



## ROMA IN THE WESTERN BALKANS

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## ACRONYMS AND ABBREVIATIONS

CEPS \_\_\_\_\_ Center for Europa Policy Studies

CoE \_\_\_\_\_ Council of Europe

CRD \_\_\_\_\_ Civil Rights Defenders

EC \_\_\_\_\_ European Commission

ERRC \_\_\_\_\_ European Roma Rights Centre

EU \_\_\_\_\_ European Union

IDP \_\_\_\_\_ Internally Displaced People

KPA \_\_\_\_\_ Kosovo Property Agency

KPCVA \_\_\_\_\_ Kosovo Property Comparison and Verification Agency

OCA \_\_\_\_\_ Office for Community Affairs

OSCE \_\_\_\_\_ Organisation for Security and Co-operation in Europe

RHM \_\_\_\_\_ Roma Health Mediators

UNDP \_\_\_\_\_ United Nations Development Programme

UNHCR \_\_\_\_\_ United Nations High Commissioner for Refugees

# THE WALL OF ANTI-GYPSYISM – ROMA IN THE WESTERN BALKANS

## INTRODUCTION

For more than twenty years now, the Roma situation in the Western Balkan countries (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia) received increasing attention in national and international politics. National strategies and action plans have been developed and all Western Balkan countries participated in the Decade of Roma Inclusion (2005-2015). The countries adopted or amended laws, stipulating equal opportunities and treatment for Roma or even affirmative actions. Dozens of projects have been implemented and best practices identified.

The European Union Framework for National Roma Integration Strategies is equally valid for all acceding countries, i.e. for all countries in the Western Balkans. In particular, in the course of the accession process to the European Union, millions of euro have been invested in projects and programmes for the social inclusion of Roma and the European Union assesses annually in its “Progress Reports” the progress made with regard to accession criteria, including the situation of Roma.

There are a few achievements to report about. There is a growing number of Romani activists and an increasing number of Roma attending and finishing secondary schools and universities. Progress has been made in the prevention of statelessness and hundreds of houses have been built for vulnerable Romani families.

However, a systemic change has neither been achieved nor is it in sight. The living conditions of the overwhelming majority of the Roma remain unchanged and the relations between Roma and non-Roma might even have deteriorated. Discrimination and other aspects of anti-Gypsyism dominate the lives of Roma. The governments hardly adhere to the policies and laws they adopted and the “Progress Reports” of the European Union regarding the situation of the Roma are far from being a serious analysis or assessment.

For a considerable share of the Roma in the Western Balkans, migration seems to be the only solution to escape discrimination and to achieve better opportunities. According to assessments, between 2008 and 2016 more than 200,000 Roma from the Western Balkan countries applied for asylum in Western Europe, which would constitute around 20% of the Romani population in the region. In addition, many others left their home countries without going into the asylum system.

In order to analyse and understand these phenomena, it is indispensable to go beyond the sole description of the deplorable living conditions of the majority of Roma, their exclusion from society or to point at the lack of implementation of the policies designed to improve their situation, but it is necessary to identify the reasons which led to this situation.

Asking a few questions might help to identify the reasons: Why are Roma more likely to become victims of ethnically motivated violence by law enforcement officers? Why does a larger share of Roma lack access to documents and citizenship? Why do primarily Roma have to live in slum-like, unhealthy settlements? Why are more Roma unemployed? Why is the average education attainment still so much lower? Why is hate speech against Roma so common and accepted by the majority, including politicians? Why are so many Roma forced to leave their home countries? Why is post-conflict reconciliation and establishing facts on crimes committed during or after the conflicts considered as being important for Albanians, Bosniaks, Croats, Macedonians or Serbs in the region, but not for Roma? Why has not a single culprit of the crimes committed against Roma during the conflicts in the region been brought to justice?

The list of questions could be extended to the policy of the European Union: Why are the governments in the Western Balkans not being held accountable in the accession process for the non-implementation of laws and policies and for the discrimination of Roma? Why do representatives and institutions of the European Union and its Member States deny systematic discrimination in the Western Balkans and make use of racist prejudices without being held accountable for it? Why do the European Union and the Member States emphasise that many or most of the asylum seekers from the Western Balkans are Roma, but do not sufficiently target them in reintegration and legal labour migration programmes?

Their socio-economic situation, their exclusion, the refusal of national governments to recognise and appropriately address their situation, the indifference towards crimes committed against them, the silent complicity of the Western Balkan governments and the view of the Western European governments and the European Union institutions that the announcement of policies to ensure equal opportunities is sufficient and does not have to be followed by actual policies or implementation can be traced back to one reason: the anti-Gypsyism prevailing in Europe.

## ANTI-GYPSYISM

Anti-Gypsyism is the “historically constructed, persistent complex of customary racism against social groups identified under the stigma “gypsy” or other related terms”.<sup>1</sup>

The added value of the concept of anti-Gypsyism “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”.<sup>2</sup>

In the Western Balkans, anti-Gypsyism is not expressed in the way that explicit anti-Roma laws or policies are adopted and implemented, though a few such laws or by-laws were put in place to stop Roma from leaving their home countries (e.g. Kosovo, Macedonia, Serbia). At policy level, anti-Gypsyism is first of all expressed in the way that policies or laws that should promote equal opportunities or social inclusion are not implemented or that discrimination of Roma is denied, perpetuating and strengthening the exclusion of Roma. In this regard, there is a prevailing complicity of the European Union and individual Member States of the European Union with the governments in the Western Balkans.

Looking at the situation in employment and housing will illustrate this assessment: for many years, countries such as Bosnia and Herzegovina, Kosovo, Macedonia or Serbia have had laws in place that stipulated equal employment opportunities in public service for members of minorities. However, the countries are not respecting their own laws when it comes to the employment of Roma.

Countries such as Kosovo, Macedonia or Serbia have laws or policies in place that request the formalisation of Romani settlements or of individual houses in Romani settlements, which would constitute a precondition for slum-upgrading or any other investments in the development of these neighbourhoods. However, none of the countries addressed this issue consistently; Macedonia at least proceeded on the legalisation of individual houses.

Depriving an ethnic group of equal access to employment and housing should be considered as discrimination, and in the case of Roma also as anti-Gypsyism, and subsequently a reason for forced migration. However, the

governments continue with discriminatory policies and the EU turns a blind eye on it.

Roma experience anti-Gypsyism and discrimination in all aspects of their daily lives, in their dealings with authorities or in shops, bars and restaurants, or simply walking on the street. Anti-Gypsyism can be found in schools where Romani kids are bullied or harassed or they have to attend segregated schools. Roma can experience discrimination when accessing health services or social welfare offices.

Institutions like the Ombudsperson offices or civil society watchdog organisations emphasise that most cases of discrimination might not be reported. Either the discriminated Roma are not informed about their rights or do not know where to complain or do not expect any result if they would submit a complaint.

Negative or racist attitudes dominate the public and sometimes even political discourse on Roma in all these countries. Hate speech is common and it is not only found in social media. Human rights organisations report that crimes committed against Roma are sometimes ignored by the justice system, e.g. in Serbia.<sup>3</sup>

War crimes committed against Roma in Bosnia and Herzegovina and Kosovo are not prosecuted, leading to the fact that not a single perpetrator has been brought to justice for these crimes and to a situation where Roma are either ignored as victims (BiH) or even wrongly perceived as culprits (Kosovo).

In BiH, public perception and public discourse do not recognise Roma as victims of the war, though Roma were victims of atrocities or ethnic cleansing operations throughout BiH (e.g. in Srebrenica or Zvornik).

