



## Roma and Travellers in prison: Linguistic discrimination and literacy issues in European prisons

The issue of over-representation of Roma and Travellers in European prisons is one that rests heavily on the stigmatisation and marginalisation of Roma and Travellers, which precipitates and encompasses a web of social issues ranging from statelessness, poverty, discriminatory policing and a lack of access to education and housing.<sup>1</sup> These issues vary in degree and can be exacerbated when Roma are foreign nationals, either from other EU countries; other countries in Europe outside the EU; or countries outside Europe. In the face of these pressures, some Roma have been forced into poverty, homelessness and migration, and their over-representation in prisons is linked to these adversities. Low rates of education and literacy among Roma and Traveller populations, due in some cases to statelessness and a lack of legal documents, are central to this marginalisation and have been seen to intersect with discrimination against Romani speakers specifically, notably in bureaucratic, legal and criminal justice settings.<sup>2</sup>

### Roma population groups:

#### A note on language

Following terminology employed by the Council of Europe, this brief uses the term 'Roma and Travellers' to refer to a wide range of groups:

“On the one hand,

- a. Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari;
- b. Balkan Egyptians (Egyptians and Ashkali);
- c. Eastern groups (Dom, Lom and Abdal); and,

on the other hand,

- d. groups such as Travellers, Yenish, and the populations designated under the administrative term “Gens du voyage,” as well as persons who identify themselves as Gypsies.”

(Council of Europe, *Recommendation CM/Rec(2017)10 of the Committee of Ministers to member States on improving access to justice for Roma and Travellers in Europe*)

<sup>1</sup> For further information on this subject, see COPE publications *Children of Roma and Traveller prisoners: A short guide* (2017) and *Roma and Traveller children with a parent in prison: A follow-up report with case studies and recommendations* (2018). Both of these publications can be accessed online at <https://childrenofprisoners.eu/the-issues/roma-populations-in-european-prisons/>.

<sup>2</sup> European Roma Rights Centre (2017), 'Roma belong: Statelessness, discrimination and marginalisation of Roma in the Western Balkans and Ukraine,' Budapest.

The terminology 'Roma and Travellers' designates a "complex and multi-layered"<sup>3</sup> conglomerate of multi-ethnic identities united more by the common experience of discrimination and anti-gypsyism than by cultural affinity. Though the terms 'Roma' and 'Travellers' tend to be pronounced together in official documentation, a distinction needs to be made between linguistic subgroups when discussing language use in European prisons. 'Roma' refers to speakers of the ensemble of Indic dialects that comprise Romani languages, with populations throughout Europe and with denser populations concentrated in Eastern Europe. Romani dialects include five main dialect groups: Vlax, Balkan, Central, Northwestern and Northeastern Romani, among others,<sup>4</sup> as well as a mix of Romani dialects and the official language of a given country, which has been referred to as 'Para-Romani.'<sup>5</sup> The term 'Travellers' refers to primarily English-speaking Celtic populations largely residing in the United Kingdom and Ireland and historically speaking mixed language dialects, referred to in the Irish context as Cant, Gammon or Shelta.<sup>6</sup>

It is critical to note that Roma and Traveller identities are not defined by their use of language and that Roma and Travellers in prison experience discrimination based on ethnic and cultural differences alone. Some Roma may not speak Romani at all, but still retain distinct identities that can create social rifts in the context of general prison populations. There are also instances in which Roma and Traveller individuals in prison have not identified themselves as Roma or Traveller in order to avoid discrimination. One report from Ireland showed that some Traveller individuals avoided education and training opportunities for fear of discrimination and mistreatment.<sup>7</sup>

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<sup>3</sup> Council of Europe, Factsheets on Roma Culture. <http://romafacts.uni-graz.at/index.php/culture>.

<sup>4</sup> 'Romani Dialects,' University of Graz Romani Project, <http://romani.uni-graz.at/romlex/dialects.xml>.

