



# HELSINKI COMMISSION HEARING

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SECURITY AND COOPERATION IN EUROPE

## Testimony :: Diane F. Orentlicher

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Professor of Law - American University

Commission on Security and Cooperation in Europe

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"Human Rights of the Romani Minority"

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Thank you for inviting me to testify about one of the most pressing human rights issues confronting the participating States of the Organization for Security and Co-operation in Europe (OSCE) -- the situation of Roma. I have been asked to address the conclusions and recommendations set forth in the recently released Report on the Situation of Roma and Sinti in the OSCE Area, which the High Commissioner on National Minorities of the OSCE, Max van der Stoep, released in April of this year.(1) I welcome the opportunity to do so. I nonetheless want to make clear that I am not representing Mr. van der Stoep at this hearing; opinions expressed in this testimony are my own.

### I. Human Rights Concerns

The report's first conclusion is unambiguous: "discrimination and exclusion are fundamental features of the Roma experience."(2) In fact, Roma are subject to pervasive, tenacious and at times virulent forms of discrimination.

A telling measure of this is the license that many political figures feel in expressing overtly hostile views about Roma, both publicly and privately. Like the proverbial picture that speaks a thousand words, two examples cited in the High Commissioner's study provide a vivid sense of this problem: In May 1998 the leader of the Czech Republican Party, Miroslav Sladek, reportedly said at a public rally in the South Bohemian town of Písek, "summer's getting near, it's time for swimming lessons again." This was a perverse reference to an incident five years earlier in which a Romani teenager, Tibor Danihel, drowned after being chased into the Otava River in Písek by some 40 skinheads. The attackers prevented Mr. Danihel from climbing out of the river by beating and kicking him. In August 1998, the leader of an extremist opposition party in Romania, Corneliu Vadim Tudor, reportedly announced a ten-point "program to run the country", which included "isolat[ing] the Roma criminals in special colonies" in order to "stop the transformation of Romania in[to] a Gypsy camp."

Statements like these have helped foster a climate of intolerance that imperils the physical security of Roma. One of the most alarming patterns described in the High Commissioner's report is the high incidence of violence against Roma in many OSCE participating States. The report describes recent attacks in Bulgaria, the Czech Republic, Croatia, Hungary, Italy, Macedonia, and the Slovak Republic and notes that episodes of anti-Roma violence have also been reported in Albania, Austria, Bosnia, Poland, Romania, Russia, Ukraine, and Yugoslavia. Many of these incidents involve attacks by skinheads and other private citizens; others involve police abuse. In some instances, entire Romani communities have been attacked; as the report observes, these incidents "must properly be called pogroms."(3)

Of course these incidents do not occur in a vacuum. I have already noted the role of inflammatory statements by

public figures in several countries. Beyond this, negative stereotyping of Roma is commonplace in the media of many OSCE participating States. While the disturbing trends addressed in the High Commissioner's report are especially pronounced in Central and Eastern Europe, where a majority of Roma live, pejorative images of Roma are a common feature of reporting in several western countries, notably including the United Kingdom. Closer to home, several American newspapers have recently provided welcome coverage of issues relating to Roma. Still, it is by no means unusual to see accounts in the U.S. media that depict Roma as a social menace. For example, a recent article in the *Arkansas Democrat-Gazette* asserted: "Some Gypsies are honest. Far more, police and prosecutors say, earn their livings preying on the Gorje" [sic] -- that is, non-Roma.(4) The article asserted that, for Gypsies, "[o]utwitting [the Gorje] is no crime."(5) A second article by the same reporter provided an extended forum for publicizing the views of local individuals that Gypsies in the Texarkana region typically "harbor a criminal element."(6) One of the more revealing quotations suggests the reporter's determination to elicit negative generalizations of this kind: "Jefferson County's [sheriff's Maj. Noel] Foster says that Gypsies are mostly well behaved and law-abiding in their home county but acknowledges some truth to the concept that 'if there is a Gypsy involved, there is a scam.'"

