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## THE EUROPEAN UNION AND CULTURAL, ECONOMIC AND POLITICAL DEVELOPMENT OF MINORITY IN CENTRAL AND EASTERN EUROPE<sup>2</sup>

**Keywords:** The European Union, Minority, Social, Cultural, Politics, East Europe

**ABSTRACT:** This article aims to present the positions of minorities in Central and Eastern Europe since 1990. The analysis concentrates on relations between the various cultural and minorities group. The main outline is the concepts of minority rights and their multi-dimensional development of linguistic minorities and social development. There is a broad description of the social development of Roma in Central and Eastern Europe. Eastern European democracy promoters have made extensive use of their bilateral diplomatic channels to allow democratization laggards in the post-communist space a glimpse of what democracy looks like close to home and to give them encouragement and know-how to move forward with reforms.

### INTRODUCTION

John Packer observed that the definition of the word “Minority” was avoided whenever possible to define minority. The UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguis-

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tic Minorities (1992 UN Declaration) and the Framework Convention does not contain any definition. Although Francesco Capotorti, Special Reporter of the United Nations Sub-Commission on Discrimination Prevention and Minority Protection, defined in 1977 that a minority is, A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members being nations of the State possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show an implicit sense of solidarity directed towards preserving their culture, traditions, religion or language.” Thus the objective circumstances of being a minority and the individual situation of the group or individual consciousness are essential to be defined as a minority.

In world politics, the EU’s most far-reaching importance has two breakthrough outcomes, one for the EU itself and the other for Greater Europe, Central and Eastern Europe (CEE). The vision of the EU for enlargement is to portray stability, prosperity and human rights with democratic values; this is an unambiguous political criterion for membership in Copenhagen in 1993, including the improvement and protection of minorities. The enlargement of the EU to the CEE has resulted in the most significant political change in the EU with central and eastern regions having the largest concentration of Roma minorities. It was, therefore, an enormous duty to make suitable policies for these minorities and also had multidimensional importance. Following the EU’s accession to Central and Eastern Europe, the minority groups and Roma are the largest minority group with 12 million inhabitants gained considerable attention.

The EU should be able to base the need for minorities, thereby contributing to the process of legal assessment and legal reform considerations, in particular by clarifying the current state of law. Focusing on what its global counterparts have accomplished seems more important than comparing their accomplishments in defending minority rights at the domestic level, given that only the EU’s function in minority rights will be as a global or super-national system whose laws applied at the domestic level. Because international law is a system with the most sophisticated norms on protection of minority rights and is a system in which all EU Member States are involved. The EU is required to safeguard the freedom implied

by the power it has taken from its member states, and that discourages or affect the capacity of states to act in specific fields.

There are other minority-related issues, but the EU must not infringe the legal entitlement, such as distinguishing characteristics as-racial or ethnic, religious, linguistic, or beliefs that are incompatible with the fundamental principles of the European Union. EU legislation is the Council Framework Decision to combat certain types and expressions of racism and xenophobia through criminal law (2008/913/JHA) passed (Lobba, 2014). The EU has worked hard to finish its inner legislative structure for combating racism and discrimination. Social affairs and equal opportunities provide regular updates of EU anti-discrimination and associated EU legislation data. According to EU anti-discrimination legislation, Member States are required to adopt domestic legislation prohibiting discrimination based on race, ethnicity in jobs, education, social protection and access to products and services. This prohibition refers to all EU residents, not just EU citizens. To incite violence or hatred against a group or member identified by reference to race, colour, religion, ethnicity or domestic or ethnic origin. Also regarded punishable is the public dissemination or distribution of tracts, images or other content. Member States are also considering penalty racism and xenophobia. The Framework Decision offers for legal and natural persons to be held liable. According to this, any individual who is a victim of racism and xenophobia may initiate legal proceedings following domestic law against the supposed perpetrator.

The minority also split into sub-groups at the same moment. A specific faith represents a language and is linked to a religion or means of communication, whether minorities can occur within the same religious or linguistic community. The general perception is that these subgroups are not eligible for special minority status. Thus, it also resulted in their rights-related problems, while posing more severe difficulties. A group that shares a common ancestry shares the same culture or tradition (which may include a universal religion or language) is linked by emotional bonds, shares common physical or biological characteristics (racial traits), culture and tradition may or may not be significant. So, separating minorities are such a unique norm. The ethnic minority is different from race-based organisations, but race-based groups in themselves are not international

law minorities because they lack the autonomous culture, history, or tradition that connects ethnic groups. Ethnic minorities may be national minorities equal (Schein, 1985).

Numerical minority and non-dominance, it is not possible for a single person to form a group because a group requires an adequate amount of people to maintain its properties. The number criterion, the number in question includes those in a state, not a province. The minority group must also be an adequate amount for the state to acknowledge it as a different aspect of society and justify the state attempting to safeguard and advance its interests (The Council of Europe and Minority Rights, p. 9). Minority Rights Group points to the imposed minority status of dominant groups as well as to the government's loyalty requirement. The rights guaranteed to minority groups are therefore suitable for domestic, ethnic, religious, cultural and linguistic organisations seeking to maintain their identities within the state (The Council of Europe and Minority Rights, p. 10).

