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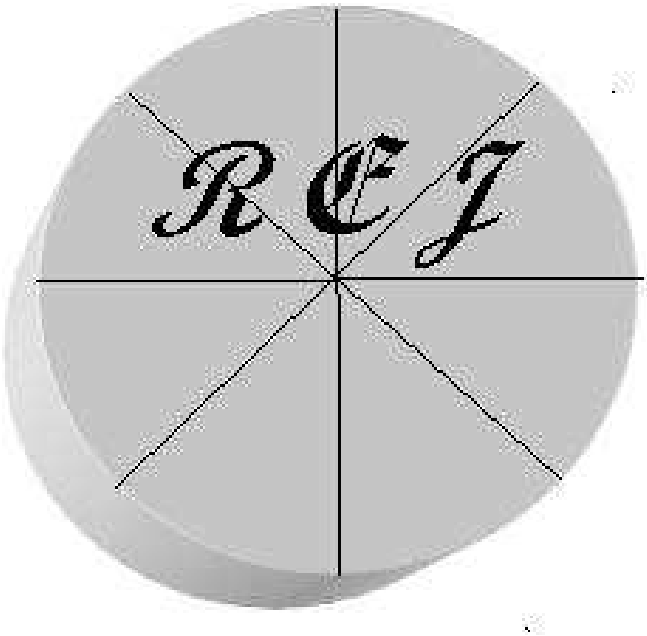

Images, Perceptions and Current Issues

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Dog days for Roma in France – Carl Ekström

Abstract:

In summer 2010, in the wake of riots in the town of Saint-Aignan, President Sarkozy ordered three sets of measures to be taken: 1) the expulsion of migrants originating from Romania and Bulgaria, most of whom were believed to be Roma, 2) the eviction of the inhabitants of around 600 Roma and *gens du voyage* settlements that were deemed to be illegal and 3) the amendment of legislation with a view to facilitate expulsions and evictions.

The author argues that in implementing the three measures described above, France breaches its obligations under international law. Firstly, the mass-expulsions of Romanian and Bulgarian Roma should be considered collective and therefore in breach of Article 4 of Additional Protocol 4 to the European Convention on Human Rights. Secondly, the on-going expulsions of Roma are in a grey zone with regard to the EU-standards and should probably be seen as a circumvention of these rules.

President Sarkozy faced particularly low ratings during summer 2010. French commentators claim that the president drew intention to and exaggerated the importance of the riots in Saint-Aignan and the situation of migrant Roma in order to redirect attention from negative publicity and from an envisaged unpopular reform of the pension system. By insisting on the Roma ethnicity of people he is criticising, the president puts himself at risk of being accused of racism. By presenting the recent issues in a simplified manner, by being unclear and by a lack of reference to underlying causes, President Sarkozy insults and stigmatises all Roma and *gens du voyage*.

Roma and education in Romania: An analysis of educational problems and the actions taken to overcome them – Razvan Sandru

Abstract:

The focus of this paper is the Roma community in Romania and the education initiatives put forward by both government/Ministry of Education and NGOs for improving education for the Roma minority. The paper begins with a short explanation as to why education is important, followed by a description of the legal and institutional background of education in Romania and the Roma minority. Second, the study will then critically examine: (i) the education of the Roma, including current problems, initiatives to overcome them and areas that lack focus; and (ii) the education of the majority population in regards to the Roma. The paper will conclude that some progress has been made but mostly locally with limited impact on the national situation. However, important topics like gender inequalities, adult education, majority education about the Roma and the role of the media need more attention in the future.

Fear: A tool for the Empowerment of Antiziganism – Gregor Dufunia Kwiek

Summary:

Written from a personal perspective, Kwiek's article discusses how fear drives and motivates hate and presents. Often that hate focuses and uses the social background of Roma living at poverty level so that the image with which Roma will be perceived will be one that is linked to common ailments found in poverty stricken society such as criminality, poor education, filth and other negative factors. Kwiek addresses this image by illuminating on some of the various Romani classes that are not living at the poverty stricken level and still experience atniziganism not because of thei social background but because they are Romani.

Romska som modersmål i den svenska skolan – Robert Brisenstam

Summary:

The contribution of Romani law student Robert Brisenstam consists of a legal paper of 15 ECTS Credits written at Uppsala University in the spring of 2010 on the topic of Romani as a native language in the Swedish school. Brisenstam, inspired by a case of suspected discrimination in this area, studies and analyzes international, regional and Swedish national legislation. He then proposes, among others things, that the status of the Romani language in Sweden is changed from being a non-territorial national minority language into having the status of a territorial national minority language. According to Brisenstam this would strengthen the Romani language in Sweden and make it easier for Roma to preserve and develop the language and by that avoid the risk of involuntary assimilation. Furthermore it would make the risk of the Swedish state breaching its minority political commitments to international and national law smaller.

DOG DAYS FOR ROMA IN FRANCE

By

Carl Ekström

Introduction

"Dog days" occur in late summer when the milk turns sour, people say and do things they later regret and everything seems to go wrong in a sort of morbid way. Considering the rhetoric used and the measures envisaged by the French government this summer with regard to the country's 400,000 French and migrant Roma and *gens du voyage* (see below), these communities must have felt that the dog days were upon them with full force. Although, for Roma and related groups, most days continue to be dog days considering the prejudice and exclusion many of them face in society throughout Europe.[1]

Since visa requirements for Bulgarian and Romanian citizens were lifted, and following the accession of these countries to the European Union (EU) in 2007, Romanian and Bulgarian Roma have travelled to France, like they have to other countries within the EU, in search of better life conditions. According to NGO estimates, between 10,000 and 15,000 Roma from Romania and Bulgaria live in France as of 2010.[2] Some of them are in a regular situation, but many seem not to be. This means that they are not able to identify themselves or that they have stayed longer than three months in France without fulfilling certain conditions in terms of employment. Also Roma from other parts of South Eastern Europe have come to France over the last twenty years, some of whom have been granted residence permits.

[1] I am indebted to Karin Waringo of the NGO *Chachipe* for her comments on this text, as well as to Anne Weber of the Office of the Council of Europe Commissioner for Human Rights and to Michael Guet of the Council of Europe Roma and Travellers Division for providing information and for discussions.

[2] See for example "Les gitans de Saint-Aignan appellent au calme", Le Journal du dimanche, 24 July 2010.

The French government claim that migrant Roma are implied in criminality, that they are in any case irregular migrants and that they are consequently to be expelled to their home countries.[3] Accusations range from clandestine commerce, exploitation of children for begging and prostitution to "other forms of delinquency".[4] According to President Sarkozy, as of July 2010, there were 539 illegal migrant Roma camps in France (it is not clear if the president counted also irregular *gens du voyage* camps).[5] It was estimated that around 8,500 Roma from Romania and Bulgaria live in illegal camps in France.[6]

It was however a specific event that marked the beginning of the dog days in France for Roma and gens du voyage in summer 2010. On 18 July, around forty French *gens du voyage* (French citizens, not itinerant, not of Roma ethnicity) living in Saint-Aignan, a town of 3,400 inhabitants, displayed their frustration and anger with the fact that a member of the group had been shoot dead by the police. [7] The riots broke out when the police presented their account of the shooting – a version which the town folk contested as false.[8] The riot, which caused material damage, prompted the government to send helicopters and 300 troops to the town.[9] Subsequently, several of the perpetrators were sentenced to up to ten months' imprisonment.[10]

The reaction of the French government

President Sarkozy faced his own dog days in the summer of 2010. Although he was not threatened by expulsion from France, he might have feared, like most migrant Roma and

[3] "Communiqué faisant suite à la réunion ministérielle de ce jour sur la situation des gens du voyage et des Roms" published on the website of the French president, 28 July 2010.
[4] "Communiqué faisant suite à la réunion ministérielle de ce jour sur la situation des gens du voyage et des Roms" published on the website of the French president, 28 July 2010.
[5] "Discours de M. le Président de la Republique à Grenoble", Friday 30 July 2010, published on the website of the French president, 30 July 2010.
[6] "Gens du voyage et Roms : cinq mesures pour lutter contre les camps et les comportements illégaux", information published on the website of the French Government, 29 August 2010.
[7] See for example "Loir-et-Cher: Un village assailli", Le Journal du dimanche, 18 July 2010.
[8] "Loir-et-Cher: Les gens du voyage disent leur colère", Paris Match, 21 July 2010.
[9] "Loir-et-Cher: Les gens du voyage disent leur colère", Paris Match, 21 July 2010; "Obsèques du jeune homme tué par les gendarmes : pas d'incidents", Le Parisien, 19 July 2010. It will be interesting to see what the investigation into the killing in Saint-Aignan brings. In a case against Bulgaria (Nachova and others v. Bulgaria, application nos. 43577/98 and 43579/98, judgment of 26 February 2004) the European Court of Human Rights ruled that the killing by the police of two Romani men who had not obeyed an order to halt, was unlawful and racist. The French case was however different in several ways. The Bulgarian authorities were also held responsible by the European court for not having adequately investigated the shooting and for not having taken sufficient action against the police officers. The European Court of Human Rights also found Greece in breach of Article 2 of the European Convention of Human Rights (the right to life) due to the police having shot and almost killed the driver of a run-away car (Makaratzis v. Greece, application no. 50385/99, judgment of 20 December 2004).
[10] "Les gitans de Saint-Aignan appellent au calme", Le Journal du dimanche, 24 July 2010.

many gens du voyage, to be evicted from his current accommodation, in his case the Elysée Palace. With the presidential elections in 2012 looming, in the midst of certain "scandals" of which his party and his collaborators had been accused, President Sarkozy's ratings turned out particularly low during summer 2010. At this point his was also preparing to take a highly unpopular reform of the pension system through parliament.

On 28 July, in the wake of the confrontations in Saint-Aignan, President Sarkozy convened a ministerial meeting in order to address the "problems caused by certain among the Roma and the *gens du voyage*".[11] French commentators claimed that the government had used the riots in Saint-Aignan and the situation of migrant Roma in order to redirect attention from negative publicity to a field in which the president has a strong profile, namely "security".

As a result of the meeting, President Sarkozy ordered three set of measures to be put in place with a view to address the alleged problems. The measures formed part of what Sarkozy has named his "war on criminality" and have in one way or the other been presented to the public with a direct reference to Roma and to *gens du voyage*. The measures are 1) the expulsion of migrants originating from Romania and Bulgaria, 2) the eviction of the inhabitants of around 600 Roma and *gens du voyage* settlements that are deemed to be illegal and 3) the amendment of legislation with a view to facilitate expulsions and evictions.

The main purpose of this text is to analyse whether the measures focusing on Roma migrants are in conformity with international human rights standards and with certain rules of the European Union (EU). I will have to forego the treatment of the gens du voyage in this text.

Statements by the French government in summer 2010[12]

Statement of 21 July

On 21 July, the Elysée Palace issued a press statement concerning the events in Saint-Aignan:

[11] "Déclaration de M. le Président de la République sur la sécurité" published on the website of the president, 21 July 2010.
[12] All translations by the author.

"These events are not acceptable. The government carries out an unconditional fight against criminality. We will wage a veritable war against traffickers and delinquents. I would like to add that the events in Loir-et-Cher underline the problem which is posed by the behaviour *of certain persons among the gens du voyage and the Roma* [author's emphasis]".

When the president was accused of stigmatising Roma and the *gens du voyage* through his statement, the government spokesperson Luc Chatel ensured that the president

"does not wish to stigmatise a community but wishes to respond to a problem. Regardless of being Roma, gens du voyage *or sometimes even French* in this community, one has to respect the laws of the Republic" [author's emphasis].[13]

Statement following the meeting on 28 July

After the ministerial meeting on "the situation of the *gens du voyage* and the Roma" on 28 July a further statement was issued.[14] As concerned Roma from Eastern Europe present in France, the president considered "completely inadmissible the lawlessness that characterises the Roma populations from Eastern Europe, residing in France". A list had been made of 200 illegal camps which were "the source of illegal clandestine commerce, deeply undignified living conditions, exploitation of children for begging, prostitution and delinquency".

The president ordered the government to accompany irregular migrants from Eastern Europe to the border. Before the end of the year, a reform of the immigration law would be in place with a view to facilite such expulsion on the basis of respect for public order. It was also announced that a convention between France and Romania allowing France to repatriate single Romanian minors who were exploited in criminal commerce would be ratified.[15]

Also some more constructive measures were announced: Intense cooperation with Romanian authorities would be initiated with a view to combat trafficking and to allow repatriated Romanian citizens the best possible conditions of reintegration. Furthermore, the cooperation

[13] See for example "Roms: Chatel dénonce certaines attitudes", Le Figaro, 28 July 2010.
[14] "Communiqué faisant suite à la réunion ministérielle de ce jour sur la situation des gens du voyage et des Roms" published on the website of the president, 28 July 2010.
[15] Such a treaty was subsequently ratified by the French Parliament.

destined to promote employment and development projects in favour of Roma populations in their countries of origin would be reinforced.

Press conference on 30 July

On 30 July the president held a speech in Grenoble.[16] The speech was given primarily with regard to a more serious riot that had taken place in Grenoble at the same time as the one in Saint-Aignan, without the involvement of any Roma or *gens du voyage* and the president also addressed irregular Roma migration and plans to dismantle settlements.

"I am asking [the new prefect in Grenoble] to show absolute firmness in the fight against illegal immigration. The general rule is clear: the clandestines have to be sent back to their countries. It is in this spirit that I have asked the Minister of the Interior to get rid of all irregular Roma camps. These are zones outside the law that cannot be tolerated in France. By no means is the idea here to stigmatise the Roma.... I wish that we undertake a reform in order to improve the fight against irregular migration. Each year, around ten thousand irregular migrants, including Roma, leave voluntarily with an aid from the State".

The circular of 5 August

On 5 August 2010 a circular from the Ministry of the Interior, signed by the Director of the Minister's Office and addressed to the prefects, i.e. the highest governmental authority in the French departments, leaked to the public prompting the EU Commission to consider an infringement procedure against France. The circular stipulated that

"300 illegal camps or installations will have to be evacuated within three months from now, with priority given to the ones of the Roma. The prefects... shall therefore systematically organise... the dismantling of irregular camps, with priority given to the ones of the Roma. Moreover, it goes without saying that the putting up of new irregular Roma camps must be prevented. In case of a new installation you shall do everything to prevent it."[17]

[16] "Discours de M. le Président de la Republique à Grenoble", Friday 30 July 2010, published on the website of the French president, 30 July 2010.
[17] "Le circulaire visant les Roms est très probablement illégale", Le Monde, 12 September 2010.

Meeting concerning migration and security on 6 September

Following the President's speech on 30 August, on 6 September the government met and decided to propose certain amendments to the aliens legislation with a view to facilitate the removal of irregular migrants including, under certain specific circumstances, EU-citizens, namely in case of threat against public order, in the absence of durable means of subsistence and abuse of the right to free movement.[18]

Roma, Sinti and *gens du voyage*s in France

There are an estimated 300,000–400,000 Roma and Sinti in France. This group may overlap with the *gens du voyage*. There are 160,000 individuals registered as *gens du voyage*, which means as much as "travelling people", but is not to be confused with ethnic groups referred to as "Travellers". *Gens du voyage* is not an ethnic group. Some Roma in France, but not all, are *gens du voyage*, and some *gens du voyage* but far from all are Roma. An estimated 95%, of Roma and Sinti in France are French citizens, and have been so for generations. If you belong to the group *gens du voyage*, whether Roma or not, you are *by definition a French citizen*.

Everyone who lacks a fixed adobe is supposed to be registered as *gens du voyage*. This implies being confronted by a number of discriminatory rules the discussion of which unfortunately has to be foregone here. The impression is sometimes given in the French debate, that Roma and *gens du voyage* would be one and the same. It should be repeated that is not the case. *Gens du voyage* reject the term and prefer to be referred to as "*voyageurs*".

When the term "Rom" occurs in the French debate, as used by President Sarkozy for example, it is used to refer to people who are not French, but who live in or come to France from Central and Eastern Europe. The Roma residing in France who have arrived from Central and Eastern Europe in the last few years are normally not holders of French citizenship (for which one has to reside in France for at least ten years, in addition to other requirements), but there are Roma from for example the Former Yugoslavia who do have residence permits.[19]

[18] "Réunion de travail sur les questions de sécurité et d'immigration", published on the webpage of the French President, 6 September 2010 and Human Rights Watch "France: Reject Anti-Roma Bill" published on its website 27 September 2010.

[19] There are anecdotal suggestions that some of these have come from Italy as a result of a recent harsher stance on immigration in that country, as well as due to pogroms against Roma.

During the Second World War, already in 1940, around 6,000 Roma and Sinti were detained in camps under dire conditions by the French authorities. The measure was based on French law and not ordered by the occupants. They remained in detention until well after the liberation. Until July 2010, when State Secretary for Defence, Hubert Falco, honoured them in a speech, they had received no acknowledgment from the French authorities.[20]

Expulsion of irregular migrants

Background

In 2009, 9,875 people were expelled from France to Romania and Bulgaria, of whom 85% to Romania. In 2010, until 31 August, 8,300 Romanians or Bulgarians had been expelled from France and their lodgings torn down.[21] They are widely believed to be Roma.[22] Between 28 July and 31 August 2010, following the new campaign launched by President Sarkozy, 979 Romanian and Bulgarian irregular migrants were expelled. 151 of these deportations had been forced and 828 voluntary. "Voluntary" is here a relative concept, as will be shown below ("humanitarian returns").[23] Although, as explained above, in July 2010, the government had aimed the spotlight at migrant Roma and announced that the number of expulsions would be stepped up, the monthly average return of irregular Romanians and Bulgarians during August 2010 was basically the same as in 2008, 2009 and 2010 respectively.[24]

Most of the Roma migrants from Eastern Europe live in shanty towns around Paris, often without access to water or electricity. Rubbish is collected only sporadically. Hygiene conditions are often deplorable. Some camps even lack toilets. According to a survey, about

[20] Speech on 18 July 2010 by Hubert Falco, State Secretary for Defence and Former Combattants at the occasion of the "National Memorial Day for the Victims of Racist and Anti-Semite Crimes Committed by the French State and for Tribute to the 'Just'", published on the webpage of the French Ministry of Defence.
[21] Statistics published by the French Migration Board (ANAEM/OFII). See also "Point sur la mise en œuvre des évacuations de campements illicites" published on the website of the French government, 1 September 2010 and Neue Zürcher Zeitung, 31 August 2010, page 5.
[22] It is not permissible to break down statistics with regard to ethnicity. The Parliamentary Assembly of the Council of Europe has challenged this in a report entitled "The situation of Roma in Europe and relevant activities of the Council of Europe", adopted on 22 June 2010.
[23] "Point sur la mise en œuvre des évacuations de campements illicites" information published on the website of the French government, 1 September 2010.
[24] Statistics published by the French Migration Board (ANAEM/OFII).

