December 2022
This factsheet does not bind the Court and is not exhaustive

Roma and Travellers

"[A]s a result of their turbulent history and constant uprooting the Roma have become a specific type of disadvantaged and vulnerable minority … As the [European] Court [of Human Rights] has noted in previous cases, they therefore require special protection …" (*D.H. and Others v. the Czech Republic*, application n° 57325/00, Grand Chamber judgment of 13 November 2007, § 182).

"[W]hereas Article 14 of the [European] Convention [on Human Rights] prohibits discrimination in the enjoyment of 'the rights and freedoms set forth in [the] Convention', Article 1 of Protocol No. 12 [to the Convention] extends the scope of protection to 'any right set forth by law'. It thus introduces a general prohibition of discrimination." (*Sejdić and Finci v. Bosnia and Herzegovina*, Grand Chamber judgment of 22 December, § 53).

Right to life and prohibition of inhuman or degrading treatment (Articles 2 and 3 of the Convention)

Attacks on Roma villages and destruction of houses and possessions

Moldovan (no. 2) and Others v. Romania

12 July 2005

In September 1993 three Roma men were attacked in the village of Hădăreni by a large crowd of non-Roma villagers, including the local police commander and several officers: one burnt to death, the other two were beaten to death by the crowd. The applicants alleged that the police then encouraged the crowd to destroy other Roma properties: in total 13 Roma houses in the village were completely destroyed. Hounded from their village and homes, the applicants were then obliged to live in crowded and unsuitable conditions – cellars, hen-houses, stables. Following criminal complaints brought by the applicants, some were awarded damages ten years later.

The Court could not examine the applicants' complaints about the destruction of their houses and possessions or their expulsion from the village, because those events took place in September 1993, before the ratification of the Convention by Romania in June 1994. However, it found violations concerning the complaints about the applicants' subsequent living conditions and noted that the applicants' ethnicity had been decisive in the excessive length and result of the domestic proceedings. In particular, the Court held that:

- there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention;
- there had been and was a continuing **violation of Article 8** (right to respect for private and family life and home) of the Convention;
- there had been **no violation of Article 6 § 1** (access to court) of the Convention;
- there had been a **violation of Article 6 § 1** (right to a fair trial) of the Convention on account of the length of the proceedings;

- there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Articles 6 § 1 and 8**.

See also: ***Moldovan (no. 1) and Others v. Romania***, judgment (friendly settlement) of 5 July 2005; ***Lăcătuș and Others v. Romania***, judgment of 13 November 2012 (concerned an attack on Roma homes in a village in September 1993 by a mob of non-Roma villagers and the local police, during which the applicants' common-law partner and father had been beaten to death by the crowd).

Gergely v. Romania and Kalanyos and Others v. Romania

26 April 2007

These cases concerned the burning of houses belonging to Roma villagers by local population, the poor living conditions of the victims and the authorities' failure to prevent the attack and to carry out an adequate criminal investigation, depriving the applicants of their right to bring a civil action to establish liability and recover damages.

The Court decided to **strike** the applications **out of** its **list of cases** following a declaration by the Romanian Government, in which it recognised violations of Articles 3, 6, 8, 13 and 14 of the Convention and undertook to pay each of the applicants compensation, as well as to adopt several general measures involving the judicial system, the educational, social and housing programmes and aimed at fighting discrimination against the Roma in the county concerned, stimulating their participation in the economic, social, educational, cultural and political life of the local community, supporting positives changes in public opinion in their respect, as well as preventing and solving conflicts likely to generate violence.

See also: ***Tănase and Others v. Romania***, judgment (striking out) of 26 May 2009.

Costică Moldovan and Others v. Romania

15 February 2011 (decision on the admissibility)

This case concerned difficulties with the execution[1] – general measures – of the *Moldovan (no. 2) and Others v. Romania* judgment of 12 July 2005 (see above).

The Court declared the application **inadmissible**. It noted in particular that it did not have jurisdiction to verify whether a Contracting State had complied with the obligations imposed on it by one of the Court's judgments.

See also: ***Moldovan and Others v. Romania***, decision on the admissibility of 17 April 2012.

Burlya and Others v. Ukraine

6 November 2018

The applicants, Ukrainian nationals of Roma ethnicity, submitted that they had been forced to flee their homes in a village in the Odessa Region following warnings of an anti-Roma attack. They complained in particular about this attack on their homes and alleged that the authorities had been complicit in or had at least failed to prevent or to investigate the attack effectively.

The Court held that there had been a **violation of Article 8** (right to respect for home) of the Convention, **taken in conjunction with Article 14** (prohibition of discrimination). It also held, with respect to the applicants who had been at home at the time of the events in question, that there had been two **violations of Article 3** (prohibition of inhuman or degrading treatment/lack of effective investigation) of the Convention, **taken in conjunction with Article 14**. The Court noted in particular that the role of the police, who had chosen not to protect the applicants but had advised them to leave before the pogrom – and the fact that those events had involved the invasion and ransacking of the applicants' homes by a large mob that was driven by

[1]. Under Article 46 (binding force and execution of judgments) of the Convention, the Committee of Ministers (CM), the executive arm of the Council of Europe, supervises the execution of the Court's judgments. Further information on the execution process and on the state of execution in cases pending for supervision before the CM can be found on the Internet site of the Department for the execution of judgments of the European Court of Human Rights: www.coe.int/t/dghl/monitoring/execution/default_EN.asp?

sentiment aimed at them as Roma – was such as to constitute an affront to the applicants' dignity sufficiently serious as to be categorised as degrading" treatment. Furthermore, despite clear evidence to the effect that the attack had targeted members of a specific ethnic group, it had been investigated as an ordinary disturbance, and there had been no evidence that the authorities had conducted any investigation into anti-Roma prejudice as a likely motive of the crime.

Bullet wounds during police questioning or attempted arrest

Nachova and Others v. Bulgaria

6 July 2005 (Grand Chamber)

This case concerned the killing of the applicants' relatives, both aged 21, by a military policeman who was trying to arrest them. The applicants alleged in particular that their relatives had been deprived of their lives in violation of Article 2 (right to life) of the Convention, as a result of deficient law and practice which permitted the use of lethal force without absolute necessity. They further alleged that prejudice and hostile attitudes towards people of Roma origin had played a decisive role in the events leading up to the shootings and the fact that no meaningful investigation had been carried out, relying on Article 14 (prohibition of discrimination) of the Convention in conjunction with Article 2.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention in respect of the deaths of the applicants' relatives. It also held that there had been a **violation of Article 2** in that the authorities had failed to conduct an effective investigation into these deaths. As to whether the killings had been racially motivated, departing from the Chamber's approach[2], the Grand Chamber did not find it established that racist attitudes had played a role in the applicants' relatives' deaths. It therefore held that there had been **no violation of Article 14** of the Convention **taken together** with the material limb **of Article 2**. Lastly, regarding whether there had been an adequate investigation into possible racist motives, the Grand Chamber found that the authorities had failed in their duty to take all possible steps to investigate whether or not discrimination may have played a role in the events, in **violation of Article 14 taken together with** the procedural limb of **Article 2**.

Guerdner and Others v. France

17 April 2014

This case concerned the death of a member of the applicants' family, who had been taken into police custody and was killed by a gendarme while attempting to escape.

The Court held that there had been **no violation of Article 2** (right to life) of the Convention with regard to the domestic legislative framework governing the use of force but that there had been a **violation of Article 2** on account of the use of lethal force. It further found that there had been **no violation of Article 2** as regards the authorities' investigation into the death.

Similar cases:

Vasil Sashov Petrov v. Bulgaria

10 June 2010

Soare and Others v. Romania

22 February 2011

[2]. *Nachova and Others v. Bulgaria*, judgment (Chamber) of 26 February 2004. On 21 May 2004, the Bulgarian Government requested that the case be referred to the Grand Chamber under Articles 43 of the Convention and 73 of the Rules of Court. The Grand Chamber Panel accepted the request on 7 July 2004.

Conditions of reception

V.M. and Others v. Belgium (no. 60125/11)

17 November 2016 (Grand Chamber)

This case concerned the reception conditions of a family of Serbian nationals of Roma origin seeking asylum in Belgium. The applicants alleged in particular that they had been subjected to inhuman and degrading living conditions in Belgium that had, *inter alia*, caused the death of their eldest daughter.

The Grand Chamber held that the application should be **struck out of the Court's list** of cases pursuant to Article 37 (striking out applications) of the Convention. It found in particular that the applicants, who had returned to Serbia of their own volition, had not maintained contact with their lawyer. They had failed to keep her informed of their place of residence or to provide her with any other means of contacting them. There was however nothing to suggest that the precarious conditions in which the applicants had lived in Serbia had been such as to prevent them from maintaining some form of contact with their lawyer, if necessary through a third party, for such a long period. The Grand Chamber therefore considered that it could be concluded that the applicants had lost interest in the proceedings and no longer intended to pursue the application.

Death in a medico-social institution

Center of Legal Resources on behalf of Valentin Câmpeanu v. Romania

17 April 2014 (Grand Chamber)

This case concerned the death of a young man of Roma origin – who was HIV positive and suffering from a severe mental disability – in a psychiatric hospital. The application was lodged by a non-governmental organisation (NGO) on his behalf.

The Court found that, in the exceptional circumstances of the case, and bearing in mind the serious nature of the allegations, it was open to the NGO to act as a representative of the young man, even though the organisation was not itself a victim of the alleged violations of the Convention.

In this case the Court held that there had been a **violation of Article 2** (right to life) of the Convention, in both its substantive and its procedural aspects. It found in particular: that Valentin Câmpeanu had been placed in medical institutions which were not equipped to provide adequate care for his condition; that he had been transferred from one unit to another without proper diagnosis; and, that the authorities had failed to ensure his appropriate treatment with antiretroviral medication. The authorities, aware of the difficult situation – lack of personnel, insufficient food and lack of heating – in the psychiatric hospital where he had been placed, had unreasonably put his life in danger. Furthermore, there had been no effective investigation into the circumstances of his death. The Court also found a **breach of Article 13** (right to an effective remedy) of the Convention **in conjunction with Article 2**, considering that the Romanian State had failed to provide an appropriate mechanism for redress to people with mental disabilities claiming to be victims under Article 2.

