

When discussing about human rights violation against Roma in the EU the most common debate is centered on the issues of discrimination. As the largest ethnic minority in Europe with an estimated 10-12 million people, Romani people are often known by various ethnonyms including Roma, Gypsies, Travellers and Sinti. As a result of stereotypes, they are perceived in a negative way by most of the people.

Prejudice and stereotypes are the main causes that inspire acts of discriminations against Romani people and furthermore inspire acts of violence. There have been many projects and policy plans throughout states in Europe to ensure integration and rehabilitation of Roma. What makes it difficult to actually put these plans in practical terms is the fact that Roma communities visualize their integrations as a negative effect and consider it as act of destruction of their identity. Even though the actual purpose of integration is the peaceful cohabitation of Roma ethnics and local population and also the successful integration of Romani population in the labor market or in education, health care etc., there have been only slight improvements of the living conditions this ethnic minority is facing.

But the issue of discrimination of Roma in EU is widely debated and in my opinion it is not sufficient enough to try changing people's mentality in regards to stereotypes and prejudice about Romani communities, but it actually needs more work to be done inside the communities in order to provide help and assistance for achieving better living conditions.

In terms of justice, there have been too many violations of human rights against Roma in European countries. Even though, most Romani people have the citizenship of the country they live in and should enjoy and bear the same rights and responsibilities with the citizens of the same country, it is very often that this concept is purely theoretical and not at all happening in reality.

More recently, human trafficking within the Roma communities became a focus point for the authorities and for NGOs. As a legal definition, the UN Trafficking Protocol¹, decided that *trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another*

¹ http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. Once the crime of trafficking in human beings has been established, the consent of the trafficked person becomes irrelevant and cannot be used as a defense. According the Protocol, the consent given by the victim has no value when there has been use of *threat, force, other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving of payments or benefits to achieve the consent of a person having control over another person.*

Even though the trafficking in persons for the purpose of begging is not explicitly mentioned in the above mentioned protocol, it doesn't mean that it is not a reality that becomes more and more threatening for children or young people. Furthermore, it became a real concern of the authorities because of its slavery-like practices.

Human trafficking violates numerous human rights: the right to life, the right to physical integrity, illegal deprivation of liberty, the prohibition against forced labor and slavery-like practices, and the right not to be exposed to torture or other cruel, inhuman and degrading treatment. In many cases, victims of trafficking often suffer human rights abuses by actors within the criminal justice and social protection systems. These include, among others, violations of their right to privacy, the right to equality and non-discrimination, the right to a fair trial and the right to an adequate remedy.

The protection of the human trafficking victims in respect to the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its fourteen Protocols can be carried out through the articles: Article 2 on protecting life, Article 3 prohibiting torture or inhuman or degrading treatment or punishment, Article 4 prohibiting slavery, servitude as well as forced or compulsory work. Until now, the European Court of Human Rights had to judge upon the violation of human rights connected to the anti-trafficking and prohibition of forced labour and servitude (Article 4) in the case *Siliadin v. France* (2005)² and in the case of *Rantsev v Cyprus and Russia* (2010)³. In its last judgment, the European Court of Human Rights found the applicant's complaints admissible under the Article 2, Article 3, Article 4, and Article

² European Court of Human Rights Judgment, *Siliadin v. France* (App. 73316/01), 26 July 2005.

³ European Court of Human Rights Judgment, *Rantsev v. Cyprus and Russia* (App. 25965/04), 7 January 2010.

5 (the right to liberty and security). Under Article 2 – the right to life, Cypriot authorities were held responsible for not providing effective investigations in concern to Ms. Rantsev’s death. Russia was not held responsible for the violation of Article 2 due to the fact that it had no jurisdiction over the investigation, and due to the fact that it was proven that Russian’s authorities requested further investigations of the victims death and that cooperated with the Cypriot authorities. The Court also stated that any ill-treatment the victim suffered prior to her death was linked to the alleged trafficking and exploitation under Article 4. On the account of violation of Article 4, Cyprus was found responsible in regards to two failures: first, it didn’t provide a legal or administrative framework of protection and combating trafficking activities under the regime of “artist” visas and secondly, it didn’t provide operational measures of protection to help to Ms. Rantsev by the police office she was brought to, even when the suspicion of being a victim of trafficking rose credibility. On the count of failure to investigate the methods and recruitment activity, Russia was held responsible under Article 4. For deprivation of liberty (Article 5) Cyprus was held responsible for the detention at the police office on reasons that she was an illegal resident, since it had no basis in the domestic law, and also for the detention in the private apartment, where she was kept unlawfully.

The Court decided that Cyprus was held to pay, under Article 41 of just satisfaction of the Convention, to the applicant 40,000 Euros (EUR) in respect to non-pecuniary damages and 3,150 EUR for costs and expenses. Also, Russia was obliged to pay the amount of 2,000 EUR in respect of non-pecuniary damages.

