessary authority and means to tackle systematic and institutional manifestations of anti-Gypsyism.

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# List of Abbreviations

CJEU	Court of Justice of the European Union
CoE	Council of Europe
CoR	Committee of Regions
DG AGRI	Directorate-General for Migration and Home Affairs
DG EAC	Directorate-General Education and Culture
DG EMPL	Directorate-General for Employment, Social Affairs and Inclusion
DG Home	Directorate-General (DG) Migration and Home Affairs (HOME)
DG JUST	Directorate-General for Justice and Consumers
DG Justice	Directorate-General (DG) Justice and Consumers (JUST)
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
DG REGIO	Directorate-General for Regional and Urban Policy
DG	Directorate General
EACEA	Education, Audiovisual and Culture Executive Agency
EAFRD	European Agricultural Fund for Rural Development
EC	European Commission
ECA	European Court of Auditors
EESC	European Economic and Social Committee
ENAR	European Network against Racism and Xenophobia
EO	European Ombudsman
EP	European Parliament
Equinet	European Network of Equality Bodies
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural Investment Fund
FRA	European Union’s Agency for Fundamental Rights
IPA	International Partnership Agreement
JHA	Justice and Home Affairs
MEP	Member of the European Parliament
MS	Member State
NCP	National Contact Point
NRIS	National Roma Integration Strategies
OPAs	Operational Programmes
REC	Rights, Equality and Citizenship (REC) Programme
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations

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# Executive Summary

This Report examines the ways in which policies and funding combat the phenomenon of ‘anti-Gypsyism’ in the European Union (EU) and selected Member States. It assesses the added value of the ‘anti-Gypsyism’ concept, in particular with reference to its **institutional forms which are manifested in racism, discrimination and exclusion of Roma citizens**. The notion of anti-Gypsyism aims to refocus public policies addressing Roma discrimination back to the responsibility of state institutions and actors in combating structural, historically-embedded and systemic forms of racism, discrimination and exclusion.

The **anti-Gypsyism concept** addresses the historical role, responsibility and traditional posture taken by state institutions and the effects of widespread prejudices and stereotypes in society about Roma communities. The concept shows how state institutions and actors often play a direct or indirect role in co-producing and reproducing discrimination towards Roma and entrenching anti-Gypsy attitudes and stereotyping in the framing of laws and policies, as well as in their practical implementation and outputs. The latter often pose challenges to fundamental rights, EU citizenship and freedom of movement for Roma EU nationals, all of which lay at the foundations of the EU legal system in the Treaties.

The Report provides an in-depth analysis of **institutionalised manifestations of anti-Gypsyism in the EU**. It explores ways in which they could be combatted through the identification of ‘promising practices or experiences’ in five selected EU Member States (Germany, Romania, Spain, Sweden and the UK), as well as at the EU level. The following three research questions are examined:

- First, what is **the value and contribution** of the concept of anti-Gypsyism in addressing the situation of Roma communities in the EU?
- Second, what are the prevailing **normative approaches** to anti-Gypsyism and the gaps in the current EU policy, institutional and funding landscape and priorities?
- Third, are there any **‘promising practices or experiences’** in these selected national arenas when it comes to combating institutional anti-Gypsyism?

By addressing these questions, the Report contributes to at least 3 out of the 10 so-called **‘Common Basic Principles of Roma Inclusion’**, which were presented for the first time at the meeting of the European Platform for Roma Inclusion in Prague on 24 April 2009.<sup>1</sup> Paying special attention to combating anti-Gypsyism upholds the first principle of “constructive, pragmatic and non-discriminatory policies”. The implementation of this principle “requires the respect and promotion of the EU’s core values of human rights, dignity and non-discrimination”. These are crucial standards for any kind of policy initiative aimed at effectively combating anti-Gypsyism, and are highlighted throughout this Report (European Commission Roma Portal, 2010).<sup>2</sup>

A first key finding of our research relates to the very notion of anti-Gypsyism. State-of-the-art research underlines that **anti-Gypsyism is a deeply rooted phenomenon in the history, culture and state institutions in the EU** (see section 1 and Annex 1 of this Report). The concept helps us to understand

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<sup>1</sup> See <http://bookshop.europa.eu/en/the-10-common-basic-principles-on-roma-inclusion-pbKE3010317> Shortly thereafter, on 8 June 2009, the Council of Ministers in charge of Social Affairs annexed the Principles to their conclusions and invited Member States and the Commission to take them into account when thinking of the then forthcoming EU Framework for National Roma Integration Strategies.

<sup>2</sup> The Report directly contributes to the sixth principle on “Transfer of evidence-based policies” by integrating into the methodology broad consultation with the stakeholders on what works and what does not work in attempts to address institutional forms of anti-Gypsyism and what are the promising experiences at Member State and EU levels. It also contributes to the seventh principle on “Use of European Union instruments”, which “draws attention to the EU’s legal, financial and coordination instruments, which can be promoted to Member States as tools for supporting Roma inclusion” (European Commission Roma Portal, 2010).

how Roma communities are often reframed as foreigners or ‘migrants’, irrespective of their actual migratory administrative status and/or nationality. This manifestation of anti-Gypsyism in turn is used to justify, or often provides the background for, restrictions with respect to the equal enjoyment by Roma communities of EU citizenship, freedoms and fundamental rights, or cases of forced evictions and expulsions, exclusion and segregation of Roma communities in the EU (see subsection 1.2.3).

In these ways institutional racism and discrimination facilitate shifting responsibility for discrimination and exclusion to the Roma themselves for their presumed lack of ‘cultural integration’. The Report shows that the most common manifestation of anti-Gypsyism takes the shapes of negative and false stereotypes in society on Roma, discrimination by other citizens and residents, lack of knowledge towards Roma communities by public sector authorities and even cases where there is use of anti-Roma xenophobic rhetoric on the part of some politicians and state leaders.

However, **the most serious forms of anti-Gypsyism are institutional ones**. These include, for instance, segregation of Roma children in education, spatial segregation of Roma communities and forced evictions and expulsions from the territory. These institutional manifestations have profound repercussions for the effective socio-economic inclusion of Roma communities in life domains such as access to housing and education. What makes anti-Gypsyism a special form of racism is the responsibility of the state in the production and co-production of discriminatory norms, knowledge and politics in relation to Roma communities (see subsection 1.2).

The notion of anti-Gypsyism provides also a different framing of Roma-related issues and challenges. The focus of attention is centred on **institutional gaps and systemic deficiencies in the treatment of Roma**. These challenges are mainly related to the compliance by EU states and authorities with democratic rule of law and fundamental rights, which call in turn for better supranational monitoring of equality before the law, effective protection of fundamental rights and access to justice by individuals (see subsection 1.3).

This Report shows that the value of the anti-Gypsyism concept lies in the change of focus from the Roma communities’ obligation to ‘integrate’ to **the state institutions’ responsibility to effectively deliver equality, non-discrimination and fundamental rights to Roma individuals**, all of which constitute founding values of the EU enshrined in Article 2 of the Treaty on the European Union (TEU). The Report indicates that a **consistent and streamlined EU democratic rule of law and fundamental rights approach often is lacking** in policy and financial instruments and activities falling under the umbrella of EU Roma-related policies. Such an approach would foresee that the actions (or inactions) of Member State governments and authorities, and those of the European institutions and agencies, would be regularly and independently monitored, supervised and evaluated in light of Article 2 TEU values (see section 2).

Another key finding of this Report is that the **practical usage and perceived relevance of the anti-Gypsyism concept varies among the Member States** analysed. Swedish and German policy-makers have been engaged in serious reflections on Roma history and the state’s role in perpetuating the Roma holocaust and other historically rooted injustices. The Report identifies several ‘promising initiatives’ in these two Member States aimed at combating institutional forms of anti-Gypsyism. In addition, German and Swedish authorities have played an active role in raising awareness and combating the anti-Gypsyism phenomenon internationally.<sup>3</sup>

The notion of anti-Gypsyism is less used and reflected upon by policy-makers in the three other countries studied (Romania, Spain and the UK). Even in these countries, however, **there is a very high level of consensus among civil society organisations and national experts that the concept of anti-Gypsyism is useful and brings an added value** in comparison to other existing and broader notions such as non-discrimination, racial equality, combating hate crimes and hate speech. Across all five Member

<sup>3</sup> For example, the German Chairmanship of the OSCE organised a High-Level Meeting on “Confronting Anti-Gypsyism: The Role of the Political Leaders in Countering Discrimination, Racism, Hate Crimes and Violence against Roma and Sinti Communities”, 6 September 2016, Berlin.



States, the survey of civil society organisations conducted for the purposes of this Report highlighted the potential added value of the concept to effectively counter institutional forms of racism against Roma.

The **anti-Gypsyism concept is increasingly gaining ground at the EU level as well**. This is particularly evident in its use by the European Parliament (European Parliament, 2015), the European Commission (European Commission, 2015) and the Council (Slovak Presidency of the Council of the EU, 2016). Nevertheless, the notion of institutional anti-Gypsyism and its democratic rule of law considerations are often absent. The Report analyses the European Commission's prevailing approaches in recent policies and funding initiatives (since 2010 and up through January 2017), whether and how they combat anti-Gypsyism across the Member States.

Among such perspectives, the one that has gained most prevalence **since 2010 is the Roma integration approach**. Fundamental rights in the scope of EU non-discrimination and combating hate speech/crime policies have also gained in relevance due to the existence of EU secondary law in these domains. Still, our research shows that more efforts are needed to overcome current sectorial perspectives and ensuring a democratic rule of law and fundamental rights-compliant approach in current EU policies on Roma. As a consequence, current **EU policies mainly target the 'integration' of Roma communities, and not so much structural racism or institutional barriers in Member States**.

The **EU Framework for National Roma Integration Strategies** was developed as the EU's main response to the controversial evictions and expulsions by France and Italy in 2010 of EU Roma citizens from Bulgaria and Romania. Civil society organisations advocated the adoption of Roma inclusion strategies at EU and national levels,<sup>4</sup> and many of them thus welcomed the new framework. This Report confirms that **the EU Framework and the national strategies for Roma integration have brought important changes in ensuring 'more EU' in the coordination of national Roma policies**, creating new institutional structures at EU and domestic levels dealing with Roma integration and involving relevant civil society actors in the design and implementation of policies. The EU Framework, however, has a number of limitations, which are closely linked to its thematic focus on 'integration', and its normative softness, i.e. the weak position granted to the Commission in enforcing Member States' compliance with the agreed commitments. These limitations include its scope, effectiveness and impact in delivering equality, citizenship and fundamental rights to the Roma in the EU.

Three major surveys conducted by the EU's Fundamental Rights Agency (FRA) between 2008 and 2016 – EU MIDIS I, 2008; Roma survey, 2012 and EU-MIDIS II, 2016 – confirm that levels of Roma discrimination in different areas of life remained worryingly high in the EU. Our research confirms the importance of EU policies to continue **fostering effective and non-discriminatory socio-economic inclusion of Roma communities** at Member State levels, particularly in ensuring equal access to a comparable standard of living in key areas, such as as education, employment, housing and health, as well as in combating hate crime.

Nevertheless, this Report signals that more EU efforts are needed to **ensure regular and more systematic EU monitoring of the compliance with the rule of law and fundamental rights** by national, regional and local authorities across the Union in providing equal treatment of Roma communities. A key challenge arises in this context as targeted EU policies and related **funding schemes may not serve their envisaged purpose precisely because of the existence of institutional racism** at national, regional and local governance levels (see section 3 of this Report for more details).

The EU often implements policy and coordinates and steers Member States' actions in areas falling outside the remit of its formal legal competences. This takes place, *inter alia*, by means of **funding projects and coordinating programmes in Member States' national and local arenas**. This Report provides a detailed overview of selected EU financial instruments that directly or indirectly cover components

<sup>4</sup> As, for example, during the first EU Roma Summit organised by the European Commission in 2008 (see <http://ec.europa.eu/social/main.jsp?catId=88&langId=en&eventId=105>).

that are relevant for the treatment of Roma communities in the EU and their **compliance with the above-mentioned ‘10 common basic principles’ agreed at EU level** (see section 3.1). A key finding of this Report in this area is that **the largest funds are designed to fund a Roma integration/inclusion approach via key European Structural Investment Funds (ESIF)**, namely the European Social Fund (ESF) and European Regional Development Fund (ERDF).

A recent special report by the European Court of Auditors (ECA) on EU policy initiatives and financial support for Roma integration has confirmed that current funding schemes addressing socio-economic challenges of Roma communities **lack a targeted focus on anti-Gypsyism**, as a specific phenomenon (European Court of Auditors, 2016). In the same vein, an earlier own-initiative inquiry by the **European Ombudsman** on how the European Cohesion Funds are managed raised similar concerns about the need to find ways to **better ensure the compliance of Member States’ national projects funded by the EU Cohesion funds with fundamental rights of Roma communities** (European Ombudsman, 2015) (see section 3.2).

The Report identifies a set of **‘promising practices’ consisting of a selection of national experiences and projects showing strong potential for combating institutional manifestations of anti-Gypsyism in the five selected EU Member States**. The Report acknowledges that these selected practices are context-specific and closely embedded to each Member States’ specificities regarding history, socio-economic spheres and constitutional and legal traditions. The collection of practices aims to encourage more investment and focus in EU policy efforts and funding, where the ‘bottlenecks’<sup>5</sup> for Roma inclusion are identified and where positive features and potential could be monitored and promoted by the EU. The existence of ‘bottlenecks’ are certain manifestations of anti-Gypsyism, hindering achievement of equality among Roma and non-Roma in a socio-economic context and also in their enjoyment of fundamental rights and equality (see section 4).

These ‘promising practices’ include **reactive and proactive measures** organised around four main themes: **i) national, regional and local institutional responses; ii) training and education activities; iii) access to justice and effective remedies; and iv) media, public attitudes and political discourses**.

When it comes to **institutional responses (i)**, our research has identified some institutional initiatives from national governments and parliaments such as the setting up of special bodies and commissions to deal with the remembrance and history of abuses and rights violations against Roma. This was the case in Sweden, where a Committee of Anti-Gypsyism was established and where the government produced a White Paper, “The Dark Unknown History on Abuses and Rights Violations against Roma in the 20th Century”, recalling the victims of anti-Gypsyism and shedding light on “the role and responsibility various social institutions have had – at an overall level – for the abuses and rights violations”.<sup>6</sup> Another example is Germany, where the Ministry of Foreign Affairs appointed a Special Representative for Relations with Jewish Organizations and International Aspects of Matters of Sinti and Roma, whose main mission was to promote the politics of remembrance internationally.

These instances illustrate **the relevance of political determination and an appreciation on the part of the respective governments to raise awareness about past and current injustices perpetrated against Roma**. Our investigation has shown that a key challenge of these initiatives is the **effective follow-up** of their outputs. This has been so far case for example as regards the implementation of the recommendations put forward by the above-mentioned initiative in Sweden (see subsection 4.1).

The Report covers interesting practices dealing with **training and educational initiatives (ii)**. Several examples focus on **anti-bias and anti-discrimination training programmes aimed at law enforcement and judicial officers and public servants** who are in direct contact with Roma communities. Special

<sup>5</sup> ‘Bottlenecks’ in this report are understood as areas of policy-making which if improved would speed up the achievement of other policy efforts. For example, to ensure access to justice and protection from discrimination, Roma communities themselves could be pro-active in ensuring equal access to education, housing, employment and healthcare.

<sup>6</sup> See <http://www.government.se/legal-documents/2015/03/ds-20148/>

educational materials were prepared for use by teachers and other educators in different settings, ranging from academic education to professional training. Although the current research has not assessed their actual impact, the Report captures the limited outreach of the most interesting initiatives directed at law enforcement officers in some of the Member States studied (see subsection 4.2).

A fundamental set of actions for effectively combating institutional manifestations of anti-Gypsyism relates to **access to justice and effective remedies (iii)**. The Report outlines promising examples and measures taken both by local and regional authorities and civil society to ensure **better accountability and monitoring of effective investigation of crimes perpetrated against Roma communities**. A key finding is **the central role played by cities and local actors in ensuring and facilitating effective redress to victims of crime**. To this end, as a way of illustration, the Report highlights measures such as the special register of anti-Gypsyist incidents in Berlin (Germany) and the Service for Hate Crimes and Discrimination of the Prosecutor's Office in Barcelona (Spain) (see subsection 4.3).

**Media and political discourse can play an equally central role in combating anti-Gypsyism (iv)**. The Report provides a few cases of high-ranking politicians, such as Chancellor Angela Merkel in Germany, or Prime Minister Dacian Cioloș in Romania, delivering strong and positive messages stepping up for the values of fundamental rights and equality and calling for opposition to anti-Gypsyism. Existing **media laws, ethical codes for journalists and guidelines for online media** are also analysed. The Report underlines that these tools could be better utilised and more consistently implemented in scrutinising various expressions of anti-Gypsyism and in particular in relation to cases of illegal hate speech in the public sphere, including on social media (see subsections 4.4-4.5).

The Report further draws **conclusions** and provides a set of **policy recommendations** for EU and national policy-makers to effectively combat anti-Gypsyism. Our findings show the importance of **trust-building measures between EU and national responses to effectively combat anti-Gypsyism**. This can only happen if steps are taken to prevent and address the institutional manifestations of this phenomenon. The Report highlights that discussions on anti-Gypsyism should focus not only on its definition, but on **the actual outputs of current national and EU policies and a more robust application of EU rule of law and fundamental rights monitoring and reporting mechanisms**.

Both European institutions and Member States should more openly and officially support the use and value added of the concept of anti-Gypsyism. The EU together with national authorities should turn **anti-Gypsyism into a fully operational concept**, equipped with all the necessary legal, policy and financial instruments to protect the fundamental rights of Roma communities across the Union. The effective protection of Roma fundamental rights and citizenship stands high among EU values in the Treaties and the EU Charter of Fundamental Rights. The EU institutions should more closely monitor Member States' actions and inactions regarding the treatment of Roma communities, particularly in the scope of current EU funding instruments and, chiefly through the adoption of a new **EU Rule of Law Mechanism**. (see section 5).

# Introduction

## Scope, objectives and structure

The Report examines the notion of ‘anti-Gypsyism’ in the European Union (EU) and selected EU Member States’ policies. It touches on efforts to combat various manifestations of institutional racism, exclusion and discrimination. This Report does not study the phenomenon of anti-Gypsyism per se, but rather focuses on identifying promising ways to combat it in the EU.

As eloquently explained by Stephen Lawrence, **institutional racism** is “the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin” (Stephen Lawrence Inquiry, 1999). For the purposes of this Report, this notion encompasses **structural forms of racism, institutional discrimination and exclusion of communities perceived or framed as ‘Roma’**. Anti-Gypsyism refers to the **historical role, everyday behaviour and prejudices/stereotypes of institutions that co-produce and reproduce fear or hatred of Roma in laws, policies and practices** that are contrary to the fundamental human rights and citizenship freedoms of Roma communities. Institutional forms of anti-Gypsyism and ways to combat them are at the core of this study.

The Report draws attention to the responsibility and promising practices and experiences of stakeholders, in particular policy-makers at national and local levels, in combating and/or countering racist, exclusionary and discriminatory treatment, attitudes and policies/practices towards the Roma. It is based on experiences in five EU Member States: **Germany, Romania, Sweden, Spain and the UK**. The Report investigates the responses to these and related issues at EU institutional level, in particular when it comes to the policy, legal and funding activities of **European Commission services and Directorates General (DGs)** working directly or indirectly on Roma-related themes. Our research covers relevant developments since 2010, namely, the introduction of the EU framework for National Roma Integration Strategies, until January 2017. We explore three research questions:

- First, what is the value and contribution of the **concept of anti-Gypsyism** in addressing the situation of Roma communities in the EU?
- Second, what are the prevailing **policy or normative approaches** to anti-Gypsyism and the gaps in the current EU policy, institutional and funding landscape and priorities?
- Third, are there any ‘promising practices or experiences’ in these selected national arenas in combating **institutional forms of anti-Gypsyism**?

Section 1 starts with an assessment of the conceptual features and main theoretical manifestations composing the notion of ‘anti-Gypsyism’ in the EU. It studies the relevance of this concept in the EU and the differences in its practical application and perceived importance by policy-makers and practitioners in the EU (Annex 1 of this Report provides a more in-depth overview of the concept of anti-Gypsyism). Section 2 examines how EU institutions and their policies deal with this phenomenon. It pays special attention to the role and contribution – and prevailing policing approaches and setting of priorities – of the European Commission and its various services with a mandate to work on Roma-related policy domains.

Section 3 analyses how and if EU financial instruments address anti-Gypsyism, including ‘*who funds what*’ and the main funds at EU level covering various dimensions of and approaches to the treatment of Roma communities. This same section brings to light current challenges affecting these financial tools, particular in their material scope and monitoring and accountability systems. Section 4 provides a detailed overview of ‘promising practices’ in combating anti-Gypsyism in the EU, including both ‘proactive’ and ‘reactive’ actions and experiences in the five selected EU Member States. Based on research findings, Section 5 offers conclusions and puts forward a set of policy recommendations for national and EU policy-makers to effectively respond to anti-Gypsyism in the EU.

## Methodology

The Report deployed a data-gathering methodology composed of: desk research, interviews, online surveys, focus group discussions and policy meetings. Such a multi-method framework proved to be well suited to addressing the above-mentioned three research questions.

### *Desk research*

The desk research phase included an examination of current academic knowledge, with particular attention to the notion of anti-Gypsyism. In addition, relevant policies and legislation was analysed to cover both EU and national levels, such as the EU Framework and national Roma integration strategies, FRA surveys, etc.

### *Semi-structured interviews*

The desk research was complemented with a set of semi-structured interviews with representatives of relevant national and local policy-makers and practitioners in five selected Member States and at the EU level. In total, 46 interviews were conducted.

**National levels:** For this purpose national experts in each of the five Member States interviewed national equality bodies and ministries of justice tasked with delivering effective equality and justice for all, including Roma. Another set of interviews was conducted with ministries and bodies tasked with delivering national Roma integration strategies or pursuing broader Roma inclusion goals in the context of EU Cohesion Policy. A third set of interviews was conducted with the main civil society representatives. Some 37 interviews were conducted in the selected Member States.

**EU:** The authors also carried out nine semi-structured interviews with representatives of the relevant services and Directorates-General of the European Commission (EC): Directorate-General for Justice and Consumers (DG JUST), including DG JUST D1 (“Non-Discrimination and Roma coordination” unit and DG JUST C1 “Fundamental Rights and Rights of the Child” unit; Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL), Directorate-General for Regional and Urban Policy (DG REGIO), Directorate-General Neighbourhood and Enlargement Negotiations (DG NEAR), a Member of the European Parliament (MEP), the EU Agency for Fundamental Rights (FRA), the European Economic and Social Committee (EESC) and the European Court of Auditors (ECA).

### *Online survey*

An online survey addressed civil society organisations and actors in the five selected Member States in cooperation with the European Network against Racism and Xenophobia (ENAR). As of January 2017, 33 civil society organisations had completed the online survey.

### *Focus group with national stakeholders*

The focus group aimed at discussing the preliminary findings of the Report, with particular focus on ‘promising’ national/local practices and interesting experiences, as well as the limitations and challenges, of combating anti-Gypsyism in the selected Member States.

The focus group took place on 16 November 2016, with more than 30 participants from national governments, academia and civil society across the EU. Particular attention was paid to the roles and approaches prevailing at EU level and more specifically within the European Commission. The focus group allowed for an expert debate on the added value of ‘anti-Gypsyism’ as a concept and a tool for countering institutional racism towards the Roma population in the EU.

### *High-level discussion meeting*

The final draft of summary of the Report and preliminary recommendations were presented at a high-level discussion meeting hosted by MEP Soraya Post at the European Parliament on 6 February 2017. Key EU-level policy-makers and high-level experts representing the EU Directorates General, EU agencies, and concerned Permanent Representations of the national governments and civil society stakeholders participated in this discussion (see Annex 3).

### *Why ‘promising practices’?*

The authors have chosen to refer to ‘promising or interesting practices’ instead of ‘good’ or ‘best practices’. The institutional responses and examples of actions and programmes identified across the EU Member States under examination are context-dependent and historically specific. Against this background, the Report took due account of the need to also carry out a qualitative assessment of their value and effects in specific local and national contexts, which fell outside the scope of our research (see Annex 2).

The potential for ‘transferability’ of identified national ‘promising practices’ to other domestic arenas in the EU would need to be carefully examined in such as context. Our interviews and methods produced some relevant qualitative results, which helped us in identifying these examples and hinted at their potential to effect change. However, these did not allow for a full and in-depth examination of the actual ‘effectiveness’ and results of the envisaged practices and projects. The authors have therefore chosen to refer to these practices as presenting key common features that make them potentially ‘promising’ experiences in the EU Member States. The very methodology of the Report promotes to sixth principle of the Roma Inclusion on “transfer of evidence-based policies” (European Commission Roma Portal, 2010).

### *‘What’ promising practices?*

The research takes into account mainly national responses to anti-Gypsyism by governments, parliaments and other state institutions. Some selected practices led by civil society have also been included, in particular, if there was a certain degree of institutional cooperation with national authorities. Our assessment focuses on certain ‘promising practices’ that are of particular relevance in addressing the institutional manifestations of anti-Gypsyism in the EU, follows:

- 1) **institutionalising the response to anti-Gypsyism** by setting up special bodies;
- 2) **education and training of public servants** in contact with Roma communities, including law enforcement officials;
- 3) **access to justice and effective remedies**, special measures and complaint mechanisms, taking into account the particular circumstances of the victims of anti-Gypsyism;
- 4) **media and public debate**, including public statements and actions of high-ranking politicians to step up the fight against anti-Gypsyism on a national level as well as effective application of media laws and journalism ethics codes to address cases of anti-Gypsyism.



# 1. The notion of anti-Gypsyism and its added value in the EU

This section provides an analysis of the notion of anti-Gypsyism in the European Union. It starts by highlighting the main and most authoritative conceptualisations of this term and the working definition of it as used in this Report (subsection 1.1). It then explores the main manifestations of this phenomenon in light of our interviews and online surveys (subsection 1.2) and how this notion is seen to present added value in comparison to other concepts (subsection 1.3).

## 1.1. What is anti-Gypsyism?

The most authoritative definition of anti-Gypsyism in Europe is the one proposed by the **European Commission against Racism and Intolerance (ECRI)** of the Council of Europe (CoE), in its General Policy Recommendation No. 13 on combating anti-Gypsyism and discrimination against Roma. The special recommendation defined anti-Gypsyism as “a specific form of racism, an ideology founded on racial superiority, a form of dehumanization and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatization and the most blatant kind of discrimination” and stressed “that anti-Gypsyism is an especially persistent, violent, recurrent and commonplace form of racism, and convinced of the need to combat this phenomenon at every level and by every means” (Council of Europe, 2011).

In the EU context, the above-mentioned notion has been used by the Council of the EU, the European Commission and the European Parliament. However, **a common EU understanding about the specific conceptual features and the need to focus on institutional manifestations of the phenomenon is by and large lacking**. The ‘anti-Gypsyism’ term was first time expressly mentioned (although not elaborated), by the Council in its Recommendations on Effective Roma integration measures in the Member States (Council of the EU, 2013). Subsequently, the European Commission started to use the notion in its evaluation reports of National Roma Integration Strategies (European Commission, 2015 and 2016a). The European Parliament, in its Resolution of 15 April 2015 on the occasion of International Roma Day, re-iterated the definition proposed by ECRI (European Parliament, 2015).

Whereas many EU policy-makers, increasingly use the ECRI notion, **there is not a common acceptance or consensus of what ‘anti-Gypsyism’ actually entails**. There are on-going debates about what it means in academic and civil society circles (see Annex 1 for a detailed discussion of these debates). As a way of illustration, the **Alliance against Antigypsyism**, a coalition of 95 NGOs from different European countries aiming to promote equality of rights for Roma and to promote a deeper understanding of anti-Gypsyism, has proposed the following working definition:

“antigypsyism is a historically constructed, persistent complex of customary racism against social groups identified under the stigma ‘gypsy’ or other related terms, and incorporates:

1. a homogenizing and essentializing perception and description of these groups;
2. the attribution of specific characteristics to them;
3. discriminating social structures and violent practices that emerge against that background, which have a degrading and ostracizing effect and which reproduce structural disadvantages” (Alliance against Antigypsyism, 2016).

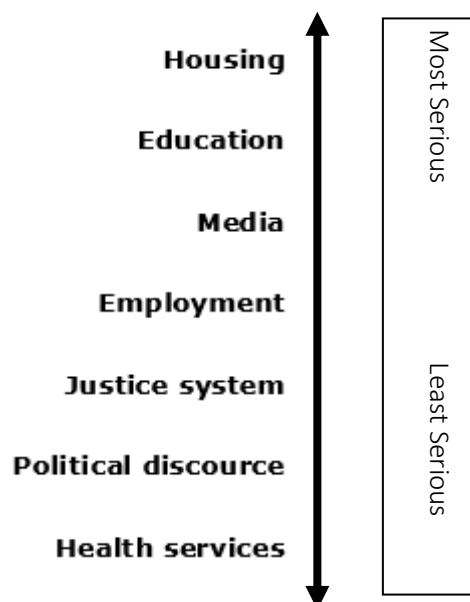
A literature review on other proposed academic conceptualisations of this phenomenon is outlined in more detail in Annex 1 of this Report. Suffice it here to say that there is a growing consensus in the academic literature on the key assumption that anti-Gypsyism is **a special form of racism directed against Roma that has at its core the assumptions that Roma are an inferior and deviant group**.





to as *institutional anti-Gypsyism*, which, as illustrated in Figure 2 below, can be detected in various fields of public policy, such as spatial segregation in housing and forced evictions, restrictions on freedom of movement within the EU or in segregation of Roma children in education.

Figure 2. Ranking of policy areas with the most significant anti-Gypsyism



Source: Authors' own rendering based on results of online civil society survey.

### 1.2.3. Framing Roma as 'non-integrated foreigners'

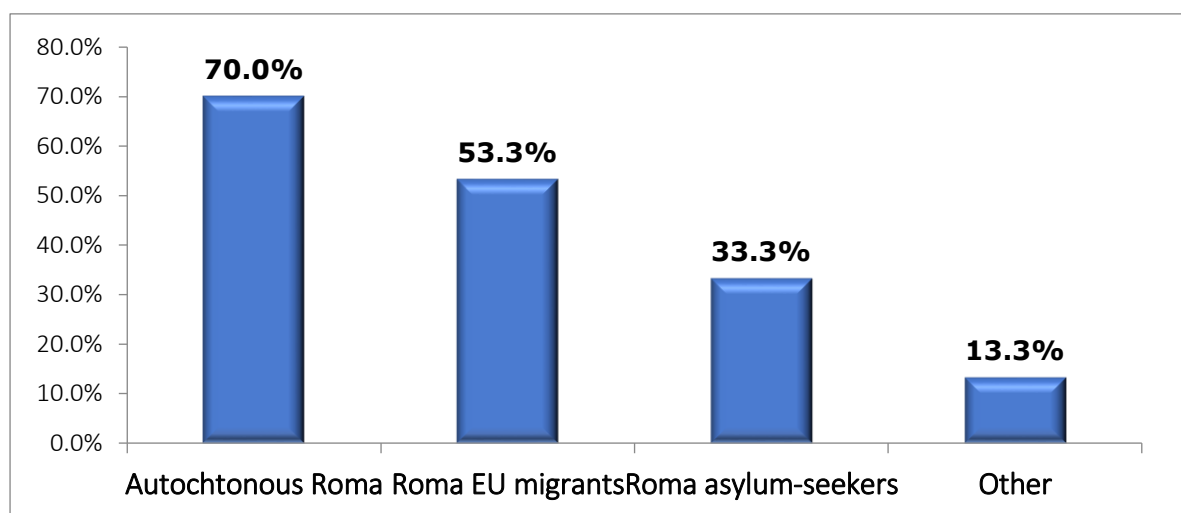
One typical manifestation of anti-Gypsyism is based on the key assumptions of nomadism and rootlessness reframes the national Roma as aliens or guests, and Roma EU citizens as non-EU 'migrants' or foreigners (Rostas, 2012; Carrera, 2013b). The 'Roma migrants' label results in an ambiguous status – that of a non-integrated 'foreigner' – which aims at justifying discrimination and exclusion in comparison to 'citizens'. This process of 'othering' takes into account their attributed ethnicity and perceived 'cultural difference', but overlooks their actual legal status, rights and freedoms, nationality and EU citizenship.

The ethnicity and nomadic lifestyle of Roma as framed by policies, discourses and practices seem to have taken precedence in the EU over their actual actions and claims of citizenship and equality. The Roma are expected to be 'integrated' into the imagined way of life and society in the attributed 'state of origin', and to be 'more national' than the constructed nationality laws provide, in order to attain the level of individual membership granted by EU citizenship (see Annex 1 for further discussion).

This has visible and practical implications regarding the personal scope of current EU and Member States policies and financial instruments (see sections 3 and 4 of this Report), which more often than not exclude Roma EU citizens who exercise their free movement rights and Roma asylum-seekers from special policies and actions covering the inclusion and treatment of Roma, and even from programmes implementing anti-racism or hate crime and hate speech regulations.

**Civil society organisations and actors working mainly on human rights, Roma rights and anti-racism are filling in the protection gap of Roma communities.** As Figure 3 below demonstrates, their work concerns not only 'Roma national minorities', but also the two above-mentioned groups that fall formally outside the personal scope of EU Framework for National Roma Integration Strategies.

Figure 3. CSOs targeting Roma with different legal status



Source: Authors' own configuration based on results of the online civil society survey.

The set of interviews conducted in the selected Member States further substantiate this gap. They also underline that the manifestations of 'anti-Gypsyism' experienced by EU Roma citizens who are mobile and non-EU Roma asylum-seekers from non-EU countries are severe and of serious concern. Some of our respondents indicated that such institutional anti-Gypsyism directed against non-national Roma is also fuelling negative bias against Roma nationals within the society at large. Despite the limitations regarding the group of beneficiaries of the EU Framework for National Roma Integration Strategies, some Member States are already applying a broader personal scope. This is the case for instance in Germany, where there are measures foreseen covering EU Roma citizens.

An important challenge relates to **diversity as regards the personal scope of the target group in each domestic arena under analysis**. A respondent from Sweden said the Roma community in his country is a heterogeneous group who immigrated over a 500-year period. Such Roma diversity requires narrowly tailored approaches and considerations. Conversely, in the UK, there are two broad categories – Roma and Gypsies/Travellers – and they are treated differently in law and in practice. The former term refers to Roma EU migrants, and they come within the remit of migrant policy and law, whereas 'Gypsies and Travellers' are recognised in law as two distinct minority groups. The 2015 change in the definition of Gypsy/Traveller for planning purposes<sup>7</sup> is having a particularly negative impact on the lives of Gypsies and Travellers.

The personal scope or concrete legal status of Roma has proved to be of fundamental importance during the 2015-16 humanitarian refugee crisis in Europe. **The Congress of Local and Regional Authorities of the Council of Europe** adopted a Resolution 403(2016) and Recommendation 388(2016) on "The Situation of Roma and Travelers in the Context of Rising Extremism, Xenophobia and the Refugee Crisis in Europe" on 20 October 2016 (CPL31(2016)03 final). A related Explanatory Memorandum stated **the situation and treatment of Roma has worsened during the crisis, with reported increases in acts of racism, xenophobic violence and hate crimes** against anyone who, like Roma, are perceived as 'foreigners'. Paragraph 13 of the same Explanatory Memorandum states:

"The current refugee crisis opened the door for more nationalistic, xenophobic, anti-migrant and refugee as well as anti-EU turn in Europe. This unfavourable context helped anti-Gypsyism to flourish and intensify."

