

CH 11. Roma Persons and EU Citizenship

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Introduction

Since 2000, the European Commission, Council of Europe, European Parliament and associated agencies have published an increasing number of communications on the need to improve the status of Europe's largest ethnic minority, the Roma¹ (e.g. European Commission (2010a); Council of the European Union, 2009; Council of Europe, 2010a and 2010b). In the words of a recent study of Roma integration, 'Roma have never been higher on the EU agenda' (Goodwin and De Hert, 2013:10). Agarín (2014) has even identified the intense strategic activity during this period as the emergence of a process termed European Governance for Romani Inclusion (EGRI). In parallel, an immense volume of communications, policy papers, reports and briefing notes have been issued by various non-governmental agencies, academics and policy institutes over the past decade documenting the endemic and often state condoned discrimination and marginalisation in areas such as employment, education, health and housing status of the Roma (e.g. European Roma Rights Centre 2007a and b; OSCE, 2013; Perić, 2012; The European Roma and Travellers Forum, 2015).

This focus intensified with the successive expansions of the EU in 2004 and 2007 and the subsequent migration of significant numbers of Roma citizens between Member States. While a substantial proportion of the literature has documented the everyday experiences of exclusion and discrimination faced by Roma across Member States (e.g. FRA, 2009a), another strand of research has considered the implications of such exclusion for the EU's own strategic fundamental rights and citizenship agenda. These have recognised the significance of Roma for understanding essential aspects of EU citizenship, in particular, the links and

potential conflicts between fundamental freedoms and fundamental rights (e.g. Dawson and Muir, 2011; Arauda et. al. 2013; Carrera, 2013; Guild, Carrera and Eisele (eds), 2013; Juverdeanu, 2016).

On one level this is unsurprising, not least because the same period saw a major extension in the Union's authority to intervene in this field, most importantly the amendment of Articles 2 and 6 (TEU) by the Lisbon Treaty in 2007 (OJEU, 2007), which made the EU Charter of Fundamental Rights legally binding and of equivalent rank to all existing primary EU laws (effective from December 2009). One consequence of this was the grant of new powers with regard to fundamental rights to a Commissioner – entitled the European Commissioner for Justice, Fundamental Rights and Citizenship (renamed in 2014 as the Commissioner for Justice, Consumers and Gender Equality). But the period also saw a number of crises involving Roma migrants and the government of EU Member States, which drew in major EU institutions and raised serious questions about the extent of transnational rights within the Union, and their enforceability. The most prominent of these were the 'nomad emergency' in Italy (2009), the mass evictions/expulsions of Romanian and Bulgarian Roma in France in 2010, and to a lesser extent in Germany during 2009-10. In this regard, the treatment of Roma has been regarded as testing ground for the boundaries of EU citizenship (e.g. see Caglar and Mehling, 2013).

In this chapter, we look at to what extent the rights of Roma are being operationalised with respect to employment and the role that plays in terms of migration. On a strategic level, this is important because employment is a core pillar in terms of both the EU's general programme for inclusion and integration of all its citizens and the planned direction of the Union itself, not least through the 'levelling' potential of freedom of movement (see Europe 2020 - A European strategy for smart, sustainable and inclusive growth, (European Commission, 2010c) – but also because such inclusion lies at the heart of the Union's core

approach towards Roma, summarised in the document ‘An EU Framework for National Roma Integration Strategies up to 2020’ (European Commission, 2011). As Roma inclusion has been expressly framed within the language of citizenship and rights, it is appropriate to ask to what extent are nations delivering on this agenda. If core European documents on the Roma, such as the Framework place such emphasis on inclusive citizenship, is that being activated by Member States through their national strategies? What are the day to day experiences for Roma as nationals and as migrants in and between of Member States?

The following sections provide a brief overview of both European level policies and strategies on the status and situation of Roma in Europe and academic analysis of this discourse, considering in particular those studies which have discussed what citizenship means for Roma in the EU. It then provides an overview of the evidence of exclusion of Roma across Member States within the framework of employment, and its connection to migration. In doing so, it aims to explore what two core aspects of European citizenship means in reality for a group which has been described as among the most vulnerable in the Union.

Drawing primarily on data from a recent pan European study conducted in ten Member States between 2013 and 2015 (Brown et. al. 2015)ⁱⁱ, it is possible to see that, despite the existence of a common framework for action since 2011, even basic access to the labour market remains a long way off in many, if not all, countries, impelling many Roma to migrate elsewhere in the EU. For Roma freedom of movement as “forced mobility” (Arauda et al 2013: 140) continues to exist, as Roma find themselves obliged to migrate to escape endemic discrimination in the labour market and escape a cycle of dependency on social welfare regimes which often re-inforce unemployment and poverty.

