

International legislation handbook

# Denied a future?

the right to education of  
**Roma/Gypsy & Traveller children** in Europe



**Save the Children**

**Save the Children is the UK's leading international children's charity. Working in more than 70 countries, we run emergency relief alongside long-term development and prevention work to help children, their families and communities to be self-sufficient.**

**Drawing on this practical experience, Save the Children also seeks to influence policy and practice to achieve lasting benefits for children within their communities. In all its work, Save the Children endeavours to make children's rights a reality.**

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# Terms used

Each of the terms below is understood differently by different people. This list describes how we are using them in this report:

*Pre-school* – sometimes referred to as nursery or kindergarten. This refers to the non-compulsory stage of schooling immediately prior to primary education.

*Primary education* – sometimes referred to as basic or elementary education. This refers to the foundation stages of a child's school education. In the Central and South-Eastern Europe context this means the compulsory element of schooling, which in most cases caters for children between 6/7 and 14/15 years of age. In the Western European context it refers to the stage of schooling that comes after pre-school and before secondary. It can start for children as young as 4/5 years and usually goes up to the age of 10/11 years.

*Secondary education* – sometimes referred to as further education according to context. In Central and South-Eastern Europe, further education is

the non-compulsory stage of schooling that immediately follows primary education. It caters for young people aged from 14/15 years up to 18 years. In Western Europe, secondary education also follows on from primary education (ie, starting from 10/11 years), but is compulsory up to the age of 16 years. Pupils then have the option of continuing in further education up to the age of 18 years and in higher education post 18 years.

*Community* – a group of people who live within a defined context (eg, a Roma/Gypsy community in a remote rural area). When talking about “consulting with Roma/Gypsy communities”, we do not assume they are cohesive or that there is an organised structure to work through.

*NGO* (non-governmental organisation) – this can be anything from a small voluntary group to a large development agency.

# Abbreviations used

CBSS	Council of the Baltic Sea States
CDMG	European Committee on Migration
CERD	Committee on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
CSCE	Conference on Security and Co-operation in Europe
ECHR	European Convention on Human Rights
ECOSOC	Economic and Social Council
ECRI	European Commission against Racism and Intolerance
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGO	Non-Governmental Organisation
ODIHR	Office for Democratic Institutions and Human Rights (of the OSCE)
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-operation in Europe
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund

# Preface

## Why *Denied a Future?* was produced

The idea for the *Denied a Future?* report emerged at the 1999 session of the UN Commission on Human Rights. Save the Children presented information about the ways in which the right to education of Roma/Gypsy and Traveller\* children was being compromised or violated in a number of European countries. Various people were interested in finding out more and asked us to recommend publications that they could refer to. We discovered that there were very few of these. While there was a lot of information available, from research institutes, from governmental sources, from organisations working with Roma/Gypsy and Traveller communities and from activists in those communities, this information was in libraries, archives and in people's heads, in many different locations and languages.

Large sums of money are being spent by governments, intergovernmental agencies and international NGOs on programmes that aim to reform education provision in Central and South-Eastern Europe and to improve the situation of Roma/Gypsy and Traveller children in Western Europe. The absence of an accessible text describing the starting point against which

\* Given the vast number of names applied to the people who are the subject of this report, the term "Roma/Gypsies" is employed in accordance with Liégeois and Gheorghe's *Roma/Gypsies: a European Minority* (Minority Rights Group, 1995). In some Western European countries, the term "Traveller" is preferred. Therefore, in this report we employ the term "Roma/Gypsies and Travellers" or "Roma/Gypsy and Traveller" when we are referring also to countries with populations whose preferred term is "Traveller".

the impact of this expenditure could be measured meant that it was difficult to assess whether these programmes were actually bringing about positive changes for Roma/Gypsy and Traveller children. There appeared to be hundreds of small projects, many of which were highly innovative and successful. But it was hard to tell whether these successful pilot initiatives were having any significant impact in the long term or on a wider scale. In other words, was expenditure on pilots and experimental initiatives leading to any systemic change?

Save the Children decided that there was a need for a basic text that described legislation, policy and practice with regard to education provision for Roma/Gypsy and Traveller children in a number of European countries. *Denied a Future?* therefore describes law, policy and practice in the period June 2000 to June 2001. We intend the report to serve as a benchmark against which the impact of current and future investments by the World Bank, the European Union, national and local governments and other agencies can be assessed.