The (often forced) collaboration of a few Roma with the former Serb regime in Kosovo has been used to put a collective guilt on all Roma and as a pretext for crimes against Roma in the aftermath of the war. Judicial proceedings of the crimes committed against Roma, as well as of the alleged crimes committed by Roma, would have challenged the produced image of Roma in Kosovo.

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1 Alliance against Anti-Gypsyism 2016

2 CEPS, Combating Institutional Anti-Gypsyism. Responses and promising practices in the EU and selected Member States, Brussels, May 2017

3 Written Comments of the European Roma Rights Centre, PRAXIS and Other Partner Organisations, Concerning Serbia. For Consideration by the Committee on Economic, Social and Cultural Rights at the 52nd Session (April 28 to May 23, 2014). Retrieved on June 14, 2017 from <http://www.errc.org/cms/upload/file/serbia-ce-scr-20-march-2014.pdf>

In societies which have been built up in the post-war period on myths and on specific role of individuals or groups during the wars, rather than on facts and prosecutions, such purposeful wrong perceptions have long-term consequences for Roma, since they aim at their exclusion from society.

## CUMULATIVE DISCRIMINATION

### CUMULATIVE DISCRIMINATION

Cumulative discrimination “expands the potential impact of racial discrimination to include cumulative effects over time, as well as the interaction between effects of discrimination experienced in one domain and at one point in time and events that occur in other domains and at other points in time”.<sup>4</sup>

The discrimination that Roma face in all spheres of life, be it in employment, in access to health care or in education system, is not only interrelated, but mutually reinforced and creates over time a nearly unsurmountable barrier between non-Roma and Roma in terms of participation in the public or political life of a country.

The housing situation and in particular the prevalence of the informal settlements and the refusal of the governments to systematically formalise them, demonstrate the cumulative effect. The deplorable housing conditions do not only affect the health situation or the learning environment for children, but it also creates obstacles for registration of inhabitants and their access to public services or employment.

And discrimination is not only cumulative in its nature, it is also systematic and deeply rooted in the understanding of policy-making and in the attitude of society towards this systematic discrimination. The systematic character of discrimination is best illustrated by the labour market situation and the refusal of the authorities to adhere to their legal obligations to promote employment of Roma in the public sector or the refusal of employers in the private sector to employ Roma. This attitude and its acceptance has led to a situation where self-employment of Roma is promoted by governments and international donors, since employment in public and private sector seems hardly possible.

In the Western Balkan countries, one can observe a dynamic that is characterised by an increasing exclusion of

the Roma from mainstream society. Points of interaction between Roma and non-Roma are decreasing in light of the increased residential segregation, high unemployment rates, which also means hardly any contact between Roma and non-Roma at workplaces, and the prevailing segregation in the education system.

## CONCLUSION

If the anti-Gypsyism is the root cause for the socio-economic situation of the vast majority of Roma in the Western Balkans, it is the anti-Gypsyism which should be combatted at all stages and in all fields in order to achieve a change. In our context, this means in particular to remind state institutions of their obligation to “effectively deliver equality, non-discrimination and fundamental rights to Roma individuals”.<sup>5</sup> Governments and societies have to adhere to their duties and implement policies and laws and promote an equal participation of Roma in public and political life.

In this context, the dominating narrative about migration of Roma should also be re-examined and the Western European countries must acknowledge that state institutions in the Western Balkan countries fail to adhere to their duties. There is probably up to 200,000 Roma who were forced to leave their home countries because anti-Gypsyism deprives them of any possibility to achieve an adequate life and not due to a more attractive social welfare or refugee protection system in Western Europe, as politicians in Western Europe and in the Western Balkans prefer to claim in order to avoid responsibility for improving the situation of Roma.

The full scope of anti-Gypsyism becomes visible only when identifying all the different fields where Roma experience discrimination and admitting that discrimination is not only exercised by individuals or the “society”, but by state institutions, including the national governments.

Development policies or social inclusion policies in general are prevailed by the common understanding that measures promoting social inclusion can only be successful if they address all domains of exclusion simultaneously and if they promote equal opportunities, i.e. combat discrimination.

The paper at-hand, the individual chapters of the overview report and of the individual country reports should therefore always be read from this perspective: Only by taking

<sup>4</sup> See Blank, Dabady and Citro, 2004, p.223

<sup>5</sup> CEPS, Combating Institutional Anti-Gypsyism. Responses and promising practices in the EU and selected Member States, Brussels, May 2017

all these different forms or expressions of anti-Gypsyism and discrimination and their mutual re-enforcement into account can one understand the actual situation of Roma in the countries in the Western Balkans and develop effective policies in order to achieve a change.

A policy of change has to be based on facts or evidence, acknowledging the reasons for the exclusion of Roma. However, a policy of change also has to achieve a change of mind-sets in order to be successful and sustainable. The change of the mind-sets has to be achieved both among the non-Roma and the Roma.

Strong legislation and comprehensive or holistic policies with a good implementation in cooperation with appropriate rules and procedures sets the overall framework which has to be in place. This framework, however, has to be based on a realistic assessment of the situation and to include combatting anti-Gypsyism as a *conditio sine qua non*.

In order to ensure a rights-based approach and to change the attitude of the majority towards Roma, training initiatives for public officials, media representatives or pupils are indispensable as well as to influence the public discourse. Implementation of legislation and policies is always closely linked with the public discourse and the public opinion, thus working on both is necessary to achieve a change. In order to illustrate: the non-implementation of laws and policies requesting an equal representation

of minorities or Roma in public sector would never have taken place undisputedly if there was a different prevailing public or policy discourse or public opinion about Roma and about human rights, including the discourse of politicians in the Western Balkans and in the Western Europe.

This should go hand-in-hand with a robust enforcement of the adherence of the governments to laws and policies through national institutions as well as institutions of the European Union.<sup>6</sup>

A better representation and participation of Roma in these discourses about Roma, but also in other relevant discourses in politics and society, is a further precondition to achieve such a change. Simultaneously, this would contribute to a change of attitude or mind-set among Roma: that they can and that they have to actively participate in society and politics, which is yet limited to a small elite in these countries. In light of their unchanged deplorable living conditions, the majority of the Roma in the Western Balkan countries do not seem to believe anymore that a change is possible. They lost trust in national governments and institutions and in international organisations, and in many cases in the organisations and individuals representing them. In order to change this situation, there is a need to not only create conditions for Roma to take active part in society and politics, but also to ensure that their engagement has an impact on their situation and can produce positive results.

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<sup>6</sup> See for recommendations within European Union Member States: CEPS, Combating Institutional Anti-Gypsyism. Responses and promising practices in the EU and selected Member States, Brussels, May 2017



PHOTO: LILIKA STREZOSKA, MACEDONIA

## 1. ROMA IN THE WESTERN BALKANS: OVERVIEW

### 1.1 DEMOGRAPHICS

Throughout Europe, the exact number of Roma is difficult to determine. The main reason for this is the fact that, for several reasons, the majority of Roma do not display their ethnicity during census taking. This overall phenomenon is exacerbated in the Western Balkans by additional phenomena:

- (i) the mass expulsion of Roma to Western Europe during and after the wars in Bosnia and Herzegovina (1992-1995) and in Kosovo (1998/1999), and also of Roma from Kosovo to neighbouring countries, which led to the fact that today there are still more than 100,000 displaced Roma from Kosovo;
- (ii) the forced migration of Roma in the last decade which saw probably 20% of the overall Roma population from the Western Balkans asking for asylum in Western Europe due to anti-Gypsyism and discrimination;
- (iii) the reluctance of governments, e.g. in Kosovo, to re-integrate the persons (forcibly) returned from Western Europe, which leads to a situation where the returned Roma are leaving Kosovo again;
- (iv) the self-identification of many people as Ashkali or Balkan Egyptians, primarily in and from Albanian-dominated areas, who deny any relation to Roma but are generally considered as Roma by the rest of the population;
- (v) the non-registration of Roma, primarily from informal settlements, leading to statelessness and invisibility.