Death in an arson attack

Fedorchenko and Lozenko v. Ukraine

20 September 2012

The applicants complained in particular that five of their relatives had died in the fire of their house and that the State authorities had failed to conduct a thorough and effective investigation into the circumstances of their death and of a police major's involvement in the arson attack. They further alleged that that the crime had had racist motives due to their Romani ethnicity.

The Court found that the investigation of the applicants' relatives' deaths had not been effective and held that there had therefore been a **violation** of the procedural limb **of Article 2** (right to life) of the Convention. Further, in the absence of sufficient evidence,

it held that there had been **no violation** of the substantive limb **of Article 2**. Lastly, noting in particular that there was no evidence that the authorities had conducted any investigation into the possible racist motives of the crime, the Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with** the procedural aspect of **Article 2**.

Death in police custody or in detention

Anguelova v. Bulgaria

13 June 2002

This case concerned the death of the applicant's son, aged 17, while in police custody, following his arrest for attempted theft. The applicant alleged that her son died after being ill-treated by police officers, that the police failed to provide adequate medical treatment for his injuries, that the authorities failed to undertake an effective investigation, that her son's detention was unlawful, that she did not have an effective remedy and that there had been discrimination on the basis of her son's Roma (Gypsy) origin.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention in respect of the death of the applicant's son, in respect of the Bulgarian authorities' failure to provide timely medical care, and in respect of the Bulgarian State's obligation to conduct an effective investigation. In particular, it found implausible the Bulgarian Government's explanation of the applicant's son's death and that the investigation had lacked objectivity and thoroughness, a fact which had decisively undermined its ability to establish the cause of the death and those responsible. The Court also held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment), a **violation of Article 5** (right to liberty and security) and a **violation of Article 13** (right to an effective remedy) of the Convention. Lastly, the Court held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention: the applicant's complaints that the police officers' and the investigating authorities' perception of her son as a Roma/Gypsy had been a decisive factor in their attitude and acts were based on serious arguments; it was unable, however, to reach the conclusion that proof beyond reasonable doubt had been established.

Ognyanova and Choban v. Bulgaria

23 February 2006

The first applicant's *de facto* husband and second applicant's son – a Bulgarian national of Roma ethnic origin – was arrested on suspicion of having taken part in numerous thefts and burglaries and taken into custody. The next day, while he was being interviewed, he fell from a third floor window of the police station where he was being detained. He was taken to hospital and died the next day. The applicants alleged in particular that their relative had died as a result of his ill-treatment by the police while in custody and that the authorities had failed to conduct an effective investigation into the circumstances surrounding his death. They also complained that the impugned events had been the result of discriminatory attitudes towards people of Roma ethnic origin.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention in respect of the applicants' relative's death, finding that the Bulgarian Government had not fully accounted for his death and injuries during his detention. It also held that there had been a **violation of Article 2** in that the Bulgarian authorities had failed to conduct an effective investigation into the death. The Court further held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment), a **violation of Article 5** (right to liberty and security) and a **violation of Article 13** (right to an effective remedy) of the Convention. Lastly, noting in particular that the materials in the case file contained no concrete indication that racist attitudes had played a role in the events at issue, the Court held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention.

Mižigárová v. Slovakia

14 December 2010

This case concerned the death of a Roma man – the applicant's husband – during a police interrogation. He had been shot in the abdomen with the lieutenant's service pistol and the investigation concluded that he had forcibly taken the gun from the lieutenant and shot himself.

The Court held that there had been a **violation of Article 2** (right to life) of the Convention, finding that, even if he had committed suicide as alleged by the investigative authorities, they had been in violation of their obligation to take reasonable measures to protect his health and well-being while in police custody. It also found a **violation of Article 2** under its procedural limb, as no meaningful investigation had been conducted at the domestic level capable of establishing the true facts surrounding the death of the applicant's husband. The Court further held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2**. It was in particular not persuaded that the objective evidence had been sufficiently strong in itself to suggest the existence of a racist motive for the incident.

Ion Bălăşoiu v. Romania

17 February 2015

This case concerned the death in prison, at the age of eighteen, of a young man of Roma ethnic origin which, according to his father, had been the result of the ill-treatment to which he had been subjected two months earlier by police officers while being held in police custody.

The Court held that there had been **no violation of Article 2** (right to life) of the Convention. It also held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) regarding the alleged ill-treatment but found a procedural **violation of Article 3** as regards the authorities' investigation into it. The Court lastly held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 3**.

Similar cases:

Velikova v. Bulgaria

18 May 2010

Kleyn and Aleksandrovich v. Russia[3]

3 May 2012

Death or disappearance following a boat accident

Ranđelović and Others v. Montenegro

19 September 2017

This case concerned the complaint that the Montenegrin authorities had failed to conduct a prompt and effective investigation into the deaths or disappearance of the applicants' family members. The latter, a group of Roma, had boarded a boat on the Montenegrin coast with the intention of reaching Italy, which sank in August 1999.

The Court held that there had been a **violation** of the procedural limb **of Article 2** (right to life) of the Convention. It found in particular that the Montenegrin Government had failed to justify the duration of the criminal proceedings, which had lasted more than ten years and seven months after a new indictment had been issued in 2006. Referring to its case-law, the Court underlined in particular that the passage of time inevitably eroded the amount and quality of evidence available and that the appearance of a lack of diligence cast doubt on the good faith of the investigative efforts. Lengthy proceedings also prolonged the ordeal for members of the family. The Court therefore considered that

[3]. On 16 September 2022 the Russian Federation ceased to be a Party to the European Convention on Human Rights ("the Convention").

the delays in question could not be regarded as compatible with the State's obligation under Article 2.

Expulsion

Sulejmanovic and Sultanovic and Sejdovic and Sulejmanovic v. Italy

8 November 2002 (friendly settlement)

This case concerned the expulsion of Roma gypsies and their minor children to Bosnia-Herzegovina, where they claimed they would be exposed to a risk of persecution.

The Court decided to **strike** the applications **out of** its **list of cases** following a friendly settlement in which the Italian Government had undertaken to revoke the deportation orders, to permit the applicants to enter Italy with their families and to issue them with leave to remain on humanitarian grounds. The Government had further undertaken to arrange for a temporary site to be provided pending a permanent solution, for children of school age to be allowed to attend school and, for one of the minor children – a Down's syndrome child, who had allegedly undergone heart surgery in Rome shortly before being deported – to receive the medical attention she needs.

Forced sterilisations of Roma women

V.C. v. Slovakia (no. 18968/07)

8 November 2011

The applicant, of Roma ethnic origin, was sterilised in a public hospital without her full and informed consent, following the birth of her second child. She signed the consent form while still in labour, without understanding what was meant or that the process was irreversible, and after having been told that, if she had a third child, either she or the baby would die. She has since been ostracised by the Roma community and, now divorced, cites her infertility as one of the reasons for her separation from her ex-husband.

The Court found that the applicant must have experienced fear, anguish and feelings of inferiority as a result of her sterilisation, as well as the way in which she had been requested to agree to it. She had suffered physically and psychologically over a long period and also in terms of her relationship with her then husband and the Roma community. Although there was no proof that the medical staff concerned had intended to ill-treat her, they had acted with gross disregard to her right to autonomy and choice as a patient. Her sterilisation had therefore been in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. The Court further held that there had been **no violation of Article 3** as concerned the applicant's allegation that the investigation into her sterilisation had been inadequate. Lastly, the Court found a **violation of Article 8** (right to respect for private and family life) of the Convention concerning the lack of legal safeguards giving special consideration to her reproductive health as a Roma at that time.

N.B. v. Slovakia (no. 29518/10)

12 June 2012

In this case the applicant alleged that she had been sterilised without her full and informed consent in a public hospital in Slovakia.

The Court concluded that the sterilisation of the applicant had been in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It further held that there had been **no violation of Article 3** as concerned the applicant's allegation that the investigation into her sterilisation had been inadequate. It lastly found a **violation of Article 8** (right to respect for private and family life) of the Convention.

I.G., M.K. and R.H. v. Slovakia (no. 15966/04)

13 November 2012

This case concerned three women of Roma origin who complained in particular that they had been sterilised without their full and informed consent, that the authorities' ensuing investigation into their sterilisation had not been thorough, fair or effective and that their ethnic origin had played a decisive role in their sterilisation.

The Court held that there had been **two violations of Article 3** (prohibition of inhuman and degrading treatment) of the Convention, firstly on account of the first and second applicants' sterilisation, and secondly in respect of the first and second applicants' allegation that the investigation into their sterilisation had been inadequate. The Court further found a **violation of Article 8** (right to respect for private and family life) of the Convention in respect of the first and second applicants and **no violation of Article 13** (right to an effective remedy) of the Convention. As lastly regards the third applicant, the Court decided to **strike** the application **out of** its **list of cases**, under Article 37 § 1 (c) of the Convention.

See also:

- ***R.K. v. the Czech Republic (no. 7883/08)***, decision (strike out) of 27 November 2012
- ***G.H. v. Hungary (no. 54041/14)***, decision on the admissibility of 9 June 2015

Police brutality

Bekos and Koutropoulos v. Greece

13 December 2005

The applicants, two Greek nationals belonging to the Roma ethnic group, alleged in particular that they had been subjected to acts of police brutality while in police detention. They also complained that the authorities had failed to carry out an adequate investigation into the incident, and that the impugned events had been motivated by racial prejudice.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the serious physical harm suffered by the applicants at the hands of the police, as well as the feelings of fear, anguish and inferiority which the impugned treatment had produced in them, must have caused them suffering of sufficient severity for the acts of the police to be categorised as inhuman and degrading treatment. The Court also held that there had been a **violation of Article 3** on account of the lack of an effective investigation into the credible allegation made by the applicants that they had been ill-treated while in custody. The Court further held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **taken together with Article 3** concerning the allegation that racist attitudes played a role in the applicants' treatment by the police. The Court lastly held that there had been a **violation of Article 14 taken together with Article 3** in that the authorities failed in their duty to take all possible steps to investigate whether or not discrimination might have played a role in the events at issue.