<sup>7</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/457420/Final\\_planning\\_and\\_travellers\\_policy.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457420/Final_planning_and_travellers_policy.pdf)

Moreover, several national and EU measures have been adopted to limit intra-EU mobility by Roma asylum-seekers within the Union, chiefly by artificially framing the Western Balkans as ‘safe countries of origin’ for asylum-seekers and refugees. This notion means that nationals from these countries are either automatically precluded from obtaining asylum/refugee status in EU Member States or must rebut the presumption that they are not refugees. In practice, the use of **this notion risks failing to properly acknowledge individual and legitimate claims of asylum from these countries, and stands in direct opposition to EU commitments under the 1951 Geneva Convention on the Status of Refugees and its 1967 Protocol, which are the ‘EU benchmark’ in refugee protection.**

### 1.3. What is the added-value of the anti-Gypsyism concept?

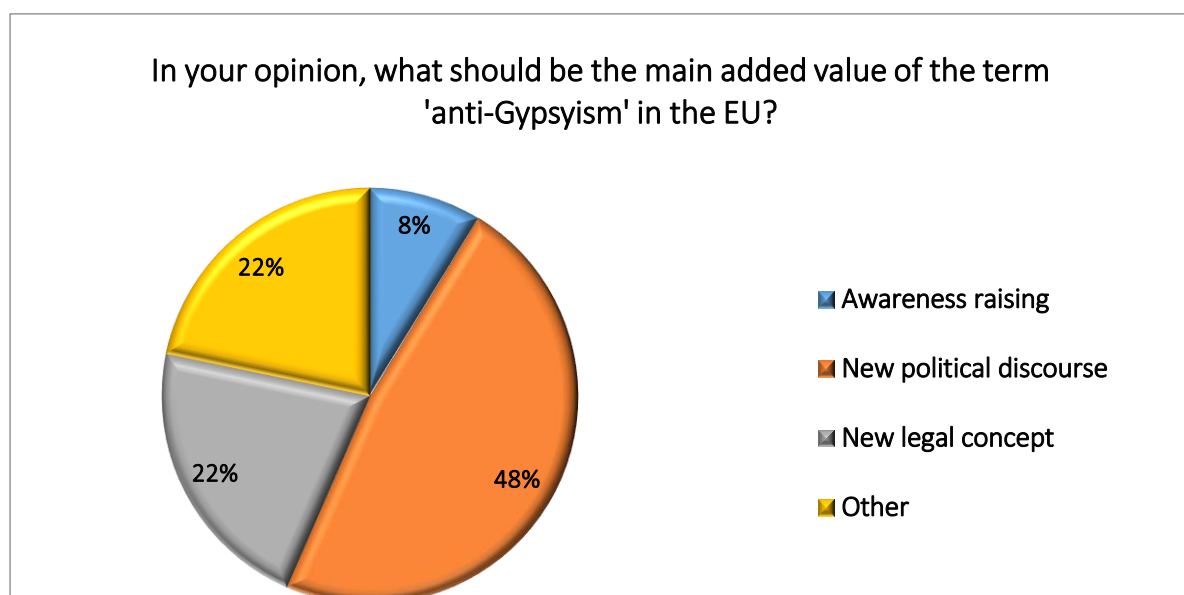
The notion of anti-Gypsyism highlights the role of history and prejudices/stereotypes in the everyday behaviour of institutions. States, through their institutions and policies, are often co-producing and reproducing fear or hatred of Roma. Anti-Gypsyism manifests itself in laws, policies and practices that put at stake the fundamental human rights and citizenship of Roma communities. The severity of such manifestations ranges from negative bias to ethnic profiling by police to ‘special’ schools for Roma children and housing segregation or, as exemplified in the UK, ‘enforced mobility’ through evictions and expulsions. It can also manifest itself in ‘anti-begging laws’ – targeting Roma communities specifically.

Our online civil society survey indicates that nearly **half of all civil society representatives expect the term to affect the political discourse on Roma communities.** Public debates will more accurately reflect the shifting focus of public policies from Roma communities to society as a whole to find *the root causes of discrimination, exclusion and racism*. As Figure 4 below illustrates, civil society actors also acknowledge the positive advocacy opportunities that come along such a paradigm shift. However, policy-makers interviewed for this Report highlighted that some policy-makers raised a note of caution, as reportedly the change of the focus alone, from Roma to State, may not solve all existing challenges.

Whereas policy-makers mentioned increased awareness of Roma history and historical disadvantages as a key added value of using the term ‘anti-Gypsyism’, **civil society respondents sought to go further and introduce a new legal concept comparable to ‘anti-Semitism’.** For example, in Spain, the term ‘antisemitism’ is explicitly singled out in the Penal Code in Title I: On Crimes (Chapter 4, Articles 22 and 510). Thus some voices in civil society and academia called for making anti-Gypsyism a comparable offence in the penal code, although the policy-makers were less comfortable with such a suggestion.

Some interviewees, in particular national policy-makers, specified that **the term ‘anti-Gypsyism’ could also help address Roma poverty,** by stepping up effective prosecutions of crimes against Roma and promoting equality in public policies and service provision. A recent report by Equinet (European Network of Equality Bodies) has confirmed the importance of narrowly tailored policy approaches and tools (Crowley, 2016) and has underlined that “positive impacts are most likely to be reported in jurisdictions where detailed provisions are made in legislation for statutory duties”.

Figure 4. Added value of anti-Gypsyism concept



Source: Authors' own configuration based on online survey results.

Focus group participants also highlighted that **the concept of anti-Gypsyism** adds not only recognition as a political issue and topic in academic debates, which could further lead to better understanding and tackling of its root causes. It also **increases the attention paid not only to the most visible forms of racism but also to its structures, institutionalisation, mechanisms and sources**. A key conclusion emerging from the discussions with the Focus Group participants was that more scientific research in this field is needed to further substantiate the importance of this concept when addressing its historical dimensions and daily manifestations.

### 1.3.1. A democratic rule of law and fundamental rights angle

The most authoritative body on the rule of law in Europe is the Venice Commission, established under auspices of the Council of Europe.<sup>8</sup> According to the Venice Commission (2011):

The rule of law in its proper sense is an inherent part of any democratic society and the notion of the rule of law requires everyone to be treated by all decision-makers with dignity, equality and rationality and in accordance with the law, and to have the opportunity to challenge decisions before independent and impartial courts for their unlawfulness, where they are accorded fair procedures. The rule of law thus addresses the exercise of power and the relationship between the individual and the state.

The previously mentioned FRA studies confirm that the standing of the Roma individuals *vis-a-vis* EU Member States is still very weak in comparison with the rest of the population (EU MIDIS I, 2008; Roma survey, 2012 and EU-MIDIS II, 2016). For example, 27% of Roma respondents were not aware of any anti-discrimination law protecting them (EU-MIDIS II, 2016), even though there is a positive duty of the state to inform citizens of their rights. This results in a situation where only 12% of persons who had experienced discrimination effectively submitted any sort of complaint (EU-MIDIS II, 2016).

**It is crucial to advance an understanding of the relevance in ensuring democratic rule of law and fundamental rights in order to combat institutional forms of discrimination, exclusion and racism against Roma community across the EU.** In this light, of particular consideration should be Lord Bingham's eight

<sup>8</sup> For more information, see the official website of the Venice Commission (<http://www.venice.coe.int/>).

principles of the rule of law, which are highly authoritative in the quest for the elements of the concept of ‘the rule of law’ in Europe (Bingham, 2010).

These specify that the “law must be **accessible, intelligible, clear and predictable**; questions of legal right and liability should as a main rule be resolved by **application of the law** and not the exercise of discretion; **equality before the law**, except and to the extent that objective differences justify differentiation; public officers shall exercise the powers conferred on them in good faith, fairly, for the purpose for which the powers were conferred, not ultra vires and not unreasonably; **protection of fundamental human rights shall be guaranteed**; means shall be provided for resolving without prohibitive cost or inordinate delay, *bona fide* civil disputes; adjudicative procedures shall be fair; the state shall comply with its obligations in international law and domestic law.”

The notion of anti-Gypsyism therefore underlines the need to focus on systematic institutional gaps and deficits towards the Roma as a rule of law-related challenge which undermines equality before the law, effective fundamental rights protection and access to justice, with due consideration on the position of minorities and other excluded individuals in the EU.

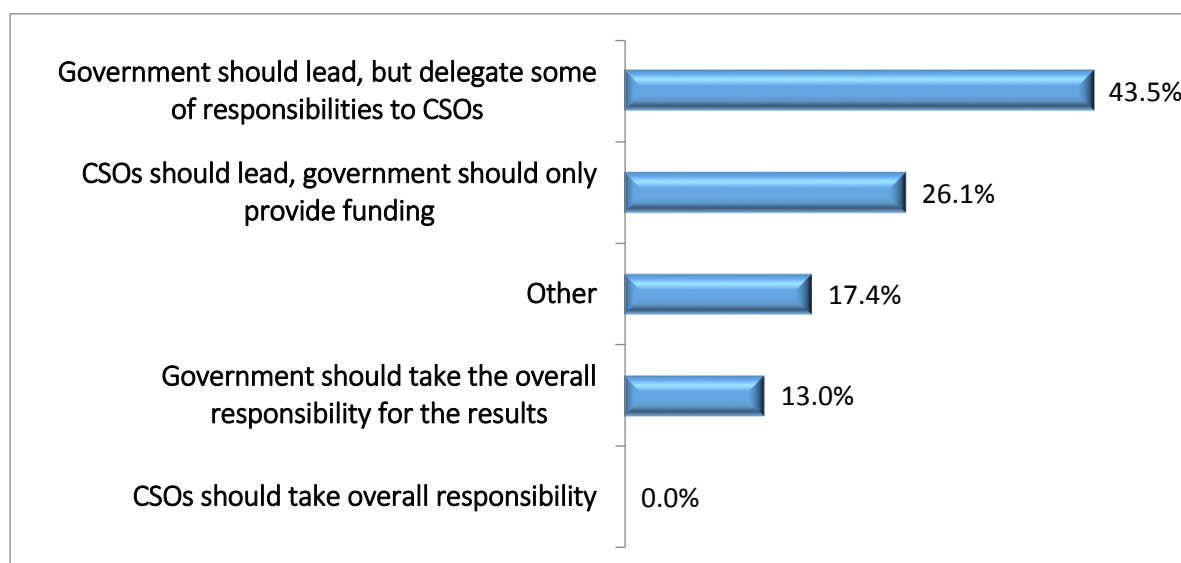
One of our interviewees highlighted that historically it has always been ‘normal’ to be racist towards Roma, “anti-Gypsyism being the last acceptable form of racism”. Shifting or abandoning responsibility is one of the key mechanisms through which anti-Gypsyism manifested itself. The focus group participants expressed frustration that “everyone and no one is responsible” for addressing the phenomenon.

The Focus Group organised for the purposes of this Report touched upon anti-Gypsyism as **an indicator of the maturity and rule of law state of health of the national legal system**. As identified above, what makes anti-Gypsyism a special form of racism is the role of the state in producing and reproducing oppressive practices and norms in relation to Roma. Through policing, housing policy, restrictions on reproductive rights and educational practices, states have historically attempted to control Roma. State institutions have often played a role in perpetuating a persistently negative image of Roma, shaped the discourse on Roma and promoted assimilation and even violence against the Roma. It is in this sense that **anti-Gypsyism represents systemic exclusion and oppression of Roma communities**.

As it was pointed out by some of our respondents to the survey, **anti-Gypsyism is the very last widely tolerated form of racism. The anti-Gypsyism concept highlights and assigns responsibility to the state for both its policy choices and/or inaction and omissions**. This has been illustrated for example by the work of the ERRC (European Roman Rights Centre), which in its submissions to the European Court of Human Rights (ECtHR) has argued that when law enforcement and the judicial system fail to protect Roma communities due to omission, **the burden of proof should shift to the state** (ERRC, 2015). Applying the anti-Gypsyism concept in practice should mean that hate crimes are effectively prosecuted and the impunity of perpetrators halted. The state should be held accountable for failure to guarantee and implement its positive obligations towards Roma communities.

This notion also underlines the importance of **political responsibility for tackling institutional and structural racism against Roma**. Figure 5 below indicates that none of the representatives civil society organisations (SCOs) participating in our survey believed that this is an issue solely for CSOs to deal with. Civil society representatives were split over whether state institutions should lead with CSOs in a supporting role or *vice versa*. However, there were very few who believed that government alone could tackle these challenges, owing to state complicity in the phenomenon, as explained above.

Figure 5. Who should lead the fight against anti-Gypsyism?



Source: Authors' own configuration based on results from the online survey.

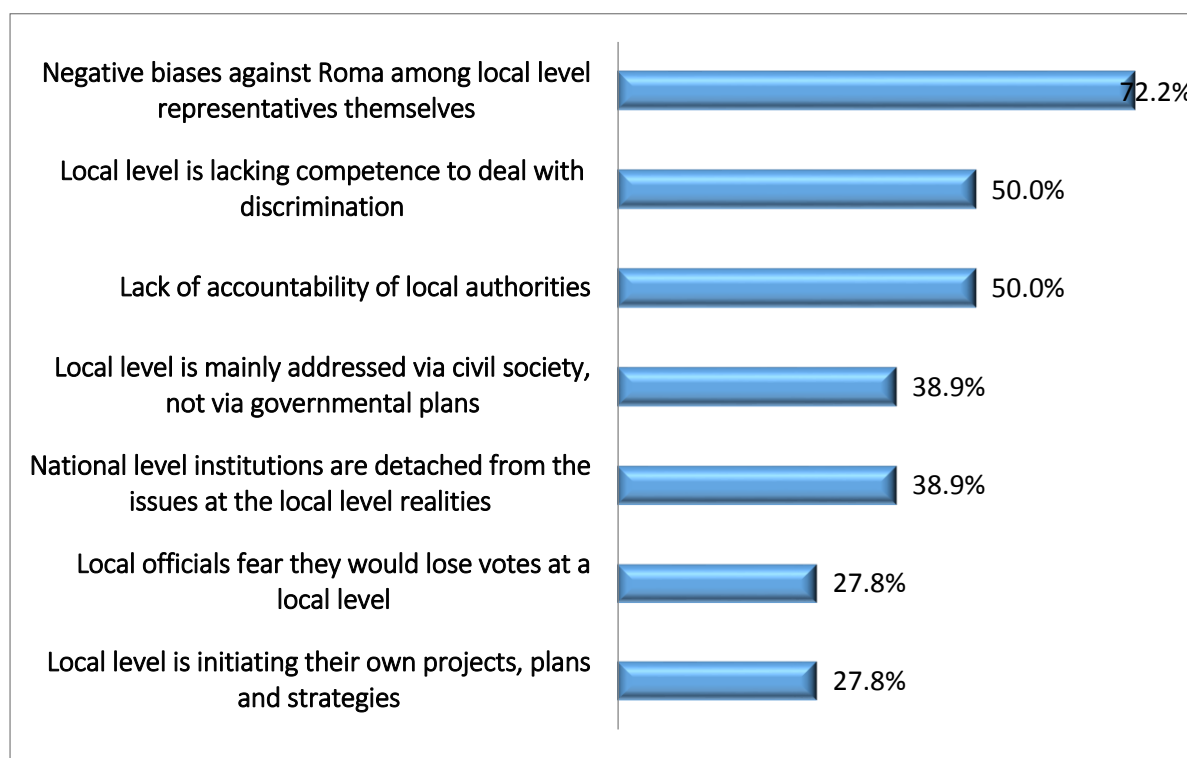
### 1.3.2. The role of regional and local authorities

Segregation and exclusion most often happens not at the national but at the local level. Although national legislation is the main tool for guaranteeing formal equality and is passed at national and regional levels depending on the country, actual social inclusion and equal treatment are first and foremost delivered at local levels. Local and regional authorities therefore play a fundamental role in addressing institutional anti-Gypsyism.<sup>9</sup>

As shown in Figure 6 below, online survey respondents indicated that **negative biases among some regional and local level officials and politicians constitute one of the key obstacles to the application of national measures to fight anti-Gypsyism**. Half of the respondents also highlighted that regional and local level officials and politicians often lack knowledge, competences and accountability, which exacerbates the lack of 'political willingness' to combat anti-Gypsyism.

<sup>9</sup> On 20 October 2016, the Congress of Local and Regional Authorities of the Council of Europe adopted a Resolution 403(2016) and Recommendation 388(2016) on "The Situation of Roma and Travelers in the Context of Rising Extremism, Xenophobia and the Refugee Crisis in Europe".

Figure 6. Obstacles to applying national anti-Gypsyism policies at local level



Source: Authors' own configuration based on results of the online survey.

In the five Member States covered in this Report the interviewees also acknowledged that local governments can be either the main bottleneck or the main ally. Regarding cases of the latter, 'promising practices' (covered in detail in section 4 below) include the creation of regional and local-level organisations: for example, in **Spain**, the Roma Socio-Cultural Centre of Andalusia was established by the regional government, and the Hate Crimes and Discrimination Service was established in the prosecutor's office by the City of Barcelona; in **Germany**, the Berlin administration established a register for 'anti-Gypsyist' incidents, empowering victims of discrimination; and in **the UK**, the "No Space for Hate" project initiated by Roma civil society aims to combat hate crimes in the Birmingham area and thus is implemented in close cooperation with local authorities.

In addition, our research has highlighted the need for future research to further investigate the scope and effects of inspiring international **initiatives targeting local levels**. These include for instance projects falling within the scope of EU-CoE cooperation, such as **ROMED**<sup>10</sup> (for preparing and empowering Roma mediators) and **ROMACT**<sup>11</sup> (for enabling cooperation between Roma and local authorities. More research is also needed as to whether these EU-funded activities cover and effectively tackle institutional forms of anti-Gypsyism. Recently, in October 2016, there was launched another interesting CoE-EU initiative called **JUSTROM**,<sup>12</sup> this time targeting specific Roma communities with an aim to ensure access to justice for Roma women.

Other initiatives calling for more investigation include **the European Alliance of Cities and Regions for the Inclusion of Roma and Travellers**,<sup>13</sup> composed of 130 cities and regions, which was set up by the

<sup>10</sup> See <http://coe-romed.org>

<sup>11</sup> See <http://coe-romact.org>

<sup>12</sup> See [www.coe.int/justrom](http://www.coe.int/justrom)

<sup>13</sup> See [www.roma-alliance.org](http://www.roma-alliance.org)



Council of Europe's Congress of Local and Regional Authorities with the support of the Special Representative of the Secretary General for Roma Issues.

Another interesting and voluntary initiative of EURO CITIES is the **Roma Inclusion Task Force**, where local representatives from 65 cities discuss **Roma-related** policies, from inclusion to anti-racism.<sup>14</sup> A final example is the **Local Engagement Roma Inclusion Multi-Annual Roma Programme (FRA LERI)**,<sup>15</sup> which also addresses the local level, involving 22 localities and facilitating the engagement of local stakeholders, including Roma, in joint efforts to foster Roma inclusion.

## 1.4. Differences with applicability of the anti-Gypsyism concept

### 1.4.1. *The concept is accepted and used*

Some EU Member State authorities under examination in this Report have already been using the term 'anti-Gypsyism' for several years. For instance, in **Sweden**, it has been reported that the government and its various offices have used the term since 2012-13 when referring to barriers to Roma communities' enjoyment of human rights. The government even appointed a Commission against Anti-Gypsyism with the operational remit to combat anti-Gypsyism. Other public officials are also instructed to use the term and address the phenomenon in their relevant contexts and areas of activity, particularly when it comes to enjoying rights.

A similar case can be seen in **Germany**, where the Ministry of Foreign Affairs uses the German translation, *anti-ziganismus*. In particular, since December 2015, the Special Commissioner for Anti-Semitism at the Ministry of Foreign Affairs has also been working on anti-Gypsyism issues and remembrance of the genocide against Sinti and Roma committed by the Nazis.<sup>16</sup> The National Antidiscrimination Office (*Antidiskriminierungstelle des Bundes, ADS*), which is the national equality-ensuring body, the National Centre for Civic Education (*Bundeszentrale für politische Bildung*) and the City of Berlin Office for Equal Treatment (*Landesstelle für Gleichbehandlung, LADS*) also use the term. LADS has used it since its foundation in 2010.

In both **Sweden and Germany** anti-Gypsyism is defined in part as '**historically rooted discrimination**'. The term reflects centuries of injustice against Roma national minority communities and the Roma holocaust. Both German and Swedish governments are actively encouraging the use of the term at EU level. For example, Michael Roth, Minister of State for Europe at the Foreign Office of the Federal Republic of Germany, and Sandro Gozi, Secretary of State for European Affairs in the Prime Minister's Office of the Italian Republic, announced the building of an international coalition against anti-Gypsyism.<sup>17</sup> In line with the approach suggested in this Report, it is indeed telling that Michael Roth, during Germany's Chairmanship of the OSCE, framed anti-Gypsyism as a predominantly rule of law issue.<sup>18</sup>

### 1.4.2. *The Use of the concept by national and EU policy-makers*

Our interviews revealed that anti-Gypsyism is often regarded as an overly narrow concept by some policy-makers in Romania, Spain and the UK. Romanian national officials expressed some doubts about the

<sup>14</sup> See [http://www.eurocities.eu/eurocities/working\\_groups/Roma-inclusion-task-force&tpl=home](http://www.eurocities.eu/eurocities/working_groups/Roma-inclusion-task-force&tpl=home)

<sup>15</sup> See <http://fra.europa.eu/en/project/2015/local-engagement-roma-inclusion-leri-multi-annual-roma-programme>

<sup>16</sup> The German Foreign Ministry has also asked the company Microsoft for the recognition of the word 'anti-Gypsyism' by its software programme. On the use of the term, see also the speech by Minister of State for Europe Michael Roth at the conference "Confronting Anti-Gypsyism: The Role of political leaders in countering discrimination, racism, hate crimes and violence against Roma and Sinti Communities", 6.9.2016 ([www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2016/160906-StM\\_R\\_Antiziganismus\\_Konferenz.html](http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2016/160906-StM_R_Antiziganismus_Konferenz.html)).

<sup>17</sup> See <https://storify.com/OSFRoma/respect4roma>.

<sup>18</sup> See <http://www.osce.org/cio/262881>

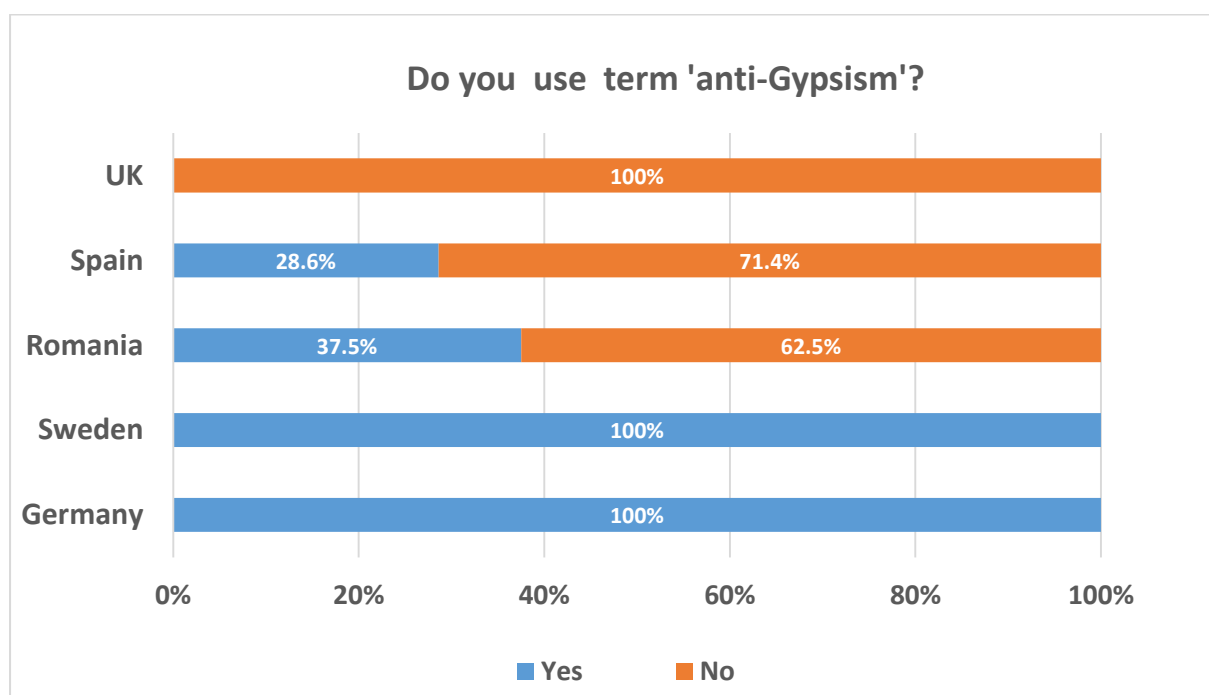


value added of this notion due to the lack of a common conceptual understanding and indeterminate legal nature. These same officials expressed their preference for other, more general notions, such as ‘discrimination’ or ‘racism’. From a legal point of view, they argued, it is always important to know the cause of discrimination and how the act of discrimination took place. Another policy-maker from **Romania** highlighted, **however, that anti-Gypsyism and racism should be tackled simultaneously.**

In a similar fashion ‘anti-Gypsyism’ is not commonly used in public institutions in **Spain**. The general terms of racial and ethnic discrimination are used instead. Spanish policy-makers expressed the view that it would be difficult in practice to introduce the concept in the current Spanish legal system, and that, legally speaking, it would be more efficient to address anti-Gypsyism under the general framework of hate crimes and racial discrimination. Yet these same respondents said that ‘anti-Gypsyism’ could be a valuable term because it helps to name and visualise a specific type of racial discrimination that is historically and institutionally rooted in Spanish society.

A similar assessment of the term was made by policy-makers in **the UK**. To begin with, policy-makers there do not use the term ‘anti-Gypsyism’. The UK has a “one size fits all” approach to combating racial discrimination and does not accept a concept that focuses on a specific minority group. According to one of the interviewees in the UK, the phenomenon is referred to as “hate crime against Gypsy/Traveller communities” or “hate crime against Roma”, as separation between the two communities is important (UK Home Office, 2016). Another respondent from the UK claimed that in legal terms the subject has been sufficiently addressed owing to the UK’s Race Relations Act of 1976.<sup>19</sup> Thus, according to the respondent, use of ‘anti-Gypsyism’ as a separate form of racism could potentially keep the phenomenon from being taken seriously. Nevertheless, the respondents in the UK, as well as, Romania, Sweden and Spain also claimed that general anti-racism and equality law protects other groups more effectively than it does Roma and Gypsy/Traveller communities.

Figure 7. Use of anti-Gypsyism concept by countries



Source: Authors' own configuration based on interview results.

<sup>19</sup> Recently, this Act was repealed by the Equality Act of 2010, which supersedes and consolidates previous discrimination law in the UK.

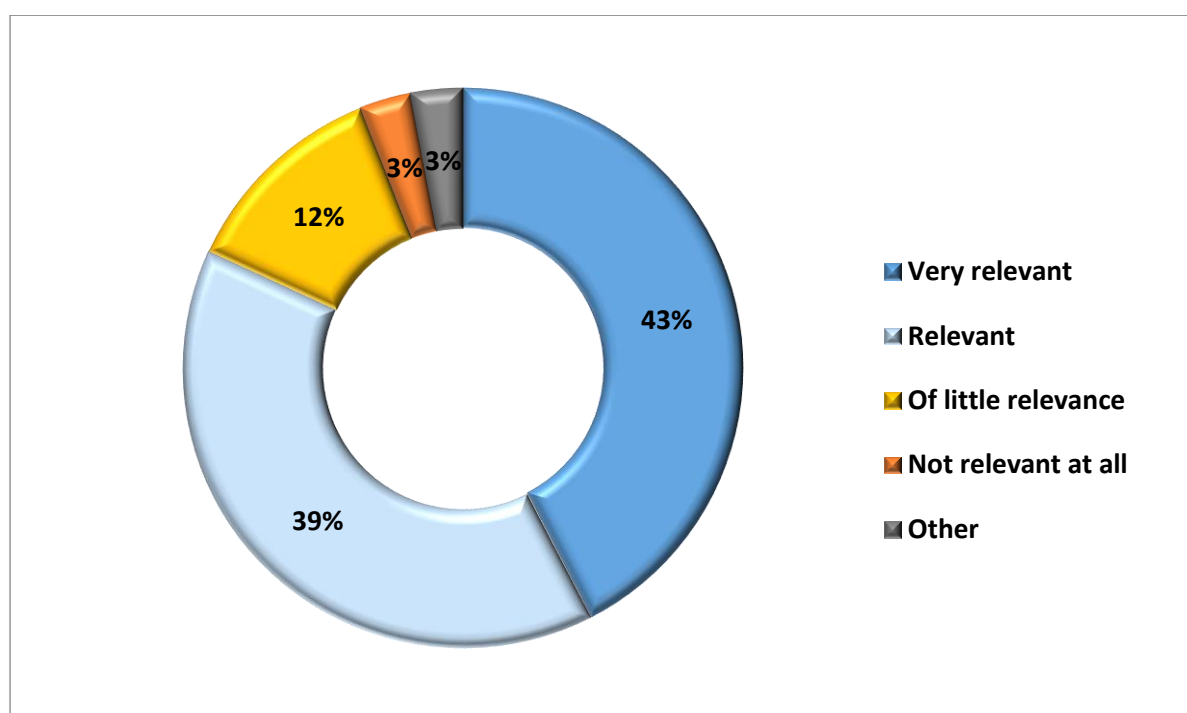
Interviews with national and EU policy-makers have revealed the added value of the notion in terms of raising public awareness or changing the political discourse. For example, the European Commission has recognised the importance of understanding the historical injustices against Roma communities across the EU. In response to the Resolution from the European Parliament (European Parliament, 2015), the European Commission called upon Member States to recognise Roma Holocaust Memorial Day.<sup>20</sup> Nevertheless, the actual legal value of ‘anti-Gypsyism’ remained contested in their responses *vis-à-vis* existing domestic and EU anti-discrimination and anti-racism legal frameworks. Among all policy-makers interviewed for this Report the only one who explicitly mentioned the rule of law as an integral part of effectively combating anti-Gypsyism was a Member of the European Parliament.

Whereas a majority of national and EU policy-makers interviewed for this Report share the view that existing anti-racism/anti-discrimination/hate crime and hate speech legislation covers manifestations of anti-Gypsyism, there was equally a shared understanding that in comparison with other groups, it is much more likely that anti-Gypsyist manifestations will remain unaddressed in practice. The focus group discussion confirmed this paradox and the necessity of singling out anti-Gypsyism, so as to highlight the ongoing unaddressed manifestations ranging from the mainstream to the extreme, and from implicit to explicit.

### 1.4.3. Concept used by and relevance for civil society actors

In line with the preliminary results from the interviews in the five EU Member States under examination, the responses to the online civil society survey confirmed that **the notion of ‘anti-Gypsyism’ is relevant or highly relevant for civil society organisations and non-governmental organisations** (see Figure 7).

Figure 8. Relevance of anti-Gypsyism in the work of CSOs



Source: Authors' own configuration based on online survey results.

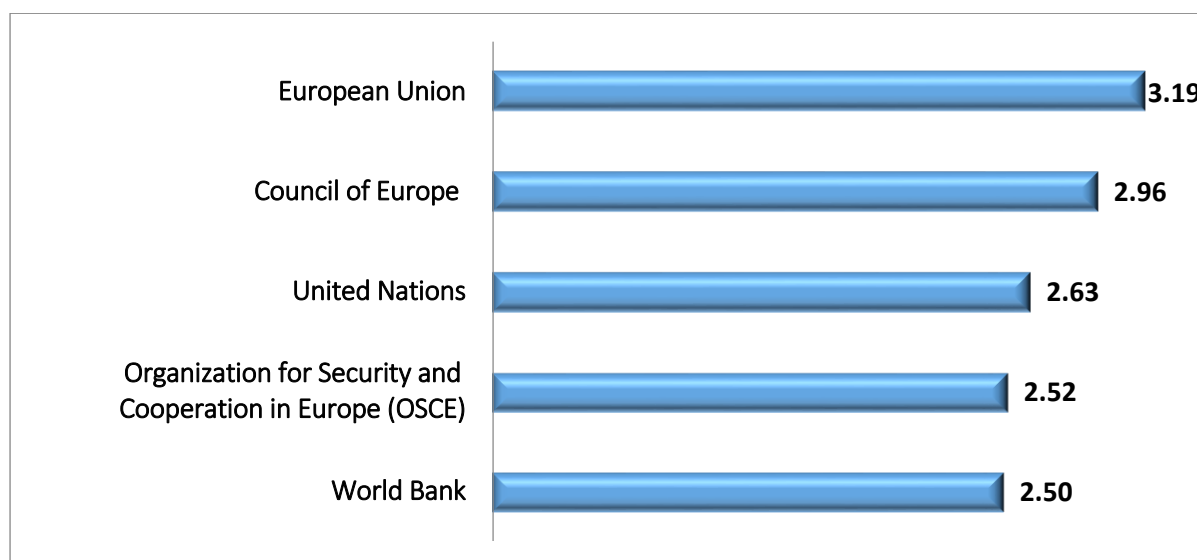
As explained above, this contrasts with the opinions expressed by some national and local policy-makers in relevant ministries and institutions covered by the research on the concept's relevance and added value. Figure 8 shows which countries claim to use the term and which do not. In Sweden and

<sup>20</sup> See [http://europa.eu/rapid/press-release STATEMENT-16-2708 en.htm](http://europa.eu/rapid/press-release_STATEMENT-16-2708_en.htm)

Germany, the term is officially used by the main stakeholders. In Spain and Romania, its use varies, but the concept is rather just unofficially used. In the UK, however, the term is not used, as officials prefer “Gypsy, Traveller, Roma discrimination” or simply “racism”. In addition, many civil society representatives – in particular in Germany, Sweden and Spain – have compared the term with the term ‘anti-semitism’.

Furthermore, as Figure 9 demonstrates, when civil society survey respondents were asked which institutions are the most important for combating anti-Gypsyism outside the national context, they ranked the EU and the Council of Europe as the two most important.

Figure 9. The most influential institutions at international level



Note: The graph indicates the average score given to the institutions, with 5 being the maximum.

Source: Authors' own configuration based on online survey results.

## 2. How EU policies combat anti-Gypsyism?

This section maps the main actors inside the European Commission dealing with anti-Gypsyism issues. Subsection 2.1 aims to identify ‘who is doing what’ inside the Commission and which kind of normative approaches are being taken and which are being avoided. Subsection 2.2 further elaborates on the relevant policies and practices at the EU level, paying special detail to the EU Framework for National Roma Integration Strategies, as well as those dealing with fundamental rights, race discrimination and hate crime domains (which are steered respectively by DG JUST D1 “Non-discrimination and Roma Coordination” unit and DG JUST C1 “Fundamental Rights and Rights of the Child” unit).

### 2.1. Who is doing what at the European Commission?

The current **institutional configurations** in the various European Commission services responsible for or with direct/indirect competence over policy areas dealing with or relevant to Roma further illustrate the prevailing approaches and priorities, as well as the current deficits and gaps in Roma-related EU policy, legal and financial instruments (see Figure 10). These include four broad normative approaches: 1) Fundamental rights (including racial equality, non-discrimination and hate crime); 2) Integration and Roma inclusion (including sectorial policies, such as education, employment, housing and healthcare, urban and rural development); 3) International cooperation, encompassing activities at the EU pre-accession and neighbourhood countries; and 4) the rule of law, covering infringements proceedings and the monitoring of the EU ‘Copenhagen Criteria’ for pre-accession countries.