The issues addressed in *Denied a Future?* are of growing significance and relevance in contemporary Europe. They feature in the debates leading up to the enlargement of the European Union and in the work of the Working Table on Democratisation and Human Rights of the Stability Pact for South-Eastern Europe. The failure to safeguard the right to education of large numbers of Roma/Gypsy and Traveller children was highlighted at the UNESCO Education for All 2000 regional meeting for Europe and North America. It was also

highlighted at the European Conference against Racism, which was organised by the Council of Europe in preparation for the UN World Conference against Racism.

## How *Denied a Future?* was produced

Each *Denied a Future?* country report was co-ordinated by a single author or editor. However, the authors/editors drew upon a wide range of written and verbal contributions in the countries concerned. The drafts were widely circulated by the co-ordinating team, and comments were particularly sought from individuals in Roma/Gypsy and Traveller communities who are clients and users of the education services under discussion. The views and experiences of Roma/Gypsy and Traveller children, young people, parents and teachers are central to the conclusions and recommendations of *Denied a Future?*

## Who *Denied a Future?* is for

*Denied a Future?* comprises a Summary, an International Legislation Handbook and two volumes of country reports. The International Legislation Handbook describes the international and regional legal frameworks guaranteeing the right to education of children of minority groups. Volume One of the country reports covers South-Eastern Europe and Volume Two covers Central and Western Europe. There are summaries for each country report as well as

volume summaries to allow for quick reference and ease of navigation. The Summary identifies the main findings of the 14 country reports, Save the Children's conclusions and recommendations for future action.

We expect different types of reader to use *Denied a Future?* in different ways. For international and locally based NGOs, we hope it will be useful as an advocacy tool. In the International Legislation Handbook, the relevant laws and articles are explained and analysed, and the "control mechanisms" related to them are described. Each country report contains a section outlining the international legal instruments that have been ratified in that country. As a practical advocacy tool, *Denied a Future?* contains most of the information needed by NGOs that are interested in using international law to lobby for change at national and community level.

We hope that *Denied a Future?* will be widely used as a planning and briefing resource by staff and volunteers of intergovernmental agencies and international NGOs. The individual country reports provide an overview of law and policy, and also a detailed description of the situation in schools and communities and the views of pupils, parents and teachers. They also provide information about the different Roma/Gypsy and Traveller communities, their histories and the languages they speak. Within each country report there is a set of recommendations that Save the Children believes should be the focus for further attention and action.



We hope that policy-makers will find *Denied a Future?* a useful source of information about developments in other European countries. A great deal of good practice has been developed that can be scaled up and built upon. Although some of the country reports are critical of the records of governments to date, the intent in producing *Denied a Future?* is constructive. We are aware that there are significant financial and other barriers impeding policy implementation and also that a number of positive initiatives are underway, but have been instituted so recently that it is too early to discern results. Our aim in producing *Denied a Future?* is to demonstrate where governments need to focus their efforts because their actions are such an important part of the solution. However, the country reports also indicate where action is needed by professionals, practitioners, NGOs, community leaders and activists.

### **The limitations of *Denied a Future?***

We should acknowledge from the outset that *Denied a Future?* is not the final word in the issue of the right to education of Roma/Gypsy and Traveller children. In some countries, it has proved difficult to get reliable information. However, in cases where we believed there was a possibility of bias, or where we were given information that was contentious or possibly out of date, we commissioned additional research and sought alternative views. We have not succeeded in getting as much information as we would have liked about how a child's gender influences

decisions about education. Also, the important issue of labour-market discrimination falls outside the parameters of this report.

*Denied a Future?* presents a "snapshot" in a dynamic period. Although every effort has been made by the project's co-ordinators to ensure that the information is up to date, it is possible that, even in the few months between conducting research and going to print, new policies or initiatives will have been introduced. This is to be welcomed. We hope that the existence of *Denied a Future?* will make it easier for people to identify where and how things are changing for the better.

### **How we selected countries for *Denied a Future?***

A number of people have asked us how we selected the 14 countries that feature in the *Denied a Future?* report. Save the Children's UK and Europe Programme works in the United Kingdom and South-Eastern Europe. For our own purposes we were, of course, particularly interested in the situation in those countries. We wanted to include reports from other member states of the European Union in order to draw attention to issues which need to be addressed there too – the denial of the right to education of children who are labelled as "Gypsies" is often wrongly perceived as a problem limited to Central and South-Eastern Europe. Partner organisations in Italy, Finland and Greece were able to assist us in producing reports for these countries.

Unfortunately, with the time and resources available to us, we were unable to extend the scope of the report to, for example, Spain, Germany, Ireland, Poland, Slovenia, the Baltic States or Russia. We have included reports on the Czech Republic, Slovakia and Hungary because, in these countries, segregation of Roma/Gypsy children and the practice of educating them in special schools for the mentally disabled present particular challenges.