Citizenship issues raised previously for this group concerning national minorities may be a needed feature. Having fulfilled all other criteria of the word minority, a group may, therefore, constitute a minority group on the grounds of their nationality as aliens. It is broader approach to include new minorities who can assert access to freedoms enjoyed by members of their community who have been in a state for a more extended period. This is not to say that everybody is owed all minority rights. It is essential to assess the sort of rights minorities is entitled to be interlinked, in specific stability, with the definition of minority. Also, very essential is the will of the minority as a sense of solidarity and willingness to safeguard its features. As an indigenous community, it has one more division. Modern legal documents distinguish indigenous people from minorities and some fresh indigenous people as minorities, who are the initial residents of the territory also. Both rights may overlap indigenous groups for the protection accessible to minorities at the very least.

There is also another element to the word minority that is considerably distinct from the word individuals. Minorities are not a word reserved solely for those entitled to self-determination under Article 1 of ICCPR. Minority group shares common characteristics and may even have powerful connections to a state's land, people under international law. People

have the right to their territory's owners of political independence and governance. When the Council of Europe uses the word domestic to specify a sort of minority, its definition of national has usually included ethnicity. Due to its ethnicity, religion, language, culture or tradition or kin-state, the national minority can be differentiated. This strategy fosters regional stability through minority protection guarantees. It is provided in the Framework Convention (Ibid, p. 12). Citizenship is a prevalent Roma issue. It becomes meaningless at the end of the division of minorities because minorities need guarantees of linguistic rights, liberty of religion and the preservation of their culture.

### **THE STATUS OF ROMA**

Clarity about the Roma is disputed. There is no clear understanding, however, there is an idea of who Roma are, however, there is no determining factor to understand who Roma are. The Roma do not talk the same language or share a universal religion, are spread geographically, have distinct financial and political experiences, have distinct levels of riches and education, and maintain distinct cultural habits (Ibid., p. 10). The Roma are, therefore, a highly heterogeneous group. Thus, rather than considering them authentic, Roma must be seen as a political identity. Political identity has the significance of various Roma depictions, focusing on individuals' belongings. There is a lack of not representing Roma as a consistent organisation because they have challenged origin and history, but it is subjective and relational socio-cultural exchange. The majority's knowledge of Roma influences Roma's political identity. Roma has become a political project of non-Roma, civil society, national and inert domestic proponents since the 1990s, which has raised the Roma as a political agenda in the European Union and member states (Ibid., p. 4). The Roma was and remained, built and imagined in various contradictory, self-serving and strategic ways. The social representation of Roma runs adverse and positive pictures. These depictions gave the notion that, in distinct political contexts, Roma are distinct or do not fit. Unlike this, the voice of Roma is not present. There are so many instances as political performers

of Romani depictions. They have clear policymaking repercussions, including those promoting Roma integration. Roma identity resides in the depictions of Roma and attempts to formulate strategies for Roma integration in health, housing, education, jobs.

### **THE STATUS OF ROMA IN THE SOCIAL STRUCTURE OF EUROPE**

The societal stand highly decides political representation. Roma is more noticeable than before, but as an issue in society. Due to adverse depictions of Roma identity, particularly in Eastern Europe, Roma occupies a lower social position as an excluded minority. Roma social representations retain the symbolic and physical limits between Roma and the majority and sustain control, oppression, and exclusion-based connection (Ibid., p. 6). Most societies represent Roma culture as not being absorbed into the culture of the majority. The Roma culture is thus seen in society as a criminal Roma or working-shy Roma. This resulted in the new politics of xenophobia. Roma depictions, therefore, create distinct, acceptable events of multiculturalism, but it appears as an unknown threat to national identity (Ibid., p. 6).

Self-identity and multiple identities—an element of self-identity reinforce the word minority. This has been highlighted in some parts of their operations, among others, by the Human Rights Council (HRC) and the Council of Europe (CoE). Self-identity fundamentally relates to autonomy and the right of people to decide whether or not they belong to a minority. Thus, without reference to their subjective desires, no membership of a minority or a majority group can be enforced on a person. This criterion protects the person against the state but also protects the person against the community. The loose arrangement and implementation of the word minority can be useful as far as international law is concerned.

Europe needs to find out the status of human rights in Europe as an economic and political power. Human rights are essential concepts of guaranteeing democracy as a restriction of public authority and as legiti-

misgiving that power in terms of the rule of law. The main issue here is whether Roma's capacity to live in caravans per their cultural traditions can be said to be protected under the convention. Roma's traditional lifestyle may attract the privacy, family life and home guarantee of Article 8. The disputed measures had impacted the right of personal life here due to the rejection of planning approval, eluding the cultural aspect of it. It is an essential component of their Roma ethnic identity. State parties have an affirmative obligation to promote the Gypsy lifestyle under Article 8 to this extent. The convention is a living tool to be interpreted in the light of today's situation.

After recognising the development of a global consensus recognising a duty to safeguard the identity and lifestyle of minorities, the tribunal states that this consensus is not sufficiently concrete to guide as to the behaviour or norms that the Member States find desirable in any specific scenario. The Framework Convention for the Protection of National Minorities (FCNM) was therefore enacted in 1995 and entered into force in 1998. The FCNM's adoption was crucial in interpreting the freedoms guaranteed under the convention. FCNM has some shortcomings in that it has not provided advice as norms for any specific circumstances that it has only laid down general principles for minority rights. Article 5 of the FCNM requires states to encourage the circumstances needed for minority members to maintain the vital aspects of their identity and to refrain from measures directed at assimilating individuals belonging to domestic minorities against their will. As far as Roma are concerned, the application of the Framework Convention has not been practical.

## **EUROPEAN UNION ACTOR FOR THE ROMA**

The Roma are the EU's most significant minority ethnic community. It needs the EU to treat Roma equally. In this respect, with the collaboration of Member States, the EU is attempting to enhance the living standards of the Roma community. The main variables are EU legislation, implementation of domestic policies in the areas of education, jobs, as well as social inclusion in various finance programs and mechanisms of govern-

ment. Therefore, the ten fundamental principles are essential for making effective strategies for designing and implementing Roma integration.

