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The European Union and the Roma: An Analysis of Recent Institutional and Policy Developments

I. INTRODUCTION

Although traditionally limited in its influence over how national governments protect ethnic minorities and vulnerable social groups, the European Union (EU) has, over the last decade, significantly stepped up its efforts to bring the situation facing the Roma onto the policy agenda, both on the European level and that of the member states. In one respect, this move is the logical outcome of larger EU concerns for building better social policies across Europe, protecting minority citizens more effectively, combating poverty, and eradicating discrimination; but it also indicates a growing recognition of the specific challenges facing many Romani communities throughout the continent. This European policy attention is the type of consideration for which many Romani advocacy groups have worked. Although some authors have noted that a severe lack of data still hampers an accurate assessment of the situation,¹ continued reporting² by NGOs and international

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1 Christina McDonald and Katy Negrin, *No Data – No Progress. Data Collection in Countries Participating in the Decade of Roma Inclusion 2005-2015* (Open Society Institute, New York, 2010).

2 From the broad range of reports that have appeared in recent years, high-profile examples include: EU Agency for Fundamental Rights (FRA), *EU-MIDIS 01. Data in Focus Report: the Roma* (FRA, Vienna, 2009), at <http://fra.europa.eu/fraWebsite/attachments/EU-MIDIS_ROMA_EN.pdf>; UNDP, *Avoiding the Dependency Trap: The Roma in Central and Eastern Europe* (Bratislava, 2004), at <<http://europeandcis.undp.org/>>; UNICEF, *Towards Roma Inclusion: A Review of Roma Education Initiatives in Central and South-Eastern Europe* (2009), at <http://www.unicef.org/ceecis/ROMA_PAPER_FINAL_LAST.pdf>; and José Manuel Fresno, *What Works for Roma Inclusion in the EU: Policies and Model Approaches* (Publications Office of the

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institutions has now at least made the issue hard to ignore: exclusion and poverty, as well as the processes of discrimination and stereotyping that exacerbate it continue to be a reality for many Roma; thus, reports stress, these persisting problems should worry policy-makers on all institutional levels.³

Bringing the issues facing the Roma to the attention of EU policy-makers has of course been only one of the goals set by advocacy groups. The more important ambition has been to rely on the EU's power to bring about a large-scale domestic political and socioeconomic change that would effectively improve the position of Romani communities throughout Europe and create more inclusive societies. The sorts of domestic policies that have now been put in place to achieve this goal, and the pace at which they have been implemented, vary across European states. The results are diverse as well. We have arrived at a moment in which a better insight is needed into the factors influencing these policies and determining their successes and failures.

This article will neither tackle the issue of influence directly, nor assess the success of these policies. Rather, more modestly, the goal of this article is to help lay the foundations of such an analysis by offering a contextualized exploration of the current landscape of institutions and policies of relevance to the Roma on the level of the EU. I believe a comparative examination of domestic success and failure can only be performed properly on the basis of a thorough understanding of this quickly shifting landscape of institutions and policies and of the political environment in which they have been adopted.

This article analyzes the recent developments on the level of the European institutions from five different, yet related perspectives. In the first section, I outline a number of key evolutions within the EU that have had particular consequences for the ways in which the situation of the Roma is addressed. These are ongoing processes of EU policy-making and institutional change that have been driven by the overall dynamics of European integration, such as the EU's pursuit to promote fundamental rights standards, the EU enlargement process, and the evolving European social inclusion agenda. In the second section, I consider a number of important events that have clearly spurred the EU's policy-making on the Roma over the last few years. I highlight in particular the recent upsurge of intra-EU migration, the troubling responses of certain states to the east-west

EU, Luxembourg, 2011). Recent reporting by internationally active Roma civil society organisations include ERGO, *The Black and White Book: Roma Inclusion in South Eastern Europe in Practice* (2009), at <<http://www.ergonetnetwork.org/media/userfiles/media/egro/Black%20&%20White.pdf>>; and Bernard Rorke, *Review of EU Framework National Roma Integration Strategies (NRIS)* (Open Society Foundations, 2012), at <<http://www.romadecade.org/files/downloads/General%20Resources/roma-integration-strategies-20120221.pdf>>.

3 The term "Roma" is here used in accordance with the way in which EU documents define it. So, the term is stretched to its broadest meaning so as to include communities who rely on a variety of other designations (such as Sinti, Khale, Romungre, Gypsies, Travellers, Gens de Voyage and so forth) but are yet considered to be part of the target group for the policies discussed herein.

mobility of Roma, and the rise of anti-Roma rhetoric and behaviour. In the third section, I focus on a series of recent EU initiatives and methods meant to facilitate Romani participation in EU policy-making and to stimulate the input of a variety of stakeholders in the debate about what Europe should do. In the fourth section, I explore some of the financial means that the EU has put forward in its attempt to persuade member states to increase their efforts for the inclusion of Roma. To conclude, in the fifth section, I focus on the political dynamics of the EU's growing concern for the Roma and the unintended consequences these dynamics may produce.