## Who are the children in the photographs?

Most of the photographs that appear in *Denied a Future?* were taken in Roma/Gypsy and Traveller communities in Bosnia and Herzegovina, Hungary, Italy, Serbia, Romania and Wales in the summer of 2001. The reports also feature images from the photographer's archive of work from other countries including the Czech Republic, England, Poland and Slovakia.

As a rule, the children and young people were closely involved in directing how they would be portrayed in the photographs. In many cases, they chose to be photographed alongside things and people that were important to them: brothers and sisters, friends, pets, toys, places where they play and work.

The photographer, Poppy Szaybo, has worked as a documentary photographer and organiser of cultural and educational projects with Roma/Gypsies and Travellers throughout Europe for over a decade. She extends her thanks to all of the communities she visited in summer 2001 for their kindness, hospitality and generosity. In particular, she would like to thank the young people that she worked with and photographed for sharing with her their humour, energy, vitality and warmth, making *Denied a Future?* an unforgettable and inspiring project with which to be involved.

# Introduction

Education – in the broadest sense of the term – is a fundamental human right. The denial of this right may affect the enjoyment of other rights. Ignorance, which can be a consequence of an incomplete education, may deprive individuals of the means of fully developing and expressing their personality and achieving recognition. Civil and political rights, such as freedom of expression, freedom of association or the right to political participation acquire substance and meaning only for people who have been educated.

Education is a vehicle for transmitting culture and hence cultural identity. For ethnic and linguistic minorities, the right to education is a vital means of safeguarding and strengthening their cultural identity, including the right to use their own language.

Education promotes the realisation of social and economic rights, insofar as educated people have greater chances of finding work, and are more aware of their right to health, housing and food. Above all, they acquire the ability to access these basic benefits themselves.

The holistic character of the right to education is undeniable. Its effective realisation provides an essential means of access to an adequate standard of living. It ensures the access to knowledge required by individuals to develop all their faculties, to improve the quality of their lives, to take clear-sighted decisions and to continue to learn, in order to live a dignified life within a democratic society.

In other words:<sup>1</sup>

“Education is both a human right in itself and an indispensable means of realizing other human rights: civil, cultural, economic, political and social. It is the primary vehicle by which economically and socially marginalized people can lift themselves out of poverty and obtain the means to participate fully in national life. Its impact is thus felt in the future, as much if not more than in the present. Education benefits societies as well as individuals.”

International and regional instruments that recognise the right to education often express the basic objectives served by education. These provisions constitute a statement of the common goals of educational systems in all countries. The implementation of the right to education is not only aimed at the acquisition of information and knowledge, but also implies a great variety of objectives which will benefit both the individuals and the communities in which they live.

The corpus of international instruments clearly shows that educational objectives tend to fall under two major headings which are, however, indivisible. There is a broad consensus that the prime objective of education is the development of personality, which is very closely linked to other objectives concerning the quality of the social relations needed for, and resulting from, personality development. The very close link between personal and social objectives may be described by the notion of cultural identity, which derives from tradition and at the same time constitutes a dynamic area of freedom and creativity. The implementation of the right to



education therefore implies respect for and protection and development of the cultural identity of every person.

International human rights law guarantees the right to receive some form of education. The statement that “everyone has the right to receive an education” clearly implies much more than the mere expectation that children should go through a rite of passage to acquire, if they are lucky, basic minimal skills. The right to receive an education implies not only access to education for all, but that the education provided includes all the above-mentioned objectives.

The right to receive an education implies an obligation. Whose responsibility is it to implement this right? The right to education has a cross-sectoral character, which makes it difficult to assign it specifically to one or other of the generations of human rights.<sup>2</sup> It is generally

accepted that the right to education, on account of its dual nature, belongs to both the first and the second generations of human rights. However, some authors maintain that, on historical grounds and for reasons linked to the formulation of international and regional instruments, the right to education is specific and possibly unique, and that it belongs not only to the first two generations of rights but also to what is termed the third generation of human rights – namely collective and solidarity rights. In any event, neither the state nor families can be released from the responsibility for implementing education.

The right to education is often regarded as part of economic, social and cultural rights. As a social right it entitles every individual to gain access to the education structures set up by the state. States are therefore obliged to set up an educational system that is accessible to all,

without discrimination and, at least as regards primary education, free of charge. At first sight the provision of free elementary education may seem easy to implement. However, free education should not be limited to the basically negative measure of not charging enrolment fees. Many other problems arise, some of which are extrinsic in nature (such as free transport for children living a long way from school, or the provision of free meals and even changing rooms), while others affect the teaching itself – for instance, the important question of providing educational materials free of charge.