In total, there might be up to one million Roma living in the Western Balkans.

## BOX: Population data (Census data and estimations according to the Council of Europe)

Country	Latest census results (year)	Council of Europe (average estimation) <sup>7</sup>	Comments
Albania	8,301 Roma, 3,668 Egyptians (2011)	13,000-150,000	
BiH	12,835 Roma, 12 Egyptians (2013);	40,000-100,000	
Kosovo	8,824 Roma; 15,436 Ashkali; 11,524 Egyptians (2011)	N/A	Prior to the war: at least 150,000 (all three groups)
Macedonia	53,879 Roma, 3,843 Egyptians (2002)	260,000	
Montenegro	6,251 Roma, 2,054 Egyptians (2011)	25,000 (both groups)	Probably up to 10,000 displaced Kosovo Roma
Serbia	147,604 Roma, 1,834 Egyptians; 997 Ashkali (2011)	250,000 – 600,000	Ca. 40,000-45,000 expelled Kosovo Roma

Roma in the Western Balkans are a very diverse group and can be differentiated according to traditional group affiliations, often based on crafts exercised by the ancestors, religion (primarily Orthodox and Islam), (first) language (Romani, Serbian, Albanian, Bosnian, Macedonian, Montenegrin, Hungarian, Romanian, Turkish, etc.) or to their social and legal position (domicile, registered IDP, non-registered IDP).

### 1.2 OVERVIEW: LEGAL AND POLITICAL FRAMEWORK

Despite shortcomings in individual laws or policies, the countries in the Western Balkans did their homework and adopted the laws and policies that promote equal opportunities for Roma and which were primarily required in the framework of the European Union accession process. All countries adopted anti-discrimination laws, as well as strategies and action plans for the inclusion of Roma; almost all countries provided the legal framework for facilitating access to documents and for avoiding statelessness as a prerequisite for enjoying the rights in the fields

of education, employment or access to health service. Most countries adopted laws allowing for legal aid, for improving the framework of providing quality education to all, for inclusion in the labour market or providing for housing programmes. However, most of these laws and policies either remained on paper only or their realisation remained very limited. Consequently, their effect on the position of the Roma is very limited and the authorities became used to the situation where non-implementation remains unsanctioned which further perpetuates this situation.

The European Union requested the introduction of these laws and policies but it nevertheless did not consistently insist on their realisation. This approach of the European Union leaves the impression that the EU and its Member States have been less interested in actual improvement of the situation than in ticking boxes and ensuring that the countries in the Western Balkans had legal and policy frameworks in place that would allow for forced returns of Romani refugees from Western Europe.

<sup>7</sup> See "Estimates on Roma population in European countries". Retrieved on February 14, 2017 from: <http://www.coe.int/de/web/portal/roma>

## 2. SECURITY AND FREEDOM FROM TORTURE

The respective laws in most countries recognise “hatred” as a special aggravating circumstance in criminal offences. With regard to hate speech on the Internet and in social media, countries such as **Macedonia** introduced a separate criminal offence “spreading racist and xenophobic material by means of information system”.

However, the legislation against hate speech and violent hate crimes is inefficient and appropriate action is not always being taken by authorities (**Serbia**). The respective laws are not fully applied (**Albania, Kosovo**) or the appropriate procedural and institutional frameworks for tackling violence and harassment against minorities are still missing (**Montenegro**) or incidents in which Roma are targeted in racially-motivated attacks are often not investigated and punished properly, thus contributing to an environment of impunity for anti-Roma hate crimes (**Serbia**).

In countries such as **Albania, Montenegro** or **Serbia**, the relevant authorities do not collect ethnically disaggregated data on hate crimes which makes it impossible to establish the exact number of such crimes and to get a good understanding of the problem. However, such cases continue to be committed and according to non-governmental sources, Roma are disproportionately targeted.

In **Macedonia**, there have been 5 cases in the last 5 years documented by the ERRC, concerning state response to violence and hate speech (three concerning deaths in custody of Romani men and two cases of police brutality).<sup>8</sup>

In **Serbia**, in the previous years, incidents of violence against Roma have been reported, including minimum

four cases of police brutality and cases of hate speech. However, we can assume that the majority of incidents remain unreported. Recently, an incident of police violence against a Romani couple in a police station has been reported in April 2017.<sup>9</sup>

In **BiH**, only two incidents against Roma were reported for 2015.<sup>10</sup> In Montenegro one incident has been reported in 2016.

In **Albania**, there have been some incidents of hate speech against Roma and Egyptians by politicians. However, hate speech is mostly found on online media which is not regulated.<sup>11</sup>

### RECOMMENDATIONS

- In line with international data protection standards and in close cooperation with Romani representatives, the governments should identify possibilities to collect ethnically disaggregated data on hate crimes and acts of racial or ethnic discrimination, as well as on complaints, prosecutions and judgments relating to them.
- The governments should, wherever necessary, revise the existing hate crime legislation in order to make it more efficient.
- The governments should adopt laws combating more efficiently hate speech on the Internet and in social media.
- The governments should provide for better training for law enforcement officers, judges and prosecutors on combatting anti-Gypsyism to ensure appropriate implementation of hate crime legislation.

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8 ERRC, cases overview on response to violence and hate speech– Macedonia. Retrieved on June 14, 2017 from: <http://www.errc.org/article/domestic-cases-macedonia/4399>.

9 Bernard Rorke, Half time for the EU Roma Framework: Is the Commission serious about Roma inclusion in the Western Balkans? Retrieved on June 15, 2017 from <http://www.errc.org/blog/half-time-for-the-eu-roma-framework-is-the-commission-serious-about-roma-inclusion-in-the-western-balkans/175>

10 OSCE Mission to Bosnia and Herzegovina, Hate Crimes and Bias Motivated Incidents in Bosnia and Herzegovina: 2015 Monitoring Findings of the OSCE Mission to Bosnia and Herzegovina, November 16, 2016. Retrieved on June 16, 2017 from <http://www.osce.org/bih/281906?download=true>

11 Civil Rights Defenders, Country Report Albania. Retrieved on June 30, 2017 from: <http://www.civilrightsdefenders.org/country-reports/human-rights-in-albania/>



PHOTO: BRANISLAV LUKIC, BOSNIA AND HERZEGOVINA

### 3. PERSONAL DOCUMENTS

After the dissolution of Yugoslavia, the lack of documents, the non-registration or the legal invisibility created serious difficulties for many Roma to participate in the official labour market, in the education or health system, to receive social benefits or to be able to vote.

Although the lack of registration and of documents existed and still exists in other parts of Europe as well, the situation in the successor states of former Yugoslavia, but also in Albania, was particularly challenging. The dissolution of former Yugoslavia left many Roma stranded in a new country (or former republic of Yugoslavia) without being registered there. Therefore, they didn't meet this basic requirement to benefit from legal safeguards introduced to avoid statelessness and often had to undergo first a "subsequent registration" in the respective former republic of Yugoslavia they are originally coming from.<sup>12</sup>

The fact that many Roma live in informal settlements constituted another problem with regard to registration and access to documents, since they could not obtain an official address. Without a valid residence, Roma living in informal

settlements could not obtain identity documents and consequently they could not register the births of their children.

In comparison to other groups, Roma were and are still disproportionately represented among the people affected. According to all estimates, Roma constitute the majority among the "legally invisible people" which could be attributed to and which reflects their lifelong experience of different expressions of discrimination.

In close cooperation with international organisations and Romani civil society, the governments in the region undertook serious efforts to improve access to registration and documents and to end statelessness and the legal invisibility. Legal amendments were introduced, changing the requirements and procedures for registration and allowing for several affirmative measures.