The European Commission is promoting Roma civil society's active participation in European decision-making through the EU Roma integration platform. There are ten fundamental principles for Roma integration, such as (i) Constructive, pragmatic and non-discriminatory policies, (ii) Explicit but not exclusive targeting, (iii) Inter-cultural approach, (iv) Gender awareness, (v) Transfer of evidence-based policies, (vi) Involvement of regional and local authorities, (vii) Civil society involvement, (viii) Act, (ix) Offers advantages to minorities, (x) Avoid the erosion of domestic and sub-national identities created by their presence and activities.

This inadequacy poses a potential threat to the European order because neglect of the protection of minorities can cause tensions and instability between groups and across states. Roma experience discrimination and exclusion from society. EU member states and the European Union addresses the issues of education, jobs, housing, health, urban growth and the fight against poverty of the Roma people. EU does not have an exclusive approach to Roma problems; rather, it is more explicit. The Roma are incorporated as part of the EU's mainstream operations, therefore keen attention is given to the particular position of Roma in all EU policies and instruments that seek to enhance Europeans' general social and economic condition.

The EU aims to enhance understanding of discrimination and to disseminate awareness among the population of their rights and advantages of diversity. To make individuals conscious of their rights and responsibilities, the EU promotes a data campaign against discrimination across Europe. The Union is based on the importance of regard for human dignity for minorities, Article 2 Treaty of the European Union (TEU), according the TEU. Article 3 TEU commits the Union to foster these values, to combat social exclusion and discrimination, to respect their cultural and linguistic diversity, to protect and improve the cultural heritage of Europe and to maintain and encourage their values in their dealings with the broader globe (European Parliament, 2018).

EU is always attempting hard to create a just and better society for minorities in all aspects. However, various studies indicate that there has



been a steady increase in the frequency of anti-Roma violence in Europe in recent years, with good policies and rights for minorities, which is a severe matter within the EU. The EU has set up a legal framework to combat all of this and has made a financial contribution to minority assistance programs. When formulating and enforcing its non-discrimination policies, the European Commission consults with civil society organisations. Through civil society, the EU has initiated the directives successfully. EU member states also make bilateral collaboration with governments and provide direct support for complementing civil society and operating synergistically to promote and defend minority rights. Through the European Civil Dialog, also collaborates with the NGO social sector.

Furthermore, the EU sponsors financially intermediary actors such as non-profit organisations, voluntary organisations, foundations, & NGOs. This initiative of the EU is further getting its financial support through the World Bank and the UN Development Programme. Its goal is to enhance the Roma population's financial status and social inclusion by creating suitable strategies to attain these goals and tracking results. National Policy Coordination for an Inclusive Society-Central policy for the inclusion of ethnic minorities such as schooling, jobs or social inclusion is within the competence of member states. However, through standard objective policy guidance and indicators, the EU coordinates domestic policies.

## **RIGHTS OF ROMA**

Europe's intolerance of minority groups is on the rise. Respect for the freedoms of minority individuals is one of the EU's principles. Roma's traditional lifestyle is caravan dwelling and travelling, and since the 1960s has been deeply influenced by the growth of planning laws and policies. The Caravan sites act in 1968 provided Roma with appropriate housing. However, this law did not have the anticipated outcomes; only a minority of local authorities developed the necessary shopping sites in Britain. A 1976 study noted that there is still no proper stopping place for Roma.

Another study repeated the same thing in 1992 that Roma did not get a proper location. In 1994, the state ran out of the duty to provide housing to Roma by local authorities, although it provides authority to nominated countries (Poulter, 1999).

The issue of regard for the traditional Roma lifestyle has also appeared in another Council of Europe (CoE) organization, the European Social Rights Committee. This body has been entitled to review collective complaints alleging a breach of the European Social Charter since 1998. For the first time before it in the *European Roma Rights Center v. Greece* (Council of Europe 2003). The problem of the Roma right to traditional accommodation was raised in 2004. The committee discovered that inability of a state to take account of Roma's particular requirements and guarantee that they have access to an adequate amount of suitable caravan locations constitutes a breach of the European Social Charter. Two more instances of this situation were one in Italy and one in France. The court discovered a breach of Article 31 guaranteeing the right to accommodation as well as Article E prohibiting discrimination in conjunction with Article 31.

In 2000, the Council had adopted and implemented the Race Directive according to Article 13 of the TEC. Directive 2000/43/EC on racial equality is a European Union act. Discrimination may occur if a state fails to treat people with considerably distinct circumstances differently. Article 2 of the Treaty on European Union (TEU) explicitly mentions the importance. EU legislation and programmes, including discrimination against persons belonging to minorities, contribute to addressing specific problems. The Commission guarantees that EU nations respect the non-discrimination principle laid down in Article 21 of the Charter when implementing EU law. In specific, the committee has no general authority concerning minorities; it has no authority over problems relating to the acceptance of minority status, their self-determination and autonomy, the regime regulating the use of regional or minority languages. EU nations maintain the general authority to make minority decisions. They must use all legal instruments to ensure that fundamental rights are protected under international law per their constitutional order and responsibilities.