53% of Roma live in caravans, 21% in converted squats and 20% in huts.[25] The French government claimed that there were 539 irregular camps in France as of July 2010.

Is there any truth in Sarkozy's allegations concerning criminality among Roma migrants? According to the French Minister of the Interior, in Greater Paris, 3,294 Romanians (not necessarily of Roma ethnicity) had been formally *suspected* of criminal acts between January and June 2010. This was equal to 3.6% of the 92,148 people suspected of criminal acts in the greater Paris area in that time-span.[26] In 2008, the number of suspected Romanians had been 1,500.[27] The last available statistics as concerns actual sentences by courts of law date to the years 2007 and 2008. In these years 4,562 and 4,300 Romanians had been *convicted* by French courts.[28] The Romanian Minister of the Interior stated that among the some 900 Romanians expelled from France to Romania in August 2010, following a careful control, it had turned out that *none* of them had any criminal record whether in France or in Romania.[29]

A State decides who can reside on its territory

A citizen of a certain country, whether born abroad or not, cannot be expelled from that country.[30]As concerns citizens of other countries, however, States are entitled under international law to decide who may or may not enter and reside on their territory. This has been frequently reiterated in the rulings of the European Court of Human Rights.[31] Therefore, if a person resides in an irregular way in a certain state, he or she can be expelled.

The prerogative to expel irregular migrants applies to individuals who have entered without the required documents, who are staying on the territory despite the expiry of such documents and to asylum seekers whose applications have been rejected. EU-citizens have a right to enter and to reside in other EU member states that non-EU-citizens lack. It should be

[25] Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008, Section VI.2 c and Médecins du Monde, "Les Roms que l'Europe laisse à la porte", October 2007.
[26] "Tous les Roms ne sont pas roumains, et inversement" published on the website of the French NGO Rue89 on 31 August 2010, with further references.
[27] "Roms: Sarkozy a un plan", Le Journal du dimanche, 22 July 2010.
[28] "Des chiffres totalement invérifiables", published on the website of the French NGO Rue89 on 3 September 2010.
[29] "Les Roms récemment renvoyés de France n'étaient pas fichés par la police", Le Monde 27 August 2010.
[30] Article 3.1 of Protocol No. 4 to the European Convention on Human Rights provides: "No one shall be expelled, by means either of an individual or of a collective measure, from the territory of which he is a national".
[31] See among many others , Salah Sheekh v. the Netherlands, application no. 1948/04, judgment of 11 January 2007, § 135.

remember that non-authorised residence, even when refusing to abide by an expulsion order, *is not in itself in any way a criminal act*.[32] It is wrong to speak about "illegal" immigrants.

Expulsions of irregular migrants have been enforced with great resilience under the Sarkozy regime. The eviction in 2009 of the so-called Jungle in Calais followed by the deportation of its inhabitants to Afghanistan and other countries was an example of this.[33] Under the "European Pact on Immigration and Asylum", designed under the French EU presidency in 2008, member states of the EU have *undertaken* vis-à-vis the other member states of the EU to expel irregular migrants, something which has hitherto been within the discretion of the single member states. This undertaking, which has been included also in the 2009 Stockholm Programme, is one of the points of the new EU migration policy which is perhaps not so well known, but which has an immense impact on a large number of people throughout Europe.[34]

The right to apply for asylum

A necessary condition for an expulsion to be in conformity with international law is that it is not in contradiction with the 1951 Geneva Convention relating to the Status of refugees or the European Convention of Human Rights (which France has both ratified). This means that the person concerned is (1) not risking persecution and ill-treatment upon return and (2) that the expulsion is based on a decision with regard to each individual concerned and that certain procedural safeguards are respected. If wishing to do so, the individual shall be allowed to put forward an application for asylum, which shall be considered in a fair manner.

Roma who are expelled to Bulgaria and Romania, could be interested in submitting asylum applications, in the same way as Hungarian Roma have done in France due to pogroms in their home country or Roma from Kosovo due to the situation in Kosovo.[35] However, EU-

[32] See Council of Europe Commissioner for Human Rights, "Criminalisation of Migration in Europe: Human Rights Implication", 4 February 2010.
[33] See for example "La 'jungle' de Calais évacuée, d'autres évacuations à venir", Le Monde, 29 September 2009.
[34] Section 6 of "The Stockholm Programme – An open and secure Europe serving and protecting the citizens" discussed by the European Council on 30 November and 1 December 2009. See also "European Pact on Immigration and Asylum", European Council on 15-16 October 2008, Section II.
[35] The European Court of Human Rights has found violations of the European Convention on Human Rights in several cases concerning racist killings of Roma by policemen and the impunity of the perpetrators (Bulgaria) and the lack of proper investigation and redress following pogroms initiated by local population and tacitly accepted by municipal authorities (Romania).Nachova and Others v Bulgaria [GC], applications nos. 43577/98 and 43579/98, judgment of 6 July 2005 and Moldovan and Others v. Romania, applications nos. 41138/98 and 64320/01 judgment of 12 July 2005.

citizens applying for asylum in another EU-country are likely to have their applications rejected. According to "Protocol No 29 annexed to the Treaty establishing the European Community", only under very rarely fulfilled requirements is there a chance for an asylum seeker who is an EU-citizen to be granted refugee status in another EU member state. In respect of each other, all EU states are considered safe countries of origin.

The compatibility of "Protocol 29" with the 1951 Geneva Convention is questionable. All EU member states are also parties to the European Convention on Human Rights and are obliged to respect the rulings of the European Court of Human Rights. The Court has often found that by expelling an individual to a country in which he or she risks treatment contrary to Article 3 of the European Convention (prohibition against torture), even to a member state of the Council of Europe, the expelling country might be in breach of that Article.[36]

Prohibition against collective expulsions

Article 4 of Protocol 4 of the European Convention on Human Rights (to which France is a party) and Article 19 of the Charter of Fundamental Rights of the EU, forbid collective expulsion of aliens. In the context of the expulsion of Roma, the French government should take a closer look at the case-law of the European Court of Human Rights and in particular the case of Čonka v. Belgium in which Belgium was found in breach of the said provision.[37]

A requirement for the expulsion of a group of people not to be considered collective is that an *objective examination is afforded to the particular case of each individual concerned*. The State has the burden of proof in this regard.

In the Čonka-judgment, the Court stated (paragraph 59 of the judgment):

"Article 4 of Protocol No. 4, is to be understood as any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group…. That does not however mean that where the latter condition is satisfied, the background to the execution

[36] The first case in which the Court stopped the extradition of a person from one country to another with regference to Article 3 was Soering v. United Kingdom, Application No 14038/88, judgment of 7 July 1989 and, with regard to expulsions, Cruz Varas and others v. Sweden, application no. 15576/89, judgment of 21 March 1991.

[37] Čonka and others v. Belgium, application no. 51564/99, judgment of 5 February 2002.

of the expulsion orders plays no further role in determining whether there has been compliance with Article 4 of Protocol No. 4".

The Court continued to state (paragraphs 61-63, emphasis by the author):

"The applicants' arrest was therefore ordered … on a legal basis unrelated to their requests for asylum, but nonetheless sufficient to entail the implementation of the impugned measures. In those circumstances and *in view of the large number of persons of the same origin who suffered the same fate as the applicants, the Court considers that the procedure followed did not enable it to eliminate all doubt that the expulsion might have been collective*…"

The Court continued:

"That doubt was reinforced by a series of factors: firstly, *prior to the applicants' deportation, the political authorities concerned had announced that there would be operations of that kind and given instructions to the relevant authority for their implementation*; secondly, all the aliens concerned had been required to attend the police station at the same time; thirdly, *the orders served on them requiring them to leave the territory and for their arrest were couched in identical terms*; fourthly, it was very difficult for the aliens to contact a lawyer; lastly, the asylum procedure had not been completed."

The European Roma Rights Centre (ERRC), which has examined a number of cases concerning the expulsion of Romanian and Bulgarian Roma from France in the summer of 2010, has concluded that[38]:

"On examination of the documents, it is quite clear that they have been produced *en masse* and distributed with no consideration of individual circumstances, including the length of stay in France, the level of individuals' means, whether health insurance is available, whether social assistance is claimed and the proportionality of expulsion in all circumstances: in short, whether individuals represent an unreasonable burden on the social assistance system, as is claimed in each of the ... cases. In the case of each set of expulsions the forms themselves are identical, save for the names, dates and places of birth of each person. They are also generic

[38] European Roma Rights Centre, "Submission in relation to the analysis and consideration of legality under EU law of the situation of Roma in France: Factual Update", 27 September 2010, published on the ERRC webpage.

and no reference is made to the specific circumstances of each person. The handwriting is the same on each form and names are inserted into pre-printed forms with a space sometimes not even big enough to fit the name. Were these orders given any, or proper, individual consideration, then they would surely have been typed in an office before being distributed."

It should be noted that expelled Roma are in many cases flown back to their home countries in large groups on chartered aircrafts.[39]

The EU system

Some of the Roma who reside in France come from former Yugoslavia or other countries that are not members of the EU. The great majority of non-French Roma, however, appear to be Romanian or Bulgarian, i.e. EU-citizens. EU-citizens have the right to travel to or reside in another member state. This is the right to freedom of movement as guaranteed by Article 21.1 of the Treaty on the Functioning of the European Union and Article 45.1 of the Charter of Fundamental Rights of the EU.

Article 6 of the EU Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (the Directive), provides that citizens of the EU

"shall have the right of residence on the territory of another Member State *for a period of up to three months* without any conditions or any formalities other than the requirement to hold a valid identity card or passport" [author's italics].

If an EU-citizens wishes to work in another EU-country than the one of citizenship, for a period longer than three months, he or she has to fulfil the requirements set out in Article 7.1 of the Directive, that is to be a worker or a self-employed person or otherwise have sufficient resources and be able to show that he or she will not be an unreasonable burden on the social security system of the host country.

[39] See for example Human Rights Watch, "EU: A Key Intervention in Roma Expulsions. France should review policy to ensure 'no collective expulsions'", published on the Organisation's website on 14 September, 2010.

The right to stay for three months without any other requirement than holding valid identity documents applies to Bulgarian and Romanian citizens as for all other EU-citizens. However, as concerns the right to work, certain special restrictions apply to Romanians and Bulgarians in certain member states, including France. Until, at the latest, 31 December 2013, individuals holding these nationalities have to have a work permit if they wish to work in France.

The authorities can order an EU-citizen who is relying on the three months rule, or who fulfils the criteria in Article 7.1, to leave France only if the person concerned constitutes a threat to "public order". The Directive sets out rigorous criteria that have to be fulfilled in order for a person to be removed on this ground (see below). The authorities have the burden of proof.

The prefect can also order the expulsion of an EU-citizen who is not able to fulfil the criteria in Article 7.1 of the Directive. In all these cases, according to domestic national French law, the individual concerned benefits from a respite of one month in order to be able to organise the departure *or to submit an appeal against the removal order to the administrative court*.

It should be remembered that if a member state of the EU has rules in place that are more favourable to the individual than the EU rules, the more favourable rules will apply (Article 27 of EU Directive 2004/38).

"Humanitarian returns"[40]

In order to speed up expulsions and to avoid lengthy appeals proceedings, the French authorities have invented a system called "humanitarian return aid". This system of cause has a nice ring to it, but it however lacks all legal basis being as it is based on several inter-ministerial circulars only.[41] The idea is that a person can be asked to agree in writing to leave the country against a compensation of 300 Euros for an adult and 100 Euro for a child.

The migration authorities and police officers present themselves in the Roma camp and give the individuals concerned an ultimatum: either they choose to depart immediately with the money or to go forcibly via the police station and possibly a period of administrative

[40] See a discussion on the topic of "humanitarian returns": Serge Slama in "Focus sur…" published on the homepage of Dalloz Etuidant (http://actu.dalloz-etudiant.fr) on 10 September 2010.
[41] "Circulaire Interministrielle N°DPM/ACI3/2006/522 du 7 décembre 2006 relative au dispositif d'aide au retour pour les étrangers en situation irrégulière ou en situation de dénuement".

detention. According to the Council of Europe Commissioner for Human Rights, these repatriation operations are sometimes co-ordinated with intimidating police operations, including forced evictions. The Commissioner has found that in some cases identity papers have been confiscated until returnees have reached their country of origin so that they could not change their mind.[42] The UN Committee on the Eradication of Racism has stated that there are indications that not all the individuals who are subject to humanitarian returns have given their informed consent to the measure.[43]

A great majority of the Bulgarian and Romanian Roma – 84% of those returned during 2010 – opted for this solution whereby the legal protection mechanisms are circumvented. In 2008, 10,191 EU-citizens left France under this regime, 9,178 of whom were Romanians (around 90%) and Bulgarians (around 10%).[44] The downside with "humanitarian returns" for the French authorities is that, relying on EU law, the deportees can come back, theoretically the very same day as they were deported, and profit from another grant.[45]

Threat to ordre public *as a ground for expulsion*

As stated above, *in cases where the person concerned can be considered a threat to the "public policy, public security or public health*" (Article 27 of EU Directive 2004/38) the prefect can order the removal of that person, whether, in case of EU-citizens, he or she is staying in France since less or more than three months. The French Government states that it will interpret the concept of public order in a way that will facilitate using the exception. The EU-Parliament and the Commission have expressed strong doubts in this regard.[46]

[42] Memorandum by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, following his visit to France from 21 to 23 May 2008, para. 149.
[43] Observations finales du Comité pour l'élimination de la discrimination raciale (CERD) Examen des rapports présentés par les États parties conformément à l'article 9 de la Convention, (CERD/C/FRA/CO/17-19), published on 27 August 2010, § 14.
[44] Statistics published by the French Migration Board (ANAEM/OFII).
[45] "Le plus grand bidonville de France se vide", Le Parisien, 29 August 2008. The French authorities have targets with regard to how many irregular migrants must be returned from France every year. In 2009 that target of 25,000, was surpassed: 29,000 irregular migrants were returned. So even if the people who have left France under the humanitarian returns scheme actually do come back to France, their initial departure might look "good" for the government statistically.
[46] Statements by Viviane Reding, EU Commissioner for Justice, Fundamental Rights and Citizenship, on the Roma situation in Europe published on the website of the EU on 27 August and on 14 September 2010 and European Parliament resolution of 9 September 2010 on the situation of Roma and on freedom of movement in the European Union.

According to the Court of Justice of the European Union and the Guidelines on the application of the Directive communicated by the EU Commission, the rules concerning expulsion on the basis of *ordre public* shall be interpreted strictly.[47] Member States retain the freedom to determine the requirements of public policy and public security, which can vary from one Member State to another and from one period to another.

Article 27 of EU Directive 2004/38 provides:

"2. Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall not in themselves constitute grounds for taking such measures. The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society".

Article 28 of the Directive provides

"1. Before taking an expulsion decision on grounds of public policy or public security, the host Member State shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host Member State and the extent of his/her links with the country of origin".

Article 30 provides that the person concerned

"shall be notified in writing of any decision taken under Article 27(1)" and that he or she "shall be informed, precisely and in full, of the public policy, public security or public health grounds on which the decision taken in their case is based, unless this is contrary to the interests of state security", that the notification "shall specify the court or administrative authority with which the person concerned may lodge an appeal" and finally that "[s]ave in

[47] Communication from the Commission to the European Parliament and the Council on guidance for better transposition and application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (COM(2009) 313 final), Section 3, with reference to Cases 139/85 Kempf (para 13) and C-33/07 Jipa (para 23) from the Court of Justice of the European Union.

duly substantiated cases of urgency, the time allowed to leave the territory shall be not less than one month from the date of notification".

Article 31 provides

"1. The persons concerned shall have access to judicial and, where appropriate, administrative redress procedures in the host Member State to appeal against or seek review of any decision taken against them on the grounds of public policy, public security or public health".

On 27 August the Administrative Court of Appeal in Lille quashed a decision by a lower court which had upheld the expulsion order against a Romanian person, possibly Roma, who had put up her camp on property belonging to the municipality. The Lille court's grounds were that the circumstances invoked, *the irregularity of the camp, could not as such be seen as a threat to public order since they did not threat any fundamental interest of society*.[48]

Conclusions

Against this backdrop, it is clear that although in principle the French authorities are in their right to expel people who are in an irregular way residing in France, this prerogative is conditioned by the European Convention on Human Rights and the EU-rules (and the 1951 Geneva Convention on the Status of Refugees, which is however not addressed here).

The present author believes that on at least three grounds France breaches Article 4 of Additional Protocol 4 to the European Convention prohibiting collective expulsion of aliens.

Firstly, the authorities have explicitly ordered that Roma shall be expelled, both in view of the circular of 5 August and the many statements by President Sarkozy. We recall the criteria established in the Čonka-judgment and quoted above "prior to the applicants' deportation, the political authorities concerned had announced that there would be operations of that kind and given instructions to the relevant authority for their implementation".

[48] Decision No. 1005246 delivered by the Administrative Court of Lille on 27 August 2010.

Secondly, the Court also stated that "... in view of the large number of persons of the same origin who suffered the same fate as the applicants". This is a criterion which is largely fulfilled in the French case. The fact that the Roma are brought to their countries in charted flights serves as evidence for the collective character of the returns.

Thirdly, the deportees have de facto been deprived of an individual decision and the possibility to appeal such a decision by being compelled to accept the "humanitarian return". In *Čonka*, the Court stated that for an expulsion *not* to be collective, one of the requirements is that the "measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group".

Let us also examine how France fares under the EU-system.[49] There are two aspects of the legal assessment: a formal and a material one. Starting with the latter, we have seen above that France will have great difficulties arguing *ordre public* as a ground for expulsion of Romanian and Bulgarian citizens. Even French courts have found that irregular residence and dwelling illegally on other people's property or petty crime do not constitute a threat to public order. It is striking that the Romanian Minister of the Interior has publically announced that of the some 900 Romanian citizens that were returned from France during August 2010, *none had any criminal record in France or in Romania*.

It should also be emphasised that, in accordance with Directive 2004/38/EC, lack of economic means cannot justify the automatic expulsion of EU citizens and that restrictions on freedom of movement and residence on grounds of public policy, public security and public health can be imposed solely on the basis of personal conduct, and not of general considerations of prevention or ethnic or national origin. *As far as returning EU-citizens on this ground, France will in the great majority of cases be acting in contradiction with EU-law*.