The affirmative measures included, *inter alia*, waiving the fees for documents, outreach and information campaigns to Romani communities with the possibility to register, allowing for subsequent registration of persons already

12 See UN High Commissioner for Refugees, Displacement, The New 21st Century Challenge, June 19, 2013. Retrieved on February 23, 2017 from: [www.refworld.org/docid/51c169d84.html](http://www.refworld.org/docid/51c169d84.html)

borne some time ago, the possibility to register at the Social Welfare Office in case persons live in informal settlements without official address or obliging Social Welfare Offices to actively register newborn children, or to issue birth, marriage, citizenship and death certificates without any expiry date, etc.

The measures that were introduced had significant impact in terms of access to personal documents by Roma. In **BiH** for instance, according to UNHCR, the number of persons who are at risk of statelessness decreased from cca 4,500 in 2012 to only 53 persons as of September 30, 2016. In **Macedonia** 734 persons were considered stateless at the end of 2014 and in **Kosovo** in August 2015, 618 Roma, Ashkali and Egyptians.

The progress made in this field demonstrates that prevalence of political will could contribute to solving the problem and close cooperation between different actors, involving Roma, can actually lead to an improvement, despite legal and practical challenges. While improving access to documents and citizenship is a significant positive development, problems still exist. There are still specific groups at risk, in particular refugees and IDP from Kosovo who now live in a neighbouring country or returnees from Western Europe.

Legislative shortcomings and discriminatory practices still prevail.<sup>13</sup> These shortcomings have to be addressed, but observers do not identify (anymore) a structural discrimination of Roma with regard to registration or accessing

documents.<sup>14</sup> However, discriminatory practices occur in local administrations or with courts – phenomena that the relevant authorities should urgently address.

In addition, the authorities should ensure that new statelessness is being avoided, e.g. that all newborns are registered.

## RECOMMENDATIONS

In order to address the remaining shortcomings and obstacles, the national governments should introduce safeguards in order to ensure that:

- Outreach and information campaigns are continued until all persons are informed about possibilities to register and the consequences of non-registration;
- Subsequent registration remains available and affordable;
- All newborn children are “automatically” registered;
- The persons returned from Western Europe are assisted in obtaining all necessary documents prior to the deportation;
- Displaced persons have full access to documents and receive a status which guarantees equal opportunities;
- An international cooperation mechanism between involved governments of returnees and displaced persons is established; and
- Solutions to legalise informal settlements are identified to support registration.

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13 Interview with Ivanka Kostic from the NGO Praxis. Retrieved on February 14, 2017 from <http://www.statelessness.eu/news-events/news/ens-interview-eradicating-childhood-statelessness-serbia>

14 See inter alia Praxis, ERRC, Written Comments by the European Roma Rights Centre and Praxis, Concerning Serbia. For Consideration by the Committee on the Rights of the Child at the Concluding Observations of the 74th Session (January 16 to February 3, 2017). Retrieved on February 17, 2017 from [http://praxis.org.rs/images/praxis\\_downloads/Serbia-crc-submission-december-2016.pdf](http://praxis.org.rs/images/praxis_downloads/Serbia-crc-submission-december-2016.pdf)

## 4. EMPLOYMENT

The situation on the labour market exemplifies the anti-Gypsyism and discrimination of Roma in the countries in the Western Balkans, as well as the refusal of Western Europe to recognise these phenomena and their systemic character.

All countries face high unemployment rates and the economies are dominated by nepotism and corruption, as well as widely accepted informal labour markets, which makes it even more difficult for excluded groups such as Roma to find formal employment or to create legal self-employment opportunities. In particular, they face anti-Gypsyism in both the public and the private sector.

The National Strategy in **Montenegro** recognises discrimination and lack of acceptance by non-Roma and employers as one of the major obstacles to employment of Roma and Egyptians.

In the public sector, the refusal of the authorities to implement legislation put in place to ensure equal employment opportunities demonstrates clearly the discrimination that Roma face.

In most of the countries (**BiH, Kosovo, Macedonia, Serbia**), laws stipulate equal representation of all ethnic communities in the public service or even that a certain percentages of work-places within the public sector should be filled with members of ethnic minorities. However, though these laws have existed for years, not a single country meets these obligations.

In **Kosovo**, in 2013 an assessments of the Office for Community Affairs (OCA) within the Prime Minister's Office found that out of 5000 civil servants at central level, only three Ashkali, two Egyptian, and five Roma were employed. In **Serbia**, the research from 2011 demonstrated that out of 16,675 employees in 51 state institutions only eight were Roma.

In the private sector, the discrimination is *inter alia* demonstrated by the fact that employers do not employ Roma even if they would receive incentives, such as wage subsidies, to do so. Research in Macedonia revealed that Roma, though being identified as one of the target groups of the government programme for "subsidised employment", they could hardly profit from it, *inter alia* due "to the existing discrimination and stereotyping of Roma among the potential employers, and their lack of interest for employment of Roma".<sup>15</sup>

For the majority of Roma only a few options remain: either to work as self-employed, to work on the grey market without social security or to migrate to Western Europe (or in case of Kosovo to migrate to Serbia). A UNDP survey in **Albania** demonstrated that 84% of the employed Roma are not secured by pensions or health care and only 15% are in permanent and stable employment. Similar striking data can be found in other countries in the Western Balkans.

The survey data presented below can serve as indicators for their vulnerable position on the labour market.

**Overview table: Unemployment rates (age 15-64 years)<sup>16</sup>**

Country	Roma	Non-Roma
Albania	23%	18%
BiH	54%	30%
Kosovo	58%	54%
Macedonia	53%	27%
Montenegro	44%	30%
Serbia	49%	27%

<sup>15</sup> EPTISA et al, Challenges of Promoting and Implementing Modalities of Employment Programmes for Integrating Roma Citizens, Refugees and Internally Displaced Persons, Skopje 2016. Retrieved on May 22, 2017 from: [http://mtsp.gov.mk/content/pdf/dekada/proekt\\_lokalna\\_integracija/Report\\_Activity%203%202%20\\_Output%2032\\_final.pdf](http://mtsp.gov.mk/content/pdf/dekada/proekt_lokalna_integracija/Report_Activity%203%202%20_Output%2032_final.pdf)

<sup>16</sup> Source: UNDP 2011; for Kosovo: UNDP, Kosovo Human Development Report 2010

The limited access to the labour market cannot be compensated through state transfer payments. In most of the countries, the receiving of social welfare requires the meeting of requirements which only a part of the population can meet and, in most countries, social welfare is by far not enough to make one's living. In order to improve the overall employment situation of Roma, international assistance and political pressure would be necessary. However, the European Union or Western European countries attribute the high unemployment rate among Roma primarily to the low level of formal education of the majority of Roma. They deny the discrimination of Roma, in particular by the authorities, and do not take into account the consequences of forcing Roma into economic niches with limited social security.

## RECOMMENDATIONS

- The European Union should recognise the discrimination that Roma face on the labour market and take steps to combat this problem in cooperation with the national governments in the Western Balkans.
- The national governments and authorities should as a first step adhere to their legal obligations and promote employment of Roma in the public sector.
- The governments in the Western Balkans, in close cooperation with individual governments in Western Europe, should approach companies investing in the region, encouraging them to train and to employ Roma.
- While recognising the discrimination in the private sector and the difficulties to promote employment in small and medium-sized companies, the governments should enforce the antidiscrimination laws on the one hand, and further promote sustainable self-employment opportunities for Roma on the other.
- In particular, the governments should pay specific attention to facilitate and support the employment of the new generation of well-educated and trained young Roma in order to create role models for both the majority and the Romani population.