In 2009, the Committee on Economic, Social and Cultural Rights of the United Nations expressed concern over the shortage of appropriate loca-

tions for Roma and recommended that the State Party ensure adequate and safe stopping places for Roma. More usually, the housing issue experienced by the Roma in Europe has drawn the attention of the Council of Europe's Committee of Ministers. A suggestion taken in 2005 is about the Member States to guarantee that integrated and suitable housing policies aimed at Roma are established within the overall structure of housing policies (Council of Europe, 2005). Directive 2000/43/EC of the Council prohibits discrimination against race and ethnicity (European Council, 2000).

Implementing the principle of equal treatment among all individuals regardless of racial or ethnic origin. The European Court of Human Rights (ECHR) held that the inability to grant a Gypsy / Roma to settle with their family in a caravan on their territory and subsequent expulsion from their property did not represent an infringement of the Convention on European Human Rights. However, here the tribunal requires creating efficient minority rights protection to maintain their convention-based cultural traditions. The convention must be clarified as the Framework Convention for the Protection of National Minorities in the context of evolving global standards on minority protection. The court's ambivalence towards minority protection itself and human rights have shown several facts of the convention's breach. Downplaying the significance of minority rights, the individualistic attitude to the facts and the formal execution of equality has shown that the main divide is an idea that has become a reality. Concerning labour law in the EU, new EC regulations or directives have been implemented in the field of anti-discrimination since the Treaty of Amsterdam came into force in 1999, and this Directive complements other directives on gender and age, the religion of disability and sexual orientation. EU legislation, national policy coordination (education, jobs, social inclusion, financing programs and governance mechanism) Funding such as lifelong learning. The program for youth in practice, the program for society (2007–2013) and the program for health (2008–2013). Civil society participation is acknowledged as crucial in mobilising expertise and disseminating information needed to create government discussion and accountability.

The EU, Fundamental Rights Agency, has its headquarters in the Vienna Convention and performs its duties separately. It also cooperates with

other domestic or international bodies. The Fundamental Rights Agency (FRA) offers for the implementation of EU law to the appropriate organisations and officials of the EU and its Member States. FRA also gathers and analyses formal and unofficial information and data on EU problems related to fundamental rights. It also creates data quality and comparability techniques and norms. In 2005, nine Central, Eastern and South-Eastern European nations initiated a global initiative called the Decade of Roma Inclusion from 2005 to 2015.

### **UNDERSTANDING DOMESTIC POLITICAL RIGHTS OF ROMA**

The classic understanding of the right to participation of people belonging to minorities conceives minority political rights as a “group entitlement” within a given “geographical and jurisdictional space” (Weller, 2010). While Roma political rights, as the political rights of any other minority group, can undoubtedly be expressed within a “jurisdictional space”, “they can not be articulated within a jurisdictional space”. In the event of cultural rights, minority involvement in the public sphere is often non-territorially structured according to Renner and Bauer’s National Cultural Autonomy Model (NCA).

According to the doctrine, however, the notion of personal autonomy should be understood as being more extensive than that of cultural autonomy: the former relates to the criterion of autonomy delimitation, whereas the latter relates to the competence assigned to the autonomous authority (Verstichel, 2009). While this doctrinal differentiation of non-territorial self-governance provisions seems almost meaningless in the former, indeed, cultural autonomy can be understood as a means of ensuring the involvement of non-territorial minorities in the public sphere, particularly concerning promoting their cultural identity. Some forms of cultural independence may also involve some degree of political independence “in embryo”, as they enable the public sphere to represent minority claims. However, it cannot be asserted as a general rule that “cultural representation” automatically transforms into “efficient political

representation”, i.e., a form of representation that automatically spills over every aspect of government governance that affects the minority group. Therefore, when considering minority involvement in the public sphere from a political view, it is essential to differentiate the distinct degrees through which such involvement is expressed to understand the extent to which such involvement constitutes efficient enjoyment of political rights. To this end, the doctrine identified four legal macro-typologies that provide a streamlined reading essential to interpret the various shades enshrined in the concept of efficient minority political involvement: co-decision, consultation, coordination and self-government mechanisms (Weller, 2010).

Especially in Central-Eastern Europe, several states have acknowledged the right of Roma. Nevertheless, there are still several countries in which Roma political participation is not promoted at all or promoted at such a minimum level that it cannot be included in any of the four typologies mentioned above (Europa, 2010).

### **POLITICAL RIGHTS OF ROMA AT EUROPEAN LEVEL**

The legal recognition of minority political rights at the European level is mostly enshrined in the Organisation for Security and Co-Operation in Europe (OSCE) and CoE geo-legal spheres (Begic, 2013). In particular, the OSCE has played a central role in strengthening the legal context linked to the rights of minority groups ‘ political representation not only from a general view but also from the specific point of view of Roma political rights. The OSCE acknowledged, as part of the 1990 Copenhagen Meeting, the active involvement of minority groups in government life as an essential component of justice that ensures their intrinsic dignity as human beings to minority groups.

Significantly, the OSCE also acknowledged the specific issues of Roma in Europe in the same legal document (Bloed, 2013). In the subsequent Budapest Concluding Document, by paying particular attention to Roma, the OSCE recalled and expanded the principles enshrined in the Copenhagen Concluding Document. In this context, a legal basis was established

to establish a “Roma Contact Point” within the OSCE office for the democratic institution and Human Rights (ODIHR) with the mandate to act as a “clearinghouse” to exchange data on the execution of Roma obligations and to promote connections between participating states, global organisations and NGOs on Roma problems (OSCE, 1994).