<sup>5</sup> Bakker P. (2020), 'Para-Romani Varieties,' in Matras Y., Tenser A. (eds) *The Palgrave Handbook of Romani Language and Linguistics*. Palgrave Macmillan.

<sup>6</sup> Binchy, A. (2008), 'Researching 'Shelta', the Travellers' language,' *Béaloideas*, 76, 248-262.

<sup>7</sup> 'Travellers in the Irish prison system: A qualitative study,' Irish Penal Reform Trust (2014), 17.

### **Over-representation of Roma and Travellers in prison**

Compared to the proportion of Roma in Europe's general population, Roma represent a drastically elevated proportion of the prison population. In Bulgaria, where estimates of the national Roma population range from 4.9 per cent to 10 per cent, evaluations of prison populations suggest that Roma represent approximately 50 per cent of prisoners.<sup>1</sup> Likewise, despite accounting for approximately seven per cent of the Hungarian national population, Roma are estimated to make up around 40 per cent of the total prison population.<sup>1</sup>

Roma and Travellers often account for an inordinately high per capita prison population even in places where their numbers in the national population are negligible. The Irish Prison Service, for instance, found that Travellers account for 0.6 per cent of the general population in Ireland, yet 22 per cent of the female prison population and 15 per cent of the male prison population.<sup>1</sup> Reasons for overrepresentation include, *inter alia*, increased likelihood of racial profiling, greater incidence of poverty, and lack of eligibility for alternatives to incarceration before and during trial and after sentencing. With the exception of Ireland, the UK and Finland, there appears to be a notable lack of studies and attention to the specific situation and challenges faced by Roma prisoners and their children/families in those countries surveyed.

### **Linguistic discrimination against Romani speakers in the criminal justice system**

In cases wherein Romani speakers do not speak the national language as their mother tongue, cultural difference is accentuated, and linguistic discrimination can occur at multiple stages of the criminal justice system. Systematic linguistic discrimination against Romani speakers in prisons is not well documented, but examples of discrimination in the form of barring Romani from being spoken have occurred. One report from the Czech Republic found that prison authorities had barred Roma prisoners from speaking Romani with their children on the phone, some of them pre-school aged, which violates numerous human and child's rights standards.<sup>8</sup> Article 2.1 of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities enshrines the right for individuals from minority groups "to use their own language, in private and in public, freely and without interference or any form of discrimination." Rule 13 of the Council of Europe's European Prison Rules states that those rules "shall be applied impartially, without discrimination on any ground such as sex, race, colour, language, religion,

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<sup>8</sup> Czech Ombudsman's 2009 Report in Human rights of Roma and Travellers in Europe, Council of Europe, 2012, 89.

political or other opinion, national or social origin, association with a national minority, property, birth or other status.”<sup>9</sup>

As pertains to sentencing procedures, the Council of Europe has cited a lack of interpretation services as among the primary roadblocks to justice when Roma face criminal charges.<sup>10</sup> A report on Roma in conflict with the law in Lithuania found that interpretation or translation into Romani is not always available during legal proceedings.<sup>11</sup> Article 2 of Council of Europe Recommendation CM/Rec(2017)10 of the Committee of Ministers to member States on improving access to justice for Roma and Travellers in Europe holds that member States should “facilitate equal access to legal aid or other free legal services for Roma and Travellers by [...] considering taking measures to provide that the courts conduct proceedings in the appropriate language for Roma and Travellers through the use of interpreters and translations in criminal and civil proceedings and administrative matters”. Council of Europe Recommendation CM/Rec(2017)10 also recommends that member States consider ratifying the European Charter for Regional or Minority Languages, which includes an article (Article 9) directing judicial authorities presiding over criminal proceedings to:

- i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or*
- ii. to guarantee the accused the right to use his/her regional or minority language; and/or*
- iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or*
- iv. to produce, on request, documents connected with legal proceedings in the relevant regional or minority language, if necessary by the use of interpreters and translations involving no extra expense for the persons concerned.*

Legal discrimination against Romani speakers has a fraught history dating back to the Middle Ages, when forced assimilation laws passed throughout central and western Europe banned spoken Romani.<sup>12</sup> Today, legal debates around discrimination and segregation on the grounds of linguistic difference have taken place at the level of the European Court of Human Rights (ECtHR). A 2009 ECtHR case, *Orsus and others v. Croatia*, concerning the placement of Romani-speaking schoolchildren in

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<sup>9</sup> Rule 30.1 of the European Prison Rules additionally provides for the , “At admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison.”