This handbook provides practitioners, civil servants and lay readers with the international and regional legal instruments which guarantee the right to education. It attempts an analysis of these provisions, and illustrates the control mechanisms determined by some of the instruments, so that effective use of them can be made. Those instruments that are specific to Roma/Gypsies and Travellers are labelled clearly under relevant headings. Other instruments, while covering Roma/Gypsies and Travellers, also relate to other groups.

# The United Nations Legal Framework

## The right to education

### The Universal Declaration of Human Rights

The 1948 Universal Declaration of Human Rights (UDHR) is not a legally binding instrument. This means that it does not create legal obligations for states. However, the UDHR has acquired a fundamental importance in the international framework in that it constitutes an authoritative document in the context of human rights standards. It has represented a point of reference for subsequent international instruments and for much national legislation.

With regard to the right of education, Article 26 states that:

*Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*

The UDHR was enhanced in further international legal instruments. These texts are legally binding for those states that ratify them. Such states have an obligation to comply with the standards set forth in these instruments, or they will violate them.

### The International Covenant on Economic, Social and Cultural Rights

The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the economic, social and cultural rights. It has been ratified by 142 states.

With regard to the right to education, Article 13 states that:

- 1 *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
- 2 *The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
  - (a) *Primary education shall be compulsory and available free to all;*
  - (b) *Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*
  - (c) *Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
  - (d) *Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
  - (e) *The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*

- 3 *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*
- 4 *No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.*

The control mechanism provided for by the ICESCR is the reporting system. States Parties must submit initial and periodical reports to the Committee on Economic, Social and Cultural Rights about the measures they have taken in order to comply with the obligations set forth in the Convention. States Parties must also indicate those obstacles that hinder the effective implementation of the provisions of the Convention. Practitioners may become involved in this system by monitoring the drafting of the government report and by sending alternative information to the Committee. The Committee has adopted the practice of holding unofficial hearings of organisations and associations wanting to raise any relevant issues before each of its official sessions. Practitioners may also monitor and follow up how the government gives effect to the conclusions and observations of the Committee in relation to its report.

The Committee has periodically issued general comments on issues relating to the Covenant to assist States Parties in fulfilling their reporting obligations in order to promote their further implementation of the provisions of the Covenant. General comments also draw attention to insufficiencies disclosed by the large number of reports reviewed by the Committee, and suggest improvements that might be made in reporting procedures. On 29 November 1999 the Committee adopted a general comment on Article 13 of the ICESCR concerning the right to education. The Committee had already adopted General Comment 11 on Article 14 on plans of action for primary education.<sup>3</sup> This and the current comment on Article 13 are considered complementary and are meant to be considered together.

The comment on Article 13 states that education is both a human right in itself and an indispensable means of realising other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalised adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. The comment on Article 13 contains 60 paragraphs and is divided into three sections – on normative content, States Parties’ obligations and obligations of actors other than States Parties. It states that the right to primary, secondary, higher and fundamental education should include the elements of availability, accessibility (including non-discrimination, physical accessibility and economic accessibility), acceptability and adaptability common to education in all its forms and at all levels. Furthermore, while states must

prioritise the provision of free primary education, they also have an obligation to take concrete steps towards achieving free secondary and higher education.

The General Comment goes on to say that the prohibition against discrimination is not subject to progressive realisation or to the availability of resources: it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination. The principle of non-discrimination extends to all persons of school age residing in the territory of a State Party, including non-nationals and irrespective of their legal status. This has particular relevance for Roma/Gypsy asylum-seekers in the UK and elsewhere. Furthermore, the adoption of temporary special measures intended to bring about *de facto* equality for disadvantaged groups is not a violation of the right to non-discrimination with regard to education, so long as such measures do not lead to the maintenance of unequal or separate standards for different groups, and provided they are not continued after their objectives have been achieved. In addition, States Parties must closely monitor education – including all relevant policies, institutions, programmes, spending patterns and other practices – so as to identify and take measures to redress any *de facto* discrimination. Educational data should be disaggregated in a way that reveals the situation of those groups that might be subject to discrimination.

The General Comment emphasises that States Parties have immediate obligations in relation to the right to education, such as the guarantee that the right will be exercised without discrimination

of any kind and the obligation to take steps towards the full realisation of the right to education. Such steps must be deliberate, concrete and targeted.