Part I - Roma and the EU: the policy background

The regular indictment of the ongoing exclusion faced by Roma, whether by the Commission, the Parliament or the Council of Europe, may be interpreted as a recognition that successive measures to improve their situation have proved somewhat ineffective. Indeed, several of the Commission's own communications have acknowledged this shortcoming, including the flagship 'An EU Framework for National Roma Integration Strategies up to 2020' (Com 2011/173, p.3). Many reports deplore the continued existence of pervasive prejudice and discrimination faced by Roma across all Member States (e.g. European Commission (2010a), as catalogued by the EU's own agencies such as the Fundamental Rights Agency (FRA 2009a, 2012 and 2016), or the special Eurobarometer surveys (European Commission, 2012).

Persistent criticism has been made of 'official' initiatives, whether instigated by the EU, national governments or a combination of the two, such as European Social Fund initiatives managed by individual Member States (e.g. Hurrell et al. 2012). Rorke (2013) and D'Agostino (2016), for example, have pointed out the major shortcomings of many National Roma Integration Strategies, not least the vagueness of commitments, lack of resources or inadequate monitoring arrangements. Similarly, the series of annual civil society monitoring reports on the Decade of Roma Inclusion, (2005-15), has consistently pointed out failings of national governments to make good their promises to tackle discrimination against Roma. (Decade of Roma Inclusion Secretariat, various).

Considerable numbers of Roma have taken the opportunity to exercise their freedom to move and work in other Member States. As Penning (2017 final reference to be inserted) states, migrants are particularly vulnerable, not simply because they can only access limited and insecure work after arrival, but are also disadvantaged by the legacy of poverty, unemployment and discrimination they faced in their country of origin (ch.1: 18). This is a particularly apt description of the situation of many migrant Roma in the EU. In 2009, the

European Fundamental Rights Agency published a major study into the experiences of Roma migrants in the EU. This concluded that while a proportion had benefitted greatly from mobility:

The exclusion of many Roma EU citizens in the society of their Member State of origin and in their host Member State creates insurmountable barriers to formal employment and the ability to prove 'sufficient resources', which has a domino effect on their ability to register, and, as a consequence, to access key civil and political, economic and social rights. This raises profound questions about the effectiveness of inclusion policies. (FRA, 2009b: 10).

Four areas have come to dominate the European Union's Roma programme: housing, health, education and employment, all of which intrinsically relate to social rights of citizens. The same quartet had appeared as the focus of The Decade of Roma Inclusion (2005-15), although it may not be unrelated that the Race Equality Directive (2000/43/EC), compliance with which was a major plank of accession criteria for prospective Member States, also focused on efforts to challenge racial discrimination in employment, education, 'social protection including social security and healthcare, social advantages and access to and supply of goods and services' (see in particular clauses 8, 9 and 12 – OJEU 2000). The same four areas were also translated to the flagship EU Framework for National Roma Integration Strategies up to 2020 (Com 2011/173), the first attempt to introduce a co-ordinated, top down strategy on all Member States. As a first step, the Framework stated there was a 'need to ensure that Roma are not discriminated against but treated like any other EU citizens with equal access to all fundamental rights as enshrined in the EU Charter of Fundamental Rights.' (ibid: 2).

Researchers have argued that the EU's policy towards the Roma over the past 20 years has been characterised by a number of distinct phases, an evolving process which has reflected broader shifts in the Union's own long term political priorities (Sobotka and Vermeersch, 2011; Goodwin and De Hert, 2013). This argument contends that in the 1990s, Roma were primarily viewed in terms of their status as an excluded ethnic minority community, at a time when the majority of Roma in Europe were residing in Central and Eastern European nations outside the EU. Subsequently, in the early 2000s, Roma policy shifted away from this culturally oriented, group based approach, to one where confronting violations of individual Roma's rights and freedoms was paramount (see also Agarin, 2014: 739). One demonstration of this was the rise in landmark cases involving Roma brought to the European Court of Human Rights at Strasbourg in the early 2000s, alleging violations of European Convention on Human Rights Articles. This, it is claimed, reflected the general growth of the anti-discrimination and human rights agendas, symbolised by the introduction of Directive 2000/43 'implementing the principle of equal treatment between persons irrespective of racial or ethnic origin'. Many of the nations with significant Roma populations were now prospective Member States and as part of the accession criteria were required to demonstrate how they intended to institute effective national anti-discrimination measures and incorporate sanctions and redress into legislation (actually mandatory for all states in Directive 2000/43/EC – see esp. Ch.2 'Remedies and Enforcement'). Legal rights associated with EU citizenship were being deployed in its major institutions on behalf of Roma, mainly by NGOs. This, it might be argued was the first of many Roma 'acts of citizenship', aimed at improving the inclusion of prospective citizens, whose basic rights were anything but guaranteed in their own country.