In many OSCE participating States, Roma are effectively outside the protection of legal and other authorities whom they encounter on a daily basis. Consider, for example, the experience of a 13-year-old Romani schoolgirl who was assaulted last month in Belgrade. According to the Humanitarian Law Center, the girl was attacked on May 10 by a group of fellow students and skinheads while walking home from school. As they stabbed her 17 times, the assailants taunted the girl, "your Gypsy blood will pour out of you."

Earlier that day, the group had threatened to rape the victim and cut her "to pieces," and also "slapped around" a Romani boy in the school yard. The girl reported the incident to her math teacher, who, she recounted, was not interested, while the boy reported the incident involving him to the school principal. The group that attacked the girl had previously threatened Romani schoolchildren. Although the children told their school principal of the threats against them, it has been reported that neither he nor any other school authority took steps to protect these students. The parents of these children are, understandably, anxious about sending their children to school.

While physical violence is one of the most alarming manifestations of anti-Roma prejudice, its most enduring impact may be in the realm of education. Segregated schooling is commonplace in several OSCE participating States. In some countries, Romani children typically attend predominantly Roma schools or "Roma classes" in mixed schools. The most pernicious form of segregation, however, has been achieved by routing Romani children to "special schools," the term by which schools for the mentally disabled are known, or to classes for mentally disabled children in regular schools. This degrading practice has consigned generations of Romani children to a future in which their brightest prospect is menial work.

The practice of channeling Romani children to "special schools" has been especially pronounced in the Czech Republic, the Slovak Republic and Hungary. A report by the Hungarian Parliamentary Commissioner for National and Ethnic Minority Rights cites one estimate that, in 1998, Romani children constituted 94 percent of the special school population in one county in eastern Hungary. In the view of the Commissioner, this pattern is "not due to intellectual deficiency of Gypsy students, but to discrimination, and is a sign of the pedagogical failure of the normal institutions of public education."(7) Last year, in a welcome acknowledgment of the need to address similar patterns in its country, the Czech government estimated that about three-fourths of Romani children in the Czech Republic attend special schools.(8)

Although not the sole reason, these patterns go a long way toward explaining why levels of academic achievement among Romani children tend to be very low. In most countries examined in the High Commissioner's study, Romani children attend primary school at levels substantially below the national average; the disparity becomes drastic at higher levels of education. In consequence, many Roma are ill-prepared to compete for desirable jobs, and indeed unemployment levels are staggeringly high among Romani communities in many OSCE participating States. For example, last year a Hungarian official estimated that 70 percent of her country's Roma were unemployed; in some Hungarian villages unemployment among Roma ranged as high as 90 to 100 percent.(9)

But poor levels of academic achievement are not the only explanation for these sobering statistics. Even highly-educated Roma encounter what often seem to be insurmountable barriers of discrimination when they apply for jobs. In some countries in Central and Eastern Europe, it is not uncommon for job advertisements to make

clear that Roma should not apply. The 1998 report of Hungary's Parliamentary Commissioner for National and Ethnic Minority Rights includes this example:

In the 8 July 1998 issue of the Expressz newspaper, an employment notice with the following text appeared: "We will immediately hire a white-skinned, non-alcoholic bricklayer." Following this, in a radio interview, the individual who placed the notice made it clear that by using the term "white-skinned" he wanted to obtain the result that Gypsies would not apply for the position.(10)

In March of last year, a Romanian official told me that the Attorney General had taken the position that similar advertisements in Romania were "much too common to be prosecuted."

In light of the high levels of unemployment among Roma in many countries, it is not surprising that many live in conditions that can only be called abysmal. In a classic vicious cycle, these conditions are compounded by discriminatory practices in the realm of housing, often entailing deliberate policies of segregation. It was perhaps with this last trend in mind that the High Commissioner cautioned: "Ten years after the iron curtain fell, Europe is at risk of being divided by new walls."(11)

The CSCE is of course is well aware of one of the most visible emblems of this phenomenon -- the campaign by non-Roma in the Czech town of Ústí nad Labem to construct a wall around an apartment complex occupied principally by Romani tenants. In another variation on this trend, two villages in Eastern Slovakia adopted resolutions in 1997 banning Romani families from settling in or even entering the villages. These resolutions capped a ten-year campaign by local authorities and non-Romani citizens to "get rid of local Romanies," in the words of the mayor of one of the towns. In the face of substantial international pressure as well as interventions by national Slovak authorities, these decrees were formally rescinded last year.