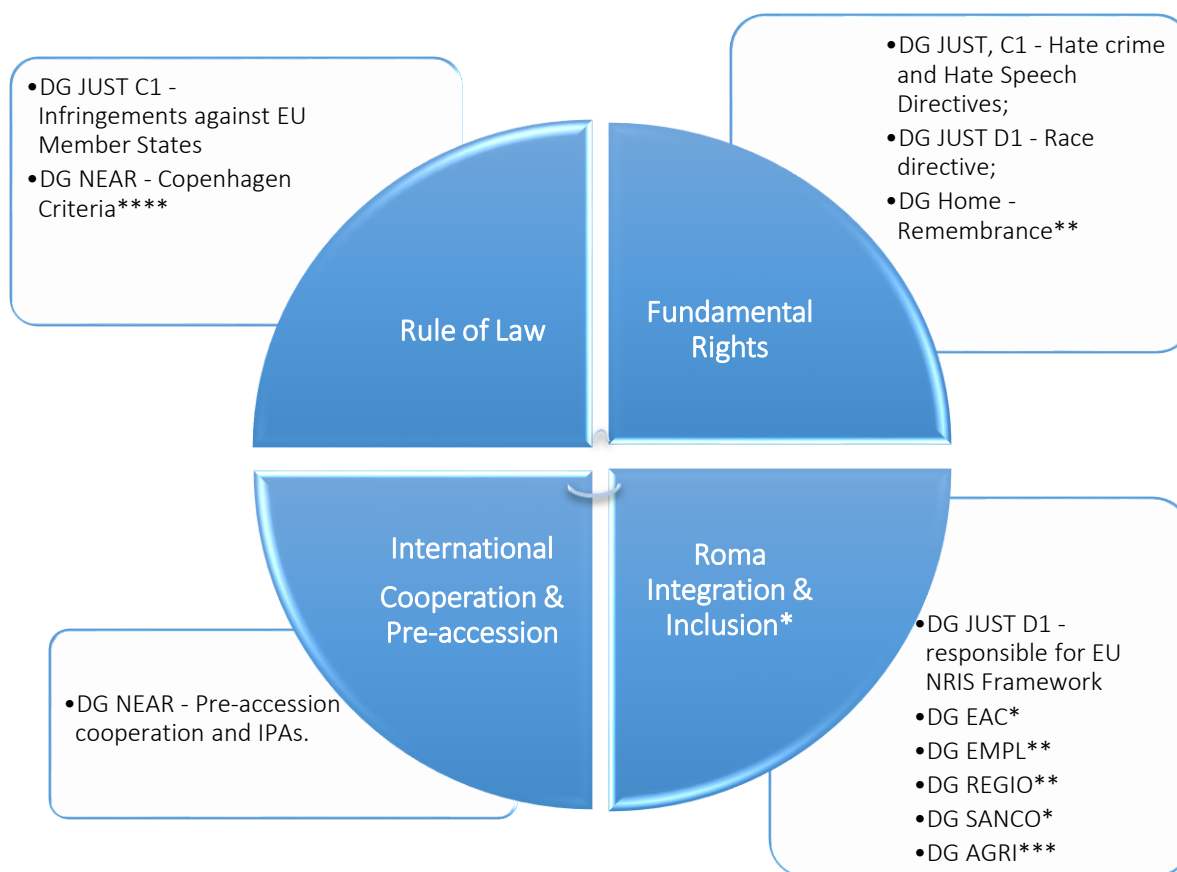
**Our research reveals the existence of multiple conceptual ‘policy or normative approaches’** inside the European Commission services when dealing with different issues of relevance to the treatment of Roma in the EU. Often, each of these EU policy domains or approaches and sectorial policies are accompanied by their EU funding scheme and instruments (see section 3).

Interviews confirmed that different Commission representatives considered **the notion of ‘anti-Gypsyism’ as promising in terms of raising awareness or changing the political debate, but practically difficult and challenging for them to implement.** A key barrier in ensuring implementation is related to the division of competences between the EU, Member States and regional and local authorities. A majority of the Commission services interviewed in the scope of this Report mentioned that the key answer to anti-Gypsyism is “Roma inclusion and integration”. Only Members of the European Parliament stressed that the key avenue should be the rule of law.

All of the interviewees from different services in the Commission pointed to the DG JUST D1 “Non-discrimination and Roma Coordination” unit,<sup>21</sup> which is steering and coordinating both EU Framework for National Roma Integration Strategies and the implementation of the Race Directive. Thus, DG JUST D1 unit has a central role in coordinating Task Forces and the inter-service group with other sectorial policies such as education, employment, housing, health, as covered by the EU Framework for National Integration Strategies.

<sup>21</sup> The authors of this study contacted DG JUST D1 Unit of the European Commission to conduct an interview with members of the unit, but the request was refused as it was considered inappropriate on the basis of Commission staff regulations.

Figure 10. Mapping EU policy approaches



\* Whereas DG JUST D1 is the main manager of the EU Framework for National Roma Integration Strategies, there is ongoing inter-service coordination with DGs responsible for sectoral policies relevant to Roma inclusion.

\*\* DG Home has specific funding for Holocaust remembrance, which is managed by the Education, Audiovisual and Culture Executive Agency.

\*\* DG REGIO is responsible for managing the European Regional Development Fund (ERDF) and the DG EMPL is responsible for the European Social Fund (ESF); both funds are used to promote Roma inclusion. The EU Cohesion Policy highlights that all EU Funds should be spent in line with EU fundamental rights.

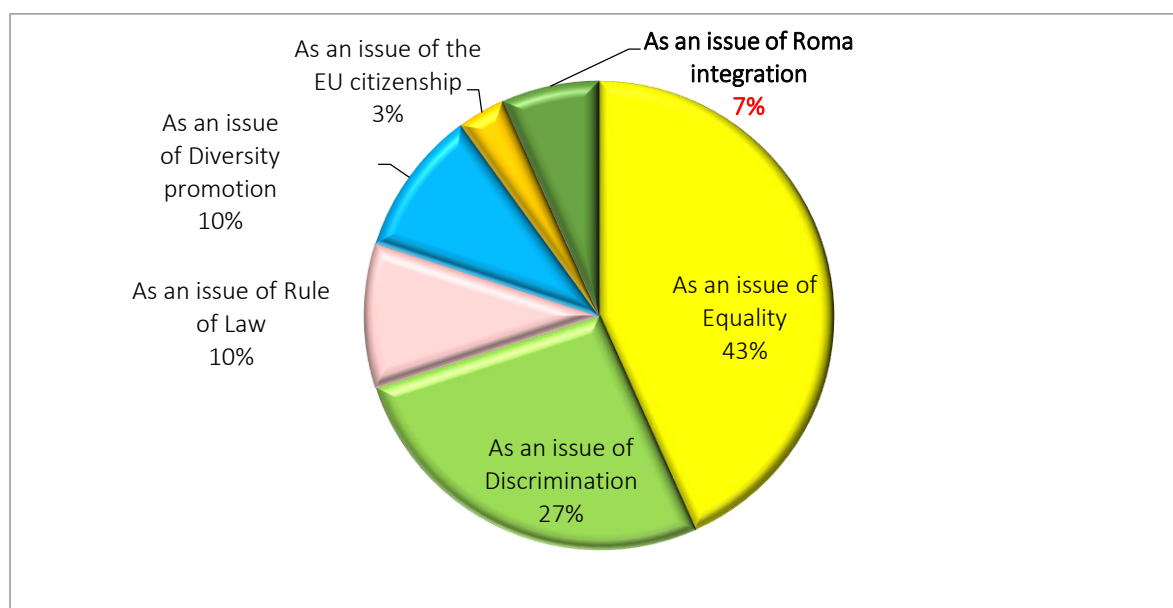
\*\*\* DG AGRI is home to the European Agricultural Fund for Rural Development (EARDF), which funds Roma inclusion measures, although to a lesser extent.

\*\*\*\* DG NEAR is in charge of Roma inclusion in pre-accession countries. DG NEAR is in a privileged position, as in addition to funds related to International Partnership Agreements (IPAs), it can use the Copenhagen Criteria as a means to enforce the rule of law approach.

Source: Authors' own configuration.

This mapping of prevalent approaches in the Commission shows that **a more consistent, mainstreamed and structured EU rule of law approach covering the anti-Gypsyism phenomenon is by and large lacking.** An EU democratic rule of law and fundamental rights approach would consist of ensuring regular monitoring, supervision and evaluation of the actions of both Member States' governments and authorities, and the European institutions and agencies, in light of their compliance with EU values enshrined in Article 2 of the Treaty on the European Union (TEU) and the EU Charter of Fundamental Rights when it comes to the treatment of Roma communities.

Figure 11. Civil society approaches to address anti-Gypsyism



Source: Authors' own configuration based on online survey results.

Whereas the national and regional authorities interviewed for this Report approached anti-Gypsyism from an anti-discrimination and/or Roma inclusion perspective, **civil society representatives associated the issue primarily to equality, followed by discrimination, rule of law and diversity promotion** (see Figure 11). Furthermore, the findings of the online survey addressed to civil society showed that a majority of respondents considered that **'Roma integration'** is not the strategic approach to take in order to improve the situation of Roma communities. Similar views were shared among the focus group participants and also by policy-makers representing national equality bodies and ministries of justice. The latter preferred non-discrimination and fundamental rights approach.

Different approaches towards anti-Gypsyism are of direct relevance to the choice of measures and policies employed to combat it, but there is currently an important 'mis-match'. EU-level policy-makers tend to frame the issue as one of 'Roma integration', whereas **very few civil society organisations and actors would choose this as the most suitable and relevant normative approach to address institutional anti-Gypsyism**. This becomes an issue of concern as the majority of the EU funding in these domains is mainly channelled to 'Roma integration'-related initiatives, and comparatively not so much to rule of law-related projects (see subsection 2.2. on examples of initiatives and section 3 – on related EU funding schemes for more information).

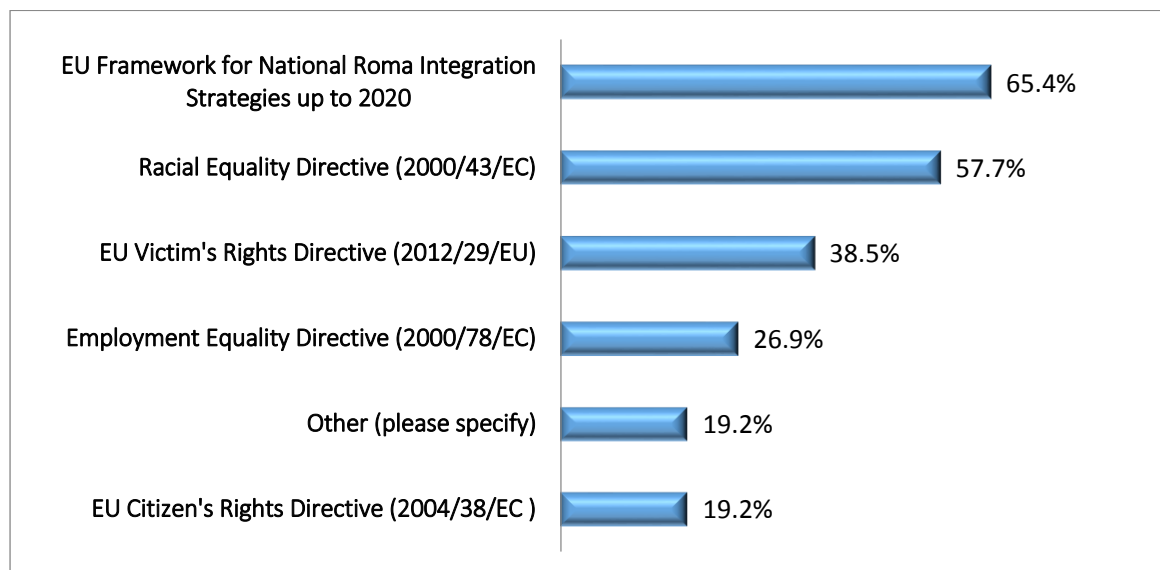
## 2.2. EU Approaches and Policies

Despite the fact that the EU portrays the EU Framework for National Roma Integration Strategies (NRIS) as the prevailing approach on Roma policies, the Focus Group discussions and the interviews conducted for this Report challenged the very premise of this policy, namely the predominant focus on the Roma themselves. Some Focus Group discussants even proposed to go beyond the current EU Framework for NRIS and instead explore ways to improve enforcement of EU legislation (such as the Race Discrimination or Hate Crime Directives) so as to better tackle anti-Gypsyism. They also highlighted the interesting potential of developing a new EU rule of law mechanism monitoring EU Member States' compliance with Article 2 TEU values.

Nevertheless, several respondents to the online survey indicated that the EU Framework for NRIS is the most often used tool to address anti-Gypsyism in their daily work (see Figure 12). According to some

interviewees, the EU Framework for NRIS is the only document that explicitly targets the situation of Roma in the EU. Focus group discussants pointed out that its anti-discrimination component is broadly framed and there are no specific measures designed to tackle anti-Gypsyism. Despite its documented weaknesses, the EU Framework has created certain structures with interesting potential, such as the National Contact Points, the Network of the National Contact Points and National and European Roma Platforms. As we will develop more in detail below, however, these present some important limitations and obstacles to effective implementation in the national arenas.

Figure 12. Most-often used directives/strategies by civil society



Source: Authors' own configuration based on online survey results.

### 2.2.1. Integration and Inclusion approaches

One of the authors (Carrera, 2005, emphasis added) of this report has underlined the important difference between the inclusion and integration approaches in the context of migration policies as follows:

**“Integration** is by nature an elusive concept. Instead of worrying about the need to conceptualise this term, any policy intending to frame this field should instead look at it as a compendium of **processes of inclusion** tackling social exclusion. These processes should seek to guarantee equal participation, rights and obligations to those not holding the nationality of the receiving society. Facilitating equality of treatment and full access to a set of economic, political, social and cultural rights and duties similar to the nationals of the receiving state should be the real goal pursued.”

The UN Office of the High Commissioner for Human Rights (2014, emphasis added) also makes a distinction:

“Moreover, the Communication is mainly focused on **socioeconomic integration** and assigns little relevance to key issues for **Roma inclusion** such as discrimination and the violation of human rights. Despite the positive intentions of the new framework, there are justified doubts about its efficiency due its limited capacity to engage civil society and Member States, the non-allocation of specific budgets (nor EU funds) and the lack of robust monitoring mechanisms.”

‘Inclusion’ is seen as a process highlighting the importance of equality in accessing services in different areas of life. On the other hand, ‘integration’ has a strong top-down approach and puts stress on certain communities’ cultural characteristics for their lack of ‘integration’. In EU policies on Roma, however,

both terms are used almost interchangeably. It is interesting to note that the Common Basic Principles on Roma Inclusion, in particular the one on Inter-cultural approach (European Commission Roma Portal, 2010) expressly rejected the the notion of ‘integration’:

“Taking measures to promote the **inclusion** of an ethnic minority often raises the fear that **integration** will lead to cultural assimilation. The third Principle addresses this dilemma and suggests that, instead of referring to cultural identities, policies and projects should focus on the promotion of inter-cultural learning and skills.”

Notwithstanding, the subsequent EU Framework (European Commission, 2011) and Council Recommendations (Council of the EU, 2013) continued to use term of ‘Roma Integration’. Thus, the authors of this Report are concerned with the Commission’s and Council’s gravitation towards ‘integration’ and the consequent blurring of the lines between these two concepts, which in turn disregards the approach supported by the Common Basic Principles as agreed by European Platform for Roma inclusion in Prague on 24 April 2009.

### The EU Framework for National Roma Integration Strategies

The priorities delineating EU policy, legal and financial frameworks and instruments covering Roma, and the extent to which these are ‘fit for purpose’ can only be understood on the basis of a recent historical perspective. The existing EU policies, in particular the so-called **EU Framework for National Roma Integration Strategies**, developed as the main EU response to the forced evictions and expulsions of EU Roma citizens by French and Italian governments in 2010.

The academic literature has underlined how EU responses moved from an approach mainly focused on enforcing EU citizenship and free movement law in these two EU Member States, towards one emphasising that these issues fell mainly within the scope of Member States’ competence when dealing with ‘forced evictions’ and the need to coordinate Member States’ Roma integration policies within a ‘soft policy’ framework (Aradau, et. al., 2013; Barbulescu, 2012; Bennett, 2011; Bertossi, 2010; Lhernoud, 2010; Parker, 2012; Sigona, 2011; Vermeersch, 2012).

By doing so, **the EU contributed to shifting the responsibility to the Roma themselves to integrate as a ‘solution’ to the challenges encountered in these countries**. This shift has had profound implications in the EU policy approaches that followed, which help us in understanding the scope, limits and structural deficits affecting the current EU Framework for National Roma Integration Strategies. In the course of our research, it became clear that **the current EU Framework presents profound limitations ‘by design’** in its effectiveness and impact in delivering equality, citizenship and fundamental rights of Roma in cases of institutional anti-Gypsyism.

Among the national and EU policy-makers interviewed for this Report there were mixed feelings reported about the EU Framework NRIS. Whereas some regarded the NRIS as somehow covering the **anti-Gypsyism dimension** implicitly, others claimed that it explicitly does not include equality and non-discrimination as a central focus. Some of the EU and national policy-makers claimed that there are already enough EU instruments, namely the EU Fundamental Rights Charter, the race Directive and other anti-discrimination legislation, and thus there is no need for a separate definition of or measures targeting anti-Gypsyism.

Our analysis of the EU Framework for the NRIS text indicates that, when elaborating the Framework in 2011, the Commission acknowledged the widespread existence of discrimination against Roma citizens across the EU. However, the initial document did not foresee explicit measures to tackle it, nor did it expressly use the term anti-Gypsyism. Rather it was left to the Member States to decide what actions they wanted to pursue. Explicit measures to tackle anti-Gypsyism were first suggested by the 2013 Council Recommendations on Effective Roma integration measures in the Member States (Council of the EU, 2013). In doing so, the Council responded to calls by civil society, especially by the European



Roma Policy Coalition (ERPC, 2012). Thus, the Council recommendation for the first time mentioned ‘anti-Gypsyism’ and the ways to tackle it as follows:

“Implement measures to combat discrimination and prejudice against Roma, sometimes referred to as **anti-Gypsyism**, in all areas of society. Such measures could include:

- (a) **raising awareness** about the **benefits of Roma integration** both in Roma communities and among the general public;
- (b) **raising the general public's awareness** of the diverse nature of societies, and **sensitising public opinion** to the inclusion problems Roma face, including, where relevant, by addressing those aspects in public education curricula and teaching materials;
- (c) taking **effective** measures to **combat anti-Roma rhetoric and hate speech**, and combating racist, stereotyping or otherwise stigmatising language or other behaviours that could constitute incitement to discrimination against Roma.”

The Council Conclusions thus mainly highlighted the “awareness raising” component within the concept of anti-Gypsyism in paragraphs a) and b), although, clause c) also touches on the fundamental rights approach, namely, combating hate speech. However, clause c) does not elaborate on the institutional forms of racism and anti-Gypsyism.

When speaking about institutional forms of anti-Gypsyism, some of our interviewees referred to the process of the European Platform for Roma Inclusion, which is set up by the European Commission (namely, DG JUST D1) together with national governments, the EU, international organisations and Roma civil society representatives.<sup>22</sup> The Roma platform meeting in 2015 focused on anti-Gypsyism.<sup>23</sup> This meeting produced many important recommendations, including fighting institutional forms of discrimination, such as “enforcement of anti-discrimination legislation, independence of equality bodies from political parties and access to justice”.

“The debate during the Focus Group also pointed out to the need for fighting against institutional anti-Gypsyism as an integral part of the EU Framework for National Roma Integration Strategies.”<sup>24</sup> Participants in the focus group and policy meeting also agreed that NRIS strategies should tackle anti-gypsyism in related sectoral policies. However, some of the speakers highlighted that there is lack of overall oversight, in particular in relation to institutionalised forms of anti-Gypsyism and a “lack of political willingness”.

In the 2012 Communication, the European Commission for the first time noted the need of “fighting discrimination convincingly” (European Commission, 2012). In the subsequent monitoring reports, it expanded the section significantly (European Commission, 2013 and 2014). The Commission eventually gave a prominent role to both discrimination and anti-Gypsyism in its 2015 Communication (European Commission, 2015). It took anti-Gypsyism even further in the 2016 Communication (European Commission, 2016a) which assessed the Strategy and the Council Recommendations (Council of the EU, 2016).

The 2015 European Platform for Roma Inclusion discussions took important steps to address institutional manifestations of anti-Gypsyism and highlighted the need to focus on governments’ accountability for their actions and the strengthening of independent monitoring by equality bodies. These seem to be followed up by the EU’s supervisory institutions (such as FRA, the European Ombudsman and the European Court of Auditors) rather than by the Commission itself. In addition, the Council Recommendation of 2013 (Council of the EU, 2013) reiterated the need to focus on equality of

<sup>22</sup> The European Platform for Roma Inclusion is set up by the European Commission (namely, DG JUST D1) together with national governments, the EU, international organisations and Roma civil society representatives (see [http://ec.europa.eu/justice/discrimination/roma/roma-platform/index\\_en.htm](http://ec.europa.eu/justice/discrimination/roma/roma-platform/index_en.htm)).

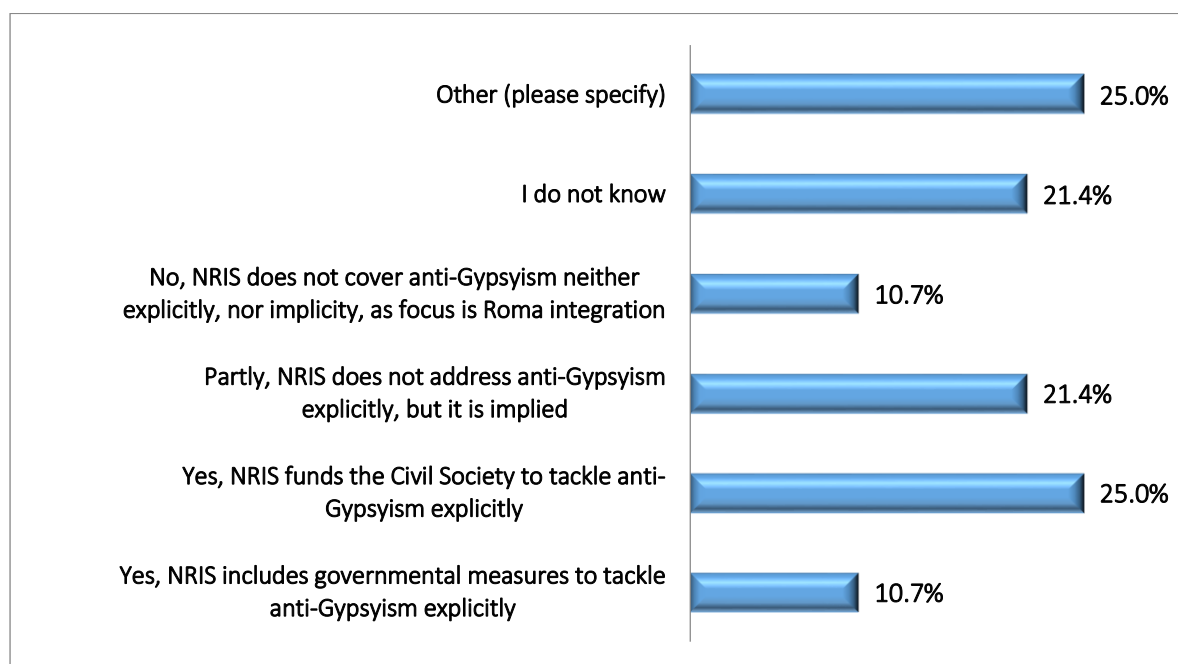
<sup>23</sup> See [http://ec.europa.eu/justice/events/roma-platform-2015/files/romaplatform2015report\\_en.pdf](http://ec.europa.eu/justice/events/roma-platform-2015/files/romaplatform2015report_en.pdf)

<sup>24</sup> The European Platform for Roma Inclusion is set up by the European Commission (namely, DG JUST D1) together with national governments, the EU, international organisations and Roma civil society representatives (see [http://ec.europa.eu/justice/discrimination/roma/roma-platform/index\\_en.htm](http://ec.europa.eu/justice/discrimination/roma/roma-platform/index_en.htm)).

treatment. It came about with the introduction of a specific *ex-ante* conditionality in the legislation governing the EU's major financial instrument, the European structural and investment funds (see section 3 for further discussion).

In the online survey civil society respondents were asked whether or not national integration strategies address anti-Gypsyism. Figure 13 below shows that only one-quarter of them said that it is done explicitly. One-fifth of the respondents were not even aware of such policies. Nevertheless, those who chose "Other" highlighted the very limited NRIS implemented in their countries, as is the case for example in Sweden and in the UK in Wales (see Annex 2 for more background information).

Figure 13. Does NRIS address anti-Gypsyism?



Source: Authors' own configuration based on online survey results.

Focus group participants also concluded that the EU Framework on National Roma Integration Strategies fails to properly address **systemic challenges to the rule of law** and **structural barriers** erected by all state institutions in the EU Member States as well as malpractices such as the continued forced evictions and returns of both **Roma EU citizens and Roma non-EU asylum seekers**, the use of camps and segregation of Roma communities (CoE Parliamentary Assembly, 2010 and 2012). The Commission officials interviewed agreed that the strategy cannot address the systemic violations of the EU law.

#### Some interesting Commission initiatives following Roma integration/inclusion approach

A few Commission initiatives have demonstrated a potential to address anti-Gypsyism in the EU. As previously mentioned in subsection 1.3.2 above, two projects framed in the context of EU-CoE cooperation present some interesting features in their attempt to engage local authorities to develop and implement policies and public services that are inclusive of all communities, including the Roma.

These include namely the **ROMED**<sup>25</sup> and **ROMACT**<sup>26</sup> programmes, but this Report has not conducted an assessment of the actual effects of their activities, particularly in combating institutional forms of anti-Gypsyism. That notwithstanding, some interviews conducted for the purpose of this Report highlighted that the **ROMACT** project in particular could be further explored due to its potential value. One of

<sup>25</sup> See <http://coe-romed.org>

<sup>26</sup> See <http://coe-romact.org>

interviewees regarded this as possibility for show-casing some municipalities as ‘role models’ for the other ‘hesitating’ municipalities, to do more for Roma communities. However, as several interviewees stressed, such programmes have difficulty in reaching out to ‘unwilling’ municipalities, where institutional racism is often wide-spread and often unchallenged.

Another example is the **Project “For Roma, with Roma”**, which is another EU-funded and Commission-steered example of “voluntary initiatives promoting mutual learning and twinnings among local and regional public authorities on Roma integration across the EU.”<sup>27</sup> The project covered 20 municipalities from 12 countries working in Twinning Partnerships (so-called ‘twinning’), aimed at enhancing Roma integration. In this context, the project also intended to tackle the stereotypes among youth and media.

Here also more research is needed to assess its value and success in achieving the stated goals. The voluntary nature of the project and lack of focus on institutional barriers on the side of local and national governments for Roma to access their rights and services could be identified as some preliminary gaps for addressing institutional forms of anti-Gypsyism. For example, the official statement below, issued by the “For Roma, with Roma” project characterises what this report would regard as institutional anti-Gypsyism as a result of “misunderstandings”:

“Many of these authorities share common concerns and challenges in respect of housing, healthcare, education, employment, childcare issues and, especially, discrimination – **often as a result of misunderstanding by the majority populations** in regards to the specific **problems faced by Roma**” (European Commission, 2016d; emphasis added).

The example above illustrates how even within EU-funded projects there is a lack of understanding of the concept and definitional features of anti-Gypsyism. The co-responsibility on the part of municipalities is often downplayed and somehow reframed as mere “misunderstandings”, which are causing “specific problems faced by Roma”. The European Ombudsman put especial emphasis on the Commission’s obligation to uphold more firmly the EU’s values in funding various projects, including fundamental rights protection (European Ombudsman, 2015) (see section 3).

The EU NRIS Framework does not mention **institutional racism or anti-Gypsyism practices**. This was also noted by the interviewees in **Germany**, for example, where some respondents underlined the need to include the fight against anti-Gypsyism as a key priority in national Roma strategies and that this notion should become a framework within which domestic policies could be designed, implemented and evaluated. Also, as highlighted above, interviews in **Romania** illustrated that the setting up of National Contact Points for Roma Integration is not resulting in relevant changes in practice in Romania or across the EU. Interviewees underlined that such structures often lack capacity or the competence to deliver on the assigned tasks and expectations raised.

### 2.2.2. *Fundamental rights approach*

The Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, abbreviated to the Race Equality Directive 2000/43, provides another angle to deal with anti-Gypsyism at the EU level, namely as an issue of fundamental rights. The Race Equality Directive is steered by DG JUST in the Commission. The report analysing cases before the European Court on Human Rights concerning the segregation of Roma children in education (Farkas, 2014) stressed the need to maintain the political pressure not only via Council of Europe venues, but also via European structures. The Commission has launched **infringement proceedings against Hungary, Czech Republic and Slovakia** to ensure that Roma children enjoy **access to**

<sup>27</sup> See European Commission, Official Project website ([http://ec.europa.eu/justice/discrimination/roma/for-roma-with-roma/index\\_en.htm](http://ec.europa.eu/justice/discrimination/roma/for-roma-with-roma/index_en.htm)).

**quality education** on the same terms as all other children, based on the **Race Equality Directive 2000/43**.<sup>28</sup>

In the case of Hungary, the Commission has urged the government to bring its domestic legislation on equal treatment and the implement its educational policies in line with the Directive. The main concern of the Commission services is that Hungarian law and administrative practices result in Roma children being disproportionately over-represented in special schools for mentally disabled children and are segregated from mainstream schools. The Commission has sent letters of formal notice to two other member states, the Czech Republic and Slovakia, addressing very similar concerns. In this area Hungary and the Czech Republic were previously found to have violated the European Convention on Human Rights by the European Court of Human Rights.

The Council Framework Decision of 2008 on combating certain forms of racism and xenophobia by means of criminal law addresses the most serious manifestations of anti-Gypsyism. Article 4 mandates member states to put in place special provisions combating racist and xenophobic motivations in their criminal codes or in the Court's determination of penalties. As of 2014, the Commission reported that "fifteen Member States (CZ, DK, EL, **ES**, HR, IT, CY, LV, LT, MT, AT, **RO**, FI, **SE** and SK) have made use of the first option provided for in Article 4 by stipulating in their criminal codes that racist and xenophobic motivation shall be considered an aggravating circumstance with regard to all crimes. Eight Member States (BE, BG, **DE**, FR, HU, PL, PT and **UK**) stipulate to certain (often violent) crimes by courts" (European Commission, 2008).<sup>29</sup>

Of particular relevance in this context is the **EU High-Level Group on combating racism, xenophobia and other forms of intolerance**,<sup>30</sup> coordinated by DG JUST C1 "Fundamental rights and Rights of the Child Unit". The High-Level Group is composed of Member State's representatives, international organisations and civil society representatives. It was established in June 2016. In November 2016 it was already acting as a convenor for a conference "Steps towards European Policies against anti-Gypsyism" organised by the **German Foreign Office and the Open Society Foundations**.<sup>31</sup> Interviews conducted for this Report confirmed that anti-Gypsyism is one of horizontal priorities of this group. The HLG has shown its strength in the areas of tackling **hate-speech on-line**,<sup>32</sup> as a separate working group has been created to work on this particular issue. Another, important achievement is a work of sub-group **on hate crimes**.<sup>33</sup> Whereas the former sub-group is steered by the DG JUST C1 unit and meets in Brussels, the latter is steered by the FRA and thus meets in Vienna.

The sub-group of 'Hate Crimes' in its preparation papers has mentioned ECtHR cases six out of nine cases mentioned, were related with treatment of Roma hate-crime victims and Roma suspects of crime.<sup>34</sup> The ECtHR cases indicating the existence of the anti-Gypsyism (though the concept was not used then) among the police in the following cases: *Nachova and Others v. Bulgaria*, 2005; *Bekos and*

<sup>28</sup> See European Commission (2016) Fact Sheet, "May infringements' package: key decisions", Brussels, 26 May 2016 ([http://europa.eu/rapid/press-release\\_MEMO-16-1823\\_it.htm](http://europa.eu/rapid/press-release_MEMO-16-1823_it.htm)).

<sup>29</sup> IN addition to the Hate Crime Directive, there was also elaborated the Victim's Rights Directive, which requires that law enforcement and court staff receive general and special training Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Art. 25 & para. 61.

<sup>30</sup> See European Commission's Official Register: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&regID=3425>.

<sup>31</sup> See <https://storify.com/OSFRoma/respect4roma>

<sup>32</sup> See European Commission, DG JUST, "A New Sub-Group On Countering Hate Speech Online", <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=26468&no=1>.

<sup>33</sup> *Ibid.*

<sup>34</sup> See European Commission, DG JUST (2016), Background Materials for Inaugural Meeting of Subgroup on methodologies for recording and collecting data on hate crime 18-19 October 2016 (<http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=26474&no=2>).

*Koutropoulos v. Greece, 2005; Ognyanova and Choban v. Bulgaria, 2006; Secic v. Croatia, 2007; Cobzaru v. Romania, 2007; Angel and Illiev v. Bulgaria, 2007).*

The promising aspects relate to the increased understanding that police officers are often part of institutional anti-Gypsyisms. Thus, the sub-group called to adequately train the law enforcement and judiciary about non-discrimination and human rights. The Sub-Group's Report identified that "hate crime training curricula for law enforcement and criminal justice authorities should be based on an equitable balance of different elements in terms of content: <...> challenging and fostering reflection on bias and combating individual and/or structural discriminatory attitudes, policies or practices." (EU High Level Group on Combating Racism, Xenophobia and Other forms of Intolerance, 2017, p. 9 -10). One of the most interesting components in the Group's work is its focus in monitoring and evaluating outcomes of such training programmes. There is however a lack of elaboration as to how it could or should be done by responsible Member State authorities.

However, if anti-Gypsyism motivated crimes are among the most common ones as ECtHR case law indicates, the 10 guiding principles produced by the sub-group provide little insight on how to effectively tackle such institutionalised form of anti-Gypsyism. In an additional output the sub-group compiled existing training materials on hate crime is of the value for law enforcement and judicial authorities.<sup>35</sup> The compilation mentions OSCE ODIHR training manual for Law Enforcement Officers on "Effective and Human Rights-Compliant Policing in Roma and Sinti

Another weaknesses inherent to this Group relates to the follow-up of its outcomes and the practical application of suggested principles and usage of educational materials, which remain by and large voluntary for each Member State participating in the process. Here also more independent research on the HLG would be necessary to assess its concrete achievements and results.<sup>36</sup>

### 2.2.3. Rule of Law

DG JUST coordinates the so-called 'EU Framework to Strengthen the Rule of Law'. This framework, however, lacks a permanent and periodic monitoring and evaluation process of EU member states' compliance with Article 2 TEU legal principles. It also does not go far enough in ensuring **objective, independent and regular scrutiny of EU member states' rule of law obligations**, including effective responses to structural phenomena like anti-Gypsyism.

Against this background, the **European Parliament's 2016 proposal for establishing an EU Mechanism on Democracy, Rule of Law and Fundamental Rights** (European Parliament, 2016) was proposed as a key opportunity for addressing this gap and **overcoming institutional anti-Gypsyism in the EU**. While the EU has currently at its disposal several fragmented instruments monitoring rule of law and fundamental rights, what is lacking is a more consistent and structured/systematic **EU rule of law monitoring**, where the actions of both member states' governments and authorities, and those of European institutions and agencies, are regularly monitored, supervised and independently evaluated in light of their compliance with EU values enshrined in Article 2 of the Treaty on the European Union and the EU Charter of Fundamental Rights, and in the framework of Article 7 TEU (Bard, Carrera, Guild and Kochenov, 2016).

The EU mechanism would benefit from an **Expert Panel or EU Rule of Law Commission** (composed mainly by independent scholars as well as other relevant experts) which would produce an Annual Report providing **context-specific** (Member State-by-Member State) assessment in light of data available or call

<sup>35</sup> *Ibid.*

<sup>36</sup> The authors have learned about the existence of another High-level Group on Non-Discrimination, Equality and Diversity, led by the D1 unit responsible for Non-Discrimination and Roma Coordination, which presumably also has anti-Gypsyism among its horizontal priorities. However, the Commission's official registry has shown no follow-up activity after its inaugural event in May 2015. (see <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3328>).

for the need to gather extra information on EU issue-specific questions. The Annual Report would point to the strengths and weaknesses, and suggest specific ways to overcome them, and would constitute the basis for inter-parliamentary discussions and debates in Council (European Parliament, 2016).