Jašar v. "the former Yugoslav Republic of Macedonia"

15 February 2007

The applicant, a Macedonian national of Roma ethnic origin, complained in particular about police brutality during his detention in police custody following a brawl in a bar and that the prosecuting authorities had failed to carry out an official investigation to identify and punish the police officers responsible for the ill-treatment he suffered.

Since the evidence before it did not enable the Court to find beyond all reasonable doubt that the applicant had been subjected to physical and mental ill-treatment while in police custody, the Court concluded that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention on account of the alleged ill-treatment. The Court further held that there had been a **violation of**

Article 3 on account of the lack of investigation into the allegations made by the applicant that he had been ill-treated by the police while in custody.

See also: ***Dzeladinov and Others v. "the former Yugoslav Republic of Macedonia"***, judgment of 10 April 2008; ***Sulejmanov v. "the former Yugoslav Republic of Macedonia"***, judgment of 24 April 2008.

Cobzaru v. Romania

26 July2007

The applicant alleged that he had been ill-treated by the police when he had gone to the local police station following an incident at his girlfriend's flat. He also complained that that ill-treatment and the refusal by the authorities to carry out a prompt, impartial and effective investigation into his allegations were due to his Roma origin.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention concerning the ill-treatment of the applicant: it found that the Romanian Government had not satisfactorily established that the applicant's injuries had been caused otherwise than by the treatment inflicted on him while he was under police control at the police station and that those injuries had been the result of inhuman and degrading treatment. The Court further concluded that the Romanian authorities had failed to conduct a proper investigation into the applicant's allegations of ill-treatment, in **violation of Article 3**. It also found that the applicant had been denied an effective remedy in respect of his alleged ill-treatment by the police, in **violation of Article 13** (right to an effective remedy) of the Convention. Lastly, the Court held that the failure of the law enforcement agents to investigate possible racial motives in the applicant's ill-treatment combined with their attitude during the investigation had constituted discrimination in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Articles 3 and 13**.

Petropoulou-Tsakiris v. Greece

6 December 2007

The applicant, a Greek national of Roma ethnic origin, alleged that she had been the victim of police brutality, resulting in a miscarriage, and that the Greek authorities had failed to carry out an adequate investigation into her allegation. She further submitted that her Roma ethnic origin had influenced the attitude and behaviour of the police and judicial authorities.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention concerning the alleged ill-treatment, since the evidence before it did not enable it to find beyond all reasonable doubt that the applicant's miscarriage had been the result of police brutality. The Court further held that there had been a **violation of Article 3** of the Convention on account of the lack of an effective investigation into the applicant's allegations. The Court lastly found that the failure of the Greek authorities to investigate possible racial motives behind the applicant's ill-treatment, combined with the generally partial attitude throughout the investigation, had constituted discrimination, in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 3**.

Stoica v. Romania

4 March 2008

During a clash between officials and a group of Roma, the 14-year-old applicant, a Romanian national of Roma origin, was allegedly beaten by a police officer despite a warning that he had recently undergone head surgery. The applicant alleged in particular that he had been ill-treated by the police and that the subsequent investigation into the incident had been inadequate. He also complained that the ill-treatment and decision not to prosecute the police officer who had beaten him had been motivated by racial prejudice.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, both under its procedural and its substantive limb: on the one hand, it found that the Romanian authorities had failed to conduct a

proper investigation into the applicant's allegations of ill-treatment; on the other hand, Romania had not satisfactorily established that the applicant's injuries had been caused otherwise than by the treatment inflicted on him by police officers. found that the applicant's injuries were the result of inhuman and degrading treatment and that there had been no proper investigation, The Court further held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 3**: neither the prosecutor in charge of the criminal investigation nor the Romanian Government could put forward any argument to show that the incident had been racially neutral; on the contrary, the evidence indicated that the police officers' behaviour had clearly been motivated by racism.

Adam v. Slovakia

26 July 2016

This case concerned an allegation by a 16-year old Roma that he had been slapped in the face when being questioned by the police about a mugging and that the related investigation was inadequate.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman and degrading treatment) of the Convention as concerned the applicant's allegation of having been slapped in police custody, and that there had been a **violation of Article 3** as concerned his complaint about the inadequate investigation into his allegation of ill-treatment. As concerned the merits of the applicant's allegation that he had been slapped by the police officers who had questioned him, the Court noted several elements casting doubt on his submissions and considered it plausible, as advanced by the Slovakian Government, that his injury – a swollen cheek – could have been caused while resisting arrest (as documented). However, as to the investigation into the alleged slapping, rather than investigating the applicant's allegations on their own initiative, the authorities seemed to have shifted the burden of pursuing his claims to the applicant himself. Nor had the authorities apparently taken any steps to eliminate the inconsistencies in the different versions as to the cause of the applicant's swollen cheek, to question or cross-examine certain witnesses, including the accused police officers and the doctor who had treated the applicant on his release, or to hold a face-to-face interview between him and those officers. Indeed, bearing in mind the sensitive nature of the situation concerning Roma in Slovakia at the time, the Court concluded that the authorities had not done all that could have been reasonably expected of them to investigate the applicant's allegations of ill-treatment.

See also, concerning minors: ***Stefanou v. Greece***, judgment of 22 April 2010 (the Court held that there had been a violation of Article 3 of the Convention on account of the ill-treatment inflicted by the police); ***Marinov v. Bulgaria***, judgment of 30 September 2010 (the Court held that there had been no violation of Article 3 on account of the alleged ill-treatment).

Lingurar and Others v. Romania

16 October 2018

This case concerned two police operations in the Roma community of Pata Rât to locate individuals suspected of theft. The applicants complained in particular that they had been subjected to ill-treatment by State officials and that no effective investigation had been carried out into their complaint. They also alleged that they had been discriminated against on account of their ethnic origin.

The Court held that there had been a **violation** of both the substantive and procedural aspects **of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in respect of two of the applicants, finding that the use of force by the police against them had been excessive and unjustified in the circumstances. The first applicant had been thrown to the ground by a police officer and the second one had been struck by a truncheon although he was putting up no resistance and had been immobilised by two police officers. The Court considered that these acts of brutality were intended to give rise to feelings of fear, anguish and inferiority capable of humiliating and debasing him.

The Court further held that there had been **no violation** of the substantive aspect **of Article 14** (prohibition of discrimination) of the Convention **taken together with Article 3**. It held, however, that there had been a **violation** of the procedural aspect **of Article 14 taken together with Article 3**. In that respect, it noted in particular that no investigation had been carried out by the authorities to ascertain whether the police actions complained of by the first applicant had been necessary in view of his conduct or possible resistance. The investigation into the allegations made by the second applicant had lasted more than eight years. Lastly, without accepting that there had been a racist motive to the police conduct during the operation, the Court considered that the authorities' investigation into the applicants' allegations of racism had not been sufficiently thorough.

Lingurar v. Romania

16 April 2019 (Committee judgment)

This case concerned a raid in 2011 by 85 police and gendarmes on the Roma community in Vâlcele (Romania). The applicant family complained that they had been ill-treated by the police, that the investigation into their allegations had been ineffective and that the authorities' justification for the raid had been racist.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention as concerned the ill-treatment of the applicant family during the raid and **two violations of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 3** because the raid had been racially motivated and the related investigation had been ineffective. It found in particular that there had been no justification for the disproportionate use of force during the raid on the applicant family's home, which had left them with injuries requiring treatment in hospital. It also noted that the applicants had been unarmed and had never been accused of any violent crime, while the four gendarmes who had raided their home had been highly trained in rapid intervention. The Court further considered that the applicants had been targeted because the authorities had perceived the Roma community in general as criminal. That had amounted to ethnic profiling and had been discriminatory.

Similar cases:

Carabulea v. Romania

13 July 2010

Borbála Kiss v. Hungary

26 June 2012

Ciorcan and Others v. Romania

27 January 2015

Boacă and Others v. Romania

12 January 2016

Gheorghiță and Alexe v. Romania

31 mai 2016

M.F. v. Hungary (no. 45855/12)

31 October 2017

Kovács v. Hungary

29 January 2019 (Committee judgment)

A.P. v. Slovakia (no. 10465/17)

28 January 2020

R.R. and R.D. v. Slovakia (no. 20649/18)

1 September 2020

X and Y v. North Macedonia (no. 173/17)
5 November 2020

M.B. and Others v. Slovakia (no. 45322/17)
1 April 2021

Memedov v. North Macedonia
24 June 2021 (Committee judgment)

Shooting spree at Roma family's home

Lakatošová and Lakatoš v. Slovakia
11 December 2018
This case concerned a shooting spree in 2012 by an off-duty police officer at the home of a Roma family. The two applicants in the case, a married couple, were seriously injured and three members of their family were killed. When questioned by the police, the officer stated that he had been thinking about "a radical solution" for "dealing with" Roma people. He was ultimately given a reduced sentence of nine years' imprisonment owing to diminished responsibility. The ruling was adopted in the form of a simplified judgment which contained no legal reasoning. The applicants essentially complained that the Slovakian authorities had failed to conduct an effective investigation into whether the attack on their family had had racial overtones.
The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **read in conjunction with Article 2** (right to life) of the Convention, finding that there had been plausible information in the case to alert the authorities to the need to carry out an investigation into a possible racist motive for the assault. It observed in particular that racist violence was a particular affront to human dignity, and required special vigilance and a vigorous reaction from the authorities. Nevertheless, the authorities had failed to thoroughly examine powerful indicators of racism in the case such as the police officer's frustration at his inability to resolve public order issues concerning Roma, as suggested in his psychological assessment. In addition, the police officer had not been charged with a racially motivated crime and the prosecutor had not at all addressed or discussed the possible aggravating factor of a racist motive in the bill of indictment. Moreover, the courts had failed to remedy in any way the limited scope of the investigation and prosecution and the simplified judgment in the case had contained no legal reasoning to address that shortcoming. Indeed, as the applicants had been civil parties to the proceedings, they had only been allowed to raise issues concerning their claims for damages.