<sup>10</sup> Human rights of Roma and Travellers in Europe, Council of Europe, 2012.

<sup>11</sup> ECRI Third report on Lithuania, adopted 24 June 2005, published 21 February 2006, in Human rights of Roma and Travellers in Europe, Council of Europe, 2012, 87.

<sup>12</sup> Amnesty International UK (2010), ‘Human rights on the margins: Roma in Europe’, London, 1-12.

separate classes on the grounds of their lack of proficiency in the Croatian language, described differential treatment on the basis of language proficiency as “indirect racial discrimination,”<sup>13</sup> referring to a definition put forth by the Council of Europe’s European Commission against Racism and Intolerance (ECRI), *ECRI general policy recommendation no. 7 on national legislation to combat racism and racial discrimination*, which defines “indirect racial discrimination” as such:

*“Indirect racial discrimination” shall mean cases where an apparently neutral factor such as a provision, criterion or practice cannot be as easily complied with by, or disadvantages, persons belonging to a group designated by a ground such as race, colour, language, religion, nationality or national or ethnic origin, unless this factor has an objective and reasonable justification. This latter would be the case if it pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim sought to be realised.*<sup>14</sup>

In a very close decision, the ECtHR found the Croatian government guilty of discrimination, in violation of article 14 of the European Convention on Human Rights (ECHR).<sup>15</sup> Article 14 of the ECHR enshrines anti-discrimination, by stating the following:

*The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*

In the context of judicial proceedings, the ECHR affords the right for a defendant to be promptly informed of proceedings in a language they understand, and it guarantees the right to a free interpreter if a defendant does not speak the language spoken in court. Article 10 of the ECHR protects the right to freedom of expression, including the use of a minority language in private or among members of a minority group.

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<sup>13</sup> Oršuš and others v. Croatia, App. 15766/03, European Court of Human Rights, Strasbourg (16 March 2010).

<sup>14</sup> Adopted 13 December 2002. Accessible online at <https://rm.coe.int/ecri-general-policy-recommendation-no-7-revised-on-national-legislatio/16808b5aae>.

<sup>15</sup> Danisi, C. (2011), “How far can the European Court of Human Rights go in the fight against discrimination? Defining new standards in its nondiscrimination jurisprudence,” *International Journal of Constitutional Law* 9(3-4), 793–807.

**PC-CP (2018) 15 rev 3 Revised rules and commentary to Recommendation CM/Rec(2006)2 of the Committee of Ministers to member States on the European Prison Rules (Strasbourg, 8 October 2018)**

Ethnic or linguistic minorities

- **38.1** Special arrangements shall be made to meet the needs of prisoners who belong to ethnic or linguistic minorities.
- **38.2** As far as practicable the cultural practices of different groups shall be allowed to continue in prison.
- **38.3** Linguistic needs shall be met by using competent interpreters and by providing written material in the range of languages used in a particular prison.

*A failure to provide effective treatment for prisoners who are unable to communicate with the treatment staff because of a language barrier may cause the detention to be found to be degrading, thus contravening Article 3 of the ECHR89.*

*Prison staff need to be sensitised to the cultural practices of various minorities in order to avoid misunderstandings. Staff training in cultural sensitivity is important in this regard.*