We recall that member states shall implement directives through national domestic law, but without deviating either from the contents or from the spirit of the directive. The French government envisages extending the *ordre public* grounds on which expulsion can be taken to encompass also "aggressive begging", "abuse of the system (concerning the "humanitarian

[49] "Roms : Bruxelles va déclencher une double procédure d'infraction contre la France", Le Monde 14 September 2010.

grants" described above)" and "durable lack of means". *It is difficult to see that these new additional grounds could be congruent with the definition of* ordre public *in the Directive.*

As to the formal side of the legal assessment, the individual must be given a fair and individual assessment with access to legal remedies leading up to an individual reasoned decision. The ERRC claims that this requirement has not been fulfilled by the French authorities.[50] In some cases, however, such as the one from Lille described above, the prefect seems to have taken a formal decision to expel, which has then been appealed against. *It is probable that France is not respecting the EU-standards also as concerns the procedural safeguards for EU-citizens who are susceptible of expulsion.*

The "humanitarian returns aid" exists in a judicial grey zone. First of all, however, the system seems to be in contradiction with the spirit of the EU rules on free movement and the regime that has been put in place to protect the migrant workers. Secondly, the persons concerned should not be able to give up their right to a formal decision and to appeal against it, which will however be the result of the scheme. The "humanitarian returns" are also highly dubious from the point of view of the rule of law and with regard to its sometimes coercive nature.

President Sarkozy claims that Roma who come to and reside in France in a regular manner are more than welcome. Although many of the Roma who are now in line for expulsion have lived in France for many years, speak French and have children who are going to school, most non-French Roma will have difficulties integrating into French society. The exclusion of Roma EU citizens in the society in their host states creates insurmountable obstacles to formal employment and the ability to prove "sufficient resources". This affects the ability to register and consequently to have access to key civil and political, economic and social rights.[51] Migrant Roma risk suffering double discrimination as a result of being Roma and migrants.
France should be able to legally expel EU-citizens who have been present longer than three months in France without fulfilling the requirements in terms of employment. This would however require a formal decision with the possibility of an appeal. For some reason France

[50] European Roma Rights Centre, "Submission in relation to the analysis and consideration of legality under EU law of the situation of Roma in France: Factual Update", 27 September 2010, published on the ERRC webpage.
[51] Observations finales du Comité pour l'élimination de la discrimination raciale (CERD) Examen des rapports présentés par les États parties conformément à l'article 9 de la Convention, (CERD/C/FRA/CO/17-19), published on 27 August 2010, para 12. See also "Infringement procedure against France concerning eventual breach of EU Law in relation with the treatment of Roma migrants from the new member states", letter from *Chachipe* to EU Commission Vice-President Reding, dated 27 September 2010, page 3 with further references.

seems to have been avoiding this ground and procedure. On the whole, France, like all countries, has a justifiable interest in managing migration, whether this entails a "generous" stance or not. One can certainly have different opinions on the contents of such politics. "Migration management" must in any case take place in compliance with the relevant rules, which is not the case today.

The rhetoric

The expulsion and eviction of Roma and *gens du voyage* is most probably not in accordance with international standards. Even if these measures were legal – which the French authorities of course claim that they are – *the rhetoric used by French politicians when addressing the issue during the summer 2010 is unacceptable and highly dangerous*.[52]

By playing the ethnic card, by insisting on the Roma ethnicity of people he is criticising, the president puts himself at risk of being accused of racism. By constantly referring to migrants, in this case Romanians and Bulgarians, in the context of crime, the president's discourse could be seen as xenophobic. By presenting the recent issues in a highly simplified and sweeping manner, by being unclear about the terminology and by a complete lack of reference to underlying causes, President Sarkozy insults and stigmatises all Roma and *gens du voyage*. This is nothing new to the Roma, in France and elsewhere, considering the discrimination, exclusion and violence from which many of them still suffer.

The following elements of the president's rhetoric should be addressed in particular.

(1) President Sarkozy has put the riot and problems of criminality in the context of ethnicity in a way that implies a link. There is no connection between ethnicity and criminality. By linking the two, the president reinforces prejudice and racist ideas in society, in addition to the injustice he does to the groups and their members.

[52] In August 2010, in its report on the examination of the French periodic report under the International Convention on the Elimination of All Forms of Racial Discrimination, the UN Committee for the Elimination of Racial Discrimination expressed worries with regard to the French political discourse, which is said to sometimes be discriminatory. Examen des rapports présentés par les États parties conformément à l'article 9 de la Convention. Observations finales du Comité pour l'élimination de la discrimination raciale (CERD/C/FRA/CO/17-19), para 10. See also a report by the Parliamentary Assembly's of the Council of Europe Committee on Political Affairs entitled "Recent rise in national security discourse in Europe: The case of Roma", adopted on 5 October 2010.

(2) By constantly mentioning two social (*gens du voyage*) or ethnic (Roma) groups with hundreds of thousands of members in relation to what is in reality a limited issue the president increases the *risk of stigmatisation* of these already marginalised groups.

(3) By failing to clearly distinguish between Roma on the one hand and *gens du voyage* on the other, the president *creates the erroneous impression that they are one and the same*.

(4) When failing to distinguish between the problems that he invokes and the groups that he holds responsible, the president connects one group with alleged problems with which they in any case have nothing or less to do than the other group, thereby *reinforcing stereotypes and existing misconceptions* among the general public.

(5) By using the term "Roms" to denote a limited group of individuals (migrants from Eastern Europe), the extension of which is in reality much larger (all Roma living in France), *he generalises a problem allegedly related to the smaller group* to encompass also the larger one.

(6) By sweepingly talking about "expulsion" with regard to the two groups he *risks creating the impression that their members are not French citizens* or that they are French citizens, but belong to a secondary category whose members could be expelled from their own country.

(7) By referring to the fight against criminality as a "war" the president dangerously opens up for the use of powers that are normally not deployed against a country's own population. He also *paves the way for derogating from protection mechanisms* from which the individual normally profits.

Points of view and proposals

The Sarkozian paradigm

I have shown that the expulsion of Roma from Romania and Bulgaria, as they are carried out by France today, are not in accordance with French obligations under international law, both as concerns the Council of Europe standards and those of the EU. The fact that tens of thousands of Roma from Eastern and Central Europe come to France and other countries in the EU bears evidence of *the issue being a European one that will need European solutions*.

This should however not be taken as an excuse for countries, regions and municipalities not to vigorously address the problem, on the contrary.

The rhetoric used by French politicians when addressing the issue during the summer 2010 is unacceptable. Political opportunism and populism is one thing, but when it draws heavily on stereotypes with regard to ethnic or social groups it is not only unworthy of an established politician, but also highly deplorable and dangerous. It risks lending credibility to those in society who advocate xenophobic and racist ideas. It is the president's task to strengthen social cohesion. In the dog days of 2010 he has been doing the exact opposite.

Something of which President Sarkozy cannot be accused, is to be acting incoherently. The announced war on criminality, which includes stepping up evictions of irregular *gens du voyage* dwellings and the expulsion of irregular Roma migrants, enters well into the Sarkozian paradigm. Sarkozy seems to reject the idea that manifestations of social problems are not only bare facts, but that they can also be an indication of something, namely that the people concerned might be the victims of a desperate and humiliating social situation which is due to circumstances beyond their own responsibility. Opting for the one or for the other approach to social issues, at the end of the day, comes down to choosing between two disparate outlooks on life. Being the author of the European Pact on Immigration and Asylum, Sarkozy has integrated his outlook also into the European context.

What to do?

Over the last years and decades a great number of different proposals have been put forward with a view to improve the situation of Roma in society.[53] It is not my intention to repeat them here, but instead to present some general thoughts on the matter. One reoccurring recommendation that nonetheless always deserves to be reiterated is the following.

[53] See for example numerous recommendations by the Council of Europe Committee of Ministers and Parliamentary Assembly, as well as the European Union Agency for Fundamental Rights, "The situation of Roma EU citizens moving to and settling in other EU Member States", page 77; OSCE High Commissioner on National Minorities "Recent Migration of Roma in Europe" a study by Claude Cahn and Elspeth Guild 10 December 2008, page 76 or "Common Basic Principles on Roma Inclusion – as discussed at the 1st meeting of the integrated European platform for Roma inclusion", April 2009.

All action intended to improve the situation of Roma, at every stage of the process, should be based on prior and genuine consultation with the Roma themselves. A common mistake that is made by non-Roma who are trying to improve the situation of Roma is that Roma themselves are not properly involved in that work. The French government seems to be making this mistake in the present situation, which raises doubts about their good will. In addition to increasing the alienation of the people concerned by, but not involved in, the decisions, it thereby misses out on the possibility of taking decisions that could be better informed and therefore better. Involving the Roma and related groups must be the first step taken.

As suggested above, a *concerted* European response – involving the European Union, the Council of Europe and the Organisation for Security and Cooperation in Europe – must be envisaged. This will however necessarily have to involve also local, regional and national authorities as well as civil society and the corporate sphere. In order for change to take place, a great many stakeholders will have to pull in the same direction. It is laudable that France is working closely with countries of origin in order to improve conditions – and the push factors should indeed be taken seriously: discrimination, exclusion, poverty, violence.

As concerns the situation in France for migrant Roma in line to be expelled, France of course first of all has to abide by its international obligations. This means going through the trouble of giving each of the persons concerned an individual, fair and appealable assessment, as well as not to use *ordre public* as a ground for expulsion in case it is not foreseen under the relevant EU rules. If problems are indeed caused by irregular migrants or irregularly lodging *gens du voyage*, one could advocate a completely different strategy to address that problem, instead of the current *repressive* Sarkozian one. Such a strategy could be based on *reflection, social analysis and on humanitarian values* and in particular on *genuine good will*.

Since many people from Bulgaria and Romania are keen on going to France, why not try to create genuine conditions for them to be able to fulfil the criteria for staying longer in the country than three months and to earn money in a regular way? To a certain extent such programmes are already in place, but apparently not working satisfactorily. It is often emphasised, and rightly so, that Roma are the true Europeans and that they incarnate the spirit of free movement that is such an important objective and means of the EU. *This is something that should be encouraged and not penalised.* People who have been staying in France for a number of years, in particular people who have children attending school, should get a regular

residence status regardless as to whether their stay has been legal or not. France has carried out regularisation actions before and it should be considered again.[54]

The thesis of the French as indivisible means that France does not recognise the concept of minorities. France should consider rethinking its approach to minorities and while doing so stop using it unrightfully. France should ratify and implement the Council of Europe Framework Convention on the protection of National Minorities, thereby submitting itself to the monitoring of the Framework Convention Monitoring Committee.

Regardless of the legality of the measures taken with regard to Roma and related groups, the language used to communicate with the public on these issues must be precise, unequivocal and fine-tuned enough to ensure that no one is stigmatised in the public eye. As repeatedly stated above: *the present rhetoric is unacceptable*. The authorities should simply stop referring to ethnicity and they should take the time to check their facts and terminology.

In order for there to be genuine good will, it will be necessary for non Romani-society to see the Roma and related groups not as a problem, but as a great opportunity – an opportunity for mainstream society and its members to develop morally as well as to learn something about itself, in particular on how to be more free and impartial in thought and in action. In order for this to happen, people and society first have to take a step forward by mobilising curiosity, understanding and empathy for the Roma and related groups. A first step in this direction will obviously be to learn more about them and, most importantly, to meet them.[55]

[54] For a discussion of regularisation programmes for irregular migrants see the report by the Parliamentary Assembly of the Council of Europe,"Regularisation programmes for irregular migrants", adopted on 1 October 2007.
[55] See Ekström, Carl; "Doing by Learning: Meet the Roma!" published on the webpage of GlobalView on 27 September 2009.

Roma and education in Romania: An analysis of educational problems and the actions taken to overcome them

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Content

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1. Introduction

1.1. Roma in Romania

The Roma community is considered to be one of Europe's largest and wide spread minorities (between 8 and 10 million individuals) but also one of the most vulnerable groups, as Roma are still being discriminated against, some of their rights denied and excluded from many aspects of society (OSI 2007). Romania, a member of the European Union (EU) since 2007, has the largest Roma community in Europe, officially 535.250 members - 2.5% of the population - according to the 2001 census. However, either because many do not declare themselves as Roma out of fear of discrimination or because they do not associate themselves with the community, the official number is unrepresentative and estimates are at around 1.800.000 individuals, bringing it to almost 9% of the population (ERRC 2004).

In order to better understand the current situation of the Roma and especially their involvement in education, one needs to first look at the policies of the past (Council of Europe 2000). Roma and their language were prosecuted throughout history, starting with slavery to preventing the use of the Romani language in public. This in particular lead to the trend that speaking Romani was considered shameful (Kyuchukov 2000). In the particular case of Romania, one needs to also take into consideration the Communist past and its effects on the present day (Igarashi 2005). Before 1989, Roma were seen as unskilled labour and were assigned work in agriculture, street cleaning, gardening and entertainment, which kept their educational level low, but on the other hand in most cases made them state employees, which included benefits such as a steady income. With the collapse of the system, they found themselves unemployed and with little prospect of finding work. This obliged them to return to a traditional lifestyle, doing part-time work, retaking traditional occupations, small trade, begging etc. to be able to earn an income and thus find and fill niches in the economy (Toma 2008).

1.2. Education and international focus

The particular stress on education comes from the fact that it is the key to stopping the vicious cycle of poverty and discrimination, but also, as expressed by the United Nations Committee on Economic, Social and Cultural Rights (Thornberry 2007:328), “education is both a human right in itself and an indispensable means of realizing other human rights”. In addition, the

European Commission (2001) identifies three main aims of education: development of the individual to realise his or her full potential; development of society by reducing inequities among individuals or groups; and the development of the economy by creating a skilled labour force.

The education system in Romania is led by the Ministry for Education, Research and Innovation (hereinafter 'Ministry of Education') at a central level and is responsible for financial resources, textbooks and national curriculum. Due to recent policies of decentralisation, lower levels – counties, municipalities and schools - receive greater autonomy, especially regarding their administration. In addition, County School Inspectorates act both as the representatives of the Ministry of Education at local level as well as semi-autonomous expert bodies in education (REF 2007).

On an international level, in 2000 the Council of Europe issued 'Recommendation No. 4 on the education of Roma/Gypsy children in Europe' and the OSCE the 'Resolution on Roma Education', both acknowledging the gap between Roma children and majority children throughout Europe and urging countries to address these gaps (*ibid*). A conference in June 2003 brought together head of states and representatives of the World Bank, the EU, the Open Society Institute (OSI), the United National Development Programme (UNDP) and Roma NGOs and concluded with the Decade of Roma Inclusion 2005-2015. Countries also recognised that investing in the education of the Roma makes sense financially because the cost of supporting low-income families is far greater than supporting a productive, educated labour force (Surdu 2003; Marc & Bercus 2007). All these form a solid legal background on an institutional level and create the framework for states to operate in, in order to address the issues related to the Roma community and education.

2. Education of Roma

2.1. Problems and difficulties

2.1.1. Discrimination and segregation

Education in Romania should be free from discrimination, as the Constitution, the Law on Education and Ordinance 137 on Preventing and Punishing All Forms of Discrimination protect individuals against discrimination on the grounds of ethnic background. However, it does not protect against segregation. Specifically addressing segregation is Notification

29323/2004, encompassing a definition of segregation, instruments for institutions to check for segregation, actions to be taken to eliminate it and requirements for monitoring and assessment (ERRC 2007). Unfortunately, the Notification is not legally binding and there is no mechanism in place to enforce it, leading to the general trend of the Romanian educational system in which "policy making overestimates the power of Law and over-generalises the implementation of policies" (Băican et al. 2005:32).

Segregation as defined by Surdu (2002) is the physical separation of a minority from the majority without legal justification to do so and in Romania segregation is mostly present due to traditions, prejudice and societal inertia, rather than policy. One immediate effect is the emergence of so-called Roma ghetto schools, either because of residential segregation (Roma community living in specific neighbourhoods or at the edge of towns and villages) or withdrawal of non-Roma from schools with a high percentage of Roma (Băican et al. 2005). Other forms of segregation include separating the Roma students in a different building or in different classes. Different arguments have been brought forward to justify this, including academic performance which resulted in the establishment of classes for talented students (non-Roma) and catch-up classes (Roma), which only masked racial discrimination (*ibid*). Similarly, the introduction of Romani in schools has been used as an argument to separate Roma from non-Roma children, as Roma were automatically assigned to Romani classes without prior consent (Kyuchukov 2000).

Still, research shows that it is not only physical distance that keeps Roma and non-Roma apart, but also social distance. According to Surdu (2002), social distance has a decreasing trend but is still predominant in Romanian society. On the question "Would you reject having Roma neighbours?" 71.8% of the sample of ethnic Romanians answered positive in 1993, with 59.7% in 1995 and 48.5% in 1999. In addition, the majority of Roma students who attend Roma majority schools live within a 3 km distance from a non-Roma majority school. Thus theoretically, they could visit a non-Roma school, provided the parents ask for it. Practically, doing so has proven difficult most of the times, as they face resistance from the new school they wish to be transferred to (ERRC 2004). Most often it is due to headmasters who fear a "white flight" (Băican et al. 2005:3), non-Roma parents withdrawing their children from that school, a term related to the case of the civil rights movement and the Afro-Americans in the USA.

When asked, most Roma parents consider it desirable for their children to attend mixed schools, as those have better facilities and staff, which then relates to better achievements for students and better socialisation between Roma and non-Roma ultimately results in a decrease of ethnic tension. Nonetheless, there are some Roma parents who wish classes to be separated, in order to diminish the discrimination their children have to experience in school, both from teachers and staff as well as from their peers (Surdu 2002).

Green (2004) conducted a study among final year university students to test the views of the emerging generation of educated Romanians. Surprisingly, unlike the present majority population, almost 75% of interviewees wanted Roma children to attend the same schools as their own children and 77.8% were in favour of training Roma teachers. Overall, great support was expressed for educational policies. However, when further questioning the reasons behind such a strong support, it became evident that the ultimate aim was one of assimilation and not inclusion, as students saw education as a way of transforming the Roma children into 'good Romanians'.
As a result, Roma students generally tend to be either cast away or included with the intent of assimilation.

The issue of special schools has been less of a problem in Romania than in neighbouring countries, but it is still a common problem nevertheless. Either seen as a form of poverty alleviation by parents (because children receive free meals at school) or because of misdiagnosis by specialists who, often superficially, attest that children have socio-cultural defects without taking into account language and cultural barriers (REF 2007). Since this type of education has a lower quality and a different curriculum (with no teaching of a foreign language and ultimate aims of basic reading and writing), the unjust assignment of any children to these institutions inhibits their educational development.