Verbal abuse and threats

R.B. v. Hungary (no. 64602/12)
12 April 2016
See below, under "Right to respect for private and family life and the home".

Violent acts by private individuals

Šečić v. Croatia
31 May 2007
The applicant, of Roma origin, was attacked by two unidentified men when collecting scrap metal in April 1999. They beat him with wooden planks and shouted racial abuse while two other men kept watch. Shortly afterwards the police arrived, interviewed people at the scene and made an unsuccessful search for the attackers. The applicant alleged, in particular, that the domestic authorities failed to undertake a serious and thorough investigation into the racist attack and that he suffered discrimination on the basis of his Roma origin.

Having considered all the material in its possession and the arguments put forward by the parties, the European Court of Human Rights considered that the failure of the State authorities to further the case or obtain any tangible evidence with a view of identifying and arresting the attackers over a prolonged period of time indicated that the investigation did not meet the requirements of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights. It therefore held that there had been a **violation of Article 3** concerning the lack of an effective investigation. The Court also found that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 3** for the following reasons: the applicant's attackers were suspected of belonging to a group of skinheads, and it was in the nature of such groups to be governed by extremist and racist ideology; accordingly, knowing that the attack was probably the result of ethnic hatred, the police should not have allowed the investigation to drag on for more than seven years without taking any serious steps to identify or prosecute those responsible.

Angelova and Iliev v. Bulgaria

26 July 2007

The applicants, mother and son, complained about the racially motivated killing of their respective son and brother by seven teenagers, and about the subsequent failure by the Bulgarian authorities to investigate and prosecute those responsible.

The Court held that there had been a procedural **violation of Article 2** (right to life) of the Convention, finding that the Bulgarian authorities had failed in their obligation under Article 2 to effectively investigate the applicants' relative's death promptly, expeditiously and with the required vigour, considering the racial motives of the attack and the need to maintain the confidence of minority groups in the ability of the authorities to protect them from the threat of racist violence. Further, noting in particular the widespread prejudices and violence against Roma during the relevant period and the need to reassert continuously society's condemnation of racism and to maintain the confidence of minorities in the authorities' ability to protect them from the threat of racist violence, the Court found that the authorities had failed to make the required distinction from other, non-racially motivated offences, which constituted unjustified treatment irreconcilable with Article 14 (prohibition of discrimination) of the Convention. The Court therefore held that there had been a **violation of Article 14 taken in conjunction with Article 2**.

Beganović v. Croatia

25 June 2009

The applicant complained that following a violent attack against him, the domestic authorities had failed to carry out effective investigation and prosecution. He further alleged that both the attack and the subsequent proceedings showed that he had been discriminated against on account of his Roma origin.

The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention, finding that the Croatian authorities' practices had not protected adequately the applicant from an act of serious violence and, together with the manner in which the criminal-law mechanisms had been implemented in the present case, had been defective. The Court further held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 3**, on account of the lack of evidence that the attack on the applicant had been racially motivated. The facts of the case had revealed that the applicant and his assailants had actually belonged to the same circle of friends, and there had been no indication that the applicant's race or ethnic origin had played a role in any of the incidents.

Koky and Others v. Slovakia

12 June 2012

The applicants were ten Slovak nationals of Roma ethnic origin. In February 2002 several men armed with baseball bats and iron bars, shouting racist language, allegedly attacked their settlement following an incident in a bar when a non-Roma waitress

refused to serve a drink to a Roma. The applicants alleged that they had been ill-treated and submitted that the Slovakian authorities had failed to carry out a prompt, impartial and effective investigation into the attack.
The Court held that the investigation into the incident at the applicants' settlement could not be considered as having been effective, in **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention. It found in particular that the authorities had not done everything that could have been expected to investigate the incident, in particular taking into account its racial overtones.

Škorjanec v. Croatia

28 March 2017

In June 2013, two men racially abused the applicant's partner on the basis of his Roma origin, before attacking both him and the applicant herself. The two assailants were prosecuted and convicted on charges that included a hate crime against the applicant's partner. However, the men were not charged for a racially motivated crime against the applicant herself. The authorities rejected her complaint of a hate crime, finding that there was no indication that the men had attacked her because of hatred towards Roma, as she is not of Roma origin. The applicant complained to the Court of a lack of an effective procedural response of the Croatian authorities in relation to a racially motivated act of violence against her.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) under its procedural aspect **in conjunction with Article 14** (prohibition of discrimination) of the Convention, finding that the Croatian authorities had failed in their obligations under the Convention when rejecting the applicant's criminal complaint without conducting further investigation prior to their decision. The Court noted in particular that, under Convention case law, a person may be a victim of a violent hate crime not only when they have been attacked because they themselves have a certain characteristic – but also when they are attacked because they have an actual or presumed association with another person, who has (or is perceived to have) that characteristic. States have an obligation to recognise both types as hate crimes, and investigate them accordingly. However, in this case the Croatian authorities had repeatedly failed to take the necessary care in identifying the violence against the applicant as a suspected hate crime.

J.I. v. Croatia (no. 35898/16)

8 September 2022[4]

This case concerned a rape victim's complaint that the authorities had not taken seriously her allegation that her rapist – her father – had threatened to kill her during prison leave. The applicant alleged in particular that the authorities had failed to protect her from her rapist's intimidation and repeat victimisation[5] and to effectively investigate his death threats. She also submitted that her allegations had not been taken seriously because of her Roma ethnicity.
The Court held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in the applicant's case because of the lack of an effective investigation into her complaint. It found in particular that even though the applicant had informed the police on three occasions of a serious threat to her life by her rapist, they had never even commenced criminal enquiries, let alone opened an investigation. The Court also observed that the authorities had been well aware that the applicant was particularly vulnerable as a Roma woman and victim of serious sexual offences, and found that they should therefore have reacted promptly and efficiently to protect her from her rapist's threat being carried out as well as from intimidation, retaliation and repeat victimisation.

4. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.
5 A legal term meaning "a situation when the same person suffers from more than one criminal incident over a specific period of time" (Council of Europe's Committee of Ministers Recommendation Rec(2006)8 on assistance to crime victims).

Similar cases:

Seidova v. Bulgaria
18 November 2010

Dimitrova and Others v. Bulgaria
27 January 2011

Balázs v. Hungary
20 October 2015

Alković v. Montenegro
5 December 2017

Prohibition of slavery and forced labour (Article 4)

M. and Others v. Italy and Bulgaria (no. 40020/03)
31 July 2012
The applicants, of Roma origin and Bulgarian nationality, complained that, having arrived in Italy to find work, their daughter was detained by private individuals at gunpoint, was forced to work and steal, and sexually abused at the hands of a Roma family in a village. They also claimed that the Italian authorities had failed to investigate the events adequately.
The Court declared the applicants' **complaints under Article 4** (prohibition of slavery and forced labour) **inadmissible** (manifestly ill-founded). It found that there had been no evidence supporting the complaint of human trafficking. However, it found that the Italian authorities had not effectively investigated the applicants' complaints that their daughter, a minor at the time, had been repeatedly beaten and raped in the villa where she was kept. The Court therefore held that there had been a **violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention under its procedural limb. The Court lastly held that there had been **no violation of Article 3** of the Convention in respect of the steps taken by the Italian authorities to release the first applicant.

Right to liberty and security (Article 5)

Čonka v. Belgium
5 February 2002
See below, under "Prohibition of collective expulsion of aliens".

Seferovic v. Italy
8 February 2011
This case mainly concerned the lawfulness of the detention of a woman from Bosnia and Herzegovina and of Roma ethnic origin pending her deportation from Italy. Her deportation and prior detention were ordered a few weeks after she had given birth to a child (who subsequently died at the hospital), despite the fact that Italian law prohibited the deportation of a woman within six months of giving birth. The applicant alleged that her detention in the holding centre had been unlawful and that no means had been available to her under Italian law by which to obtain redress.
The Court held that there had been a **violation of Article 5 § 1 (f) and Article 5 § 5** (right to liberty and security) of the Convention. Concerning the alleged unlawfulness of the applicant's detention, it found that the Italian authorities, who had known about the birth, had not been empowered to place the application in detention. Further, as regards the alleged absence of means by which to obtain redress for the unlawful detention, the Court could only observe that no provision had existed in Italian law enabling

the applicant to apply to the domestic authorities for compensation in respect of her unlawful detention.

Right to a fair trial (Article 6)

K.H. and Others v. Slovakia (no. 32881/04)

28 April 2009

See below, under "Right to respect for private and family life and home".

Paraskeva Todorova v. Bulgaria

25 March 2010

The applicant is a member of the Roma community. A district court sentenced her to three years' imprisonment for fraud and refused to suspend the sentence. She appealed unsuccessfully to the higher courts. The applicant complained that she had been discriminated against on the ground of her membership of the Roma minority as a result of the reasons given for the domestic courts' refusal to suspend her prison sentence. She further maintained that the Bulgarian courts had not been impartial as they had taken account of her ethnic origin when determining her sentence.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) **taken together with Article 6 § 1** (right to a fair trial) of the Convention. It found that the applicant had been subjected to a difference in treatment based on her ethnic origin, on account of the ambiguous reasoning of the domestic courts' decision to impose immediate imprisonment. There had been no objective circumstance capable of justifying that situation. The Court stressed in that connection the seriousness of the facts complained of and made the point that stamping out racism was a priority in Europe's multicultural societies and that equality of citizens before the law was enshrined in Bulgarian domestic legislation.

Negrea and Others v. Romania

24 July 2018

This case concerned, among other things, allegations of indirect discrimination on the grounds of belonging to the Roma ethnic group, vis-à-vis the right to family allowances. The applicants also complained about the length of the proceedings in question.