## **Low literacy rates as a barrier to access and information**

Low literacy rates among Roma and Travellers in European prisons are problematic, as they hinder prisoners' access to information, services, education and employment and can make communication with children and family on the outside more difficult. A 2020 EU Agency for Fundamental Rights study of Roma and Travellers in Belgium, France, Ireland, Netherlands, Sweden and the United Kingdom reported that 36 per cent of interviewees assessed their reading abilities as "not good" (51 per cent of French interviewees responded as such), and 43 per cent assessed their writing abilities similarly (61 per cent in France).<sup>16</sup>

In prisons specifically, further collection of data is needed to determine literacy rates, but one UK study found that 53.5 per cent of Irish Travellers in prison self-reported literacy problems.<sup>17</sup> Another study, carried out in 2014 by the UK's HM Inspectorate of Prisons, found that 89 per cent of Roma and Traveller prisoners understood written English (compared to 99 per cent of the general population), which may have

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<sup>16</sup> 'Roma and Travellers in Six Countries,' European Union Agency for Fundamental Rights

<sup>17</sup> MacGabhann (2011) in Irish Prison Reform Trust (2014), 9.

impacted their ability to access services and activities like education and vocational or skills training, and that a lower proportion of Roma and Travellers found it easy to fill out applications or get a prison job. A greater proportion of Roma and Traveller respondents to the 2014 study reported difficulty with sending or receiving mail and accessing telephones compared to the rest of the population. And perhaps most immediately challenging, 5 per cent of Roma and Travellers surveyed reported not understanding spoken English, with severe limits on their abilities to access services.<sup>18</sup>

The Irish Penal Reform Trust (IPRT) produced a 2014 report that is a key tool for understanding the subtle implications that low literacy rates have on the day-to-day experience of Travellers in prison. One interviewee explained that she was not aware of services like prison treatment centres because she was unable to read printed informational pamphlets. Another reported not applying for temporary release so as not to have to enjoin a literate “settled person” (someone not Traveller-identified) to fill out the application form. A 2011 study cited difficulty with “bureaucratic norms taken for granted” as posing roadblocks for Travellers looking to apply for family visits that stem from literacy issues,<sup>19</sup> and a study from 2009 showed that in some cases Travellers cited poor literacy as a primary reason not to engage with health care practitioners.<sup>20</sup>

One Traveller interviewee, who is literate, found himself filling out forms for peers who were unable to write in order to request a phone call or a visit. This informal method of deciphering information and writing requests or letters seems to be a theme amongst Roma and Travellers in prison, where informal mentors from within the community help others to communicate. Romodrom, a Czech organisation supporting Roma in the vicinity of Prague and a COPE partner, reports that a dearth of Romani resources in prisons has led Czech-speaking Roma, generally of the younger generation, to take on the role of “unofficial interpreter” for the Romani-speaking older generation. Prisons facilitate these connections by linking Czech speakers from the Roma community in prison with primarily Romani speakers.

### **Increasing access through improved literacy and trust**

More elusive considerations surrounding literacy and access to services, including improved contact between Roma and Travellers in prison and their children, include crucial questions of trust and cultural sensitivity. In the Irish context again, the 2009

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<sup>18</sup> ‘People in prison: Gypsies, Romany and Travellers, A findings paper’ (2014), HM Inspectorate of Prisons, 10.

<sup>19</sup> Macgabhann (2011) in IPRT (2014), 9.

<sup>20</sup> Cemlyn et al. (2009) in IPRT (2014), 9.

study found that for imprisoned Travellers, separation from a child was felt yet more strongly when their child was being cared for by someone outside the Traveller community,<sup>21</sup> and a prison chaplain has expressed that Travellers seem reluctant to access services in the prison "because they feel that Travellers are not understood by staff."<sup>22</sup>

Indeed, provision of services by individuals from Roma and Traveller communities has been shown to be critical to providing support:

