

THE “FREE” MOVEMENT OF ROMA IN THE EU: FROM THE PRESUMPTION OF THE FUNDAMENTAL RIGHT TO HOUSING TO FORCED EVICTIONS AND EXPULSION

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Abstract: *The aim of this article is to highlight the contradiction between the EU principles ensuring the right of free movement and residence with EU and the legislative frameworks and measures ratified at national level by the member states for managing the inflow of Roma migrants. The first part of the article will underline how the main EU conventions, agreements, and treaties stipulate the right to free movement, residence, and housing of the member state citizens, regardless of their ethnic affiliation, within the EU. The second part will present a synthesis of the housing condition patterns of the Roma from Romania, who migrated to Italy, France, Spain, and United Kingdom, as revealed by the reports of recent researches. In the final section, the article brings a series of measures drawn from recent studies and programs, which might help mitigate these discrepancies.*

Key words: *quality of housing, housing rights, forced evictions, Roma, migration.*

1. Introduction

Roma are the largest ethnic minority in Europe, with a population of over 10 million people. At the 2011 census in Romania, only 620,000 people identified themselves as Roma, although it is estimated that their number reaches about 2 million people, constituting the largest Roma community in Europe. In addition, the declared intention of Roma from Romania to migrate abroad in the future was about 18% in 2012 (Cherkezova & Tomova, 2013). This intent varies from one country to another, being stronger in Roma people from countries with a tradition of migration and lower level of welfare, such as Serbia, Albania, and Bosnia and Herzegovina. The favourite destination countries of Roma are, in order: Germany, Italy and United Kingdom (Roma from Romania preferring rather Spain and Italy). The hierarchy of reasons to migrate is not different for Roma or non-Roma, as the top three places are: higher chance of finding a job, higher salary or better working conditions, and better living conditions (social, political, health system). However,

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Roma tend to claim the first reason to a greater extent than non-Roma. Discrimination based on ethnic grounds in the country of origin is not a criterion to persuade Roma to migrate to another country unless that discrimination hinders their access to employment.

Although EU directives stipulate the right to freedom of movement, Roma continue to face problems associated with illegal migration, expulsion, integration, and reintegration in the home country. Roma face difficulties in ensuring their access to education, jobs, healthcare, and housing conditions in both host and home country. Compared to non-Roma, there are much more Roma living in substandard houses, with inadequate access to public utilities (sources of water, electricity, gas), overcrowded, situated in poor segregated neighbourhoods (ghettos).

In the period 1990-2005 European policies evolved from rhetorical concerns about the threats of Roma migration towards finding solutions to ensure their access to rights and forms of protection, taking into account the fact that Roma migration is a sign of lack access in the home country to fundamental rights, including the rights to proper housing conditions (Guglielmo & Waters, 2005). In Romania, the Strategy for Roma Inclusion for the period 2012-2020 was adopted in 2011, to improve the situation of Roma (including their housing conditions). In order to optimize the implementation of these policies, in 2011 the ROMED program was initiated with the purpose of training mediators to facilitate the interaction of Roma communities with public institutions (Liégeois, 2012). The project assumes the premise that various problems from Roma communities, including the housing problems, "are undermining social ties, focusing people on their own difficulties and eventually leading to a sense of relegation and rejection which can spark violence" (Liégeois, 2012). Another positive example is the project MIGROM 2013-2017, in which our country is a partner in the study of causes, effects, and future commitments concerning emigration of Roma from Romania to Western Europe. Under the umbrella of this project, a summary of researches on Roma immigrants in France, Italy, Spain and the UK originating from Romania was elaborated. The results revealed that the main reasons for emigration were economic, Roma aiming to raise money to build a house in Romania (MIGROM, 2014).

