



The European Commission's Non-Discrimination Governmental Expert Group

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I. Background/Structure

- Group chaired by the Commission
- Composed of one member (+1 alternate) from each state, appointed by national authorities responsible for anti-discrimination policies
- Group should “accompany the development of policies at EU and national level aimed at combating discrimination, promoting equality and developing exchange of experiences on related issues of common interest”
 - Consulted by the Commission about equality and anti-discrimination policy
 - Forum for exchange of experience & best practices among members
- Bi-annual Group meetings and “regular” meetings with “European umbrella NGOs active in the fight against discrimination, representatives of the social partners and of Equinet.”
- EU Agency for Fundamental Rights has permanent observer status
- Commission's representative can request “experts or observers with specific competence on a subject on the agenda to participate in the group's or sub-group's deliberations if this is useful and/or necessary”
 - *Ad hoc* consultation, dependent on Commission's nomination
 - “Observers” can include a wide range of participants

II. Recommendations

i. How the Group should proceed

ERIO welcomes the establishment of the Governmental Experts' Group on Non-Discrimination which aims at fostering non-discrimination policies at the national and European levels. The implementations of the Race Equality Directive as well as the setting up of the National Equality Bodies have been a big step towards promoting equality. No one can deny the efforts put forward by various Member States in their fight against discrimination faced by the Roma. Nevertheless, the current legislation and instruments left many gaps regarding the effective protection of Roma against discrimination and racism. Legislation and policies are not congruent with the multifaceted reality of discrimination faced by the Roma in all spheres of society. ERIO would like to contribute to the Governmental Experts' Group on Non-Discrimination by delivering recommendations on very urgent actions to be undertaken in order to promote equal treatment of the Roma.

The European Commission's establishment of a Non-Discrimination Governmental Expert Group ("the Group") provides a chance for representatives of European countries with Roma populations to share their successes and failures in achieving equality and non-discrimination for these groups. This knowledge can be used to shape future European policy constructively, to effect positive actions towards Roma equality and integration – and indeed, to avoid repeating past failures that have resulted in the Roma being Europe's most discriminated-against minority.

Given the frequency and persistence of such failures and the continuing discrimination experienced by Roma communities in Europe, comprehensive non-discrimination policies and practices for Roma (ie. multi-dimensional policies that address past, present and future discrimination) must be a priority for the Group.

Since previous policy failures are often linked to an overly-paternalistic approach and weak or non- engagement of the Roma communities for whom the policies are designed, the Group would be wise to engage to the greatest extent possible with Roma representatives, experts and civil society groups when addressing Roma issues.

This is clearly permitted by the Group's rules of operation, when such consultations are "useful and/or necessary"; the track record of European anti-discrimination policy vis-à-vis the Roma suggests that such engagement would be *both* useful and necessary. Such persons and groups are typically better placed than member state or European officials to track the implementation, impact and efficacy of official policies at the regional and local levels; their full participation would undoubtedly enhance the Group's ability to achieve concrete progress on ensuring the realization of equality and non-discrimination rights for European Roma. Such actors are also in a position to inform Roma citizens and

communities about the provisions, guarantees and scope of European anti-discrimination policies, and their participation will facilitate Europe's Roma to be apprised of their rights and able to assert them through institutions and legal processes, thereby enabling anti-discrimination measures to work better for the Roma.

Conversely, limiting the participation of, or altogether excluding these actors from the Group's activities would reduce the scope of what the Group could realistically achieve. EU member states generally have strong national anti-discrimination legislation, but poor implementation and enforcement at the local level; if participation in the Group is confined to "national authorities responsible for policies against discrimination" it is foreseeable that concrete progress on local implementation and enforcement will be hampered. The decision to invite the participation of third parties rests with the Commission's representative, and opting to engage with Roma experts, representatives, and civil society groups on Roma issues would be a promising sign of the Commission's commitment to addressing discrimination against these communities.