Currently, as part of Europe 2020 Strategy and European framework for NRIS there is in place the European Semester's process, which issues Country Specific recommendations for the countries concerned. Among countries investigated for this Report, only Romania had a specific Recommendation on better inclusion Roma communities. The Council, upon Commission's Recommendation called Romanian government to "Take action to prevent early school leaving and increase the provision of quality education, in **particular among Roma.**" (Council Recommendation, 2016).

Civil society representatives seem to welcome such recommendation, though remain critical about the actual impact of such recommendations (Miko, 2015; Makaveev, 2015). Thus having in mind the weaknesses of the European Semester process reported by the civil society, a new EU Rule of Law mechanism could fill in the existing gap. Previous research has indicated that such mechanism would have a clear EU added value and would comply with legal and institutional prerogatives laid down in the Treaties (Bard et al., 2016). Unfortunately, and despite the support of several EU Member States, recently the European Commission has refused to follow-up the Parliament's call to establish such mechanism (Bard and Carrera, 2017).

### 3. How EU funds are combating anti-Gypsyism?

This section of the Report focuses on EU funding mechanisms, i.e. In what does the EU invest? There are two main EU funds used for sectorial policies aimed at Roma inclusion: the European Social Fund (ESF), managed by the DG EMPL, and European Regional Development Fund (ERDF), managed by the DG REGIO. Member states have increased financial support for the most disadvantaged groups, including Roma, for the 2014-20 period. National, regional and local authorities can make use of over €90 billion available in the ESF and the ERDF to build up human capital, promote social inclusion and fight poverty. One of the priorities in this area is the integration of marginalised communities such as Roma:<sup>37</sup>

#### 3.1. Who is funding what?

Figure 14 below indicates some of the main EU funding schemes and their main characteristics, as they are or could be financing actions against anti-Gypsyism, or could be instrumentalised to ensure them. Each of the European Commissions' DGs have their own funding schemes, priorities and beneficiaries, but the ERDF and ESF share the Roma inclusion as a main approach to tackling housing and employment, respectively.

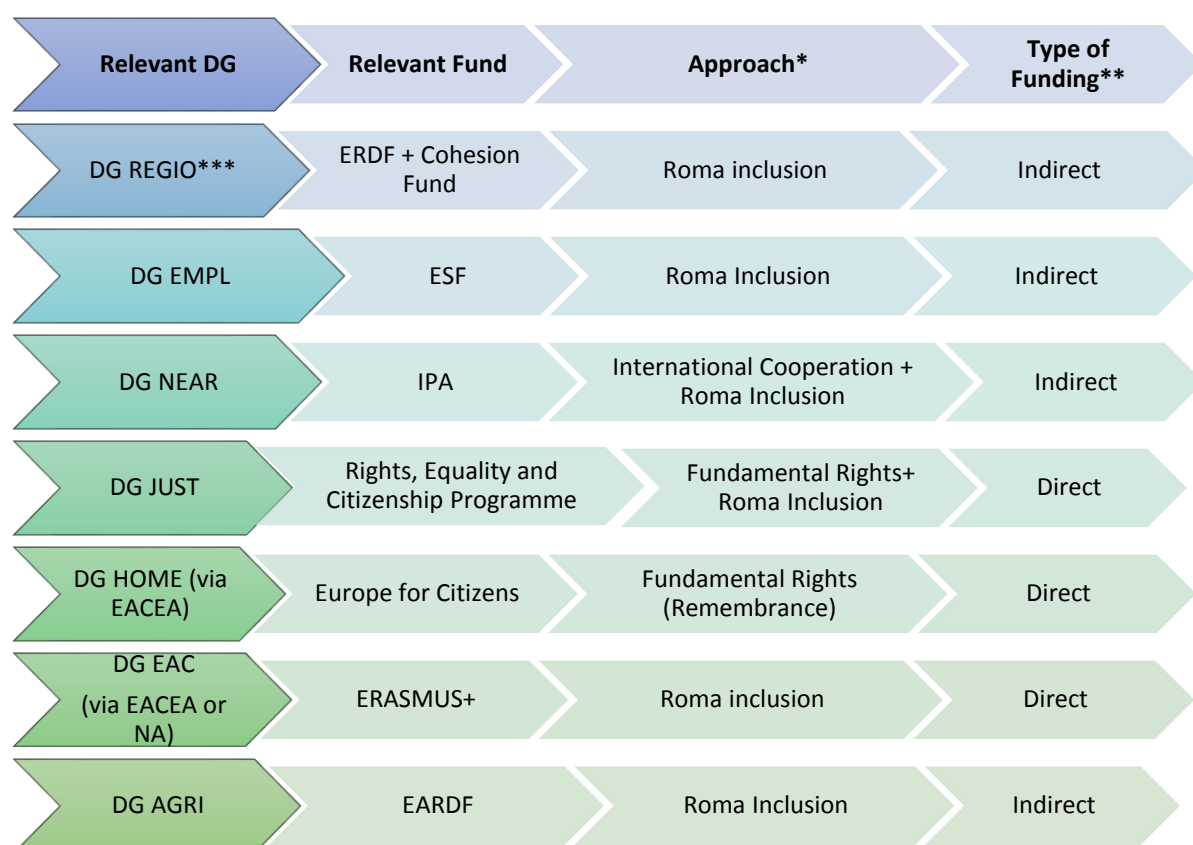
The ERDF and ESF can be further shared with civil society beneficiaries, the Operational Programmes (OPAs), which are proposed by the member states. If European Commission approves OPAs – member state obtains funding. Such funding can be further distributed via the managing authority to government, public bodies or civil society – to implement foreseen actions.

The ERDF, ESF and funding for pre-accession countries via IPAs are the biggest funding schemes, whereas the 'Rights, Equality and Citizenship Programme', the Justice Programme, Europe for Citizens and ERASMUS+, comparatively are smaller ones and disburse much smaller amounts. The primary beneficiaries are various CSOs or even business organisations that apply directly to the responsible DG. In the case of DG EAC, specialised national agencies (NA) are created as to enable direct funding.

<sup>37</sup> European Commission (2015) - Press release "Commission dedicates more funding to Roma integration", Brussels, 18 June 2015 ([http://europa.eu/rapid/press-release\\_IP-15-5205\\_nl.htm](http://europa.eu/rapid/press-release_IP-15-5205_nl.htm)).



Figure 14. Mapping EU funding schemes relevant to combating anti-Gypsyism



Source: CEPS (2016).

\* The approaches follow the ones discussed in Section 2 of this Report.

\*\* Type of funding is direct, when beneficiaries are directly applying for funds, or indirect, when funding is first obtained by the member state and only then disbursed for implementing various operational programmes.

\*\*\* See full names of the Directorates General in the List of Abbreviations.

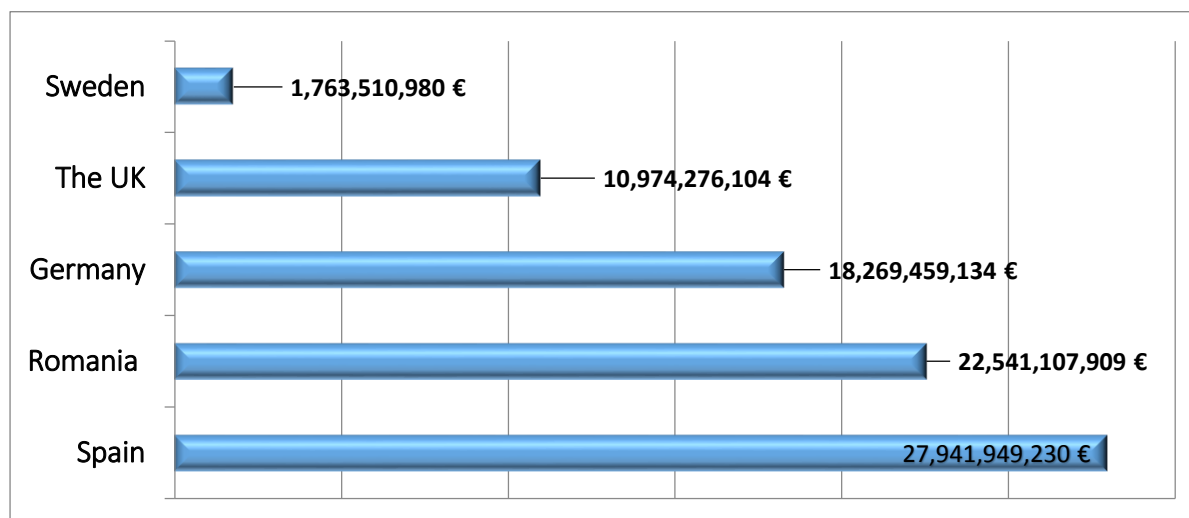
**Cohesion policy** is the EU's main investment policy, which targets all regions and cities in the European Union. It is delivered via three main funds: the ERDF, ESF and the Cohesion Fund, though often all three funds are called 'cohesion funds'. **Funding for cohesion policy in 2014-20** totals **€351.8 billion**, which is one-third of the total EU budget.<sup>38</sup>

Cohesion policy foresees that regulations and priorities are aligned among the three funds. Priority 9 on promoting social inclusion, fighting poverty and discrimination is the main one for the ESF (main priorities are 8-11), an additional one for the ERDF (1-4) and not covered by the Cohesion Fund (4-7). Figure 15 illustrates the financial allocations from the Cohesion Funds to the five member states under study.

<sup>38</sup> See [http://ec.europa.eu/regional\\_policy/sources/docgener/informat/basic/basic\\_2014\\_en.pdf](http://ec.europa.eu/regional_policy/sources/docgener/informat/basic/basic_2014_en.pdf)



Figure 15. Financial allocations from Cohesion Funds by country



Source: European Commission, Cohesion Data.<sup>39</sup>

Below three relevant funds are examined in more detail: the ERDF, the ESF, the Rights, Equality and Citizenship (REC) Programme and the ‘Europe for Citizens’ Remembrance Fund.

### 3.1.1. European Regional Development Fund

The ERDF aims to strengthen economic and social cohesion in the European Union by correcting imbalances between its regions by investing in growth-enhancing sectors to improve competitiveness and create jobs.<sup>40</sup> The clause “**specific territorial characteristics**” indicates that Roma inclusion projects can be funded. “ERDF action is designed to reduce economic, environmental and **social problems in urban areas**, with a special focus on sustainable urban development. At least 5 % of the ERDF resources are set aside for this field, through ‘integrated actions’ managed by cities.”<sup>41</sup> Further, the regulation of ERDF provides that social inclusion is the ninth of its 11 investment priorities under Regulation (EU) No 1301/2013.<sup>42</sup>

- “(9) promoting social inclusion, combating poverty and any discrimination, by:
- investing in health and social infrastructure <...>;
  - providing support for physical, economic and social regeneration of **deprived communities** in urban and rural areas;
  - providing support for social enterprises;
  - undertaking investment in the context of community-led local development strategies”.

Roma are often regarded as one of the most “deprived or marginalised” communities. This fund addresses their housing and living conditions, neighbourhoods and settlements. Priority No. 11 address “institutional capacity of public authorities and stakeholders”, in particular as it concerns effective and efficient administration of the ERDF and ESF funds.

<sup>40</sup> See [http://ec.europa.eu/regional\\_policy/en/funding/erdf/](http://ec.europa.eu/regional_policy/en/funding/erdf/)

<sup>41</sup> Ibid.

<sup>42</sup> Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006, OJ L 347, 20.12.2013, p. 289–302.

According to our interviewees, the city of Berlin administration applied for ERDF in order to carry out trainings on anti-Gypsyism. The respondent reported that such training was probably the first in Germany.

In addition to the ERDF, **the Cohesion Fund**, which allocates **€63.4 billion** for the period 2014-20, is “aimed at Member States whose Gross National Income (GNI) per inhabitant is less than 90 % of the EU average.”<sup>43</sup> It aims to reduce economic and social disparities and to promote sustainable development mainly in member states that joined the EU in 2004 and 2007. For example, out of the five member states under study, only Romania is targeted by the Cohesion Fund. As it is more focused on infrastructure, particularly roads, rails, etc., the Cohesion Fund could be of relevance to infrastructure in primarily Roma neighbourhoods, settlements or villages.

### 3.1.2. *European Social Fund*

The ESF invests in people, with a focus on improving employment and education opportunities. It also aims to help disadvantaged people at risk of poverty or social exclusion, therefore, among the cohesion policy funds, it is the most important for the purposes of this study.

In total, the ESF will distribute more than **€80 billion** to member states for human capital investment between 2014 and 2020. ‘Social inclusion and combating poverty’ in the period 2014-20 will receive 20% of ESF investment, or approximately **€16 billion**.<sup>44</sup> ESF regulation mentions Roma among the specific target groups of this ‘investment priority’ under Regulation (EU) No 1304/2013:<sup>45</sup>

“b) For the thematic objective ‘promoting social inclusion, combating poverty and any discrimination’:

- i) Active inclusion, including with a view to promoting equal opportunities and active participation, and improving employability;
- (ii) Socio-economic integration of marginalised communities such as the **Roma**;
- (iii) Combating **all forms of discrimination** and promoting equal opportunities;
- (iv) Enhancing access to affordable, sustainable and high-quality services, including health care and social services of general interest;
- (v) Promoting social entrepreneurship and vocational integration in social enterprises and the social and solidarity economy in order to facilitate access to employment;
- (vi) Community-led local development strategies.”

Socio-economic integration of Roma is the ESF’s primary priority. Fighting discrimination is a separate part of this priority. Separate priorities in turn means separate Operational Programmes drafted by the member states. This was raised as an issue of concern in the recent European Court of Auditors audit (see Sub-Section 3.2).

### 3.1.3. *Rights, Equality and Citizenship Programme*

The Rights, Equality and Citizenship (REC) Programme, led by DG JUST, aims to “contribute to the further development of an area where equality and the rights of persons, as enshrined in the Treaty, the Charter and international human rights conventions, are promoted and protected.”<sup>46</sup> One of its nine specific objectives is “to combat racism, xenophobia, homophobia and other forms of intolerance”.<sup>47</sup> Anti-Gypsyism is not explicitly mentioned among the specific objectives, though the

<sup>43</sup> See [http://ec.europa.eu/regional\\_policy/en/funding/cohesion-fund](http://ec.europa.eu/regional_policy/en/funding/cohesion-fund)

<sup>44</sup> See [http://ec.europa.eu/regional\\_policy/en/funding/social-fund](http://ec.europa.eu/regional_policy/en/funding/social-fund)

<sup>45</sup> Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006, OJ L 347, 20.12.2013, p. 470–486.

<sup>46</sup> See [http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index\\_en.htm](http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm)

<sup>47</sup> Ibid.

term was used in the call for “Action grants to support national or transnational projects on non-discrimination and Roma integration”.<sup>48</sup> Regarding Roma, the project supports the following activities:

“aiming to a raise awareness and combat harmful **stereotypes** of Roma and supporting thereby their **integration** into mainstream society. Identification, implementation and exchange of good practices in addressing the most urgent challenges in the area of fighting **discrimination** and **antigypsyism**, especially fighting **segregation** in education, and promoting the empowerment of Roma youth and their active involvement in the process of Roma **integration**, including through the capacity building of civil society active at the local level.”<sup>49</sup>

Anti-Gypsyism was used interchangeably with discrimination. In 2016, there was a restricted call for action grants to support national Roma platforms.<sup>50</sup> These examples show that the REC Programme integrates the Roma inclusion and integration approach.

Other calls in 2016 focused on the identification of hate crime or speech<sup>51</sup> and on the promotion of tolerance.<sup>52</sup> In total, **€439 million** are allocated to the REC Programme for the period 2014-20.

In the preceding Fundamental Rights and Citizenship (FRC) Programme (2007-13), Roma were targeted among the other groups. For example, “In 2013, projects supporting the active participation of children from vulnerable groups including Roma children in policies affecting them were prioritised” (ICF, 2015).

The evaluation report mentions specific projects targeting Roma, for example, the “2009/2010 AG project entitled ‘I am Roma: Changing Mindsets’ aimed at increasing awareness amongst local actors engaged in antidiscrimination work and youth on the issues faced by Roma people through the organisation of workshops on and study visits in Roma communities. The project reportedly improved the relationship between Roma youth and local youth” (ICF, 2015). The previous **FRC Programme** totalled **€95.2 million** (it was one of three programmes, including Daphne and PROGRESS that now are covered by REC Programme).

### 3.1.4. *DG HOME – Europe For Citizens, Remembrance Strand*

At the European level, as already mentioned, one of the two main strands of **Europe for Citizens** funding is called “Remembrance”. The Remembrance strand aims to finance projects reflecting on the causes of **totalitarian regimes** in Europe’s modern history, such as Nazism, Fascism, Stalinism and totalitarian communist regimes that led to the Holocaust and other crimes against humanity.<sup>53</sup> The list of selected projects for 2016 reveals that **€3,342,500** were allocated to 38 projects, three of which explicitly (in the name of project) focused on the Roma holocaust (Czech Republic, the Former Yugoslav Republic of Macedonia and Latvia).<sup>54</sup> The programme is managed by the Education, Audiovisual and Culture Executive Agency, though political coordination is steered by DG HOME.

## 3.2. Monitoring and accountability of EU funds

### 3.2.1. *European Ombudsman*

In 2014, the European Ombudsman (EO) Emily O’Reilly launched an own-initiative inquiry (No. OI/8/2014/AN) concerning the **compliance with fundamental rights** in the implementation of **EU cohesion policy** at the very beginning of the 2014-20 funding framework. The findings of this inquiry are

<sup>48</sup> See <http://ec.europa.eu/research/participants/portal/desktop/en/opportunities/rec/topics/rec-rdis-disc-ag-2016.html>

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> See [http://eacea.ec.europa.eu/europe-for-citizens/strands/european-remembrance\\_en](http://eacea.ec.europa.eu/europe-for-citizens/strands/european-remembrance_en)

<sup>54</sup> See <https://eacea.ec.europa.eu/sites/eacea-site/files/publicationremem2016.pdf>

important because it emphasized the responsibility for ensuring proper monitoring and accountability mechanisms by the European Commission:

“The fact that the Commission is not directly responsible for managing ESI Funds should never be used as a reason for not acting if fundamental rights have been, or risk being, violated. By applying the fundamental rights contained in the Charter as the minimum standard of protection, the Commission can signal to Member States that it will take fundamental rights seriously when assessing their activities under the cohesion policy...In addition, the Commission must seek to dissuade Member States, and indeed itself, from ignoring violations of fundamental rights on the grounds that the Member State activity in question is not undertaken in the course of implementing EU law” (European Ombudsman, 2015).

The Ombudsman highlighted the issues also related to **Roma inclusion/integration projects which lacked the non-discriminatory approach**. One of the major issues addressed in the Ombudsman’s decision was cases where the **EU funding had been channelled to sustain institutional discrimination and segregation**, as, for example, “to maintain or extend the institutionalisation of children and disabled persons” (European Ombudsman, 2015).

In the case of Roma, the Ombudsman referred to the example of the project to establish a segregated settlement in Scampia, Naples, with the support of the ERDF. The municipality was planning to spend €7 million during the 2007-13 Campania Regional Operation Programme.<sup>55</sup> Civil society actors warned the Commission that the project was not in line with the ERDF and fundamental rights. Though the Commission agreed that such a project was not in line with EU law and regulations, it took no additional action. In addition, even after the complaint and reply from the Commission, the councillor of Naples Municipality still insisted on implementing the project with ERDF support. Civil society actors regretted that Commission went no further to prevent the project and thus sent mixed messages.

The targeted consultations highlighted “a lack of transparency in the **application, monitoring and control of ESI Funds**, and a **failure by the Commission** to make comprehensive, accessible information available in the public domain” (European Ombudsman, 2015). Though the Ombudsman did not use the term ‘anti-Gypsyism’ explicitly in its inquiry, the ERGO (European Roma Grassroots Organisations) Network submission for the targeted consultations in the context of this inquiry highlighted the very centrality of anti-Gypsyism as a key bottleneck in the national context of EU funding (emphasis added):

“Sometimes the examples are anecdotal, but in other cases discrimination against Roma has a systemic and even **institutionalized character**. An example is the **structural bias against Roma children in education...**

*Evictions* that ignore the circumstances and needs of individuals and families ...Or the lack of political will or courage to address sometimes *inhuman living conditions* of Roma communities – even *when funds are available*.

The weak performance of thematic programmes that aim to advance Roma inclusion is in many cases due to *anti-Gypsyist tendencies among local public authorities or project promoters*: their consistent inclination to consider *Roma as mere policy clients*, rather than equal stakeholders in programmes or projects, for example, leads to suboptimal outcomes if not outright failure. We catch these forms of discrimination under the concept of *anti-Gypsyism*.<sup>56</sup> (Emphasis added).

In its decision, the Ombudsman highlighted Roma along with persons with disabilities and LGBTI people who “**are often ignored in the drafting of partnership agreements or operational programmes**” (European Ombudsman, 2015). This tendency to leave out Roma organisations was confirmed by the online survey for the purpose of this study, as Roma organisations were not even aware of the existence

<sup>55</sup> European Roma Rights Centre submission to the targeted consultations ([www.ombudsman.europa.eu/en/cases/correspondence.faces/en/59848/html.bookmark](http://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/59848/html.bookmark)).

<sup>56</sup> Input from European Roma Grassroots Organisations (ERGO) Network, Brussels, 28 February 2015.

of monitoring committees (see Graph 16 below). The Ombudsman issued eight recommendations that emphasised the necessity of more efficient monitoring and complaint mechanisms, as well as on ensuring compliance with *ex ante* conditionalities.

### 3.2.2. *European Court of Auditors*

The **European Court of Auditors** (ECA) in their report (European Court of Auditors, 2016) reached very similar conclusions to the ones issued by the EO (European Ombudsman, 2015). The ECA has explicitly referred to the anti-Gypsyism concept among their main recommendations, as a way to ensure the efficiency and effectiveness of EU funding. The ECA audit methodology entailed interviews and analysis of the implemented projects. The ECA audited EU budget spending on various Roma integration projects – the so-called ‘Operational Programmes’ drafted by the member states (European Court of Auditors, 2016).

After analysing their impact and effectiveness, the ECA recommended EU member states with such Operational Programmes to run parallel anti-discrimination Operational Programmes to ensure that anti-Gypsyism is tackled. However, even when a member state has both types of Operational Programmes in place, it does not necessarily mean that its anti-discrimination Operational Programme addresses anti-Gypsyism, as there are more general and ‘explicit, not exclusive’ ways of targeting anti-discrimination.

### 3.2.3. *EU Fundamental Rights Agency*

The EU Fundamental Rights Agency (FRA) is responsible for more general monitoring of fundamental rights, not projects themselves. The FRA has extensive knowledge of Roma rights and socio-economic situations, as for more than 10 years the agency has conducted research on Roma inclusion. This ranges from reports based on existing data and information to the agency’s own large-scale survey research.

An example of such research are three major surveys: EU MIDIS I, a so-called ‘Roma survey’ and EU-MIDIS II. All of them collected detailed data on discrimination and criminal victimisation of Roma in 2008, 2012 and 2016, as well as data on their socio-economic conditions. The findings show little change over eight years in levels of Roma discrimination and social exclusion across several areas, such as employment, education, housing, access to public and private services, health care, etc. This also indicates that previous EU funding in these areas have not reached the aims of ‘integrating’ or including Roma communities.

The last EU MIDIS II survey (FRA, 2016) found that Roma continue to face intolerable levels of discrimination in daily life – whether when looking for work, at work, in education, seeking health care, communicating with administrative bodies or entering a shop – 41% of Roma felt discriminated against because of their ethnic origin at least once in one of these areas of daily life in the past five years. Yet, as the current Report indicates, projects aimed to inform Roma of their rights are quite rarely initiated by governments.

The FRA MIDIS II survey further indicates that, on average, only 12% of Roma who experienced discrimination reported it to an authority. Moreover, 27% do not know of any law prohibiting discrimination based on ethnic origin, and 82% do not know any organisation offering support to discrimination victims. In addition, 80% of Roma continue to live below their country’s at-risk-of-poverty threshold; every third Roma lives in housing without running water; one in 10 in housing without electricity; and every fourth Roma (27%) and every third Roma child (30%) live in a household that faced hunger at least once in the preceding month.

These findings suggest that the goals set by the 2013 Council Recommendation on effective Roma integration measures, i.e. that can fulfil the fundamental rights of Roma to equal treatment, are far from being reached, and persistent anti-Gypsyism is an important contributing factor that can reduce the effectiveness of government responses.

In addition, FRA is currently conducting a Local Engagement for Roma Inclusion (LERI) Programme,<sup>57</sup> which seeks to improve the design, implementation and monitoring of Roma integration policies and actions at the local level.

### 3.3. Potentials and challenges of EU funding

The European Commission made some improvements on accountability and scrutiny for the 2014-2020 EU programming period. One of the key innovations is the so-called '*ex ante* conditionalities', which empower the Commission with better oversight of member states' Operational Programmes in order to ensure non-discrimination and address the most pressing issues, such as Roma integration.

Regulation 1303/2013 lays down the common provisions for the all major EU funds.<sup>58</sup> Article 4(2) of this Regulation obliges the Commission and member states to make arrangements to reinforce compliance with the fundamental rights and in the context of the European Social Investment Fund. Article 6 further requires all the projects and Operational Programmes supported by the ESF to comply with applicable Union and national laws. Regulation further stresses gender equality and provides a list of forbidden grounds of discrimination (Article 7): "The Member States and the Commission shall take appropriate steps to prevent any discrimination based on *sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation* during the preparation and implementation of programmes".

Article 19 provides a description of how the *ex ante* conditionalities are applied in practice. The Commission is tasked with assessing "consistency and the adequacy of the information provided by the Member State and on fulfillment of ex-ante conditionalities" (Art. 19., para. 3). In addition, when inconsistencies are found, the burden of proof lies on the Commission (Art. 19, para. 4), which makes this procedure less practicable, given that the Commission has to oversee 28 member states. In ordinary circumstances, it is usually the applicant who has to prove that there was no violation or misuse of funding. Thus this clause could shift the responsibility back to the member state. The interviews revealed a lack of procedures or guidelines as to which information should be used when confronting member states, i.e. FRA opinions and analyses, reports, Eurostat data, Special Eurobarometer surveys, ECJ and ECtHR case law, etc.

**It is not yet clear whether and how these preconditions ensure compliance with fundamental rights, or what their benchmark is.** The European Ombudsman inquiry discussed above highlighted that the very existence of such a mechanism is 'promising', in particular in the early stage of adopting the Operational Programmes:

"Monitoring of compliance with the applicable preconditions from the outset of projects is seen as beneficial, in that it may result in a more effective response to discrimination or fundamental rights violations. Moreover, the Commission's assessment of programmes under Article 29 of Regulation 1303/2013 might also contribute to preventing or addressing difficulties that might arise during programme implementation." (European Ombudsman, 2015: para. 29)

Another interesting clause requires member states to establish **Monitoring Committees** within three months (Art. 47, para. 1), though the Regulation 1303/2013 does not foresee the common legal framework for such committees, as Article 47, para. 2, further provides that:

<sup>57</sup> See <http://fra.europa.eu/en/project/2013/multi-annual-roma-programme/local-engagement>.

<sup>58</sup> Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, OJ L 347, 20.12.2013, p. 320–469.



“Each monitoring committee shall draw up and adopt its rules of procedure in accordance with the institutional, legal and financial framework of the Member State concerned.”<sup>59</sup>

This point weakens the general clause, as there is no guidance on the powers and decision-making procedures in such committees, thus there can be huge differences across the EU.

Finally, though Article 48 sheds light on the composition of the Monitoring Committees, the inclusion of partners’ representatives and the actual powers remain rather vague, in particular as there is no ratio for representatives from the partners:

“Representatives of the partners shall be delegated to be part of the monitoring committee by the respective **partners** through **transparent processes**. Each member of the monitoring committee **may have a voting right**.”<sup>60</sup>

However, a clause obliges the composition of such committees to be made public (Art. 48, para. 2). Desk research for the purpose of this Report has proved that **such Monitoring Committees are difficult to identify, as even their names are not standardised and they vary in each national context**. For example, in the UK, such a committee is called the Growth Programme Board. The membership of the main board is public,<sup>61</sup> but those of its sub-committees are not.<sup>62</sup> As regards the composition of the board, there are no civil society actors representing Roma or broader human rights issues. The representative on equality works for the Government Equalities Office, without any counterpart from civil society. It was not possible to find the membership list of a Monitoring Committee in Romania, at least in English. The partnership agreement, however, indicated that the monitoring mechanism’s representational criteria have not been met, though some Roma representatives have been included.<sup>63</sup>

Member states that are undertaking Roma inclusion projects have to comply with the *ex ante* conditionality “9.2. A national Roma inclusion strategic policy framework”, which assesses whether there is a Monitoring Mechanism overseeing NRIS and whether Roma representatives are included in the monitoring process, though this is separate from the **Monitoring Committee supervising ESF funding**.<sup>64</sup>

For this reason, a comparative study of the European Anti-Poverty Network (EPAN) on EU Structural Investment Funds also highlighted **the need to include key stakeholders**, “particularly those who are current or future beneficiaries” in the Official Monitoring Committees, **to ensure the effectiveness of the EU monitoring framework**.<sup>65</sup> The online survey and interviews carried out for this Report indicated that **most civil society representatives were unaware of such developments at national level, nor were they part of such bodies** (see Figure 16 below).

<sup>59</sup> “Within three months of the date of notification to the Member State of the Commission decision adopting a programme, the Member State shall set up a committee, in accordance with its institutional, legal and financial framework, to monitor implementation of the programme, in agreement with the managing authority (the ‘monitoring committee’), Regulation 1303/2013, para. 47.

<sup>60</sup> Ibid., para. 48.

<sup>61</sup> See [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/580090/GPB\\_Membership\\_List\\_191216.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/580090/GPB_Membership_List_191216.pdf).

<sup>62</sup> See [www.gov.uk/government/groups/programme-monitoring-committee-national-sub-committees](http://www.gov.uk/government/groups/programme-monitoring-committee-national-sub-committees).

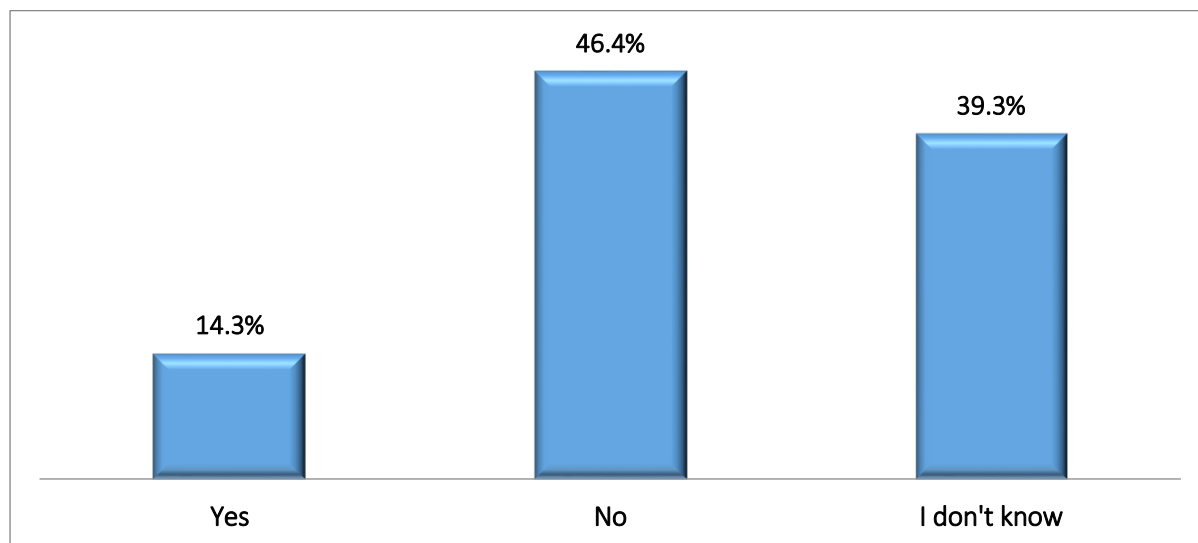
<sup>63</sup> See pp. 227-228 of document at [www.fonduri-structurale.ro/Document\\_Files/Stiri/00014830/sfvid\\_Acord%20de%20parteneriat%20oficial.pdf](http://www.fonduri-structurale.ro/Document_Files/Stiri/00014830/sfvid_Acord%20de%20parteneriat%20oficial.pdf).

<sup>64</sup> Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006, OJ L 347, 20.12.2013, p. 470–486.

<sup>65</sup> See [http://ec.europa.eu/regional\\_policy/sources/informing/dialog/2016/2016\\_barometer\\_summary\\_en.pdf](http://ec.europa.eu/regional_policy/sources/informing/dialog/2016/2016_barometer_summary_en.pdf).



Figure 16. CSO awareness of Roma organisations in Monitoring Committees\*



\*Question 15. Are you aware of any Roma organisation involved in a Monitoring Committee of the National Managing Authority of the EU funds, such as the European Social Investment Fund or European Regional Development Fund?  
Source: Online survey results, CEPS (2016).

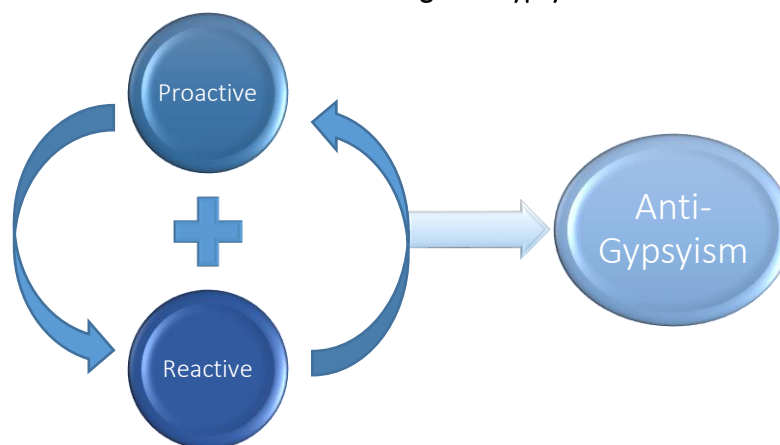
Finally, Article 74 of EU Regulation No. 1303/2013 provides that member states shall ensure the functioning of the **effective complaints handling mechanism** at a national level. Therefore, member states are responsible for making arrangements for the examination of complaints concerning the European funds; examining complaints submitted to the Commission; and informing the Commission of the results of those examinations. The Regulation also provides that failure of a member state to establish a complaints mechanism could lead to temporary or permanent suspension of payments.

## 4. Promising practices to combat anti-Gypsyism: Proactive and reactive actions and experiences

Interviews and desk research have revealed a number of practices and experiences which can be identified as showing features with a ‘promising’ nature and potential when combating institutional manifestations of anti-Gypsyism in the EU. These relate in particular to what we call ‘proactive’ and ‘reactive’ measures and implementing actions:

- **Reactive measures** generally cover actions, projects or programmes that counter discrimination, hate crimes, coercive practices/violence by law enforcement and segregation against various Roma communities. These include, for instance, initiatives focused on access to justice and effective remedies once violations of Roma rights and freedoms have occurred.
- **Proactive measures** focus on actions aimed at debunking myths, misperceptions and stereotypes, and addressing historical misdoings and fostering diversity, dialogue and Roma inclusion and participation. They cover the setting up of specific institutional settings and structures at national, regional and local levels, changing attitudes, designing and conducting trainings and educational programmes, or ensuring participation of Roma communities in targeted actions and their interactions or places of intersection with society at large.