2.1.2. Quality Education and Access

The education of Roma in Romania and in Europe in general is characterised by low attendance rates, high drop-out rates, high rates of illiteracy or semi-illiteracy both in adults and youth and a low percentage of students completing primary education (Council of Europe 2000). Some of the majority population use these characteristics to argue that it is inherent in the Roma culture to be less successful at school when actually it is bad policies,

discrimination and segregation, prejudiced attitudes and behaviour of the majority population that prevent Roma children from achieving their full potential (Baclija 2008). Therefore, qualitative aspects of the kind of education Roma children are receiving are equally important, combined with access to education and the social environment they find themselves in.

When it comes to different quality of education in Romania, a child experiences a greater chance of being in an overcrowded classroom, in a school without a library, with a shortage of qualified teachers or with a high teacher employment fluctuation if enrolled in a Roma majority school than the average ethnic Romanian (Surdu 2002).

The success of schooling children is strongly linked to the social, cultural and economic aspects of the environment they live in (Council of Europe 2000). Firstly, a difficult economic situation at home can result in high drop-out rates and low attendance, as parents have to cover both the direct costs of schooling like clothes, food and school materials, as well as the opportunity cost of sending children to school and not involve them in income generating or household activities. Additionally, lack of public transport means that it is more difficult for Roma children who tend to live further away from the town centre and thus from schools, to actually get access to the institutions. Similarly, lack of papers and identity documents make it more difficult for children to be enrolled at any school, as a lack of role models and in some cases seasonal migration and early marriage decrease the chances of successfully completing compulsory education (OSI 2007; REF 2007).

Secondly, the involvement of Roma parents in the education of their children is lower than the national average, which could be explained by several factors: (i) due to the fact that most Roma parents are uneducated themselves and thus some do not see the link between education and leading a successful life; (ii) some parents consider that the standard education children receive only distances them from their traditions and culture in an attempt of assimilation; (iii) others actively try and get involved in the education of their children, but most commonly they are not listened to because of discriminatory behaviour from other non-Roma parents, teachers and headmasters. On top of it all, poverty decreases the possibility and chance of general parent participation (Marc & Bercus 2007). Despite this, if given the chance and the minimal support to participate, Roma parents will often contribute to education, both in

parents-teachers meeting as well as at home, as behavioural change and positive impact has been witnessed in research (Igarashi 2005; Marc & Bercus 2007).

Moreover, as traditional education for Roma children consisted of community-based learning, children are introduced into a foreign and rigid education system, therefore being less able to perform. This results in their sitting at the back of the class, receiving less or older textbooks, coupled with lower expectations from their teachers (Kyuchukov 2000).

Thirdly, lack of access to pre-school is another key aspect, which then results in lower achievement of affected children. The introduction of at least a compulsory year of pre-school is "probably the most effective investment for helping children to succeed in primary school and even in secondary education" (Marc & Bercus 2007:13). The reasons why pre-school is so important for the educational development of a child is because it teaches children basic behavioural patterns and facilitates socialisation in general, but also inter-ethnic. In addition, it provides children with the basic skills for learning and they learn to concentrate for a longer period of time, which ultimately results in better discipline during classes (OSI 2006; OSI 2007; Toma 2008).
Disproportionally high, around 80% of Roma children do not have access to pre-school education, which is 4 times higher than the national average (REF 2007). This is because, unlike primary school, pre-school is only party subsidised and parents have to bring a direct financial contribution to be able to enrol their children into pre-school. Furthermore, a preference is given to children whose parents are employed, which makes it even more difficult for Roma children to be accepted. Therefore, due to the importance of pre-school in the future development of a child, it needs to become free and compulsory to be able to offer the same benefits to all children, regardless of their social and economic background (ERRC 2007).

2.1.3. Romani language

The introduction of the Romani language in the education system is an important improvement in raising the quality of education for the Roma minority. Due to specific problems related to language barriers, bilingual children are often at a disadvantage in the educational system, as they have problems with fully comprehending the Romanian language. Research has shown that the language performance of children is better if they first learn their

mother tongue and then learn the official language by building on their mother tongue. Additionally, bilingualism should be encouraged because it favours the intellectual development of a child (OSI 2007). Currently, Romani is not a teaching language in Romania, but children can opt to attend additional Romani language or Roma history and culture classes (Surdu 2002). This has proven popular among Roma children, as the number of students attending these types of classes has risen from 5 in 1990 to 25.500 in 2007 (OSI 2007).

If Romani is to be introduced as a teaching language, it needs to take into account that segregation will take place on these grounds, as mentioned before. Because it is mostly Roma students who will choose this type of education, separation in different classes is unavoidable. Key aspect of an equitable solution would be the possibility of parents to choose if they wish their children to follow an education in Romani or one in Romanian in a mixed class (Council of Europe 2000). This should not lead to a situation as described by Kyuchukov (2000) where students were assigned to different classes based on their ethnic background, nor should this be used as an argument for any other type of segregation.

Similarly, a lack of textbooks in the Romani language makes it more difficult for teachers to teach Romani language and literature or history and culture (Băican et al. 2005). Additionally, the lack of trained teachers in bilingualism, multicultural education but also Romani and Roma culture itself is a great detriment to the quality of education that Roma receive, as trained teachers have a greater capacity of helping Roma students catch up with the majority (Surdu 2002). Similarly, the significantly higher proportion of non-qualified teachers in Roma majority schools than mixed schools underlines the fact that Roma students receive on average lower quality education than their ethnic Romanian counterparts (Surdu 2003).

2.2. Projects and initiatives

2.2.1. General measures

In Romania, the main programme dealing exclusively with education is the “Improving Access to Education for Disadvantaged Communities, with a Special Focus on Roma” initiated in 2000 and funded through an EU Phare grant. The main objectives of the programme were: prevention of drop-outs, increase availability of pre-school, promote equal chances in schools, address segregation in schools, increase the capacity of schools to effectively meet the needs of disadvantaged communities and increase overall access to

education by Roma (OSI 2007). One of the projects was the pilot study of desegregation in 38 schools, which included providing transport for Roma children to attend mixed schools by closing the Roma-only schools and integrating students into mixed classes (ERRC 2007).

Additionally, measures also focused on teachers, including the Multi-annual National Training Programme for non-Roma Teachers in which they are trained in bilingual education, Roma culture and history and inter-cultural education (OSI 2007). Moreover, a bilingual university degree for Roma teachers has been developed to ensure that future Roma teachers have the necessary skills to deal successfully with their bilingual students (Kyuchukov 2000). In addition, school mediators have been trained to help bridge the gap between the Roma community and schools, by engaging with parents, acting as a role model for the children and trying to resolve potential tensions between the parties (Council of Europe 2000; ERRC 2007; OSI 2007). Besides improving the abilities of staff, investment also focused on the physical characteristics of schools, including facilities and teaching material (Surdu 2002). Decentralising education resulted in greater local autonomy but also in new responsibilities of the County School Inspectorates, which each have an expert on minorities (*ibid*).

Nevertheless, the government has not been the sole actor in educational projects, in fact Roma NGOs, both international and local, have an even wider reach among the Roma community. For example, the Roma Education Initiative of the OSI runs several activities, facilitating communication between parents and schools, organise summer schools, training teachers and mentoring students (OSI 2006). Similarly, the REF activities encompass enrolment in kindergarten, primary and secondary school, improve quality of education, improve Roma participation in society, provide scholarships and mentors for students and develop cooperation between the Roma community, local authorities and NGOs (REF 2007).

2.2.3. Adult education

As mentioned before, the fact that most of the Roma parents are uneducated has an effect on their children and their view on education. Even more, over 40% of Roma adults are illiterate which severely constrains the type of labour they can engage in as well as limiting their personal potential (ERRC 2004). Therefore, educational initiatives should not be restrained to schoolchildren alone, but to include adults as well, focusing on basic education like reading and writing as well as further vocational education (Council of Europe 2000). In response to

this, the Romanian government together with OSI have introduced the 'Second Chance Programme' for young people aged between 14 and 25, who dropped out of compulsory education and have no qualification. The aim of the programme is to help them catch up, complete compulsory education and be better equipped in finding work (OSI 2007). However, there is no similar programme for adults older than 25, which includes most parents, since the 'Second Chance Programme' is aimed at the early dropouts. Furthermore, this type of education for dropouts who failed in the mainstream educational system should be different so as not to repeat the errors of the past. Kyuchukov (2000) argues that such a new system could be community oriented to cater for the cultural differences in learning between the Roma and non-Roma.

2.2.4. Affirmative Action

Affirmative action as defined by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) Art. 1(4) (UN GA 1965) suggests that the state should intervene to make sure that equality between Roma and non-Roma has been achieved. Following this principle, a possible solution to segregation is the introduction of minimum quotas in schools for students from different ethnicities to reflect the local diversity and thus result in a mixed and representative school (ERRC 2007). This type of action has been used already at university level starting with the academic year 1993-1994 and for secondary and arts and crafts schools since academic year 2003-2004, allocating 1918 students (OSI 2007). In addition, government bursaries are awarded for both academic excellence and social circumstance, which relates to employment status and income of parents. Also, OSI introduced the Memorial Scholarship Program offering it to 700 students each year (Marc & Bercus 2007), as well as the Scholarship Programme for Medicine and Pharmacy students, a cooperation between the OSI and the REF, offering it to 60 Roma students per year (Morovan 2008).

One of the problems with affirmative action in Romania is the fact that it is relatively new and the majority population has little or no knowledge about the reasoning behind it. Therefore, further research should concentrate on analysing the success of these measures as well as if these measures have the potential to increase social distance instead of decreasing it.

2.3. Effectiveness and further focus

First, it is important that the government makes sure that it respects the international law it has committed itself to. However, there is a certain difficulty in commenting the effects of educational policies since these can only be fully grasped after longer periods. Nevertheless, short-term benefits include a decrease of number of students in segregated schools, increase in investment in Roma education, decrease in drop-out rates and increase in attendance and performance of Roma students. Taking this into account, most Roma NGOs and critics have welcomed the projects introduced by the Ministry of Education as well as by other NGOs, notably when it comes to access to pre-school, teacher training and introducing mediators (Liegeois 2007; REF 2007). Still, general criteria like discrimination, conditions of living, attitudes and social distance have seen little or no improvement, but there is hope that by offering education to the Roma minority, inter-ethnic tensions will decrease and chances for Roma in an integrated society will increase (Cozma et al. 2000).

This is linked to a need to develop more complex a criteria by which to analyse improvements in school performance by Roma children than attendance and drop-out rates. Evaluation is important because it makes it able to recognise strengths and weaknesses as well as to see where change is needed and ultimately if the change is effective. Therefore, evaluation of children's performance should also include personal and social development (Council of Europe 2000).

In addition, most initiatives have been aimed at an institutional, legal and policy level with limited effect on the ground. For example the Phare project “Access to Education by Disadvantaged Groups” aiming at desegregation of schools achieved this in the 38 pilot schools in the country (ERRC 2007), out of the total 6249 primary and secondary schools in Romania (REF 2007). Where such projects have been successful, they failed to be transformed into broader national policy. This leads to the impression that projects have been numerous but small in scope and with little impact over the general, nation-wide status of Roma education (ERRC 2007; Liegeois 2007). Moreover, projects lack sustainability, as most of them were implemented with donor money, and after available funds were exhausted projects stopped as well, witnessing a return to old practices, thus eroding the initial success of the projects (REF 2007).

On a slightly different note, the fact that the education system becomes increasingly decentralised giving greater autonomy at a local level brings new challenges in terms of responsibilities, as the central government has few mechanisms to combat segregation. This results in a need to set up a clearly defined competent body, dealing with such issues on a local scale. This mainly means that it has to work with but also verify the work of the County School Inspectorates, as well as to create incentives for desegregation in a decentralised system (Marc & Bercus 2007; OSI 2007).

Finally yet importantly, the topic of gender differences has been rarely taken into account. Except for the recommendations by the United Nations High Commissioner for Human Rights (UNHCHR) (2000) which underlines the fact that Roma women and girls have a special status because they face double discrimination, very few recommendation even mention gender differences. This should be reflected in any programmes, projects and campaigns, particularly in the field of education, which deal with Roma. Some authors touch on gender issues in education, for example the fact that 44% of men but 59% of women are illiterate (Băican et al. 2005), or that female newborns are abandoned in maternity hospitals and that girls are seldom registered to attend school (Cozma et al. 2000) but they fail to address the general picture. Most disturbing is the lack of such emphasis by NGOs, both in their critique and projects as even the 620 page report by OSI (2007) has little to offer in terms of gender inequalities in education in its section for Romania. Even so, OSI is one of the few NGOs that actually acknowledged the topic and made a call for proposals in 2008 on 'Romani Women's Empowerment' projects. However, education is not mentioned as one of the activities that are supported and there is neither news about candidate projects nor about other initiatives on women, which signals a low interest in the subject generally among NGOs, which could participate and win several of the €10,000 grants offered (OSI 2008).

3. Majority education in regards to the Roma

Until now, the paper discussed and reviewed the main initiatives involving the education of the Roma. However, one should not forget that the other important part is the education of the majority population *in regards to* the Roma. Arguably, the first step would be the change from studying the 'History of the Romanians' to the 'History of Romania'. This would make a tremendous difference, since it moves away from the focus on just one ethnicity to studying the ethnic diversity Romania has to offer. Additionally, issues of Roma culture, literature and

history should be introduced into the nation-wide curriculum, but the same should be valid for the other national minorities so as not to create difference and preference among minorities. This will create a general public more aware and informed about the contributions of the Roma culture to Romanian society (Council of Europe 2000; UNHCHR 2000; Băican et al. 2005; REF 2007). The current curriculum is so scarce of Roma issues that, not even when dealing with the Holocaust is there a reference about the Roma minority (OSI 2007).
Nevertheless, changing the curriculum is not everything, but the first step. As argued by Thornberry (2007), the educational system in general needs to favour both multiculturalism (coexistence of different cultures in society and allow for cultural differences) as well as interculturalism (reciprocal respect between cultures and positive interaction between cultures). Therefore, greater changes need to be made to cater for such needs.

Since formal education offers so little information about the Roma currently, it becomes important what sources most people use to obtain information regarding the Roma community. Thus, when asked about these sources university students use: television (75%), newspapers (67%) and radio (37%), talking to Roma (18.4%) and academic works (8.2%) (Green 2004). This shows that media is the predominant source of information, which gives it great influence over the public opinion. This is both a great privilege for the media, but it brings great responsibilities as well, as it should be a tool for educating the majority population about the Roma by introducing themes like Roma culture, life and society (UNHCHR 2000). In addition, in the broader sense of education, television channels and newspapers in Romani will further advance awareness of the culture (Cozma et al. 2000).

4. Conclusion

In conclusion, both the education of the Roma community and of the majority population are still far from reaching an optimal level, but nevertheless, progress has been observed and is continuing. As mentioned before, the institutional and legal framework is present, but it is the implementation thereof that is lacking substance. Common problems include: the fact that projects and initiatives remain at a pilot studies level, effective locally but not translated into nation-wide policy; the mono-cultural, traditional way of schooling is dominant which makes it difficult to include students from different cultural backgrounds; wide-spread discrimination among the ethnic Romanians in schools, where “the stigmatisation of the Roma child is a

constant as schools only reproduce the already widespread social and cultural stereotypes found in the broader society" (Băican et al. 2005:2).

Additionally, there is a lack of focus on issues that are equally important, like gender differences and inequalities in education, adult education for individuals over the age of 25 and the effects of affirmative action on the majority population in a country that has little knowledge about such tools.

It comes to no surprise that NGOs have a certain bias when it comes to choosing their arguments, but even so, difference among NGOs can be observed. Some frame their arguments around the victimisation of Roma, focusing on desegregation measures, limit discrimination, access to education, etc. as put forward by the ERRC. Others, like the OSI have moved to a more pro-active position on the Roma, investing in higher education, particularly fields like medicine, law, politics, and stressing a certain need for the Roma community to become more involved by funding projects put forward by the communities themselves. It should not be either-or, since both are needed to overcome the current barriers to Roma education, but the present top-down approach needs to be met by a grass roots approach to ensure that education becomes a true success in the future.

Finally yet importantly, Romania can work as a valuable case study for neighbouring countries, both in positive and negative terms. Generally in Eastern Europe, Roma education has been characterised by national attempts, with little intergovernmental cooperation when it comes to implementation. Therefore, an exchange of best practices, success stories and failures should be initiated among neighbouring countries in order to streamline the education for Roma. According to OSI (2007), Romania can act as a model when it comes to making the most out of the experience of the civil sector and initiate EU-funded projects on Roma education. Similarly, Bulgaria has the experience of introducing Romani as a teaching language and even though the initiative failed and was stopped ultimately (Kyuchukov 2000), it serves as a useful experience for the future. Likewise, the studies on different attitudes of schools towards Roma in the Czech Republic by Igarashi (2005) shows both positive and negative aspects of traditional and modern, inter-cultural education. It is time that these pilot studies are being learnt from and implemented into mainstream educational policy and it is up to countries and civil society to create a harmonised and optimised approach to doing so.

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6. References

Baclija, I. 2008, “Positive Discrimination Policies for Inclusion of Europe’s Largest Minority: Examples of Educational Policies for the Roma Minority in Europe”, *Politička misao*, vol. 45, no. 5, pp. 175-189.

Băican, E., Csata, Z., Toma, S. & Zsigmond, C. 2005, “*Educational Measures for the Roma Minority in Romania: The Effectiveness of Integrated and Segregated Education*”. Centre for Education Policy, Cluj Napoca.

Council of Europe 2000, “Recommendation No R (2000) 4 of the Committee of Ministers to member states on the education of Roma/Gypsy children in Europe”. Committee of Ministers, Session 696, No 4, of 2000.

Cozma, T., Cucos, C. & Momanu, M. 2000, "The education of Roma children in Romania: description, difficulties, solutions", *Intercultural Education*, vol. 11, no. 3, pp. 281.

European Commission 2001, “*Report from the Commission: The Concrete Future Objectives of Education Systems*”. European Commission, Brussels.

European Roma Rights Centre 2004, “*Stigmata: Segregated Schooling of Roma in Central and Eastern Europe*”. European Roma Rights Centre, Budapest.

European Roma Rights Centre 2007, “*The Impact of Legislation and Policies on School Segregation of Romani Children*”. European Roma Rights Centre, Budapest.