In the latest phase, the argument runs, Roma policy is increasingly dominated by more general socio-economic objectives. Certainly, the EU Framework for National Roma

Integration Strategies up to 2020 (European Commission, 2011) places significant emphasis on economic integration as the core challenge for Roma. Goodwin and de Buijs (2013) explored in depth the detail of the Framework, arguing that its core message is that the exclusion and discrimination faced by Roma can be tackled by ensuring greater participation in the labour market, which in turn enhances their integration into wider society. Critical of this approach, they argue such a policy ignores the vital importance of tackling anti-Gypsy prejudice before implementing measures to ensure access to employment, and that the latter are likely to fail if the former is not addressed. While cognisant that the Framework pays respect to ‘the language of fundamental rights ...it is economic concerns that shape and determine the model of Romani integration.’ (2013: 2054). McGarry, (2011) and Sigona (2014) have also argued that only by recognising the prejudice and discrimination as the key cause of exclusion would its symptoms, such as poor access to employment, education, health services and housing ultimately be resolved.

Therefore the development of Roma strategies and policies by major EU institutions should not be viewed in isolation, but as a reflection of the Union’s own development over the same period. The Europe 2020 strategy, launched in 2010 as a response to the global economic crisis, emphasised the centrality of economic growth and employment, stressing that this must be ‘inclusive’ – that is, targeting groups which through low skills, poor education or poverty were at risk of exclusion and by developing more flexible labour markets. Goodwin and de Buijs draw a direct line between this strategy and the Framework for National Roma Integration Strategies, suggesting the latter presents ‘a concrete expression of what the 2020 Strategy’s vision of inclusive growth entails.’ (2013: 2055). Therefore, if we are to understand what citizenship means for Roma, it is primarily to employment we must look.

Part II – Roma, employment and migration: activating the inclusion of Roma in a post NRIS landscape

It is perhaps unsurprising that the terminology in the EU's strategic Roma policy documents has changed over time to reflect wider trends in the Union's own development and priorities. Yet it is notable that many of the flagship Roma policies and communications, including the Framework for National Roma Integration Strategies (European Commission, 2011) do not highlight the sizeable migration of Roma between Member States or suggest why this might be occurring. This is puzzling, given that the story behind this movement touches on so many of the fundamental themes of the Union over the same period – freedom of movement for work, integration and cohesion in a rapidly expanding EU, national versus supra-national supremacy, the development of fundamental rights and non-discrimination.

It was not coincidental that the increased attention paid to Roma in Europe occurred at a time when the European Union was undergoing its largest transformation expanding from 12 to 28 members, including nations with significant long standing populations of Roma (Guy 2009; Sobotka and Vermeersch, 2011). Although small numbers of Roma from Central and Eastern Europe had claimed asylum in Western European states prior to 2004, (most notably Roma escaping conflict in the former Yugoslavia), large scale movement, primarily from east to west, started after this date with rapidly growing populations in countries which, while they may have had long standing indigenous Gypsy and Traveller communities, had very little experience of migrant Roma. This included Spain, the United Kingdom, and France.

Sigona (2014), discussing EU citizenship and the large scale movement of Roma within the Union, suggested that the rise in persecution and discrimination experienced by Roma in the 1990s and 2000s undoubtedly played a key role in the widespread migration after enlargement in 2004 and 2007, and was intrinsically related to the restructuring of European politics, particularly the economic upheavals experienced by former socialist states of Central and Eastern Europe, and their transition to more market oriented economies. As part of that transition, the closure of many state run industries and the ending of full employment policies led to the loss of many jobs. In many cases, Roma were hit the hardest by this process, often being the first dismissed and facing the greatest struggle to find work subsequently.

Prior evidence of the ongoing widespread exclusion of Roma from employment in the EU was well documented (e.g. Hyde 2006; European Parliament 2008). Research by the European Roma Rights Centre (2007a and 2007b), collectively covering Bulgaria, the Czech Republic, Hungary, Romania, Slovakia, France and Portugal described the multiple forms of exclusion from the labour market and the accompanying failure of labour market activation schemes (see also Messing, (ed.), 2013).

Multiple factors behind the chronic unemployment and underemployment rates experienced by Roma were highlighted by respondents in a recent pan European study on Roma exclusion (Brown et al., 2015). Through the perspectives of national, regional and local government officials, other public sector workers NGO workers, employers and representatives of Roma led organisations in ten Member States, the research reviewed how each country's National Roma Integration Strategy was being realised, what impact had occurred and any obstacles to progress. Employment was one of four core themes. Much of the rest of this chapter utilises data from this study.