II. KEY EVOLUTIONS WITHIN THE EU AND THEIR IMPLICATIONS FOR THE ROMA

A. The EU's Fundamental Rights Agenda

The first development within the EU that warrants highlighting is the growing importance of the EU's fundamental rights agenda. Fundamental rights may not have been part of the initial institutional set-up of the EEC, but, as is argued by Smismans, "several interwoven discourses on fundamental rights developed which assigned, retrospectively, such rights as inherent in the European project and based them on a common European heritage."⁴ The result is mainly visible in a number of legal shifts. The Maastricht Treaty (1992) and the Treaty of Amsterdam (1997) enabled European institutions to take measures to combat discrimination based on ethnic origin, including discrimination against the Roma. In addition, in 2000, the European Council of Nice proclaimed the EU Charter of Fundamental Rights, which, even though it had no formal legal status within Union law at the time, had a profound influence on the institutions.⁵ The adoption of the Racial Equality Directive 2000/43/EC in June 2000 was another significant step; it prohibits racial discrimination in the areas of employment, education, social security, healthcare and access to goods and services in all EU member states. This directive was clearly the result of a particular set of political circumstances. It was adopted in a quick manner thanks to decisive political will among the member states prompted at that time by a widespread urge to respond forcefully to the inclusion of the Freedom Party in the Austrian government. Since 2000, the political context seems to have made such legal breakthroughs less likely: European Commission officials have pointed out that it would be harder now to find unanimous support for new legislation proposals in the field of anti-discrimination.⁶ The Racial Equality Directive is of considerable importance for

4 Stijn Smismans, "The European Union's Fundamental Rights Myth", 48(1) *JCMS* (2010), 45-66.

5 EU Network of Independent Experts on Fundamental Rights. *Commentary of the Charter of Fundamental Rights of the EU* (Brussels, 2006), 15.

6 Melanie Ram and Peter Vermeersch, "The Roma", in Bernd Rechel (ed.), *Minority rights in Central and Eastern Europe* (Routledge, London, 2009), 61-73, at 72.

the Roma; it has given victims of discrimination the right of redress, and it mandates member states to designate a special independent institution that promotes equal treatment and provides independent assistance to victims of discrimination in pursuing complaints. Responding to this new context, many EU countries have improved their anti-discrimination legislation, and victims of discrimination, including Roma, now have better access to justice, and enjoy, at least in theory, increased victim protection against discrimination.⁷ The legal landscape of the EU has further developed with the coming into force of the Lisbon Treaty in December 2009, which made the Charter of Fundamental Rights an integral part of EU law.

With the establishment of a stronger fundamental rights core within the EU came additional possibilities for monitoring by independent actors. NGOs could, more effectively than before, rely on the context of European institutions and legal arrangements when drawing up their reports. Moreover, some EU member states committed themselves to cooperation with non-EU member states and international NGOs in the field of inclusion of Roma in the context of the Decade for Roma Inclusion (2005-10). Additional reporting could also be performed by independent advisory bodies to the EU, in particular by the EU Agency for Fundamental Rights (FRA), which in cooperation with EU institutions, the Council of Europe and other international organisations has devoted specific attention to the case of the Roma.⁸

B. The Enlargement Process

Monitoring by independent organizations has also happened in the context of a parallel large-scale EU development that needs to be highlighted here: the enlargement process. In the context of its enlargement to Central Europe, the EU demanded from candidate member states a number of profound institutional changes and guarantees, and these requirements are still in place for current candidates in South-Eastern Europe. In response to those demands, the candidate countries have been increasingly prepared to adopt newly emerging European legal standards on minority protection and anti-discrimination.⁹ The attention for the Roma in the context of the EU enlargement process dates from the 1990s. By including the requirement of minority protection in the Copenhagen criteria of 1993, the EU aspired to set the moral standard in this field and to seek compliance from its neighbours to the East. EU demands to the Central European countries regarding the Roma were primarily outlined in the Commission's 1997 Opinion on each country's application for membership and the subsequent annual

7 See, for example, the analysis Sina van den Bogaert, "Roma Segregation in Education: Direct or Indirect Discrimination: An Analysis of the Parallels between Council Directive 2000/43/EC and recent ECtHR Case Law or Roma Educational Matters", 71(4) *Heidelberg Journal of International Law* (2011), 719-753.

8 See, at <http://fra.europa.eu/fraWebsite/roma/roma_en.htm>.

9 Ram and Vermeersch, *op.cit.* note 6.

Regular Reports from 1998 to 2003. In addition, Accession Partnership documents in 1999 and 2001 emphasized priority areas for attention. For Romania and Bulgaria, there was an additional Accession Partnership in 2003, an additional Regular Report in 2004, and subsequent monitoring reports in 2005 and 2006. For all countries, these documents were supplemented by periodic statements and commissioned studies of the European Commission, the European Council, and the European Parliament, which became more numerous over time.¹⁰ As a result, pressure increased, but lack of reciprocal commitments from the EU also led to a rather inconsistent enlargement policy.¹¹ The EU's conditions on minority protection appeared to be open to various interpretations and created uncertainty over which commitments exactly candidate member states needed to make to safeguard their accession;¹² for this and other reasons, membership conditionality remained rather ineffective.¹³ Moreover, in the case of the Roma, adopting new policies and institutions has been far easier than fixing problems on the ground, many of which turned out to be not easy to resolve and require measures that could be unpopular among the wider electorate. Moreover, while political will to improve the lives of the Roma has been present at the national level, implementation has often been confronted with impediments at the local level.¹⁴ Empirical research shows that both in 'old' and 'new' EU member states, problems with local policy implementation persist¹⁵ despite the pressure that was exerted during the accession phase. There are currently no strong and effective responses to the practice of some local policy-makers of portraying Romani citizens systematically as a burden on the local economy, rather than as a group that deserves economic support as equal citizens.

C. The EU's Social Inclusion Agenda

The third development that warrants highlighting is the growing importance of the EU's social inclusion agenda, which has received particular attention in recent times as the economic crisis and severe issues of inequality among and within member states seriously threaten the EU's latest grand ambitions for economic

10 *Ibid.*, 68.

11 Philip Alston and Joseph H H Weiler, "An 'ever closer union' in need of a human rights policy: the European Union and human rights", 2000, at <<http://centers.law.nyu.edu/jeanmonnet/archive/papers/99/990101.html>>, p. 13.

12 Peter Vermeersch, "Ethnic Mobilisation and the Political Conditionality of European Union Accession: The Case of the Roma in Slovakia," 28(1) *JEMS* (2002), 83-101.