Green, S. J. 2004 "*A View of the Other: Young Romanian Attitudes Toward the Roma Minority*" Paper presented at the annual meeting of the The Midwest Political Science Association, Palmer House Hilton, Chicago, Illinois. [Online] Available: http://www.allacademic.com/meta/p84219_index.html [2009-05-26]

Igarashi, K. 2005, "Support programmes for Roma children: do they help or promote exclusion?", *Intercultural Education*, vol. 16, no. 5, pp. 443-452.

Kyuchukov, H. 2000, "Transformative education for Roma (Gypsy) children: an insider’s view", *Intercultural Education*, vol. 11, no. 3, pp. 273-280.

Liegeois, J. 2007, "Roma Education and Public Policy: A European Perspective", *European Education*, vol. 39, no. 1, pp. 11-31.

Marc, A. & Bercus, C. 2007, "The Roma Education Fund: A New Tool for Roma Inclusion", *European Education*, vol. 39, no. 1, pp. 64-80.

Morovan, I. 2008, "*Burse pentru romi, in medicina si farmacie" [Bursaries for Roma, in medicine and pharmacy]*. EurActiv Romania [Online]. Available: http://www.euractiv.ro/uniunea-europeana/articles;displayArticle/articleID_13879/.html [2009-11-15]

Open Society Institute 2006, "*Roma Education Initiative*". Open Society Institute, Budapest.

Open Society Institute 2007, "*Equal Access to Quality Education for Roma: Bulgaria, Hungary, Romania, Serbia*". Open Society Institute, Budapest.

Open Society Institute 2008, "*Call for Proposals: Romani Women's Empowerment*" [Online]. Available: http://www.soros.org/initiatives/roma/news/women_20080303 [2009-11-15]

Roma Education Fund 2007, "*Advancing Education of Roma in Romania. Country Assessment and the Roma Education Fund's Strategic Directions*". Roma Education Fund, Budapest.

Surdu, M. 2003, "*Desegregating Roma schools: a cost-benefit-analysis*". Open Society Institute, Budapest.

Surdu, M. 2002, "The quality of education in Romanian schools with high percentages of Romani pupils", *Roma Rights Review*, vol. 3-4, pp. 31-40.

Thornberry, P. 2007, "Education" in *Universal Minority Rights: A Commentary on the Jurisprudence of International Courts and Treaty Bodies*, ed. M. Weller, Oxford University Press, Oxford, pp. 325-362.

Toma, S. 2008, "*Roma/Gypsies and Education in a Multiethnic Community in Romania*". Romanian Institute for the Study of the Problems of National Minorities, Cluj-Napoca.

United Nations General Assembly 1965. "International Convention on the Elimination of All Forms of Racial Discrimination", No 2106 (XX), of 1965.

United Nations Office of the High Commissioner for Human Rights. "General Recommendation No. 27: Discrimination against Roma". Session 57, No 27, of 2000.

Fear: A tool for the Empowerment of Antiziganism

By

Gregor Dufunia Kwiek

During the summer months several Romani people with EU citizenship have been deported from EU countries. The country most popular in the media had been France with its expulsions of roughly 1, 000 Roma. Denmark had also deported 23 Roma with EU citizenship, while Sweden deported 29 Roma in January 2010. In the French and Danish cases, Roma were deported for setting up illegal camps, and numerous legal experts in Denmark have pointed out that the setting up of illegal camps is not a sufficient enough cause for deportation.[57] Sweden on the other hand deported the 29 Roma based on organized begging, although begging is not illegal according to Swedish law.[58] The concern over this matter that this article addresses is not so much the legal discussion around the deportations, but rather how states, that are conducting these deportations, address Roma that are EU citizens in contrast to other citizens. As an example, Danish politicians have gone so far as to accuse Roma of criminality. Interestingly, the deportations which were based on Roma sleeping in places where this was forbidden, suddenly now became an instrument with which to accuse Roma of criminality. It is without question that there are many laws on the books that are not always enforced. It occurs and has occurred that tourists and visitors from other nations had set up tents, and camped in areas not designated for camping, not to mention people that at times sleep in public parks, but never has it been heard of that people have been deported for such a reason. Of course, there are those who will read this article and point out that there is a distinction between Roma who beg and non-Romani tourists, and to this I will agree, except that many of the people that were expelled have not faced jury that found them to be guilty of begging but that Roma were expelled because it is assumed that they cannot be tourists and simply all are either beggars or thieves. The question that arises here is why is it OK to accuse Romani people of a crime without the report of a crime being committed? Why

[57] http://onlyindenmark.wordpress.com/2010/08/06/roma-to-sue-denmark/
[58] http://www.dn.se/nyheter/sverige/romer-utvisas-fran-sverige-trots-eu-lag-1.1145789

is it OK for elected officials to describe an entire ethnic group of being criminal but it is not OK to do this with any other group? Thus the objective of this article is to address this question and to examine how such an OK can come into existence. But prior to addressing how antiziganism may flourish and where it may stem from, I do believe it is as vital to present its affects, so that one may see its many shades of grey.

Different Class not just Groups

Too often the case has been such that when one discusses antiziganism, people tend neglect that there are a variety of Roma that are effected in different ways by antiziganism. The picture that is commonly painted of Roma is the one of Roma that are poverty stricken and are commonly living on the fringes of society. It is for this reason I shall first divide the Roma into four different classes, prior to giving examples of the effects of antiziganism on one particular class of Romani people. These four different classes I do not distinguish according to their incomes, educational background, political or religious affiliation but rather on their dependence level and their limitations with participation in social structures of the majority society.

The first of these classes I shall call the “more independent class”. This class compromises of the extremely wealthy Roma. In Sweden as example, one such family has been exporting lumber from Russia to Swedish paper companied over the past decade. And although there are few such families living in Sweden, there are others like those who have invested in properties in Germany, and others who have won machinery contracts the U.S. military. In numerous occasions I have had opportunity to meet with members from such families. Commonly these wealthy families have their children sent to private school, seek private medical care, own their homes, and rarely are in need of seeking employment. In most cases, they are aware that there is discrimination against Roma, but rarely face it themselves. Most members of these families, but not all, felt that a formal education is less significant than learning the family trade, so that they may carry on the family’s prosperity. The contrast that exist between this class and what I shall call the “middle class”, is that middle class Roma in Sweden are active in the education of their children, are more concerned with elections, participate in the social structures of the majority society, such as sitting in housing committees, being engaged in political parties, being on the board of parent teacher associations, being a part of campaigns to raise awareness about injustices, fundraise for worthy causes, and the list goes on and on.

These middles class Roma face the everyday problems that the whole of Swedish society faces, such as drug and alcohol problems, taxes, divorce, rape, criminality, housing, problems in education, gender equality, economic problems, youth gangs, and the list goes on. The distinction however between the whole of Swedish society and middle class Roma is that it faces another obstacle, which is namely antiziganism.

A tendency exists too commonly not to distinguish the various classes of Romani people. One of those classes comprises of the "very dependent Roma". The very dependent Roma are still at the stage that middle class Roma were some 30 years ago.

The fact of the matter is that Roma were declined the right to housing, education and the right to vote up until the 1960's in Sweden.[59] This means that many Roma were excluded from the system, and when they were permitted to participate in it, many did not understand how it functioned. As an example, in my own case, my mother had no concept of how school functioned, and would awaken me to go to School on a Saturday. As the inclusion process began, some Roma began their long climb towards joining Swedish society, but this was no easy task. As an example, I hold a master's degree in ethnology, but that does not mean that my education followed a smooth path. I began school when I was 8 years old and was placed in a special class because I knew no other language than Romani, as contact was limited with non-Romani society then. As a child, children that were not Romani often did not play with Romani children, and Romani children tended to play amongst themselves. Stories from elders about the war and how they were treated by gadzhe left many young people who listened then to have a mistrust of non-Roma. In one situation as a child, I was taken away by social services as a child, simply because authorities believed that Roma could not bring up a child properly without actually investigating if this was the case. Such circumstances led to my missing school for lengthy periods, because one would hide so I would not be taken away by the gadzhe until the matter could have been resolved. By the age of 13 I had quit school and would begin studying sporadically, so I did not start my university education until I was well into my 30's. However, because I did finish my education none the less, my children and younger brethren do follow in my footsteps. In other cases, many Roma were not so lucky. When I first applied for extra courses that I needed for entering university, I was denied them because the person who reviewed my application could not understand why a Romani person is seeking extra courses to get into university without seeking any financial assistance. In my

[59] http://www.sweden.gov.se/sb/d/12448/a/150069

case, I did not give up, and appealed the decision, but I doubt that others would have facing the same.

The circumstances that Roma face due to discrimination has led many to crawl into Swedish system once Roma were permitted to enter it, where as others ran. The few that ran have become the middle class Roma while the ones who crawled, have limited contact with non-Romani society, do not understand how the majority society's system works, and are largely dependent on others for their everyday social needs.

The fourth class I shall designate as the "trashy gypsies". Not long ago, I had received an email from a man whose dog was apparently stolen by people he believed to be Roma. In his comments the man suggested that I bind up the Roma and send them to where they come from. This email struck me as odd, considering that Roma have been in Sweden for over 500 years, a longer time period than the existence of some European countries, but this was what got me most upset. Years ago I lived across from a Roma family that I had difficulty sleeping from because they were loud at all hours of the night. Because they were so loud, I feared approaching them to make my complaint. Because of them, I constantly showed up tired to work. A few years later, I moved next door to a Swedish family that did the same. This family parked wherever it wished, it threw trash in the streets, and neighbors referred to them as white trash. So what bothered me about this email is that it came to me, a middle class Romani man that has a much tolerance that he probably does for both "white trash" and "trashy gypsies". The problem that arises here is that a distinction is not made and the behavior of "trashy gypsies" become attributed to Romani society as a whole, demonizing the whole of Romani society and depicting them as "trashy gypsies".

As already mentioned, middles class Roma face all the daily social problems which the majority society also faces. Below, I provide examples from testimony and documentation I have collected over the years from middle class Roma and the obstacles they have faced within social problem areas faced by all of society except that their problems escalated to a catch 22 phase that were unsolvable because they were Roma.

Drugs

Marrieta is a Romani woman who is mother to a son with drug addiction problems who lost custody of his three children. Marietta is active in the Christian church and has numerous occasions raised funding via the Romani community for incidents such as the Tsunami in Thailand. Marrieta has other children, all of whom work and are also active in the church. Her daughters work as cleaning women and one of her sons is a technician. When the children

were removed from her son, Marrieta and the rest of the family requested that they be given custody of the children, but not only were they not granted this, they were not even permitted to have visitation rights to the children. This case has been handed over to a department to investigate this case for discrimination and the family wants nothing more than visitation rights. Law students who have looked at this case compared it to others where custody was granted to the closest kin of the parents, and where visitation rights were not declined to family members unless a foreseen threat to the children could have been proven, and in this case this has never occurred.

Health

Sometime in 2006, a Romani woman went to the hospital complaining of chest pains, she was told by nurses to go home and not to worry, which she did and died in her home. The woman was in her mid 30's. One year later, a Romani man faced the same dilemma and died at the age of 41. From the year 2006 to 2009 two more such incidents have taken place, which has led the Romani community to draw its own conclusions for why this is happening.

Thomas is a Romani man who had undergone surgery in 2009. He had abdominal surgery and was to stay for a minimum of two days in the hospital after the surgery. After surgery, Thomas was visited by his wife, brethren and friends, at which point nurses came and told Thomas that he was being discharged and need not stay in the hospital as he is healing well. Thomas left the hospital and as a result his healing process took longer than it should have because he got up and moved about to quick after surgery. Thomas believes that this happened because nurses assumed that the ward was about to be swarmed by Roman visitors. However, this was not to happen since Thomas was not on his death bed and he was visited by relatives after successful surgery as most anyone else would have. Thomas believes that the Roma were not examined that went to the hospital only to be sent home to die, were sent home because the hospital may have feared being swarmed by Romani visitors.

Sick Leave

Boby was diagnosed with a thyroid problem in 1996. He has been working sporadically since then. Boby was a construction worker before he was diagnosed with the problem, and continued to work from time to time during his ailment. One of the symptoms Boby as result of the thyroid problem is that he becomes weak, tired, and cannot control his temper. Boby has approached a Romani organization asking for help. He explained to the organization that he does not always see his regular doctor, and at times comes across doctors who do not even

look at his chart. At times Boby is not able to work for weeks at a time, and Boby has explained that when he is forced doctors who are not his regular doctors, they assume that he is pulling a scam, and that he faced the same dilemma when he applies for sick leave. Boby has worked in construction nearly for 15 years of his life before he was diagnosed with this disease, and works when he can, and yet it is not his illness that is to be taken into accountability but his ethnic background when it comes to his inability to work.

Employment

Bano is a university graduate and has worked for a company for more than 3 years. Three years after it was made known that he was Romani, Bano was fired from his job. The case was reported to authorities and was investigated and the employer was found guilty. However the question that arises here is why would they fire him after learning he was Romani when the last 3 years should have accounted for his credibility? There are numerous reasons for this and as many Roma have faced similar circumstances one can say without much doubt that people generally are distrustful of Roma, which is why many do not want to rent to Roma, hire Roma, believe Roma, etc., which is why in the next section I shall elaborate on how this distrust comes into form and where antiziganism may stem from.

Images

If anyone types the words “Gypsy scam” into their search engine, countless sites will pop up. Many of these scams are practiced by people that need not be Roma, but are still called “Gypsy scams”. These scams are commonly described as scams that seek to gain the trust of a target over years and years before they pull the scam. No one denies that scams exist or that there are Roma who may practice some of them, but the problem lies in that they are associated to Roma. And the questions that arises here is then “do the people that describe these Gypsy scams not realize that their generalizations are wrong?, it is more than likely that they do.

In medieval times the Jews were blamed for the black plague, but we know far too well today that the Jews had nothing to do with this, but then, this was not the case. Escape goats have existed for thousands of years. Many will say that antiziganism stems from Romaphobia, which is a fear of the unknown, namely Europeans having the Roma as unknown when they first came to Europe, which in turn took their fears and turned them into hate.

Over the centuries numerous atrocities have been committed by mankind against his fellow man. No one can deny that the Nazis were supported by many in their hate campaign against

the Jews, and yet today, the offspring of those that once supported this action today see this as one of the greatest atrocities against mankind.

In the last Swedish election the nationalistic parties the Swedish Democrats have gained seats in the Swedish parliament. The Swedish Democrats do not say right out in the open that they do not tolerate any specific ethnic group, but undercover reporters have documented how political representatives from this party do target certain immigrants and have a level of intolerance towards them. The language used by the Swedish Democrats is to tighten the immigration to Sweden, arguing that jobs and that welfare money goes to foreigners, this damaging the well being of Sweden. Most certainly, without question, the Swedish Democrats are not talking about French nationals or U.S. nationals working and living in Sweden, the term foreigner, when used in this case, can be equated with Muslim.

In their ad campaigns the Swedish Democrats presented two boxes that voters can tick on national television. The one tick was for the retirement pension while the other tick was for immigration. In other words, voters can either choose to keep the pension fund for retirement or lose it because money will be diverted from it to immigrants. What the Social Democrats fail to mention is that the average life span has extended so much in Sweden, that not enough people will be able to fill the jobs needed to cover taxes that will pay out pensions for a longer time to retirees. Arguments made against have pointed out that if this was the case why do *we* then have so many people in Sweden that are unemployed, and the answer is not so complicated. In Sweden, manpower is needed in sectors such as construction, education, and healthcare.[60] In the business sector, there are only 2, 000 authorized auditors in the country and studies have shown that there are not enough students studying today to even meet this quota in the near future. Because there is a lack of authorized auditors in the country, many small companies cannot afford their services.

Rarely do nationalistic parties present these facts and the economic turmoil that can come about without the importation of labor, and do so for a good reason. Nationalistic parties have an interest which is to come into power, and without instilling fear into the masses, there is no method by which they can access power. It is easier to blame than it is to actually solve a problem. If we look to the organizations that write about “Gypsy scams” we will come to learn that they take in money from supporters that believe that their work is beneficial to society at large. And so their method is simple – that is that they rather than fighting the

[60] http://www.sydsvenskan.se/ekonomi/article189234/Politisk-strid-om-import-av-arbetskraft.html

crime, they teach people how not to trust the Roma, and giving reasons for people not to trust Roma.

Let us face reality as it is. Roma begged in Sweden prior to being the same rights as other citizens, as many do from Romania. But do any Roma from Sweden beg today? I can say without a doubt that not one does, not on the street for money anyway. Thus when France expels Roma from its country it but hides the problem that is also France's, and not just Romania's. And as it does so, it can claim to have saved France from the greatest threat it has ever faced while the French people still face a 7.9% unemployment rate. It is far easier to maintain and gain power by inflating a small problem that is solvable than to address a big problem, where chances are, cannot be solved.

Thus I conclude and say, antiziganism, like all xenophobia, is a means to seek power and authority, by choosing escape goats to attack as a problem, and divert the masses away from the actual problem.

Sources

Only in Denmark. *Roma sue Denmark.* (Accessible: http://onlyindenmark.wordpress.com/2010/08/06/roma-to-sue-denmark/)

DN.se. *Romer utvisas från Sverige trots EU-lag* (Accessible: http://www.dn.se/nyheter/sverige/romer-utvisas-fran-sverige-trots-eu-lag-1.1145789)

Regeringskansliet. *Romers rätt – en strategi för romer i Sverige.* (Accessible: http://www.sweden.gov.se/sb/d/12448/a/150069)

Sydsvenskan. *Politisk strid om import av arbetskraft.* (Accessible: http://www.sydsvenskan.se/ekonomi/article189234/Politisk-strid-om-import-av-arbetskraft.html)

Romska som modersmål i den svenska skolan

Robert Brisenstam

Uppsats om 15 hp inom ramen för kursen

Mänskliga rättigheter, humanitär rätt och asylrätt vid Uppsala universitet

Maj AD 2010

Innehållsförteckning

1. Inledning

Syftet med föreliggande uppsats kan delas i tre delar. Till att börja med kommer jag att redogöra för relevanta bestämmelser i fyra på området viktiga globala instrument – FN:s allmänna deklaration om mänskliga rättigheter, den internationella konventionen om medborgerliga och politiska rättigheter, den internationella konventionen om ekonomiska, sociala och kulturella rättigheter samt barnkonventionen. Därefter redogör jag för relevanta bestämmelser i två regionala instrument – Den europeiska stadgan för landsdels- eller minoritetsspråk och Ramkonventionen om skydd för nationella minoriteter. Till sist koncentrerar jag mig på lagen (2009:724) om nationella minoriteter och minoritetsspråk och Grundskoleförordningen (1994:1194). I dessa tre delar kommer jag kontinuerligt att analysera bestämmelserna jag nämner. Slutligen följer ett avsnitt med vissa generella slutsatser och ett de lege ferendaresonemang kring vissa punkter som jag anser vara av särskilt lämpade för detta. Skälet till att jag valt att gå in på så många regelverk är att jag med tiden lagt märke till att de flesta källor jag använt nämner dessa instrument tillsammans. Det har i princip genomgående visat sig att dessa mänskliga rättigheter verkligen hör ihop och är inbördes beroende av varandra. Ställd inför ett omfångsrikt utbud av tillgängligt material, valde jag därför att lägga an en holistisk syn på de rättigheter som jag tar upp i texten och har enbart valt att använda de verk som jag sett som mest relevanta för min framställning. Av avgränsningsskäl, det vill säga för att lämna plats åt analysen, har jag dessutom valt att se till gällande rätt och min tolkning av hur den borde tillämpas på modersmålsundervisningen i romani chib idag och hur den borde förändras i framtiden. Av samma skäl har jag valt att begränsa mig till de juridiska instrument som jag anser vara viktigast och mest relevanta för denna framställning.