The Group is also permitted to form sub-groups to examine particular issues. The establishment of such a sub-group to focus specifically on Roma equality and non-discrimination concerns, in consultation with Roma representatives, experts, and civil groups would be a desirable measure that would ensure that the needs of Roma communities receive special attention from the Group on a regular basis. If the purpose of the Group is truly to contribute to achieving equality through the development of better policies and practice, it is crucial that Europe's most discriminated-against group not be overlooked when the Group consults with the Commission about policy and legislation to combat discrimination.

ii. Some core issues which should be addressed by the Group

Monitoring discrimination and exchanging of good practices

Member States should monitor, by statistical means, the impact on the Roma and other ethnic minorities of the measures they introduce or maintain in the fields to which the prohibition of direct and indirect discrimination applies. Member States should develop an impact assessment on an *ex ante* basis, when a new regulation or practice is introduced, in order to anticipate its potential impact, and an obligation to evaluate *post hoc*, the effective impact on Roma and other ethnic minorities of existing regulation and practices at regular intervals.

Member States should coordinate the measures adopted in order to tackle the discrimination in the fields of education, employment, housing health care and social security faced by Roma. Member States should collect information about

the situation of the Roma in their countries in order to arrive at a better understanding of the problem to be addressed. Each Member State should submit at regular intervals a report on the measures which have been adopted in order to make progress towards the goal of ensuring the equal treatment and inclusion of the Roma, which should result in a process of mutual evaluation and contribute to collective learning.

Fight against Anti-Gypsyism

Over the last few years,, the wave of anti-Gypsyism has continued to rise throughout Europe. The rise in anti-Gypsyism does not only assume physically violent forms, but it is also spread widely through media and political discourse. This is unacceptable in European countries that are committed to defending human rights and democratic values. It is necessary to mobilize all necessary legal and institutional efforts to staunchly combat any form of anti-Gypsyism, wherever it may occur. National governments should work towards achieving a societal consensus, especially with the participation of media enterprises and political parties, to eradicate anti-Gypsyism in their countries.

Achieving equal treatment and non-discrimination

National Equality Bodies (NEBs) are useful instruments for promoting equal treatment and non-discrimination. Nevertheless, NEBs often do not have the mandate and capacities to assume a key role in the fight against discrimination. Member States should provide NEBs with a wide-range of sanctioning power. Member States should also provide additional investment to the NEBs to increase their power, strengthen their independence and provide adequate resources to enable them to develop a much more proactive rather than reactive role.

At the European level, a network of members of the Equality Bodies of each Member State should be set up. This network would have the responsibility to monitor particularly the Roma rights situation and report in regular intervals to the European Commission on the effectiveness of the implementation of the national anti-discrimination laws in the case of the Roma, the number of applications and the status and outcome of legal procedures aiming to redress discrimination. This will be one more way for collective learning and sharing positive practices and failures, something which will strengthen the work of the Equality bodies and will improve the implementation of the anti-discrimination legislation.

Discrimination of Roma at school

Most Roma children and young people face discrimination in education systems throughout Europe and do not have access to mainstream education as enjoyed by children and young people of the majority societies. A majority of Roma children and young people attend segregated schools and many are put into special schools intended for the mentally disabled. Segregation in schools is

carried out on a discriminatory basis, and as a result of this unequal system, many young Roma do not develop the necessary skills required to access adequate labour or self-employment. The integration of Roma children and young people is thus one of the biggest challenges faced by the EU and national governments in guaranteeing equal opportunities for the Roma. In countries where segregated schooling (of Roma) is practised, national governments should implement national strategies that enforce school desegregation. National governments should also be galvanised into carrying out awareness campaigns on discrimination in schools and in ensuring that Roma children and young people are treated the same as their majority society counterparts. Anti-discrimination and diversity trainings targeting local administrators, school administrators, teachers and members of parents associations for developing intercultural skills should be carried out.