An NGO official in Bulgaria commented that during the transition period in the 1990s, Roma had been the first to lose their jobs, after which children had stopped attending school. They went on to describe the current situation:

As far as employment goes, 70, 80 per cent of the Romas (sic) are permanently unemployed.....This is due to the low level of education, low level of qualifications, and the collapse in the economy, obviously. (BG9)

A senior civil servant concurred that Roma had been the initial losers after the communist period, but suggested that their failure to find work subsequently was that 'they didn't have the skills required to find their place in the labour market.' They added that in the last two years they had noticed a large percentage of Roma were inactive, not even registering in the employment bureaus, possibly the result of economic crisis (BG8).

In a deprived micro-region of Hungary, where the overall unemployment rate ran at approximately 20%, the situation was extremely negative for local Roma, for whom a municipal official estimated the level at 70% in his town. By way of context, another respondent stated that many of the old industries had closed, leaving few jobs for anyone, although the recent crisis had made this situation worse. (HG5). Likewise, a respondent from a Slovakian policy institute confirmed that while a proportion of local Roma worked cash in hand, most were officially listed as unemployed – in the nearby settlement, they assessed a rate of 70% - 80% but also emphasised that the situation for Roma had worsened since the collapse of the socialist regimes in the early 1990s (SK6). This picture of chronic unemployment was echoed in other Member States such as Romania (RO8) and Greece (GR2A). These persistently low levels echo the findings of other surveys, which showed paid work rates for Roma aged 20-64 in nine EU Member States averaging 30%, well below the EU average of 70% in 2015 (FRA, 2016: 10).

Examples of overt discrimination were supplied in all the countries (Brown, et. al. 2015: ch. 4). This often manifested itself when Roma were obliged to state their address or at interview. One Italian Roma wished to move out of his current camp, because whenever he searched for work and ‘they see (name of camp) in my address they would say, okay, you are gypsy and I don’t want to hire you or I don’t want anything to do with you’ (IT8 ABC) - the city of Rome requiring residents to carry an ID card which listed their address (IT1AB). In Greece a placements scheme aimed at promoting longer term employment had failed because ‘People would not hire Roma.’ (GR1), while longer term employment via a similar Italian scheme foundered because of ‘prejudice and not the skills of the individual’. (IT1AB). This touches on another issue, that while significant investment has been made in preparing Roma for work across many Member States, the question of how many graduates of training schemes, placements or similar programmes have obtained and maintained employment is largely unknown (e.g. Messing (ed.) 2013: 5)

Where formal employment was available, it was invariably defined by its precarity. A representative of an autonomous Roma self-government in rural Hungary described how very short term contracts, often of six or seven months, were the norm and that payment for the work was very low. (HG1). But this was not exclusive to former socialist countries in Central and Eastern Europe. In the UK, several interviewees suggested migrant Roma were predominantly, engaged in unskilled, casual low paid, highly vulnerable to exploitation (UK1, UK9, UK10). Similarly, an inhabitant of a Roma camp in Rome, Italy, estimated about 50-60% of the residents worked unofficially, but that even the small number who had ‘all the documents’ could not earn enough to pay all the bills and support the family. In Athens, a historic source of male employment at the port had now disappeared, leaving women to sell flowers on the streets. (GR2).

Aside from extended periods without work, the chances of future employment for many Roma were often limited by a chronic lack of educational qualifications (particularly literacy) and professional/technical skills. In Greece, in order to attend a vocational school to train in a recognised trade, a resident is required to finish junior high school, which most hadn't. 'There's no training schools for somebody who knows only a little bit to read and write.' (GR2).

The evidence did not suggest that the introduction of a common EU framework to address Roma exclusion was bearing fruit in the field of employment. This picture agrees with the conclusions of other multi state surveys following the implementation of the Framework. One recent report indicated that 'meeting the 2013 Council Recommendation's goal of taking effective measures to ensure equal treatment of Roma in access to the labour market and to employment opportunities will be a considerable challenge.' (FRA/UNDP 2016:10). Likewise, the final report of the Decade of Roma Inclusion (Rorke et. al., 2015), concluded that while some progress had been made, extensive unemployment, discriminatory work practices and failed Roma-targeted employment programmes remained the norm across the participating countries. As Messing (ed.) (2013) highlighted comprehensively, mainstream labour activation policies across the EU are systematically failing to include Roma.

Across several Central and Eastern European Member States, the only realistic option for many Roma was to participate in what were referred to variously as 'public works' or 'activation works' through which the state provided employment on labour schemes in return for access to welfare payments - a fact acknowledged by a Hungarian respondent who reflected that:

Basically, the local government functions as one source of employment in the whole area. This means about hundred, hundred and twenty public workers. They tried to divide them into various groups who are productive for various valuable things. (HG3)

Effectively, such work-welfare schemes had become a career for many Roma.

