

Submission of the European Roma Rights Centre Concerning Denmark for Consideration under the Universal Periodic Review by the United Nations Human Rights Council (HRC) at its 11th Session on 2 – 11 May 2011

1. Introduction

- 1.1 The European Roma Rights Centre (ERRC) respectfully submits comments concerning Denmark for consideration by the Human Rights Council within its Universal Periodic Review at its 11th session on 2-11 May 2011. The ERRC is an international public interest law organisation engaging in activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development and training of Romani activists.
- 1.2 The ERRC has been monitoring the human rights situation of Roma in Denmark since 2003, noting several concerns regarding the respect of Roma and other people perceived as “Gypsies.”¹
- 1.3 There are no official numbers of Roma in Denmark but unofficial estimates range between 5,000 and 10,000.² Most of the Roma arrived as labour immigrants in the 1960s and 1970s or later as asylum seekers from the Balkan wars.
- 1.4 Since the accession of a number of Central and Eastern European states to the European Union (EU), most recently Bulgaria and Romania, many Roma hailing from those countries have exercised their right to move freely within the EU, under Directive 2004/38/EC (Free Movement Directive) and according to the fundamental rights of the EU.³ Some have moved to Denmark in search of work opportunities.
- 1.5 This submission does not constitute a comprehensive review of all issues pertaining to the human rights situation of Roma in Denmark; it is limited to recent developments in relation to migrant Roma from the most recently acceded EU Member States and racist statements of high ranking public officials that resulted in summary expulsions from Denmark to their countries of origin.

2. Collective expulsion and violation of the right to freedom of movement

- 2.1 In July 2010, two high ranking public officials, the Lord Mayor of Copenhagen, Frank Jensen, and Minister of Justice, Lars Barfoed, made statements calling for measures to rid Copenhagen of “criminal Roma.” Such statements, quoted in major Danish news media, apparently triggered concerted police actions and the arrest of 23 EU Roma from Romania on 6 July 2010 and led to their subsequent deportation on 7 July 2010.⁴ None of them was illegally in Denmark. Each

¹ In particular, ERRC has addressed forced expulsions of Kosovo Roma and segregated education of Romani school children. More information on ERRC activities in Denmark is available at: <http://www.errc.org/en-search-results.php?mcountry=57&mtheme=1&marea=1&mkeyword=Enter+keywords+...&ok=OK>.

² Figures from RomNet.dk available here: <http://www.romnet.dk/index.html?forside.html&1>

³ Article 45 of the Charter of Fundamental Rights of the European Union.

⁴ Politiken 6 July 2010 “Kobenhavn vil af med kriminella romaer” Available at: <http://politiken.dk/indland/ECE1011458/kobenhavn-vil-af-med-kriminelle-romaer/>.

person was within the three month period allowed by the Free Movement Directive⁵ for EU citizens to reside within another EU Member State. Aside from being administratively fined for squatting on public property, none of the Roma were charged with criminal acts. The speed with which the process of arrest and deportation was executed, and the very similar deportation orders issued, suggests that individual assessments and considerations were not taken into account.

- 2.2 Having reviewed the case files of 10 of the deported Roma, the ERRC submits that all deportation orders issued by Danish authorities are almost identical in content and make sweeping and summary statements describing the Roma as a threat against public order and public health. When considering the circumstances of the grounds for deportation in each of these cases, Danish authorities failed to undertake proper, individual assessments. Not only are there substantive and procedural inadequacies in the consideration of these Romani individuals; but the case raises serious concerns regarding the attitude to and treatment of Roma in Denmark in general. Restrictions to freedom of movement within the EU and any expulsion of non-nationals must be preceded by stringent procedural safeguards,⁶ which were not respected.
- 2.3 The actions of the Danish authorities amount to a collective expulsion in violation Article 4 of Protocol 4 of the European Convention on Human Rights (ECHR) and Article 19.1 of the Charter of Fundamental Rights of the European Union (Charter). Although the International Covenant on Civil and Political Rights (ICCPR) does not contain a specific provision prohibiting collective expulsion, the Human Rights Committee has stated that the right of each foreigner to a decision in his or her own case and to submit reasons against expulsions would make mass or collective expulsions incompatible with Article 13.⁷ It also has held that “mass expulsions of non-nationals to be in breach of the Covenant since no account is taken of the situation of individuals for whom the Dominican Republic is their own country in the light of article 12, paragraph 4, nor of cases where expulsion may be contrary to article 7, given the risk of subsequent cruel, inhuman or degrading treatment, nor yet of cases where the legality of an individual's presence in the country is in dispute and must be settled in proceedings that satisfy the requirements of article 13.”⁸ This suggests that protection against mass expulsions is not limited to those lawfully residing in the country.
- 2.4 Similarly, the Committee on the Elimination of Racial Discrimination recommended that foreigners not be subject to collective expulsions, in particular where there are insufficient guarantees that the personal circumstances of each of the persons concerned have been taken into account.⁹
- 2.5 The 23 Roma did not benefit from proper procedural safeguards, were subjected to group treatment and were collectively expelled – in violation of the ICCPR, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the ECHR and the Charter.

3. Discriminatory treatment

- 3.1 The ERRC submits that the actions by Danish police and immigration authorities vis-à-vis the 23 Romanian Roma were discriminatory in nature, as the Roma had been singled out as the sole targets for police actions, arrests and subsequent deportations. The statements by Lord Mayor Jensen and the Minister of Justice Barfoed singled out Roma as an ethnic group, accusing them of criminal activity and marking them for expulsion despite the absence of criminal activity. Such policy, and the police action to implement such a policy, creates a presumption of discriminatory treatment as it is based on an unfounded link between ethnicity and criminality that would create a serious threat to public order or health.
- 3.2 Consequently, as the sole targets of the July 2010 police actions and deportations, the 23 Romanian Roma were treated less favourably than other people in Copenhagen in a comparable

⁵ Directive 2004/38/EC of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF>

⁶ Article 28ff. of the Free Movement Directive and Article 3 of the ICCPR, inter alia

⁷ See General Comment 15/27 of 22 July 1986, para.10.

⁸ See Concluding Observations on the Dominican Republic, CCPR/CO/71/DOM, 26 April 2001, para.16.

⁹ See General Recommendation no.30 of 1 October 2004, para.26.

socio-economic situation due to their Romani ethnic origin. Such discriminatory treatment is in violation of Article 5 of the ICERD, Article 26 of the ICCPR, Article 14 of the ECHR, Article 21 of the Charter and paragraphs 20 and 31 of the Free Movement Directive.

4. Recommendations

In light of the concerns listed above, the ERRC recommends that the authorities in Denmark undertake the following measures:

- ensure that no further arrests of Roma take place in Copenhagen absent individualised suspicion of involvement in a crime;
- halt further collective expulsions of EU Roma from Denmark;
- provide clarification of the reasons for the deportation of the 23 EU Roma;
- guarantee that each individual who receives an expulsion decision is notified of the grounds for expulsion, given a minimum of a month to leave the territory and provided access to appeal in accordance with the Free Movement Directive; and
- ensure that high ranking government officials refrain from making racist or inflammatory statements against Roma in Denmark.