Figure 17: Proactive and reactive measures for combating anti-Gypsyism



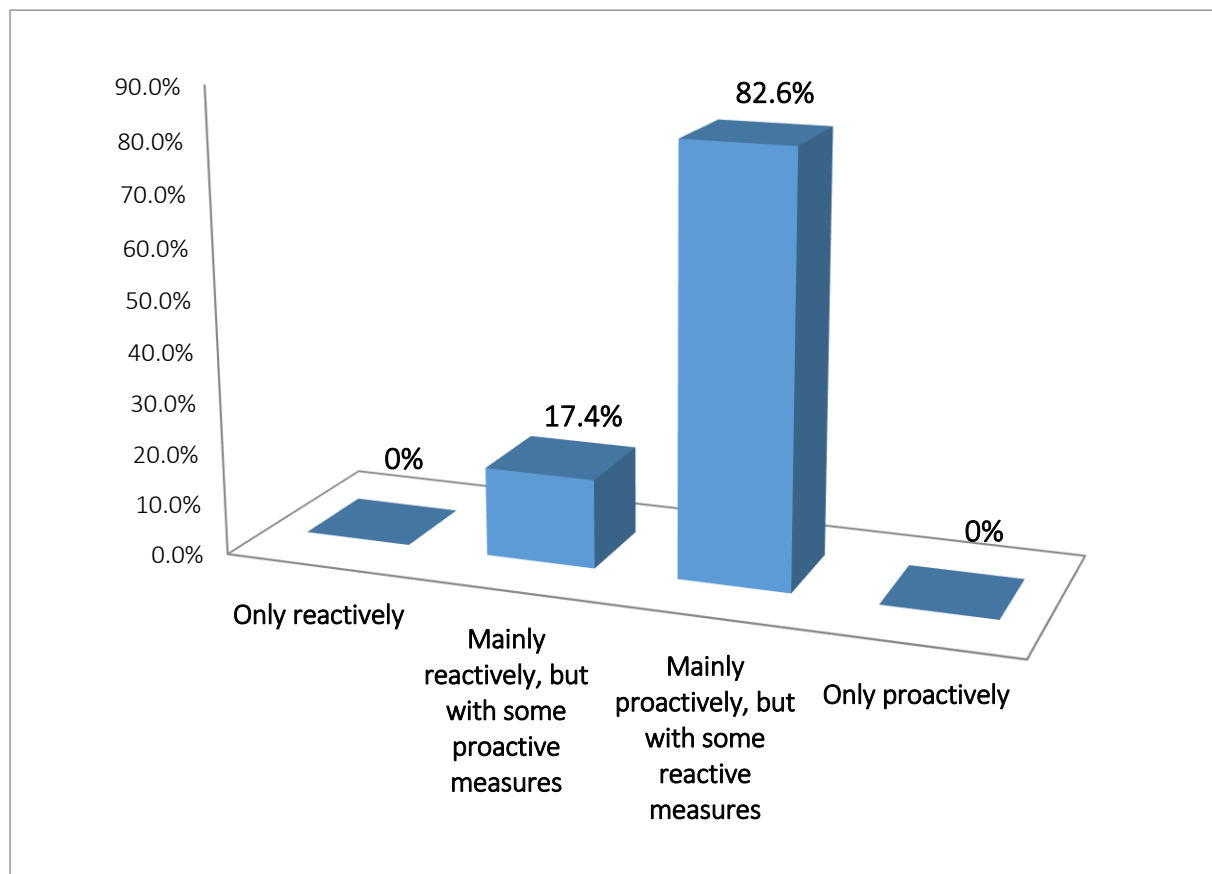
Source: CEPS (2016).

As Figure 17 above shows, ‘proactive’ and ‘reactive’ measures cannot be understood in a rational or temporal fashion; proactive measures are always necessarily *ad hoc* and reactive measures *ex post*. While it may be true that those measures presenting a ‘reactive’ nature usually arrive after a malpractice, incident and/or crime against Roma has occurred, there are other ‘reactive’ measures/actions which seek more generally to ensure access to rights and liberties by the Roma in a wider context of historical exclusion, inequality and discrimination. Furthermore, those presenting a proactive nature could be rather seen as a *continuum* of actions which interact with those presenting a reactive nature. In fact, both reactive and proactive measures may often be complementary in nature, scope and application.

A majority of interview respondents in this Report, when asked whether proactive or reactive measures should receive more funding, stressed that there should be a good balance of both, though some favoured funding proactive measures (see Figure 18). Also, they stressed the measures should be tailored to national or even local contexts. Civil society representatives found greater consensus on the

superiority of proactive measures, though they also recognised the occasional necessity of reactive measures. This can also reflect the area that CSOs occupy, as they are outside of judicial and law enforcement systems. In addition, it should be highlighted that none of the respondents thought that one type of measure would be enough.

**Figure 18. Most effective measures to tackle anti-Gypsyism**



Source: Online survey results, CEPS (2016).

§Therefore, this Section outlines both reactive and proactive practices and experiences. They have been divided into the following four themes: national, regional and local institutional responses (Section 4.1); training and educational activities (Section 4.2); access to justice and effective remedies (Section 4.3); media and political discourse (Section 4.4).

#### 4.1. Institutional responses

A key institutional initiative of the Swedish government set up a **Commission against Anti-Gypsyism** (in Swedish – antiziganism).<sup>66</sup> The commission existed from 2014 to 2016 and was entrusted to directly counter anti-Gypsyism.<sup>67</sup> Composed of nine members, five of whom were Roma, it proposed

<sup>66</sup> For more information, see [www.minoriteten.se/user/motantiziganism/index.html](http://www.minoriteten.se/user/motantiziganism/index.html) <http://www.minoriteten.se/user/motantiziganism/english/about-us/index.html>. See also the Third Interim Report issued in February 2016, [www.minoriteten.se/user/motantiziganism/wp-content/uploads/2015/11/Third-interim-report.pdf](http://www.minoriteten.se/user/motantiziganism/wp-content/uploads/2015/11/Third-interim-report.pdf).

<sup>67</sup> Before setting up this Commission, the Swedish government had already set up a Delegation for Roma Issues between 2007 and 2010 which focused on ways to improve the situation of Roma communities in Sweden through rights-promotion and countering existing cultural, political and societal marginalisation and segregation. The report which resulted from the work of the Delegation recommended the setting up of a reconciliation committee and put forward around 50 proposals on measures for ensuring the human rights of the Roma in Sweden.

establishing a national centre to address Roma issues, and monitored anti-Gypsyism incidents. The commission's main limitations were its short mandate and insufficient concern for all Roma affected by anti-Gypsyism. The main criticism from Swedish civil society, has been that the work against anti-gypsyism cannot only include those who are Swedish citizens because there are many Roma EU citizens and non-EU Roma asylum seekers living in Sweden. Its final report is currently available for review by various institutions and organisations.

In 2012, Swedish government commissioned the publication of the White Paper mentioned in Practice 1 below. This Government's initiative to develop a White paper "The Dark Unknown History" chronicling abuses and rights violations against Roma in the 20th century, took an important step towards recognition and acknowledgement of the problem. It shows that the state has assumed a responsibility for the situation that many Roma living in Sweden find themselves in, since the national policies have reflected anti-gypsyism attitudes. But the Government has not made an official apology following publication of the White Paper nor has it taken specific measures to prevent recurrence of anti-Gypsyism. Notwithstanding these failings, the description below outlines the promising elements that could inspire other Governments to follow the Swedish example.

## PRACTICE 1: SWEDEN

### The White Paper: The Dark Unknown History of Abuses and Rights Violations against Roma in the 20th Century

In 2014, the Swedish government published a White Paper on the abuses and rights violations of Roma during the 1900s: "The Dark and Unknown History". This was an important step towards recognition and acknowledgment of the historical and ongoing discrimination of the Roma community.

The White Paper covers a period of over 100 years and highlights the following areas: mapping of Roma, sterilisation and taking their children into custody, entry ban and regulated immigration and preventing Roma access to housing, education and work.

The Ministry of Employment, which housed the Minister of Integration, was the authority that released the White Paper. In 2012, the government adopted the 2012-32 national strategy for Roma inclusion, to improve Roma living conditions and guarantee their human rights.<sup>68</sup>

Since the situation of Roma today is linked to historical discrimination to which many Roma have been subjected, knowledge of this history is crucial to the government's efforts to improve their living conditions. Accordingly, the publishing and dissemination of the White Paper is also part of the Ministry of Culture's national strategy for Roma inclusion.

The White Paper identified the roles and responsibilities of various social institutions in abuses and rights violations. It acknowledges the responsibility of the government for the situation that many Roma find themselves in, given that government policies have been guided by anti-Gypsyism.

It addresses injustices and attitudes against the Roma community specifically. The community includes both Roma nationals and travellers in Sweden throughout the 1900s.

Educational material based on the White Paper has been developed and disseminated to all schools in Sweden, which have been positively received among teachers and users.

<sup>68</sup> According to interviews with Swedish national officials, "It is a common misconception to believe that Sweden addressed anti-Gypsyism because of the EU. This is incurred because Sweden had almost completed its national strategy when the EU framework policies in this area was adopted. However, the EU intervention has of course helped in pushing forward policies but it has not had a decisive and conclusive role."

Another good example in this regard is **Sweden’s recent “National plan against racism, similar forms of hostility and hate crime”**.<sup>69</sup> It is a joint approach to combating racism and hate crime in Sweden by different authorities, regional and local actors, and civil society organisations. It explicitly mentions anti-Gypsyism. This plan aims to lay the basis for the five strategic areas that the government has identified:

- more knowledge, education and research
- improved coordination and follow-up
- civil society – increased support and dialogue
- strengthened preventive work online
- a more active judicial system

Within these strategic areas, the government has identified the main problems and necessary measures. Some measures included in the national plan:

- The Swedish Media Council will examine the protection of children and young people on the internet with regard to racism, similar forms of hostility, hate crime and extremism.
- The No Hate Speech Movement will be extended until 2020 in order to prevent racism on the internet by raising youths’ media and information proficiency.
- The mission of the Living History Forum to raise awareness of racism will be expanded and training sessions extended to include, in addition to school staff, other professionals such as employment services staff, social workers and police officers.
- The County Administrative Board of Dalarna will be commissioned to develop a working model to strengthen crisis management regarding racism and extremism.
- The government will greatly increase the distribution of funds to promote activities specifically aimed at combating afrophobia, anti-Semitism, **anti-gypsyism**, islamophobia, racism against Sami, homophobia and transphobia.

There are also examples of national structures and programmes with framework measures aimed at fostering equality of treatment of the Roma. In **Germany**, the Ministry of Foreign Affairs employs a **Special Commissioner for Anti-Semitism and Anti-Gypsyism Issues**.<sup>70</sup> In the **UK**, while no official reconciliation or apology has been issued for Roma genocide perpetrated in the UK, the former **Prime Minister did establish a Holocaust Commission** to investigate the injustice.

In **Germany**, in 1982, Sinti and Roma themselves founded **the Central Council of German Sinti and Roma**,<sup>71</sup> an umbrella organisation of 17 regional organisations. Based in Heidelberg, it represents German Sinti and Roma and works for their equal treatment and participation in politics and for their support as minorities. Whereas in the beginning Central Council was established against the will of German government, it has developed a permanent dialogue with the **German Federal Government and regional authorities**.

According to interviews conducted for this Report, the **German** Ministry of Foreign Affairs has played a key role in the decision by the German government to host the **European Roma Institute for Arts and Culture**, a joint initiative of the Council of Europe, the Open Society Foundations and the Alliance for the European Roma Institute, in Berlin.<sup>72</sup> At its next legislative session, the German Bundestag also plans

<sup>69</sup> See <http://politiforum.com/t/alice-bah-kuhnke-sweden-will-be-a-country-free-of-racism/1534>

<sup>70</sup> According to our interviews, the office of the Special Representative has a yearly budget of about €3.4 million, of which €2.4 million is allocated to projects. Until now a small amount of this budget has been spent for remembrance projects on the genocide of Sinti and Roma committed by the Nazis.

<sup>71</sup> See <http://www.sintiundroma.de/> and [www.minderheitensekretariat.de/en/minority-council/central-council-of-german-sinti-and-roma](http://www.minderheitensekretariat.de/en/minority-council/central-council-of-german-sinti-and-roma).

<sup>72</sup> For more information, see [www.opensocietyfoundations.org/publications/european-roma-institute](http://www.opensocietyfoundations.org/publications/european-roma-institute) and for a chronology, see <http://romanistudies.eu/news/eri-chronology>. See also [www.humanrightseurope.org/2016/04/germany-berlin-set-to-host-new-roma-institute-for-arts-and-culture](http://www.humanrightseurope.org/2016/04/germany-berlin-set-to-host-new-roma-institute-for-arts-and-culture).

to set up a specialised **expert working group** (*Expertengremium*) or **independent commission of experts to combat anti-Gypsyism**.<sup>73</sup>

Also in **Germany** a programme called **Live Democracy**, which is being implemented from 2015-19, aims at promoting democratic culture and combating, *inter alia*, right-wing extremism, racism and anti-Semitism. It is the first national programme in the field of combating racism expressly including anti-Gypsyism as one of its thematic areas. Within this programme nine projects are funded which aim at fighting anti-Gypsyism and ensuring equal treatment of Roma. Another example in Germany is the **Alliance for Democracy and Tolerance against Extremism and Violence (BfDT)**, which has financially supported Roma organisation activities. This has included projects by the Central Council of Sinti and Roma, with the objective of keeping alive the memory of the genocide and pursuing Roma empowerment.

In the UK, the **Department for Communities and Local Government (DCLG)**<sup>74</sup> is a governmental body responsible for empowering local communities and fighting hate crime. The DCLG, together with the National Federation of Gypsy Liaison Groups, is in active contact with civil society representatives and co-hosts the **Gypsy Roma Traveller Liaison Group**, which meets quarterly to address hate crime. The DCLG aims to tackle negative attitudes and stereotypes by funding small projects aimed at combating hate crime. This approach combines reporting of hate crime when it occurs and acting to prevent it from occurring.

Some of the member states under examination in this Report have an **Equality Ombudsman**, which plays a key role in promoting non-discrimination within their conferred mandates. They receive and handle individuals' complaints concerning discrimination and harassment and have a general mandate to enforce anti-discrimination legislation and litigate this issue before relevant courts and domestic tribunals.

**The Equality Ombudsman in Sweden** has a broad mandate to combat discrimination but can only pursue cases on the basis of the Discrimination Act, which does not cover all societal areas. For example, it does not cover police operations, correctional cases, the prosecution system and courts. This means that manifestations of anti-Gypsyism, such as registration based on ethnicity on behalf of the police cannot be addressed under the Discrimination Act and fall thus outside the mandate of the Equality Ombudsman.

A further weakness of the Equality Ombudsman institution is lack of the power to pursue cases of discrimination on the basis of the European Convention of Human Rights, which also constitutes Swedish law. Swedish civil society representatives found it concerning, in particular, as the Discrimination Act does not impose a general prohibition on discrimination in society and does not cover many of the rights guaranteed by the Convention.<sup>75</sup> (See sub-section 4.4). Also, only a limited number of cases are pursued by the Equality Ombudsman. During 2014, it received 1,949 complaints but took to court only 25 cases. Due to lack of human resources on one side and a broad mandate on the other, institution only investigates strategic cases that are expected to have a higher wider societal impact. According to civil society respondents, the fact that the institution takes on only **1.3%** of cases has a 'chilling effect' on potential applicants.

A key challenge identified in this area of intervention is how national measures become translated into regional and local policies and address effectively the local realities and practical needs of Roma

<sup>73</sup> Speech by Minister of State for Europe Michael Roth at the conference "Confronting Anti-Gypsyism: The Role of political leaders in countering discrimination, racism, hate crimes and violence against Roma and Sinti Communities", 6 September 2016 ([www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2016/160906-StM\\_R\\_Antiziganismus\\_Konferenz.html](http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2016/160906-StM_R_Antiziganismus_Konferenz.html)).

<sup>74</sup> See [www.gov.uk/government/organisations/department-for-communities-and-local-government](http://www.gov.uk/government/organisations/department-for-communities-and-local-government)

<sup>75</sup> The UN Human Rights Committee has expressed concerns about these limitations in its last review of Sweden in 2016 during its 166th Session.

communities.<sup>76</sup> One respondent in **Sweden** referred to the challenge of ‘local self-governance’ and the difficulty in applying national human rights measures at the municipal level.

Respondents in Sweden have also highlighted that Sweden’s 2012-32 Roma inclusion strategy is not even ‘national’, but merely local. It is undertaken voluntarily by five municipalities for two years at a time. Roma live throughout the country, but the 20-year strategy will address only 25% of Sweden’s municipalities. According respondents, it does not fulfil the objective of being national, nor of being a long-term strategy. This means that local areas and regions, which require the greatest attention, are neglected.

In the **UK**, there are great disparities, depending which region or municipality you live. There is no overarching national strategy to promote Roma integration in the UK and the devolved Governments have taken different approaches to integration. The only clear ‘Roma’ Integration Strategy to date has come from the Welsh Government.<sup>77</sup> However, there are some pro-active municipalities that have designated consultative bodies with Roma representatives, as for example, Birmingham City Council. In **Spain** the main challenge is the local level. Some respondents said many local governments are openly racist and do not use available funds to combat racism and discrimination against Roma communities.

A similar challenge was mentioned in the interviews conducted in **Romania**, where respondents expressed the view that despite national governments committing politically before the European Commission to addressing the situation of Roma, there appear to be major struggles and a lack of common understanding between the central government and local and regional authorities when it comes to what should be done and implemented at local level. According to the respondents, whereas the central government is trying to implement certain policies in the area of fighting poverty, some of local and regional politicians try to block such initiatives of the competence to national authorities.

In **Germany**, "**Beratender Ausschuss**" was the first is an NGO, the latter in 2015 – turned into a body that was created to coordinate policies related to German Sinti and Roma. "**Beratender Ausschuss**" could be a promising example itself, as it acts as a consultative body consisting of politicians, ministerial representatives and representatives of the minority. This body and its members in federal states are regularly consulted in bilateral meetings. In some federal states, the dialogue is subject of specific contracts between the state and the minority groups.

## 4.2. Training and educational initiatives

Training and pedagogical activities can play a key role in addressing anti-Gypsyism and its manifestation in institutional racism. Our research has found some very interesting national initiatives and promising projects.

The set of semi-structured interviews underlined that **police and law enforcement forces are often poorly trained and sensitised** in issues related to Roma communities as well as crimes committed against them. Tailored training measures can therefore prove to be of critical added value. In Sweden it has been reported that there is a lack of human rights and anti-bias training of new police recruits at national level. However, **police forces do receive primary training to identify and investigate hate crimes more generally**, in particular police who are the telephone contact who must be equipped with ‘equal treatment strategies’ and human rights training. But human rights perspectives are still generally lacking among police and law enforcement officials.

In **Romania**, it has been reported that there have been sporadic training sessions targeting public administration officers, magistrates, policemen, etc. These tend to lack overall coherence and regular

<sup>76</sup> See [www.statewatch.org/news/2016/oct/coe-roma-travellers-report.pdf](http://www.statewatch.org/news/2016/oct/coe-roma-travellers-report.pdf)

<sup>77</sup> Welsh Government (2012), “Travelling to a Better Future” (<http://learning.wales.gov.uk/docs/learningwales/publications/121115gypsytravelleren.pdf>) and update (2013) (<http://wales.gov.uk/docs/dsjlg/publications/equality/131105gypsy-trav-framework-n.pdf>).



frequency. Bureaucrats lack continuous training and the state **lacks any kind of ethics policies regarding journalism and media.**

In **Spain**, the general prosecutors office and the judiciary receive an annual one-month training regarding hate crimes and racial discrimination, conducted by the General Council of the Judicial Power (*Consejo General del Poder Judicial*). However, our interviewees expressed **doubts about their effectiveness.** While there are about 2,500 prosecutors in Spain, only 40 receive this training. These same training sessions have been said to lack a focus on specifically protected groups. A **Guide to Police Management of Diversity** provides a legal protocol to treat groups (including LGBTQ, immigrants, people with disabilities and Roma) in a non-discriminatory manner. Furthermore, the Directorate General for Equality and Non-Discrimination in the Spanish Ministry of Health, Social Services and Equality offers a course to public officials (especially social workers, teachers, doctors and the police)

Interviews in **Sweden** revealed some interesting **local initiatives in police training.** Skane, a municipality in southern Sweden, set the goal of administering a Roma community and history course to 500 police officers by 2016. This took place in cooperation with the Malmö police and the Malmö Roma Information and Knowledge Centre. The aim was to increase trust in the police and the influence of the Roma community on how police work, in the wake of the revelation of an illegal police registry of some 4,700 Roma in Skane. Furthermore, in three major cities specific hate crime units are now in place (Stockholm, Malmö and Gothenburg) and national training for investigations has been conducted. Other parts of Sweden, according to civil society respondents, still lack expertise.

Some **universities are involved in training national officials.** Interviews revealed that the **University of Uppsala in Sweden** was granted a mandate to train state officials in human rights-related issues. The university created a webpage ([mr-forum.se](http://mr-forum.se)) where government officials have access to information and advice concerning human rights work and educational activities. The university also created a special training voluntary human rights programme. Unfortunately, interviews confirmed that neither the police authority nor the judiciary has taken the course. Some municipalities, however, have decided that all employees should take part in it.

In **Romania**, the National Council for Combating Discrimination (NCCD) has for more than 11 years provided anti-discrimination training for judges, police, gendarmes, prosecutors and other public servants. In addition, the NCCD organises annual anti-Gypsyism courses. In 2016 there were seven courses on this topic for magistrates. Another initiative in Romania aims at fostering tolerance among young people. Whereas youth and other multipliers trainings play an important part in making society more diverse and inclusive, for this Report, police training was chosen as it is more directly linked to combating institutional forms of anti-Gypsyism, namely by the law enforcement, unfortunately, playing a part in contributing to, not combating this phenomenon.

## PRACTICE 2: ROMANIA

### My Tolerant School

This project aims at creating an anti-gypsyism pedagogical kit for use by teachers in the classroom. Through an advocacy campaign, it seeks to introduce elements of Roma history into the school curriculum and to impart and discuss with 1,000 high school students Roma history and other elements that can develop anti-Gypsyism attitudes.

At the beginning of October 2016, a partnership agreement promoted by Impreuna Agency for Community Development Foundation was signed between the Ministry of Education and Scientific Research, the Elie Wiesel National Institute for Studying the Holocaust in Romania and the National Centre for Roma Culture – Romano Kher. The aim of the partnership is to develop one set of educational materials to support teachers' training and to inform students, parents and the general public about the realities of Roma slavery in Romanian principalities and the Holocaust.

It is financed by the “Remembrance, Responsibility and Future” Foundation, and a small contribution from the National Centre for Roma Culture.

The project expects to:

- develop a pedagogical information kit about Roma history: “Roma Slavery in Romanian Principalities and the Holocaust”;
- train 100 high school history teachers in the history of Roma slavery in the Romanian principalities and the Holocaust;
- organise 100 lessons with activities from the pedagogical kit (organised by each teacher participant in the training programme) with at least 10 other history teachers;
- deliver 1,000 class lessons with activities from the pedagogical kit “Roma Slavery in the Romanian Principalities and Holocaust”; and
- establish a working group with the aim of introducing Roma history in the school curriculum.

An interesting initiative can be identified in **Germany**. This is the **Documentary and Cultural Centre of German Sinti and Roma**, established in 1997. It combats anti-Gypsyism by raising awareness in German society and more particularly among officials and civil servants dealing with Roma. This takes place mainly through permanent and mobile exhibitions on Sinti and Roma and the Nazi genocide. It also delivers training in schools, universities and civil administrations. The centre cooperates with the above-mentioned Central Council of German Sinti and Roma as well as a range of state institutions and civil society organisations. The centre has mentioned the organisation *Gesicht Zeigen!* as a promising practice. The organisation aims to fight racism and xenophobia by strengthening the commitment to social civility and raising awareness of any kind of discrimination. It initiates public campaigns in favour of civil participation and develops projects supporting tolerance and eliminating prejudice.<sup>78</sup>

### PRACTICE 3: GERMANY

#### *Documentary and Cultural Centre of German Sinti and Roma*

The centre holds the most documentation of any institution in the world on the history of German Sinti and Roma, especially of the genocide perpetrated by the Nazi regime, on which it has a permanent exhibition. The centre aims to keep alive the history and culture of German Sinti and Roma through lectures, film screenings, exhibitions, concerts and excursions. It aims at promoting intercultural dialogue and understanding.

It is composed of four departments focused on: consultation and awareness raising, education (gathering information and private education/training services for schools, universities, civil servants and law enforcement), dialogue (mobile exhibitions and events at schools and institutions), and documentation (genocide, memories of survivors, literature review).

It has an independent legal status and works very closely with the Central Council of German Roma and Sinti. It is funded by the German Federal State and by the Land Baden-Württemberg.

The centre is a promising initiative because it provides a wide audience with information on German Sinti and Roma and on the genocide perpetrated against them by the Nazis. It raises awareness of the historical persecution of Sinti and Roma and of the discrimination they are still facing today.

A similar promising practice was found in the region of Andalusia (**Spain**) where regional authorities created The Roma Socio-Cultural Centre.

<sup>78</sup> For more information on this project, see <http://www.gesichtzeigen.de/>.

## PRACTICE 4: SPAIN

### *Roma Socio-Cultural Centre of Andalusia (Centro Socio-Cultural Gitano Andaluz)*

Created in 1989, in Granada, the centre is associated with the Regional Ministry of Equality and Social Welfare, and part of the Regional Policy Framework for Equality and Social Inclusion.

Since its inception, with the aim of promoting a positive image of Roma and deconstruct stereotypes in the public imagination, the centre has hosted a wide range of activities, e.g. film screenings, a library on Roma issues, a musical archive, concerts, film festivals, conferences, exhibitions, courses on Roma history and Roma language, public celebrations of Roma International Day and Roma Regional Day. For this purpose, the centre has continuously worked on cultural programming intended to stimulate intercultural dialogue among Roma and non-Roma, in order to enhance peaceful co-existence based on tolerance and mutual respect.

Its longevity – 27 years and counting – is a testament to its success. According to one interviewee, the centre's services are in high demand by university students, local CSOs and university departments, mainly sociology, anthropology and the humanities. Thus the centre fills the vacuum left by the University of Granada's lack of Romani studies. However, the centre has no research office or publications department, which would help to create new materials to teach Roma history and culture and debunk stereotypes.

Since its creation, the centre has received EU structural funds, namely from the European Social Fund via the Regional Government of Andalusia. Approximately 60% of its budget for social programmes comes from the ESF. Andalusia has renewed its social action plan through the ESF Operative Funding Programme for the period 2014-20.

In the UK, the **Anne Frank Trust** ([www.annefrank.org.uk](http://www.annefrank.org.uk)) works to prevent hate crimes. It targets young people at the most rundown schools in the most deprived areas with the aim of eradicating prejudice and discrimination and imparting knowledge and skills to help the young build a firm foundation for their future. Evaluation of the trust's work has shown a real attitude change on the part of participating students. Other interesting initiatives in the UK address anti-Muslim and anti-Semitic attitudes:

- **Tell Mama**<sup>79</sup> supports victims of anti-Muslim hate and is excellent at using social media. Its expertise could be tapped to address anti-Gypsyism.
- **Streetwise**<sup>80</sup> works nationally with Jewish schools and community organisations to enhance the personal safety and development of young Jewish people. This might be expanded or replicated to include Roma.

At the **international level** several promising practices focus on remembering Second World War events, including the Jewish and Roma Holocausts. For example, the Council of Europe and OSCE/ODIHR developed a **Roma remembrance website**,<sup>81</sup> which includes Roma history and culture teaching materials, and organisation of events and working meetings on the Roma genocide.

### 4.3. Access to justice and effective remedies

'Access to justice' includes 'access to police and effective investigations' on the one hand and 'access to court (including legal aid) and effective remedies by courts' on the other. It focuses primarily on the first category, although more research could be conducted on assessing access to courts. Interviews conducted for this Report have documented the existence of important barriers to accessing effective

<sup>79</sup> See <http://tellmamauk.org>

<sup>80</sup> See [www.streetwisegb.org](http://www.streetwisegb.org)

<sup>81</sup> See <http://roma-genocide.org/en/pedagogical-material/training-material-for-teachers-and-trainers>

police investigations. The barriers reflect negative bias among police officials, which can translate into illegal ethnic registers such as the one in Skane, Sweden. In addition, a lack of clear procedural obstacles prevents effective prosecution of crimes against Roma, such as hate speech. There has been a reported **gap between incidents/crimes against Roma communities and actual convictions**. In addition, there is a lack of trust between Roma communities and police officials. Finally, awareness of anti-discrimination or anti-racism legislation is very low, owing especially to the Roma community's low literacy level.

For example, in **Sweden** prosecution against perpetrators of hate speech in written form can only be brought by the Chancellor of Justice. It has been reported by the interview respondents in Sweden that the Chancellor of Justice has shown a documented unwillingness to bring any but the most serious cases to justice (Civil Rights Defenders, 2003).<sup>82</sup> Moreover, Swedish authorities have signalled during our interviews that “anti-Gypsyism is naturally a part of the overall plan to combat hate crimes and the protection of fundamental rights”, but **it is not an explicit or specific type of hate crime targeted by tailored national actions**.

In **Spain** there is a **Special Service to assist victims of racial and ethnic discrimination** within the Directorate General Equal Treatment and Non-Discrimination within the Secretary of the National Council for the Elimination of Racial and Ethnic Discrimination in the Ministry of Health, Social Services and Equality.<sup>83</sup> The main goal of this service is to provide assistance, advice and consultations to victims of discrimination in pursuing their complaints, but it does not engage in litigation.

The Special Service has centres in Spanish cities, where people who believe they have been victims of racial discrimination can consult a professional in the field of equal treatment and receive advice. The service is delivered in practice by non-governmental organisations, with *Fundación Secretariado Gitano* working especially with Roma. It is funded mainly by EU Social Funds. Our interviews revealed, however, that very few cases result in compensation being awarded to victims of discrimination or the perpetrators being sanctioned.

## PRACTICE 5: GERMANY

### *Registering ‘anti-Gypsyist’ incidents: Empowering victims of discrimination*

This is an initiative to register anti-Gypsyist incidents. It produces an annual report of the number of cases, the perpetrating institutions and their patterns of frequent discrimination. Many reported incidents have occurred when Roma EU citizens interact with civil servants of institutions in the fields of education, employment, housing and health services.

The project is implemented by the Roma organisation Amaro Foro and is funded by the Landesstelle für Gleichbehandlung – gegen Diskriminierung (LADS) (Berlin State Office for Equal Treatment and Against Discrimination) in the framework of the “Roma Action Plan” of Berlin Administration.

The target group is mainly Roma nationals of Bulgaria and Romania and therefore EU citizens living in Berlin. The Berlin administration expects this monitoring exercise to acquire knowledge on patterns of discrimination among its own civil servants, for use in developing and implementing measures to educate them.

<sup>82</sup> See also UN Committee on the Elimination of Racial Discrimination which expressed concern at the “reported discrepancy between increased reports to the police of hate crimes and the decrease in the number of preliminary investigations and convictions”. The Committee also noted that measures against hate crimes are only applied in certain parts of the country and urged Sweden to “extend all parts of the country the training given to the police, prosecutors and judges to effectively investigate, prosecute and punish hate crimes, in order to close the gap between reported incidents and convictions”, CERD/C/SWE/CO/19-21, para. 11.

<sup>83</sup> See [www.igualdadynodiscriminacion.msssi.es/home.do](http://www.igualdadynodiscriminacion.msssi.es/home.do)

In Spain, regional and local-level policies seemed to be more effective for countering discrimination of Roma communities. Interviews have revealed that the **prosecutor's office in Barcelona** (see Practice 6 below) has been addressing cases of police brutality against the Roma, some of which ended with the perpetrators in prison.

## PRACTICE 6: SPAIN

### *Service of Hate Crimes and Discrimination, Prosecutor's Office of Barcelona*

The City of Barcelona is a pioneer in implementing a public prosecutor's office of hate crimes and discrimination. In 2009, the Office of Hate Crime and Discrimination was created with the aim of providing a specialised response to crimes that threaten the principles of equality and non-discrimination. Following this, since 2013, each province in Spain has had a public prosecutor specialised in this field.

It is part of the Prosecutor's Office of Barcelona, part of the national strategy for equal treatment and non-discrimination and part of the national security strategy. It reports to the Ministry of Justice and the Public Prosecution Office. It also receives funds from the Generalitat of Catalonia and from the City of Barcelona. It targets groups protected by the Spanish penal code according to Article 510: ethnic, racial, religious, sexual or national minorities and people with disabilities.

The main strength of Barcelona's Office of Hate Crimes is its collaboration with civil society organisations, which helps raise social awareness of its work to encourage victims to denounce hate crimes, and to increase security of the protected groups. One of the office's main weaknesses is that does not use specific categories to cover different cases of racism. Apart from a specific category of anti-Semitic crimes, all other issues of racism are under the same category of crimes against ethnic, racial or national minorities.

A key shortcoming in providing access to justice is **the failure to investigate cases against Roma**. In **Sweden**, for instance, it has been reported that many cases are shut down before they even reach the investigation phase. The interviews in Sweden have referred to the existence of an **anti-hate crime group within the police force that works on hate crime cases**. Such **specialised units** have been set up to fight hate crimes and promote democracy **in urban areas**.

For 10 years Stockholm has been home to an anti-hate crime group which investigates hate crimes and other crimes against fundamental rights and freedoms. However, it has been said to lack any special focus on the Roma community.

In **the UK**, interviewees reported that sensitisation of police officers varies greatly. Police forces may give their staff cultural-awareness training but this may not be effective when set against a working environment in which community members are routinely seen in a negative light.

In Romania the National Institute of the Magistracy (NIM), which is in charge of providing **professional training to judges and prosecutors**, was a partner in the "Equal Access to Justice for Roma" project. The initiative was coordinated by the Romani CRISS association and financed by the European Commission's Criminal Justice Programme. It organised continuous training seminars for judges and prosecutors in the field of national and international legislation and supranational case law against racism, in particular in criminal justice matters.

Another example in Romania is the project "Improving access to justice – an integrated approach with a focus on Roma and other vulnerable groups". It was funded by the 2009-14 Norwegian Financial Mechanism and runs until 2017. The goal was to ensure **better access to justice according to the European standard and the constitutional principle of equality before the law**. Activities included awareness-raising campaigns and legal consulting in regions where Roma communities are more represented as well as professional training of judges, prosecutors and lawyers.

In the **UK**, the number of hate crime incidents perpetrated against ethnic minorities has risen sharply in relation to the BREXIT debate. This provoked reactions from Roma organisations to better inform and empower the targeted groups and wider society. Thus, the projects introduced are both proactive, as they are intended to prevent hate crime (such as “No Space for Hate” – see Practice 7 below) and also, reactive. Campaigns such as the “Report Racism Gypsy, Roma, Traveller”\_website<sup>84</sup> are a response to rising levels of hate crime (and under-reporting of such incidents through “official” channels by community members).

### PRACTICE 7: THE UK

*“No Space for Hate”: a project aimed at combating hate crime in the Birmingham area (www.nationalgypsytravellerfederation.org)*

This project is implemented by the National Federation of Gypsy Liaison Groups and brings together various ethnic and faith communities (including but not exclusively Roma) in the West Midlands. The project addresses hate crime, focusing primarily, but not exclusively on race and religious hate crime, working with community and faith groups, with young school-age people and key local agencies to present a positive message about diverse communities. “No Space for Hate” embeds combating anti-Gypsyism into wider anti-racist policies and practices.