Over the years that followed, the OSCE further extended the Roma Contact Point’s mandate to understand the duties of tracking the development of Roma political rights in Europe by concentrating in specific on analysing institutional equipment that promote Roma cooperation and representation (Mirga, 2012). With the establishment of the Roma Contact Point, the ODIHR began to address more consistently the issue of Roma’s political representation in Europe and a Roundtable on Strategies for the Implementation of Roma and Sinti Minority Rights was organised at the next Human Dimension Meeting to discuss the situation of this social group in Europe critically. This Roundtable concluded in its final portion that, at the political level, the Romani movement was operating at distinct levels, with loose systems of competence and communication more or less separately. In the same conference, the ODIHR called for an urgent dialogue between Romani militants and politicians to further strategies political participation and representation of Romani groups to enhance the active involvement of Roma also within domestic institutional systems (Weller, 2010). The process of recognizing the need for more efficient Romani involvement in political life was further improved with the implementation of Lund Recommendations (Wheatley, 2003).

In reality, in the same year as the Lund Recommendations were adopted, the OSCE / ODIHR Supplementary Human Dimension Meeting on Roma and Sinti Issues suggested a study on “best practices” concerning participation strategies to promote Roma political representation in the OSCE States (ODIHR, 2013). The meeting was launched by an HCNM introductory lecture recommending that Roma involvement and representation be expressed at the political level through particular institutional processes. Such mechanisms, in particular, should have been aimed at ensuring the genuine and meaningful representation of Roma in such a way as to preserve their specific identity and cultural characteristics. According to the HCNM, the effectiveness of such systems can be assessed

by several criteria that ensure efficient Roma involvement at all institutional and political levels (ODIHR, 2018).

### **POLITICAL RIGHTS OF ROMA AT THE INTERNATIONAL LEVEL**

The International Covenant on Civil and Political Rights (ICCPR) is regarded as the primary legal instrument for the protection/promotion of political rights at a global level. On a crucial stage, these rights articulate the general principle already enshrined in Article 21.3 of the Universal Declaration of Human Rights (UDHR), according to which the “will of the individuals shall be the foundation of a government authority”. More specifically, the ICCPR ensures each individual the right to participate in the behaviour of public affairs, directly or through the free selection of officials without distinction of any kind (Art. 2), to vote and to be elected by universal and equal suffrage by secret ballot at real regular elections and to have access to public service equality in one’s nation on a global basis (A). Similarly, The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) also obliges states to ensure “political freedoms, in particular the right to engage in elections—to vote and stand for elections—on the grounds of universal and equal suffrage; to engage in government and public affairs at all levels and to have equal access to public service” (Art. 5) Article 2 of the United Nations Declaration on the Rights of Persons of National or Ethnic, Religious or Linguistic Minorities expressly addresses the right of minorities to engage efficiently in government life by establishing their associations in a way that is not inconsistent with domestic laws. The Committee on Human Rights also viewed the right of minorities to participate as needing favourable legal steps to ensure that these minority groups participate more efficiently in choices that directly affect them (Ikdahl, 2005). However, as seen in the preceding section on cultural rights, involving minority groups at the stage of decision-making on problems that directly affect them can articulate either on a territorial or cultural dimension. Given Roma’s non-territorial and diffuse nature, it continues to be seen how this overall

principle of “guaranteeing efficient minority involvement” is guaranteed at the European and national levels.

## **INDIVIDUAL AND COLLECTIVE POLITICAL RIGHTS OF ROMA**

Nevertheless, promoting minority involvement in government life through “beneficial legal policies” does not exhaust the assurance that all minority people will have indiscriminate access to electoral rights. Such a guarantee that translates concretely into the right to vote and stand for elections takes into account only the individual dimension of minority political rights. However, the significance of “favourable legal measures” shows a much more complicated issue when considering the collective dimension of minority political rights.

According to OSCE Lund Recommendations 7 and 8, the right to vote and stand for elections without discrimination (together with liberty of association) is only preconditions for efficient minority depictions in elected bodies from a collective aspect. Once these preconditions have been met, efficient representations of minorities from a collective dimension can be substantiated by unique institutional processes such as reserved seats (Recommendation 6), advisory and advisory bodies (Recommendations 12 and 13) and self-governance processes (Recommendation 16) (McGoldrick, 2011).

According to Bieber, in the absence of a binding reference on how to do so. More specifically, the Lund Recommendations area apparent reference to power-sharing rather than to occasional minority representation. While the concept of power-sharing appears quite underdeveloped at the stage of global minority law, this concept has gradually become a significant characteristic of discussion in the discussion of minority inclusion in doctrine. Traditionally, the concept of power-sharing has been considered the prerequisite of constitutional democracy, but as the European practice has shown, there are various types of power-sharing in several instances, also in institutionally structured domestic structures other than through consociation devices. In this context, the concept of “power-sharing” has



been defined as a lasting and robust dedication to the integration of distinct communities within the government. Such an undertaking can be articulated either through a federal contract that has developed into a tradition over time or through a legal necessity (Bieber, 2010). Because of this more comprehensive perception of minority political representation, the following chapter analyses Roma political rights, particularly from the view of executive power-sharing from the collective rights view. Indeed, the analysis departs from the assumption that Roma cannot fully enjoy their minority representation rights only when individual political rights are guaranteed, as in this situation political rights are too weak to provide adequate and inclusive safeguards for the social group.

### **LINGUISTICS RIGHTS OF ROMA AT DOMESTIC LEVEL**

According to the latest research, Romani-speaking demographic estimates in Europe are usually around 80–90 per cent. However, as mentioned in the introductory section of this chapter, there are nations where Romans or Romanian guages are not spoken such as Portugal zero per cent, Spain 0.01 per cent, and the United Kingdom 0.05 per cent.

