

ERGO Network and the Global Forum of Communities Discriminated on Work and Descent (GFoD) Submission to Special Rapporteur on minority issues to the UN General Assembly on institutional arrangements of States that enable minority rights to flourish¹

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Introduction

Discrimination based on Work and Descent (DWD) affects more than 270 million people worldwide. Communities Discriminated on Work and Descent (CDWD) can be found on all continents: Dalit communities in South Asia and Buraku in Japan, Roma communities in Europe, Haratin, Osu and other communities in West Africa and Quilombola or Palenque communities in Latin America. DWD is a unique type of discrimination that takes the form of social exclusion based on inherited status and ancestral occupation. DWD is often associated with notions of “purity and pollution” and practices of untouchability.² Consequently, CDWD are faced with harassment and violence on a daily basis and face extreme forms of discrimination in accessing employment, education, healthcare, housing, water and sanitation and other basic services. CDWD are often bound by bonded labour or modern/ancestral slavery practices. When Special Rapporteur on Minority Issues, Rita Izsak Ndiaye brought out her annual report (2016) focusing on communities discriminated on work and descent, there was opposition based on the mandate of SR for discussing CDWD as a minority community in the Minority Forum. What, then, is a minority community? *“An ethnic, religious, or linguistic minority is any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion, or language, or a combination of any of these.”*³ It is clear, therefore, that, unlike the minority, the CDWD is not a targeted group to evoke the sentiments of majoritarianism for political benefits or socioeconomic discrimination. There are many commonalities and intersections of terminologies within the communities in specific sections of the communities. Some communities may come under CDWD and also face racial discrimination. For example, the Quilombo communities in Brazil are descendants of enslaved people brought from Africa. In certain countries, the CDWD communities are in the religious or cultural minority. Thus, the terminology of a minority could be used in these circumstances. In Pakistan, the Hindu Dalits are a religious minority, and in most European states, the Roma are a cultural minority.

The situation of Roma in Europe has been extensively documented by GfOD in 2023.⁴ This submission focuses on the challenges encountered by the Roma communities in Hungary, North Macedonia, Bulgaria, Albania and Romania.

² For the full definition please see - Draft Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, Human Rights Council 11th Session, 18 May 2009, Final report of Mr. Yozo Yokota and Ms. Chin-Sung Chung, Special Rapporteurs on the topic of discrimination based on work and descent, available at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session11/A-HRC-11-CRP3.pdf>

³ <https://www.ohchr.org/en/special-procedures/sr-minority-issues/about-minorities-and-human-rights>

⁴ [Roma people less safe than 20 years ago? GfOD report reveals shocking situation of Communities Discriminated on Work and Descent in Europe - Global Forum of Communities Discriminated on Work and Descent - GfOD \(globalforumcdwd.org\)](https://www.globalforumcdwd.org/roma-people-less-safe-than-20-years-ago?GfOD-report-reveals-shocking-situation-of-Communities-Discriminated-on-Work-and-Descent-in-Europe)

The Roma in Hungary

In Hungary, the interests of Roma communities, especially Roma women, girls, and LGBTQ people, are not appropriately taken into account in Hungary. The country has legal frameworks such as the Act on National Minorities (Act CLXXIX of 2011) to protect minority rights. However, systemic discrimination persists, and Roma women, girls, and LGBTQ individuals face intersectional challenges due to their identities.

Research such as that by the European Roma Rights Centre (ERRC)⁵ has found that Roma women and girls face high levels of discrimination in healthcare, employment, and education. A report by the Organization for Security and Cooperation in Europe (OSCE) notes the pervasive issue of early school leave and its impact on the rights of Roma girls. In terms of LGBTQ Roma individuals, the same ERRC research highlights the double marginalization they face both from the majority society and their own communities.

Hungary has a Minority Ombudsman and a National Roma Self-Government (NRSG), but their effectiveness in ensuring political representation for Roma women, girls, and LGBTQ individuals is limited. The NRSG has faced criticism for not adequately representing the interests of Roma people and being overly influenced by the government. Research by Amnesty International⁶ and other organizations have found that political representation of Roma women and LGBTQ individuals is severely lacking in Hungary. Their voices are often excluded from policy-making, leaving their specific concerns unaddressed. While legal protections exist, such as the Hungarian Constitution and the Equal Treatment Act (CXXXV of 2003), they are not consistently enforced when it comes to Roma issues. For example, recent legislative changes affecting education, healthcare, and housing have not adequately considered the needs of Roma women, girls, and LGBTQ individuals.