In several Western European countries, Roma experience de facto discrimination in respect of living accommodations. For example in England, zoning regulations are enforced in a fashion that effectively discriminates against Gypsies -- the most common term of self-description used in the U.K. More generally, British law and patterns of enforcement have placed significant obstacles in the path of Gypsies who wish to maintain a traveling lifestyle.(12)

In brief, under the law of the United Kingdom Gypsies have three options for lawful camping. First, they can park on public caravan sites. The British government acknowledges, however, that the number of such sites falls far short of the need. Second, Gypsies can park on occupied land with the consent of the occupier. Finally, Gypsies can park on property they own. In most cases, however, this requires what is known as "planning permission" from local authorities. This regulatory scheme allows broad play for discretion, which has repeatedly been exercised to the detriment of Gypsy applicants. In 1991, the last year for which relevant patterns were assessed, 90 percent of applications for planning permission submitted by Gypsies were turned down. This contrasted with a success rate of 80 percent for all planning applications that year. Thus many British Gypsies, unable to find adequate accommodation in public caravan sites, encounter apparent discrimination when they seek to park their mobile homes on their own property. Increasingly, Gypsies in the United Kingdom are forced to chose between remaining within the law and maintaining their traditional traveling lifestyle.

Summarizing the human rights situation of Roma in the OSCE area, the High Commissioner's report concludes that "the persistence of racially-motivated hatred and violence directed against the Roma and Sinti can only be considered a blight on the records of individual participating States and of European society in general."(13)

## B. Government Initiatives

One of the principal aims of the High Commissioner's report is to recommend effective strategies for tackling the urgent problems I have just summarized. With this in mind, the report describes a broad range of initiatives undertaken in recent years, from local projects to regional programs, and offers recommendations that draw upon these experiences as well as on the core values of the OSCE.

I will briefly summarize some of the principal recommendations set forth in the report. First, however, it may be helpful to place these in context.

This hearing comes at a time of heightened attention among OSCE participating States to the concerns I have just outlined. As some of my previous observations reflect, in some countries government officials have acknowledged in forthright policy statements that Roma are victims of serious and systemic discrimination. Against a longstanding refusal by many governments even to acknowledge discrimination against Roma, this is itself noteworthy and commendable.

A variety of factors accounts for these developments; one of the most significant is that the European Commission has put five applicant countries on notice that they must make substantial progress in addressing the plight of their Romani citizens to qualify for accession to the European Union. This has provided a powerful incentive for the applicant states to devise national programs aimed at improving the conditions of Roma. Indeed, the report of the High Commissioner cites numerous examples of governmental initiatives adopted in the past year alone.

This is of course a welcome trend. There is, however, a significant risk that governments will adopt superficial or otherwise inadequate programs. After all, concerns relating to Roma are not a popular political issue in any country, least of all in those countries where substantial efforts are most needed. In the course of my field work last year, I was often struck by the thin support that otherwise salutary governmental initiatives concerning Roma enjoyed within the government itself. New departments created to address Romani concerns were often short-staffed, under-funded and, as one might say in this town, out of the loop. Officials committed to advancing the situation of Roma in their countries often seemed to occupy a lonely ledge within their governments.

But I also saw that sustained attention by other states and by regional organizations could go a long way toward ensuring that governments reinvigorate their efforts to combat discrimination against Roma. As noted earlier, for example, sustained pressure helped secure a reversal of resolutions banning Roma from two towns in Slovakia. This Commission has played a particularly important role in monitoring troubling developments relating to Roma and acting in a timely fashion to address those concerns.

### C. Recommendations

The report of the High Commissioner sets forth numerous recommendations, and also offers examples of effective initiatives that, while perhaps not appropriate models for every country, might provide inspiration to some. Since I cannot do justice here to all of the report's recommendations, I will highlight those which have overarching significance, as well as several concrete recommendations that merit special note.

