



Romani CRISS
Roma Center for Social Intervention and Studies

19 Buzesti St., 1st district
011011 Bucharest
Tel: +40 21 3107070
Fax: +40 318157623
office@romanicriss.org
www.romanicriss.org

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BRIEF COMMENTS ON THE EXPULSION AND INTEGRATION OF THE ROMA

Roma “migration” from Romania and other Eastern-European states to the West is nothing new. Nor are the efforts by Western Governments to send them back and keep them out. Despite some changes, the phenomenon seems to be quite continuous¹.

However, important political and legal changes did occur. Romania’s accession to the European Union was paramount. Until 2007, the entrance, stay and exit of Romanian citizens in France were subject to certain legal formalities and restrictions. After the accession, all Romanian citizens acquired the right of free movement within the Union which can be subject to much fewer limitations. Thus, Western Governments can no longer successfully use legal tools to control the migration of the Roma.

This triggered a series of reactions by some Western Governments. Italy was the first as it enacted the “pacchetto sicurezza”² in 2007. Initially, the French reaction was somehow more subtle or maybe more covert, before deciding to bring that policy to light in July 2010. However, the involvement of France and its continuous policy to openly violate EU law and human rights may prove decisive. Indeed, absent concrete legal action against France, the expulsion, fingerprinting and discrimination of Roma may become accepted state policy within the EU as it builds on already existing widespread practice.

¹ For example, if in the early 1990s Germany and France were prime targets, in the 2000s Italy, Spain, France and Ireland seem to be more popular destinations.

² “Pacchetto sicurezza” is the term used to describe a corpus of legislation adopted to fight illegal immigration and crime, deemed illegal and discriminatory by a number of international organizations, including various bodies of the Council of Europe, United Nations and the Fundamental Rights Agency. For a more detailed presentation see Romani CRISS, OSI, ERRC and Roma Civil Alliance, Security a la Italiana, available at http://www.romanicriss.org/index.php?option=com_content&task=view&id=83&Itemid=8.

The French authorities put in place a “voluntary repatriation” program.³ Disguised as a humanitarian aid program, it actually serves to deport undesirable persons who have the legal right to be in France and who cannot be otherwise legally deported. From this point of view, the 300 euro per adult person stipend resembles rather to a bribe, a price paid for the curtailment of certain rights, rather than a form of humanitarian aid. The program targets persons of African origin and citizens from Eastern Europe, particularly of Roma origin. Whilst for the former it may still prove successful, for the Romanian and Bulgarian citizens it became a failure as of the date of the EU accession. This was due to the fact that France could no longer controlled or limited the return of the “voluntary repatriated” Romanian and Bulgarian citizens on its territory. Further, the program’s component on supporting reinsertion in the country of origin through economic mini-grants was badly conceived, mismanaged and un-independently assessed.⁴ Amazingly, the French Government criticized the failure of the program to diminish migration even though it was conceived and presented as a humanitarian program and not as an anti-migration one. Even worse, rather than articulating coherent integration policies, the French authorities borrowed the populist, xenophobic rhetoric initiated by the Italian Government. Apart from sheer populism, the French authorities also envisaged drawing the public attention away from critical issues such as the state of the economy or the Bettencourt affair, a case of illegal payments made to high French officials, connecting as high as President Sarkozy himself.

As a consequence, in July 2010, the French Presidency announced a series of repressive and abusive measures, claiming that Roma camps are sources of illicit trafficking, exploitation of minors, begging and prostitution. The measures envisaged dismantling the camps, deporting their inhabitants, modifying the French immigration legislation in order to make it easier to immediately expulse Roma on grounds of security, activating a system for fingerprinting Roma in order to prevent them to come back.⁵

The plain lies of the high officials of the French Government were finally exposed as three internal documents were made public in September 2010. Dated June and August 2010, the documents revealed the true colors of the initiative: ethnic persecution of Roma regardless of their legal status and their citizenship.⁶

³ For a detailed presentation of the “voluntary repatriation” program see, Romani CRISS, *Observing the Right to Freedom of Movement Romanian Citizens of Roma Origin on French Soil*, Bucharest, 2008.

⁴ For a detailed presentation of the failures of the reinsertion component of the program see, Romani CRISS, *Observing the Right to Freedom of Movement Romanian Citizens of Roma Origin on French Soil*, Bucharest, 2008.

⁵ French Presidency, Press release, available at <http://www.elysee.fr/president/les-actualites/communiqués-de-presse/2010/juillet/communique-faisant-suite-a-la-reunion.9381.html>.

⁶ Namely, circulars IOCK10163295 of the 24th of June 2010, IOCK10178815 of the 5th of August 2010 and IOCK1021288J of the 9th of August 2010 between the Ministry of Interior, Overseas and Territorial Collectivities, the Ministry of Immigration, Integration, National Identity and Solidary Development and the Police Prefect, General Directors of National Police and Gendarmerie and Prefects.

The French Government was criticized by various international bodies of the United Nations and Council of Europe. The European Parliament and the European Commission promptly reacted asking for an assessment of the conformity with EU law⁷ and announcing the initiation of an infringement procedure respectively⁸.