Human trafficking is a phenomenon that makes it impossible to point out a certain number of victims. Unfortunately, in case of ethnic Roma victims it is even more difficult.

In Romania, it is prohibited by law⁴ to collect data linked to ethnicity, with certain exceptions: where the data subject expressly provides his/her consent, where there is a specific legal provision, when it concerns the protection of an important public interest, and on the condition that the processing is carried out in compliance with the rights of the data subject and other legal guarantees. The Law also prohibits the collection of ethnic data in activities related to criminal investigations and prosecutions⁵. On these grounds, Romania’s National Agency to Combat Trafficking in Persons (ANITP) doesn’t collect data related to the ethnic indicator, along

⁴ Law No. 677/2001 on Data Protection, Article 7 (2a and h).

⁵ At article 5.

with the other 70 indicators in its database. Though, in the 2009 US Trafficking in Persons (TIP) Report ANTIP stated: “most of the perpetrators come from Roma families or criminal groups”. Such statement raises an intrigued question: whether the agency acts upon perception or whether it actually collects ethnic data about the traffickers, but not about the trafficked victims?

Not keeping track of the Roma victims of human trafficking makes it even more difficult for the victims to access social services, medical and psychological services, assistance in reintegrating in the society, further assistance against re-victimization, recognition of Roma as a vulnerable population.

In the 2011 Trafficking in Persons Report published by the Embassy of the United States Bucharest Romania, it is stated that “a large proportion of children forced to beg in the Western European countries were Romanian victims of Roma ethnicity”. Besides the fact that Romania is considered a source, transit and destination country for men, women and children victim of trafficking, the report is also mentioning the fact that the Romanian Government does not fully comply with the minimum standards for the elimination of trafficking, however it is making significant efforts to do so.

A significant effort the Romanian authorities made in 2010 was carried out in an international investigation into the trafficking from Romania of Roma children for forced criminality and other forms of exploitation across Europe. It first came into the National Police attention in 2007. At the end of the international operation, they identified that the gang responsible and the child victims all originated from a single town in south-east Romania.

Suspicious appeared when luxurious sport-cars and houses began to appear in the small and poor village Tandarei, in the southern-eastern part of Romania. In April 2010, Romanian authorities assisted by the Metropolitan Police from UK made the arrest of 26 individuals from the organized criminal network from Tandarei. Over a period of time of 4 years, the police discovered that 1,107 children were moved from this village to Western Europe. The members of the organized crime network were charged with the trafficking of 118 children⁶ from Romania for the purpose of criminal exploitation. The evidence showed that the criminal exploitation of the children was begging and stealing. In many of the cases, parents were involved in the trafficking and continuing exploitation. In other cases, parents were in debts or coercion. But still, it is extremely alarming that in this specific case, in UK, a number of the child victims have

⁶ http://academos.ro/sites/default/files/biblio-docs/327/roma-victims-of-trafficking_0.pdf.

been found living in a variety of domestic circumstances - some with parents, some with extended family and others placed with ‘families’ to which they are not related.

Unfortunately, online-news from the 6th of July have said that the lawyers of the accused traffickers have asked the file to be resend to prosecutors for criminal rehabilitation and greater freedom for their clients, saying that some of them can’t work the land or go to hospital because they are prohibited from leaving town⁷. Until now, there haven’t been reached any actual result, due to the fact that the file is moving from one court to another for procedural flaws.

The Organization for Security and Cooperation in Europe (OSCE) Office of the Special Representative and Coordination for Combating Trafficking in Human Beings recently stated that “There is a fundamental lack of understanding about forced begging cycle and its consequences on children’s lives among the general public and the institutions responsible for protecting children’s rights”⁸. In its attempt to raise awareness through campaigns, OSCE expressed its worries towards Roma communities, which, due to the living conditions and social status, are more likely to have both – the criminal members of trafficking networks, - and victims of human trafficking.

Unfortunately, in my opinion, the protection of the victims of human trafficking in Romania has still not reached a point in order to provide assistance and counseling for the reintegration of the victim. Child services in Romania are not supplying enough care for the children in order to help them achieve a better life and a better standard of life in order to prevent victimization and re-victimization. So, what is there to be done in such dysfunctional system? How could there be a prevention of selling and trafficking Roma children when values and moral standards are inexistent in a society? Answers to such questions are being debated, but there has not been yet a practical answer. Basic human rights are being violated on a normal basis by criminal members of trafficking networks. In my own opinion, NGOs in Romania should have a better cooperation with ANTIP, working together on prevention campaigns and on data collection regarding Roma communities and the threats they are facing.

⁷ http://www.adevarul.ro/locale/targu-mures/Avocatii_inculpatilor_din_-Dosarul_Tandarei-refacerea_urmaririi_penale_pentru_clientii_lor_0_512349113.html#

⁸ OSCE Press Release 7 August 2008.