The project is linked in with other minority ethnic groups as well as initiatives involving the local authority (Birmingham City Council). Sustainability is the main challenge as funding is foreseen for only one year, although it is hoped to extend it into other parts of the Midlands. In addition, it fits in well with the Government’s policy regarding hate crime, in particular work of Home Office and Department for Communities and Local Government (DCLG).

In addition to the above-mentioned project in the UK, the new ‘negotiated stopping’ approach is leading to better cooperation between Roma civil society, the local authorities, local police and members of the “settled” community.

### PRACTICE 8: THE UK

*Negotiated stopping: A restorative approach to managing unauthorised encampments by Gypsy and Traveller people<sup>85</sup>*

‘Negotiated stopping’ is a compromise solution for Gypsy and Traveller communities in the UK. It was developed by the CSO Leeds GATE and has been adopted by a growing number of local authorities. ‘Negotiated Stopping’ is also the name of an agreement reached between a local authority and members of the Gypsy and Traveller communities who need to temporarily park their caravans somewhere. The agreement may apply to a location that Gypsies and Travellers have chosen themselves to occupy, or it may be applied to another area that the local authority itself advises them to use.

Gypsies and Travellers have to agree on simple terms (such as not lighting large fires or dumping commercial waste). The authority would usually agree to provide household rubbish disposal and

<sup>84</sup> See for more information <http://reportracismgrt.com>

<sup>85</sup> See <http://leedsgate.co.uk/negotiated-stopping/an-award-winning-way-of-moving-beyond-no>



sanitation of some sort (skips and portaloos). Gypsies and Travellers often offer to contribute to the cost of facilities offered, which reduces costs for the local authorities.

Negotiated stopping seeks to treat Gypsies and Travellers as individuals responsible for their own behaviour and relations with their neighbours. It enables enforcement against individual infringements rather than the traditional 'whole group' eviction methodology which does nothing to address individual behaviour or indeed individual needs such as healthcare or education. It builds an ongoing dialogue and relationship with neighbours and local police, which can be increasingly based on personal contacts between individuals.

Achieved outcomes include measureable change of practice in Leeds and Rochdale leading to cost savings for local authorities and improved quality of life for families. Longer-term desired outcomes include promotion of restorative approaches in national guidance.

The initiative is partly funded by the Esmee Fairbairn Foundation and was previously supported by the Equalities and Human Rights Commission.

#### 4.4. Political discourse

Interviewees across all five Member States and at the EU level highlighted **the political will to combat anti-Gypsyism as one of the key conditions for success**. The focus group discussion indicated that negative attitudes about Roma in public and negative or outright hate speech by local and national politicians are two sides of the same coin. Discussants agreed that it is an important area for intervention for policy-makers and civil society, and should be better monitored by the EU. At the moment, it seems that not much has been done in this area from the perspective of EU funding. Two of the EU-level respondents said they know cases where outright racist speeches by local or national politicians were made at EU-funded events and the same local politicians were receiving Cohesion Funds.

At national level, three types of 'promising practices' were identified in the field of public debate: 1) key politicians either promoting tolerance or standing up against institutional racism and hate speech/hate crime; 2) the presence of strong media laws and guidelines; and 3) assumption by civil society of responsibility to act proactively and to educate the media.

### PRACTICE 9: GERMANY

#### Opening of a memorial in Berlin to Roma Nazi Holocaust victims<sup>86</sup>

Opened by Chancellor Angela Merkel on 24 October 2012, a memorial for Roma Holocaust victims in Berlin is a good example of proactive political communication to combat anti-Gypsyism and strengthen the politics of remembrance. Participation of the highest-ranking politicians sends a strong message throughout society that the German government is committed not only to remember but also to prevent anti-Gypsyism.

Chancellor Merkel's 27 September 2016 speech<sup>87</sup> on the 70th birthday of Romani Rose, Chairman of the Central Council of German Sinti and Roma, also demonstrated that acknowledging anti-Gypsyism

<sup>86</sup> See <http://www.bbc.com/news/world-europe-20050780>

<sup>87</sup> See [www.bundesregierung.de/Content/DE/Rede/2016/09/2016-09-28-rede-bkin-romani-rose.html](http://www.bundesregierung.de/Content/DE/Rede/2016/09/2016-09-28-rede-bkin-romani-rose.html)



as a widespread and serious phenomenon in Germany encourages efforts to address it and place it higher on the political agenda.

Chancellor Merkel said, “A special concern is the fight against anti-Gypsyism, anti-Semitism and right-wing extremism.” She further encouraged society not “to just turn away in disgust” from racist speech and acts, but to act both proactively and reactively, using legal avenues that are created for the purpose.

She called for the study, investigation and prosecution of anti-Gypsyist, anti-Semitic and racist incidents:

We must not be silent when warning words are needed. We must resolutely use the instruments of the rule of law when there are crimes that need to be persecuted. Most of all we must educate, and prevent and inhibit that the seed of racist and anti-Gypsyist thoughts can germinate...

Therefore, to say it quite clear: The mechanisms of delineation and exclusion, the rejection of everything that appears alien, weaken our social cohesion, even endanger it, and further – according the report on the German Unity – they damage the economic development of our country. This is a finding which should make us all wonder in Germany – and, of course, beyond Germany.

Speeches recognising and encouraging the fight against anti-Gypsyism can thus be a sign of strength for a government and of its commitment to upholding rule of law mechanisms and ensuring fundamental rights.

Another example indicates how political leaders step up for Roma rights in **Romania**.

## PRACTICE 10: ROMANIA

### Messages of Prime Minister Dacian Cioloș on the occasion of International Roma Day (8 April 2016) and President Klaus Iohannis on Roma Liberation Day (19 February 2016)

Prime Minister Cioloș’s International Roma Day speech referred to ethnic minorities in Romania and anti-poverty politics: “We hope the anti-poverty package to contribute substantially to solving problems in the area of social inclusion and access to education, and to developing the living standards of all communities and ethnic groups in our country.”

President Iohannis’s Roma Liberation Day speech highlighted the importance of law no. 28/2011, which acknowledges the 1856 “day of public solemnity will be decided in order to celebrate for eternity this act of abolition slavery”. He stressed that this law “marked the second most important moment in assuming political responsibility for the Roma history, after adopting the Report on the Romanian Holocaust”.

According to the president, the change in legal basis gave an impetus to the development of the institutional and strategic framework for the collaboration between public authorities and Roma civil society. He stressed that how Romania copes with its minority “is a challenge for the maturity, cohesion and wisdom of the Romanian society in general”.

In **Romania**, the above-mentioned public discourse has made a lot of progress since 2007, when the former President Traian Basescu could get away with calling a journalist “stinky Gypsy”.<sup>88</sup> Unanimous condemnation by the highest ranking politicians – not mere fines – is what impresses upon the public

<sup>88</sup> See [www.antena3.ro/en/politics/the-case-file-stinky-gypsy-in-which-the-former-president-of-romania-traian-basescu-is-accused-of-295153.html](http://www.antena3.ro/en/politics/the-case-file-stinky-gypsy-in-which-the-former-president-of-romania-traian-basescu-is-accused-of-295153.html)

the illegality, and immorality, of such acts. The Romanian leaders cited above showed a promising example of how state officials can send a strong message to the public.

### PRACTICE 11: ROMANIA

#### Press conference of the Ministry of Justice, Ministry of Education, Ministry for Social Dialogue and Ministry of European Funds

On 8 April 2016 the National Centre for Roma Culture organised cultural events in celebration of International Roma Day. For the purpose of hosting events at University Square in Bucharest, the centre pitched a tent that a group of youngsters vandalised by throwing stones and writing hate messages such as “Death to the Gypsies”.

The next day, a press conference was organised in front of the tent and public figures spoke about the need to fight anti-Gypsyism in Romania. Minister of Justice Raluca Pruna said:

I regret very much that I have to stay in front of this tent where such a message is written and I believe this message should compel the state to take action and punish the ones that bring us such a prejudice.

At the press conference were also present the Ministry of Education, the Ministry for Social Dialogue, the Ministry of European Funds, state secretaries, advisers and civil society representatives. In the end, all of them tried to wash away the message.

The Police officers opened a file for incitement to hatred or discrimination and, on 10 April 2016, three persons were arrested and imprisoned for 244 hours. They acknowledged their action and apologised to the Roma community.

#### 4.5. Media monitoring and combating hate speech

This Report looks into media regulations across the five Member States under review. In **Sweden**, the responsible authorities are the **Chancellor of Justice** or the **Swedish Broadcasting Commission** (depending on the medium). The Chancellor of Justice has settled a few cases where anti-Gypsyism was spread via media. Ten years ago, anti-Gypsyist cases against the media were dropped by the Chancellor of Justice. The Swedish Equality Ombudsman ‘filled the vacuum’ by arranging a dialogue with 20 Roma organisations and the Chancellor of Justice, where they discussed the situation and legislation on hate speech. Equality Ombudsman could only refer cases to responsible authorities, as it does not have authority over freedom of speech cases.

In **Romania**, some media-related **hate speech cases** were penalised by the **National Council for Combating Discrimination (NCCD)**. In the **UK**, cases have been reported to the **Independent Press Standards Organisation**, but there is a practical problem for civil society organisations to litigate, because only individual complaints are accepted. Thus, under UK law, only individuals, not groups, can make a claim of having been denigrated. Respondents believed that sanctions should have a ‘disciplining effect’ – the more fines and sanctions the media receive, the more likely their coverage of Roma will change.

In **Germany**, **illegal hate speech** is targeted by Art. 136 of the *Volksverhetzung* (incitement of the people) criminal law and is punishable by three months to five years in prison and/or fines. To determine the effectiveness of these laws, however, would require a separate examination.

In **Sweden**, as regards to online hate speech, guidelines for media, press ethics rules and legislation have been adopted. The Swedish law on electronic notice/message boards places the responsibility for removing messages containing hate speech on the online media provider. This is in contrast with

**Romania**, where there is a lack of regulation of online media, although there is a National Council of Audiovisual Media and an ethical and deontological code of journalism. Some respondents in Romania argued, however, that the state should not promote ethical journalism in the belief that ethics should be maintained via media self-regulation.

In **Germany**, the most representative case of actions against political defamations of Roma has been that of former Federal Minister of the Interior Hans-Peter Friedrich (CSU), who several times during 2013 called upon authorities to expel “poverty migrants” from Romania and Bulgaria “abusing the German social systems”. The **Amaro Foro Organisation** organised a campaign supported by several members of the Bundestag demanding that Friedrich stop making public statements of this kind. Such discourses have fuelled the negative image of Sinti and Roma and fostered prejudice within society.

**Also in Germany**, the **Central Council for German Roma and Sinti** has played an active role in calling on German politicians to refrain from instrumentalising and sensationalising the topic of Roma communities. It has established a working relationship with the **German Press Council (Presserat)**: Every year in November, the Central Council submits to the Federal Press Council a list of anti-gypsyist mentions in the press. The Central Council demands the Press Council to oppose this negative portrayal of Sinti and Roma in the media. In addition, the Central Council calls for better representation of Roma at the **supervisory board for private media in the Federal State of Germany**.<sup>89</sup> Thanks to the dedicated intervention of the Central Council for Roma and Sinti, most mainstream media do not report on the ethnicity of individuals if it has no relevance for the story.

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<sup>89</sup> See <http://zentralrat.sintiundroma.de/arbeitsbereiche/minderheitenrechte/>.

## 5. Conclusions and recommendations

### 5.1. Conclusions

This Report has examined the value added of the notion of ‘anti-Gypsyism’ in the EU and selected Member States, and its various manifestations in institutional forms of racism, discrimination and exclusion towards Roma communities. It has explored the contribution of the anti-Gypsyism concept in addressing the situation of Roma communities in the EU, particularly when it comes to institutionalised, structural or systematic forms of anti-Gypsyism.

Special attention has been paid to identifying the existence of ‘promising practices’ – particularly by governments and judicial and law enforcement actors – in addressing and/or combating racist, exclusionary and discriminatory treatment, attitudes and policies/practices towards Roma in the following five EU Member States: Germany, Romania, Sweden, Spain and the UK. The Report has also investigated the prevailing policy or normative approaches to anti-Gypsyism and the gaps in current EU policies and financial instruments. This section concludes and provides an overview of the main findings identified in the Report. On these bases, it puts forward a set of policy recommendations for national and EU policy-makers.

#### 1) Added value and official uses of the notion of anti-Gypsyism

This Report has provided an overview on whether and how the concept of anti-Gypsyism is used by national policy-makers and key stakeholders in the five selected Member States. Our research has found that the concept is used and valued among policy-makers in Sweden and Germany. There is a close correlation between the use and value of the concept of anti-Gypsyism and a proactive approach by state institutions to tackling the challenges faced by Roma communities and individuals.

The notion is used partially, although informally, in Spain and Romania, and almost not at all - in the UK. Nevertheless, the UK, Spain and Romania seem to be combating some of the anti-Gypsyist manifestations via national anti-racism and equality laws, as well as laws preventing hate speech. The efficiency of general laws to redress anti-Gypsyist incidents and systemic fundamental rights violations of Roma remains however questionable, as anti-Gypsyism is perceived by respondents as one of the “last tolerated forms of racism”.

At the EU level, there is an increasing acceptance and usage of the ‘anti-Gypsyism’ concept by the most important institutional actors. The Council, European Commission and the European Parliament, as well as bodies such as the European Court of Auditors and the EU Fundamental Rights Agency refer expressly to this term in their documents. At the moment the concept has different and often divergent meanings for each of these EU actors. According some EU level policy makers - anti-Gypsyism is treated as an ‘horizontal policy priority’ across other sectoral policies. The Report has also shown that a majority of policy-makers agree that the concept is perceived to bring clear EU added value in combating institutional manifestations of racism, discrimination and exclusion towards Roma communities in the EU. However, in practice, there is little of explicit policy targeting of the institutional and structural manifestations phenomenon.

#### 2) A narrow personal scope of the ‘anti-Gypsyism’ concept

The institutional responses to anti-Gypsyism in Sweden and Germany are among the most ‘promising’, as they target historically rooted aspects of institutional racism. They present limitations regarding the personal scope by covering only ‘national Roma minorities’. Combating anti-Gypsyism as an issue of recognised ‘national minorities’ has an inherent drawback, as the issue would be addressed only in Member States where national Roma communities are of significant size. Our research identified important gaps in protection of Roma EU citizens who have exercised their freedom of movement to

other Member States. Such narrow personal scope also excludes the protection of Roma asylum-seekers from Western Balkans countries.

### 3) Focusing on responsibility for combating institutional racism to the state

The concept of ‘anti-Gypsyism’ provides more precise identification of policies and mechanisms through which the Roma communities are systematically excluded from inclusion and equality within and by state institutions at national and local levels. A previously vague (and, in itself, potentially discriminatory) focus on the responsibility of Romani communities to “integrate” is replaced by a focus on the state to take effective action for ensuring equal and access to rights and complying with democratic rule of law principles enshrined as foundations in the EU Treaties.

A majority of policy-makers interviewed for this Report acknowledged the added value of the anti-Gypsyism concept in terms of awareness-raising about Roma history and in changing the public debate. However, they expressed doubts about its legal added value. That notwithstanding, the legal practice of shifting the burden of proof to the state authorities in cases of alleged fundamental human rights violations already exists in the EU and international law, in particular in human rights monitoring bodies in the United Nations and other international and regional rule of law monitoring instruments such as in the Council of Europe. Judicial and quasi-judicial monitoring bodies would see anti-Gypsyist incidents not as singular and particular events, but rather as ‘systematic’ state practices. It would be for the government concerned to prove that it had done everything to prevent and address a particular human rights violation.

### 4) The prevalence of a Roma integration approach over an inclusion and Anti-gypsyism focus in EU policies and funds

Our research indicates that the Roma integration approach is prevalent both at the EU and national levels. It became the prevalent EU policy response to the 2010 Roma affair in France. This is despite the fact that in 2009 the European Roma Platform called for the Common Basic Principles on Roma *Inclusion*, not ‘integration’. The goals of ‘Europe 2020 strategy’ are mainly pursued via the EU National Frameworks for Roma Integration Strategies up to 2020. As a consequence, a majority of EU policy efforts and funding is channelled towards ‘Roma integration’.

Whereas, socio-economic improvement of the Roma community’s living conditions is a very important goal, the fundamental rights and rule-of-law angles to combat institutional forms of anti-Gypsyism in the EU are underdeveloped in EU policies. In this context, Roma inclusion efforts may not reach their aims, without complementary rule of law and fundamental rights approaches combating anti-Gypsyism in its systematic, structural and institutional manifestations. European supervisory bodies such as the European Ombudsman or the European Court of Auditors have highlighted the need to improve fundamental rights and rule-of-law checks, in *ex-ante* assessments and monitoring of EU financial instruments covering Roma communities.

Policy-makers and the majority of civil society actors interviewed for the purpose of this Report indicated that the Roma integration approach alone does not address the root cause of socio-economic inequalities and exclusion. At the “High Level Discussion on Anti-Gypsyism”, there was a consensus on the need to further strengthen Roma inclusion measures and the existing EU monitoring and enforcement tools, in order to tackle anti-Gypsyism (see Annex 3 of this Report).

### 5) The importance of political will when combating anti-Gypsyism

The research captured the willingness of some relevant national ministries in Member States (Germany and Sweden) to move forward with institutional responses to anti-Gypsyism and the promotion of remembrance of Roma genocide. However, in the area of Roma integration, there was less commitment. The Swedish National Roma Integration Strategy contains very low ambitions, e.g. applying to only five municipalities for a period of two years, thereby allowing ‘unwilling’ municipalities

to simply avoid the ‘strategy’. In the UK, there is no national strategy but rather policy measures under national social inclusion policies. In Romania, the implementation and monitoring of National Roma Integration Strategies have improved recently but remain very weak. Only Spain reported more promising outcomes from National Roma Integration Strategies (NRIS). The Spanish case is exceptional, because there had been a long-lasting political willingness to work on inclusion and anti-racism policies.

In combating anti-Gypsyism, particularly its institutional forms, there should be less presumption of Member State compliance or reliance on its ‘good will’ without a proper checklist of positive equality duties of public bodies. The promising example in this regard is DG NEAR, which applies Copenhagen criteria among their tools to supervise and address the most challenging situations of Roma communities in pre-accession countries. Thus, important progress has been made in some of these countries.

#### **6) Lack of institutional capacity and Roma civil society in monitoring Roma-relevant policies**

The European Commission’s work to establish European and national Roma platforms is a welcome step and positive output of the EU Framework NRIS. In addition, the European Commission has also agreed to provide significant funding for a civil society monitoring of the EU NRIS framework (see subsection 3.1.3). Nevertheless, one of the key limits of National Roma Integration Strategies to combat anti-Gypsyism relates to a very low representation of Roma in their design, implementation and monitoring at national and EU levels. Our research demonstrates that in the case of Germany, for instance, there is a National Council for matters of German Sinti and Roma and in the UK, the National Federation for the Gypsy Liaison Groups also plays a similar role.

#### **7) Weak supervision of EU funded Roma-related projects**

The research revealed a lack of awareness among Roma organisations about monitoring committees, in particular those responsible for overseeing the national levels of EU funds, e.g. the European Social Investment Fund and European Regional Development Fund. Lack of meaningful involvement or envisaged role of Roma and non-Roma civil society organisations in the design, implementation and monitoring of funds is one of the key issues reported by the EU supervisory institutions and also reiterated by various civil society actors. Although the ECA audit revealed that some Roma organisations participate in the monitoring committee meetings, their involvement in the procedures and their status in the committee and powers remain unclear.

For the 2014-20 EU Financial Framework, the Commission has come up with some innovations. *Ex ante* conditionalities were introduced as one of the mechanisms to ensure that funding is spent in line with EU fundamental rights (European Commission, 2016). In practice, this means that Member States willing to receive EU funding need to have general anti-discrimination policies and comply with fundamental rights in their implementation. For example, there is a special precondition (No. 9.2 for the ESF) for Member States willing to fund Roma-related operational programmes. It remains unclear to what extent such Member State’s submissions on *ex-ante* conditionalities or negative findings are scrutinised by the Commission, as desk research and interviews revealed that Member States that do not fulfil all the criteria were signing partnership agreements and accessing EU funds.

In addition, it is not clear how and who should be contacted at the European Commission, when maladministration or misuse of EU funds is detected at national level, in particular, in relation to a violation of fundamental rights. The examples assessed within the inquiry of the European Ombudsman indicate that there are no clear procedures for information-sharing concerning the outcome of such investigations of complaints.

#### **8) Lack of access to justice at national and local levels**

When it comes access to justice at national level, it also should be stressed that not all Member States have their own national human rights institutions overseeing the situation. The existing Equality Bodies

and Ombudspersons are often overburdened with various types of complaints and thus do not have the capacity to perform outreach and effectively ensure the rights of Roma.

For example, in Sweden the Equality Body has no capacity to take individual cases to court. In 2014 only took 1.3% of all submitted cases were actually referred to court. The interviewees confirmed that such lack of capacity has a disproportionate ‘chilling effect’ on the potential applicants from Roma communities. However, a promising practice in Germany shows the potential of the targeted effort to fight anti-Gypsyism in media. In Germany, a special register for anti-Gypsyist incidents has been established. The organisation running the register has the capacity to take about 38% of all cases to court or before responsible institutions (see subsection 4.5 of this Report).

## 5.2. Recommendations

### 1) Anti-Gypsyism should become an official and operational term of EU and national policy-making

The European Commission and Member States should continue their work to combat anti-Gypsyism in the EU and further promote the usage of the anti-Gypsyism concept among all EU and national policy-makers. They should work more closely with the Council of Europe, the European Commission against Racism and Intolerance (ECRI), the Organisation for Security and Cooperation in Europe (OSCE), the Office for Democratic Institutions and Human Rights (ODIHR) and the UN Committee on the Elimination of Racial Discrimination (CERD). It should be clearer that the EU is taking responsibility for operationalising the term, in particular when it comes to its institutional, structural and systematic manifestations.

**1.1.** The term of anti-Gypsyism, as established by the Council of Europe in ECRI Recommendation No. 13 (Council of Europe, 2011), should be explicitly included among different prohibited grounds of discrimination and racism, with a specific reference to institutional racism, discrimination and exclusion.

**1.2.** The Report has identified the importance for policy-makers and high-ranking politicians to speak out against anti-Gypsyism and to promote fundamental rights and democratic rule of law values. Member States and the European Commission should encourage and showcase such statements.

**1.3.** All high-level EU representatives should actively promote the commemoration of the Roma Holocaust in their speeches. Member states should also follow the promising practice of commemorating Roma Holocaust remembrance, as an official day. Member States should add the subjects of the Holocaust, as well as, the recognition and sensitisation about anti-Gypsyism, racism and discrimination to the national curriculum. A specific emphasis on remembrance of the Roma holocaust to raise awareness of this complicated historical context could be undertaken by the European Parliament inquiry procedure, following the promising examples in Germany and Sweden. Member states could be encouraged by this example to address the long history of anti-Gypsyism, and to strengthen a process of reconciliation between state institutions and Roma communities.

**1.4.** The material scope of the EU Framework for National Roma Integration Strategies should be reframed as ‘*EU Framework for National Roma Inclusion and Combating Anti-Gypsyism*’ and expanded to combat systematic and institutional manifestations of anti-Gypsyism.

**1.5.** The Commission should further support and develop the work of the EU High-Level Group on racism, xenophobia and other forms of intolerance and to encourage it to combat systematic and *institutional forms of racism*, with a special emphasis on an evidence-based discussion on anti-Gypsyism.

**1.6.** EU institutions and Member States should better explore and promote the use of the ‘anti-Gypsyism’ concept as a way to challenge the *status quo* of what is reportedly the last widely accepted form of institutional racism. To this end, Member States and EU institutions should better support



domestic supervisory institutions, such as national human rights institutions, equality bodies or Ombudspersons, and civil society actors to regularly report on anti-Gypsyism.

## 2) The anti-Gypsyism concept should cover all persons targeted, irrespective of their administrative status and nationality.

2.1. Member states should continue to promote respect for national Roma minorities in light of the recognition and implementation of the CoE Framework Convention for the Protection of National Minorities<sup>90</sup> in the fight against anti-Gypsyism.

2.2. In parallel, current manifestations of anti-Gypsyism against Roma communities should be combated effectively without limitations related to their administrative or nationality status, and including also situations encountered by Roma EU citizens and non-EU asylum-seekers. To this end Member States should ensure the equality and effective delivery of justice to *all* Roma people within their territory in light of the EU Charter of Fundamental Rights. This should happen through the monitoring bodies highlighted above, including the rule of law mechanism, as well as a re-vamped version of the *EU Framework for National Roma Inclusion and Anti-Gypsyism Strategies*.

## 3) Strengthening rule of law and fundamental rights approach in EU policies

3.1. The key institutional response to combat anti-Gypsyism at EU level should be a new EU mechanism on democracy, the rule of law and fundamental rights (European Parliament, 2016; Bard et al., 2016). The EU currently lacks a regular and structured *EU rule of law monitoring*, where the actions and inactions of both Member States' governments and authorities are regularly monitored, supervised and independently evaluated in light of their compliance with EU values enshrined in Article 2 TEU.

This mechanism would be based on a reversal of the burden of proof towards state authorities in guaranteeing and implementing their positive obligations, including those towards Roma communities. It would proceed in parallel with the running of the current European Semester and the EU Cycle of Economic Governance, where at the moment mainly socio-economic issues are addressed when speaking about the inclusion of Roma communities.

3.2. The European Commission should follow up the European Parliament's call to set up such an EU mechanism and an EU Pact for Democracy, the Rule of Law and Fundamental Rights. Previous independent research has showed the feasibility and added value of the Parliament's proposal (Bard et al., 2016). Anti-Gypsyism should become one of the key components within the remit of this EU mechanism to be assessed in the area of 'equality before the law and non-discrimination.

3.3. The EU fundamental rights and rule of law approaches – and specific actions combating institutional anti-Gypsyism – should be reflected in a mid-term evaluation of the EU Framework for NRIS, and when considering post-2020 strategies for the EU. The scope of the EU Framework for National Roma Integration Strategies should be expanded as indicated above.

3.4. Fundamental rights and rule of law should be an obligatory pre-condition for any EU Member State to receive EU funding for any Roma inclusion initiatives.

## 4) Strengthening institutional capacity and Roma civil society involvement to deliver on Roma-related policies

4.1. Under the coordination of the European Commission, Member States should better endow national contact points with powers, resources and capacity to deliver on the revamped EU Framework for National Roma Inclusion and Anti-Gypsyism Strategies.

<sup>90</sup> Council of Europe (1995), Framework Convention for the Protection of National Minorities and Explanatory Report (H (95) 10).

**4.2.** National human rights institutions, equality bodies and ombudspersons should continue feeding their evidence and information about the compliance with fundamental rights into assessments of the preconditions for Roma inclusion, namely respect for rule of law and fundamental rights.

**4.3.** European Commission should increase the representation of Roma civil society via European Roma Platform in the design, implementation and monitoring of the rewamped EU Framework for National Roma Inclusion and Anti-Gypsyism Strategies. Member states should enhance the powers of national Roma platforms in overseeing Roma-related policies. There should be a transparent and public process on how Roma organisations can become part of such platforms.

#### **5) Inclusion of Roma representatives and civil society in EU funding monitoring and financial accountability mechanisms**

**5.1.** The European Commission should continue to strengthen and ensure that Roma representatives and civil society are meaningfully involved in the monitoring committees at national managing authorities, tasked to supervise EU funding instruments. These organisations should exercise voting powers when a Member State receives funding for Roma-related investment priorities. **5.2.** The European Commission should foresee a mechanism for civil society to play a role in providing additional information or ‘shadow’ reports to assess *ex-ante* conditionalities, as laid down by Regulation (EU) No 1303/2013. Thus, the Commission could have a *two-sided overview* of the situation for its assessment.

**5.2.** The assessment on the side of the Commission should be more rigorous and transparent. It should be also more closely linked and better nurtured with the information gathered by the European Ombudsman and the European Court of Auditors. **5.4.** The European Commission should foresee a transparent online complaints-handling mechanism to which civil society or EU-funded project beneficiaries submit complaints on grounds of fundamental rights violations, or violations of the applicable law, as was recommended by the European Ombudsman (2015).

#### **6) EU level institutions should strengthen assessment of the Member State’s policies and practices**

**6.1.** *Ex-post* evaluation of the EU-funded projects for any Roma-related issue should continue to be carried out, as they are very important tools to assess Member States’ compliance. *Ex-post* evaluations should take into account the potential impact on the EU fundamental rights and Roma participation in various stages of the programme or project.

In the current context of the mid-term review of the EU Framework for National Roma Integration Strategies:

**6.1.1.** The European Commission should continue elaborating reports assessing the implementation of the EU Framework for National Roma Integration in Member States (See European Commission (2015), or European Commission (2016)). More emphasis should continue to be given to the government’s measures to address/ prevent anti-Gypsyism and in particular, institutional forms of it.

**6.1.2.** The European Court of Auditors should follow-up on its special report on EU policy initiatives and financial support for Roma integration, so as to assess any changes and developments following up its findings and recommendations by the European Commission (European Court of Auditors, 2016);

**6.1.3.** The European Ombudsman should follow up on their own initiative inquiry OI/8/2014/AN concerning the European Commission’s funding in compliance with EU fundamental rights (European Ombudsman, 2015). In addition, the European Ombudsman should launch a parallel investigation at EU and Member State levels in order to better assess what has been achieved on the ground.

## **7) Improve Access to Justice for Roma applicants at Member State level**

**7.1.** The European Commission should work together with Member States in order to strengthen the independence, capacity and funding of national human rights institutions, equality bodies and ombudspersons. These institutions should work together to effectively handle cases motivated by anti-Gypsyism.

**7.2.** It should be foreseen that when a Member State expects to receive EU funding for Roma inclusion, a percentage of the total funding would be automatically directed to strengthening national actors that are primarily charged with tasks related to the monitoring of fundamental rights and rule of law compliance at the Member State level.

**7.3.** This Report has touched upon the promising practices of training law enforcement practitioners and other officials. The efforts in this field should be continued to ensure the prevention of anti-Gypsyism. Fundamental rights and rule of law values should be part of professional standards.

**7.4.** The EU High Level Group on combating racism, xenophobia and other forms of intolerance should further follow-up on how Member States are using existing tools to train law enforcement and judicial officers. It should include institutional racism and anti-Gypsyism as a key priority and cross-cutting theme.

**7.5.** The exchange of ‘promising practices’ among the member states in combating anti-Gypsyism at EU level should be supported by the European Commission. This should not be based on benchmarking and indicators-driven methodologies, but rather on independent social research capturing the context and historical-specificities of each Member State under study, as well as the socio-legal effects of these practices on the ground.

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# Annex 1. What is anti-gypsyism?

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This Annex aims to offer the reader a deeper understanding of the concept of anti-Gypsyism.

Defining anti-Gypsyism is a complex endeavour for any scholar. There is no agreed term for defining the phenomenon of hatred and fear directed against Roma, nor is there a commonly agreed definition among scholars. The sections below give an overview of the debate over how the term should be used, the definitions provided by different institutions, as well as the defining elements of anti-Gypsyism.

## A1.1 Terminology

The terminology used to describe the relations between Roma and non-Roma varies from author to author. Some scholars prefer the term Romaphobia (McGarry, 2016), others prefer anti-Gypsyism and anti-ziganism or its derivatives (Wippermann, 2005; End, 2014: 23; Agarin, 2015) and yet others choose anti-Gypsyism (Heuss, 2000; Nicolae, 2007; Kyuchukov, 2012).

The term “Romaphobia” suggests a strong fear or hatred of Roma, which some individuals harbour and act on. Romaphobia, compared to anti-Gypsyism or anti-ziganism, uses the endonym “Roma”, emphasising the positive aspect of identity of those self-identifying themselves as such. However, while capturing the fear and hatred of those who declare themselves Roma, Romaphobia seems to neglect the role institutions have played for centuries in producing and reproducing fear or hatred of Roma.

The terms anti-Gypsyism and anti-ziganism or its derivatives offer scholars more space to define the content of the concept by focusing on those perceived by the public and portrayed in the public imaginary as “Gypsies” or “zigani”. Nevertheless, these concepts pose difficulties in defining exactly who are the targets of hatred and fear. One of the counterarguments to using this terminology is the hetero-identification of those who are within the ambit of the definition. Moreover, the term “Gypsy”, unlike “zigano” and its derivatives (tsigane, zigeuner, zingari, cygan or cigan, etc.), does not bear the same strong negative connotation of hatred and fear of Roma. To further complicate the issue, in the United Kingdom, due to particular historical conditions regarding the attempt to assimilate them, some local groups associated with the term “Roma” in fact prefer to be called Gypsies, partly to differentiate themselves from those who are recent migrants, mostly from Central and Eastern Europe. The use of “zigani” and its derivatives make it difficult for some readers to understand the reference to one ethnic group, since the Greek “athinganoi”, i.e. untouchables or pagans, has been adapted to so many European languages. One might even question the connections between these groups and the anti-ziganism based on their diverse denominations.

As indicated above, none of the terms used to describe fear and hatred of Roma is perfect. While the use of the root “Roma” in designating the social phenomenon emphasises in a positive way target group’s identity, the terms “Gypsy” and “zigano” also encompass the power relations the majority has over Roma through the imposition of a group denomination by outsiders, an aspect that is intrinsic to the definition of the concept. In recent decades, English has become a *lingua franca* in international communication and the sciences, and the present report is in English, consequently the use of the term “anti-Gypsyism” is preferred. However, when translated into other languages, the most suitable terms would be the derivatives of the “athinganoi” term used in the respective language or country: anti-tiganism, anti-ziganism, anti-cyganism, anti-gitanismo, etc.

## A1.2 Definitions

Markus End has provided several definitions of anti-Gypsyism, as an ideology and as racism, whose core elements are resentment of and discrimination and violence against Roma. Thus, according to End (2014): “Antigypsyism is composed primarily of two elements. First, there is resentment against ‘the Gypsies’, which involves a majority society sharing images and beliefs and projecting them onto specific social groups, among them mainly those who identify themselves as Roma, Sinti, Kalderashi, Irish Travellers, etc. The second element of antigypsyism consists of discriminatory and often violent social structure and actions with which Roma or other people stigmatized as ‘Gypsies’ are confronted.”.

The European Commission against Racism and Intolerance (ECRI), in its recommendation on combating anti-Gypsyism and discrimination against Roma, has defined anti-Gypsyism as “a specific form of racism, an ideology

founded on racial superiority, a form of dehumanization and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatization and the most blatant kind of discrimination” and stressed “that anti-Gypsyism is an especially persistent, violent, recurrent and commonplace form of racism, and convinced of the need to combat this phenomenon at every level and by every means” (ECRI, 2011).

Noting that anti-Gypsyism is deeply rooted in Europe, the Human Rights Commissioner of the Council of Europe has seen anti-Gypsyism as “a term indicating the specific expression of biases, prejudices and stereotypes that motivate the everyday behaviour of many members of majority groups towards the members of Roma and Traveller communities” (Commissioner for Human Rights, 2012: 39).

The European Parliament, in its Resolution of 15 April 2015 on the occasion of International Roma Day – anti-Gypsyism in Europe and EU recognition of the memorial day of the Roma genocide during World War II (2015/2615(RSP)), defined anti-Gypsyism as “the special kind of racism that is directed towards Roma, is an ideology founded on racial superiority, a form of dehumanization and institutional racism nurtured by historical discrimination, which is expressed by, among other things, violence, hate speech, exploitation, stigmatization and the most blatant kind of discrimination”.

Most recently, the Alliance Against Antigypsyism (2016), a coalition of 95 NGOs across Europe that aims to promote equality of rights for Roma and a deeper understanding of anti-Gypsyism, proposed the following working definition:

Antigypsyism is a historically constructed, persistent complex of customary racism against social groups identified under the stigma ‘gypsy’ or other related terms, and incorporates:

- i) a homogenizing and essentializing perception and description of these groups;
- ii) the attribution of specific characteristics to them;
- iii) discriminating social structures and violent practices that emerge against that background, which have a degrading and ostracizing effect and which reproduce structural disadvantages.