One of the core themes of the report is that Roma must play a central role in developing, implementing and refining any programs aimed at improving their conditions. I would like to believe that this point is too obvious to require mention. Unfortunately, however, government programs for Roma have, historically, been designed without meaningful participation by Roma. This pattern is, of course, incompatible with fundamental principles of human dignity and democratic participation. And it is a prescription for failure.

In recent years a number of countries in Central and Eastern Europe have developed, or at least have begun the process of designing, major new programs to address the pressing concerns of their Romani communities. In large measure as a result of pressure from the European Commission and other outside actors, Roma have played a more significant role in these national processes than they otherwise would have assumed. But I know of no country where the level of Romani participation has been adequate. In this setting, the CSCE can play a constructive role in expressing its support for meaningful participation of Roma in the development, implementation and evaluation of new initiatives relating to Roma. Indeed, the Commission has set a commendable example in this regard by inviting a preponderance of Romani witnesses to testify at this hearing.

A second major focus of attention at the national level should be the adoption of comprehensive anti-discrimination legislation and vigorous enforcement of the law when rights of Roma are violated. Although national constitutions typically prohibit discrimination, many OSCE participating States have failed to enact or enforce legislation necessary to give effect to this fundamental right. Enacting effective anti-discrimination legislation should be a high priority for OSCE participating States that have not yet done so.

At a minimum, national laws should prohibit discrimination in all fields of public life and should establish effective remedies for violations. In addition to providing civil remedies that victims of discrimination can invoke, national law should ensure that State authorities can act to nullify discriminatory practices by government officials and organs at all levels.

It is also crucially important that national legal systems administer justice when Roma are victims of racist attacks. Not surprisingly, anti-Roma violence has been prevalent in countries where these crimes are committed with impunity or without punishment that is commensurate with the seriousness of the offense. Again, however, recent experience has demonstrated the constructive role of sustained outside pressure. In at least two countries whose legal systems have characteristically failed to protect Romani victims of racially-motivated violence and other forms of discrimination, a few courts have recently rendered judgments enforcing the fundamental rights of Roma.

Most of these decisions were rendered in cases that had received sustained international attention or that had been the focus of major litigation campaigns by human rights organizations.<sup>(14)</sup> As these developments suggest, the CSCE can make a valuable contribution in advancing Roma rights by continuing its longstanding emphasis on the reliable and fair administration of justice.

The report also emphasizes the central importance of addressing discrimination against Roma in the realm of education. In particular, it recommends that governments make concerted efforts to eradicate practices that foster segregated schooling, especially the practice of channeling Romani children to schools for the mentally handicapped. One important recommendation in this regard is that governments eliminate policies that inadvertently create financial incentives for educators to refer Romani children to "special schools" and to keep them there. The report sets forth a number of other recommendations relating to education, among which I will note three: First, the report urges governments to develop and support pre-school programs that help prepare Romani children for primary school, as well as extra-curricular support programs for Romani students already in school. Second, the report urges governments of countries with substantial Romani communities to ensure that educational texts include material on Romani history and culture. Third, the report expresses support for educational programs that draw upon the human resources of Roma, including the use of Romani teachers' assistants.

Turning to the OSCE, the focus of the High Commissioner's recommendations is, of course, the Contact Point for Roma and Sinti Issues of the Office for Democratic Institutions and Human Rights (ODIHR). The report commends the Ministerial Council's decision in December 1998 to strengthen the Contact Point as well as ODIHR's appointment of Dr. Nicolae Gheorghe, a highly-respected Romanian Rom, to head the Contact Point as its Advisor on Roma and Sinti Issues. As the report emphasizes, "OSCE participating States must now ensure that they provide the Contact Point the support it needs to carry out its important mission."

In recent years several regional and international organizations have established or expanded initiatives to address concerns relating to Roma. In light of this welcome trend, the High Commissioner's report emphasizes the value of "targeted expertise". That is, each organization should establish priorities that reflect its unique expertise, thereby maximizing its own contributions while minimizing duplication of effort among inter-governmental organizations.