Specific cases such as the European Court of Human Rights case, *Horváth and Kiss v. Hungary* (2013)⁷, highlight ongoing discrimination against Roma children in education. Despite the court ruling in favor of the Roma community, Hungary has not fully implemented the necessary changes. In Hungary, there are *de facto* barriers excluding Roma women, girls, and LGBTQ individuals from effective participation in decision-making processes. Roma individuals face systemic discrimination and are underrepresented in political spaces. Roma women and LGBTQ people experience additional exclusion due to their intersectional identities. A 2021 report by the European Commission against Racism and Intolerance (ECRI)⁸ notes that Hungary's political climate has created an environment where Roma voices, particularly those of Roma women and LGBTQ individuals, are marginalized. This exclusion perpetuates existing disparities and limits the community's ability to advocate for their needs.

Roma women, girls, and LGBTQ individuals face multiple barriers in cultural, religious, social, economic, and public life. Discriminatory practices in healthcare and education, for example, limit Roma women's and girls' access to essential services. Roma women often face gender-based violence, and LGBTQ Roma individuals encounter additional challenges due to their sexual orientation or gender identity.

⁵ <https://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/errc.pdf>

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<https://www.amnesty.org/en/location/europe-and-central-asia/western-central-and-south-eastern-europe/hungary/report-hungary/>

⁷ <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-116124%22%7D>

⁸ <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/hungary>

Research by the Hungarian Helsinki Committee⁹ has found that the segregation of Roma children in education remains a significant issue. Roma LGBTQ individuals often face discrimination and prejudice within their own communities, leading to isolation and limited access to support. Recognizing and granting sectoral or territorial autonomy to minorities could provide benefits such as tailored education and healthcare policies that meet the specific needs of Roma women, girls, and LGBTQ individuals. Autonomy could also foster empowerment and self-determination within the community.

However, challenges include the potential for increased segregation and isolation if autonomy is not implemented alongside inclusive policies that promote integration and respect for diversity. The European Union's Roma Strategic Framework for equality, inclusion, and participation¹⁰ emphasizes the importance of mainstreaming Roma inclusion in various policy areas. Ensuring that autonomy aligns with these goals could help overcome some challenges. By balancing autonomy with integration and inclusion, Hungary can ensure Roma women, girls, and LGBTQ individuals have equitable access to resources and opportunities.

The Roma in Bulgaria

The interests of persons belonging to minority groups are not appropriately taken into account in Bulgaria. Belonging to any minority groups or minority issues are not considered in Bulgaria. Politically, the topic is being avoided or any issues related to a minority group are “their problem”. For instance, many social issues faced by Roma are overlooked as “Roma problems” and not social or human rights issues. Hence, that allows governments to neglect important issues in many communities across Bulgaria. In Bulgaria, there is no formal way of political representation for minorities, especially for the Roma. There are no quotas, reserved spaces, special councils or advisors. There is only the Commission for Protection against Discrimination (CPD), and the National Council for Co-operation on Ethnic and Integration Issues.¹¹ However, these institutions do not guarantee minority representation, in fact the leading figures who work on issues related to social integration are not even minorities themselves. Establishing an ethnic party in Bulgaria is prohibited, meanwhile the majority parties rarely have minority candidates. Over the years, there have been proposals for establishing a minority ministry, however, the proposal was for the ministry to be founded without a budget, hence having only a consult base for other ministries. However, that idea has yet to come to realization. The danger in this case, when there is a designated minority body among the majority institutions is, if not given full power and budget to operate that other governmental bodies will withdraw any responsibility from minority issues and designate them to the “minority institution” only. Hence, doomed to fail without resources and collective work.

The Roma in Albania

The interests of people belonging to minority groups, including the Roma are not appropriately taken into account in Albania because they are considered a small number of the population. Considered as such, the government is not taking measures considering the needs and the interest of minorities especially Roma minority when it comes to housing policies or political representation. The European Commission’s 2023 Albania report¹² noted

⁹ https://helsinki.hu/wp-content/uploads/General_climate_of_intolerance_in_Hungary_20110107.pdf

¹⁰ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1813

¹¹ [16809eb483 \(coe.int\)](https://www.coe.int/t/0900016809eb483)

¹² [Albania Report 2023 - European Commission \(europa.eu\)](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1813)

that “limited progress was made on the social inclusion of the Roma and Egyptian minorities”, and that monitoring data and reporting on the implementation of the national action plan for equality, inclusion and participation of Roma and Egyptians in Albania (2021-2025) were not yet available. The report described the institutional capacity of the Ministry for Health and Social Protection, which coordinates Roma-related policies, as remaining weak, and called for better coordination on Roma inclusion.

Since 2017, Albania has a Law on the Protection of National Minorities,¹³ and a Commission on National Minorities, with a Roma person as the Deputy Head. Council of Europe Advisory Committee 2023 report on protection of national minorities in Albania¹⁴ noted that Roma and Egyptian minorities are recognised as separate national minorities in law, but authorities often conflate the two in policy documents. Disaggregated data is crucial to assess and address their distinct needs. Housing conditions for Roma and Egyptian minorities are also concerning, including segregation and discrimination in the private rental market, irregular property status, and the threat of forced evictions. The report also found that school segregation is a systemic problem across Albania, particularly affecting Roma and Egyptian minorities, as found also by the European Court of Human Rights.