The right to education, according to the Committee on Economic, Social and Cultural Rights, imposes three kinds or levels of obligations on States Parties: the obligations to respect, protect and fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide. The obligation to facilitate requires States Parties to take positive measures that enable and assist individuals and communities to enjoy the right to education. The obligation to respect requires States Parties to avoid measures that hinder or prevent the enjoyment of the right to education. The obligation to protect requires States Parties to take measures that prevent third parties from interfering with the enjoyment of the right to education.

States Parties have obligations to respect, protect and fulfil each of the “essential features” of the right to education (availability, accessibility, acceptability, adaptability). The following list provides some examples: A State Party must respect the availability of education by not closing private schools. It must protect the accessibility of education by ensuring third parties, including parents and employers, do not stop girls from going to school. It must fulfil (facilitate) the acceptability of education by taking positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all. It must fulfil (provide) the adaptability of education by designing and

resourcing curricula which reflect the contemporary needs of students in a changing world. It must fulfil (provide) the availability of education by actively developing a system of schools, including building classrooms, delivering programmes, providing teaching materials, training teachers and paying them domestically competitive salaries.

### The International Covenant on Civil and Political Rights

The 1966 International Covenant on Civil and Political Rights (ICCPR) guarantees civil and political rights. It has been ratified by 144 states.

Article 18 states, *inter alia*, that:

- 4 *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.*

The control mechanisms provided for by the Covenant and its First Additional Protocol are the reporting and individual communication systems. States Parties must report to the Human Rights Committee, composed of independent experts, on the measures that they have taken in order to implement the provisions of the Covenant.



Furthermore, individuals may submit complaints on the alleged violations of some of their rights to the Committee. This submission is, however, subject to admissibility criteria, including the exhaustion of domestic remedies.

### **The International Convention on the Elimination of All Forms of Racial Discrimination**

The 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibits all forms of racial discrimination. It has been ratified by 155 states.

With regard to the right to education, Article 5 states that:

*In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law notably in the enjoyment of the following rights:  
... (e)(v) the right to education and training.*

The control mechanisms provided by ICERD are the reporting system and the inter-states and individual communications systems. According to the reporting system, States Parties must submit reports on the steps taken to implement the Covenant to the Committee on the Elimination of Racial Discrimination (CERD). In addition, individuals may complain to CERD about alleged violations of their rights.

Article 14 of the Convention establishes a procedure which enables an individual or a group of persons who claim to be victims of racial discrimination to lodge a complaint with CERD against their state. However, this may be done only if the state concerned is a party to the Convention and has declared that it recognises the competence of CERD to receive such complaints. Furthermore, these submissions are subject to admissibility criteria, including the exhaustion of domestic remedies. CERD brings these communications to the attention of the State Party in question confidentially, but does not – without their consent – reveal the identity of the individual or group claiming a violation. When the state has given an explanation of its views, and perhaps suggested a remedy, CERD debates the matter and may make suggestions and recommendations, which are transmitted both to the individual or group concerned and to the State Party. While the ICERD does not refer explicitly to children's rights, most of its articles are, nonetheless, just as applicable to children as to adults. Issues of non-discriminatory access to education for children belonging to ethnic and racial minorities are particularly relevant in the context of this Convention. Complaints about alleged violations of the right not to be discriminated against – including the adoption of positive measures in the area of education – therefore fit well within the competence of CERD. NGOs and practitioners are encouraged to make use of this mechanism for the more effective protection of human rights.

## The UN Convention on the Rights of the Child

The 1989 Convention on the Rights of the Child (CRC) guarantees the whole range of human rights – civil and political, economic, social and cultural – to children. It has been ratified by 191 states.

Article 28 establishes the child’s right to education. Education is recognised as essential for all children. The article stresses that the right must be achieved “on the basis of equal opportunity”, reflecting the fact that vast numbers of children suffer discrimination in access to education. Furthermore, Article 28 states the core minimum: free compulsory primary education for all and different forms of secondary education and vocational guidance “available and accessible” to all. Higher education must be accessible “on the basis of capacity”. The article addresses the delivery of education, insofar as States Parties must take measures to reduce school drop-out rates and to ensure that school discipline respects the child’s right. It also encourages international co-operation on education, reflecting the fact that education can be the engine for economic growth.

Article 28 states that:

- 1 *States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*
  - (a) *Make primary education compulsory and available free to all;*
  - (b) *Encourage the development of different forms of secondary education, including general and*

*vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*

- (c) *Make higher education accessible to all on the basis of capacity by every appropriate means;*
- (d) *Make educational and vocational information and guidance available and accessible to all children;*
- (e) *Take measures to encourage regular attendance at schools and the reduction of drop-out rates.*

- 2 *States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.*
- 3 *States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.*

Article 29 of the CRC reflects a consensus of world opinion about the fundamental purposes of education. It does not detail the tools of learning but addresses its basic aims: to develop children’s full potential, to prepare children for “responsible life in a free society” and to enshrine the values of respect for all others and for the natural environment. The article explicitly preserves the rights of individuals and groups to arrange their own forms of education, so long as these fulfil the aims of education as set out in the article and any official minimum standards.