The Court held that there had been a **violation of Article 6 § 1** (right to a fair hearing within a reasonable time) of the Convention and a **violation of Article 13** (right to an effective remedy) of the Convention **taken together with Article 6 § 1**. It considered, firstly, that proceedings which lasted seven years and nine months, a duration which could not be attributed to the complexity of the case or to the applicants' conduct, did not meet the "reasonable time" requirement. However, it noted that there was no tangible evidence in the case file to prove that individuals from the Roma ethnic group had been more affected than others, and held that there had been no discriminatory treatment on the part of the authorities. Lastly, it noted that at the relevant time there had been no effective remedy in Romania in order to complain about excessive length of proceedings. The Court held, however, that the complaint of discrimination against persons from the Roma ethnic group in the exercise of their right to social welfare allowances was ill-founded in the present case and had to be **rejected**.

See also:

Hysenaj v. Albania

27 September 2022 (Committee decision on the admissibility)

Right to respect for private and family life (Article 8)

Access to medical records

K.H. and Others v. Slovakia (no. 32881/04)

28 April 2009

The applicants are eight women of Roma origin who were treated at gynaecological and obstetrics departments in two hospitals in eastern Slovakia during their pregnancies and deliveries. Despite continuing attempts to conceive, none of the applicants has become pregnant since their last stay in the hospitals, when they delivered via caesarean section. The applicants suspected that the reason for their infertility might be that they were sterilised without their knowledge or consent during the operation.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, on account of the applicants not having been allowed to make photocopies of their medical records. It also found that there had been a violation of **Article 6 § 1** (access to court) of the Convention, on account of the impossibility for the applicants or their lawyers to obtain photocopies of their medical records having limited their effective access to court. Lastly, the Court held that there had been **no violation of Article 13** (right to an effective remedy) of the Convention **in combination with Article 8**, on account of Article 13 not guaranteeing a remedy to challenge a law itself.

Ban on begging

Lăcătuş v. Switzerland

19 January 2021

This case concerned an order for the applicant, a Romanian national belonging to the Roma community, to pay a fine of 500 Swiss francs (approximately 464 euros) for begging in public in Geneva, and her detention in a remand prison for five days for failure to pay the fine. The applicant alleged in particular that the prohibition on begging in public places constituted unacceptable interference with her private life as it had deprived her of her means of subsistence.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention, finding that the penalty imposed had infringed the applicant's human dignity and impaired the very essence of the rights protected by Article 8, and that the State had thus overstepped its margin of appreciation in the present case. The Court observed in particular that the applicant, who was illiterate and came from an extremely poor family, had no work and was not in receipt of social benefits. Begging constituted a means of survival for her. Being in a clearly vulnerable situation, the applicant had had the right, inherent in human dignity, to be able to convey her plight and attempt to meet her basic needs by begging. The Court also considered that the penalty imposed on the applicant had not been proportionate either to the aim of combating organised crime or to the aim of protecting the rights of passers-by, residents and shopkeepers. It could not subscribe to the Federal Court's argument that less restrictive measures would not have achieved a comparable result.

Destruction of encampments

Pastrama v. Ukraine

1 April 2021 (Committee judgment)

The applicant in this case alleged in particular that State agents had been involved in the destruction of the Roma encampment where she used to live and that there had been no effective investigation in this connection.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention, finding that the Ukrainian authorities had failed to react appropriately to the incident by conducting an investigation compliant with their positive

obligation to ensure effective respect for the applicant's private life. It considered, however, that the minimum level of severity required in order for the issue to fall within the scope of Article 3 (prohibition of inhuman or degrading treatment) of the Convention had not been attained. Accordingly, it declared the applicant's **complaints under Article 3 inadmissible** as being manifestly ill-founded.

Discriminatory statements or publications

Aksu v. Turkey

15 March 2012 (Grand Chamber)

The applicant, of Roma origin, alleged that three government-funded publications (a book about Roma and two dictionaries) included remarks and expressions that reflected anti-Roma sentiment.

The Court reiterated that discrimination within the meaning of Article 14 (prohibition of discrimination) of the Convention was to be understood as treating people in relevantly similar situations differently, without an objective or reasonable justification. However, the applicant had not managed to build a case to prove that the publications had a discriminatory intent or effect. The applicant's case did not therefore concern a difference of treatment and the Court decided to examine the case only under Article 8 (right to respect for private and family life) of the Convention. In the applicant's case, the Court held that there had been **no violation of Article 8**, finding that neither the book nor the dictionaries were offensive to Roma. It found in particular that the Turkish authorities had taken all necessary steps to comply with their obligation under Article 8 to protect the applicant's effective right to respect for his private life as a member of the Roma community. It did mention, however, that it would have been preferable to label a second definition of the word "Gypsy" – "miserly" – in the dictionaries as "pejorative" or "insulting" rather than "metaphorical".

See also:

Budinova and Chaprazov v. Bulgaria

16 February 2021

Inspection of home

L.F. v. Hungary (no. 621/14)

19 May 2022

This case concerned an inspection of the applicant's home – retrospectively justified as necessary to verify compliance with construction regulations and for the allocation and/or review of housing benefits – in 2011 by a delegation of the local mayor's office. The inspection took place as part of a new social scheme and amid heightened tensions between Roma and non-Roma inhabitants. The applicant alleged that there had been no legal basis for the mayor and his colleagues to enter his home and that the authorities' investigation into his complaints had been ineffective. He also alleged that the aim of the inspection had been to harass him because of his Roma ethnicity and that the investigating authorities had failed to take the necessary steps to examine the possible racist motive behind the incident.

The Court held that there had been a **violation of Article 8** (right to respect for home) of the Convention in the present case, finding that the reasons given by the mayor's office for the inspection had had no legal basis. It noted, in particular, that the construction regulations had not been applicable in the case and that a decree referred to with regard to the housing benefits was irrelevant because no official procedure had been pending in that regard which would have allowed the authorities to enter the applicant's home. On the other hand, the Court declared **inadmissible**, for non-exhaustion of domestic remedies, the applicant's complaint under **Article 14** (prohibition of discrimination) of the Convention **in conjunction with Article 8**, noting that the

applicant had not reiterated his argument that the inspection had had racist overtones in the last set of proceedings concerning his case.

Placement of children in care and access rights

Barnea and Caldararu v. Italy

22 June 2017

This case concerned the removal of a 28-month-old girl from her birth family – Romanian nationals who had arrived in Italy in 2007 and settled in a Roma camp – for a period of seven years and her placement in a foster family with a view to her adoption. The applicant family complained in particular about the child's removal and placement in care by the Italian authorities in 2009, about the social services' failure to execute the Court of Appeal's judgment of 2012 ordering that a programme be put in place for gradually reuniting the child and her birth family, about the child's placement in a foster family and the reduction in the number of meetings between the child and the members of her birth family.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, finding that the Italian authorities had failed to undertake appropriate and sufficient efforts to secure the applicants' right to live with their child between June 2009 and November 2016. The Court found, firstly, that the reasons given by the children's court for refusing to return the child to her family and for declaring her available for adoption did not amount to "very exceptional" circumstances that would justify a severing of the family ties. The Court found, secondly, that the Italian authorities had incorrectly executed the Court of Appeal's 2012 judgment, which provided for the child's return to her birth family. Thus, the passage of time – a consequence of the social services' inertia in putting in place a programme for reuniting the family – and the grounds put forward by the children's court for extending the child's temporary placement had been decisive factors in preventing the applicants' reunion with the child, which ought to have occurred in 2012.

Achim v. Romania

24 October 2017

This case concerned the placement in care of the seven children of the applicants – Romanian nationals belonging to the Roma ethnic group – on the grounds that the couple had not been fulfilling their parental duties and obligations. The applicants complained, firstly, of the placement in care of their children, which they deemed unjustified and, secondly, of the court of appeal's dismissal of their request for the return of their children.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life) of the Convention. It found in particular that the children's temporary placement in care had been justified by relevant and sufficient reasons and that the authorities had been endeavouring to safeguard their interests, while seeking a fair balance between the applicant's rights and those of their children. In this case the decisions taken by the domestic courts had been based not only on the family's material deprivation but also on the parents' neglect of the children's state of health and educational and social development; the authorities had adopted a constructive attitude, advising the parents about the action they should take to improve their financial situation and their parenting skills; the children's placement had only been temporary and the authorities had taken the requisite action to facilitate the children's return to their parents as soon as the latter had adopted a cooperative attitude and their situation had improved.

Jansen v. Norway

6 September 2018

The applicant, a Norwegian national of Roma origin, complained about being denied access to her daughter, who had been taken into care and was in a foster family. The main reason for the Norwegian courts' restrictions on contact was the danger of the

child being abducted by the applicant's family, which would be harmful to the child, and the possibility that the secret address of the foster family would be revealed.
The Court held that there had been a **violation of Article 8** (right to respect for family life) of the Convention, finding that the potential negative long-term consequences for the child of losing contact with her mother and the positive duty to take measures to facilitate family reunification as soon as reasonably feasible had not been sufficiently weighed in the balancing exercise. It noted in particular that according to the Court's jurisprudence it was imperative to consider the long-term effects which a permanent separation of a child from her natural mother might have. This was all the more so as the separation of the child from her mother could also have led to her alienation from her Roma identity.

Terna v. Italy

14 January 2021

The applicant in this case complained of the removal and placement in care of her granddaughter (who had resided with her since birth), and of her inability to exercise her right of access as granted by the domestic courts. She considered that that situation had resulted from stigmatisation of the child's family and was connected with their Roma ethnicity.
The Court held that there had been a **violation of Article 8** (right to respect for private and family life) of the Convention, finding that the domestic authorities had failed to expend adequate and sufficient efforts to ensure respect for the applicant's access rights, and that they had infringed the applicant's right to respect for her family life. It noted in particular that the applicant had constantly attempted to establish contacts with the child ever since she had been placed in a children's home in 2016, and despite the various court decisions she had been unable to exercise her right of access to the child. The Court considered that even though the legal means provided under Italian law appeared adequate to enable the State to honour its positive obligations under Article 8 of the Convention, the authorities had for a certain period allowed a *de facto* situation to take hold at variance with the decisions given by the courts, ignoring the long-term effects likely to stem from the child's permanent separation from the person responsible for caring for her, that is to say the applicant. The Court also considered that the delays in organising the applicant's right of access pointed to a systemic problem in Italy. However, in the present case, the domestic courts had at no stage relied on reasoning related to the ethnic background of the child and her family to justify taking her into care. The reasons given for the latter had involved the fact that it was in the girl's best interests to be removed from an environment in which she had been severely penalised in many respects, and also on account of the applicant's inability to exercise any parental role. The Court therefore held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 8**.

