Roma in European equality case
law

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Key concept

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

- 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

- 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
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

  - 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

- 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

• 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?