There are no minority quotas or separate lists to ensure minority representation in the political sphere. There are several instances where minority issues may be insulated from or not subject to direct state authorities' decisions, including those of Parliament. One of these instances is Constitutional Guarantees: Albania as the other countries have constitutional provisions or guarantees that protect the rights of minorities. These provisions often place limitations on the powers of the state and its authorities concerning minority issues. For instance, constitutional protections may safeguard minority languages, cultures, or religious practices from state interference. Usually there is no direct exclusion of minorities but in the decision bodies when they consult a certain law the representation of minorities especially the Roma, most of the time they are not invited to take part in the discussions.

One of the barriers that the Roma minority face in Albania is access to information and services. Limited access to information and essential services, such as healthcare, legal aid, and social welfare programs, can hinder minority participation in public life. This lack of access is usually due to discrimination by service providers in different institutions starting from administrative units and municipalities.

The Roma in North Macedonia

The interests of persons belonging to minority groups in North Macedonia are taken into consideration in line with the Ohrid Agreement,¹⁵ with institutions protecting minority rights and international documents safeguarding human rights. However the practical implementation of legislation and policies on national minorities especially those belonging to smaller minorities among which Roma, needs to be improved.

North Macedonia can be perceived as an example of respecting the ethnic identity of the nationalities living in the country in accordance with the framework of promoting democracy,

¹³ Law Nr. 96/2017 On the Protection Of National Minorities In The Republic Of Albania [1680a0c256 \(coe.int\)](#)

¹⁴ [Council of Europe Advisory Committee releases new report on protection of national minorities in Albania - Council of Europe Office in Tirana \(coe.int\)](#)

¹⁵ [Microsoft Word - OFA English Full.doc \(osce.org\)](#)

stability, and development of the Macedonian society. This goes in line with signing the Ohrid Agreement in 2001 which underlines the principle of non-discrimination and equitable representation of all under the law in state institutions and the Badenter's principle in decision-making in the Assembly of the Republic of North Macedonia (qualified majority of two-thirds of votes, within which there must be a majority of the votes of Representatives claiming to belong to the communities not in the majority in the population of Macedonia, as well as applicable about decisions on laws which affects culture, education, use of language, symbols, personal ID, laws on local finances and local elections). There is the Law on prevention and protection against discrimination, Law on use of languages, Equal opportunity law. In the institutional setting there were advisors on Roma policies in the Government and the President's office, Interparliamentary group targeting Roma rights, there is a coordinating body in the Ministry of Labor and Social Policy responsible for the coordination of the implementation of the Strategy for Roma in North Macedonia. 2022-2030, as well as there is a Roma member in the Commission for Prevention and Protection against Discrimination.

The equitable representation of Roma in state institutions is not respected (According to the Annual Ombudsman's reports, in two thirds of the institutions there are no Roma)! The methodology for adequate and equitable representation known as “the balanser” , limits the possibilities of Roma to be employed in the state institutions. The “balanser” is a tool used to determine the ethnicity of the person needed to be employed in the public administration in accordance with adequate equitable representation.

There are cases of segregation in elementary schools in Prilep and Bitola (there is also judgment by the European Court of Human Rights). In addition it is noted in the Annual reports of the Ombudsman in North Macedonia in 2022 and 2023¹⁶ the cases of segregation in two elementary schools, “Gorgi Sugarev” in Bitola and “Goce Delcev” in Shtip. The 2023 EU progress report noted cases of discrimination and police brutality based on Roma ethnicity, especially against young Roma, girls and Roma in custody.¹⁷ There are severe issues with the lack of legal status and insufficient access to fundamental rights of persons without personal documents, many of them belonging to the Roma community. Even though this problem is solved by the new Law on unregistered persons in the birth register, the implementation of the law is slow.

There are also issues on non-Roma taking advantage and benefiting of Roma specific measures such as in the case of the abuse of quotas for Roma in universities. The right to self declare your ethnicity based on how you feel at the moment, give the right to non-Roma declaring themselves as Roma to use the quota to enter Universities.

There are several legal, administrative or other barriers that prevent persons belonging to minorities to participate effectively in cultural, religious, social, economic or public life: Lack of educational institutions to enable producing Roma teachers and professors, literature and textbooks in Roma language; inadequate and unachievable criteria for authors of Romani literature and textbooks on calls by the Ministry of Education which limits the possibilities of producing learning materials for the Course Romani language and culture (there are no books from 6-8 grade for this course, limiting the right to quality education of Romani children in their native language); there are no cultural institutions for promoting Roma culture, language, theater and music.