2. The right to free movement, residence, and housing

The right to freedom of movement has been stipulated since 1950 under the European Convention on Human Rights and Fundamental Freedoms (ECHRFF), according to which anyone who is lawfully within a State has the right to freely move and to freely choose his residence, and any person shall be free to leave any country, including his own (article 2). Upon signing, the Schengen Agreement (1985) and the Schengen Convention (1995) introduced the abolition of common border checks for the signatory states and the gradual introduction of free movement in the Schengen area for all citizens. In addition, according to the Amsterdam Treaty (1999) one of the EU's objectives was to ensure the free movement of persons within the EU area (art. b). Similarly, the Treaty of Lisbon (2007/2009) brings into attention the need for social policy based on protecting the right to free movement of migrant workers and their dependents (art. 51 / par. a). In turn, the Stockholm Programme (2010) encourages the EU institutions to take all necessary measures to allow the abolition of internal borders controls with Member States that are not yet part of the Schengen area. At the same time, it recommends the Commission to examine the best ways of exchanging information, inter alia on residence permits and related documentation, and to assist Member States' authorities to effectively fight the abuse of this fundamental right.

In keeping with the Amsterdam Treaty (1999), the Council is to adopt measures on illegal residence, including repatriation of illegal residents (art.73k / par. 3b). The treaty transfers the power and responsibility to conclude repatriation agreements from the countries of origin, and transit toward the European Commission. The Directive 2004/28/EC stipulates that EU citizens have the right of free movement, having the right to remain in a Member State for a period of three months, after which they must demonstrate they have sufficient resources to support themselves and not become dependent on the social protection system of the country (Groth, 2012). According to the Treaty of Lisbon (2009), the European Parliament and Council are the institutions responsible to take action on the conditions of entry and residence (art. 63a / par. 2). The Stockholm Programme (2010) aims to ensure the possibility of returning illegal immigrants to their country of origin or to a transit country (encouraging voluntary repatriation and readmission to the country of origin) and recommends that policies encouraging voluntary return should require the creation of incentives, training, reintegration and subsidies systems.

At international level, the Universal Declaration of Human Rights (1948) recognizes the right to housing as part of the right to an adequate standard of living: "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control" (art. 25). The International Covenant on Economic, Social and Cultural Rights (1966) protects the individuals against forced evictions and the arbitrary destruction of residence.

In the EU, the European Convention on Human Rights and Fundamental Freedoms (1950) refers indirectly to the right to housing through the respect for private life, family life, and home (art. 8), and the protection of possession (art 1), among which there is stipulated "the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources" (art. 34). The Charter of Fundamental Rights of the EU (2000) recommends promoting access to housing of an adequate standard, to prevent and reduce homelessness, and to make the price of housing accessible to those without adequate resources (art. 31). In 2005, the Council of Europe adopted a Recommendation to member states on improving the housing conditions of Roma and Travellers in Europe, consisting of 52 suggestions. The Treaty of Lisbon (2009) recognizes the rights set out in the EU Charter of Fundamental Rights.

3. Patterns of housing condition of Roma migrants in the EU

According to a quantitative study conducted in 2011 by FRA (European Union Agency for Fundamental Rights) in collaboration with EC (European Commission) and UNDP (United Nations Development Program) in 11 EU Member States (N= 22.203 Roma and non-Roma respondents), 45% of Roma respondents said they lacked access to at least one basic utility in their home: indoor kitchen, indoor toilet, indoor shower or bath and electricity. In Romania this percentage is higher than 80, and in Bulgaria higher than 70. Overcrowding is another serious housing problem faced by Roma. In Roma households the average number of persons per room ranges from 1.5 in Spain to more than 2.5 in Romania, Slovakia, Greece, Poland and Italy, in non-Roma households, the average being one person per room in most Member States. Moreover, on average, about 90% of