Unlawful sterilisation and time-limit for claiming compensation

Maděrová v. Czech Republic

8 June 2021 (decision on the admissibility)

This case concerns the applicant's sterilisation in 1982 and her request for compensation which was rejected for being statute-barred. The applicant submitted, in particular, that her right to respect for her family life had not been afforded effective judicial protection.
The Court declared the application **inadmissible,** as being manifestly ill-founded. It found, in particular, no indication that the respondent State had failed in its positive obligations under Article 8 (right to respect for private and family life) of the Convention in the present case.

Verbal abuse and threats

R.B. v. Hungary (no. 64602/12)

12 April 2016

This case concerned the complaint by a woman of Roma origin that she had been subjected to racist insults and threats by participants in an anti-Roma march and that the authorities had failed to investigate the racist verbal abuse.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention on account of the inadequate investigation into the applicant's allegations of racially motivated abuse. It considered in particular that, given that the insults and acts in question had taken place during an anti-Roma march and had come from a member of an extremely right-wing vigilante group, the authorities should have conducted the investigation in that specific context. However, they had failed to take all reasonable steps to establish the role of racist motives. At the same time, the Court declared **inadmissible** the complaint under **Article 8** concerning the authorities' inaction during the rallies as being manifestly ill-founded, coming to the conclusion that there had been no appearance of an unreasonable response by the police to the demonstrations. The Court also declared **inadmissible** the applicant's complaint under **Article 3** (prohibition of inhuman or degrading treatment) of the Convention **read alone or in conjunction with Article 14** (prohibition of discrimination) as being manifestly ill-founded. While the right-wing groups had been present in her neighbourhood for several days, they had been continuously monitored by the police. No physical confrontation had taken place between the Roma inhabitants and the demonstrators. The statements and acts by one of the demonstrators, although openly discriminatory and performed in the context of marches with intolerant overtones, had not been so severe as to cause the kind of fear, anguish or feelings of inferiority that were necessary for a complaint to fall within the scope of Article 3.

Király and Dömötör v. Hungary

17 January 2017

This case concerned an anti-Roma demonstration. The applicants – both of whom are of Roma origin – alleged that the police had failed to protect them from racist abuse during the demonstration and to properly investigate the incident.

The Court held that there had been a **violation of Article 8** (right to respect for private life) of the Convention. It found in particular that the Hungarian authorities' investigations into the incident had been limited. Namely, one of the investigations – concerning the speeches made during the demonstration – had not taken into account the specific context of the abuse and another – concerning the offence of violence against a group – had been slow and limited to acts of physical violence. The investigations had not therefore established the true and complex nature of the events. The cumulative effect of these shortcomings had meant that an openly racist demonstration, with sporadic acts of violence, had remained virtually without legal consequences. Indeed, the applicants' psychological integrity had not been effectively protected against what had amounted to nothing less than organised intimidation of the Roma community, by means of a paramilitary parade, verbal threats and speeches advocating a policy of racial segregation. The Court was concerned that this could be perceived by the public as the State's legitimisation and/or tolerance of such behaviour.

Way of life, forced evictions and alternative accommodation

Buckley v. the United Kingdom

25 September 1996

The applicant submitted that since she was prevented from living in caravans on her own land with her family and from following a travelling life there had been, and continued to be, a violation of her right to respect for her private and family life and her home.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life and home) of the Convention and **no violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 8**. It was satisfied that the authorities had weighed up the competing issues and given relevant and sufficient reasons for their decisions, namely that the measures were taken in the enforcement of planning controls for highway safety, the preservation of the environment and public health.

Chapman v. the United Kingdom, Coster v. the United Kingdom, Beard v. the United Kingdom, Lee v. the United Kingdom and Jane Smith v. the United Kingdom

18 January 2001 (Grand Chamber)

The applicants complained in particular that measures taken against them to enforce planning measures concerning the occupation of their own land in their caravans violated Articles 8 (right to respect for private and family life and home) and 14 (prohibition of discrimination) of the Convention.

The Court held that there had been **no violation of Article 8** and **no violation of Article 14** of the Convention. It found in particular that the measures taken against the applicants were "in accordance with the law" and "pursued the legitimate aim" of preservation of the environment, the land in question being occupied without planning permission and in some cases on a Green Belt or Special Landscape area. Nor was the Court convinced that the UK (or any other of the Contracting States to the European Convention) was under an obligation to make available to the gypsy community an adequate number of suitably equipped sites, Article 8 not giving a right to be provided with a home.

Connors v. the United Kingdom

27 May 2004

This case concerned the eviction of the applicant and his family from the local authority's gypsy site at Cottingley Springs in Leeds (England), where they had lived permanently for about 13 years, on the ground that they had misbehaved and caused considerable nuisance at the site.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life and home) of the Convention, finding that the summary eviction had not been attended by the requisite procedural safeguards, namely the requirement to properly justify the serious interference with his rights. The Court observed in particular that the vulnerable position of gypsies as a minority meant that some special consideration had to be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases. To that extent, there was a positive obligation on the United Kingdom to facilitate the gypsy way of life.

Yordanova and Others v. Bulgaria

24 April 2012

This case concerned the Bulgarian authorities' plan to evict Roma from a settlement situated on municipal land in an area of Sofia called Batalova Vodenitsa.

The Court held that **there would be a violation of Article 8** (right to private and family life) of the Convention **if the removal order were enforced**. It found in particular that the removal order had been based on a law, and reviewed under a decision-making procedure, neither of which required the authorities to balance the different interests involved.

Winterstein and Others v. France

17 October 2013

This case concerned eviction proceedings brought against a number of traveller families who had been living in the same place for many years. The domestic courts issued orders for the families' eviction, on pain of penalty for non-compliance. Although the

orders were not enforced, many of the families moved out. Only four families were provided with alternative accommodation in social housing; the so-called family sites where the remaining families were to be accommodated were not created. The applicants complained in particular that the order requiring them to vacate the land they had occupied for many years amounted to a violation of their right to respect for their private and family lives and their homes.
The Court held that there had been a **violation of Article 8** (right to respect for private and family life and home) of the Convention. It noted in particular that the courts, despite acknowledging the lack of urgency and of any manifestly unlawful nuisance, had not taken into account the lengthy period for which the applicants had been settled, the municipal authorities' toleration of the situation, the right to housing, the provisions of Articles 3 and 8 of the Convention and the Court's case-law. The Court pointed out in that connection that numerous international and Council of Europe instruments stressed the need, in cases of forced eviction of Roma or travellers, to provide the persons concerned with alternative accommodation. The national authorities had to take into account the fact that such applicants belonged to a vulnerable minority; this implied paying special consideration to their needs and their different way of life when it came to devising solutions to the unlawful occupation of land or deciding on possible alternative accommodation[6].

Bagdonavicius and Others v. Russia[7]

11 October 2016
This case concerned the demolition of houses and the forced eviction of people of Roma origin who lived in a village in the Kaliningrad Region. The applicants alleged in particular that their eviction and the demolition of their homes had infringed their right to respect for their private and family life and home. They also complained of a violation of their right to the peaceful enjoyment of their possessions. Lastly, they alleged that the interviews that some of them had had with the police had hindered the exercise of their right of individual application.
The Court held that there had been a **violation of Article 8** (right to respect for private and family life and the home) of the Convention, finding that the applicants had not, in the proceedings with regard to the demolition of their homes, had the benefit of an examination of the proportionality of the interference, in compliance with the requirements of Article 8, and that the national authorities had not conducted genuine consultations with the applicants about possible rehousing options, on the basis of their needs and prior to their forcible eviction. As to the applicants' allegation of propriety interests with regard to their homes, the Court considered that these had not been sufficiently weighty and established to constitute a substantive interest and hence "possessions" within the meaning of Article 1 of Protocol No. 1 to the Convention. It therefore declared this part of the complaint **inadmissible**. Further, with regard to the destruction of moveable property during the operation to demolish the houses, the Court noted that the applicants had neither submitted a complaint nor applied to the national courts for compensation. It therefore **rejected** this part of the complaint for failure to exhaust the domestic remedies. Lastly, in the light of the case file, the Court held that the Russian authorities had not hindered the applicants in the exercise of their right of individual application. It consequently held that Russia had **not failed to comply with** its **obligations under Article 34** (right of individual application) of the Convention.

Hudorovič and Others v. Slovenia

10 March 2020
This case concerned complaints by the applicants, who are all Slovenian nationals of Roma origin, about an alleged lack of access to drinking water and sanitation, taking into consideration their lifestyle and minority status.

6. See also the judgment on just satisfaction in this case delivered by the Court on 28 April 2016.
7. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

The Court held that there had been **no violation of Article 8** (right to respect for private life) of the Convention in respect of the applicants. It found in particular that the Slovenian authorities had taken positive steps, which had also acknowledged the applicants' disadvantaged situation, to provide them with adequate access to safe drinking water. Welfare benefits provided by the State meant that they also had the possibility to install alternative sanitation measures. The Court also held that there had been **no violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 8** and **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention **taken alone or in conjunction with Article 14**.