Irrespective of the term used, anti-Gypsyism is seen as racism or ideology based on hatred and fear, originating in stereotypes of and prejudices towards Roma. Heuss (2000) challenged the definition of anti-Gypsyism as racism, classifying it as being tautological and underlining the need to substantiate the definition. Acton (2012: 35) pointed out the danger of rationalising anti-Gypsyism by looking at it only as a form of racism and proposed also examining the social and economic foundations of the relations of production in capitalism. End did not go further in detailing anti-ziganism as an ideology. However, while there are merits in equating the way anti-Gypsyism works to that of an ideology, it is hard to comprehend anti-Gypsyism’s ideological content. Considering the widespread nature of anti-Roma attitudes, one might question the attraction of anti-Gypsyism as an ideology to the masses. Kyuchukov defined anti-Gypsyism mostly through its manifestations (Kyuchukov, 2012: 5-6). However, it is difficult to list exhaustively the manifestations of anti-Gypsyism, as some of them might not be easily visible and identifiable.

A major difficulty in the proposed definitions of anti-Gypsyism by scholars and institutions is their applicability. How to identify and measure anti-Gypsyism seems to be a major challenge for any researcher interested in this topic. Based on the literature review as well as research on policies towards Roma and the role of ethnic identity in policy-making, we propose the following operational definition:

Anti-Gypsyism is a special form of racism directed against Roma that has at its core the assumptions that Roma are an inferior and deviant group. Other key assumptions of anti-Gypsyism are: orientalism, nomadism, rootlessness and backwardness (Rostas, 2017, forthcoming). Inferiority of Roma originates in the widespread belief among non-Roma that Roma are less human; references to animality, wilderness and their supposed animalistic habits are often made while describing them. Animalisation of Roma was present already in the early scholarly writings in the 18th century. Dehumanisation and objectification of human groups represented a technique for preparing extermination policies. Inferiority is connected to the perception of Roma as unable to respect the minimal rules and values of the society in which they live. Criminality is often perceived by the majority society as a genetic characteristic of Roma, as part of their nature. Orientalism emphasises the non-European roots of Roma, which pave the way for their exclusion. Nomadism is seen as part of the way of life of Roma, in spite of factual evidence to the contrary, and the expression of this perception depicts Roma as a rootless people, which is consistent with other anti-Gypsyist assumptions. Calling them rootless implies Roma lack a sense of identity, are incapable of identifying with any land, and have no collective memory and sense of belonging. Describing them as backward presents Roma as uncivilised, uneducated and having a very different way of life

from that of the majority of society. Roma are often seen as inflexible, because they supposedly cannot integrate and follow the majority's norms, attitudes and values. Modernisation of Roma consists of assimilation by adopting the norms and values of the majority.

### A1.3 Features of anti-Gypsyism

This section offers an analysis of some important features of anti-Gypsyism.

According to a 2011 survey conducted by UNDP, the World Bank and the European Commission, Roma are worse off than non-Roma owing to exclusion, limited access to preschool education, high education drop-out rate, segregation in education and housing, poor housing conditions – 45% of Roma live in households that lack basic housing amenities – and extreme poverty – 90% of Roma live below national poverty lines. Research shows that Roma are discriminated against in almost all fields of public life and live in extreme poverty also when compared to those living in the world's poorest regions (EUAFR, UNDP, 2012: 12).

Anti-Gypsyism is widely accepted all over Europe. Prejudice towards and stereotypes of Roma are found both in Eastern and Western Europe. Research has shown that anti-Roma feelings and attitudes are strong in Western Europe, in countries where Roma are not a significant minority group. The 2013 case of Maria in Greece, the Romani girl believed to be abducted by a Greek Roma family because she had blonde hair and lighter skin than her parents, as well as the cases of the two Romani children taken into state custody by the Irish social services based on their different physical characteristics than that of their parents, show that anti-Gypsyism is deeply embedded in the mentalities and institutions of both Eastern and Western Europe (McGarry, 2013).

While anti-Gypsyism is widespread, what makes it stand out in comparison to other forms of racism is the impunity that perpetrators enjoy when committing crimes against Roma. Politicians and journalists express racial hatred of Roma, and ordinary citizens use slurs to foment mob violence against Roma, yet the racial motivation of crimes committed against them are often dismissed. The insufficient role of law enforcement agencies and discrimination in the administration of justice are integral to the systemic oppression of Roma in Europe.

In fact, what makes anti-Gypsyism a unique form of racism is the role of the state in producing and reproducing oppressive practices and norms in relation to Roma. Through policing and education, the state has consistently attempted to control Roma. State institutions have perpetuated a persistent negative image, shaped discourse have promoted assimilation and even of Roma. It is in this sense that anti-Gypsyism represents systemic oppression of Roma.

Despite the prominence of debate related to anti-Gypsyism in recent years, the phenomenon is not new. In fact, it is several centuries old. Its intellectual roots go back to their arrival in Europe, and were scientifically legitimised by the philosophy of the Enlightenment. The translation into practice of Enlightenment ideas formed the basis of the assimilation policies of the Habsburg Empire in the second half of the 18th century, during the rule of Maria Theresa and Joseph II. Van Baar has underlined the role of anti-Gypsyism in building the modern empire administration (van Baar, 2011). McGarry related the rise of anti-Gypsyism to the construction of the nation state (McGarry, 2016). Religion and the Church have played an important role as well in fostering anti-Gypsyism, as indicated by Angus Fraser (Fraser, 1995).

Anti-Gypsyism is not a 'Roma problem' but rather the majority society's problem, as it is the majority who hates the Roma. Anti-Gypsyism is about how non-Roma perceive, understand and interact with Roma, about the representation of Roma in the public imagination and how Romani identity is communicated in the public sphere.

Anti-Gypsyism manifests itself in different forms, such as popular sayings, jokes, prejudicial statements beginning with "Roma are...", discrimination, segregation, physical, verbal and symbolic violence, forced evictions, collective punishment as a result of mob violence, police raids, policies of assimilation, deportations, extermination, mass expulsion of Roma from several countries, etc. These forms of discrimination are easily observable in Roma everyday life. However, anti-Gypsyism also works in more subtle ways, from ascribing pejorative group denominations to referring to skin colour to denying their identity, historical oppression, Holocaust persecution, group juridical status, female sterilisation, the lack of information on Roma in common school curricula, the lack of representation/presence of Roma in public and private sectors, and the folklorisation of Roma culture (over-emphasising the role of popular traditional Romani music and dancing to the detriment of Roma's contribution to the so-called 'high' culture). Anti-Gypsyism manifestations can be analysed at different levels: the public imagination, public discourse, internalisation of attitudes, beliefs and norms, social structures, especially state institutions and everyday interactions and practices.

Anti-Gypsyism has a collective, not individual, character, targeting all those perceived by society as “Gypsies” or portrayed as such by the majority. It is unimportant if the group belongs to the Roma minority; what matters is their association with Roma in the minds of non-Roma. While discrimination could have an individual target, anti-Gypsyism manifestations always have a collective scope: elimination of ‘Gypsyess’ and maintenance of a subordinate position for Roma.

Anti-Gypsyism is an expression of the power relations in society. The fact that outsiders could impose a specific denomination of a minority group is an indicator of the power imbalance between majority and minority. Just like racism and sexism, anti-Gypsyism is an expression of power through difference, where the dominant, race, sex or ethnic group exercises power against the ‘other’ group, through an established ‘white’, ‘male’, ‘true national’ standard. This dominance is deeply entrenched in institutions.

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## Annex 2. Country background notes

### A2.1. Germany

*National expert: Guillermo Ruiz (Sozialfabrik)*<sup>91</sup>

- **Historical context**

In Germany Sinti and Roma populations are composed of five groups. The first group are the autochthonous German Sinti and Roma, estimated at around 70,000 of whom 60,000 are Sinti, recognised in accordance with the constitution as a national minority. However, the German state gives this status only to German Sinti and Roma, and not those with a migration background. One of the most important instruments for safeguarding the rights of Sinti and Roma is the Council of Europe's Framework Convention for the Protection of National Minorities, which Germany has ratified.

The second group are Roma foreign workers, the so-called *Gastarbeiter* who immigrated to Germany in the 1960s and 1970s in the context of agreements between Germany and the former Yugoslavia. Many in this group never revealed their ethnicity, so data on their numbers and living conditions are largely unavailable. The third group are Roma who came to Germany in the 1990s as refugees fleeing war in former Yugoslavia. According to estimates, in 2007 this group numbered 40,000–50,000. Even after a long stay in Germany most members of this group only enjoy subsidiary protection under the statute of “toleration” (*Duldung*). A fourth group are mobile EU citizens, mainly from Bulgaria and Romania, most of whom have come to Germany over the last 10 years. This group includes tens of thousands of individuals but cannot be estimated more precisely with the data currently available. A fifth group are Roma who have arrived in the last five years as asylum seekers, mainly from Bosnia and Herzegovina, Macedonia and Serbia. “Tolerated” refugees and asylum seekers from the Balkan countries have been expelled to their countries of origin. All these figures are estimates, as ethnic affiliation is not recorded in official statistics.

Germany is a federal country in which the sub-national level has significant competences. Sixteen *Länder* (federal states), which include the three city-states of Berlin, Bremen and Hamburg, have their own constitutions and enjoy comparatively strong powers in many fields that are relevant for Roma inclusion. Municipalities, as the third layer of government, are self-governing entities within the limits set by the law. For the German policies towards Sinti and Roma this set-up implies that while the national level develops the strategy policy, implementation crucially depends on coordination with the other layers of government.

- **Terms used to refer to the Roma community**

Sinti and Roma define themselves as Sinti and Roma. The word *Zigeuner* is not used in the media or by politicians. State institutions use the term Sinti and Roma for defining the communities and anti-ziganismus (anti-Gypsyism) to define racism against the community.

- **Attitudes towards Roma in Germany**

Discrimination against Sinti and Roma is a widespread phenomenon in Germany, corresponding to the strong presence of anti-Gypsy resentment within the majority German society. Sinti and Roma organisations report specifically on discrimination in the housing sector where Sinti and Roma are rejected as tenants and point out that members of the Sinti and Roma communities face manifold forms of anti-Gypsy discrimination in schools and workplaces. The arrival of Roma from Bosnia and Herzegovina, Macedonia and Serbia who seek asylum and the migration of Roma from Bulgaria and Romania to Germany over the last five years have been accompanied by a wave of negative portrayals of Sinti and Roma in the media. Romani migrants have been depicted as people coming to Germany just to make use of the social security system. Media and politicians, among them influential figures such as the former minister of the interior, have stigmatised Roma by using expressions such as “social security abusers”, “social tourists”, “poverty migrants” and “the invasion of Roma from Eastern Europe”. The most representative case has been that of former Federal Minister of the Interior Hans-Peter Friedrich (CSU), who several times in 2013 called upon authorities to expel “poverty migrants” from Romania and Bulgaria who “[are]

<sup>91</sup> Much of the following text was taken from Torres, Striethorst & Gebhardt (2015).

abusing the German social systems". Such discourses have strengthened the negative image of Sinti and Roma and have fostered prejudices within the majority society.

A 2014 study of the Centre for Research on Anti-Semitism for the National Anti-discrimination Office on the attitudes of the German population towards Sinti and Roma shows that the majority society does not have much knowledge about Sinti and Roma. According to the study only 8% of the interviewees knew the words Sinti and Roma; 5% could distinguish between Sinti and Roma; and 19% knew about the persecution of Sinti and Roma by the Nazis (Zentrum für Antisemitismusforschung, 2014).

A 2016 University of Leipzig survey found that 57.8% of respondents stated that they would have a problem if Sinti and Roma would stay in their proximity; 49.6% stated that Sinti and Roma should be banned from the city centres; and 58.5% stated that Sinti and Roma tend toward criminality (Decker et al., 2016).

- **Policies targeting the Roma population and combating anti-Gypsyism**

The German government has explicitly not developed a strategy for the social inclusion of Sinti and Roma; it has delivered a list of existing instruments designed to contribute to the social inclusion and equal treatment of Sinti and Roma as much as of any other social group. For this reason the report delivered by the German government is entitled "Integrated Measures Packages for the Integration and Participation of Sinti and Roma in Germany" (*Integrierte Maßnahmenpakete zur Integration und Teilhabe der Sinti und Roma in Deutschland*). There is no executive body to lead and coordinate inclusion policies targeting Sinti and Roma in the federal government, only designated National Roma Contact Point (NRCP) which corresponds to the general attitude of the German government that no targeted policies directed towards Sinti and Roma are needed.

Most policies towards Sinti and Roma are implemented at the level of states (*Länder*) and of cities. Police at the level of *Länder* can be divided into two main areas which have little contact with each other. The first area includes policy responses to recent migration by vulnerable immigrants from Romania and Bulgaria, including Roma. The second covers efforts in some *Länder* to improve the status of autochthonous German Sinti and Roma as a national minority. Most of the measures implemented at city level target Roma migrants.

The high prevalence of anti-Gypsyism indicates that public efforts to fight it have so far been inadequate. There is no specific governmental programme combating anti-Gypsyism, racism and discrimination against Sinti and Roma in society and the German government has no policy of promoting awareness of their rights among Roma citizens. Nevertheless, efforts in this direction have been undertaken by national agencies such as the National Anti-discrimination Office (*Antidiskriminierungsstelle des Bundes*). The current most important national programme, through which the equal treatment of Sinti and Roma should be fostered, is 2015-19 "Demokratie Leben!" (Live Democracy!), which aims at fostering a democratic culture and fighting various forms of racism and extremism. It is the first national programme in the field of combating racism and includes anti-Gypsyism as one of its thematic fields. Within this programme nine projects are funded which aim at fighting anti-Gypsyism and promoting equal treatment of Sinti and Roma.

Berlin constitutes the only case of a *Land* than has developed a formal policy plan targeting Roma, although with a clear focus on non-German Roma. Since 1 January 2014, the Berlin government has been implementing the Berlin Action Plan for the inclusion of foreign Roma (*Berliner Aktionsplan zur Einbeziehung ausländischer Roma*), which is the first – and so far the only – one to have been adopted at *Länder* level. It is independent of the German government. The plan comprises a set of measures focusing on education, health, housing, youth, community building and integration and has a budget of €12 million for 2014-15. In the framework of the "Berlin (Roma) Action Plan", Berlin's Anti-discrimination Berlins funds a contact point for registering anti-Gypsyist incidents, which is run by Amaro Foro, a Roma organisation. The contact point develops an annual report containing the number of cases, identifying perpetrators when they are institutions and describing patterns of frequent discrimination committed by institutions.

It should be stressed that the recognition of Sinti and Roma as a national minority and the institutional settings and policies aiming at the social inclusion and equal treatment of these communities are to a large extent the result of the struggle of the civil rights movement of the Sinti and Roma led since the 1980s mainly by the Central Council of Sinti and Roma.



## A2.2. Romania

### *National experts: Gelu Duminița and Alexandra Hoțu (Impreuna Agency)*

- **Historical context**

The Romanian state recognises 20 national minorities. According to latest national census (2011), the largest two ethnic minorities are Hungarians (1,227,623, 6.1% of the total population) and Roma (621,573, 3.089%). Some Roma do not declare themselves as Roma for the census owing to multiple factors such as stigmatisation and discrimination, memories from the Holocaust against Roma in Romania or other methodological problems of the census. The Council of Europe estimates that between 1.2 million and 2.5 million Roma live in Romania.

The first evidence of Roma in the geographical area now known as Romania depicts them as being slaves. This situation continued until 1856 when, pressured by democratic states and 1848 revolutionary ideas, the Romanian Principality decided to free all Roma slaves. It is worth mentioning that Roma slavery was a problem specific to the Romanian Principality, the situation being unique in Europe at that time.

Roma slavery was a reality in Romanian territory for over 500 years, during which the term “gipsy” indicated the condition of individuals working without pay for their owners, without any basic human rights. Tens of generations of Roma were sold, derided and discriminated against to the point of being considered inhuman. The 1856 abolition of slavery did not improve Roma’s situation, because they were left to fend for themselves, without any property. After the abolition of slavery, Roma started to organise themselves in order to improve their socio-economic condition. With the support of Romanian authorities, they tried to eliminate misperceptions of Roma by creating the first Roma NGOs. In 1942 the Romanian state participated in the Holocaust against Roma, by deporting 25,000 Roma in Transnistria. The history of Roma on Romanian territory is one marginalisation, self-marginalisation and low self-esteem.

- **Terms used to refer to the Roma community**

One of the debates regarding the Roma minority concerns their name: Roma (the endonym used by the group) or țigan (an exonym used by those not in the group). In the Romani language, the term țigan does not exist; it is used by non-Roma to insult Roma. The term “țigan” comes from the Greek *athinganos* or *athinganoy*, meaning “hard to reach”, “sinner”, reflecting a belief that they belonged to a particular sect.

Even if most non-Roma in Romania still do not accept the term Roma (especially because of the similarity between Roma and Romanian), Roma is not an artificial construct of the post-communist period. The name was first accepted in the public space in 1939, in the Romanian Language Dictionary, as a result of the Roma emancipation movement (1919-39).

Until recently (2012), the stigmatisation of Roma was a fact, reflected even in the dictionary definition. According to the *Explicative Dictionary of the Romanian Language* (2009), one definition of “Roma” is “person with bad behaviour”. In 2012, following civil society efforts, the definition was changed and preceding ones were established as pejorative.

- **Attitudes about Roma in society**

In Romania, Roma are usually judged based on stereotypes in the minds of the majority population; these stereotypes demonstrate lack of knowledge or ignorance regarding the history of Roma on Romanian territory. In school curricula, there are no specific lessons regarding Roma, thus the image of Roma is created primarily through media instruments and other channels that lean towards negativity. At the same time, teachers do not promote anti-Gypsyism attitudes, and thus discrimination, hate-speech and stereotypes are recreated in schools.

According to national research (National Council for Combating Discrimination, 2015), the fourth least accepted group by the general population are Roma, after drug addicts, LGBT persons and persons with HIV/AIDS. Another study (Impreuna Agency, 2013) found 62% of the terms associated by non-Roma with Roma are negative (thieves, lazy, aggressive).



The 2015 Special Eurobarometer on Discrimination<sup>92</sup> shows that in Romania 61% of the population declared they would be comfortable or indifferent if one of their colleagues at work was Roma. While working with a Roma colleague was acceptable for more than 50% of respondents, when it comes to a relationship of one's child with a Roma person the level of acceptance was only 35.6%.

- **Main policies and strategies targeting the Roma population and combating anti-Gypsyism**

Most Roma in Romania do not accept or express their ethnic identity, owing to the stigmatisation. Besides different forms of discrimination and exclusion, Roma suffer from self-marginalisation as a result of their own or fellow Roma's negative experiences. Paired with consistent discrimination and segregation in the education system, as well as low expectations of teachers regarding the educational potential of Roma children, this situation reinforces negative stereotyping and low aspirations of Roma children and parents regarding their potential success through education.

Many projects for Roma implemented in Romania have aimed to financially support Roma or promote the idea of tolerance and interculturalism, especially among non-Roma. Also, the government has promoted several measures to reduce the historical, cultural and economic gaps between Roma and non-Roma. Even though these measures had an impact on reducing the gap between Roma and non-Roma, the Roma minority still have low self-esteem, lack leadership competences and continue to marginalise themselves.

Romania's National Roma Integration Strategy<sup>93</sup> (2011-20, revised 2015) defines the roadmap for public policies in the area of Roma social inclusion. It aims to gradually eliminate poverty and social exclusion by devising policies in the areas of education, employment, healthcare and housing.

One of the gaps identified by the European Commission on the progress made in the implementation of the National Roma Integration Strategies is that "[n]o significant desegregation or antidiscrimination measures have been implemented so far. Fighting discrimination is not prioritised enough in the revised strategy". Research by the Resource Center for Roma Communities (2016) found the current Strategy for Roma Integration promotes already established resources for Roma communities rather than allocates new funds from the national budget.

The budget estimation for the Strategy was available only until 2016, because a new political cycle started (Parliamentary elections took place) in December 2016.

Also, the Strategy lacks a systematic monitoring and evaluation system. The gaps identified by the European Commission on this matter include: "Setting up an effective monitoring mechanism to obtain reliable and comparable results is still to be convincingly combated. NGOs and other stakeholders are not involved in the monitoring. It should be clarified how the outcomes of the monitoring system will be channelled into policy design. Monitoring and impact evaluation should ensure that lessons learnt lead to policy review."

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<sup>92</sup>

Available

at

[http://ec.europa.eu/justice/fundamental-rights/files/factsheet\\_eurobarometer\\_fundamental\\_rights\\_2015.pdf](http://ec.europa.eu/justice/fundamental-rights/files/factsheet_eurobarometer_fundamental_rights_2015.pdf).

<sup>93</sup> Available at [http://ec.europa.eu/justice/discrimination/files/roma\\_romania\\_strategy2\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_romania_strategy2_en.pdf).

## A2.3. Spain

*National expert: Ismael Cortes (OSI, Roma Initiatives Research Fellow)*

- **Roma community in Spain**

There is no ethnic census in Spain, and thus no official ethnic data. Spain does not recognise any ethnic minority. Nevertheless, estimates of the national Gitanos (Spanish Roma) population range from 570,000 and 1.1 million (Laparra, 2007). In 2010, the Council of Europe estimated 725,000 Roma were in Spain, which made it the fifth largest national Roma community in Europe (6.4% of the total). The main problem with these numbers is that they were not tallied by state officials: NGOs provide informants to map Roma houses, based on which researchers estimate. In other words, these data do not count Roma integrated in cities and towns, only those living in ghettoised spaces known as ‘Roma communities’. The basic mistake here is to take Roma as a social condition (a vulnerable group living in poor conditions/on the fringes of society) instead of considering Roma an ethnic group present across the social spectrum.

- **Historical context**

### *From pilgrims to enemies of the state*

Gitanos arrived in Spain in 1425. The first recording is a letter of protection from Pope Martin V for a wandering group on a pilgrimage to Compostela, signed by the kings of Aragón, Navarre and Castile. For 50 years prior to the foundation of the Inquisition, political and religious authorities protected Gitanos as pilgrims. The Spanish Inquisition began in 1478, under King Ferdinand II of Aragón; afterward, Gitanos came under the moral scrutiny of religious authorities. The Inquisition established a system of surveillance embedded in a social structure of serfdom and landlords from which Gitanos escaped thanks to their freelance jobs: musicians, smiths, craftsmen and horse dealers. One hundred and forty years after the creation of the Inquisition, Philip III, acknowledging the existence of nomadic groups of Gitanos, decreed in 1619:<sup>94</sup>

Under penalty of death, all Roma should leave Spanish territories within six months and not return; those wishing to stay can do so if they abandon their nomadic life and move to our towns; also, they should abandon their traditional costumes, names and language (Gómez Alfaro, 2009).

Another dramatic anti-Gitano measure took place on 30 July 1749: the imprisonment of all Gitanos by the Marquis of Ensenada (King Ferdinand VI’s interior minister), who ordered: “imprisonment must be carried out on the same day and at the same time...These people called *gitanos* have no religion; they must be put in prison and we will end this evil race” (Vázquez García, 2009). After a mass arrest known as the Great Raid, the prisoners were separated, all males over seven-years-old in one group, females and children under seven in another. The males were to be sent to forced labour in the arsenals or navy, the females and children to prisons and national factories. In 1763, by order of King Charles III, Gitanos were notified that they would be released. But the complex absolutist administration first had to solve the problem of relocation. In 1765 the navy ordered the release of all prisoners. In 1783 some Gitanos who had been enslaved were finally released, but King Charles III ordered:

new rules to curb and punish the vagrancy of the Gitanos known as ‘new Castellanos’...[they are] forbidden to use their language, costumes or maintain their nomadic way of life as they used to do until now (Gómez Alfaro, 2009).

In these three centuries of Spain’s nation-building, Gitanos survived many attempts of physical and cultural extermination and experienced a complex historical process of expulsion, persecution, imprisonment, slavery and assimilation, as well as different legal categorisations. They were legally labelled as a race, a cultural group and a criminal group. These three categories were embodied in the collective perception, creating a system of equivalence among race, culture and moral behaviour (Motos, 2009: 57-74). This equivalence shaped the public image of Gitanos as that of an evil race: a godless and stateless people driven by criminality and laziness, people working against the highest values of the nation.

<sup>94</sup> All the following English translations are mine.

***Gitanos as intimate others under Franco's dictatorship***

The symbolic power of national Catholicism was the main source of Franco's ideological project to unify Spain after the "spiritual crisis" that led to its civil war (1936-39). Politically speaking, Gitanos did not represent an articulated alternative to Franco's fascist ideology, but still in the public perception they were represented as deviant characters living a life based on freedom, commonality, hedonism, sensuality and leisure. Bringing back to the present the foundational myth of the birth of Spain, Franco's regime aimed to revive the spirit of social surveillance and moral control established by the Catholic kings. In this regard, the Law of Vagrants and Thieves was restructured in 1943 by referring to the treatment of vagabonds, nomads, pimps and any other antisocial element. Many Civil Guard documents show that Gitanos were included in the category of vagrants, applied through Articles 4, 5 and 6 of internal regulations, which were in force from 1942 until 1978 (Boletín Oficial de las Cortes, 1978), which specified that the Civil Guard must keep close watch on Gitanos and their movements (Rothea, 2014: 7-22):

## Article 4:

The Gitanos will be scrupulously watched, taking rigorous care to recognise all the documents they have, confront their particular signs, observe their customs, find out their way of life and whatever leads to an accurate idea of their movements and occupations, investigating the destination and the objective of their trips.

## Article 5

Given the fact that this people does not have a fixed residence, it is convenient to take from them all the necessary information to prevent them from committing robberies of horses or other types.

## Article 6

It is ordered that the gypsies and horse-dealers carry, in addition to the personal identity card, the patent of the treasury that authorises them to exercise the industry of horse-dealers. For each one of them they will carry a guide with the class, origin, age, iron and signs, which will be given to the buyer. The annotations that are made in this document for changes and sales will be authorised by the mayors of the towns or by an inspector of public order in the capitals and for the flock of cattle by the municipal veterinarians. Those who do not have these documents or that examination or verification proves that they are not in order, will be arrest by the Civil Guard and sent to the competent authority as violators of the law (Boletín Oficial de las Cortes, 1978).

These regulations applied special measures of surveillance and control to Gitanos and suspended the presumption of innocence. In practice, these measures were translated into episodes of police persecution and police brutality against Gitanos.

***Gitanos under democracy***

Transition to democracy, in 1977, immediately bestowed formal citizenship on Gitanos on par with the rest of society; however, the process of Roma families' relocation from urban centres to peripheries in fact deployed in the 1970s, 1980s and 1990s. This process became a norm in urban policies all over Spain, resulting in new Gitano ghettos on urban margins, which created a segregated society and *de facto* segregated schools. Ghettoisation did not only limit intercultural relations between Gitanos and non-Gitanos, but also created second-class citizenship insofar as public services were almost inexistent in certain ghettos.

There is no course on Roma History in either public or private schools. Even at university, there is no official curriculum on teaching Gitano culture or Gitano history. There is no department of Romani studies in all of Spain. There are many harmful misrepresentations of Gitanos on television, and even by high cultural institutions such as the Royal Academy of Spanish Language, which refuses to delete the fifth meaning of the word "gitano", "cheater", in the 23rd edition of the Dictionary of Spanish Language published in October 2014.

In politics, since the era of Juan de Dios Ramírez Heredia (MP, 1977-86; MEP, 1986-99), no Gitano has been elected MP or MEP.

- **Terms used to refer to the Roma community**

In Spain, the only terms used to refer to an individual or individuals of Roma communities is Gitano/Gitana or Gitanos/Gitanas. Both citizens and their leaders use the terms. Spanish legislation, however, does not use such terms, though policies and programmes are combated to Gitanos. There are some variations in the terminology,

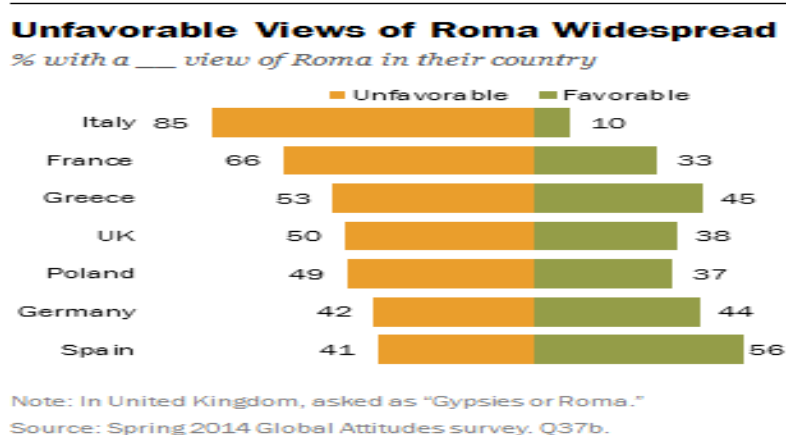
but all refer to the word “gitano”, thus official terminology includes : “*pueblo gitano*”, “*colectivo gitano*”, “*comunidad gitana*”, “*población gitana*”. Spanish media also use the term “gitano”, but it is often accompanied by words such as “*clan gitano*”, or “*venganza gitana*” (revenge) or “*pelea gitana*” (fight).

- **Attitudes toward Roma in society**

Spanish media reflect an image of Gitanos associated with slums, drugs, petty crime and violence. On the other hand, there is a folkloristic image of Gitanos as dancers, singers and jokesters. According to the last national survey of Gitanos, 46% of respondents identified racism or discrimination as one their three top concerns (CIS, 2007).

A 2013 Center of Sociological Research (CIS, 2013) survey showed that 36% of respondents would not want to have Gitanos as neighbours, and that 21% thought Gitanos are privileged in taking social aids. Back in 2005, the national CIS survey found that 16.5% of respondents would not like their children to have Roma classmates and 8.8% would feel particularly distressed.

The 2012 Special Eurobarometer on Discrimination showed that 17.1% of Spanish respondents thought that Roma are very closed and do not like to mix with other people (European Commission, 2008). At the same time in Spain a significant proportion (32%) of respondents have Roma friends or acquaintances, while the average in Europe is only 6% (European Commission, 2012). Compared to other EU countries, Spain seems to be more tolerant according to the Pew Research Center graph below (Pew Research Center, 2014).



Source: Pew Research Center (2014).

- **Main policies and strategies targeting the Roma population or anti-Gypsyism**

The National Roma Integration Strategy (NRIS) defines the main areas: access to education (obligatory school), health, housing and employment. The strategy targets children for school, women and children for health, and male and female youth for, in particular, access to employment, social assistance and housing.

In Spain strategies similar to the NRIS were in place even before 2011, especially in communities in Madrid, País Vasco, Andalucía, Valencia and Catalonia. The NRIS expanded these practices to practically all regions and allocated more money from the EU Social Funds. It is foreseen that for the period 2014-20 Spain will receive €7 million per year to implement social policies,<sup>95</sup> though it is not entirely clear how much of this funding will reach Roma communities.

In the current operative framework, fighting racial discrimination is a priority in terms of access to obligatory education, health, jobs and quality housing. However, no funds are anticipated to fight discrimination in terms of access to justice, prevention of hate crimes, combating hate speech, countering media stereotyping or promoting intercultural dialogue.

<sup>95</sup> Data provided by the interview respondent, representing the policy-makers in the area.

## A2.4. Sweden

### *National experts: Nazli Pirayehgar and John Stauffer (Civil Rights Defenders)*

- **Historical context in Sweden**

Sweden recognised five national minorities in 1999. These include the Sami (an indigenous people), Swedish Finns, Tornedalers, Jews and Roma.

Roma have immigrated to Sweden over a 500-year period from several countries, which means that the Roma community in Sweden is a heterogeneous group with various languages and cultures. It is often divided into five main groups primarily based on their period of immigration. These include the Travellers, the Swedish Roma, the Finnish Roma, the non-Nordic Roma and the newly arrived Roma. Although the experiences between the groups have differed greatly, the life of a person with Roma heritage in Sweden has, nevertheless, historically been marked by denial of basic fundamental rights, such as access to housing, education and employment, including mapping carried out by government agencies, expulsions, forced sterilisations, compulsory care of children, and an entry ban on Roma into Sweden from 1914 to 1954.

The historical abuses and rights violations are still reflected in the present situation of Roma in Sweden where anti-Gypsyism is part of everyday life for many Roma.

- **Terms used to refer to the Roma community**

The only acceptable term used in Sweden to refer to the Roma community, both in political discourse and media, is “Roma”. The term “gypsy” (*zigenare*) is considered unacceptable and derogatory. Both Swedish legislation, such as the Law (2009:724) on national minorities and minority languages, and government agencies also refer to the group as Roma. When referring to the specific form of racism against Roma, the government and its offices use the term anti-Gypsyism.

- **Attitudes toward Roma in society**

Centuries of discrimination, during which stereotypes have been developed and passed down from generation to generation, have clearly formed the basis of public attitudes and government policy today. Widespread ignorance of the abuses and rights violations, and the consequences thereof, that Roma have been subjected to throughout history have resulted in sustained prejudices about the Roma community. While the government has implemented several initiatives to raise awareness and spread knowledge about the historical discrimination of the Roma community, it has failed to assume responsibility in other regards, especially in respect of vulnerable EU citizens. This group is denied access to human rights, which excludes them from the majority society in many ways, consequently upholding negative attitudes against Roma and legitimising discrimination.

Nevertheless, a Eurobarometer study (European Commission, 2015) of societal attitudes toward the Roma population revealed that Swedish respondents had less prejudice in comparison with the rest of the EU. For example, respondents in Sweden were the most likely to say they would be at ease working with a Roma person (87% comfortable or indifferent), which was more than in Spain (81%), the United Kingdom (79%) and Luxembourg (78%). Also, the respondents in Sweden were the most likely to say they would be comfortable or indifferent if one of their sons or daughters had a romantic relationship with a Roma person (76%), which was more than in the United Kingdom (65%), Luxembourg (63%) and Spain (60%).

- **Main policies and strategies targeting the Roma population or anti-Gypsyism**

The main policies are the following: adoption of the National Strategy for Roma Inclusion, commissioning a White Paper, adoption of the Discrimination Act and the establishment of the Commission against Anti-Gypsyism.

#### ***National Strategy for Roma Inclusion***

In 2012, the government adopted the 2012-32 National Strategy for Roma Inclusion to improve the living conditions of Roma and guarantee their human rights. Its ambition is to ensure that a person of Roma heritage who is 20-years-old in 2032 will have the same opportunities in life as somebody without Roma heritage.

The government has allocated SEK 58 million for the continued implementation of the national strategy during 2016-19 (SEK 14.5 million/year). The funding is distributed to initiatives implemented by public authorities, municipalities and civil society organisations.

### ***White Paper***

In 2014, the government published a White Paper on the abuses and rights violations of Roma during the 1900s called “The Dark and Unknown History”.<sup>96</sup> It covers over 100 years and highlights the mapping of Roma, sterilisation and taking custody of children, entry ban and regulated immigration, access of Roma to housing, education and work.

### ***Discrimination Act***

The Discrimination Act (2008:567) aims to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. It has a broad scope but only addresses discrimination in certain societal areas. The Equality Ombudsman, who supervises compliance with the Discrimination Act, has successfully pursued a large number of cases regarding discrimination of Roma.

### ***Commission against anti-Gypsyism***

The Commission against anti-Gypsyism (in Swedish, *Anti-ziganism*) was appointed by the Swedish government to specifically combat anti-Gypsyism by disseminating knowledge and identifying effective measures to combat anti-Gypsyism. The Commission had an operational and broad remit that included producing proposals that counter anti-Gypsyism. The majority of Commission members were Roma who determined its agenda. In June 2015, the Commission delivered its final report to the government, its mandate having ended.