- **England:** Representatives from HMP Oakwood have reported the success of having a Traveller-identified member of the prison staff, who became an informal liaison between the administration and the Traveller community<sup>23</sup>
- **Finland:** Romano Missio has had two Roma-specific projects that were staffed by Roma: *Naisten vuoro* ('Women's Turn'), a culturally sensitive counseling service with practices that have now been incorporated into mainstream prison services and a follow-up project called *Muutoksen vuoro* ('Time for Change'), which offered support to female Roma prisoners during their post-release resettlement process. They received funding to establish Women's Corner, a Helsinki-based support centre that includes two Roma workers who visit four prisons during a week in which they spend 2-6 hours at a time and either go through a rehabilitative programme with Roma women, hold individual discussions about any acute subject with the women or provide consulting time for the prison staff. The work includes released prisoners and finding ways to reduce recidivism through a personally planned support network with other organisations and rehabilitation centres when needed. This involves cooperation with child protection services and other organisations who support the mother-child relationship, the overall idea being to support the mother to use existing services with the assistance of a Roma worker, including cultural interpretation both ways. As an ongoing project it is guided by the needs of the women of which support with parenthood is one. The idea is to provide help and support in as many situations as possible during the imprisonment and after it.
- **Bulgaria:** Child & Space has worked with Roma in Sliven Women's Prison, which grew out of work done in their Family and Consultative Centre, which works with the Roma community outside of prison, providing support such as preventive healthcare. In the prison, Child & Space focuses on providing parenthood workshops for Roma mothers and helping Roma mothers to

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<sup>21</sup> Ibid., 12.

<sup>22</sup> MacGabhann, C. (2011), 'Voices unheard: A study of Irish Travellers in prison,' Irish Chaplaincy in Britain.

<sup>23</sup> Brett, R. (2019), 'Children of Roma and Traveller prisoners in Europe: issues, challenges and good practices: Report on Workshop'[Internal document]. The International Coalition for Children with Incarcerated Parent (INCCIP) Conference, 12-14 August 2019, University of Huddersfield, UK.



improve literacy and simultaneously keep in touch with children through letter-writing. Additional training is focused on sensitising prison staff to limit prejudicial treatment of Roma prisoners.

- **Latvia:** Ilguciems prison for women, which has roughly a 25 per cent Roma population, offers classes in Russian and Latvian and offers sewing courses and work experience in a sewing facility. The prison has its own children's home for children up to the age of three. In 2019, there were 12 children at the home, five of them Romani. The nurses at the children's home speak Romani, and a Roma woman worked there as a nanny for a while. One prison employee expressed the opinion that there should be someone among the workers who speaks Romani.

A prison chaplain working on improving literacy for Irish Travellers had the following to say:

*[It] is important for staff working with Travellers in prison to recognise the cultural basis for poor levels of literacy. It is also important to recognise that formal education at school often entails experiences of prejudice and humiliation for Travellers, obstacles which must be overcome in order to improve literacy levels in prison.<sup>24</sup>*

### **Working with Gypsy and Traveller offenders (Irish chaplaincy)**

*Recommendation for Probation Service: The Probation Service should seek out ways of increasing literacy support for Traveller offenders, to enable those with low literacy to participate in offending behaviour courses or specified activities. Better use could be made of volunteers – particularly those with teaching backgrounds – to provide embedded literacy support for offenders participating in programmes. (4)*

*Education professionals were also said to have good relations with Traveller families, and offer the best point of contact between statutory agencies and the community, with Mark stating that:*

*'The education officers are the only people we trust really. The one's that work with Travellers and know the community.'*

*Probation officers found it was often necessary to 'sell' literacy support as part of a package, for example tying it in to obtaining a CSCS Card;*

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<sup>24</sup> MacGabhann, C., 33.

*something that many Traveller offenders would consider useful. It was pointed out that in promoting literacy, probation officers had to be attentive to the individual; one Traveller offender had wanted to learn to read so that he could read his child a bedtime story, while another was more concerned with being able to write invoices for his construction business. (12)*



Children of Prisoners Europe (COPE) is a pan-European network of non-profit organisations working on behalf of children separated from an imprisoned parent. The network encourages innovative perspectives and practices to ensure that children with an imprisoned parent fully enjoy their rights under the United Nations Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union, and that action is taken to enable their well-being and development.

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