In an effort to draw attention away from the violations, the French officials insisted upon the responsibility of the country of origin to integrate its citizens of Roma origin. This came as a reaction to the initiative of the Romanian Government after the Italian crisis in 2007 to transform the integration of the Roma into a European problem, tasking the European Commission to draw an European strategy and deal with the whole issue, thus setting the Romanian Government free of any responsibility. More recently, in the same line the Romanian President advocated for an European strategy for the integration of nomadic Roma, who are “the big problem”.⁹ Leaving aside the fact that there are virtually no nomadic Roma in Romania since World War II, it is worth mentioning the Commission itself was reluctant to developing a European-wide strategy and taking a leading role in the implementation process.

As a consequence, one might hardly believe such a discussion may still occur some 10-20 years since the initiation of such integration policies. Indeed, this does appear to be nothing more than some governments doing their best to escape their legal and political commitments.

The European Commission should not allow the French false concerns about the integration of Roma to divert its attention from the clear, persistent and gross violations of fundamental rights of Roma EU citizens.

The integration process of the Roma in the societies in which they live is in itself a complex one, requiring a multitude of various types of efforts, including changing mentalities and perceptions of Roma and non-Roma. From this point of view it does bear many similarities with the integration of member states in the European society following the formal accession process. Nor can one reasonably expect overnight magnificent result for a centuries-long problem.

However, this does not absolve national governments of their responsibilities. Indeed, the main responsibility for the integration of the Roma lies with the national state whose citizens they are. It is the member state who should develop and implement comprehensive programs aimed to integrate Roma, for the major instruments required for the success of such programs (access to education, employment, health, housing etc) are almost entirely within its

⁷ European Parliament, Resolution on the Situation of the Roma in Europe, adopted September 9, 2010.

⁸ Viviane Reding, Statement on the Latest Developments on the Roma Situation, available at <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/10/428>, last visited September 27, 2010.

⁹ Mediafax, Basescu: Autoritatile romane cer Romilor nomazi sa faca un obicei din munca si scolarizarea copiilor [Romanian Authorities as the Nomadic Roma to Make a Habit of Working and Schooling their Children], available at <http://www.mediafax.ro/social/basescu-autoritatile-romane-cer-romilor-nomazi-sa-faca-un-obiicei-din-munca-si-scolarizarea-copiilor-7401018/>, last visited September 27, 2010.

competences. Tasking the European Commission to implement a European strategy for which it lacks the means would yield nothing but a major failure. Further, the responsibility of the member states should also translate into the genuine involvement of local authorities and the allocation of financial resources from the national budget. The national strategies should not be almost entirely or disproportionately funded with foreign resources. At present, this is a major threat as French and Romanian state representatives are constantly talking about increasing EU funding for Roma in Romania. Whilst very useful to the process, EU funding should not become the exclusive or dominant tool, precluding allocation from national budgets.

Western Governments, such as France and Italy, do not have a direct responsibility to integrate Roma from Romania. Indeed, asking them to develop and implement comprehensive integration policies would be an unreasonable and illegitimate burden. But they do have certain general obligations, particularly in terms of respecting the fundamental rights of the Roma present on their territories and an overall obligation not to deny them the “European dream”. Western governments should not preclude Roma from benefiting what all other EU citizens did and do. Throughout its history, the free movement of persons brought about significant changes in various societies (e.g. Spain or Portugal). The major difference was that unlike migration, the destination country did not choose only the highly-skilled individuals. The free movement of persons means that medium and low skilled individuals also get a chance and it is this that makes the difference in the case of Roma, who probably possess the lowest skills on the job market. Contrary to the statements made by some French and Italian state officials, the majority of the Roma who live in camps are not criminals but rather they work, particularly recycling metal and plastic and daily manual work (e.g. constructions). To sum up, Western Governments must refrain from imposing any form of systematic legal or practical obstacles preventing Roma from integrating in Western societies, including through low-skilled jobs.

Following the 2004 and 2007 enlargements, the European Union decided to close off chapters of negotiations with all new member states. Whilst this did not necessarily mean the issues were solved, it did mean the Union was confident the member states could continue to make the required progress on their own, without further assistance. The sole exception involved the post-accession reporting mechanism for Romania and Bulgaria. However, this assumption may prove to have been wrong, particularly with regard to the policies for the integration of the Roma. Despite the existence of certain international initiatives (e.g. OSCE Action Plan or the Decade for Roma Inclusion) and some national monitoring mechanism, it does seem that member states somehow decreased their efforts after the EU accession. It is therefore necessary to put in place a comprehensive monitoring mechanism by the European Commission similar to the pre-accession mechanism (the most efficient version) or at the very least similar to the post-accession reporting mechanism. One may hardly expect substantial progress, unless the European Commission becomes the guardian of implementation by member states of the national programs for integration of the Roma.

To sum up, two critical challenges lie ahead. First, absent concrete legal action against France for the violation of EU law, the expulsion, fingerprinting and discrimination of Roma may become accepted state policy within Union. Second, member states and the European bodies must ensure a comprehensive, realistic mechanism for the implementation of the Roma integration policies. More concretely, they must share their responsibility in a mature and reasonable manner, ensuring the policies are implemented by national governments and the progress is regularly assessed by the European Commission.