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<sup>96</sup> [www.government.se/49b72f/contentassets/eab06c1ac82b476586f928931cfc8238/the-dark-unknown-history---white-paper-on-abuses-and-rights-violations-against-roma-in-the-20th-century-ds-20148](http://www.government.se/49b72f/contentassets/eab06c1ac82b476586f928931cfc8238/the-dark-unknown-history---white-paper-on-abuses-and-rights-violations-against-roma-in-the-20th-century-ds-20148).

## A2.5. The United Kingdom

### *National expert: Adrian Jones (National Federation of Gypsy Liaison Groups)*

- **Historical context**

The first significant numbers of Roma from Central and Eastern Europe came to the UK in the 1990s, often to seek asylum from widespread racial persecution and discrimination in their countries of origin. Since the EU enlargement, nationals coming from the new member states have been able to exercise their right to free movement. The Roma are not a homogenous group, as they originate from member states across Europe and so have different linguistic and cultural roots. Historically, Roma have been nomadic, but in the UK they tend to live in conventional housing (often poor quality) and come under specific migration policies. In contrast, Gypsies and Travellers have lived in the UK for centuries (more than 500 years in the case of Romany Gypsies) and are traditionally nomadic – this continues to be important in their lives today and plays an important role employment, family relationships and community life. As nomads, however, the lives of Gypsies and Travellers are dominated by a lack of stopping places and planning laws. Some planning laws have even redefined who can be called a Gypsy or a Traveller, even though they are legally recognised as ethnic groups in the UK.

No formal data has been collected regarding the numbers of Roma (in the more limited “East European” definition) in the UK. **The 2011 census for the first time included the option for respondents in England and Wales to self-identify as Gypsy or Irish Traveller (excluding Roma and Scottish Travellers as options), and 57,680 respondents identified as being a Gypsy/Traveller.**<sup>97</sup> It is believed that this is a significantly undercount, because many Gypsies and Travellers do not identify their ethnicity due fear of racism and discrimination, and in many other official data sets, Gypsies, Travellers and Roma communities are absent from ethnic monitoring data.<sup>98</sup>

An often-cited estimate is that 300,000 Gypsies and Travellers live in the UK (excluding the large numbers of recently arrived Roma communities from other parts of Europe) (Whitwell, 2012). **The Commission for Racial Equality (2006) estimated that there were approximately 270,000 to 360,000 Gypsies and Travellers resident in England (excluding Wales, Scotland and Northern Ireland).** It is difficult to know how many Roma live in the UK due to lack of national monitoring data. **They are subsumed under the categories of European/White ‘other’ and denoted by country of origin in any official data sets.** A recent study by the University of Salford (Brown, Scullion & Martin, 2013) indicated that there are 200,000 Roma in the UK, but other estimates have been far lower.

All three communities – Gypsy, Travellers and Roma – while of course unique, seem to share common experiences of racism (including being the victims of hate crime), discrimination, poverty and social exclusion. Indeed, anti-Gypsy/Traveller prejudice is often described as “the last acceptable form of racism”.

- **Terms used to refer to the Roma community**

In European policy and documentation the EU uses the word “Roma” as an umbrella term to include a wide range of communities, including what would in the UK be seen as distinct groups: Roma, Gypsies and Travellers. In the UK, it is recognised that many Roma share the same experiences of poverty, discrimination and social exclusion as Gypsies and Travellers (Lane, Spencer & Jones, 2014), but the communities have evolved independently and their needs often differ. Hence, in the UK, the term “Roma” is used largely to refer to East European Roma. The term “Gypsy” does not have the same pejorative connotations as in some other European countries. Gypsies are generally happy to refer to themselves as Gypsies (with a capital “G”, n.b. the media often refer to small “g” “gypsies”) while Irish Travellers (with a capital “T”) refer to themselves as either Irish Travellers or “Pavees”. Both groups are often conflated under the heading “Travellers”.

- **Attitudes toward Roma in society**

<sup>97</sup> [www.ons.gov.uk/ons/rel/census/2011-census-analysis/what-does-the-2011-census-tell-us-about-the-characteristics-of-gypsy-or-irish-travellers-in-england-and-wales-/index.html](http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/what-does-the-2011-census-tell-us-about-the-characteristics-of-gypsy-or-irish-travellers-in-england-and-wales-/index.html).

<sup>98</sup> For example, the Department of Health does not include Gypsies and Travellers as one of the 16 ethnic minority categories monitored by the NHS.



The Eurobarometer Discrimination Report for 2015<sup>99</sup> paints the UK in a comparatively favourable light with regard to attitudes toward Roma. For example, the UK was rated third (behind Spain and Sweden) in terms of the percentage of the population (79%) declaring themselves to be being comfortable or indifferent if one of their colleagues at work would be Roma, and second (behind Sweden) when it comes to feeling comfortable if one of one's children was in a romantic relationship with a Roma (65%). While these are encouraging, the issue of the UK interpretation of "Roma", i.e. as excluding Gypsies and Travellers, should be noted. Also, these findings do not reflect the experience of members of the community. There is widespread anti-Gypsyism and stereotyping by the media, local and national politicians and indeed wider society.

Negative attitudes are commonplace, although more positive attitudes can emerge when work has been carried out to raise the awareness and increase knowledge of the wider community with regard to Gypsy/Traveller/Roma communities. For example, during one initiative, school pupils first responded to the term "Gypsy" with descriptions such as "sub-human", "dirty", "thieving", "don't pay taxes" and "they stink".<sup>100</sup> But following awareness-raising sessions, the same pupils made the following comments:

- "Thank you very much for today. We really liked it and you have totally changed our perspective."
- "We learned loads and enjoyed it."
- "It made me reflect on my behaviour towards Gypsies and how I will view them from now on."
- "It changed our common view and made us more aware of the problems they face."
- "I learned not to judge people when I don't know their background. I learned that I should be grateful and I liked that there was lots of information and stories of first hand experience."
- "It was really informative and made us aware of Gypsy culture."

- **Main policies and strategies targeting the Roma population or anti-Gypsyism**

The UK has not developed a National Roma Integration Strategy. This is because at an EU member states meeting (Employment, Social Policy, Health and Consumer Affairs Council, 2011), it was agreed that member states were not required to produce National Roma Integration Strategies; instead they could have the flexibility to develop policy measures within wider social inclusion policies as an alternative to producing national strategies. In response to a call for an NRIS, the UK government suggested that existing mainstream laws and policies already offered protection to Gypsy, Traveller and Roma populations and that these policies would in themselves promote integration. However, this is often not their experience. Racial discrimination and social exclusion are common experiences in the lives of Gypsy, Traveller and Roma people and many families find themselves living on the margins of society (Department for Communities and Local Government, 2012a).

The UK government did establish a Ministerial Working Group on preventing and tackling inequalities experienced by Gypsies and Travellers. Rather than produce an Integration Strategy, the MWG produced "28 commitments from across Government that will help mainstream services work better with Gypsies and Travellers" (Department for Communities and Local Government, 2012b). Unfortunately, these commitments lacked specific funding, prioritisation or a timetable, i.e. any kind of real action plan. Further, they did not address the needs of East European Roma communities in the UK, except where they coincided with those of ethnic Gypsies and Travellers. Yet migrant Roma populations across the UK seem to be among the most marginalised in decision-making processes and there are few local Roma support groups in operation. The Parliamentary Women and Equalities Committee has recently established an inquiry to look at the impact of the 28 commitments and what progress has been made in achieving them, the effectiveness of policy-making and implementation for these groups more generally, and how the government can tackle such continuing inequalities.<sup>101</sup>

<sup>99</sup> Special Eurobarometer 437 "Discrimination In The Eu In 2015" – downloadable from

<http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2077>

See Clearwater Gypsies (2012/13), Progress Report and Final report to the Esmee Fairbairn Foundation.

<sup>101</sup> See [www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2015/gypsy-roma-and-traveller-communities-inquiry-launch-16-17/](http://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2015/gypsy-roma-and-traveller-communities-inquiry-launch-16-17/).

In the UK, the executives of England, Scotland, Wales and Northern Ireland are responsible for policy measures within their territories, and they have prepared individual documents regarding their policies to promote Gypsy and Traveller and Roma Inclusion. Consequently, there is no overarching national strategy to promote Roma integration in the UK and the devolved governments have taken different approaches to integration. The only clear 'Roma' integration strategy to date has come from the Welsh government, which has submitted a framework for action (and not just a gathering of policies and measures already undertaken). Its document, "Travelling to a Better Future - A Gypsy and Traveller Framework for Action and Delivery Plan" (Welsh Government, 2011), focuses on policy areas that impact the lives of Gypsy and Travellers in the areas of accommodation, education, training, health, social care, participation and engagement (but not employment). Yet ironically, their 'Roma' integration strategy seems to have neglected to include the Roma.

Prior to the "Brexit" vote, for the 2014-20 period the United Kingdom was to be allocated a total of some €11.6 billion from the ESF and ERDF funds.<sup>102</sup> However, there appears to have been serious challenges in transferring the intentions into clear, operational and sustainable practices to include benefits for 'Roma' communities. It was disheartening to read that the European Commission monitoring report on UK 'Roma' Integration (2014) continued to show that a lack of monitoring data meant that any progress on 'Roma' integration was (and still is) difficult to identify (European Commission, 2014). While there have been some small local projects working to improve integration, organisations representing the Gypsy, Traveller and Roma communities are still finding that these major streams of EU funding are yet to 'trickle down' into their communities, despite repeated questioning of the government as to what exactly has happened to this money. From the perspective of the community members' experience, there seems to be little discernable change in the quality of their lives and experiences of social exclusion.

Not having a National Roma Integration Strategy (unlike the majority of EU countries), the UK receives no funding specifically targeted at Roma integration. There is funding for work addressing hate crime (the government has a "Hate Crime Action Plan", which makes some limited specific reference to Gypsies/Travellers), but this is across all groups, i.e. it is not Roma-specific or directed specifically at combating anti-Gypsyism

The UK has a deservedly good reputation for anti-racism legislation, for example the Race Relations Act 1976 (now incorporated into the Equality Act 2010, which covers all hate crime such as religious and disability discrimination as well as racial abuse). The problem lies in turning legislation into action. Also, there can be a tendency to view anti-racism as not including anti-Gypsyism. As ethnic groups that (even combined) are smaller in number than many of the other ethnic groups in the UK, Gypsies, Roma and Travellers can miss out in the 'numbers game' unless their needs are identified and combated specifically. Consequently, anti-Gypsyism can, in the UK, accurately be described as "the last acceptable form of racism".

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<sup>102</sup> See [http://ec.europa.eu/justice/discrimination/roma-integration/united-kingdom/eu-funding/funding\\_en.htm](http://ec.europa.eu/justice/discrimination/roma-integration/united-kingdom/eu-funding/funding_en.htm).

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## Annex 3. Minutes of the High Level Discussion on Anti-Gypsyism

The event took place on **6 February 2017 at the European Parliament**. The event started with the opening remarks by **MEP Soraya Post**, who highlighted the aims of this event and the importance of acknowledging and fighting anti-Gypsyism.

**Ms Kinga Göncz**, Chair of the Roma Advisory Board at the Open Society Foundations (OSF), drew lessons on her experiences at the European Parliament and talked about the OSF's work at the OSF.

Next, **Ms Lina Vosyliute**, Researcher at the CEPS Justice and Home Affairs Section, and **Dr Iulius Rostas**, Chair of Romani Studies at Central European University, presented the methodology, main findings and recommendations of the report "How EU policies and funds combat anti-Gypsyism?"

**The First Panel** of the discussion was chaired by **Prof. Elspeth Guild, Senior Research Fellow at CEPS**. The panel focused on addressing the question: "How EU policies could better combat anti-Gypsyism?"

**The first** discussant was **Mr Thomas Hammarberg**, a Board Member of Raoul Wallenberg Institute, ex-Chair of the Swedish Commission against Anti-Gypsyism and ex-Commissioner for Human Rights, Council of Europe (CoE). He highlighted the following aspects:

- It is important **to teach people about the history of the Roma people**, including gross violations of their rights. This ought to be done in each country. We also hope there will be a European white book on the crimes on this continent against this people.
- **Teaching is also important for combating anti-Gypsyism**. Information materials should be produced for that purpose.
- **The Swedish Commission against Anti-Gypsyism** (in Swedish, *anti-ziganism*) used the term 'anti-Gypsyism' and this has changed the atmosphere. Anti-Gypsyism is not just another form of 'discrimination' but a very special type of racism, comparable to anti-Semitism. For example, Roma, who were born and have been living in a country all their lives, are treated as aliens. They experience prejudices and poor treatment from public authorities. Anti-Gypsyism causes socio-economic inequality. **The recognition of the term is crucial and should be followed through with social reforms to allow Roma to benefit from their rights.**
- The key lessons from the work of the Commission:
  - The key is not to blame Roma but to target the behaviour of the majority toward them.
  - It is important to accept diversity in a Roma group. Roma are not all the same and have their right to be individuals. It is a strength of the human rights discourse that it values the individual.
  - Hate crimes are not understood and addressed by Roma and by society as a whole, including police officers and prosecutors.
  - Trust must be developed. It can only develop through energetic steps to prevent and combat anti-Gypsyism.
  - Using the term "anti-Gypsyism" is not enough; effective implementation, monitoring and reporting mechanisms are also necessary.
  - Finally, the EU is not the only organisation that tries to combat the phenomenon; constructive cooperation should be developed between the EU, CoE, OSCEG and the UN.

The second discussant was **Mr Szabolcs Schmidt**, who is a new Head of the DG JUST D1 Unit on "Non-discrimination and Roma coordination" at the European Commission. He shared the future plans of the unit and discussed some recommendations:

- The Commission is looking forward to the mid-term review of the EU Framework for National Roma Integration Strategies up to 2020 (an EU NRIS Framework with a view to preparing a policy proposal which goes beyond 2020).
- The Commission can only work within the remit of its competences, yet the main responsibility and therefore competences to combat anti-Gypsyism belong to member states, especially at the local level.
- The Commission combats anti-Gypsyism through a holistic approach, both by enforcement of EU legislation and making use of all available policy and legal instruments, as well as through preventive measures that tackle prejudices and promote diversity in the national and local spheres.
- The term “anti-Gypsyism” is used by the Commission and Council, having appeared several times at EU level: in the Council Recommendations of 2013,<sup>103</sup> the European Commission’s assessment reports<sup>104</sup> and the 2016 Slovak Council Conclusions.<sup>105</sup> The Commission also strongly supported the Parliament resolution of 2015.<sup>106</sup>
- The Commission has stepped up its efforts to ensure correct implementation of anti-discrimination legislation in the member states, including the Racial Equality Directive, and the Framework Decision to combat racism and xenophobia.
- The Commission is also working together with the member states and key actors in civil society and other international organisations to make a difference on the ground and support national efforts in setting up effective policies to prevent and combat racism and discrimination.
- The Commission is reluctant to create new structures for combating anti-Gypsyism separately, for example to have National Contact Points on anti-Gypsyism in the ministries of justice, as there are already effective structures such as the Network of National Roma Contact Points, the annual Roma Platform, which enables Roma to meet politicians, and national Roma platforms, etc.
- As regards the appointment of the Coordinator on Anti-Gypsyism, the roles of coordinators are far weaker for fighting discrimination than what the Commission is already offering.
- Anti-Gypsyism is already accounted for in the law, i.e. the Racial Equality & Framework decision to fight hate speech and hate Crime. Correct transposing of these directives has already led to positive results including a strong legal framework to criminalise hate crime. In addition, the Commission together with online media companies have established a Code of Conduct, which foresees that within 24 hours of its appearance online, content containing hate speech has to be removed. It is successful in 50% of cases.
- The Commission has opened infringement proceedings against several member states in the area of segregation in education.
- The Commission believes that fighting discrimination and anti-Gypsyism must also go hand in hand with fighting Roma social and economic exclusion. The European Commission has put in place a solid framework of policy, legal and financial instruments which, if implemented properly, should produce results on the ground. The Commission continues to monitor the progress made by member states in implementing National Roma Integration Strategies.
- The Commission follows Roma issues not only within the context of the EU Framework for NRIS but also within the wider context of the European Semester. As a result, we already have five countries (Bulgaria, Romania, Hungary, Czech Republic and Slovakia) with Country Specific Recommendations on Roma issues regarding mainly education.

<sup>103</sup> Council of the European Union (2013), Conclusions on Council recommendation on effective Roma integration measures in the member, Brussels, 10 December ([www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/139979.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/139979.pdf)).

<sup>104</sup> European Commission, Communication assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States ([http://ec.europa.eu/justice/discrimination/files/roma-report-2016\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma-report-2016_en.pdf)).

<sup>105</sup> Slovak Presidency of the Council of the EU (2016), Accelerating the Process of Roma Integration - Draft Council Conclusions, 14294/16, Brussels, 18 November.

<sup>106</sup> European Parliament (2015), Resolution of 15 April 2015 on the occasion of International Roma Day – anti-Gypsyism in Europe and EU recognition of the memorial day of the Roma genocide during World War II (2015/2615(RSP)), Brussels.

- The Commission is looking forward to constructive and concrete recommendations, in particular in light of the mid-term review of Europe 2020 programmes and proposals for post-2020 actions.

The Chair, **Prof. Elspeth Guild**, commented that though Race Directive 2000/43 is in place, in addition to current infringement procedures the European Court of Justice (CJEU) heard only once case, *Chez* (C-83/14), where the applicant was non-Roma but experienced discrimination by association with Roma. It is promising that the European Commission is following European Court of Human Rights (ECtHR) judgments and not waiting for the CJEU.

- **Mr Ioannis Dimitrakopoulos**, Head of the Equality and Citizens' Rights Department at the EU Agency for Fundamental Rights (FRA), highlighted the Agency's work and contribution in tackling anti-Gypsyism.

- The FRA applies in its work definitions agreed by international standard setting bodies, such as the Council of Europe. In this regard, ECRI has adopted a definition of anti-Gypsyism in its General Policy Recommendation (No. 13) on combating anti-Gypsyism and discrimination against the Roma.
- For more than 10 years the Agency has conducted research on Roma inclusion. This ranges from reports based on existing data and information to the Agency's own large-scale survey research. Examples of such research are three major surveys (EU MIDIS I, Roma survey and EU-MIDIS II) that collected detailed data on discrimination and the criminal victimisation of Roma in 2008, 2012 and 2016, as well as data on their socio-economic conditions.
- The findings show little change on levels of Roma discrimination and social exclusion across several areas, such as employment, education, housing, access to public and private services, health care, etc. The results of the last EU MIDIS II<sup>107</sup> survey found that Roma continue to face intolerable levels of discrimination in daily life.
- These findings suggest that the goals set by the 2013 Council Recommendation on effective Roma integration measures that can fulfil the fundamental right of Roma to equal treatment are far from being reached and persistent anti-Gypsyism has stymied the effectiveness of government responses.
- The work of the Agency to date identifies three key elements that impact the success of national and international Roma inclusion efforts:
  - **"It's about human rights"**: At member state level, a continuing lack of acknowledging the human rights dimension of Roma exclusion risks framing the issue as a "shared responsibility" instead of a human rights issue involving "duty bearers" with a clear responsibility to respect and protect the rights of "rights holders" under EU and international law. It is therefore important to insist that national Roma integration strategies reflect the focus of the EU framework and related Council Recommendation on the core rationale for all relevant measures, which is respect of fundamental rights, and specify how anti-Gypsyism as a phenomenon that can permeate institutional structures can be tackled.
  - **"Too many cooks spoil the broth"**: The Commission's initiative to set up a network of national Roma contact points to coordinate action needs to be reinforced through the assignment of concrete responsibilities and resources to enhance their capacity for operational coordination of relevant ministries, law enforcement, regional and local government and managerial authorities of European structural and investment funds. At European and international level, the activities of several actors, including the Council of Europe, OSCE/ODIHR, OHCHR, the World Bank, Norway Grants, OSF and other private foundations, contribute significantly to Roma inclusion in many ways, but their outcomes could be improved with better coordination.
  - **"Reality check"**: EU and national funding for Roma inclusion is essential, but it can only reach a limited number of the millions of Roma living in severely deprived conditions. This limitation can be at least partially tackled if competent national authorities ensure that Roma are explicitly mentioned as a target group of large-scale measures, including employment, in particular for youth, and social protection.

<sup>107</sup> EU Fundamental Rights Agency (2016), EU MIDIS II "Second European Union Minorities and Discrimination Survey Roma – Selected findings" ([http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2016-eu-minorities-survey-roma-selected-findings\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-eu-minorities-survey-roma-selected-findings_en.pdf)).



### Discussion among the panel and participants:

**Thomas Hammarberg:** There is a hatred and distrust between Roma and law enforcement. Thus we have to be self-critical, as to avoid a language that merges responsibilities and puts on the blame on Roma. The governments need to meet the basic human rights of Roma. And thus the emphasis should be on human rights discourse and tools.

**The participant from the audience** asked the European Commission's representative to elaborate on his rationale of why there is no coordinator on combating anti-Gypsyism when there is one for anti-Semitism and anti-Muslim hatred.

**Mr Szabolcs Schmidt** responded that DG JUST D1 unit has more resources for combating anti-Gypsyism than any coordinator could have, so there is no need for establishing another body.

**Iulius Rostas:** The study precisely shows that it is important not only to 'have the term' or occasionally use it but to actively apply and operationalise it.

**Lina Vosyliūtė:** The study also indicates and confirms how fundamental rights and rule of law approaches are lacking in the current debate, in which the inclusion and integration approach is prevalent.

**The second panel** was chaired by **Mr Adam Weiss** of the European Roma Rights Centre (ERRC). The discussion focused on the question: How existing financial accountability and fundamental rights monitoring mechanisms could effectively capture and redress anti-Gypsyism?

**Ms Diana Riochet**, Legal Officer at the Office of the European Ombudsman, began by defining the powers and limitations of her institution.

- For example, the Ombudsman's mandate is to uncover instances of maladministration in the activities of the EU institutions and bodies. In other words, this means verifying that the EU institutions act in accordance with the principles of good administration. Good administration means, in the first place, observance of and respect for fundamental rights, since the EU institutions and bodies must always consider the compliance of their actions with fundamental rights and the possible impact of their actions on fundamental rights.
- However, the Ombudsman cannot intervene in the internal issues at the level of member states. Thus complaints directed against national authorities are outside the Ombudsman's mandate. What the Ombudsman can do in such cases is to provide advice to complainants as to whom to turn to, e.g. national ombudsmen and/or national courts.
- The key challenge is that Roma communities and grass-roots organisations do not know the Ombudsman and its role well enough. The Ombudsman has received quite a few cases regarding EU-funded Roma projects, most of them concerning access to documents or ineligibility of costs. However, even if Roma citizens are less aware of the possibility to make complaints to the Ombudsman, civil society organisations that defend Roma rights have a very important role to play in alerting the Ombudsman about an action or lack of action by EU institutions, in particular the Commission, when fundamental rights are at stake. Although the Ombudsman cannot intervene in individual cases at member state level, it could act like a watchdog to ensure that EU institutions (and the Commission in particular) do their best to ensure that fundamental rights of Roma citizens are respected. The Ombudsman investigates on the basis of **complaints** but also has the power to open **own-initiative inquiries** and to intervene proactively in situations of systemic human rights issues.
- One example of such inquiries concerned the European Commission and how it implements the EU cohesion policy.<sup>108</sup> The case started in 2014 and was closed in 2015. The Ombudsman took the approach that the Commission should not allow itself to finance, with EU money, actions which are not in line with fundamental rights. The Ombudsman took account of responses provided by the Commission, the Fundamental Rights Agency and the national ombudsmen, as well as public institutions and civil society organisations active in the field of human rights (including Roma organisations).
- The Ombudsman has made eight proposals, out of which the following were highlighted as relevant to the current study:

<sup>108</sup> European Ombudsman (2014), Own-initiative inquiry OI/8/2014/AN concerning the respect for fundamental rights in the implementation of the EU cohesion policy.



- The Commission has to verify whether national redress mechanisms work well and carry out more frequent and thorough on-the-spot visits to member states.
- The Commission should consider maintaining the practice of initiating infringement proceedings against a member state. Although the Commission has a wide margin of discretion to decide whether it is appropriate to open infringement proceedings, it cannot decide not to open infringement proceedings arbitrarily. The Ombudsman can verify whether the Commission has explained adequately the reasons why a particular course of action was chosen, and whether it has acted within the limits of its legal authority.
- The Commission should launch an online platform for complaints by civil society and beneficiaries. The role of civil society is to alert member states, the Commission and the Ombudsman about the fundamental rights violations.
- The Ombudsman is coordinator of the European Network of Ombudsmen.<sup>109</sup> The Network exchanges information about EU law and policy and shares best practices. The Ombudsman and national ombudsmen could launch parallel investigations at EU and national levels. They did it in the case of migrants, and this could work for Roma too.

**Ms Naiara Zabala Eguiraun**, Auditor at the European Court of Auditors (ECA). She shared her insight on anti-discrimination including anti-Gypsyism, as she was the team leader of the ECA Special Report on EU policy initiatives and financial support for Roma integration.<sup>110</sup>

- The ECA does not have judicial functions, unlike in some countries. The ECA carries out financial, compliance and performance audits. The performance audits focus on sound financial management, i.e. effectiveness, efficiency and economy.
- The audit started at the end of 2014 and ended in 2015. It covered four member states: Bulgaria, Spain, Hungary and Romania. Meetings were also held with the NRCPs of five other member states: Germany, Greece, France Slovakia and the UK.
- In addition to assessing the integration of the Roma people from the angles of access to education, employment, health and housing, the audit also looked at the application of EU law in the field of fundamental/human rights, namely regarding the Racial Equality Directive (2000/43).
- The audit identified that significant progress has been made both in terms of policy development<sup>111</sup> and use of cohesion funds (namely, ERDF and ESF),<sup>112</sup> but also that there is room for improvement.
- The ECA has **made eight recommendations**. Some of them touch more directly on the subject of the hearing, i.e. anti-Gypsyism, in particular the first recommendation:
  - Recommendation 1a): There is a need to specify in the NRISs what level of funding is needed; member states should commit resources when defining strategies. This recommendation touches upon the subject of “political willingness to move from political strategies for Roma integration to actual action plans and budget allocations”, mentioned in the anti-Gypsyism report. Roma integration measures should not be jeopardised by short-term changes in political priorities. In fact, the audit identified two good projects whose potential impact was hampered by a lack of sustained financial and institutional support from local authorities.

<sup>109</sup> The European Network of Ombudsmen includes national and regional ombudsmen and similar bodies of the Member States of the European Union, the candidate countries for EU membership, and the other European Economic Area countries, as well as the European Ombudsman and the Committee on Petitions of the European Parliament.

<sup>110</sup> European Court of Auditors (2016), Special Report no 14/2016 “EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground”, Luxembourg ([www.eca.europa.eu/Lists/ECADocuments/SR16\\_14/SR\\_ROMA\\_EN.pdf](http://www.eca.europa.eu/Lists/ECADocuments/SR16_14/SR_ROMA_EN.pdf)).

<sup>111</sup> First Roma Summit in 2008, the very establishment of the EU NRIS in 2011, Council Conclusions in 2013, the issuing of Country Specific Recommendations, among others.

<sup>112</sup> E.g. the introduction of *ex ante* conditionalities, investment priorities 9 (ii) and 9 (iii), the setting up of the code of conduct on partnership and the introduction of common indicators relevant to Roma integration programmes.

- Recommendation 1b): The ECA has used the term anti-Gypsyism because it is an internationally recognised term. The report stresses the need to fight discrimination and its particular form of anti-Gypsyism as well as to strengthen this in the EU NRIS framework by setting indicators and target values, since the lack of such targets leaves room for institutional discrimination to develop or continue unchecked, thereby undermining the effectiveness of Roma integration projects. Although posterior to the audit, the ECA representative considered as a positive development the 2016 Commission report on implementation of the EU NRIS Framework,<sup>113</sup> which starts by dealing with anti-discrimination and anti-Gypsyism. Regarding the role of anti-discrimination measures in the 2014-20 cohesion funds programme period, the ECA considered a missed opportunity the fact that member states with large Roma populations did not select in addition to investment priority 9 (ii) on “integration of marginalized communities such as the Roma”, investment priority 9 (iii) on “anti-discrimination”.
- Recommendation 1c): The ECA report highlighted the need for civil society organisations that include Roma representatives to be systematically consulted when Roma integration measures are being planned and implemented; this has also been mentioned in the anti-Gypsyism report.
- Recommendation 1d): Regarding National Contact Points tasked to coordinate implementation of NRISs, the ECA found there is a mismatch between their responsibilities on the one hand and the resources allocated to them on the other. The ECA report asked for a better definition of the NRCPs role in relation to the NRISs.
- Recommendation 2b): The ECA report recommends that the Commission make full use at OP monitoring meetings of the information contained in the reports which member states are required to provide beginning in 2016 under the Council Recommendation on effective Roma integration measures. This would strengthen the link between policy developments and funding.
  - Other recommendations were very briefly mentioned due to time constraints.
- The ECA reports can be subject to follow-up reports in which the ECA assesses whether the recommendations have been implemented. If so decided by the ECA, a follow-up report could be carried out regarding report 14/2016.

**Mr Tamas Kadar**, Head of Legal and Policy, European Network of Equality Bodies, Equinet, started with the presentation of the network, which represents 46 equality bodies in 34 European countries. Their mission is to promote equality and equal treatment and to combat discrimination.

- In the EU, equality bodies were established as a requirement of Equal Treatment Directives.<sup>114</sup>
- Equinet issued a special report on Roma and Travellers in 2010.<sup>115</sup>
- Another Equinet report on fighting discrimination on the basis of race and ethnic origin, with specific parts dedicated to equality for Roma, will be published in the coming weeks. The seminar for national equality bodies was organised for the purpose of producing this report.<sup>116</sup>
- Equality bodies occupy a specific position both between and independent from governments and civil society. Equality bodies differ: some do more promotional and awareness-raising work, others act as tribunals that judge complaints. One of the equality bodies tried to refer their case to the CJEU<sup>117</sup> and others take cases to the ECtHR.

<sup>113</sup> European Commission (2016), Communication assessing the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the Member States ([http://ec.europa.eu/justice/discrimination/files/roma-report-2016\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma-report-2016_en.pdf)).

<sup>114</sup> Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services; and the Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

<sup>115</sup> [www.equineteurope.org/IMG/pdf/23\\_03\\_10\\_equinet\\_roma\\_opinion\\_w\\_template\\_final\\_1.pdf](http://www.equineteurope.org/IMG/pdf/23_03_10_equinet_roma_opinion_w_template_final_1.pdf)

<sup>116</sup> [www.equineteurope.org/Equinet-Seminar-Fighting-discrimination-on-grounds-of-race-and-ethnic-origin](http://www.equineteurope.org/Equinet-Seminar-Fighting-discrimination-on-grounds-of-race-and-ethnic-origin).

<sup>117</sup> C-394/11 *Valeri Hariev Belov v CHEZ Elektro Balgaria AD and Others*.

- Each equality body has to strike a balance between strategic litigation and helping each individual victim of discrimination, as well as other activities, such as awareness-raising, building trust, producing reports and providing trainings about rights.
- Equality bodies under the new ESIF regulations are also tasked with providing inputs for potential funding on equality (as an *ex ante* conditionality); but they have very limited capacity and funding to undertake this task.
- When it comes to the implementation of existing equality legislation, equality bodies are preoccupied by the extremely low level of sanctions. There are also many challenges with the correct interpretation and application of provisions, such as indirect discrimination and discrimination by association.
- Equinet’s Working Group on Equality Law, responsible for preparing the upcoming report on discrimination based on race and ethnic origin, agreed that anti-Gypsyism is one of the last tolerated forms of racism.
- There is a shortage of reliable equality data. Now authorities are referring to privacy issues, though equality data could make the fight against racism and xenophobia more targeted.
- Rule of law and fundamental rights approaches need to be strengthened and pursued in parallel with strengthening the existing EU NRIS Framework.
- Member states and the European Commission should consider introducing positive equality duties as a proactive means of making societies more equal and preventing discrimination from happening; these duties should be applicable to different employers, service providers, state institutions, etc.
- National equality bodies need to be strengthened. They have great potential but very limited independence, funding and human resources to live up to the expectations and prove their effectiveness. Now across the EU there are diverse levels of protection, depending on the member state.
  - The term “anti-Gypsyism” stresses not only violations by individuals but also by institutions; 17 out of 20 of the equality bodies surveyed indicated that Roma communities are more discriminated against compared to other minorities, particularly when it comes to problems with housing.
  - The anti-Gypsyism concept carries a strong political message and historical significance.
  - The legal value of the concept is less clear, as existing anti-discrimination legislation already provides for the shift of the burden of proof. The more important question is: Why is it not happening in practice?

#### Discussion among the panel and participants:

**A participant representing a Romanian Roma organisation** explained his personal experiences and questioned the use of the anti-Gypsyism concept for Roma who are in desperate poverty and exclusion. The participant called for a better inclusion mechanism at the local level and called for the destruction of the “Roma industry” of spending EU money to no effect. He called on the need to foster Roma leaders and empower Roma communities, in particular to include them as local representatives in the local councils. Roma also should accept the responsibility of changing their own and their communities lives.

**MEP Soraya Post** responded that using the term “anti-Gypsyism” properly would change the realities on the ground. She added that there is a need for a national strategy for anti-Gypsyism, as it addresses the structural and institutional reasons of Roma exclusion and acknowledges Roma history.

**The discussant from DG NEAR** added that there is an underlying question with the coordination of Roma integration policies and anti-Gypsyism: Who is best placed to tackle what? And how to trace it back to the local level?

**The discussant representing the German Council for Roma and Sinti** added that there is a need to go deeper into the concept of anti-Gypsyism. According to him anti-Gypsyism should be at the centre and linked back to all the thematic priorities of NRIS.

**The OSEPI representative** asked the speaker from European Court of Auditors what kind of improvements are being made and how they are following up on them.

**The European Court of Auditors representative replied** that the Commission had to reply officially and in addition they hold meetings with the Commission. Some improvements have been noticed, such as in the Commission’s



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assessment of the implementation of the EU Framework for National Roma Integration Strategies and the Council Recommendation on effective Roma integration measures in the member states.

**The discussant from the European Commission** confirmed that there was a discussion with the ECA on the basis of their report, and also drew attention to the New Code of Conduct for Partnership Agreements. At the moment it is important to look towards the mid-term report and to better acknowledge what has been done so far by the Commission.

**The closing keynote speech was delivered by MEP Soraya Post.** She screened a short video about people in the US demanding that a formal apology be made to Native Americans. She regretted that such an apology for Roma communities has not happened in Europe either. She called for a European Truth and Reconciliation Commission to cooperate with the EU and Council of Europe. For this there is a greater need to unite among Roma communities, among Roma and non-Roma civil society and also among policy-makers, from MEPs to national policy-makers, in to address anti-Gypsyism. And while doing this, institutions and organisations need to be very self-critical.

**The concluding remarks by Mr Andrzej Mirga,** Senior Fellow at the Open Society Roma Initiatives Office, summarised the main points mentioned by speakers and participants. He acknowledged there is a consensus that the term “anti-Gypsyism” is useful and valuable, though there were different proposals on how to go about using the term in practice. He offered the following proposals:

- Need to acknowledge what has been already done/proposed in this area by other actors, and how to build on it.
- Need to be realistic in what we aim to do and what we can achieve in Brussels. It is certain that the term is being used by more Brussels institutions; to progress with it, however, more MEPs need to be engaged in and support the proposals discussed.
- Need for strong arguments for inclusion of anti-Gypsyism in a renewed EU Roma Framework post-2020, and to be careful demanding something which would be hard to get in present circumstances.
- Ant-Gypsyism in its proposed form may signal important change in the way we speak about Roma, in the language we use to describe their situation, which is a rights language.
- Need to propose concrete terms through which the Race Directive can be used or is used to respond to the practices of anti-Gypsyism, referring to the jurisprudence of the ECtHR.

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