More concerning, there was no sense that any viable alternatives were available or being proposed. The situation in a Slovak city had deteriorated to the extent that if a child from the Roma community was asked what they wanted to be when they grew up they would reply ‘municipal worker or the public worker..... To sweep the streets, that’s the only thing which I have around me, in my world’ (SK6) – a view echoed by the Mayor of a rural municipality (SK4) who mentioned that all he heard from Roma schoolchildren was that they would complete their mandatory education - ‘And after that you will go for the activation works or any sort of working and you will get sixty three Euros (per month).’ But these were not necessarily any less precarious - public works could employ someone for a year or just the odd occasion, and the number of public employed workers could rise ahead of elections, falling later. ‘The most typical of this public work I think is insecurity, lack of security.’ (HG3)

Tackling the discriminatory exclusion of Roma from employment in their respective countries of origin has been cited as the essential step to gaining full EU citizenship – in the words of Maslowski, ‘If they are able to work and earn a living in their home country, they are as likely to enjoy freedom of movement as any other EU citizen.’ (2015: 77). On this subject, Penning (2017:18 - final reference to be inserted), discussing the barriers facing citizens discriminated against in their country of origin, argued that ‘There is much to say for the responsibility of the State of origin of combat that discrimination, to create a safety net in the home State and appropriate employment, so that only persons with prospects for making a living make use of their right to free movement.’ Such sentiments has not been without criticism, with some seeing it as being about ‘solving’ the issue of large scale migration of citizens from East to West, (Goodwin and de Buijs: 2053). And as Maslowski concedes, various programmes and projects aimed at improving access and inclusion in countries of

origin, including the respective National Roma Integration Strategies, have often been used as a justification for why Roma should not exercise freedom of movement. (ibid). Even where such programmes have been attempted, the comprehensive study by Messing et. al (2013), which examined the variety of employability schemes and work incentives across five Member States, fully documented their shortcomings when it came to Roma communities. But as long as the focus of EU policies remains on the integration of Roma within ‘sending’ Member States questions of migration and citizenship start to ‘fall out of the picture’, which, it may be argued, suits those receiving countries which have sought to portray Roma migration as problematic and burdensome, to the extent of organising large scale deportations. (Arauda et al 2013: 148)

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Nevertheless, if European strategies visualise a future where ensuring the economic inclusion of Roma builds a better future in their countries of origin, certainly the available data suggests the reality is a long way off and that, by voting with their feet, Roma at least envisage that increased prospects of employment and social inclusion can only be realised through migration (e.g. Cherkezova and Tomova 2013; Brown et al, 2016).

There is extensive evidence that systemic exclusion from employment facing Roma in many EU nations has driven widespread migration to other Member States in search of a better life. In the lengthy exploration of Roma migration, including an in depth study of Bulgarian Roma migrants in Belgium, Cherkezova & Tomova (2013), describe the precarious nature of employment, with irregular and illegal work typical for many, posing severe issues when it came to accessing social rights such as benefits or housing (and residency status). In the main study a Roma NGO worker in Bulgaria commented that almost half of the people from the municipality’s population were working abroad because there was no employment

locally (BG5). This was often situated within wider discourse on longer term economic problems, as the statement of a senior Bulgarian civil servant highlighted:

The economic problems have forced many Romas, (sic) and Bulgarians equally¹, to leave the country.... It's either one parent leaving and the other one are struggling to make ends meet here with the money received from the other parent, or children are left in the care of their grandparents or their aunts. (BG9)

However, migration for work was not simply a matter of leaving countries in Central and Eastern Europe for Western Europe. A Roma respondent, originally from Romania, but now living in Poland, described why they had left:

There was no work, there was really just no economic means and just like everybody they decided to leave. (PL14)

Nevertheless, while poverty and deprivation was a major factor in the migration of Roma and non Roma alike, the overt discrimination facing the former remained a motivating influence. A respondent in Athens cited a former client who had completed Greek schooling was now working in Germany because there was no chance of work. Likewise a UK interviewee talked of a qualified mechanic, who 'couldn't get a job because he was Roma.' (UK2), while another talked of an acquaintance recently qualified in the law – 'In our country (Czech Republic) she will have no chance to become a lawyer. In this country, she had a chance, she used it.' (UK3A).

However, where such migration has occurred, it has not been unproblematic – actions by Member States such as the 'nomad emergency' in Italy and the mass evictions in France in 2010, both subject to criticism by the European Commission, the Council of Europe and the European Parliament, demonstrate that the prejudice and denial of basic rights are not

¹ The terminology used here is interesting, distinguishing Roma from Bulgarians, despite the context clearly being long term residents, not recent arrivals.

restricted to the Central and Eastern European Member States from which most Roma migrants have originated. Certainly the evidence suggests this is a common occurrence for Roma migrants (FRA, 2009b: 59/60).