Nevertheless, in other parts of Europe like the Czech Republic, and Hungary 50 per cent of Roma people speak Romani. In Finland 40 per cent of Roma speaks Romani (Bakker, 2001). A significant number of Roma speaking Romans can be found in Europe, in the CoE region. Twenty-two nations, i.e., nearly half of them (out of 47) have acknowledged Roma linguistic rights either in their legislation or through European Charter for Regional or Minority Languages (ECRML) ratification. When this information is considered in the context of the overall mapping of the legal acceptance of Roma within the European domestic legal systems, there appears to be a quasi-complete correspondence between the legal identification of Roma as a “minority” and the legal attribution of language rights to this social group. The only two nations that escape this general rule are Portugal and the United Kingdom, both of whom acknowledge Roma as an “ethnic minority”, but for the reasons mentioned above, they do not ensure Roma any sort of linguistic rights.

## LINGUISTIC RIGHTS OF ROMA AT EUROPEAN LEVEL

Europe is the geo-political region where linguistic diversity is most prominently protected (Arzoz, 2008). As mentioned earlier, minority rights ‘“European architecture” is based on the OSCE, the CoE, and the EU’s three geo-legal fields. The 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension was established for the protection of linguistic rights for minorities, as a consequence of the OSCE concerns. The respondents acknowledged “the particular drawback of Roma (Gypsies)” throughout this context (CSCE, 1989). This document is not binding but indicates a fierce political commitment on the part of the adherent nations (Dunbar, 2001). It focuses, among other things, on non-discrimination linguistic protection, the use of mother tongue in particular, and the use of mother tongue in education. Also recalled in subsequent OSCE papers and mainly in the Oslo Recommendations were the foundational linguistic obligations set out in Copenhagen (Van der Stoel, 1999). This soft-law document discusses, in particular, the rights of identity (using separate names in the minority language), professing a religion (in the minority language), creating/participating in NGOs/organisation (in the minority language) and speech (in the media, public services, and judiciary)(Eide,1998).Linguistic rights are more protected explicitly in the geo-legal sphere of the CoE by two legal tools: the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML). As earlier pointed out, the FCNM only offers protection and advancement of minority rights for those social groups recognised as “domestic minorities” by states parties. Other social groups that do not benefit from the legal acceptance of the “domestic minority” (such as Roma in legal systems where they are described by law as linguistic minorities fall outside of the FCNM’s scope and therefore outside of its protection).

## LINGUISTIC RIGHTS OF ROMA AT THE INTERNATIONAL LEVEL

Even if there is no exclusive right to use a minority language in the present state of international law, there is, according to De Varennes, “a set of rights and liberties that affect the problem of language preferences and the use of minority or state members” (Phillipson, et al., 1999). This set of linguistic rights includes the private as well as the government spheres and mostly concerns a person rather than a collective dimension of freedoms. In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their religion, or to use their language.

This particular provision, which, among other freedoms, ensures “liberty of speech” for members of national minorities, can be practically translated into the right to talk and write a language in private or in public; to align and interact in private, to use the language in cultural or musical expression; to use non-official language minority names and toponymy; to show it in public (De Varennes, 1999). In the public sphere, international linguistic rights are confined to a national discretionary margin that depends on the national context, the numbers etc. and the concentration of minority language speakers. International law abstractly acknowledges the pleasure of language rights in the following government environments: public education, civil ceremonies, names and toponymy, government media and journals, and political representation in formal state operations (Ibid., p. 120). In practice, a more significant agreement has been established on domestic acceptance of linguistic rights in instances involving linguistic rights in legal proceedings such as the right to an interpreter (particularly in criminal trials) and the right to be informed quickly in a language that is understood (Ibid., p. 131). Broadly speaking, the use of minority languages is openly controlled by the criteria of non-discrimination, territorial levels and what is understood to be ‘sensible,’ ‘appropriate’ and ‘practicable’ under the domestic margin of appreciation in every scenario (Ibid., p. 132). Thus, while several international treaties recognise the public dimension of linguistic rights in terms

of the state's positive obligation, their concrete application still depends heavily on the domestic political dimension.

Nevertheless, considering the features of Roman's, it can be expected that although the whole set of linguistic rights applies in the abstract to Romani communities as well, linguistic clauses with a significant degree of 'territoriality' (such as the use of the minority language in toponymy) are unlikely to be implemented at the domestic level, considering the non-territorial nature of Romani societies.

### **INDIVIDUAL AND COLLECTIVE LINGUISTIC RIGHTS OF ROMA**

The doctrine has developed various theories and classifications at the level of comparative law to address the individual and collective dimensions of linguistic rights. Poggeschi defines three major categories of linguistic rights in this doctrinal discussion (Bonetti, 2011).

### **ECONOMIC AND SOCIAL RIGHTS OF ROMA AT DOMESTIC LEVEL**

In those CoE Member States legally recognising Roma, the catalogue of economic and social rights varies in terms of both the extent of the wording and the beneficiaries' target. Concerning the extent of the wording, a substantial proportion of nations develop within their constitutions at a very minimum rate of economic and social rights, either by including this set of freedoms in a particular provision on non-discrimination or by including this set of freedoms in general human rights regulations. For example, this is the case of the United Kingdom, which incorporated the entire set of rights enshrined within the ECHR in 1998, the Human Rights Act, which entered into force in 2000. Other states, such as Germany and Spain, have inscribed a far richer catalogue of rights within their constitutions, the beneficiaries of which are all State citizens in the name of the principle of equality (Betten, 1999).