13 Bernard Steunenberg and Antoaneta Dimitrova, "Compliance in the EU Enlargement Process: The Limits of Conditionality," 11 *EiOP* (2007).

14 Ram and Vermeersch, *op.cit.* note 6.

15 Eva Sobotka and Peter Vermeersch, "Governing Human Rights and Roma Inclusion: Can the EU be a Catalyst for Local Social Change?", 34(3) *HRQ* (2012), 800-822.

advancement, the Europe 2020 goals.¹⁶ Since 2000, efforts to tackle poverty and social exclusion in the EU have benefitted from the Open Method of Coordination (OMC), a ‘soft’ process in which states and European institutions collaborate on shared concerns in a voluntary manner. Three policy themes have dominated the Social OMC: active inclusion, which covers employment activation, minimum income and access to services; child poverty and well-being; and homelessness and housing exclusion. More recently, the social inclusion of migrants and ethnic minorities (especially the Roma) and the impact of the financial and economic crisis have come more to the fore.¹⁷ Ongoing developments in the sphere of the EU’s social inclusion agenda have reinforced particular initiatives on the Roma. For example, the Belgian Presidency of the Council of the EU in the second half of 2010 chose to focus on the issue of the early childhood development of the Roma, not only because general attention to Roma was on the rise but also because the issue of ‘combating child poverty’ had become a leading theme for the OMC and for the European Platform against Poverty and Social Exclusion. The subsequent Belgian report emphasized that there was ‘a political window of opportunity to tackle the issue of Romani poverty through the perspective of early childhood services’.¹⁸ Underpinning this choice was the observation that the topic of the living conditions of Romani children, although clearly quite alarming (with serious concerns about nutrition, health and early development), had remained to a large extent outside the general poverty debate. Moreover, the topic fit nicely in with the broader Belgian focus on child poverty. The work that was performed in the context of this platform meeting yielded a number of important conclusions, among them the proposal to promote the use of the Europe 2020 Strategy to mainstream the issue of inclusion of Roma into the broader policies on poverty and social exclusion. In particular, member states were recommended to present National Strategies for the Inclusion of Roma as part of their National Reform Programmes or to translate the headline targets into national and regional targets that address marginalised children. The Platform against Poverty and Social Exclusion was also recommended to devote special attention to Roma.¹⁹

16 See at, <http://ec.europa.eu/europe2020/index_en.htm>.

17 Hugh Frazer and Eric Marlier, “Social inclusion in the European Union: Where do We Stand, Where are We Going?” *Development and Transition* (June 2010), 5-7.

18 UNICEF, OSE and the Belgian Federal Planning Service for Social Integration, “Early Childhood Development and the Inclusion of Roma Families”, discussion paper prepared on behalf of the Belgian Presidency of the Council of the European Union (2011), 5.

19 Danielle Dierckx and Peter Vermeersch, “The Social Affairs Agenda of the Belgian Presidency: High Ambitions and Mixed Achievement”, in Steven Van Hecke and Peter Bursens (eds.), *Readjusting the Council Presidency: Belgian Leadership in the EU* (Academic and Scientific Publishers, Brussels, 2011), 153-168.

III. KEY TRENDS AND EVENTS THAT HAVE PROMPTED RESPONSES FROM THE EU

There are two recent sociopolitical trends to which EU institutions, often in concert with other European agencies, have felt a need to respond: certain radical policies of Western European member states directed toward Romani immigrants from the Eastern and South-Eastern parts of the EU, including ethnically targeted expulsion campaigns; and the rise of anti-Roma rhetoric in mainstream politics, accompanied sometimes by rising levels of violence against Roma perpetrated by extremist groups.

A. Migration and Mobility

Regarding migration, two popular assumptions persist: that Romani migration from east to west is massive; and that Roma are culturally and inherently inclined toward mobility. The latter idea is inherited from romantic portrayals of traveling Gypsies in popular culture, or perhaps, as Lucassen, Willems and Cottaar have argued, the result of a categorization practice by authorities and academics in the eighteenth and nineteenth century who sought to unify all sorts of itinerant groups under the single label of 'Gypsy'.²⁰ Both popular assumptions are faulty. Especially in Central and Eastern Europe Roma are usually not nomadic; as Matras wrote, "On the whole, the extraordinary feature of Romani migration is that so many Roma are prepared to take the risks of migrating *despite their lack of nomadic traditions*."²¹ In addition, the extent of Romani migration is often exaggerated, which may be caused by a number of other factors: lack of precise official numbers, for example, and arguably also the high visibility, the relatively high level of internal cohesion, and the severe poverty of the Romani communities in question.

The example of the Belgian city of Ghent is instructive. Official figures provided by the city authorities show a strong increase of registered labour-seeking citizens from Bulgaria since 2004 (from 392 in 2004 to 5630 in 2011),²² many of whom are assumed to be Roma. The overall number of migrants from the new EU member states in early 2012 was 3.6%, of which Bulgarian citizens were about 60%. These numbers are relatively small when compared with the presence of the total number of foreign citizens and Belgian citizens of foreign descent in Ghent

20 Leo Lucassen, Wim Willems and Annemarie Cottaar, *Gypsies and Other Itinerant Groups: A Socio-historical Approach* (Macmillan, London, 1998); Huub van Baar, *The European Roma: Minority Representation, Memory and the Limits of Transnational Governmentality* (F&N Eigen Beheer, Amsterdam, 2011), 87.

21 Yaron Matras, "Romani Migrations in the Post-Communist Era: Their Historical and Political Significance," 13(2) *Cambridge Review of International Affairs* (2000), 32. (Emphasis in the original).