Unsurprisingly, factors such as limited recognised skills and qualifications followed migrant Roma to some extent, but this was compounded by language barriers. Numerous respondents in the UK described how poor or no English was the key limiting factor in preliminary tasks such as filling in application forms, liaising with Job Centre staff or performing at interview, as well as accessing higher positions. The attempt to gain such skills by migrants in the UK again touches on intersection of work and welfare. In reality, this meant that while Roma could and often did find employment, it was often highly precarious, with long hours, low pay and exploitation common. (see also Brown et al, 2016). Commenting on the types of work Bulgarian migrants found in other Member States, one government official stated that many worked in ‘dirty jobs’ in utility companies ‘jobs that no German would want to do....They are very good and have significant progress in Spanish. There are lots of Romas (sic) employed in agriculture and construction in Spain.’ (BG8).

An official in a municipal employment exchange described how their department operated an ‘intermediation’ service, which offered employment abroad, including seasonal jobs as strawberry pickers in Spain and had helped another Roma to travel for work in Germany (BG4). But others suggested more precarious outcome: Roma ‘find themselves hired in construction both at home and abroad and all of them are illegal employment.’ (SK6). In part this was down to the lack of recognised qualifications.

They won’t have certificates and leaving examinations from back home. That is an issue, obviously. (UK8)

From that perspective, migration, while it had removed the overt discrimination experienced in countries of origin, had replicated many of the forms of work available in Central and Eastern Europe.

These were not the only additional obstacles to fully accessing the labour market. For example, Roma in Italy, whether recent or historic migrants, faced additional administrative restrictions which could severely limit the ability to find work. For over 18s, access to full citizenship via a residency permit is closely tied to an individual's employment record; as a consequence those without evidence of work as an adult may find it difficult to get their under 18s residency permit renewed. To compound this, those without a residency permit face major difficulties should they wish to enrol in further education or even find a job. (IT6). Noting that the possibility for Roma to stay in Italy with a residence permit was usually denied, a human rights legal advisor in Rome highlighted the difficulty getting a residence permit or a passport from their embassies. 'Having no residence permit or no passport means that they have no right to work or to be included socially in a dignified way.' (IT5). This did not just apply to EU citizens – many Roma in Italy had come from the former Yugoslavia, remaining illegally for 35 or 40 years and unable to gain any kind of status (IT6 A_B). Given the widespread prejudice excluding Roma from work in the first place, the community were at a serious disadvantage.

For some Roma, migration involved several countries and could even remain peripatetic. A senior Bulgarian civil servant (BG8) stated that Spain, Italy and Greece were popular destinations for local Roma, but added that following the severe economic crises affecting all three countries, many travelled back and forth as employment opportunities abroad became more limited. Notably, the same person highlighted the demand for language courses among Roma, particularly German and Spanish, after the ending of temporary restrictions on mobility affecting Bulgarian citizens in 2013 (BG8).

Discussion: EU Citizenship and Roma

Many of the chapters in this book deal with the social rights of European Union citizens. However, as Stendahl & Swedrup (ch.? final reference to be inserted), argue “social rights” remain an ambiguous concept, incorporating both moral and legal implications and overlapping with notions of human rights. As De Vries (2013) suggests, disentangling social rights such as freedom of movement and entitlement to social assistance from fundamental rights is not a simple matter, with both having been, to some degree, present in the very earliest EU treaties (see Articles 2, 6 and 21 TEU, as amended by the Treaty of Lisbon 2009).

On a more conceptual level, as De Vries indicates, there remains an ongoing negotiation between the kind of privileges outlined in the Charter of Fundamental Rights such as prohibition of discrimination on the grounds of race, ethnic or social origin (Article 21) and the core freedoms of the Union such as freedom of movement, and that even the Charter itself has ‘no clear distinction between classic political and civil rights on the one hand, and social and economic rights on the other.’, with each given equal weight (2013: 184). This has led to much debate and judicial activity in an attempt to clarify where there is conflict between the two areas. Douglas Scott suggests that, despite the growing authority of the human rights element in fundamental rights agenda the ‘EU’s main concern has been with market building and regulation’ (2011: 680). Similarly, Maslowski (2015) argues that EU law continues to prioritise economically active and ‘integrated’ migrants over low skilled and inactive ones, putting the latter at a disadvantage, particularly in accessing social rights.

Even if the EU has progressively developed a much more robust set of fundamental rights through measures such as the Directive 2000/43 and the Charter of Fundamental Rights, this does not necessarily mean that equal access to them exists for all citizens, whether migrants or not. In part this is the result of tensions between the priorities of EU institutions

and those of national governments – a factor acknowledged even in the Charter which recognises rights must be in accordance not just with EU law but ‘national laws and practices’ (OJEU, 2000). However, Guild, Carrera and Eisele argue that the inherent intricacy of regulations around freedom of movement, and their lack of clarity, have allowed Member States to pursue quite independent agendas, “when looking at the set of rights and freedoms (in terms of access to social benefits) of EU migrants (2013: 132). Maslowski points out that the implication of this for migrant citizens is that ‘total equality of treatment is still not possible in some areas, such as social assistance.’ (2015: 75)

As Seeleib-Kaiser and Penning highlight elsewhere in this volume, the complex and divergent system of social rights which exist across the Union poses serious issues for those citizens on the margins choosing to exercise their freedom of movement. On a practical level, both note that migrants with few resources and limited employment safeguards in place are at risk of exploitation and degrading treatment which violates their right to human dignity. This neatly demonstrates the link between social rights to more universal privileges (for example, see Article 1, ‘Human dignity’ Charter of Fundamental Rights of the European Union (2000/C 364/01).