PHOTO: ENIS ABDULLAHU, KOSOVO

## 5. EDUCATION

Though overall, Roma still do not enjoy equal opportunities in education and discriminatory practices still exist, some positive developments can be identified. The number of Roma attending all levels of education has increased in the last years and fewer Romani children are

sent into special schools. However, attendance rates and attainment rates among Romani children are still lower than among their non-Romani peers and segregated schooling for Romani children still exists.

**Table 2: Selected data on the situation in education of the Roma (2011; without Kosovo)<sup>17</sup>**

Albania	Men		Women		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Pre-school enrolment rate (3-6)	37%	53%	30%	61%	34%	57%
Gross enrolment rate in compulsory education (7-15)	49%	90%	48%	92%	48%	91%
Gross enrolment rate (upper-secondary education 16-19)	17%	65%	10%	55%	13%	60%
BiH						
Pre-school enrolment rate (3-6)	8%	11%	5%	15%	6%	13%
Gross enrolment rate in compulsory education (7-15)	62%	92%	59%	99%	61%	96%
Gross enrolment rate (upper-secondary education 16-19)	14%	74%	16%	71%	15%	72%

<sup>17</sup> See the results of the UNDP survey. Retrieved on March 16, 2017 from: <http://www.eurasia.undp.org/content/rbec/en/home/ourwork/sustainable-development/development-planning-and-inclusive-sustainable-growth/roma-in-central-and-southeast-europe/roma-data/>

<b>Macedonia</b>						
Pre-school enrolment rate (3-6)	13%	12%	19%	36%	16%	25%
Gross enrolment rate in compulsory education (7-15)	75%	94%	73%	87%	74%	90%
Gross enrolment rate (upper-secondary education 16-19)	30%	62%	24%	67%	27%	65%
<b>Montenegro</b>						
Pre-school enrolment rate (3-6)	8%	14%	14%	21%	11%	17%
Gross enrolment rate in compulsory education (7-15)	54%	97%	55%	91%	55%	94%
Gross enrolment rate (upper-secondary education 16-19)	14%	59%	12%	65%	13%	61%
<b>Serbia</b>						
Pre-school enrolment rate (3-6)	20%	45%	15%	50%	18%	48%
Gross enrolment rate in compulsory education (7-15)	80%	95%	80%	95%	80%	95%
Gross enrolment rate (upper-secondary education 16-19)	27%	78%	23%	64%	25%	71%

The governments in the region amended the legal framework in education and introduced policies allowing for different (affirmative) actions, such as Teaching Assistants, scholarships, assistance in accessing education ranging from pre-school to university education (financial assistance, reserved place in universities, etc.) in order to improve enrolment and performance.

Many of the initiatives leading to the improvement of the situation in the education sector are implemented by non-state actors and financed by external actors and not by the national budgets. Positions created to improve the situation in the education sector such as the Teaching Assistants are often not systematised and not recognised as official professions, which is a situation that raises questions about the sustainability and the actual ownership.

The following education challenges continue to prevail: (i) school curricula portray Roma as a vulnerable group rather than a distinguished ethnicity with a tradition, history, culture and achievements, which perpetuates stigmatisation and discriminatory attitudes; (ii) teaching staff and school principals lack the understanding of Romani identity and of skills for teaching and managing a multicultural educational environment and (iii) the school system in general lacks extra-curricular activities promoting inter-cultural dialogue and understanding.

Across the countries, the socio-economic situation of the families still forces children to drop out of school in order to work and to contribute to the family income. Other children do not attend school regularly in cases where the parents migrate for work purposes and they accompany their parents (often only for three months).

Other potential challenges are related to the successes of interventions in the field of education. Roma students who are now and in the near future finishing secondary schools and universities have to get access to the labour market, something that could prove to be difficult in a context dominated by discrimination, nepotism and corruption on the one hand and high unemployment on the other hand. However, these young graduates have an important task: they are role models for their own communities – to demonstrate that pursuing education pays off, and for the majority population in order to change their prejudices and stereotypes about Roma.

Another concern, slowly finding its place also in the Western Balkans, is the so-called “white flight”. With regard to Roma, this means that as soon as more Roma attend successfully a certain school, the non-Romani parents tend to take their children out of these schools, thus creating segregated schools again.

Other challenges are related to the general attitude of the population in the Western Balkan countries. The majority of the population, irrespective of the ethnicity, does not consider inclusive education, diversity or even pre-school education as an asset for the development of their children, but rather as something negative. These attitudes directly and indirectly affect the Roma too.

Furthermore, in a country like **BiH** where the three constituent people – Bosniaks, Croats and Serbs – insist on their own education model, it is challenging to promote common education for all ethnicities.

## SEGREGATED SCHOOLING

Segregation in the education system prevails in different forms: (i) segregated Roma-only or Roma-majority schools; (ii) segregated classes for Roma in a mainstream school; (iii) segregation within the classroom in a way that Romani children and non-Roma children each occupy a separated part of the classroom and (iv) sending Romani children into special schools. As a rule, these segregated schools or classes provide a lower quality of education.

With the exception of **BiH** and **Montenegro**, we can find segregated schooling in all countries in the Western Balkans. In 2016, a research showed the persistence of segregated schools in **Serbia**, following an uncontrolled “white-flight” in schools in close proximity to Romani settlements due to an outdated catchment area system. In integrated classes, it was observed that Romani children were far more likely to be designated to follow individual education plans, which also contributes to segregated education. In **Macedonia**, the phenomenon of “white flight” can also be observed and along with it the continuation of segregated settings in the education system.

In **Albania** there are two segregated schools, one in Korca and one in Berat. In **Kosovo**, segregated schools or classes for Romani children exist in Gjilan/Gnjilane, and North Mitrovica/e, while both schools are under the supervision of the Ministry of Education of Serbia. In a school under Kosovo administration in Gjakovë/Đakovica there is also segregated schooling for Romani and Egyptian children, which is subject to a lawsuit against the municipality.

In **Montenegro** in particular, the children from the camps in Konik (primarily Displaced Persons from Kosovo) were for years attending segregated education in six different schools in Podgorica. The desegregation process (provision of transport, school mediators, etc.), initiated in the school year 2015/2016, resulted in a situation where all children were attending desegregated schools in the following school year, 2016/2017.

## SPECIAL SCHOOLS

One of the worst forms of anti-Gypsyism and discrimination of Romani children is the practice in many countries of placing Romani children wrongfully in special schools for mentally disabled children. The devastating effects of this practice on the individual children, on Roma as a

group and its relations with the majority population are well known, but this practice is still prevalent in some countries.

In **Macedonia** and **Serbia**, Roma still constitute a considerable share of the children in special schools or special classes from which the return to mainstream schools is hardly possible. The respective government strategies for the integration of Roma confirm the prevalence of this discrimination.

## ROMANI LANGUAGE, IDENTITY AND CULTURE

In the last years some authorities provided for the possibility to study Romani language, identity and culture or to study in Romani language. However, in comparison to other minorities in the region, the possibility for Roma to study their mother tongue and culture or even to study in their mother tongue is still very limited.

In **Macedonia**, **Serbia** and **Kosovo** Romani language and culture has been introduced in schools as an optional subject and even teaching is available in Romani language. In **BiH** and **Montenegro**, the Romani language is not offered as an elective subject in any school in the country, nor was any other alternative provided for learning the language<sup>18</sup>

## RECOMMENDATIONS

The governments should strictly combat the existence of any form of segregation in the education system. In particular the governments should:

- immediately stop the practice of sending Romani children into special schools
- introduce culture and history of Roma into the general teaching subjects
- provide for more possibilities to learn or study in Romani language
- include modules on inclusive education in general into the teachers' training curricula
- include modules on combating anti-Gypsyism and other forms of racism into the teachers' training curricula
- promote extra-curricular activities in order to create closer contacts between Roma and non-Roma

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## 6. HOUSING

Across the region, the situation of the majority of Roma with regard to housing and the provision of infrastructure to Romani settlements remains by far worse than the respective situation of the majority population.