the Roma surveyed live in households at risk of poverty and between 70 % and 90 % report living in conditions of severe material deprivation (not affording at least four of the following items: to pay rent or utility bills; to keep their home adequately warm; to face unexpected expenses; to eat proteins every second day; to have a week's holiday away from home; a car; a washing machine; a colour TV; a telephone). In the last two decades, these social problems led to the massive migration of Roma from Central and Eastern Europe to Western countries. For most Roma migrants, their housing situation did not improve in the host country. For instance, Cherkezova and Tomova (2013) evidenced based on a quantitative survey (N=14.925 Roma households and 7.278 non-Roma households from 11 EU member states, random sample) that Roma migrants in the camps in and around Paris live in dwellings without: piped water (98%), toilet inside (97%), toilet outside (37%), kitchen (78%), shower or a bathroom inside (100%), connection to the sewerage system or waste water tank (92%), electricity supply (59%) or any kind of heating facility (65%); 74% experiencing at least one of the problems: a leaking roof, damp walls, the plumbing system, the electric wiring, vermin, etc. The previously cited study also showed that none of the households of Roma migrants in camps in and around Paris live in the apartment in block or a new house in good condition, and only 5% live in old houses in good condition, 19% living in caravans and 76% in ruined houses, slums, barracks, tents or in deserted buildings. According to the same sources, a special case is represented by Roma migrants in Italy and France originating from Romania. Those who migrated from Romania to Italy tend to no longer wish to migrate again in another country (89%), preferring rather to return to their country of origin (63%). In contrast, those who migrated from Romania to France said they would prefer to migrate further, especially in the UK. A possible explanation could be related to poor housing conditions of Roma immigrants in France, compared to those in Italy. Paradoxically however, revenues of Roma who migrated to Italy are lower than those of Roma who migrated to France.

Under the project MIGROM, in 2013 a qualitative study based on interviews was conducted to assess the situation of Roma from Romania, who migrated to France, and live in camps situated Paris and around (Asséo et al., 2014), starting from the premise that the poor housing conditions of Roma migrants living in slums and shantytowns are an effect of institutional violence. Roma migrants living in illegal shantytowns without access to basic utilities had experienced evictions or fires forcing them to move elsewhere. The unhealthy housing conditions of Roma increase the incidence of diseases like tuberculosis or diabetes. One of the most invoked expectations by Roma families who remained in Romania concerns the re-housing of Roma migrants outside the shantytowns. Another important problem is housing segregation. For instance, in Wissous, the Roma migrants platz was set up on in abandoned field in the middle of agricultural land, with no close neighbours and due to a complaint by the landowner, the shantytown was evacuated. Some Roma moved either in a nearby forest, in a field on the outskirts of a town or next to a motorway. They improvised shacks, using salvaged materials (pallet stock, sheet metal, old windows), having only one room about 10m², no doors and no windows. For the future, the most prevalent ideal is to expand their house in Romania.

MIGROM project also addressed the research of immigrant Roma situation in Italy, using a qualitative pilot study based on lengthy interviews with Roma immigrants in Lombardy region. Roma immigrants in Italy live either in rented housings, or in authorized "nomadic" camps, or in temporary reception centres (created by the authorities

for those who have been forcibly evicted, with poor housing conditions without access to basic utilities). Italian authorities had defined three types of Romani camps: formal, semi-formal and informal (Pontrandolfo et al., 2014). Formal camps are the authorized or legal ones, surrounded by fences and walls, with a security guard at the entrance and under camera surveillance, where Roma live in caravans, mobile houses or metal containers, having access to running water and electricity. Semi-formal camps are either settlement made by Roma and later recognized by municipalities, or formal camps losing their legal status due to the worsening of housing conditions. Both formal and semi-formal camps have access to waste collection, water, and electricity. Informal camps or unauthorised camps are situated far from city centres, close to railways or waste dump or industrial areas where Roma live in caravans and shacks, often without access to basic utilities and public services, and liable to evictions. During force evictions, brick-built houses, shacks, tents or makeshift shelters are destroyed together with all the belongings accumulated often Roma not having other alternative to sleeping on the roads, on benches or in cars, without access to water and sanitation because (only mother and children are offered the opportunity to stay in foster homes, being constrained to separate from the rest of the family). Their future expectations depends on their housing situation, those with a stable wanting to stay in Italy, while those living in substandard housing arrangements wanting to return to Romania.

Unlike Roma who immigrated to France and Italy, those to Spain enjoy better living conditions, including access to infrastructure and basic utilities, and to public social housing programs and social benefits (Fabeni et al., 2013). There are many Roma immigrants in Spain coming from Italy, in search for better housing conditions. The main forms of Roma residence in Spain are not camps or slums, but apartments or small houses, and temporary abandoned houses of public buildings. Access to housing is more facile, because there are cheap rents available, some landlords do not require guarantees of contracts and authorities offer monetary social aid as rental housing assistance. In order to afford to pay the rent, some Roma migrants form special living arrangements of large concentrations of people (over 15 persons in the same apartment). In the past, migration gave Roma resources to improving their houses left in Romania, or even to buy new ones, which motivated them to want to come back. Presently, the decrease of income and the longer-lasting housing projects started in Romania motivates them to stay longer in Spain.