Hirtu and Others v. France

14 May 2020

This case concerned the clearance, in April 2013, of an unauthorised encampment where the applicants, who are of Roma origin, had been living for six months. The applicants complained in particular of a breach of their right to respect for their private and family life and their homes and alleged that they had not had an effective remedy by which to challenge their forcible eviction. They also contended that the circumstances of their forcible eviction and their subsequent living conditions had amounted to inhuman and degrading treatment.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life and the home) of the Convention, finding that the manner of the applicants' eviction had breached their right to respect for their private and family life. It noted, in particular, that the authorities had been entitled in principle to evict the applicants, who had been unlawfully occupying municipal land and could not claim to have a legitimate expectation of remaining there. Nevertheless, with regard to the manner of the applicants' eviction, the Court observed that the measure had not been based on a judicial decision but on the procedure for issuing formal notice under a Law of July 2000. The decision to use that procedure had entailed a number of consequences. Owing to the short time between the issuing of the prefect's order and its implementation, no account had been taken of the repercussions of the eviction or the applicants' particular circumstances. Furthermore, because of the procedure that had been applied, the remedy provided for by domestic law had come into play after the decision had been taken by the administrative authorities and had been ineffective in the present case. The Court also emphasised that the fact that the applicants belonged to an underprivileged social group, and their particular needs on that account, had to be taken into consideration in the proportionality assessment that the national authorities were under a duty to undertake. That had, however, not been done in the present case. On the other hand, the Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in respect of the applicants, finding that the circumstances of their forcible eviction and their subsequent living conditions had not amounted to inhuman or degrading treatment. Lastly, the Court held that there had been **a violation of Article 13** (right to an effective remedy) of the Convention, finding that there had been no judicial examination at first instance of the applicants' arguments under Articles 3 and 8, either in proceedings on the merits or under the urgent procedure, in breach of the requirements of Article 13.

Faulkner v. Ireland and McDonagh v. Ireland

8 March 2022 (decision on the admissibility)

This case concerned the removal of the applicants, who were sisters and members of the Traveller community (a recognised ethnic group in Ireland), from a roadside site they were living on illegally. The applicants complained that the orders to vacate the site had been an interference with their rights, and that the authorities had not examined the proportionality of the orders. They further submitted that the domestic proceedings had been conducted in undue haste and they had not been legally represented.

The Court declared the applications **inadmissible**, as being manifestly ill-founded, finding that there was no basis to conclude that the court order to vacate the land had

been disproportionate or that the court proceedings as a whole had been unfair. It noted, in particular, the applicants' representation by counsel before the High Court. It also highlighted the applicants had been illegally occupying the site and had not been left homeless by the orders, accommodation having been found for them with State support. In the present case, the Court concluded that the Irish authorities had acted within their discretion.

Paketova and Others v. Bulgaria

4 October 2022[8]

The applicants, members of several families of Roma origin, lived in a village in Maritsa municipality, Plovdiv region, at the time of the events. The case concerned their complaint that they had been forced to leave their homes, following a fight in the village between one of the applicants and a non-Roma and the gathering of angry members of the local population, joined by radical extremist groups, shouting anti-Roma slogans and threatening violence. They alleged in particular that the whole Roma community of the village was effectively subjected to a collective expulsion, and that both the village mayor and the police had played a major role in the expulsion and subsequent obstacles to their return, refusing to protect them from racially based hostility.

The Court held that there had been a **violation of Article 8** (right to respect for private and family life and the home) **taken in conjunction with Article 14** (prohibition of discrimination) of the Convention, finding that the cumulative effect of the omissions of the different authorities, in terms of their positive obligations, had resulted in a situation where all of the applicants had been driven away from their home and for which there had been no legal consequences. The applicants had been left unable to peacefully enjoy their private and family life and their homes and had not been provided with the required protection of their rights.

Similar cases:

Stenegry and Adam v. France

22 May 2007 (decision on the admissibility)

Farkas and Others v. Romania

17 June 2014 (decision on the admissibility)

Cazacliu and Others v. Romania

4 April 2017 (decision on the admissibility)

Dimitrova and Others v. Bulgaria

11 July 2017 (decision on the admissibility)

Aydarov and Others v. Bulgaria

2 October 2018 (decision on the admissibility)

Bekir and Others v. North Macedonia

24 June 2021 (decision on the admissibility)

Caldaras and Lupu v. France, Ciurar and Others v. France, Stefan and Others v. France, Stan v. France, Sisu and Others v. France, and Margoi and Others v. France

17 November 2022 (decisions on the admissibility)

Pending application

Caldarar and Others v. Poland (no. 6142/16)

Application communicated to the Polish Government on 8 September 2017

This case concerns the complaints of five Roma families related to the demolition of their homes.

[8]. This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention.

The Court gave notice of the application to the Polish Government and put questions to the parties under Articles 3 (prohibition of inhuman or degrading treatment), 8 (right to respect for private and family life and home), 13 (right to an effective remedy), 14 (prohibition of discrimination) and 35 (admissibility criteria) of the Convention and Article 1 (protection of property) of Protocol No. 1 to the Convention.

Freedom of expression (Article 10)

Le Pen v. France

28 February 2017 (decision on the admissibility)

This case concerned findings against the applicant by the courts in respect of certain remarks made by him in September 2012, during the Summer School of the *Front National*, a political movement which he founded and of which he is honorary president.

The Court declared the applicant's complaint under Article 10 (freedom of expression) of the Convention **inadmissible** as being manifestly ill-founded, finding in particular that his conviction for public insult directed at a group of persons on account of belonging to a given ethnic community was supported by relevant and sufficient reasons.

Freedom of assembly and association (Article 11)

Anti-Roma rallies and demonstrations

Vona v. Hungary

9 July 2013

This case concerned the dissolution of an association on account of the anti-Roma rallies and demonstrations organised by its movement.

The Court held that there had been **no violation of Article 11** (freedom of assembly and association) of the Convention. It recalled in particular that, as with political parties, the State was entitled to take preventive measures to protect democracy against associations if a sufficiently imminent prejudice to the rights of others undermined the fundamental values upon which a democratic society rested and functioned. In this case, a movement created by the applicant's association had led to demonstrations conveying a message of racial division, which, reminiscent of the Hungarian Nazi Movement (Arrow Cross), had had an intimidating effect on the Roma minority. Indeed, such paramilitary marches had gone beyond the mere expression of a disturbing or offensive idea, which is protected under the Convention, given the physical presence of a threatening group of organised activists. Therefore, the only way to effectively eliminate the threat posed by the movement had been to remove the organisational backup provided by the association.

Prohibition order preventing Gypsy-Romany Fair from taking place

The Gypsy Council and Others v. the United Kingdom

14 May 2002 (decision on the admissibility)

The first and second applicants are organisations representing the interests of the Gypsy-Romany community, of which the third and fourth applicants were members. The Horsmonden Horse Fair, a significant cultural and social event in the life of the Gypsy-Romany community in the United Kingdom, had been held every year at the Horsmonden Village Green for the last 50 years. In August 2000 the Borough Council decided to issue a prohibition order on the ground that the fair could result in serious disruption to the life of the community in the vicinity of the area where the fair was to take place. On 4 September 2000, having obtained the Secretary of State's approval,

the Borough Council issued the prohibition order. Notwithstanding the prohibition order, the police gave consent to the conduct of a limited parade on 10 September 2000 in Horsmonden.
The Court declared the application **inadmissible** (manifestly ill-founded) under Article 11 of the Convention finding that, in the circumstances of the case, the response of the authorities had been proportionate, striking a fair balance between the rights of the applicants and those of the community in general. As to the necessity of the measure, the Court observed in particular that the exercise of the right to freedom of assembly is not absolute and where large gatherings are concerned the impact on the community as a whole may legitimately be taken into consideration. In the present case, the fair had been growing in size through the years and in 2000 the police had identified concerns about the disruption to the local community caused, *inter alia*, by the sheer volume of visitors, indiscriminate parking, littering, a background level of increased crime and road closures. Besides, the authorities made available a site some 20 miles from Horsmonden, where large numbers of persons could assemble without causing disruption. Moreover, the police permitted a limited procession to take place in Horsmonden.

Protection of property (Article 1 of Protocol No. 1 to the Convention)

Demolition of houses and forced eviction

Bagdonavicius and Others v. Russia[9]

11 October 2016
See above, under "Right to respect for private and family and the home".

Refusal to recognise validity of Roma marriage for purposes of establishing entitlement to survivor's pension

Muñoz Díaz v. Spain

8 December 2009
The applicant, a Spanish national belonging to the Roma community, married in 1971 according to the Roma community's own rites. Her husband, also a Spanish national and a member of that community, died in 2000. She then applied for a survivor's pension but it was refused. The applicant complained in particular about the authorities' refusal to grant her a survivor's pension on the ground that her marriage had no civil effects under Spanish law.
The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken together with Article 1** (protection of property) **of Protocol No. 1**, finding that it was disproportionate for the Spanish State, which had provided the applicant and her family with health coverage and collected social security contributions from her husband for over 19 years, then to refuse to recognise her Roma marriage when it came to granting her a survivor's pension on her husband's death.

[9]. On 16 September 2022 the Russian Federation ceased to be a Party to the Convention.

Right to education (Article 2 of Protocol No. 1)

Placement of Roma gypsy children in "special" schools

D.H. and Others v. the Czech Republic

13 November 2007 (Grand Chamber)

This case concerned 18 Roma children, all Czech nationals, who were placed in schools for children with special needs, including those with a mental or social handicap, from 1996 to 1999. The applicants claimed that a two-tier educational system was in place in which the segregation of Roma children into such schools – which followed a simplified curriculum – was quasi-automatic.

The Court noted in particular that, at the relevant time, the majority of children in special schools in the Czech Republic were of Roma origin. Roma children of average/above average intellect were often placed in those schools on the basis of psychological tests which were not adapted to people of their ethnic origin. The Court concluded that the law at that time had a disproportionately prejudicial effect on Roma children, in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1**.

Sampanis and Others v. Greece

5 June 2008

This case concerned the authorities' failure to provide schooling for the applicants' children during the 2004-2005 school year and their subsequent placement in special classes, in an annexe to the main Aspropyrgos primary school building, a measure which the applicants claimed was related to their Roma origin.

The Court noted that the Roma children were not suitably tested either initially, to see if they needed to go into the preparatory classes, or later, to see if they had progressed sufficiently to join the main school. It found a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1** concerning both the enrolment procedure and the placement of the children in special classes. The Court also held that there had been a **violation of Article 13** (right to an effective remedy) of the Convention, finding that the Greek Government had not adduced evidence of any effective remedy that the applicants could have used in order to secure redress for the alleged violation of Article 14 of the Convention taken together with Article 2 of Protocol No. 1.