Article 29 states that:

1. *States Parties agree that the education of the child shall be directed to:*
  - (a) *The development of the child's personality, talents and mental and physical abilities to their fullest potential;*
  - (b) *The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;*
  - (c) *The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living; the country from which he or she may originate, and for civilizations different from his or her own;*
  - (d) *The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;*
  - (e) *The development of respect for the natural environment.*

The control mechanism provided by the CRC is the reporting system on the measures taken by States Parties in order to implement the provisions of the Convention. The reports are submitted to the Committee on the Rights of the Child, which is composed of independent experts. Practitioners may intervene in this process by presenting alternative reports to the Committee, by monitoring the reports of their own state and by following up the conclusions and observations of the Committee in their country.

## Minority rights in relation to education

For ethnic and linguistic minorities, the right to education is a vital means of safeguarding and strengthening their cultural identity.

Article 27 of the ICCPR states that:

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.*

Article 27 of the Covenant confers on persons belonging to minorities the right to national, ethnic, religious or linguistic identity, or a combination thereof, and the right to preserve the characteristics which they wish to maintain and develop. Although Article 27 refers to the rights of minorities in those states in which they exist, its applicability is not subject to official recognition of a minority by a state. Article 27 does not call for special measures to be adopted by states, but states that have ratified the Covenant are obliged to ensure that all individuals under their jurisdiction enjoy their rights. This may require specific action to correct inequalities to which minorities are subjected.

General Comment 23 of the Human Rights Committee, the body in charge of monitoring the implementation of the ICCPR by States Parties, on Article 27 makes the following points:

- The rights recognised in Article 27 are conferred on individuals belonging to minority

groups and are distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the ICCPR.

- Article 27 does not grant a collective right of self-determination and does not prejudice the sovereignty or territorial integrity of a State Party. At the same time, the right to enjoy their own culture may consist of a way of life which is closely associated with territory and the use of its resources.

Article 30 of the Convention on the Rights of the Child states that:

*In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.*

This article protects the rights of children from minority or indigenous groups to enjoy their culture, practise their religion and use their language together with other members of their group.

The Declaration on Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities adopted by the General Assembly in December 1992, is the only UN instrument which addresses the special rights of minorities in a separate UN document. It lists some rights in favour of persons who are members of ethnic, religious and linguistic minorities. While UN

General Assembly Resolutions like the 1992 Declaration are not legally binding on states, they provide important additional guidance with regard to how legally binding Treaties, Conventions and Covenants should be interpreted.

With regard to the right to education, Article 4 states that:

- 1 *States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.*
- 2 *States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.*

An analysis of these articles reveals the centrality of language to the UN definition of group identity and group rights. The emphasis lies with identifying the measures required for persons belonging to minorities to either learn their mother tongue (as a minimum) or to have instruction in their mother tongue (the next step). In this respect, the steps required depend on a number of variable factors, such as the size of the group and the nature of its settlement, ie, whether the group live together as a cohesive whole or whether they are dispersed. Also of relevance is the extent to which the group in question is long established within a given country or whether its presence is due to recent patterns of immigration.

In addition, minority rights – in particular the right to education – may be protected by provisions prohibiting discrimination contained in various international instruments, such as Article 2 of the UDHR, Articles 2 and 26 of the ICCPR, Article 2 of the ICESCR, Article 1 of the ICERD and Article 2 of the CRC. These articles guarantee rights to individuals and therefore each member of a minority is entitled to that protection.

## Instruments relating specifically to Roma/Gypsy and Traveller children

### The UN Commission on Human Rights

Roma/Gypsies and Travellers made their first appearance in a UN text in 1977 when, in the wider framework of the Economic and Social Council's Commission on Human Rights, the then Sub-Commission on the Prevention of Discrimination and Protection of Minorities appealed:<sup>4</sup>

“to those countries having Roma living within their borders to accord them, if they have not yet done so, all the rights enjoyed by the rest of the population”.

In August 1991 the Sub-Commission, recalling its previous Resolution, drew attention to the fact that:<sup>5</sup>

“in many countries, various obstacles exist to the full realization of persons belonging to the Roma community of their civil, political, economic, social and cultural rights, and that such obstacles constitute discrimination directed specifically against that community rendering it particularly vulnerable”.