Another MIGROM qualitative study has focused on Roma immigrants in United Kingdom originating from Romania and living in Manchester area (Matras et al., 2014, 2015). Most of Roma immigrants live in privately rented terraced houses (two-storey, centrally heated, back yard), no more than two generations in the same house, being satisfied by their housing condition. Similar to Spain, Manchester was attractive to Roma because of its private market of cheap rented houses, the facility to rent a house and the accessibility of housing benefits for low income families. The collaboration of Roma with Asians landlords was preferred due to lack of discrimination. Younger generation of Roma immigrants do not expect go back to Romania, because they feel integrated in United Kingdom society and culture. The research also showed that in the period between 2013-2014, from all the queries brought up by Roma, 27% were about housing issues (33% set up utilities, 19% change of address, 26% taxes, 7% house search, 15% fixing incorrect billing), proving that Roma are exercising their rights and improving their interaction with administrative institutions.

4. Violations of Roma free movement, housing and residence rights

Since some Roma immigrants face problems related to lack of documents and evacuations and repatriations, a widespread trend is the criminalization of Roma migration, which refers to putting the sign of equality between Roma migration and illegal migration. As of January 2014, citizens from Bulgaria and Romania were granted the right to work in all EU Member States without the need to obtain a preliminary authorization, an access card or registration certificate. Despite these facilities, the difficulty of access to stable employment of Roma immigrants limits their access to decent housing. Given the unavailability of social housing, Roma end up living in improvised dwellings, lacking basic utilities, forming “illegal camps” subject to demolition and forced eviction. Not having legal address or domicile, Roma from these camps face difficulties in accessing welfare, schooling or garbage collection services.

Given the declared efforts of Member States towards the integration of immigrants from ethnic minorities, the actions of mass expulsion of Roma immigrants carried out in France in 2009-2010 attracted public attention and continue to be a controversial topic (Smith, 2012). The nature of expulsions places them in the middle of three conflicting rights: to property (of the owner of the place where Roma improvise settlements), to security (of the nearby residents), to respect for domicile and private and family life (of Roma migrants). To solve this problem, French Government delegated it to be solved by local administrative authorities through municipal decrees. A number of mayors were commissioned by the French Foreign Minister to coordinate systematic demolition activities of Roma immigrant camps (Kuhelj, 2014). The reasons invoked for the repatriation of Roma were the lack of jobs and the construction of illegal and unhygienic shelters. The action continued through the Voluntary Repatriation Program: each Roma who agreed to return to the country of origin was granted the sum of 300 Euro. Pursuant to the implementation of this measure, a study conducted by the FRA (and cited by Embassy of Finland in Bucharest) shows that 50% of Roma respondents have experienced expulsion and 75% evacuation, and 89% of those who had no such experiences feared expulsion and 95% evacuation. In 2012, Amnesty International warned that France did not comply with EU directives, evicting Roma immigrants without properly informing them about the reasons for eviction and without providing them with alternative forms of housing. Several other EU entities and institutions have amended these measures, accusing France of ethnic discrimination and violation of right to free movement.

Instead of correcting the situation, in 2011 France adopted Law 672 (Matras et al., 2014) whose provisions conflict with EU directives, facilitating the procedure of rapid expulsion of Roma immigrants. Although EU legislation states the immigrants' right of residence for a minimum period of three months, the new French law allows immediate expulsion of immigrants if they pose a threat to the interests of society in the host country, especially if they abuse the social assistance system. In 2012, France continued the demolition of Roma immigrant camps, claiming the commitment to the humanitarian role of assisting Roma in the process of voluntary return to their country of origin, based on an agreement signed with the Romanian government. The agreement establishes that the Romanian state will assume responsibility that Roma who received the French financial incentive to return and reintegrate in Romania will not emigrate in France again. The French authorities continued the systematic evacuation of Roma immigrants so that,

in 2013, 21.500 Roma were forcibly evicted (Asséo et al., 2015), and in 2014, 13.483 (ERRC 2015).