22 Integratiedienst Gent, "Cijfermateriaal IEM bevolking" (Gent, 2012).

(about 17.5% of the total population in 2010)²³ and certainly when compared with the size of other communities of migrants, with or without Belgian citizenship, or of migrant descent, in other Belgian urban centres. The increase between 2004 and 2011 of immigrants from the new EU member states in Ghent, however, has been highly noticeable because they often concern socioeconomically vulnerable groups: they live concentrated in particular neighbourhoods, often in detrimental circumstances, have limited access to the regular job market, and are therefore often visible in the streets during regular working hours. On the level of the municipality, extra policy initiatives have been taken to address these groups (partly on the basis of assistance through designated mediators and partly through attempts to control and stem further immigration). This extra policy attention was accompanied by rather extensive media attention and public debate, but it did not often lead to sober analysis: news headlines as well as politicians commenting on this case repeatedly spoke of a 'rush', an 'influx', or even 'a plague'.²⁴

Similar developments could be observed in other European countries. In March 2011, the Netherlands counted about 125,000 working (but not all registered) labour immigrants from Central and Eastern Europe, of which the bulk (108,000) were Polish.²⁵ Although the number of Roma from Bulgaria and Romania constituted only a tiny portion of that overall figure, they are consistently talked about as if they are a vast group that will 'overrun' the West. Metaphors such as these are highly problematic: rather than offering a more or less realistic idea of the size of current Romani mobility, which may subsequently be used as the basis for a clearheaded discussion about adequate policies, they construct a dramatic illusionary image which, in turn, can easily be exploited for political purposes. An ostentatious example of such politics was the initiative of the radical Dutch Freedom Party (PVV) of Geert Wilders in February 2012 to launch an internet hotline calling on people to report complaints caused by the 'massive labour migration' of citizens from Central and Eastern Europe, in particular Poles, Romanians and Bulgarians. Although the website is not explicitly aimed at Roma, it has clearly induced and mobilized anti-Roma sentiment, a development that has been highlighted by several alarmed observers.²⁶

23 Integratiedienst Gent, "Beleidsplan etnisch-culturele diversiteit 2012-2014 – bijlage 1: onderzoek en cijfers" (Gent, 2012), at <http://www.gent.be/docs/Departement%20bevolking%20en%20Welzijn/Integratiedienst/Beleidsplannen/Onderzoek%20en%20cijfers_ECD_2012-2014.pdf>.

24 References to these types of media responses are to be found, e.g., in Pascal Debruyne, et. al, "Welterusten, meneer de burgemeester!", *De Wereld Morgen*, 6 December 2010, at <<http://www.dewereldmorgen.be/artikels/2010/12/06/welterusten-meneer-de-burgemeester>>.

25 Official data are available at <<http://www.cbs.nl/nl-NL/menu/themas/arbeid-sociale-zekerheid/publicaties/artikelen/archief/2011/2011-3423-wm.htm>>.

26 See, for example, the remarks by Thomas Hammarberg in his position as Commissioner for Human Rights of the Council of Europe, quoted in Leonoor Kuijk, "PVV lokt Roma-klachten uit", *Trouw*, 28 February 2012.

National politicians and mainstream media in the receiving member states have mostly regarded the east-west mobility of Roma within the EU as a threat to their own fragile labour markets and social security systems, not as what it arguably could also be, that is, an opportunity to resolve some of the structural problems in those markets. Even if the Roma in question are young, inventive, active and willing to seek a job, they are seldom seen as a potential resource.

In some cases, notably in Italy and in France, the government responded by introducing targeted expulsion and migration control strategies.²⁷ In the summer and fall of 2010, it was the French case that reached international headlines. Responding to riots after a police shooting in July 2010, President Nicolas Sarkozy called an emergency ministerial meeting at which it was decided to shut down a large number of irregular Romani dwellings and single out Bulgarian and Romanian Roma for an expulsion campaign that would bring them back to their countries of origin, even if only temporarily. The 2010 crackdown was highly conspicuous because of its emphasis on security, its focus on foreigners (which from the perspective of the Roma in question must have seemed odd: the initial incidents did not involve Bulgarian or Romanian Roma but Gens du Voyage, that is, French citizens who cannot be expelled) and its overtones of ethnic discrimination. But the fact is that it was not a policy that came out of the blue. France had been sending Romanian and Bulgarian citizens home even before 2010. In 2009, the French government had already deported about 9,000 Roma to Romania and Bulgaria, and also other Western European countries (such as, Italy, Germany, Sweden, Denmark, Finland, and the United Kingdom) have for a number of years pursued targeted return campaigns. Mobility may not have yet become the Roma's preferred escape route from marginality, but expulsion has clearly become the preferred policy response to Romani migration.

Several EU actors and institutions responded forcefully to the highly publicized campaigns. As van Baar documents in detail, in a resolution adopted on 9 September, the European Parliament condemned the French policy and urged the French authorities to stop the expulsions immediately.²⁸ The European Commission responded through Viviane Reding, Commissioner for Justice, Fundamental Rights and Citizenship, who was in particular alarmed by the leaked memo of the French interior ministry that was distributed to local civil servants and urged French police officials to focus their efforts on migrants of Romani background.²⁹ Reding first threatened to bring France before the European Court of Justice for violating anti-discrimination laws but later, after the Commission

27 Peter Vermeersch, "Roma and Mobility in the European Union", in Kati Pietarinen (ed.), *Roma and Traveller Inclusion in Europe*, (Green European Foundation, Brussels, 2011), 91-97.

28 Huub van Baar, "Europe's Romaphobia: Problematisation, Securitization, Nomadization", 29(2) *Environment and Planning D: Society and Space* (2011), 203-212.