¹⁶ [Омбудсман \(ombudsman.mk\)](http://ombudsman.mk)

¹⁷ [North Macedonia Report 2023 - European Commission \(europa.eu\)](https://european-commission.europa.eu)

The Roma in Romania

While efforts have been made to address discrimination and improve the situation of the Roma community in Romania, challenges persist (see GfOD country report on the situation of Roma in Romania).¹⁸ In Romania, there have been initiatives aimed at improving the situation of Roma people, such as educational programs, employment opportunities, and efforts to combat discrimination. However, there are still significant barriers to full inclusion and equality for the Roma community, including discrimination, poverty, and limited access to education and healthcare.

In Romania there are specific constitutional provisions available in the country for upholding, protecting and promoting the rights of Roma. The Constitution of Romania guarantees a number of relevant rights for minorities, including equality of rights between all Romanian citizens and the right to identity for persons belonging to national minorities. Roma benefit from all the fundamental rights and freedoms enshrined at the constitutional level. In reality, however, these rights are constantly violated, and the Roma are being abused, in certain cases, even by public officials.

Article 63 of the Romanian Constitution guarantees representation in parliament for all recognized national minorities, through reserved seats. The Roma have one reserved seat in the Romanian Parliament. The National Agency for Roma is a mandated structure in the country for addressing the concerns of Roma.

In addition to the constitutional provisions, there is special legislation available in the country for upholding, protecting, and promoting the rights of Roma: Law no. 238/2023 regarding the establishment of the National Museum of History and Culture of the Roma in Romania; Law no. 28/2011 regarding the commemoration of the end of Roma slavery and the emancipation of the Roma from Romania; Law no. 66/2006 for the consecration of April 8 as the international day of the Roma ethnic group in Romania; Law no. 124/2020 for the establishment of August 2 as the national day of commemoration of the Holocaust against the Roma - Samudaripen; Law no. 20/2019 regarding the establishment of the Romani Language Day; Ministry of National Education and Scientific Research Order no. 6134/2016 regarding the prohibition of school segregation in pre-university education units.

In order to prevent and combat the phenomenon of racial discrimination, law no. 2 of January 4, 2021 addresses roma specific discrimination: Article 3 of this law provides that "The act of the person to promote, in public, in any way, anti-Gypsy ideas, concepts or doctrines constitutes a crime and is punishable by imprisonment from 3 months to 3 years and the prohibition of certain rights". Also, according to Art. 6 para. 1 constitutes a crime and is punishable by imprisonment from 3 to 10 years and the prohibition of certain rights to initiate or establish an organization with an anti-Gypsy character, to join or support, in any form, such a group.

¹⁸ https://drive.google.com/file/d/10WdDhWunOABIU_La1cKyx-b3jX0hB-j1/view?usp=sharing

Recommendations

1. As a truly global development agenda, the 2030 Agenda must be considered in all policies for EU member states as well as the enlargement region. Its 17 Sustainable Development Goals and the promise of governments to “leave no one behind” provide crucial opportunities for advancing the rights of Roma in Europe.
2. At the same time, policy-makers and civil society face challenges when bringing European economic and social policies, such as Europe 2020 and the European Pillar of Social Rights, under the roof of the 2030 Agenda.
3. The European Institutions should push member states towards aligning their policies and measurement mechanisms with the SDG framework as well as incorporating the SDGs into EU policies and programs
4. The EU should ensure that the Sustainable Development Goals are included in the Social Scoreboard that monitors Member States' performance in relation to the Pillar of Social Rights.
5. We urge the UN mechanisms to adhere to key human rights standards and adopt a Declaration for the rights of CDWD, especially Roma, highlighting the intersecting marginalisation faced by Roma women, girls and gender-diverse people and ensure it consistently reflects in national laws, policies and practices, and in the programmes and activities of the UN through thematic research, awareness-raising and capacity-building.
6. Recognize antigypsyism and the specific form of discrimination Roma and other Communities Discriminated on Work and Descent (CDWD) encounter, including the hierarchical systems of oppression surrounding these communities.
7. Adopt an intersectional approach in all programmes and policies both within the United Nations (UN) and government policies.
8. The Global Forum of Communities Discriminated on Work and Descent (GFoD) calls for the design and implementation of programs to increase public education on descent based discriminatory practices and calls on all types of institutions and civil society organizations to implement such learnings. We call for justice and the protection of CDWD rights to be free from discrimination, violence, and exclusion.
9. Take all necessary constitutional, legislative, administrative, budgetary, judicial and educational measures to eliminate DWD and to respect, protect, promote, establish, implement and monitor the human rights of those facing discrimination based on caste and work and descent,
10. Contribute to the full realisation of the human rights of persons discriminated against on the basis of work and descent by considering ways to include this issue in the regular work of the Human Rights Council.



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