Furthermore, during its 1992 session the Commission on Human Rights adopted Resolution 1992/65 entitled *On the Protection of Roma (Gypsies)*. This Resolution is very general: it invites states to adopt all appropriate measures in order to eliminate any form of discrimination against Roma/Gypsies and Travellers. Resolutions of the Commission on Human Rights are not legally binding. However, they give authoritative indications of the international human rights standards and of the areas where action from states is needed.

### The Sub-Commission for the Promotion and Protection of Human Rights

The Sub-Commission is the main subsidiary body of the Commission on Human Rights. It was established by the Commission at its first session in 1947, under the authority of the Economic and Social Council (ECOSOC). In 1999 ECOSOC changed the title of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities to that of the Sub-Commission on the Promotion and Protection of Human Rights.

Its functions are:

- to undertake studies, particularly in the light of the UDHR, and to make recommendations to the Commission concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities
- to perform any other functions which may be entrusted to it by ECOSOC or the Commission.

Further to the work aimed at rationalising the work of the Commission on Human Rights, it was decided that the Sub-Commission would mainly carry out studies and research, and provide expert advice at the request of the Commission. It will retain some right of initiative in carrying out research and studies which, however, will have to avoid duplication of work undertaken by other competent bodies. In addition, the Sub-Commission will continue to be able to debate country situations not being dealt with by the Commission and will be able to discuss urgent matters involving serious violations of human rights in any country. Although the Sub-Commission will continue to discuss country-related topics, it will not be able to adopt any country-specific resolutions.<sup>6</sup>

The Sub-Commission is composed of 26 experts acting in their personal capacity (this means that they are independent from their governments and that they are not paid for this work – the UN only covers their expenses in Geneva). They are elected by the Commission with due regard to equitable geographical distribution. The present membership consists of seven experts from African states, five from Asian states, five from Latin American states, three from Eastern European states and six from Western European and other states. Each member has one substitute. Half the members or their substitutes are elected every two years and each serves for a term of four years.

The Sub-Commission holds an annual session in Geneva in August. Until 1999, the session was four weeks long; since 2000, it has been three weeks long. In addition to the members and

substitutes, it is attended by observers from states, UN bodies and specialised agencies, other intergovernmental organisations, and NGOs which have consultative status with ECOSOC.

At present, the Sub-Commission has four working groups which meet before each session. These are:

- the Working Group on Communications (which considers complaints that appear to reveal a consistent pattern of gross and reliably attested violations of human rights within its terms of reference, together with replies from governments, if any)
- the Working Group on Contemporary Forms of Slavery
- the Working Group on Indigenous Populations
- the Working Group on Minorities.

At its 33rd meeting<sup>7</sup> on 26 August 1999 the Sub-Commission decided without a vote to entrust to Mr Sik Yuen, one of its members, the task of preparing a working paper, without financial implications, on the human rights problems and protection of Roma/Gypsies and Travellers. The working paper was to be submitted to the Working Group on Minorities at its 66th session and to the Sub-Commission at its 52nd session, in order that a decision could be taken on the feasibility of a study on the subject.

Mr Sik Yuen submitted the working paper to the 52nd session of the Sub-Commission. An outline of the paper was also presented at the session of the Working Group on Minorities. Subsequently, the Sub-Commission endorsed the conclusions contained in this working paper, stressing the



importance of undertaking an updated study on the human rights and protection problems of the Roma/Gypsy and Traveller population. Furthermore, it recommended to the Commission on Human Rights that it appoint Mr Sik Yuen as Special Rapporteur with the task of preparing a comprehensive study on this issue, based on his working paper as well as on the comments made by members of the Sub-Commission and the Commission. According to this proposal, Mr Sik Yuen would have submitted a preliminary report to the Sub-Commission at its 54th session (2002), a progress report at its 55th session (2003) and a final report at its 56th session (2004). However, this proposal from

the Sub-Commission was not adopted by the Commission on Human Rights at its 57th Session in spring 2001. At the time of writing, it is unclear whether the proposed study will go ahead.

### **Thematic mechanisms**

ECOSOC's Commission on Human Rights and its Sub-Commission for the Promotion and Protection of Human Rights normally establish the thematic mechanisms that deal with a specific issue related to human rights. The thematic mechanisms are required to study a particular human rights situation and to recommend

measures for its improvement. They may conduct country missions and receive information from anybody.