With regards to Roma, this ambiguity has been brought to the fore, to the extent that Caglar and Mehling (2013) have termed Roma migration the ‘frontier’ of European citizenship, for its ability to reveal the inconsistencies and limitations of a supposedly uniform set of rights and entitlements. In their study of Roma migrants in France and Spain, Parker and Lopez Catalan state that for Roma, access to such privileges ‘is not the same in all places at all times’, indicating that even within individual Member States, the interpretation of citizenship across different spheres of administration is often ambiguous, and inequitably applied, with some groups such as Roma more harshly treated. This, they contend results in multiple levels, or classes, of EU citizenship (2014: 381).

The fact that Member States themselves have actively colluded in this is highlighted by Lambert who discusses a letter sent by four EU governments to the European Council in 2013. This complained that ‘certain’ citizens were abusing the right of free movement without fulfilling the responsibilities attendant on it (i.e. work) and that tougher sanctions needed to be deployed, including expulsion and suspension of re-entry for those found guilty of breaching regulations. Reading between the lines, Lambert observed that ‘this letter primarily concerns EU citizens of Roma descent, although that is not explicitly stated.’ (Guild, Carrera and Eisele, 2013 (eds), vii). Criticism of Member States’ activity in this area had already appeared in Commission documents on Roma inclusion which censured ‘the conditioning of the right to free movement and residence on formal employment or other means testing creates massive barriers to the exercise of these rights by Roma.’ (European Commission 2010a: 9).

Reflecting on this, Arauda et. al. (2013) have seen the movement of Roma as a disruption of ‘instituted scripts of mobility and European citizenship.’ On this reading, Roma migration challenges a purely functionalist narrative of freedom of movement in which citizens freely trade their labour and services, thus enhancing the social and economic integration of the Union, precisely because on the one hand, they have not migrated out of choice and on the other, have regularly been denied the rights associated on freedom of movement in destination countries. The persistent discrimination of Roma in both spheres calls in question the reality of a common framework of anti-discrimination and human rights protections, enshrined in the legislation of all Member States. ‘By revealing the presence of systematic racial discrimination and extreme poverty within the EU, the Roma posed a challenge to the acclaimed ideal political and economic qualities of EU space.’ (Caglar and Mehling, 2013: 159)

The aforementioned letter goes on to call on the countries of origin to improve the situation of the citizens in question, and avail themselves of EU funds to help achieve this. In

an otherwise robust defence of those who migrated to improve their situation, in a section entitled ‘Solving the problems best at home’, Laszlo Andor, who held the post of EU Commissioner for Employment, Social Affairs and Inclusion from 2010-2014, commented that ‘The EU should not restrict free movement, but should strive to reduce the number of people who want to migrate out of despair.’ (2015: 7). There was no direct reference to Roma, but given his involvement in the EU’s response to the expulsions of Roma in France, this was a subject he would have been well aware of. (European Commission (2010b)). Thus, while utilising freedom of movement could be seen as a primary act of EU citizenship for many Roma, migration out of effective necessity rather than choice remains problematic for the idea of fundamental rights available to all citizens. The evidence clearly suggests that, for Roma migrants, their second class EU citizenship is intrinsically rooted in the endemic discrimination and general exclusion from employment that they face in their countries of origin.

These persistent inequalities sit at odds with the repeated emphasis of the Commission that ‘The exclusion many Roma continue to face is in strong contradiction with the fundamental values of the European Union (EU).’ (European Commission, 2015: 2). There was widespread agreement among interviewees in the main study that the political will did not exist to meaningfully alter the situation of Roma (Brown, et. al. 2015). This does not bode well for strategies to improve the situation of Roma in their countries of origin. The impact of National Roma Integration Strategies is regarded as questionable in many Member States, often characterised as unambitious and hampered by very limited resources (e.g. Todorov, 2014). The lack of progress was acknowledged by the Commission’s 2014 report on implementation which stated ‘No tangible widespread impact has yet been achieved on the ground. To close the employment gap between Roma and non-Roma, Member States will need to target simultaneously the supply and demand sides of the labour market.’ (European

Commission 2014: 9). Subsequent reports have recognised that improvements in educational participation and attainment have not led to better employment prospects among Roma, that the implementation of national strategies at local level remained at an early phase and that 'Roma participation in the labour market remains very weak' (European Commission, 2015 and 2016:11).