29 Kim Willsher, "Orders to Police on Roma Expulsions from France Leaked", *The Guardian*, 13 September 2010.

received assurance from France that it did not single out Roma, refrained from pursuing an infringement procedure.³⁰

B. Anti-Roma Politics and Behaviour

EU actors and institutions are not only spurred by domestic state policies that target Romani migrants in the countries of arrival, but also, over the last few years, they have been faced with alarming statistics of hate speech and hate crime against the Roma, both in the home countries and in the countries of arrival. Clearly, the Roma have become a more explicit target—not only discursively—of rising rightwing populism and violence.³¹ Although anti-Gypsyism has a long history in Europe, today, Roma are more explicitly targeted than before as adversaries of the ‘national’ population in various places.

In Hungary, for example, the Roma are now widely depicted as cultural deviants and seen as an identifiable and essentially ‘foreign’ threat to the Hungarian economy and way of life. To some extent, anti-Roma rhetoric in Hungary now seems to eclipse anti-Semitism and resonates powerfully with anti-immigrant rhetoric in Western Europe. The trope of ‘Gypsy criminality’ is not entirely new—under the socialist regime, it functioned for a while as an administrative category that reified ethnic differentiation and ratified social inequality—but its resurgence today is accompanied by a new politics of nationalism. The main political exponent of this radical nationalism, Jobbik Magyarországért (Movement for a better Hungary) combines old concerns with new-style campaigning. It “promotes and perpetuates the cult of Trianon (the treaty ending World War I which ‘dismembered’ Hungary), licking past wounds to justify future territorial claims, whilst aggressively pushing a law and order agenda at home aimed at the supposed offenders of law and order, the Roma”.³² In the April 2010 parliamentary elections, the party gained almost 17% of the vote. Moreover, the law and order rhetoric inflated public anxieties and created an atmosphere of permissiveness toward those who propagate extremist measures to assuage those fears, be they politicians who advocate zero tolerance policies against ‘the ethnic other’ or private ‘security’ forces who claim to have the right to protect ‘their’ people against ‘the Gypsies’ with violent means. The now outlawed Magyar Gárda (Hungarian Guard), Jobbik’s paramilitary wing, helped establish the idea that a ‘fight against Gypsy crimes’ is needed to save the nation. By joining force, even if only symbolically, with the Magyar Gárda, Jobbik managed to appoint itself to the role of civic security provider in locations in which ‘Hungarians’ are allegedly threatened by

30 van Baar, *op.cit.* note 28.

31 Mabel Berezin, *Illiberal Politics in Neoliberal Times: Culture, Security and Populism in the New Europe* (Cambridge University Press, Cambridge, 2009); Jon E. Fox and Peter Vermeersch, “Backdoor Nationalism,” 51(2) *European Journal of Sociology* (2010), 325–357; Michael Stewart (ed.), *“The Gypsy Menace”: Populism and the New Anti-Gypsy Politics* (Hurst & Co, London, 2012).

32 Fox and Vermeersch, *ibid.*, at 346.

'Gypsy criminality'. The party has also presented itself as the sole force resisting the Roma's so-called 'systematic usurpation' of the social security system.

In September 2011, Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, argued that "The consequences of anti-Roma rhetoric by politicians should not be underestimated. Their words can be understood as encouraging violent action against the Roma, such as mob violence and pogroms".³³ Political rhetoric for power is clearly one of the elements contributing to the sad succession of incidents that have plagued Hungary over the last few years. Between January 2008 and July 2010, observers registered at least 48 violent attacks against Roma, including nine fatalities (two of them minors). Dozens of Roma have been injured, 10 of whom have suffered life-threatening harm.³⁴

Particularly worrying is the fact that the trend is not limited to Hungary. In other countries too, including states with autochthonous Romani populations (such as Slovakia) and countries in which Roma are more likely to be immigrants (such as Italy), such attacks have happened. Sometimes they bear the stamp of an organized movement; at other times they appear to be individual incidents.

IV. EU POLICY ON ROMA AND SPECIFIC INITIATIVES ON ROMANI PARTICIPATION

EU responses to this state of affairs have come in several forms. In the European Parliament, for example, over the last few years—2005, 2006 and 2008—new resolutions were adopted that concern the Roma.³⁵ In the resolution of January 2008, the European Parliament urged the European Commission to take heed of the conclusions of the European Council of December 2007 and to "develop a European Framework Strategy on Roma Inclusion aimed at providing policy coherence at EU level" (point six of the resolution).

Not only have European resolutions been voted, but also new European institutions and traditions have been established. These latter initiatives show an increased willingness on the part of the EU to take the issue of Romani participation seriously (or at the very least, participation of those who try to speak on behalf of Roma). The European Council of December 2007 gave its full symbolic support to the European Commission for the organisation of a series of 'European Roma Summits', of which the first one was held in September 2008 in Brussels and the second one in April 2010 in Córdoba. These highly visible meetings gathered approximately 400 representatives of EU institutions, national governments, regional and local public authorities and civil society organisations. Follow-up

33 Thomas Hammarberg, "Anti-Roma Rhetoric Underpins Obstacles to Roma Inclusion", speech at the Summit of Mayors on Roma, *Building mutual trust at the grass-roots Plenary Panel – Roma inclusion: what obstacles?* (2011), at <<https://wcd.coe.int/ViewDoc.jsp?id=1835197>>.

34 Stewart, *op.cit.* note 31, at xiv.

35 European Parliament resolutions P6_TA(2005)0151; P6_TA(2006)0244 (2005/2164 (INI)); P6_TA(2008)0035.

summits were organised in cooperation with the three Presidencies in office from 2010 (Spain, Belgium, and Hungary). The “Council conclusions on advancing Roma Inclusion” from June 2010 confirmed the consolidation of this new initiative.

