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Roma in European equality case law

Margarita Ilieva
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Key concept

- Disadvantage >
- Vulnerability & special needs >
- Special attention >
- Correct inequality, or else > breach A 14

Housing rights



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- *Yordanova and Ors (2012)*
 - Collective forced eviction
 - Interim relief
 - Breach of A 8
 - (Court) review of proportionality, reasons for necessity
 - Community, long period, *de facto* tolerance, strong links > different approach
 - Defective law and process – regardless of special circumstances and consequences (homelessness)

Housing rights



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- Hypocrisy: special programmes
 - Need of assistance to enjoy same rights
 - Account of specificity > proportionality
 - A8 > possible duty to secure shelter
 - Injunction – change law; cancel/ suspend eviction
-
- *Winterstein & Ors (2014)*



School segregation

- *Lavida & Ors* (2013)
 - 100 % Roma school
 - Non-Roma aggression >
 - Corrective measures not implemented

 - No official intent but *de facto* discrimination
 - Not justified > breach A 14 with A 2/ P 1



School segregation

- *Sampani & Ors (2012)*
 - Continued separation in unfit building after 2008 ruling
 - Racist demonstrations >
 - Official refusal to integrate
 - Despite catchment plans - no non-Roma child
 - Mayor: ‘Segregation is necessity’



School segregation

- *Horvath & Ors (2013)*
 - Disproportionate, arbitrary placement in special schools > inferior education
 - Systemic misdiagnosis < biased tests, no account for social/ cultural/ linguistic difference
 - Indirect discrimination
 - Borderline higher than WHO
 - No safeguards against misplacement
 - Parents ignored



School segregation

- No justification
- History of discrimination > positive duties > adequate, special protection
- Racial (ethnic) discrimination – particularly invidious; incapable of justification > all means to combat



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Political intimidation

- *Vona* (2013)
 - Dissolution anti-Roma group > no breach A 11
 - Paramilitary rallies, Nazi symbols, ‘defending Hungary’ from ‘Gypsy criminality’
 - Captive audiences, physical presence beyond mere expression >
 - ‘True threat’ >
 - State protection (of democracy)



Forced sterilization

- *V.C. (2011); N.B. (2012); I.G. & Ors (2012)*
 - Not informed, no consent, no medical necessity > breach of human dignity and freedom
 - Paternalistic, gross interference; gross disregard for autonomy and choice > breach of physical integrity
 - Lasting suffering: mental damage, relationship breakdown, social status loss >



Forced sterilization

- Violation of A 3
- + Procedural violation of A 3 (*I.G.*)
- While Roma at particular risk,
- No procedural safeguards, no special consideration >
- Breach of positive duty to secure effective protection: A 8

Pogroms



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- *Fedorchenko & Lozenko (2012)*
 - Houses put on fire, small children burned alive
 - Highly deficient investigation: procedural violation of A 2
 - No investigation of ethnic motive: violation of A 14 with A 2

Pogroms



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- *Lakatus & Ors (2012) (= Moldovan (2005))*
 - Killings, burnt homes, destruction of property; police involved
 - Homelessness, no aid: degrading living conditions +
 - Racism by the courts > continuing violation of A 3 & A 8 +
 - Violation of A 14 with A 6 & A 8



Negative stereotyping

- *Aksu* (GC) (2012)
 - ‘Victim’ under A 8: personal identity < ethnic identity
 - Negative stereotyping impacts group’s sense of self and members’ private life
 - Debasing publications but ‘academic’ + no racist intent > no breach of A 8
 - Still, better label pejorative expressions



Thank you!



- Comments?
- Questions?