All countries have developed policies and laws referring to the improvement of the housing situation of Roma, however, they are not fully implemented. Further, available funds earmarked for the improvement of the housing situation have not been fully used and the information on proposed measures and available opportunities do not always reach the local level – the local authorities and Romani communities.

The majority of the Roma live in unsafe and insecure, overcrowded housing conditions and their economic situation does not provide for the perspective that their situation will fundamentally change soon.

The major problems are: residential segregation with many Roma living in substandard segregated houses; the reluctance of the authorities to formalise informal settlements; the lack of appropriate social housing schemes and the difficulties for Roma to access them; and the threat of or execution of forced evictions. The anticipated return of many Roma from Western Europe can even further deteriorate the situation in the housing sector.

However, progress has been made too. In **BiH**, in total, more than 700 housing units for Romani families were constructed or reconstructed and more than 1000 Roma families were beneficiaries of infrastructure projects.<sup>19</sup>

### INFORMAL SETTLEMENTS

Many Roma live in informal settlements. In **Kosovo**, there are more than 100 of these settlements though the authorities of Kosovo (including the former international administration) have been under an obligation to formalise them since 2004. In **Serbia**, about 70% of Roma live in Romani settlements which are often characterised by spatial and social segregation of Roma and by their informal nature. In Serbia, for instance, there are 583 “substandard Romani settlements”. In **Montenegro**, 77% of Roma and Egyptians live in segregated settlements.

However, the legalisation of these settlements is hardly at all addressed, despite legal and political obligations in some countries. The majority of these settlements are not included in the urban or spatial planning of the

municipalities and even where legalisation takes place in a more systematic way, it concerns individual houses, e.g. in **Macedonia**. Moreover, the legalisation is often connected to administrative and other costs, which could prevent vulnerable families from pursuing such processes.

### SOCIAL HOUSING PROGRAMMES

Overall, there are not sufficient social housing programmes, allowing e.g. Romani families or other socially excluded families to leave their substandard dwellings. The financial resources for social housing schemes come primarily from external sources, e.g. the European Union. In **Serbia**, after the forced eviction of many families from informal settlements (Gazela and Belville settlements), it took years to provide social housing for these families though not for all of them. In **BiH**, in total, more than 700 housing units for Romani families were constructed or reconstructed which in many cases fall in the category of social housing.<sup>20</sup>

Not always have social housing schemes been designed in a way that Roma could meet the criteria for being included. Other social housing schemes created new problems such as the families not being able to afford the running cost of the new apartment, since the housing schemes were not embedded into a comprehensive approach, providing also employment opportunities or capacity and community-building components.

### FORCED EVICTIONS

In the past, the authorities carried out several forced evictions of informal settlements without following procedures required under international human rights standards. These forced evictions and the public discourse about it, including the resistance of neighbours in locations to which the evictees were resettled, created or strengthened negative stereotypes about Roma.

Even though forced evictions on a larger scale have not taken place in the last years, it remains an issue of permanent threat to many people, in particular in **Albania**, **Macedonia** and **Serbia**.

### REINTEGRATION OF RETURNEES

Western Europe, in particular Germany, recently strengthened its efforts to return Roma refugees by force to the

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Western Balkans. Many returnees might have no accommodation upon return and the local self-governments are not prepared to provide accommodation, e.g. temporary shelter or social housing. This situation puts Roma in a very vulnerable situation when they return to their country of origin, significantly affecting their possibility to integrate in society.

## **RECOMMENDATIONS**

- All countries should adopt and implement legislation promoting the legalisation of settlements and their inclusion in spatial and urban planning, following clear and strict criteria. In cases when legalisation is not possible, the authorities should secure alternative accommodation.
- All countries should adopt legislation on evictions which are in line with international standards and adhere to them.
- Social housing programmes should be extended, however, avoiding new residential segregation. In cooperation with the countries returning Roma to the Western Balkans, the inclusion of Romani returnees in these programmes should be facilitated.
- Housing programmes should be embedded in a comprehensive approach allowing for employment opportunities, access to education and including capacity and community building activities in order to ensure sustainability.



PHOTO: DORI LYLA, ALBANIA

## 7. ACCESS TO JUSTICE

In general, all countries adopted anti-discrimination laws also stipulating “equality before the law” and established institutions such as Ombudspersons or Equality Commissioners to facilitate access to justice. The countries – with the exception of **Serbia** - have also adopted laws on free legal aid.

Overall, in all countries corruption or nepotism are prevalent within the judiciary, which seriously affects the trust of the public in the judicial system and has a negative impact on the access to justice, in particular for excluded and vulnerable communities such as the Roma.

According to a research, 66% of the population in **Serbia** doesn't trust the judiciary.<sup>21</sup> In **Albania**, the majority of Roma who went to court did this without legal representation. The reasons given for the distrust were, *inter alia*, that those institutions do not treat people equally (21.9%), they are bureaucratic and/or corrupt (13.2%), or that going to court would be a waste of time (11%). In **Kosovo**, 67% of non-Albanian respondents stated in a survey in 2014 that the lack of trust in the Kosovo judicial institutions was

a serious obstacle in realizing their rights. In addition, the majority of Roma are not informed about relevant laws and institutions and how they can make use of them, which in light of the limited trust in the judicial system creates another obstacle. In **Macedonia**, the criteria for accessing free legal aid are so strict that only a very small part of the population (1,1%) would be eligible for receiving free legal aid. On the other hand, in Albania, despite the existence of a law on free legal aid, this service is primarily provided by civil society organisations due to the inefficiency of the Legal Aid Commission.

A crucial obstacle to assessment of the access to justice for Roma is the fact that the justice system, e.g. in **BiH**, Montenegro or Serbia, does not collect ethnically disaggregated data.

The annual reports of the Ombudsman in **Macedonia** demonstrate that (self-declared) Roma constitute only a small share of the persons submitting complaints (2013: 4,78%; 2014: 3,9%; 2015: 4,46% and 2016: 4,54%) and that very few cases (2016: 1,83%; 2015: 1,2%, 2014: 1,55% and

21 Research Argus of News Agency Beta, conducted in November 2014. Retrieved on June 14, 2017 from <http://www.euractiv.rs/pregovori-sa-eu/8212-graani-srbije-ne-veruju-institucijama>

2013: 1,35%) belong to the category of 'non-discrimination and appropriate and just representation'.

In addition to these general issues, in **BiH** and **Kosovo** there is a prevalence of some specific issues regarding access to justice which are related to the wars and their repercussions in both countries.

## JUSTICE FOR CRIMES COMMITTED DURING AND AFTER THE WAR

In **BiH**, as well as in **Kosovo**, there is a prevalent need for comprehensive documentation of the crimes committed during and after the wars. Such documentations constitute the prerequisites for bringing justice and truth to the victims and their families.<sup>22</sup>

In both countries (as well as in **Serbia**, where war crimes trials also took place), the situation with regard to access to justice for Roma is dominated by the unwillingness of the authorities to investigate the numerous crimes committed against Roma during, and in particular after the war 1998/1999 in Kosovo and during the war 1992-1995 in BiH.<sup>23</sup> Despite these numerous crimes, not a single perpetrator has yet been brought to justice, which affects severely the life of Roma in both countries.