Oršuš and Others v. Croatia

16 March 2010 (Grand Chamber)

This case concerned fifteen Croatians national of Roma origin who complained that they had been victims of racial discrimination during their school years in that they had been segregated into Roma-only classes and consequently suffered educational, psychological and emotional damage.

Even though the present case differed from *D.H. and Others v. the Czech Republic* (see above) in that it had not been a general policy in both schools to automatically place Roma pupils in separate classes, it was common ground that a number of European States encountered serious difficulties in providing adequate schooling for Roma children. In the instant case, the Court observed that only Roma children had been placed in the special classes in the schools concerned. The Croatian Government attributed the separation to the pupils' lack of proficiency in Croatian; however, the tests determining their placement in such classes did not focus specifically on language skills, the educational programme subsequently followed did not target language problems and the children's progress was not clearly monitored. The placement of the applicants in Roma-only classes had therefore been unjustified, in **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1**.

Horváth és Vadászi v. Hungary

9 November 2010 (decision on the admissibility)

Both applicants were of Roma origin. Following their qualification by a county expert panel as having mild intellectual disabilities, which was confirmed by a second examination in 2000, they were placed in a special class of the local school, which they attended from 1994 until 2002. Before the Court, they complained that their placement in the special class was a discriminatory measure due to their Roma origin.

The Court declared the application **inadmissible** for the following reasons: the applicants had not made use in Hungary of a civil remedy under the Public Education Act and had therefore failed to exhaust the domestic remedies, one of the admissibility criteria required by Article 35 of the Convention; another part of their application did not comply with the six-month rule in Article 35 § 1 (admissibility criteria) of the Convention; the part of the application concerning allegations of racially motivated segregation or discrimination was also declared inadmissible for non-exhaustion of domestic remedies.

Sampani and Others v. Greece

11 December 2012

This case concerned the provision of education for Roma children at the 12th Primary School in Aspropyrgos. The applicants were 140 Greek nationals from 38 families, all of Roma origin, who were living at the material time on the Psari authorised residential site near Aspropyrgos. 98 applicants were children aged from five and a half to 15, and 42 were their parents or guardians. Some of them were applicants in the case which gave rise to the judgment in *Sampanis and Others v. Greece* (see above).

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1**. Noting in particular the lack of significant change since the *Sampanis and Others v. Greece* judgment of 5 June 2008 (see above), the Court found that Greece had not taken into account the particular needs of the Roma children of Psari as members of a disadvantaged group and that the operation between 2008 and 2010 of the 12th Primary School in Aspropyrgos, which was attended by Roma pupils only, had amounted to discrimination against the applicants.

Under **Article 46** (binding force and execution of judgments) of the Convention, the Court recommended that those of the applicants who were still of school age be enrolled at another State school and that those who had reached the age of majority be enrolled at "second chance schools" or adult education institutes set up by the Ministry of Education under the Lifelong Learning Programme.

Horváth and Kiss v. Hungary

29 January 2013

This case concerned the complaints of two young men of Roma origin that their education in schools for the mentally disabled had been the result of misplacement and had amounted to discrimination.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1**. It underlined in particular that there was a long history of misplacement of Roma children in special schools in Hungary. The Court found that the applicants' schooling arrangement indicated that the authorities had failed to take into account their special needs as members of a disadvantaged group. As a result, the applicants had been isolated and had received an education which made their integration into majority society difficult.

Lavida and Others v. Greece

28 May 2013

This case concerned the education of Roma children who were restricted to attending a primary school in which the only pupils were other Roma children.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken in conjunction with Article 2** (right to education) **of Protocol No. 1**, finding that the continuing nature of this situation and the State's refusal to take anti-segregation measures implied discrimination and a breach of the right to education.

X and Others v. Albania (no. 73548/17 and no. 45521/19)

31 May 2022

The applicants, Albanian nationals of Roma and Egyptian ethnic origin forming different households, complained of discrimination and segregation in their children's education owing to the over-representation of Egyptian and Roma pupils in the "Naim Frashëri" elementary school in Korça which their children attended. They submitted that they had complained to the authorities concerning that situation and that the Commissioner for the Protection from Discrimination had subsequently ordered that the Ministry of Education and Sport take "immediate measures to improve the situation and change the ratio" between Roma/Egyptian and other pupils attending the school". The applicants alleged that the situation has not been resolved.

The Court held that there had been a **violation of Article 1** (general prohibition of discrimination) **of Protocol No. 12** to the Convention in the present case, finding that the State had failed to implement desegregating measures. It recalled in particular that it had already found a violation of the prohibition of discrimination in a similar context in *Lavida and Others v. Greece* (see above). It concluded that likewise, in the instance case, the delays and the non-implementation of appropriate desegregating measures could not be considered as having had an objective and reasonable justification. Under **Article 46** (binding force and execution of judgments) of the Convention, the Court further noted that Albania had to take measures to end the discrimination of Roma and Egyptian pupils of the "Naim Frashëri" school as ordered by the Commissioner's decision.

Elmazova and Others v. North Macedonia

13 December 2022[10]

This case concerned alleged segregation between pupils of Roma and Macedonian ethnicity, who were predominantly placed in different schools in the cities of Bitola that belonged to the same catchment area, and allegedly in different classes in Shtip. The applicants, the pupils and their parents, complained of segregation without any objective and reasonable justification.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **read in conjunction with Article 2** (right to education) **of Protocol No. 1** to the Convention in the present case, finding that, even though there may not have been any discriminatory intent on the part of the State, the de facto situation – primary school pupils of Roma ethnicity being filtered into different schools and classes from ethnic Macedonians – had had no objective justification and so had amounted to educational segregation. The Court further considered that measures had to be taken to ensure the end of the segregation of Roma pupils in the schools in this case under **Article 46** (binding force and execution of judgments) of the Convention. It reiterated in this respect the importance of a society free from racial segregation and that inclusive education was the most appropriate means of guaranteeing the fundamental principles of universality and non-discrimination in the exercise of the right to education.

See also:

Kósa v. Hungary

21 November 2017 (decision on the admissibility)

[10]. This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention.

Right to free elections (Article 3 of Protocol No. 1)

Prohibition of a Rom from standing for election

Sejdić and Finci v. Bosnia and Herzegovina

22 December 2009 (Grand Chamber)

The applicants – the first one of Roma origin and the second one a Jew – alleged that Bosnian law prevented them from running for the Presidency and the House of Peoples of the Parliamentary Assembly because of their ethnic origins.

The Court held that there had been a **violation of Article 14** (prohibition of discrimination) of the Convention **taken together with Article 3** (right to free elections) **of Protocol No. 1** and a **violation of Article 1** (general prohibition of discrimination) **of Protocol No. 12** to the Convention. It found discriminatory the constitutional arrangements, put in place by the Dayton Peace Agreement[11], according to which only people declaring affiliation with Bosniacs, Croats or Serbs were eligible to stand for election to the tripartite State presidency and the second chamber of the State parliament.

Freedom of movement (Article 2 of Protocol No. 4)

Balta v. France

16 January 2018 (decision on the admissibility)

This case concerned the decision by the Prefect of Seine-Saint-Denis to serve formal notice on the applicant and other caravan occupiers illegally parked in a cul-de-sac near a public road in the municipality of La Courneuve to leave the area. The applicant complained about the rules governing the eviction of Travellers.

The Court declared the application **inadmissible**. It reiterated in particular that Article 2 (freedom of movement) of Protocol No. 4 was applicable only to a person lawfully within the territory of a State and observed that the applicant had not provided any evidence to show that he was entitled to remain in France beyond the statutory three-month period. It concluded that the applicant could not therefore rely on the freedom of movement guaranteed by Article 2 of Protocol No. 4, thus rendering Article 14 (prohibition of discrimination) inapplicable as it could only be relied on in conjunction with another Article of the Convention.

Prohibition of collective expulsion of aliens (Article 4 of Protocol No. 4)

Čonka v. Belgium

5 February 2002

The applicants, Slovakian nationals of Romany origin, said that they had fled from Slovakia where they had been subjected to racist assaults with the police refusing to intervene. They had been arrested with a view to their expulsion after they had been summoned to complete their asylum requests. The applicants complained, in particular, about the circumstances of their arrest and expulsion to Slovakia.

The Court held that there had been a **violation of Article 4** (prohibition of collective expulsion of aliens) **of Protocol No. 4** to the Convention, noting in particular that the expulsion procedure had not afforded sufficient guarantees demonstrating that the personal circumstances of each of those concerned had been genuinely and individually taken into account. In the Court' view, the procedure followed did not enable it to

[11]. On 14 December 1995 the General Framework Agreement for Peace in Bosnia and Herzegovina, ("the Dayton Peace Agreement") entered into force which put an end to the 1992-95 war in Bosnia and Herzegovina.

eliminate all doubt that the expulsion might have been collective, that doubt being reinforced by several factors: the political authorities had previously given instructions to the relevant authority for the implementation of operations of that kind; all the aliens concerned had been required to attend the police station at the same time; the orders served on them requiring them to leave the territory and for their arrest were couched in identical terms; it was very difficult for the aliens to contact a lawyer; the asylum procedure had not been completed.
In this case the Court also found a violation of **Article 5 §§ 1** (right to liberty and security) **and 4** (right to take proceedings by which lawfulness of detention shall be decided) of the Convention, and a **violation of Article 13** (right to an effective remedy) of the Convention **taken in conjunction with Article 4 of Protocol No. 4**. It further held that there had been **no violation of Article 5 § 2** (right to be informed of the reasons for arrest) and **no violation of Article 13** (right to an effective remedy) **taken in conjunction with Article 3** (prohibition of inhuman or degrading treatment) of the Convention.

Texts and documents

See in particular:

- the Council of Europe **webpage** on Roma and Travellers
- **Handbook on European non-discrimination law – 2018 edition**, European Union Fundamental Rights Agency / Council of Europe, 2018

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