These summits have functioned mainly as deliberative and advisory boards; they have brought together a broad range of stakeholders and have had the ambition to increase political awareness about the situation of Roma, especially among high-level national policy-makers. Yet they have also led to specific outcomes. The first Roma Summit, for example, led to the creation of a European Platform for Roma Inclusion. This is a platform for regular meetings between member state representatives, Romani activists, policy-makers and experts led by the Council presidency and aimed at the identification of best practices and the stimulation of cooperation and exchanges of experience on successful inclusion policies. The talks have led to several outcomes, one of which is a document called the “10 Common Basic Principles for Roma inclusion” (resulting from the Platform meeting in Prague on 24 April 2009, in the framework of the Czech Presidency of the EU). These principles form a guideline for policy measures and try to reach a delicate balance between, on the one hand, advocating special measures to support Roma and, on the other hand, a mainstreaming approach (the document describes it as “explicit but not exclusive targeting”). The suggestions are primarily meant to mobilize national governments, but close collaboration with the European Commission is also set as a goal. Clearly, the actors involved in this process have also tried to find another balance, one between giving responsibility to the EU for the issue of the Roma without taking responsibility away from the member states.

In April 2011, the European Commission adopted a Communication (COM(2011) 173) which confirmed this general direction. It called for an “active dialogue with the Roma”, both at the national and the EU level, and it demanded a clear policy commitment from the EU member states. The latter were urged to draw up “national Roma integration strategies”, a process that, in the end, must allow countries to not only compare ideas, practices and commitments, but also to create new possibilities for more robust monitoring by independent agencies and civil society actors. The European Commission has devoted a website to what has now become known as the “EU Framework for national Roma integration strategies”, where the various national strategies can be consulted.³⁶ On 22 March 2012, the European Commission organized an Extraordinary EU Platform for Roma inclusion in Brussels, which gave all stakeholders involved an opportunity to express their views on the submitted national strategies and to discuss issues surrounding their future implementation. At the occasion, European Commissioner Reding urged the audience to be positive and to consider the achievements since 2008, which she called spectacular. Yet, she also admitted that “there is still a lot of room for improvement, in particular when it comes to securing sufficient funding for Roma inclusion and putting monitoring mechanisms in place. Fighting

36 At <http://ec.europa.eu/justice/discrimination/roma/national-strategies/index_en.htm>.

discrimination in education, employment, housing and health would also need to be better addressed, with a clearer focus on Roma women and children in particular. Most important: although we see many nice words in the national strategies, concrete deliverables, quantified targets and clear, ambitious deadlines for action are missing.”³⁷

V. EU MEANS TO ADDRESS LOCAL ISSUES

Although within different EU institutions the situation of the Roma is now clearly regarded as a significant public policy concern, such attention has not yet produced the much needed social change. While some EU-funded projects are no doubt successful (some are, for example, discussed in the 2010 report “Improving the Tools for the Social Inclusion and Non-Discrimination of the Roma in the EU”, written for the European Commission),³⁸ on the whole, poverty, exclusion and discrimination persist; in some places the situation is even worse than ever before. Some authors have claimed that the EU institutions are themselves at least in part responsible for this lack of positive news.³⁹ They have argued that the financial commitments have remained too modest, the European Commission acts too formalistically, the EU strategies are much too dependent on the political will of other actors, and that the lack of an overall policy for the Roma sometimes leads to contradictory policies on the ground.⁴⁰ Yet, one should also continue to highlight the role of domestic and local political elites and authorities who are, and should remain, the main actors responsible for effectuating local social change.⁴¹ The longer they wait to seize the institutional opportunities that have emerged at the European level to develop policies that effectively discourage discrimination and foster greater socioeconomic equality, the harder it will be for the EU to have an impact on local developments.

What have been the most recent building blocks of this European opportunity structure? The European Commission claims that a number of instruments and mechanisms that are meant to support more generally defined population

37 Viviane Reding, “Are National Governments Ready to Live up their Commitments?”, Extraordinary meeting of the European Platform for Roma Inclusion (Brussels, 22 March 2012), SPEECH/12/215, at <<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/12/215>>.

38 Will Guy, André Liebich and Elena Marushiakova, “Improving the Tools for the Social Inclusion and Non-Discrimination of the Roma in the EU, European Commission”, (European Commission, Brussels, 2010), at <http://ec.europa.eu/justice/discrimination/files/roma_report2010_en.pdf>.

39 See, e.g., Valeriu Nicolae, “Systemic Reform is Urgently Needed for the Roma”, *Open Democracy*, 14 March 2012, at <<http://www.opendemocracy.net/valeriu-nicolae/systemic-reform-is-urgently-needed-for-roma>>.

40 Iskra Uzunova, “Roma Integration in Europe: Why Minority Rights are Failing”, 27(1) *Arizona Journal of International and Comparative Law* (2010), 283-323.

41 Sobotka and Vermeersch, *op.cit.* note 15.

groups can be of specific use for the Roma. These include, for example, the Youth in Action Programme (a financial programme aimed at inspiring active citizenship, solidarity and tolerance among young Europeans) and the Second Programme of Community Action in the Field of Health. Somewhat more specifically directed at the primary concerns of many Romani communities is the EU's PROGRESS programme, which focuses on employment and social solidarity and can also be used to finance anti-discrimination campaigns. However, the main instruments on which the EU now counts for enticing national governments and local actors to engage in addressing the problem facing Roma are the structural funds.

To reduce inequalities within the EU (between regions and between member states) and to secure the social dimension of economic growth, the EU has traditionally relied on, respectively, regional policy and social policy instruments.⁴² The EU structural funds (European Social Fund and the European Regional Development Fund) and the European Agricultural Fund for Rural Development are the main EU funding mechanisms supporting the socioeconomic integration of Roma. More particularly, the European Commission has recently emphasized the potential importance of the European Social Fund (ESF; including the Community Initiative EQUAL) and the European Regional and Development Fund (ERDF).