In **Kosovo**, the *Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian War Victims and Their Families* limits the eligibility for benefits to persons (or their families) who were wounded or killed between February 27, 1998 and June 20, 1999 by "enemy forces".<sup>24</sup> Many Roma, Ashkali and Egyptians who were killed or injured in the mob

violence after June 20, 1999 or during the war as civilians by "non-enemy forces" are therefore excluded.<sup>25</sup>

## PROPERTY RIGHTS

A specific issue with regard to access to justice is the re-claiming of property rights of expelled persons in Kosovo whose property has been illegally occupied. Though with the **Kosovo** Property Agency (KPA) an institution has been established to solve these numerous cases, many expelled persons have not been able to claim their rights. According to the Annual Report 2016 of the Kosovo Property Agency (KPA) and Kosovo Property Comparison and Verification Agency (KPCVA), 326 Roma and 16 Ashkali made claims to KPA.<sup>26</sup> Moreover, according to the Constitutional Court of Kosovo, KPA has itself violated the rights to property and fair trial.<sup>27</sup>

## LEAD-POISONING OF ROMA

After the end of the war in Kosovo, UNHCR settled around 600 Roma who were expelled from their homes or whose houses were destroyed after the war by returning Albanians, in an area in Mitrovica which was heavily poisoned by lead. Only in 2005, the Roma were resettled though research demonstrated already earlier the high level of lead in the area and the impact on the health of the people, in particular on the health of children.<sup>28</sup>

In 2016, the Human Rights Advisory Panel of the United Nations Interim Administration in Kosovo finally found the UN guilty of breaching human rights provisions and recommended *inter alia* that compensations should be paid.<sup>29</sup> However, the United Nations refuse to pay compensations

22 Roma in Kosovo: The justice that never came. Retrieved on June 28, 2017 from: <http://www.aljazeera.com/indepth/features/2017/01/roma-kosovo-justice-170112134149767.html>

23 For more details see, *inter alia*, the regular reports of the United Nations High Commissioner for Refugees (UNHCR) and the Organisation for Security and Cooperation in Europe (OSCE), "Assessment of the Situation of Ethnic Minorities in Kosovo", available at: <http://www.osce.org/documents>; ERRRC, Abandoned Minority, History of Romani Rights in Kosovo, Budapest 2011

24 Law No 04/L-054. Retrieved on August 9, 2017 from the Official Gazette No. 30/2011 of the Republic of Kosovo: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2793>

25 See Council of Europe, Commissioner for Human Rights, Memorandum following the Commissioner's mission to Kosovo from February 5 to 9, 2017. Retrieved on July 30, 2017 from: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2967271&SecMode=1&DocId=2400650&Usage=2>

26 Annual Report of KPA. Retrieved on July 6, 2017 from: [http://www.kpaonline.org/PDFs/Raporti\\_2016.pdf](http://www.kpaonline.org/PDFs/Raporti_2016.pdf)

27 See Massimo Moratti, the Kosovo Constitutional Court on Displaced Persons property rights. Can mediation ever count as enforcement? Retrieved from <https://terra0nullius.wordpress.com/2014/05/23/the-kosovo-constitutional-court-on-displaced-persons-property-rights-can-mediation-ever-count-as-enforcement>. Constitutional Court of Kosovo, Judgement in Case KI 187/13. Retrieved 29. July 2017 from [http://www.gjk-ks.org/repository/docs/gjkk\\_ki\\_187\\_13\\_ang.pdf](http://www.gjk-ks.org/repository/docs/gjkk_ki_187_13_ang.pdf)

28 See *inter alia* Kosovo: poisoned by lead: a health and human rights crisis in Mitrovica's Roma camps. Retrieved on August 31, 2017 from: <https://www.hrw.org/report/2009/06/23/kosovo-poisoned-lead/health-and-human-rights-crisis-mitrovicas-roma-camps>

29 <http://www.unmikonline.org/hrap/Eng/Cases%20Eng/26-08%20NM%20etal%20Opinion%20FINAL%2026feb16.pdf>

to individuals, but insist to create a fund.<sup>30</sup>

Though solving the issue is not the responsibility of the Government of Kosovo, but instead the responsibility of the United Nations, the situation of the Roma, Ashkali and Egyptians who were settled after the war in camps on highly poisoned soil demonstrate the difficulties for Roma in accessing justice.

## EQUAL REPRESENTATION

An important case with regard to access to justice in BiH, is the famous "Finci/Sejdic case".<sup>31</sup> The 1995 Constitution of Bosnia and Herzegovina stipulated that posts in the Presidency of BiH or in the House of People (second chamber of the Parliament) are reserved for ethnic Bosniaks, Serbs and Croats, thus excluding Roma and other ethnic minorities. Finci, a Jew, and Sejdic, a Rom, filed a complaint against this provision. According to a judgement passed in 2009 by the Grand Chamber of the European Courts of Human Rights this constitutes

## 8. HEALTH

Overall, one can conclude that the health situation in Romani communities in all six countries is poor and Roma experience unequal access to health care services due to a combination of ethnic discrimination, poverty, and social exclusion factors.<sup>32</sup> However, statistical evidence of the health situation of Roma and their access to health services is limited due to the fact that countries do not collect ethnically disaggregated data in health care and the available data is collected in the framework of surveys.<sup>33</sup>

However, the available data demonstrate that the health state of Roma as well as their access to health care are worse than for the majority population, which constitutes an indicator for discrimination. The number of Romani children born outside of hospital remains significantly high in some countries while vaccination rates are lower.

discrimination and the court required that the Constitution be amended. However, the decision has not been implemented to date.

## RECOMMENDATIONS

- All governments should adopt and implement laws on anti-discrimination and free legal aid in line with the highest international standards.
- The European Union should take steps to combat corruption and nepotism in the judicial system and ensure the non-biased execution of justice.
- The governments in BiH and Kosovo should, with international assistance, establish the facts on the crimes committed against Roma during and after the wars, they should investigate these crimes and bring the perpetrators to justice. The authorities, with the support of civil society, should increase efforts to raise awareness and increase the knowledge about the antidiscrimination laws and the availability of free legal aid.

Overall, across all countries infant and child mortality rates are still higher than among the majority population and the life expectancy is significantly lower.

In **Montenegro**, average life expectancy among Roma is 55 years, while it is 76 years for the majority population.

One of the main factors affecting Roma's health are the poor housing conditions and the lack of adequate infrastructure in many settlements, creating an environment conducive to declining health. Very often Roma living in these settlements are exposed to water and air pollution, including indoor air pollution due to open fire heating and the use of solid fuels, or they do not have access to clean, running water or live in neighbourhoods with no or limited garbage collection.

30 New York Times, U.N. offers regret but no compensation for Kosovo poisoning victims. Retrieved on August 31, 2017 from: <https://www.nytimes.com/2017/05/26/world/europe/un-united-nations-kosovo-roma-lead-poisoning.html?mcubz=1>

31 European Court of Human Rights, Grand Chamber, Case of Sejdic and Finci v. Bosnia and Herzegovina (Applications nos. 27996/06 and 34836/06). JUDGMENT STRASBOURG, December 22, 2009

32 See, for example, Health status of the Roma population. Data collection in the Member States of the European Union, by MATRIX, European Commission, 2014. Retrieved on May 25, 2017 from: [http://ec.europa.eu/health/social\\_determinants/docs/2014\\_roma\\_health\\_report\\_en.pdf](http://ec.europa.eu/health/social_determinants/docs/2014_roma_health_report_en.pdf).