The particular translation of the overall financial and social regulations into a minority rights view in other legal systems explicitly relates to the

fields of schooling, jobs and housing through distinct legal extents. For example, in Bosnia and Herzegovina, the Minority Law relates specifically to schooling and vocational training (Art. 13) (Bieber, 2003). The right to education is indeed one of the legal fields where the financial and social rights of minorities are more extensively elaborated. In reality, this right can be regarded multi-faceted as it embodies various legal areas: language rights, cultural rights and economic and social rights. Therefore, although this right is often explicitly designed to safeguard and encourage the linguistic and cultural dimensions of minority rights, it inevitably appears that the extra financial and social dimension is also protected and promoted (Memo, 2014).

#### **ECONOMIC AND SOCIAL RIGHTS OF ROMA AT EUROPEAN LEVEL**

Economic and social rights are mostly embedded at the European level in the geo-legal fields of the CoE and the EU. Indeed, the OSCE's mandate does not address economic and social rights specifically. As mentioned above, this organisation was established on the Commission on Security and Cooperation in Europe (CSCE's) heritage, and thus its task includes promoting human rights more from a cultural-political view than from a "purely" financial and social view (Packer, 2000). Economic and social rights are enshrined at the CoE level in several statutory instruments, although this set of rights has been established concerning the requirements of Roma through the European Committee of Social Rights (ECSR) and ECtHR jurisprudence. Instead, financial and social rights are one of the main pillars on which European integration has developed at the EU level. However, specific regulations on the economic and social rights of minorities in general and Roma, in particular, are lacking in the present legal framework. To foster the efficient enjoyment of economic and social rights for Roma groups, the EU has lately created a "Framework for National Roma Integration Strategies up to 2020", requiring the Member States to actively encourage financial and social initiatives to target the Roma community in Europe better.

## ECONOMIC AND SOCIAL RIGHTS OF ROMA AT THE INTERNATIONAL LEVEL

Although there are distinct ways in which the right to education can be implemented effectively, some minimum key commitments regarding the right to education have been recognised at the international law level. These commitments should be guaranteed to every citizen of the state, including minorities: free access to non-discriminatory government and educational organisations and programs, central education for all, adoption and execution of a domestic education policy that involves providing secondary, higher and elementary education, free choice of schooling without intervention (Veriava, 2020). As Wilson points out, “the range of educational freedoms goes beyond equal access to the material and means of educational service” (Salomon, 2005).

In other words, the assurance of the right to education is not adequate in itself: it needs multicultural marketing strategies for minorities to benefit efficiently from this principle. International law controls workers’ rights in the field of jobs through a double set of sources: the overall protection provided by the UN system and the norms taken by the International Labor Organization (ILO). The two International Covenants are the reference points in setting binding principles as regards the UN system.

The ICESCR offers a set of freedoms which comprises: the right to work (Art. 6), the right to fair and favourable working circumstances (Art. 7), freedom of association and the right to create and join trade unions (Art. 8), the right to social safety (Art. 9), family-related rights (Art. 10) (Douglas et al, 2009). And technical and professional training rights (Art. 13). Instead, the ICCPR protects trade union freedoms in particular (Art. 22). Instead, the International Labour Organization (ILO) provides some more particular labour standards that focus on the rights of minorities and indigenous (Swepston et al, 2021).

According to Yamin, in the situation of disadvantaged communities such as minorities and indigenous peoples, the state has a duty not only to protect and promote the minimum health norms recognised by the CDESCR but also to eliminate early mortality and morbidity, deemed

a pressing issue of social justice (Yamin, 2005). However, at the time, the instances regarded by global human rights surveillance bodies concentrate mostly on this social group's right to exist and, incidentally, only on financial and social rights, considering the extent of human rights violations endured by Roma.

### **CULTURAL RIGHTS OF ROMA AT DOMESTIC LEVEL**

The recognition of Romani cultural identity also entitles Roma to a set of cultural rights in a limited number of instances. In particular, cultural rights can be expressed either in the traditional Westphalian territorial view or in the more vibrant private view. Broadly speaking, in the instances of Italy, the Czech Republic, Macedonia, Montenegro, Poland, Slovakia and Bosnia-Herzegovina, cultural rights are expressed from a territorial view and mostly relate to the sphere of liberty of speech, especially about the protection/promotion of the Romani cultural heritage. While in the instances of Austria, Russia, Serbia, Hungary, Finland and Croatia where cultural rights are expressed from a private view, cultural rights meet the ideal of people's self-determination (more or less explicitly) by encouraging the cultural expression and growth of their cultural identity on a more promotional footing. This ideal is often embodied by the NCA model that, as seen, emphasises a collective and self-governed enjoyment of cultural rights (to varying degrees).

In those legal systems where minority groups are in reality given a high degree of autonomy in the form of NCA, the collective enjoyment of cultural rights can also lay the basis for enjoying political rights more effectively. Indeed, if minorities are given powerful guarantees in a collective (and personal) view to enjoy their cultural rights, their extensive involvement in the public sphere is reinforced. This involvement, which emphasises the separate cultural belonging of minorities, may represent an embryonic type of political participation. Accordingly, in those domestic situations where the NCA offers minorities a high degree of autonomy, it may turn out that it may be hard to define the perfect border separating cultural rights from political rights due to possible overlaps between cultural and political fields (Kymlicka, 2007).