2. Metod

Vid framställandet av föreliggande uppsats har jag använt mig av den rättsdogmatiska metoden. Anledningen till detta är att denna metod lämpar sig väl för uppsatsens syfte att för läsaren redovisa gällande rätt tillsammans med egna analyser följt av ett de lege ferenadaperspektiv. Av betydelse för utformningen av uppsatsen är dessutom min personliga uppfattning att språket är en stark komponent i individens identitet. Nationella minoritetsspråk är således svåra att skilja från sina talare, de nationella minoriteterna.

3. Nationella minoriteter och deras språk/modersmål i olika former av lagstiftning

3.1. Vissa relevanta bestämmelser inom folkrätten

3.1.1. The International Bill of Human Rights (UDHR, IKMPR, IKESKR)[61]

FN:s allmänna deklaration om mänskliga rättigheter (UDHR), den internationella konventionen om medborgerliga och politiska rättigheter (IKMPR) samt den internationella konventionen om ekonomiska, sociala och kulturella rättigheter (IKESKR) utgör tillsammans den så kallade International Bill of Human Rights.[62] Som dokumentets namn avslöjar är UDHR inte juridiskt bindande, vilket däremot de bägge konventionerna är. Detta till trots kan UDHR anses åtnjuta en viss moralisk tyngd och dokumentets innehåll skulle i vissa sammanhang kunna tolkas som generella rättsliga principer eller sedvanerätt.[63] I deklarationens artikel 22 sägs bland annat att var och en skall, som medlem av samhället, ha rätt till förverkligande av de sociala och kulturella rättigheter som är oundgängliga för vederbörandes mänskliga värdighet och den fria utvecklingen av vederbörandes personlighet. Rätten skall tillförsäkras genom nationella ansträngningar och internationellt samarbete och i enlighet med statens resurser. Man bör lägga märke till dels att artikelns text avgränsar tillämpningsområdet till sådana sociala och kulturella rättigheter ”som krävs för hävdandet av hans eller hennes människovärde och utvecklingen av hans eller hennes personlighet”,[64] dels att rekvisiten i denna mening är kumulativa. Vidare stadgar art. 26 UDHR att alla har rätt till utbildning (p. 1). Denna utbildning skall leda till att individens personlighet utvecklas till fullo (p. 2) och föräldrar skall kunna välja utbildning för sina barn (p. 3). Rätten till utbildning upprepas i art. 13 i den juridiskt bindande internationella konventionen om ekonomiska, sociala och kulturella rättigheter (IKESKR). Art. 13.1 stadgar att utbildningen skall riktas mot det fulla utvecklandet av den mänskliga personligheten och känslan för dess värdighet samt att respekten för mänskliga rättigheter och grundläggande friheter skall stärkas av utbildningen. Art. 13.2 garanterar en rätt att få utbildning och art. 13.3 ålägger staten att

[61] Sverige ratificerade IKMPR och IKESKR den 6 december 1971 (http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en och http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en 2010-05-22).
[62] Smith, *Textbook on International Human Rights* s 36.
[63] Smith s 36 och 41. Enligt Thornberry är UDHR det viktigaste dokumentet beträffande mänskliga rättigheter. Thornberry, *International Law and the Rights of Minorities* s 133.
[64] Den svenska texten finns att läsa på Regeringskansliets hemsida. (http://www.manskligarattigheter.gov.se/extra/pod/?id=71&module_instance=6&action=pod_show 2010-05-17). Man kan också lägga märke till att den engelska texten talar om ”his dignity” medan den svenska använder ordet ”människovärde”. Ytterligare en språklig skillnad är att den engelska texten säger ”free develpoment of his personality” medan den svenska säger ”utvecklingen av hans eller hennes personlighet”.

respektera föräldrars val av skola så länge den valda skolan håller en viss standard vad gäller utbildningen. Detta senare tolkar jag som en garanti för barnen att komma i åtnjutande av en viss minimistandard beträffande sin utbildning. Det vore orimligt om barnen, som är målgruppen för bestämmelserna i art. 13 IKESKR, skulle tillåtas lida men av föräldrarnas rätt att välja skola. Tvärtom verkar det snarare vara så att staten genom art. 13 i kombination med art. 2.1 IKESKR förpliktas att ständigt förbättra utbildningssituationen i landet ifråga.[65] Utbildningen skall dessutom rikta sig till alla i samhället utan åtskillnad (art. 2 UDHR, art. 2.2 IKESKR). Enligt art. 27 IKMPR är det förbjudet att förneka personer som tillhör exempelvis etniska eller språkliga minoriteter att i samhället eller privat utöva sin kultur eller tala sitt språk.[66] En textuell tolkning av artikeln innebär således inte någon positiv skyldighet för staten att aktivt främja språket eller kulturen som sådana, men väl en positiv skyldighet att skydda berörda personers rätt att tala sitt språk efter eget behag. Skyddet gäller både mot staten och mot personer.[67]

3.1.2. Rätten till identitet, kultur och språk och statens förpliktelser

Frågan uppkommer då vad som kan tolkas in i dessa rättigheter och om modersmålsundervisning i ett minoritetsspråk faller inom ramarna för vad som går att tolka in. Art. 22 UDHR och art. 13.1 IKESKR talar bägge om mänsklig värdighet. Är människovärdet/den mänskliga värdigheten oundgängligen beroende av modersmålet? Frågan torde egentligen vara omöjlig att ge ett generellt och för alla människor gemensamt svar. Snarare verkar texten säga att individens människovärde skulle kunna kränkas av en vägran från en stats sida att ge möjlighet till modersmålsundervisning åt de personer tillhörande minoriteter som begär det.[68] Beträffande utvecklingen av personligheten är modersmålet säkerligen intimt förknippat med individens identitet. Skydd av identiteten kan tolkas in i art. 27 IKMPR genom att minoritetsskyddet rimligtvis syftar till minoritetens fortlevnad och frihet

[65] Nowak, *The Right to Education, Economic, Social and Cultural Rights – a Textbook* s 255 f.
[66] Det rör sig alltså om en individuell rättighet och inte en kollektiv sådan. Dock kan det i vissa fall vara påkallat av staten att stöda en viss minoritetsgrupp i bevarandet av sitt språk eller sin kultur. Enligt den generella kommentaren skall sådana eventuella åtgärder ta formen av undanröjande av hinder i vägen för minoritetens möjligheter att bevara språket eller kulturen. *General Comment No. 23: The rights of minorities (Art. 27) : . 08/04/1994. CCPR/C/21/Rev.1/Add.5* p. 6.2. (http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument 2010-05-18). Det säger sig självt att det måste röra sig om bedömningar från fall till fall beträffande vilka åtgärder som kan bli aktuella.
[67] *General Comment No. 23* p. 6.1 och Pentassuglia, Minorities in International Law s 105.
[68] Nowak i *Economic, Social and Cultural Rights* s 255 och Thornberry s 197.

från ofrivillig assimilation.[69] Doktrinen talar till och med om en rätt till identitet och att syftet med art. 27 är att vidmakthålla sin identitet som minoritet.[70] Minoritetsskyddet vore tämligen verkningslöst om inte lagstiftningen på området syftade till att skydda minoriteterna från ofrivillig assimilation.[71] Detta leder till en stark koppling till IKESKR i och med att art. 27 IKMPR får innebörden av att skydda en kulturell rättighet lika mycket som en medborgerlig. För att vidmakthålla sin identitet och undgå ofrivillig assimilation måste minoriteten därför så långt möjligt beredas möjlighet att studera och använda sitt modersmål i skolan (art. 2 och 13 IKESKR samt art. 27 IKMPR).[72] Thornberry menar till och med att assimilering är ett lika effektivt vapen vid utrotandet av en kultur som angrepp på dess människors liv och hälsa och att resultatet av en assimilationsprocess är att den minoritetskultur som är föremål för nämnda process förändras i grunden och att dess utövare för vidare en annorlunda kultur till sina efterkommande, ofta i princip majoritetskulturen, än vad de själva ärvde från sina förfäder.[73] Därav drar jag slutsatsen att individens rätt till identitet enligt art. 27 IKMPR kränks om staten genom att inte ge möjlighet till undervisning i ett visst minoritetsspråk därmed passivt bidrar till ett folks kulturella utarmning och ökade assimilation. Romer är ett mycket tydligt exempel på ett folk vars identitet, inte enbart men till större eller mindre del, beror av språket.[74] UDHR nämner i och för sig inte minoriteter överhuvudtaget.[75] Frågan är då om man ändå kan tolka in rättigheter till exempelvis modersmålsundervisning för personer som tillhör minoriteter. Deklarationen omfattar var och en oavsett bakgrund och den ger uttryck för ett diskrimineringsförbud (art. 2). Förarbetena till UDHR anger att minoriteter skulle ha särskilda rättigheter till skolor och kulturella institutioner.[76] Däremot inkluderas inte i detta att staten skall bidra med minoritetsspråksundervisning.[77] Statens möjligheter är å andra sidan villkorade av statens resurser på området (art. 2.1 IKESKR). Av en rikare stat kan således krävas mer än av en fattigare. Skulle en stat som har möjlighet att ge tillgång till

[69] Thornberry s 141 f.
[70] A. a. s 142 och 184, Pentassuglia, s 99, Alfredsson, *Article 4, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities* s 149. Se även *General Comment No. 23* p. 9. Se även prop. 2008/09:158.
[71] Jfr Scarman, Minority *Rights in a Plural Society, Minorities – a Question of Human Rights?* s 63.
[72] A. a. s 197. Thornberry menar att det vore ett brott mot art. 27 IKMPR att inte tillåta minoritetsspråksundervisning i skolan om det begärs av personer tillhörande minoriteterna ifråga.
[73] A. a. s 141.
[74] Se t. ex. Brisenstam, *An Exoticized Question Mark – Reflections Over the Romani Woman and the Lack of Knowledge About Her Everyday Life*, *Romani E Journal* (http://romaniejournal.com.donatello.binero.se/LinkClick.aspx?fileticket=bMo0V0MHv1Q%3d&tabid=81&mid=475 2010-05-20).
[75] Thornberry s 133 och Spiliopoulou Åkermark, *Justifications of Minority Rights in international Law* s 123.
[76] A. a. s 133.
[77] A. a. s 149.

modersmålsundervisning underlåta eller vägra att förverkliga denna rätt för individen, skulle staten således agera i strid med art. 22 UDHR, genom att statens beteende då skulle riskera att hämma individens personliga utveckling. Hur långt statens skyldigheter sträcker sig på detta område är oklart,[78] men utrymmet för skönsmässiga bedömningar vid implementeringen av art. 27 är relativt stort.[79]

3.1.3. Samspelet mellan UDHR, IKMPR och IKESKR

Art. 27 IKMPR garanterar ändå individen ett skydd mot ofrivillig assimilering på så sätt att individen kan utkräva av staten att bland annat ge möjlighet till modersmålsundervisning i minoritetsspråk i skolan. Emellertid är utbildning en social rättighet under art. 26 UDHR och art. 13 IKESKR, något som enligt art 2.1 IKESKR medför att rätten till identitet och statligt skydd mot ofrivillig assimilering i art. 27 IKMPR till viss del är villkorad av statens ekonomiska förmåga att uppfylla sina skyldigheter enligt de nämnda artiklarna. Å andra sidan säger art. 2.1 IKMPR att staten skall tillförsäkra individen alla de rättigheter som IKMPR innehåller utan någon som helst diskriminering.[80] Uppstår härmed en konflikt mellan å ena sidan art. 27 IKMPR, som inte på samma sätt är villkorad av statens resurser (jfr art. 2.2 IKMPR med art. 2.2 IKESKR), och art. 26 UDHR och art. 13 IKESKR å den andra? Mot bakgrund av att alla mänskliga rättigheter är inbördes beroende av varandra (art. 5 Wiendeklarationen 1993),[81] att de tre ifrågavarande dokumenten hör ihop och att de bägge konventionerna trots att de reglerar olika områden ändå måste anses gagna varandra blir svaret på den frågan nej (preambeln i Wien 1993).[82] Det vore svårt att garantera rätten till utbildning i minoritetsspråk om det inte funnes ett skydd mot ofrivillig assimilering. Likadant vore skyddet av identiteten svagare utan rätten till utbildning.[83] Ytterligare motiv till att besvara frågan nekande är diskrimineringsförbudet (art. 2 UDHR, art. 2.1 IKMPR, art. 2.2 IKESKR). Art. 27 IKMPR kan ses som en utvidgning av detta.[84] Som redan nämnts menar Thornberry att art. 27 syftar till ett vidmakthållande av minoriteters identitet. Han

[78] A. a. s 200. Thornberry hävdar att varken förarbeten eller olika uttryck för tolkning av art. 27 genom åren har kastat ljus över exakt hur långt statens skyldigheter sträcker sig.
[79] A. a. s 185. Frågan om räckvidden för statens ansvar berör bland annat huruvida staten skall finansiera friskolor. Nowak i *Economic, Social and Cultural Rights* s 264.
[80] Se även Pentassuglia s 105.
[81] Nowak i *Economic, Social and Cultural Rights* s 252.a
[82] Smith s 36.
[83] Jfr Thornberry s 180, där han menar att kulturell utveckling kräver betydande resurser och att minoriteter sällan kommer i besittning av sådana resurser. Bland annat därför behövs statens positiva handlande för att stärka minoriteternas ställning.
[84] *General Comment No. 23* p.1.

exemplifierar detta genom att jämföra med barnets rätt. Om alla barn undervisas på landets allmänna språk upprätthålls visserligen en formell jämlikhet, men i själva verket innebär en sådan praxis att minoritetsbarnens rättigheter kränks.[85] Min tolkning av Thornberry är att rättighetskränkningar består i bland annat att avsaknaden av minoritetsspråk i skolan är en av många faktorer i samhället i stort som kan verka för att minoritetsspråken trängs tillbaka och att deras talare i värsta fall mister en viktig del av sin identitet. Dylika scenarier kan mycket väl vara ett av leden i en assimilationsprocess, något som art. 27 är tänkt att motverka. Mot bakgrund av detta är det svårt att förstå den svårighet att få till stånd modersmålsundervisning för barn tillhörande nationella minoriteter som förekommer i den svenska skolan.[86] Ofrivillig assimilering framstår därmed också som en faktor som kan hota den mänskliga värdighet och personliga utveckling som rätten till utbildning, bland alla andra sociala och kulturella rättigheter, skall främja (art. 22 och 26 UDHR samt art. 13.1 IKESKR).[87] Spiliopoulou Åkermark drar av den generella kommentaren till art. 27 IKMPR slutsatsen att skyddandet av kultur är lika viktigt som skyddandet av den mänskliga värdigheten.[88] Denna syn medför, enligt min mening, att för människor tillhörande en kultur i vilken språket är en identitetsmarkör är modersmålsundervisning i skolan i sig ett sätt för individen att komma i åtnjutande av sina rättigheter enligt art. 27 IKMPR.[89] En annan infallsvinkel är det rekvisit i art. 13.1 IKESKR som stadgar att utbildningen skall främja respekten för de mänskliga rättigheterna och de grundläggande friheterna. Hur skall detta förverkligas om utbildningen i en stat med ekonomisk kapacitet att ge undervisning i minoritetsspråk inte gör det, utan passivt bidrar till ett folks assimilering och försvinnande? Kan de individer vars rättigheter inte blir tillgodosedda uppmuntras till aktning för mänskliga fri- och rättigheter? Det föreligger med viss sannolikhet en risk för att de inte blir det.

Sammanfattningsvis kan man alltså säga att de kumulativa rekvisiten i art. 22 UDHR uppfylls om den sociala rätten till utbildning i art. 26 UDHR och art. 13 IKESKR leder till att den medborgerliga och, enligt min mening, kulturella rätten till identitet i art. 27 IKMPR uppfylls.

[85] Jfr Thornberry s 184.
[86] Pikkarainen och Brodin, *Discrimination of National Minorities in the Education System* s 37 ff.
[87] Spilliopoulou Åkermark s 179. Jfr även Thornberry, *Article 12, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities* s 368 ff. Thornberry betonar även (s 373 f) vikten av att främja utbildningsinsatser för att bekämpa fördomar olika folkgrupper emellan.
[88] A. a. s 179 och *General Comment* No. 23 p. 9.
[89] Jfr Eide, *Cultural Rights as Individual Human Rights, Economic, Social and Cultural Rights* s 291.