33 See ERRC, Hidden Health Crisis. Retrieved on May 26, 2017 from: <http://www.errc.org/article/hidden-health-crisis-health-inequalities-and-disaggregated-data/4214>; See further ERRC statement\_ ERRC Calls on states to collect and publish data to address Roma health. Retrieved on May 27, 2017 from: <http://www.errc.org/article/errc-calls-on-states-to-collect-and-publish-data-to-address-roma-health-gap/4229>; 2014 ECMI/Eben Friedman, Roma in the Ex-Yugoslav Successor States. Retrieved on June 27, 2017 from: [http://www.ecmi.de/uploads/tx\\_lfpubdb/ECMI\\_Working\\_Paper\\_82.pdf](http://www.ecmi.de/uploads/tx_lfpubdb/ECMI_Working_Paper_82.pdf)

With regard to vaccination, in **Kosovo** a survey revealed that less than 30% of the children up to one year from the Roma, Ashkali and Egyptian communities are immunized in compliance with the immunization calendar of Kosovo. Though the access to health services has improved in the last years, not least through affirmative measures such as the introduction of health mediators, or facilitating access to health insurance or registering them and facilitating access to General Practitioner, many Roma still face difficulties in enjoying equal access to health services, e.g. due to the lack of health cards or health insurance.

In **Montenegro**, the government assesses that 40% of Roma and Egyptians do not possess the health card. According to a survey in **Macedonia**, there are still 3000

to 5000 Roma without health insurance due to an absence of personal documentation (12% of male and 7% of female respondents). In **Albania**, in the year 2011, 68% of Roma were without the health insurance coverage and in **BiH** the government assessed that 30% were without health insurance.

In addition, there is still prevailing individual discrimination at local level and the difficult financial situation of many Roma further affects their possibility to enjoy equal access to health care. In many cases Roma cannot afford to pay for the prescribed medicine (with the notable exception of **Montenegro** where only 19% stated this, compared to 66% in **BiH** and **Macedonia** and 65% in **Serbia**) or for the customary "bakshish" to doctors and nurses.

### Affordability of medicine<sup>34</sup>

Affordability of medicine (%)	Albania	BiH	Montenegro	Macedonia	Serbia
Roma	57	66	19	66	65
Non-Roma	29	37	8	32	31

In most countries, Roma Health Mediators (RHM) Programmes have been initiated, e.g. in 2016, 32 RHM worked in **Macedonia**. In **Serbia**, RHM are employed in at least 59 municipalities. However, not all of them are employed by the respective ministries, but instead by civil society organisations.

### RECOMMENDATIONS:

The national health authorities should

- Improve information and outreach activities in order to include more Roma in public health insurance.
- Ensure that health care is provided without discrimination.

- Employ more Roma Health Mediators, systematise the position and employ them by the official public health institutions. They should also be considered for work with vulnerable families or individuals in general and not only with Roma.
- Apply comprehensive programmes addressing the health status in combination with housing and employment components in order to achieve sustainable impact.
- Pay particular attention to prenatal and antenatal care

34 UNDP, Health, 2012, p. 39-40.



## 9. ASYLUM AND FORCED RETURN

Since 2008, more than 200,000 Roma from the countries in the Western Balkans have applied for asylum in Western Europe. In general, the asylum applications of Roma from the Western Balkan countries are rejected, though in individual cases the courts did not allow the return to the Western Balkans or even granted asylum.

The actual number of Roma who left the Western Balkans for Western Europe might be even higher, since many Roma who have applied for asylum in the previous years or Roma who live informally in Western Europe, e.g. Roma from **BiH** or **Kosovo** in Italy, are not included in this number.<sup>35</sup>

In addition, since the collapse of the old regime, many Roma from **Albania** have migrated (short-term or long-term) to Greece and to a lesser extent to Italy without applying for asylum.<sup>36</sup>

Based on the assessments of the number of Roma in the

Western Balkan countries, this would mean that around 20% of the Romani population have left their countries of origin since 2008.

The number of Romani IDP or refugees who were expelled from Kosovo to neighbouring countries, further increase the actual number of Roma who were forced to leave their countries.

With the closure of the Western Balkan transit route or with measures such as the introduction of ethnic profiling in connection to border crossings and punitive measures upon return (in particular in **Macedonia**, but also in **Serbia** or **Kosovo**), the forced migration of Roma from the Western Balkans considerably declined. However, the reasons for the forced migration – the anti-Gypsyism and the cumulative and systematic discrimination in all spheres of life remained unchanged.

With the introduction of the visa-free travel for all citizens

35 It should be emphasised that Roma from the Western Balkans are also working officially in the Western Europe.

36 Gedeshi, Ilit, Cela, Eralba, Kamberi, Geron, Romani Migration: Is it a Poverty-Coping Method? In Roma Rights 1/2014, Going Nowhere. Western Balkan Roma and the EU Visa Liberalisation. Retrieved on July 26, 2017 from: <http://www.errc.org/article/roma-rights-1-2014-going-nowhere-western-balkan-roma-and-eu-visa-liberalisation/4325/8>

of the Western Balkans, with the exception of Kosovo, another form of temporary migration takes place. Many Roma leave their homes for (at least) three months in order to (informally) work in Member States of the European Union. In most cases this happens in the form of unregulated labour migration which brings along disadvantages: since they work in the informal sector, they do not have any social security; the children often accompany their parents and have to interrupt their education; and this form of labour migration neither leads to integration in their host countries nor in their home countries.

## REINTEGRATION

The countries in the Western Balkans concluded readmission agreements with the European Union and with individual countries in Western Europe on the procedure of the return of persons whose asylum applications were rejected.

Though there are some assistance schemes of the Western European governments for the reintegration of the returned failed asylum seekers, the responsibility for the actual reintegration remains with the national and local governments and societies as well as with the local Romani communities.

In this context, the national governments developed “reintegration policies”. However, these policies do not always take into account the specific situation of Romani returnees, in particular the discrimination and other forms of anti-Gypsyism they face, or in more concrete terms the lack of adequate housing and the limited access to the labour market they face due to their ethnicity (e.g. the respective Strategy in **Kosovo**). Moreover, the “reintegration policies” do not always acknowledge the different situations of returnees, e.g. the Roma who were expelled in the aftermath of the war in Kosovo and who spent more than 15 years in Western Europe face a different situation upon return than the Roma who left their home countries a few years ago.

In addition, the foreseen measures in these “reintegration policies” are not fully implemented, in particular due to

the lack of financial resources provided. The responsibility, including financial responsibility, is delegated to local authorities which are not in a position to assume these responsibilities (see the research in Vojvodina, **Serbia**).<sup>37</sup>

The respective local Romani community, in particular their family, has to assume a considerable responsibility for integrating the returnees. Consequently, the return increases the financial and social burden for them, and at the same time it deprives them of a major source of income in the form of remittances. The remittances of the Roma who are in Western Europe, irrespective of their status, constitute an important source of income for the Roma who remained in the Western Balkans.

## RECOMMENDATIONS

- The Western European migration and asylum authorities should take into consideration the anti-Gypsyism and institutional and systemic discrimination that Roma face, when considering asylum applications by Roma from the Western Balkan countries.
- The Western European governments should refrain from returning the Roma who already spent many years in their host countries in Western Europe.
- The Western European governments should directly assist local authorities in the reintegration of returnees, since they have to carry the responsibility of the actual reintegration.
- The Western European governments should provide for more legal labour migration opportunities for Roma from the Western Balkans.
- The Western European governments should encourage the Western European companies investing in the Western Balkans to employ Roma.
- The governments should develop adequate reintegration policies addressing the needs of the returning Roma and provide access to housing and employment.
- The education system should develop specific approaches, responding to the specific needs of returning children.
- All governments should refrain from ethnic profiling at border crossings.

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37 Danilo Curcic, Report on the implementation of public policies with respect to returnees under the readmission agreement in Vojvodina, Novi Sad 2015. Retrieved on February 22, 2017 from <https://www.eurodiaconia.org/wordpress/wp-content/uploads/2016/09/Report-on-implementation-of-public-policies-towards-returnees-in-Vojvodina-according-to-readmission-agreements.pdf>

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