The EU's strategy is two-pronged. On the one hand, it wants to push governments into relying on existing funding schemes to address the issues facing Roma; the Communication of the European Commission of April 2010 stressed the choice for this strategy as the Commission found out that "Member states currently do not make yet sufficient use of available EU funds to address the needs of the Roma".⁴³ Suggestions were made in the Communication about how exactly national states should increase their efforts to make use of these available funding mechanisms and connect them directly to their national Roma integration strategies. On the other hand, the EU's funding schemes have been adjusted in such way that they can better serve the specific purpose of Roma inclusion.⁴⁴ This is, for example, quite apparent in the case of the European Regional Development Fund (ERDF). Regulation No. 437/2010 of the European Parliament and of the Council of 19 May 2010 amended Article 7(2) of Regulation (EC) No. 1080/2006 on the ERDF as regards the eligibility of housing interventions in favour of mar-

42 Mary Daly, "Assessing the EU approach to poverty and social exclusion in the last decade", in Eric Marlier, David Natali and Rudi Van Dam (eds.), *Europe 2020: Towards a More Social EU?* (Peter Lang, Brussels, 2010), 139-157; Gabriele Tondl, "EU Regional Policy", in Michael Artis and Norman Lee (eds.), *The Economics of the European Union* (Oxford University Press, Oxford, 2001), 180-211.

43 European Commission, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Framework for National Roma Integration Strategies up to 2020", (2010) COM/2011/0173 final, at <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0173:en:NOT>>.

44 For more details see Sobotka and Vermeersch, *op.cit.* note 15.

ginalised communities. A decision of the Council of the EU now allows the extension of financial support from the ERDF for housing interventions for extremely poor and marginalised communities. Under the previously existing ERDF rules, housing interventions were only allowed in the context of integrated urban development and for the renovation of existing houses as part of an urban development plan. This meant that housing estates of the middle class could be renovated through the use of these funds, but not the housing in isolated or rural areas in which poor and marginalized populations live. This excluded many of the poorest communities. The change of regulation is not simply administrative; it builds on the underlying logic that funding regulations can have an impact on the economic integration of communities and counter processes of social exclusion. Those who have worked toward the implementation of this change hope that the ERDF has now been designed in such a way that it can serve as a community organizing tool.⁴⁵

Yet, important challenges remain. It remains open to debate whether changes such as these—the introduction of *ex ante* conditionality in the structural funds, and more generally, European measures aimed at shaping domestic and local policies—are at this point elaborated and convincing enough to persuade member states and local governments to take the matter more seriously. Moreover, sustainability continues to be a key concern: it is still rather unclear how current opportunities should lead to lasting impact. Short-term funding might seem useful in alleviating certain pressing problems, but if the newly set-up structures for solving these problems do not survive long after the project, they might cause more distress and perhaps increase opposition to the Roma. As the 2010 PROGRESS report argues, “long-term funding programmes are needed to achieve sustainable progress. Otherwise initiatives for Roma inclusion will be vulnerable to budgetary pressures.”⁴⁶ Certain examples, such as the Coexistence Village in Ostrava in the Czech Republic, where since 1997 a local NGO has tried to improve housing conditions and reduce poverty by placing responsibility in the hands of the poorest residents, demonstrate how useful and important it is to build long-term non-project-based relationships across Romani and non-Romani communities.⁴⁷ There is arguably a growing need to invest in the new spaces for citizens’ participation that have emerged and now operate, either formally or informally, on the local, regional, national or European level and which may serve as a means for connecting marginalised and disadvantaged communities with mainstream society or mainstream political decision-making institutions and processes.

45 Peter Vermeersch, “Improving Access to Housing for Roma: Good Local Practices, Funding, and Legislation: Conference Report” (FRA, Open Society Fund Prague, Decade for Roma Inclusion Secretariat, Prague, 2011).

46 Guy, Liebich and Marushiakova, *op.cit.* note 38, at 37.

47 For more about the NGO in question, see <<http://www.ohchr.org/EN/NewsEvents/Pages/IndianHRfightstoendRomadiscrimination.aspx>> and <<http://www.vzajemnesouziti.estranky.cz>>.

Moreover, a narrow focus on project-based funding might unduly raise expectations about the potential of well-defined projects to change the reality of exclusion and discrimination. Something more than the projects alone is needed—a change of mindset among local power-holders and local communities. The European Council conclusions of 24 May 2011 show that there is at least a growing European awareness of the problem.⁴⁸ They include a call upon the Commission and the member states to find a way in which the various available EU funds can “work together in a more integrated and flexible manner in the future, providing an appropriate framework for integrated, long-term actions for advancing Roma inclusion”. To achieve this long-term goal, some new ideas will be needed about how to develop such a framework of integration.

Apart from sustainability, there is also the concern of continuing or even rising discrimination. A broad group of civil society organizations fear that the EU’s actions in the field of promoting social inclusion might not leave enough room for strengthening the fight against anti-Gypsyism. A document distributed by the European Roma Policy Coalition and the Decade of Roma Inclusion Secretariat at the occasion of the Extraordinary Meeting of the EU Platform for Roma Inclusion in Brussels on 22 March 2012 voiced the concern of about 50 Roma civil society representatives that achieving social inclusion requires sustained attention to discrimination. It argued that the National Roma Integration Strategies “cannot succeed without clear action to combat anti-Gypsyism, as this is one of the causes of exclusion that the strategies are designed to address.”⁴⁹

VI. BY WAY OF CONCLUSION: THE POLITICAL DYNAMICS OF THE EU’S FOCUS ON ROMA

Although the current EU approach is not so much aimed at promoting the status of the Roma as a transnational European minority or constructing new European social policies targeted only at the Roma, it is clear that the EU has tried to increase its impact on domestic social policies aimed at the social inclusion of the Roma and at finding the right methods to improve their quality. In particular, it wants to promote existing financial mechanisms to persuade national governments of member states to devise and implement better social policies for their own population as a whole, including the Roma. During the course of the process, the new EU mechanisms meant to create some form of stake-holder involvement must also encourage the inclusion of the Roma’s voice in domestic decision-making processes. In addition, the EU continues to rely on membership conditionality to influence policies in acceding member states.