## CULTURAL RIGHTS OF ROMA AT EUROPEAN LEVEL

Cultural rights' nature and scope are strictly interlinked with cultural and cultural identity notions. Even concerning a specific ethnic group, the concept of culture cannot be precisely described, as its "fluid" nature continually escapes any feasible definition. Consequently, both jurisprudence and statutory legislation refer to the concepts of "culture" and "cultural rights" through an extensive "margin of appreciation" at the level of international law. The reference to cultural and cultural rights ideas within global jurisprudence includes a broad range of rights: from rights protecting creativity (such as copyright, artistic and intellectual liberty) to rights indirectly protecting culture in its multiple forms (such as rights to education, religion or speech). Cultural rights are protected in various legal documents at the level of international statutory legislation, covering different cultural areas (Dennis et al., 2004). In general, the doctrine has defined cultural rights as the "Cinderella of the human rights family" since, from a legal point of view, cultural rights can be considered as the less advanced rights of the human rights spectrum (Niec, 1998).

In European legislation, cultural rights of minorities have been recognised in each geo-legal sphere—in varying degrees and separate legal spheres. In the case of Roma, the recognition of cultural rights is generally quite underdeveloped, given that the recognition of their particular cultural identity is also at an embryonic stage. However, certain types of acceptance of both Romani cultural identity and particular cultural rights have gradually begun to evolve, especially at the OSCE and CoE levels. While the OSCE lately acknowledged Romani cultural identity in a thematic study submitted by the OSCE High Commissioner on National Minorities (HCNM), through the ECtHR case-law, the CoE has increasingly promoted Romani cultural identity at a more binding level. Instead, it is still too weak at the EU level to recognise both Romani cultural identity and particular cultural rights, despite the presence of some hard-law tools that can suit the requirements of Roma.



## **CULTURAL RIGHTS OF ROMA AT THE INTERNATIONAL LEVEL**

For a long time, international organisations have ignored, or neglected cultural rights and national systems providing legal recognition of cultural rights have made their practical enforcement quite tricky. For this analysis, the discussion of cultural rights is limited to the sphere of the right to culture, i.e. the set of rights referring to the right. In the event of minority rights, Art. 27 of the ICCPR, as seen in the case of linguistic rights, is the most significant provision that acknowledges “a right to culture” at the international law level. Specifically, this provision relates to minorities and opens up a collective enjoyment of cultural rights, as clarified by the wording “in society with other group members”. However, this collective dimension should not be viewed as a corollary of Art.1 ICCPR on the rights of individuals to self-determination, according to General Comment 23 on Art. 27. Indeed, Art. 27’s scope is limited to persons belonging to minorities and should be consistent with States’ sovereignty and territorial integrity (Donders, 2016).

## **VIOLATION OF THE RIGHTS OF ROMA**

The problem of Roma’s political representation was further recalled during the Oslo Ministerial Meeting and the Bucharest Ministerial Council Meeting. In specific, during these conferences, the OSCE suggested the development of suitable alternatives to guarantee adequate resources were made accessible to implement the Roma Contact Point activities effectively. Although the OSCE legal documents do not have binding power, as has been argued repeatedly, the general principles enshrined in these papers were nevertheless essential to constitute the legal basis for building the FCNM’s binding obligations in the geo-legal sphere of the CoE. These are, in particular, the cases of Art.2.2 and Art.15 of the FCNM that require the Member States to create the conditions necessary to allow the participation of national minorities in cultural, social and economic life, particularly in those areas that directly affect them. In the case of Roma, in line with the principles identified by the OSCE and, in particular, by the

HCNM, the FCNM Advisory Committee recommended that these legal provisions be implemented more effectively, especially in the sphere of public administration where Roma are still underrepresented (Donders, 2015).

In particular, regulations relating to the conservation of minority identity do not often find significant application for minority groups (such as the right to schooling), not only because they require States to show active participation in the application of these freedoms, but also because these social groups are more vulnerable to ethnic and language-based discrimination. Some treaties have developed these freedoms by explicitly addressing minorities and indigenous peoples to ensure more efficient access to these social groups that could be more excluded from the significant enjoyment of economic and social rights. The practice has shown that these social groups face specific problems in gaining access to economic and social rights, particularly in four primary fields: education, jobs, health and housing (Logan, 2012).

## CONCLUSION

It is all about the accessibility of freedoms for European minorities to talk about minority rights in Europe. Minorities are excluded from participating in the majority's accessible financial, political, social and cultural lives. All of them have distinct kinds of disadvantages and face threats, discrimination and racism. It is, therefore, necessary to grant them unique privileges from the remainder of the majority community to bring them all into the mainstream. Rights to compensate for being disadvantaged in political, social, economic, cultural and linguistic elements must be provided. Special rights are required to guarantee that they are as capable of working and living in their own culture as are majority culture members by defending them from majority culture decisions that could undermine minority group visibility. The TEU, therefore, provides the Union, the authority to adopt tools to safeguard the freedoms of minority individuals. The EU has established a legal framework for the execution of these powers to combat discrimination, racism and xenophobia and has made

a financial contribution to programming and supporting operations directed at combating them.

Union has the authority to embrace tools to protect minority rights. Their participation in financial, political, social, and cultural lives is marginalised. The EU has a legal framework for combating discrimination, racism and xenophobia. The basic principles of the EU are inconsistent with discriminatory bases such as racial or ethnic origin, or faith. Under EU anti-discrimination law, Member States are needed to enact domestic legislation prohibiting discrimination on the grounds of race, ethnicity in jobs, education, social protection, and access to products and services. This applies not only to EU citizens but to everyone residing in the EU. EU uses a wide variety of economic and technical cooperation tools, such as bilateral cooperation with governments and direct support for complementing civil society and working synergistically to promote minority rights.

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