With this in mind, his report encourages the Contact Point to place special emphasis on the following areas:

(1) Effective participation of Roma at all levels of government. In view of the role of ODIHR as a vehicle for promoting democratic processes, the Contact Point has a special role to play in advising governments on mechanisms likely to ensure the effective participation of Roma. One aspect of this

that merits special attention is the relationship between national and local administrations. Recent experiences have highlighted the importance of ensuring effective participation of Roma at all levels of government.

Parenthetically, I want to mention here that one of the most important trends in recent years has been the revitalization of a dynamic Romani movement in Europe, several of whose leaders are witnesses at this hearing, and whose efforts deserve the strong support of the OSCE.

(2) Mechanisms for alleviating tension and conflict between Roma and non-Romani communities. The Contact Point can make a valuable contribution in advising governments about models, such as ombudsmen offices, for alleviating such tensions.

(3) Combating discrimination within public administrations.

Recalling that the mandate of the Contact Point includes developing a work program that includes "seminars [and] workshops," the High Commissioner's report suggests that such a program could make a particularly useful contribution by addressing the issue of ethnic data collection by governments. Needless to say, this is an extremely sensitive issue--and one in which thoughtful analysis is essential.

In closing, I want to thank this Commission for its steadfast leadership on issues relating to Roma in OSCE participating States. I have long admired its contributions in this area; my experiences in Europe last year deepened my appreciation for the constructive impact of its efforts.

1. Last year I served as Special Advisor to the High Commissioner, on secondment from the U.S. Department of State. In this capacity I assisted in the research for the High Commissioner's study and drafted substantial portions of the report.

2. Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, Report on the Situation of Roma and Sinti in the OSCE Area, p. 1 (Apr. 2000) [hereinafter HCNM Report].

3. *Id.*, p. 1.

4. The word many Roma use to refer to non-Roma is more commonly spelled "gadje."

5. Adam Welsh, Clannish Gypsies keep to their own, *Arkansas Democrat-Gazette*, Apr. 2, 2000.

6. Adam Welsh, Elderly often prey for Gypsies, lawmen say, *Arkansas Democrat-Gazette*, Apr. 3, 2000.

7. Hungarian Parliamentary Commissioner on National and Ethnic Minority Rights, Report on Special Schools in Hungary, Aug. 1999, § 1 (unofficial translation, quoted in HCNM Report, p. 74, no. 218).

8. Office of the Government of the Czech Republic, Resolution No. 279 on "Concept of Government Policy towards Members of Romany Community Facilitating Their Integration into the Society," Apr. 7, 1999, p. 11.

9. Remarks of Gabriella Varjú, Deputy President, Office of National and Ethnic Minorities, "Social Integration Opportunities of the Roma Population in Hungary and Governmental Measures Affecting the Process of Integration," Conference on Legal Protection of Roma in Contemporary Europe on the Occasion of the 50th Anniversary of the Council of Europe, June 28-29, 1999, Charles University in Prague, sponsored by the European Information Centre in co-operation with the Ministry of Foreign Affairs of the Czech Republic and with the support of the Embassy of Canada in the Czech Republic.

10. Annual Report of the Parliamentary Commissioner for National and Ethnic Minority Rights, 1 January - 31 December 1998, § 4.2.5.

11. HCNM Report, p. 1.

12. Although estimates are imprecise, a majority of Roma -- by one estimate, 60 percent -- are thought to be

sedentary. Among the rest, perhaps half are nomadic and the other half semi-nomadic. Traveling tends to be more common among Roma in Western European countries than in Central and Eastern Europe.

13. Forward, HCNM Report, *supra*.

14. According to the European Roma Rights Center (ERRC):

Czech courts have recently rendered a number of decisions in connection with instances of racially motivated crime. In some cases, especially where there has been intense domestic and international media attention paid to cases, verdicts have departed from a previous tendency to acquit skinheads or pass shamefully mild sentences. In other cases, the Czech judicial system continues to render unsatisfactory decisions.

Roma Rights, Number 1, 2000, p. 15.