Such insights are of critical importance when considering how a marginalised and highly discriminated minority such as the Roma can access both the basic freedoms of the Union, such as freedom of movement and permitted social assistance, while at the same time retaining the core human rights which the EU has also recognised as intrinsic to citizens (both are recognised within the Charter of Fundamental Rights). After all, the vocal criticisms by both the Commission and the Parliament of France's actions in 2010 were based on accusations they had breached both the free movement regulations in Directive 2004/38/EC (OJEU, 2004) and the prevention of discrimination on grounds of nationality or on account of belonging to an ethnic minority (as detailed in The Charter of Fundamental Rights, Article 21). But as Dawson and Muir (2011), in their study of the Roma expulsions in France note, the question remains as to how effective the Commission when it comes to enforcing such rights.

Conclusion

Despite the production of National Roma Integration Strategies all Member States since 2011, subsequent updates by a proportion and ongoing monitoring of national programmes by the European Commission, little improvement in the employment situation of Roma appears to have occurred over the past five years. Evidence from recent fieldwork continues to demonstrate that unemployment is significantly higher for Roma communities than non-Roma, even where opportunities are limited for the population as a whole. Many Roma

continue to work in the informal economy, but official work, where it is available was generally precarious in all Member States. However this is not purely a case of east vs west. In general, Roma were disproportionately represented among the populations of regions and localities of high deprivation in all countries. However, in many Central and Eastern European states, state sponsored public works were a common source of labour for many Roma. Dependence on state employment schemes remains widespread in Central and Eastern Europe and is effectively institutionalised with welfare and employment becoming co-related. This situation is generally not replicated in Western European Member States.

In Central and Eastern Europe, Roma had often experienced the worst effects of the transfer to more market driven economies, including rapid de-industrialisation and consequent loss of employment and skills, a situation that had been exacerbated by the impact of the recent global financial crisis. This situation is perpetuated by discriminatory attitudes but also the legacy of structural inequalities in education, training and labour markets.

Given the overt, endemic discrimination experienced by many Roma in their countries of origin, their continuing migration to other Member States is unsurprising. Data from many qualitative studies have demonstrated the realistic prospect of work remains a primary pull factor. While to some degree this has been successful, there is evidence that increasing anti-Gypsyism combined with tougher restrictions on intra-EU migrant's access to basic social rights is making life harder for Roma living outside their countries of origin. And in many cases the type of employment is transient, low grade and at times exploitative. Precarity of employment is a common factor for Roma across *all* Member States – from the public works to the low paid insecure temporary work relied on by many migrants. This should alert us to the risk that Roma migrants could progress down a road of marginalisation in countries of destination as well as those of origin – or as one commentator has put it – ‘Moving within and

across countries does not in itself seem to change much for the Roma.’ (Arauda et. al. 2013: 143)

In many ways, the notable lack of progress in all areas means Roma are an exemplar of the fact that, despite the existence of a sophisticated formal framework of rights and citizenship across the Union, the common recognition and application of such entitlements for all citizens is far from complete. It demonstrates the ongoing ability of Roma to make visible the tensions between the concept of citizenship at national and EU levels and the actual experience on the ground. It is hardly surprising that, despite being citizens of Member States, Roma have been characterised as inhabiting an ambiguous location - ‘in but not of’ EU space’ (Caglar and Mehling, 2013: 156). Both the practical experience of Roma across the EU and the strategic approach of the Commission and national governments point to a fragile hold on citizenship both as citizens in countries of origin and as migrants in countries of destination.

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Endnotes

ⁱ In common with many recent studies on Roma in Europe, this paper utilises the broad definition proposed by the Council of Europe (2012) which recognises a diverse cluster of communities as follows: The term "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as Gypsies.

ⁱⁱ The Roma MATRIX project was a two year pan European study involving twenty partners across ten Member States (Greece, Bulgaria, Spain, Romania, Slovakia, Poland, Italy, Hungary, The United Kingdom and the Czech Republic). The main research objective investigated how National Roma Integration Strategies (NRIS) and other policies focused on Roma inclusion and integration were being implemented and delivered. It focused on four thematic areas: Employment; Cross Community Relations and Mediation; Preparation for Children Leaving

Care and Reporting and Redress Mechanisms for tackling Anti-Gypsyism. Fieldwork was undertaken by the University of Salford and the University of York across all ten states. Interviews were conducted with a range of stakeholders including national, regional and local government officials, other public sector workers NGO workers, employers and representatives of Roma led organisations. Roma MATRIX was undertaken with financial support from the Fundamental Rights and Citizenship programme of the European Union. For further information on the project, including a final report of the research and individual country reports visit: <https://romamatrix.eu/>