48 Council of the EU, “An EU Framework for National Roma Integration Strategies up to 2020: Council Conclusions, 10658/11” (2011), at <<http://register.consilium.europa.eu/pdf/en/11/st10/st10658.en11.pdf>>.

49 European Roma Policy Coalition and Decade of Roma Inclusion Secretariat, “Document prepared at the Preparatory Meeting of Civil Society Representatives” (Brussels, 21 March 2012).

Even if this multi-dimensional effort is today far from completed and the results are still underway, one could assume that the European Commission has, at least in theory, the power and the money to change the situation on the ground—more perhaps than any other governmental structures beyond the level of the national state in Europe. However, as I have argued before,⁵⁰ we have to be careful not to ignore the risks related to what should perhaps be called the ‘Europeanisation’ of inclusion policies for Roma.

First, the enlargement conditionality policy of the EU—the policy that made EU membership conditional on a better protection of minorities, including the Roma—has clearly proved to have its limits. Such conditionality may have been influential in bringing attention to the Roma and in getting programmes and reforms adopted by governments in the acceding countries, but implementation has seriously lagged behind. In the end, the Central European countries were admitted to the EU while substantial problems remained. It is important that the problems connected to the conditionality strategy are kept in mind when devising policies toward the current candidate member states.

The second problem is that Europeanisation might give domestic governments an opportunity to evade their own responsibility. If NGOs claim that the Roma are a European minority, domestic politicians and governments can easily argue—and some of them have indeed argued—that the EU or other international institutions have a special responsibility for the Roma. Even when European institutions take special initiatives aimed at the Roma, they should make clear that national governments remain ultimately responsible for the protection of their own citizens. The Roma should not solely be regarded as Europeans but also as citizens of their own states. The process of Europeanisation risks the reinforcement the harmful and stereotypical idea that the Roma belong everywhere and thus nowhere. Analysis of debates in the European Parliament, for example, demonstrates that domestic politicians, even well-intended ones, might help to reinforce the idea that national policies are of less importance for the Roma than European ones because the problems facing the Roma are, as international documents time and again emphasize, ‘European’ in nature and thus extend the boundaries of the nation-states.⁵¹ A ‘European’ interpretation of the problems facing the Roma might be problematic if it leads to a transfer of responsibilities for Roma inclusion to the level of the EU.

Third, the Europeanisation of the Romani issue might leave us with the impression that the situation of the Roma is very similar across Europe, and that formula-like solutions can be implemented. This is not the case. For example, it is clear from reports written for the European Commission that much variation

50 Peter Vermeersch, “Roma Inclusion: Can International Institutions Play a Role?” 15 *Development and Transition* (2010), 7-10.

51 Peter Vermeersch, “Reframing the Roma: EU Initiatives and the Politics of Reinterpretation”, 38(8) *JEMS* (2012), 1195-1212.

exists, even if some key common areas for policy improvement can be defined, and that variation should be taken into account by policy-makers.⁵²

Finally, European initiatives meant to remedy the problems that face the Roma should be implemented carefully to avoid the reinforcement of boundaries between the Roma and other population groups. If European support is not monitored well it might easily be interpreted as support uniquely for the Roma, rather than for society as a whole. The way funding mechanisms are structured and framed will be of crucial importance. As the 2010 report by Guy, Liebich and Marushiakova shows,

funding that comes exclusively from outside a country (be it from the EU, bilateral or private donors) can address transitory problems or concrete infrastructure needs, but is otherwise unlikely to produce sustainable results. National financial support can be important to demonstrate political will and as a way of overcoming local opposition. But local financial support is important to underpin success. Such support, even if small, can demonstrate political will at the local level and the active role of local non-Roma communities as stakeholders.⁵³

Roma inclusion strategies may now find the financial and symbolic support of the EU, but they also need the active involvement of local majority populations.⁵⁴ The views of “the community as a whole” will have to be taken into account not only in the context of the evaluation of the impact of measures, but also in the context of planning those measures. Deliberative processes, such as collaborative planning (meetings during which Romani and non-Romani inhabitants have a chance to legitimize each other’s contribution to municipal plans), can be useful. Although the Roma will and should remain the focus of the main policy responses to the problems affecting this population, the results of the policy responses will be more effective when they are constructed on the basis of meaningful input from all parts of a local community, including other groups. There is a need to find mechanisms of social policy and human rights protection that promote the image of policy initiatives as beneficial for the Roma and non-Roma alike. Current initiatives are too often interpreted or portrayed as bringing resources to Roma that might otherwise have gone to non-Roma, while in fact they are lose-lose policies: the resources directed to the Roma have often been insufficient to bring any significant or lasting changes to Roma’s daily lives. To avoid a backlash and at the same time create tangible socioeconomic change within Romani communities, it will be crucial to move from lose-lose to win-win policies so that the full support of the local governing elites and local majority populations can be garnered. Without such support, even the most promising initiatives on paper may not lead to lasting positive results on the ground.

52 Fresno, *op.cit.* note 2.

53 Guy, Liebich and Marushiakova, *op.cit.* note 38, at 36.

54 For a more elaborate argumentation of this issue, see Sobotka and Vermeersch, *op.cit.* note 15.