Similarly, in 2008 Italy adopted a series of normative acts called L'Emergenza Nomadi (Nomad Emergency) (Matras. et al., 2014), which conflict with the rights of Roma immigrants. Under the protection of this directive, the Italian state has undertaken a number of actions such as gathering information and fingerprints from Roma immigrants, including their children, and from people with no criminal record; or demolition of Roma camps and the expulsion of immigrant residents deemed to be in a situation of illegality. Three years later, this set of directives was deemed illegal and repealed by the State Council. In 2011, pursuant to the exposure in the media of some criminal acts committed by Roma people, an illegal Roma camp was besieged by a local group. Italian authorities did not take measures to prevent the recurrence of such incidences, and they continued, with the help of the police, the evacuation of Roma and their transfer to official camps, segregated from the rest of the population.

By applying the rational choice theory, Asséo et al. (2015) showed that Roma evictions in France were not efficient at national level (negative image costs for France associated with racism), but considered rational at local level (local authorities being perceived by residents as competent in solving local problems and being in control of the area). Therefore, Roma eviction proved that local authorities stigmatise poverty, and aim to eliminate its signs in order to improve the locality image and politicians have used Roma topics to improve their image during electoral campaigns. The treatment of Roma immigrants in France was also interpreted in the literature (Carrera, 2013) as a symptom of a paradigm shift by ethnicization of European citizenship, where ethnicity plays an important role in the allocation and assignment of oversight responsibilities of Roma citizen rights and freedoms. In respect of Roma migrants, the freedom of movement has been understood rather as a right to return and reintegrate into their home society, and less as a right to remain and integrate into the host society. The thorough surveillance of Roma immigrants in Italy, the registration of their personal data, even at the cost of violating their presumption of innocence or their right to privacy, were described in literature (Marinaro, 2009) as forms of enforcing a dominant ideology through bio-politics. Consequently, Roma migrants in Italy were required to demonstrate they deserved the right to live in legal camps, controlled by the authorities, strictly supervised to prevent any acts of aggression against the majority population, thus turning into internal exiles.

5. Final considerations

The main recommendations emerging from the study conducted by UNPD in 20124 show the need for more effective social policies on Roma migration. It appears that the measures of mitigating immigration do not work, as under these circumstances, the Roma people resort to illegal migration strategies; so a better solution is to attempt the integration and legalization of Roma in the host country. Such solutions can be optimized by increasing collaboration between the governments of the host country and the countries of origin in formulating national migration policies and in promoting a positive image of migrants, by fighting ethnic stereotypes. Another form of collaboration is the regional and local collaboration between authorities in the host community and those in the community of origin, based on the exchange of best practices.

As regards the settlement of forced evictions of Roma immigrants, ERRC issued the following recommendations: delegating authorities to monitor the observance of the right to free movement of Roma and the degree of efficiency with which the programs for Roma integration are implemented; facilitating the access of Roma living in informal camps to decent housing and basic utilities; identifying alternative housing solutions for Roma before eviction; investigation of reports on police violence directed towards Roma immigrants and punishing those found guilty; providing Roma immigrants with clear and concise information on their rights in the host country; supporting NGOs in projects for inclusion and integration of Roma.

Other recommendations have been made under the program MIGROM which revealed that formulation of social policies aimed directly toward Roma people should be avoided, as they may lead to the impression of positive discrimination or may enable ideological discourses. According to the same source, the measures concerning Roma migrants housing condition should aim to find, together with Roma people, solutions for the temporary camps and evacuations, to develop access programs to cheap social housing, and to ensure the access to basic utilities. Based on MIGROM program, the European Commission suggested that in order avoid eviction of Roma from illegal temporary camps, it is necessary to facilitate access to permanent housing and public services and utilities.

Noting the discrepancy between the declared intentions of the EU states for social integration of Roma and the actual measures of discrimination and violation of their fundamental rights, Kuhelj (2014) appreciates that the only viable solution is to assure access to education, so that they acquire resources to help them escape the vicious cycle of poverty.

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