3.1.4. FN:s konvention om barnets rättigheter (CRC)[90]

Art. 26 UDHR och art. 13 IKESKR nämner föräldrarnas rätt att välja utbildning för sina barn samt rätten att få utbildning. Emellertid måste även barnens syn på utbildningsfrågor som huvudregel fall vägas in, eftersom barnen är de som, i och med sin skolgång, påverkas mest av rätten till utbildning och det hittills förda resonemanget i denna uppsats.[91] Art. 2 CRC förbjuder diskriminering. Art. 3 betonar att barnets bästa skall komma i första rummet beträffande alla beslut och åtgärder som rör barnet. Artikeln nämner dock inte utbildningssammanhang uttryckligen. I art. 8 stadgas att staten skall skydda barnets rätt till identitet. I begreppet identitet inkluderas barnets etniska och språkliga identitet. Kränkningar av art. 8 kan således ta sig uttryck i förbud mot minoritetsspråk i utbildningssystem.[92] Enligt art. 12.1 skall barn som är i stånd att bilda egna åsikter beredas tillfälle att yttra sig i frågor som angår dem och vid sådana tillfällen vara garanterade yttrandefrihet. Barnets ålder och mognad skall också vägas in i bedömningen av hur stor vikt man skall fästa vid dess åsikter. Detta är ett medvetet förkastande av specifika åldersgränser, som mycket väl skulle kunna vara kontraproduktiva. Ett barns mognad kan inte mätas enbart i ålder. Dessutom har man medvetet hållit formuleringen av vilka frågor som är relevanta för barnet att yttra sig om öppna för att inte riskera att begränsa barnets rätt.[93] Barnets rätt enligt art. 12.1 gäller särkilt vid kontakter med rättsväsendet (art. 12.2). Bestämmelserna skall ses i ljuset av art. 2 och 3 och de skall återges i den nationella lagstiftningen.[94] Art. 28 garanterar barnet rätt till utbildning och art. 29 anger vissa riktmärken för vad utbildningen skall ha som mål. Den fullvärdiga utvecklingen av den egna personligheten och barnets respekt för den egna kulturen, det egna språket och egna värden är blott några av de riktmärken som satts upp. Rätten till utbildning enligt art. 28 skall komma alla och envar till del utan åtskillnad. Det UNICEF betonar även utbildning som ett effektivt sätt att bekämpa rasism, främlingsfientlighet etc.[95] Erkännandet av minoritetskulturer som art. 29 innebär leder, om den implementeras och efterlevs, att minoritetskulturerna inte trängs undan till förmån för

[90] Sverige ratificerade konventionen den 29 juni1990 (http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec 2010-05-24).
[91] Nowak menar att enbart barnen saknar rätten att välja utbildning enligt gällande folkrätt. Nowak i *Economic, Social and Cultural Rights* s 262. Oavsett barnens rätt att välja utbildning utan målsmans godkännande måste dock barnperspektivet räknas in enligt den generella kommentaren till art. 12 CRC. Detta gäller även barn tillhörande minoriteter. General Comment No. 12 (2009). *The Right of the Child to Be Heard* p. 105 och 109.
[92] UNICEF, *Handbok om barnkonventionen* s 98.
[93] A. a. s 124 f.
[94] A. a. s 127 f.
[95] A. a. s 298 f.

exempelvis patriotism eller nationalistiska eller assimilationistiska strömningar.[96] I art. 30 upprepas i princip art. 27 IKMPR, fast ur ett barnperspektiv.

Barn är ofta de huvudsakliga mottagarna av utbildning och i barnaåren grundläggs för många den relation de under resten av livet kommer att ha till sin identitet och sitt språk. Därför är det naturligt att alltid inkludera ett barnperspektiv i frågor där ett sådant kan vara relevant. Beträffande just barn tillhörande minoriteter är detta perspektiv särskilt relevant med tanke på att de riskerar att utsättas för diskriminering i olika former i skolan, t. ex. att de inte får den modersmålsundervisning de är berättigade till och kanske behöver för att bevara sitt språk.[97] Detta är en viktig punkt eftersom dåliga språkkunskaper inte bara kan påverka ens egen självbild och identitet, utan även hur man uppfattas av sin egen etniska grupp. Det kan även ha implikationer på barnets framtida kommunikationsförmåga på så vis att dålig undervisning i modersmålet i skolan i kombination med en hemmiljö där landets officiella språk inte talas särskilt mycket eller bra kan leda till att barnen med tiden blir halvspråkiga – det vill säga utan förmåga att behärska något språk fullt ut.[98] Ytterligare konsekvenser som bristande respekt för minoritetsbarns rättigheter kan få är att de går igenom skolan med bristande kunskaper om andra folkgrupper samt kanske med en bristande förståelse för mänskliga rättigheters innebörd.[99] Det är viktigt att komma ihåg att bestämmelserna i CRC inte skall läsas skilda från varandra utan att samtliga hör ihop (jfr preambeln i Wien 1993). Således kan man aldrig skilja på rätten till utbildning från rätten att slippa diskriminering på någon enda punkt.

3.1.5. Den europeiska stadgan om landsdels- eller minoritetsspråk – skydd av två grader[100]

Den europeiska stadgan om landsdels- eller minoritetsspråk framhäver redan i sin preambel att Europas landsdels- och minoritetsspråk är en rikedom för kontinenten. Preambeln säger även att skyddet av dessa språk är en viktig del i byggandet av ett Europa grundat på demokratiska principer och kulturell mångfald inom ramen för nationell suveränitet och territoriell integritet. Enligt min mening är dessa formuleringar otroligt viktiga. I länder som

[96] A. a. s 311 f.
[97] A. a. s 321 ff.
[98] Spiliopoulou Åkermark och Huss *Ten Years of Minority Discourse in Sweden, International Obligations and National Debates: Minorities Around the Baltic* s 547.
[99] Jfr UNICEF s 312.
[100] Stadgan ratificerades av Sverige den 9 februari 2000 (http://conventions.coe.int/treaty/Commun/ChercheSig.asp?NT=148&CM=1&DF=&CL=ENG 2010-05-22).

tidigare haft en minoritetspolitik med starkare eller svagare inriktning mot assimilation av alla minoriteter (t. ex. Sverige) representerar denna syn en total omsvängning. Det blir som ett slags upprättelse för de minoriteter som lidit till följd av assimilationspolitik.[101] Konventionen är sedan uppdelad i fem delar, varav del I (art. 1-6) del II (art. 7) och del III (art. 8-14) är de mest relevanta för denna uppsats.

Art. 1 innehåller definitioner av landsdels- och minoritetsspråk. Sådana språk talas traditionellt i en geografiskt avgränsbar del av landet och dess talare är en numerärt underlägsen grupp medborgare. Språken skall inte vara dialekter av något av landets officiella språk eller av migranters språk (art. 1.a).[102] Vidare definieras rekvisitet som innebär språkens territoriella avgränsningar (art. 1.b). Slutligen definierar art. 1.c vad ett icketerritoriellt språk är i stadgans mening – ett språk som avviker från övriga befolkningens och som av hävd har talats i landet, dock utan starkare anknytning till ett bestämt område än till ett annat. Exempel på sådana språk är romska och jiddisch. Enligt den förklarande rapporten till stadgan innebär detta en betydande skillnad för utövandet av de rättigheter som stadgan ger – merparten av rättigheterna, d v s del III (art. 8-14) är nämligen riktade mot språk med en territoriell förankring. Samtliga språk i en statspart som omfattas av stadgans art. 1 omfattas även av art. 2.1 som i sin tur stadgar att språken skall skyddas enligt bestämmelserna i stadgans del II (art. 7). Detta innebär bl. a. underlättande av undervisning i och av språken, uppmuntran att använda språken privat och offentligt, diskrimineringsförbud och en skyldighet för beslutsfattare att ta hänsyn till vad talarna av språken tycker inför beslut som kan påverka språken. Beträffande de språk klassificeras som territoriella skall minst 35 av rättigheterna i stadgans del III tillämpas. Av dessa är rättigheter knutna till utbildning (art. 8) och kulturliv (art. 12) särskilt prioriterade (art. 2.2).[103] De icketerritoriella språken omfattas enbart av del II mutatis mutandis, d v s i tillämpliga delar, och enligt de villkor som fastställs i art. 7.5.[104] Vad detta exakt innebär framgår inte av vare sig den förklarande rapporten eller av doktrinen. Enligt min mening innebär artikelns formulering dock att staten har ett tämligen stort utrymme för att göra skönsmässiga bedömningar, beroende på vilket språk det gäller.[105] Vid

[101] Jfr Spiliopoulou Åkermark och Huss s 547. Viktigt är dock att minnas att stadgan inte tar sikte på att skydda och bevara minoriteter, utan enbart gagna språken. Council of Europe, *European charter for Regional or Minority Languages – Explanatory Report* p. 11 (http://conventions.coe.int/Treaty/en/reports/html/148.htm 2010-05-22) och Pentassuglia s 130.
[102] T. ex icke-europeiska språk. Explanatory report p. 15.
[103] A. a. p. 36-37. Se även Thornberry och Amor Martín Estébanez, Minority Rights in Europe s 145 f.
[104] *European charter for Regional or Minority Languages – Explanatory Report* p 37.
[105] Thornberry och Amor Martín Estébanez s 148. De menar att art. 7 öppnar upp för stora möjligheter till valfrihet eftersom de menar att den i samtliga delar förutom avseende 7.1.b, som innehåller ett rekvisit som hänvisar till geografiska områden. Se även *European charter for Regional or Minority Languages – Explanatory Report* p 39.

ratificering skall staten meddela vilka språk inom dess territorium som skall omfattas av stadgan samt vilka som skall kategoriseras som territoriella respektive icketerritoriella (art. 3. 1). Vad som är viktigt att lägga på minnet i detta sammanhang är dock att detta inte är bindande för all framtid. En stat kan meddela att exempelvis ett icketerritoriellt språk skall få en högre status inom statens territorium och därmed omfattas även av stadgans del III (art. 3.2).[106] För ett språk som inte åtnjuter skyddet stadgat i del III vore en dylik ”uppgradering” ett klart gagnande. Det skulle innebära att uppmuntrandet att använda språket privat och offentligt (jfr art. 7.1.d) skulle kunna bistås med förskole- och grundskoleutbildning på språket i fråga (jfr art. 8.1.a-b).

Det verkar onekligen föreligga ett gap mellan å ena sidan de språk som klassificeras såsom territoriellt bundna och de som klassificeras såsom icke varande territoriellt bundna. Beträffande undervisning i och på det egna språket, möjligheten att starta egna skolor med statligt stöd, möjligheten att använda sitt språk i massmedia etc. är större för talarna av de territoriella språken. Frågan uppkommer härmed om det är fullt möjligt att leva upp till förpliktelsen att stärka minoriteters identitet enligt art. 27 IKMPR beträffande icketerritoriella språk. Om staten inte erkänner att det finns minoriteter är det av naturliga skäl svårt. Ett problem som emellertid torde uppstå och gå att lösa är hur man avgränsar ett minoritetsspråk och definierar det som territoriellt bundet till en viss region eller en viss plats. Jag tolkar nämligen stadgans bestämmelser (art. 1)[107] som så att språket kan ha viss geografisk spridning men att det är upp till staten att bestämma exakt var språkets territorium skall anses vara för att det skall åtnjuta de rättigheter i stadgans del III som staten i fråga väljer att ratificera. Skulle man då kunna bevisa att romska talats av hävd i exempelvis de tre storstadsregionerna i Sverige, i Jönköping, Mälardalen, Värmland och Bergslagen skulle man eventuellt kunna ändra språkets nuvarande status som icketerritoriellt till territoriellt.[108]

3.1.6. Ramkonventionen om skydd för nationella minoriteter (FCNM)[109]

Europarådets ramkonvention för skydd av nationella minoriteter innehåller i sin preambel en föresats att skydda de nationella minoriteternas existens. Preambeln nämner vidare att ett demokratiskt och pluralistiskt samhälle inte bör stanna vid att respektera identiteten hos de

[106] *European charter for Regional or Minority Languages – Explanatory Report* p 50.
[107] Se även a. a. p 30-37.
[108] Prop. 2008/09:158 s 17.
[109] Sverige ratificerade konventionen den 9 februari 2000 (http://www.coe.int/t/dghl/monitoring/minorities/6_Resources/PDF_Chart_Monitoring_en.pdf 2010-05-22).

individer som tillhör nationella minoriteter, utan även bör skapa förutsättningar för dessa personer att utveckla, bevara och uttrycka denna identitet.[110] I art. 3.1 stadgas att var och en som tillhör en nationell minoritet skall kunna välja om vederbörande vill bli behandlad som en medlem av minoriteten eller ej. Detta val skall inte medföra några nackdelar avseende rättigheter. En person som inte tillhör minoriteten skall inte heller kunna hävda att bli behandlad som om vederbörande tillhörde minoriteten.[111] De som tillhör nationella minoriteter kan dessutom välja att utöva sina rättigheter enligt konventionen enskilt eller tillsammans med andra art. 3.2.[112] I art. 4.1 finns ett förbud mot diskriminering p g a tillhörighet till nationell minoritet och i art. 4.2 finns utrymme för positiv särbehandling av personer som tillhör nationella minoriteter i syfte att uppnå en reell jämlikhet mellan minoriteterna och majoriteten. Art. 4.3 säger vidare att åtgärder enligt 4.2 inte är att anse som diskriminering.[113] Den positiva särbehandlingen riktar sig särskilt mot områden som utbildning, språk och kultur och romer har i termer av positiv särbehandling omnämnts ett flertal gånger.[114] Emellertid är inte denna form av särbehandling oproblematisk. I ett uppmärksammat fall i Sverige tilldömdes två kvinnor skadestånd för otillåten diskriminering efter att Uppsala universitet reserverat tio procent av platserna på juristutbildningen för studenter med två utlandsfödda föräldrar.[115] Ett stort problem med att tillämpa positiv särbehandling på detta sätt är att vissa individer gagnas på bekostnad av andra. Ur den synvinkeln är det svårt att försvara positiv särbehandling. Art. 5.1 ålägger staten att bistå minoriteterna i bevarandet av den egna kulturen och skyddandet av den egna identiteten genom främjande av förutsättningar som är nödvändiga för detta. Art. 5.2 ålägger staten att inte bidra till ofrivillig assimilering. Art. 5 skall läsas tillsammans med art. 6.1 som talar om vikten av interkulturell dialog, tolerans och ömsesidig respekt och förståelse för den andre. Staten skall verka för detta i synnerhet på utbildnings- och kulturområdet samt beträffande

[110] Council of Europe, *Text of the Framework Convention for Protection of National Minorities, Swedish Translation* (http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_Text_FCNM_sv.pdf 2010-05-23).
[111] Council of Europe - *Framework Convention for the Protection of National Minorities Explanatory Report* s 24 f. Detta bygger på en mer generell rätt till självidentifikation. Jfr Heintze, *Article. 3, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities* s 118 f.
[112] Dessa ”andra” kan vara vilka som helst. A. a. s 24.
[113] *Framework Convention for the Protection of National Minorities Explanatory Report* s 25 f.
[114] Alfredsson i *The Rights of Minorities* s 148 f. Alfredsson gör i detta sammanhang en referens till art. 27 IKMPR och rätten till identitet (se kapitel 3.1.2 ovan). På nationell nivå efterlyste t. ex. Ombudsmannen mot etnisk diskriminering (DO) 2004 positiv särbehandling av romer som ett sätt att få bukt med diskrimineringen av romer i Sverige. *Diskriminering av romer i Sverige* – rapport från DO:s projekt åren 2002 och 2003 om åtgärder för att förebygga och motverka etnisk diskriminering av romer s 52.
[115] NJA 2006 s 683.

massmedia.[116] Art. 5 påminner starkt om art. 27 IKMPR.[117] Art. 10.1 garanterar den enskilde rätt att använda sitt språk på offentliga platser, men inte i kontakten med det allmänna, utan ingripande från det offentliga. Enligt den förklarande rapporten möjliggör art. 10 för personer tillhörande nationella minoriteter att utnyttja sin rätt till yttrandefrihet enligt art. 9.[118] Art. 12.1-2 ålägger staterna att där det är lämpligt främja kunskap om sina nationella minoriteter, deras språk, kultur och religion på utbildnings- och forskningsområdet genom bl. a. bereda tillgång till läroböcker. Denna sistnämnda punkt kan visa sig svår att uppfylla, i synnerhet vid utbildning i romsk historia.[119] Vem skall skriva läroböckerna? Vem skall undervisa? Hur uppfyller man åläggandena i 12.1 utan att uppfylla dem i 12.2 och vice versa? Romsk historia är ett område som inte prioriterats och som fortfarande är okänt för många, även om det finns material att tillgå.[120] Art. 12.3 innebär ett förbud mot diskriminering avseende tillgången till utbildning för personer tillhörande nationella minoriteter. Tillgången till skolan innebär mer än att bara kunna gå in i samma skolbyggnad som andra barn och lyssna till läraren. Det innebär rimligtvis också att slippa diskriminering i form av utebliven modersmålsundervisning, trakasserier och ofrivillig assimilering.[121] Art. 13 öppnar upp en möjlighet för personer som tillhör nationella minoriteter att starta och driva egna friskolor. Dock är inte staten förpliktigad att stöda detta ekonomiskt. Däremot kan man söka bidrag från staten.[122] Detta är en motsägelse i sig, eftersom minoriteter sällan kommer i åtnjutande av de resurser som krävs för att starta och hålla en kvalitativ skola vid liv.[123] Art. 14.1 garanterar varje individ som tillhör en nationell minoritet rätten att lära sig sitt eget språk, en rätt som vid en textuell tolkning av bestämmelsen är starkare för talare av territoriell förankrade språk eftersom staten enligt 14.2 skall anstränga sig för att se till att språket skall läras ut till personer tillhörande de minoriteter som talar språken eller att se till att berörda minoritetselever kan undervisas på sina respektive språk. Rätten är dock villkorad av

[116] *Framework Convention for the Protection of National Minorities Explanatory Report* s 27 och Gilbert, *Article 5, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities* s 154.
[117] Se kapitel 3.1.2 ovan.
[118] *Framework Convention for the Protection of National Minorities Explanatory Report* s 29, de Varennes, *Article 10, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities* s 305 f.
[119] Jfr Thornberry i *The Rights of Minorities* s 381 ff.
[120] Brisenstam. T. ex. kan man på Internet hitta texter om olika ämnen skrivna av Ian F Hancock. Se t. ex. www.radoc.net 2010-05-24.
[121] Jfr Thornberry, International Law and the Rights of Minorities s 183 f och *Article 12, The Rights of Minorities* s 386 ff. Thornberry går igenom romers utbildningssituation i en särskild del av sitt bidrag till konventionskommentaren. Det rör sig om en lång uppräkning av människorättskränkningar begångna mot romska barn i olika länder och vid olika tidpunkter.
[122] Thornberry, *Article 13, The Rights of Minorities* s 402.
[123] Jfr Thornberry, *International Law and the Rights of Minorities* s 180.

rekvisiten ”verkligt behov”, statens resurser och att rätten skall tillgodoses inom ramen för statens utbildningssystem. Vad ”verkligt behov” betyder är inte definierat eftersom olika minoritetsrelaterade situationer kan råda i olika stater.[124] Värt att lägga märke till är kopplingen mellan art. 14.1 FCNM och art. 27 IKMPR. Liksom art. 27 IKMPR syftar art. 14.1 FCNM till bevarandet av minoritetens identitet och skyddet mot ofrivillig assimilering.[125] Art. 15 ålägger staten att skapa förutsättningar för att personer tillhörande nationella minoriteter skall kunna delta i angelägenheter som berör dem på de kulturella, ekonomiska och sociala områdena.[126]

3.2. Det svenska regelverket

3.2.1. Lag (2009:724) om nationella minoriteter och minoritetsspråk

I lagen om nationella minoriteter och minoritetsspråk anges i 2 § vilka folkgrupper och vilka språk som i Sverige åtnjuter denna status.[127] Enligt 3 § skall förvaltningsmyndigheter vid behov informera de nationella minoriteterna på ett lämpligt sätt om deras rättigheter. I 4 § görs en hänvisning till Språklagen (2009:600) och en upprepning av språklagens 8 § som säger att de nationella minoritetsspråken skall skyddas och främjas av det allmänna. Lagen om nationella minoriteter och minoritetsspråk går dock längre och stadgar att det allmänna även i övrigt skall främja de nationella minoriteternas möjligheter att bevara sin identitet. Särskilt skall det allmänna främja barns utveckling av en kulturell identitet och användning av det egna språket. I 5 § stadgas att förvaltningsmyndigheter skall ge de nationella minoriteterna möjlighet till inflytande i frågor som berör dem och i möjligaste mån samråda med dessas representanter i dylika frågor.[128] Lagens övriga paragrafer berör inte romer eller romska. Detta beror förmodligen på att romska och jiddisch klassificeras såsom territoriellt obundna språk i Sverige och således bara omfattas av skyddet i del II av den europeiska stadgan om landsdels- eller minoritetsspråk.[129] Överhuvudtaget ger propositionen till lagen intrycket av att lagen är tänkt att ge uttryck för de i denna uppsats hittills nämnda bestämmelserna.