Discrimination of Roma in the labour market

The most prevalent incidents of employment discrimination against Roma are at the job-hunting stage and in the recruitment practices that companies apply. Raw, direct discrimination prevents applicants from even reaching the interview stage with the employer. There is also strong evidence of institutional racism in the employment offices in a number of Members States. The negative stereotypes and prejudices of those working in public institutions, at the front line of dealing with Roma unemployment, put into question their capacity to deliver unbiased and professional services. In many instances, labour officials have reported condoned discrimination against the Roma, respecting employers' request not to offer positions to Roma job seekers.

Where necessary, new legislation should be introduced providing a strong and regulated approach to achieving equality in employment. The key goal of the legislation must be that every company, public and private, are required to have an ethnically proportioned workforce. An important first step in the development of a strategy to promote equality is to obtain statistical data on the ethnic composition of the workforce. In case proportionate workforce and timetables were not set, corrective measures should be taken. Monitoring, recording, reporting and responding to the ethnic composition of a workplace are key factors which would guarantee the effectiveness and efficiency of the equal opportunities policy.

Positive action should call for positive measures to tackle the causes of under-representation by devoting extra resources to encourage and support members of under-represented groups to compete for employment. Anti-discrimination training should be compulsory for all public officials. The training should increase the understanding of equal opportunities and equal treatment and should focus on the implementation of mechanisms for monitoring and confronting patterns of exclusion and discrimination against the Roma in employment. Disqualification from government and EU benefits would be a major drive for change for many

companies. Contract compliance is an effective mechanism to guarantee that only companies which comply with the principles of fair and equal employment are entitled to have access to governmental resources.

Member States should promote anti-discrimination and awareness-raising campaigns regarding the Roma in the labour markets. These campaigns should target employers and administrators, especially those working in employment offices. National governments should guarantee the Roma population the right to bring grievances to the courts and to anti-discrimination bodies on discrimination-related issues. Such awareness raising campaigns should focus on projects with clear goals, target groups and indicators of success.

Discrimination in the judiciary systems

Almost everywhere Roma face criminalization through the policing practice of ethnic profiling –often, citizens are controlled by police stops because “they look like Roma”- and in the high victimisation of Roma in the justice systems. In the majority of the EU countries, police ethnic profiling is either permitted or there is no clear prohibition of this use. Roma are amongst the largest victims of ethnic profiling throughout Europe. Member States should prohibit racial profiling by law or by banning “suspicion standards” from any ethnic and other superficial personal characteristics and to monitor police activities in order to identify ethnic profiling practices by the police. Representatives of the Roma as well as other minority organisations, and those dealing with human rights and the monitoring bodies of the racist practices of police corps should be consulted. Member States should promote information campaigns targeting Roma and other minorities to make them aware of their civil rights when dealing with the police and how to file a complaint as a result of ethnic profiling; mechanisms for supporting the victims to file such complaints should be implemented. Training by targeting police personnel in intercultural skills and anti-discrimination issues should be carried out so that ethnic profiling and discriminatory policing will eventually be eradicated.

Several reports give accounts that a high rate of victimisation of the Roma in the criminal justice system is related to discriminatory practices of the justice administration. But this overrepresentation is also often related to the social exclusion faced by the Roma; in various countries, Roma cannot enjoy such penitentiary benefits as early release, house arrest or parole because they are itinerant and do not have a fixed address. National governments should monitor the overrepresentation of the Roma in criminal justice systems and assess whether there is a direct link to discriminatory practices of personnel of the justice administration.

III. Anticipated difficulties and problems

This could easily be a forum from which Roma concerns and voices are excluded.

The Group is comprised of representatives of the very states that have generally failed to uphold the rights to equality and non-discrimination for their Roma populations. It is tasked with discussing general anti-discrimination policies and issues; there is no certainty that Roma issues will receive special (or any) consideration. Since engagement with third party experts depends on Commission nomination, there is no certainty that Roma representatives, experts, or civil organizations will be consulted in matters concerning them.