[124] *Framework Convention for the Protection of National Minorities Explanatory Report* s 32 f.
[125] A. a. s 32.
[126] I den europeiska stadgan om landsdels- eller minoritetsspråk motsvaras art. 15 FCNM av art. 7.4.
[127] Det rör sig om judar, romer, samer, sverigefinnar och tornedalingar samt dessas språk. Beträffande språken omfattas samtliga varieteter av dem. Prop. 2008/09:158 s 126. Kriterierna som dessa grupper uppfyller för att vara nationella minoriteter är självidentifikation – att individen och gruppen strävar efter bevarande av den egna identiteten, religiös, språklig, traditionell eller kulturell tillhörighet som avviker från majoriteten och historiska eller långtgående band till Sverige. Heintze, *Article. 3, The Rights of Minorities* s 114.
[128] Förarbetena poängterar tre saker – skydd av de nationella minoriteterna, ökade möjligheter till inflytande för dem samt stärkande av språken – som mål. Prop. 2008/09:158 s 14.
[129] A. a. s 17.

Förarbetena talar även om en konkretisering av de minoritetspolitiska åtagandena.[130] Detta skall ske i tre delar – bekämpande av diskriminering och utsatthet, utökande av inflytande och makt samt stärkande och bevarande av den språkliga och kulturella identiteten. Vad gäller efterlevnaden av lagen är det kanske för tidigt att uttala sig om detta med tanke på att lagen trädde i kraft först den 1 januari 2010, men lagens syfte är bl. a. att effektivisera ett tidigare dåligt skydd för Sveriges nationella minoriteter.[131]

3.2.2. Grundskoleförordningen (1994:1194)

Barn som har ett annat umgängesspråk än svenska i relationen till den ena eller bägge vårdnadshavarna får kommunerna anordna tvåspråkig undervisning (2 kap. 7 §). I 2 kap. 9 § grundskoleförordningen garanteras barn tillhörande de nationella minoriteterna modersmålsundervisning även om det aktuella språket inte är deras umgängesspråk hemma. De måste dock ha grundläggande kunskaper i språket och vilja studera det. I 2 kap. 10 § 1 st. begränsas barnens rätt till att omfatta enbart ett språk per elev. Dock kan romska barn från utlandet få undervisning i två språk om särskilda skäl föreligger (2 st.). Beträffande de nationella minoritetsspråken är kommunerna skyldiga att anordna undervisning i de nationella minoritetsspråken även om antalet elever inte uppgår till fem, vilket krävs för att undervisning skall anordnas i andra språk. Dock krävs även för de nationella minoritetsspråken att det finns tillgång till lärare (2 kap. 13 §). Beträffande denna undervisning har det dock rått flera problem som drabbat personer tillhörande olika nationella minoriteter. Ett antal av dessa har resulterat i anmälningar till DO – bl. a. underlåtenhet från kommunens sida att söka lärare och brist på lokaler, medan andra är av ickediskriminerande art såsom avsaknad av lämpliga lärare eller avsaknad av intresserade elever.[132]

4. Slutsatser. De lege lata et de lege ferenda – hurdan lagen är och hurdan lagen borde vara

Sverige har ratificerat flera viktiga internationella juridiska instrument som samtliga ger romska barn rätt till undervisning i det egna språket. Emellertid finns det flera saker som hämmar implementeringen av dessa rättigheter. Det stora problem som detta i längden orsakar

[130] A. a. s 45 f.
[131] A. a. s 42 ff och 55 f. T. ex. brister det i samrådet med nationella minoriteter beträffande angelägenheter på lokal nivå. Det handlar överhuvudtaget om svårigheter med implementering av lagstiftningen på lokal nivå. Se även Pikkarainen och Brodin s 32-40.
[132] Pikkarainen och Brodin s 37 ff och Skolverket, *Romer i skolan – en fördjupad studie* s 43 ff.

är att romska barns identitet enligt min mening inte skyddas på ett tillfredsställande sätt enligt Sveriges internationella åtaganden. Frågan är då hur man skall komma till rätta med problematiken och på ett bättre sätt tillgodose att romska barn, efter eget begär, kan komma i åtnjutande av den språkundervisning i romani chib som de har rätt till. Ett betydande hinder i vägen för en bättre utveckling för det romska språket i Sverige, och därmed för den romska identitetens (eller rentav identiteternas), stärkande och bevarande är det faktum att Sverige klassificerat romska som ett territoriellt obundet språk. Detta medför, som nämnt i kapitel 3.1.5 ovan, att romska har ett lägre skydd än de språk som klassificerats som territoriellt bundna. Min främsta synpunkt är därför att överväga möjligheterna för en ändring av nuvarande lagstiftning i form av att ange romska som territoriellt bundet språk i vissa delar av Sverige. Landets samtliga 50 000 romer är visserligen inte koncentrerade till ett enda skarpt avgränsbart område, men det finns platser orter i Sverige där det bor relativt betydande romska befolkningar sedan relativt lång tid tillbaka.[133] Visserligen är det inte tillåtet att registrera etnicitet i Sverige (2 kap. 2 §), och om det vore det skulle förmodligen blott en bråkdel ge sin identitet till känna,[134] men om man utgår från tabellen i bilaga 5 i Skolverkets rapport om romer i skolan kan man ana sig till att det finns vissa städer där det bor fler romer än vad det gör på andra platser.[135] Om man därtill lägger enskilda romers uppfattningar om var det bor och var det traditionellt sett bott många romer kan man med viss säkerhet ringa in särskilda områden. Eftersom det inte finns något som egentligen tyder på motsatsen måste man anta att det på dessa platser/i dessa områden talats romska under en betydande tidsperiod. Oavsett vilka dessa är och exakt hur många romer som lever där idag och vilka dialekter av romska eller vilka romer är för denna uppsats irrelevant. Min huvudpunkt är att det torde finnas förutsättningar för att erkänna romska som ett territoriellt bundet språk i vissa delar av Sverige.[136] Detta skulle gagna det romska språket oerhört i det att det skulle leda till större möjligheter att undervisa barnen på och i och om romska. Kommunikationen med vissa myndigheter skulle kunna ske på romska och romskans plats i massmedierna skulle kunna stärkas. Detta vore ett effektivt och konkret sätt att främja det romska språket och därigenom

[133] Se t. ex. Skolverket, *Romer i skolan – en fördjupad studie* s 44, Hazell, *Resandefolket – från tattare till traveller* s 195. Delegationen för romska frågor, *Historik* (http://www.romadelegationen.se/extra/pod/?id=12&module_instance=1&action=pod_show&navid=12 2010-05-23).
[134] DO s 19.
[135] Skolverket, *Romer i skolan – en fördjupad studie* s 75.
[136] Jfr exempelvis med finskans, samiskans och meänkielin territoriella avgränsningar enligt prop. 2008/09:158 s 80.

även främja den romska identiteten. Således skulle individens rätt till identitet bättre kunna tillgodoses och Sveriges målsättningar med minoritetspolitiken bättre kunna uppfyllas.

En punkt som är viktig i sammanhanget vad gäller romer och undervisning i det romska språket är att det även råder ett allmänt behov av utbildning i romarelaterade frågor överhuvudtaget.[137] Okunskapen om romer är enligt min mening en starkt bidragande faktor till den omfattande antiziganismen i Sverige.[138] Genom att inom ramen för det ordinarie skolschemat undervisa om de nationella minoriteterna och de nationella minoritetsspråken kan man bidra till bekämpandet av de fördomar som finns om exempelvis romer. Denna åtgärd finner sitt sammanhang i att staten genom art. 27 IKMPR är skyldig att skydda och bidra till stärkandet av minoriteters identitet och att vägen till detta mål går bland annat genom art. 13 IKESKR. På så sätt skulle undervisning i romarelaterade frågor bidra till skyddet mot en ofrivillig assimilering av romer. Rätten till identitet innebär logiskt sett också tillgång till sådan undervisning. Ett folks identitet kan vara byggt på mer än språk, även om språket är en viktig komponent i individens identitet. Romer är ett sådant folk. Historia kan stärka ett folks identitet i och med att dess upphov, utveckling och nuvarande situation förklaras. Ett språk som romska, som har över 60 dokumenterade dialekter varav vissa förstår varandra bättre än andra, har även det en historia som kan vara av värde att veta eftersom synen på ens eget språk kan ha en inverkan på ens självbild.[139] Genom att undervisa i samhällskunskap ur ett romskt perspektiv skulle man kunna tillmötesgå behovet av undervisning om romsk kultur och tradition samt hur olika romer av idag lever och samtidigt bidra med en praktisk utbildning i vilka rättigheter man har som person i allmänhet och som tillhörande en nationell minoritet i synnerhet. På så sätt skulle skolundervisningen öka kunskapen om romer, öka kunskapen hos romer, stärka förutsättningarna för integration och minska utrymmet för fördomar. Romer skulle därmed beredas större utrymme än idag att redan som barn känna en stolthet över sitt ursprung och om antiziganismen och dess verkningar skulle förmås minska skulle förmodligen både romer och romani bli synligare i det svenska samhället. Då skulle Sverige ha kommit en bra bit i sina strävanden att bevara sin etniska flora.

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[137] T. ex. historia, kultur, mänskliga rättigheter och hur de efterlevs. Brisenstam, *On Antiziganism and the Importance of Education* och *An Exoticized Question Mark – Reflections Over the Romani Woman and the Lack of Knowledge About Her Everyday Life, Romani E Journal* (http://romaniejournal.com.donatello.binero.se/LinkClick.aspx?fileticket=j-6QRx9m_X0%3d&tabid=81&mid=475 2010-05-23).

[138] Jfr DO s 12 f.

[139] Skolverket – Tema modersmål, *Vad är romer och romani chib?* (http://modersmal.skolverket.se/kalderash/index.php/romani-spraket 2010-05-23).

En tredje punkt som måste nämnas är att skolan i viss mån kanske borde centraliseras. I dagsläget ligger ansvaret för skolan hos kommunerna (1 kap. 4 § SkolL).[140] I och med att engagemanget på flera håll i landet och av olika anledningar brister beträffande implementeringen av internationell lagstiftning (och därmed även av nationell sådan) gör sig det allmänna skyldigt till förbrytelser mot bestämmelserna i de internationella instrument som Sverige har ratificerat sedan länge. En starkare centralisering skulle eventuellt kunna leda till en harmonisering av grundskoleutbildningens innehåll och dessutom en jämnare budget. Eftersom det i dagsläget är kommunerna som ansvarar för skolan är det också kommunerna som finansierar den. Därmed kan tänkas att de ekonomiska förutsättningarna för en individuell skola att tillgodose barnets rätt till modersmålsundervisning skulle kunna förbättras. Oavsett vad man gör måste man dock alltid hålla huvudmålet i minnet – nämligen att bistå minoriteten i bevarandet och stärkandet av den egna identiteten och det fullvärdiga åtnjutandet av några av de rättigheter som enligt art. 22 UDHR är oundgängliga för den mänskliga värdigheten.

[140] Jfr fotnot 70 ovan.

5. Källförteckning

5.1. Offentligt tryck

Council of Europe, *Framework Convention for the Protection of National Minorities Explanatory Report*

Office for the High Commissioner for Human Rights, *General Comment No. 12 (2009). The Right of the Child to Be Heard*

Prop. 2008/09:158. *Från erkännande till egenmakt* – regeringens strategi för de nationella minoriteterna

Ombudsmannen mot etnisk diskriminering (DO*), Diskriminering av romer i Sverige* – rapport från DO:s projekt åren 2002 och 2003 om åtgärder för att förebygga och motverka etnisk diskriminering av romer

Pikkarainen, H. Och Brodin, B.*, Discrimination of National Minorities in the Educational System*. DO:s rapportserie 2008:2

Skolverket, *Romer i skolan – en fördjupad studie.* Rapport 292 2007

5.2. Rättspraxis

NJA 2006 s 683

5.3. Litteratur

Hazell, Bo, *Resandefolket – från tattare till traveller,* Ordfront förlag 2002

Pentassuglia, Gaetano, *Minorities in International Law*, Council of Europe 2002
Smith, Rhona K. M., *Textbook on International Human Rights*, 4 ed, Oxford University Press 2010

Spiliopoulou Åkermark, Athanasia, *Justifications of Minority Rights in International Law*, Uppsala 1997

Thornberry, Patrick, *International Law and the Rights of Minorities*, Oxford University Press 1991

Thornberry, P., och Amor Martín Estébanez, M., *Minority Rights in Europe*, Council of Europe 2004

UNICEF, *Handbok om barnkonventionen*, UNICEF Sverige 2008

5.4. Artiklar

Alfredsson, Gudmundur, *Article 4*, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities, Ed. Weller Marc, Oxford University Press 2005

Eide, Asbjörn, *Cultural Rights as Individual Human Rights*, Economic, Social and Cultural Rights – a Textbook, 2 rev ed, Ed. Eide, A. & Krause, C. & Rosas, A., Kluwer Law International 2001

Gilbert, Geoff, *Article 5*, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities, Ed. Weller Marc, Oxford University Press 2005

Heintze, Hans-Joachim, *Article 3*, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities, Ed. Weller Marc, Oxford University Press 2005

Nowak, Manfred, *The Right to Education*, Economic, Social and Cultural Rights – a Textbook, 2 rev ed, Ed. Eide, A. & Krause, C. & Rosas, A., Kluwer Law International 2001

Scarman, RT. Hon Lord, *Minority Rights in a Plural Society*, Minorities – a Question of Human Rights?, Ed. Whitaker, Ben, Pergamon Press 1984

Spiliopoulou Åkermark, S. & Huss, L., Ten Years of Minority Discourse in Sweden, *International Obligations and National Debates: Minorities Around the Baltic*, Ed.

Spiliopoulou Åkermark, S. & Huss, L. & Oeter, S. & Walker, A., The Åland Islands Peace Institute 2006

Thornberry, Patrick, *Article 12*, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities, Ed. Weller Marc, Oxford University Press 2005

Thornberry, Patrick, *Article 13*, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities, Ed. Weller Marc, Oxford University Press 2005

de Varennes, Fernand, *Article 10*, The Rights of Minorities – A Commentary on the European Framework Convention for the Protection of National Minorities, Ed. Weller Marc, Oxford University Press 2005

5.5. Övriga Internetbaserade källor

Brisenstam, Robert, *On Antiziganism and the Importance of Education*, Romani E Journal, http://romaniejournal.com.donatello.binero.se/LinkClick.aspx?fileticket=j-6QRx9m_X0%3d&tabid=81&mid=475 2010-05-23

Brisenstam, Robert, *An Exoticized Question Mark – Reflections Over the Romani Woman and the Lack of Knowledge About Her Everyday Life, Romani E Journal* http://romaniejournal.com.donatello.binero.se/LinkClick.aspx?fileticket=bMo0V0MHv1Q%3d&tabid=81&mid=475 2010-05-20

Council of Europe, *European charter for Regional or Minority Languages – Explanatory Report* http://conventions.coe.int/Treaty/en/reports/html/148.htm 2010-05-22

Council of Europe, Framework Convention for the Protection of National Minorities (Chart of Signatures and Ratifications and Status of Monitoring Work – 1st, 2nd and 3rd Cycles) http://www.coe.int/t/dghl/monitoring/minorities/6_Resources/PDF_Chart_Monitoring_en.pdf 2010-05-22

Council of Europe, *European Charter for Regional or Minority Languages CETS No.: 148* http://conventions.coe.int/treaty/Commun/ChercheSig.asp?NT=148&CM=1&DF=&CL=ENG 2010-05-22

Council of Europe, *Text of the Framework Convention for Protection of National Minorities, Swedish Translation* http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_Text_FCNM_sv.pdf 2010-05-23

Delegationen för romska frågor, Historik http://www.romadelegationen.se/extra/pod/?id=12&module_instance=1&action=pod_show&navid=12 2010-05-23

Regeringens webbplats för mänskliga rättigheter, *FN:s allmänna förklaring* http://www.manskligarattigheter.gov.se/extra/pod/?id=71&module_instance=6&action=pod_show 2010-05-17

Office for the High Commissioner for Human Rights, *General Comment No. 23: The rights of minorities (Art. 27) : . 08/04/1994. CCPR/C/21/Rev.1/Add.5* http://www.unhchr.ch/tbs/doc.nsf/0/fb7fb12c2fb8bb21c12563ed004df111?Opendocument 2010-05-18

Skolverket – Tema modersmål, *Vad är romer och romani chib?* http://modersmal.skolverket.se/kalderash/index.php/romani-spraket 2010-05-23

United Nations Treaty Collection, CHAPTER IV HUMAN RIGHTS 4, *International Covenant on Civil and Political Rights, New York, 16 December 1966* http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en 2010-05-22

United Nations Treaty Collection, CHAPTER IV HUMAN RIGHTS 4, *International Covenant on Economic, Social and Cultural Rights, New York, 16 December 1966* http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en 2010-05-22

United Nations Treaty Collection, CHAPTER IV HUMAN RIGHTS, *Convention on the Rights of the Child, New York, 20 November 1989* http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en#EndDec 2010-05-24

The Romani Archives and Documentation Center www.radoc.net 2010-05-24