### The Working Group on Minorities

The Working Group on Minorities, established in 1995 pursuant to ECOSOC's resolution 1995/31 of 25 July 1995, is a subsidiary organ of the Sub-Commission for the Promotion and Protection of Human Rights. It meets annually in Geneva, usually during the last week of May, for five working days. The Working Group has been entrusted with the task of promoting the rights as set out in the Declaration on Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities, and in particular with:<sup>8</sup>

- reviewing the promotion and practical realisation of the Declaration
- examining possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and governments
- recommending further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities.

The Working Group is a forum for dialogue which focuses on two interdependent objectives. Firstly, it provides the framework within which governments, minorities and scholars come together to discuss issues of concern and seek solutions to problems which have been identified. This leads to greater awareness of the differing perspectives on minority issues and, consequently, to increased understanding and mutual tolerance among minorities and between minorities and governments. Secondly, it acts as a mechanism for

arriving at peaceful and constructive solutions to problems involving minorities, and for the elucidation and elaboration of the principles contained in the Declaration.

The Working Group has focused on:

- the meaning and application of the principles contained in the Declaration
- the different measures which have been adopted to enable persons belonging to minorities to enjoy their own culture, profess and practise their own religion and use their own language
- the role of multicultural and intercultural education in fostering understanding between various groups in society; the contribution of regional and other mechanisms, as well as national institutions and NGOs to the protection of minorities

The Working Group is rapidly becoming the major focal point for UN activities in the protection of minorities. It has recommended, *inter alia*, that:

- a database be established on good practices adopted in protecting the rights of minorities
- information on national, regional and international recourse mechanisms be collected
- the relevant treaty bodies and Special Rapporteurs give due regard to minority issues in carrying out their mandates
- the High Commissioner for Human Rights develop and implement procedures for conflict prevention
- inter-agency co-operation on minorities be further promoted, and seminars be held regularly on subjects of particular concern to minorities, such as intercultural education, the

role of the media, the right to profess and practise their own religion, and the right to enjoy their own culture.

At its second session, in May 1996, the Working Group recommended that specific themes be discussed in greater detail. Immediately prior to its third session, in May 1997, the Working Group organised a seminar on multicultural and intercultural education.

Participation in the sessions of the Working Group is open to government representatives, intergovernmental organisations, NGOs involved in minority protection (irrespective of whether or not they have consultative status with ECOSOC) and scholars versed in the subject.

### **The Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance**

The Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, Mr Glele-Ahanhanzo, has dealt systematically with the problems faced by Roma/Gypsies. His mandate was established in 1993 by the UN Commission on Human Rights. In his early reports he mentioned that the Roma/Gypsies are a minority that has been greatly affected by racist phenomena. In a report submitted pursuant to the Commission on Human Rights resolution 1996/21, he mentioned that Roma/Gypsies face daily discrimination in housing, education and employment. They are often segregated in “special schools”, denied residency permits and refused jobs solely because of their ethnicity. In his report submitted pursuant to the Commission on Human Rights

resolution 1997/73, the Special Rapporteur mentioned cases of racial discrimination against Roma/Gypsies, particularly by skinheads, in Bulgaria, the Czech Republic, Greece, Romania, Slovakia and Ukraine. In a report submitted pursuant to the Commission on Human Rights resolution 1998/26, he stated that since the fall of communism in 1989, and the subsequent liberalisation of Eastern Europe, many of the safety nets which existed under communism to ensure equal access to public services for the Roma/Gypsies have disappeared.

Recently, his attention has been drawn to the situation of Eastern European Roma/Gypsies. They are the target of right-wing extremist groups, suffer greatly from police violence, are victims of various forms of racial discrimination (in the fields of education, housing and cultural expression), and have been affected by armed conflict. For example, at the 56th session of the Commission on Human Rights, the Special Rapporteur presented a report on one of his field visits carried out in Hungary, the Czech Republic and Romania. The main focus of this report is the Roma peoples in these countries.<sup>9</sup>

### **The Special Rapporteur on the Right to Education**

In 1998 the Commission on Human Rights appointed a Special Rapporteur on the Right to Education – Ms Katarina Tomasevski. The Commission outlined the terms of reference for the Special Rapporteur in two key resolutions adopted in 1999 at its 55th session. Resolution 1999/25 accentuated the importance of international co-operation in the realisation of economic, social and cultural rights, supporting

the Special Rapporteur's planned focus on the elimination of financial obstacles for the realisation of the right to education, especially at the primary level. Resolution 1999/80 on the rights of the child included a special section on the promotion of the right of the child to education.

The Special Rapporteur is expected to report to the Commission taking into account information and comments received from governments, other UN bodies and any relevant international agencies and NGOs. She has a mandate to promote the provision of assistance to governments in working out and adopting urgent plans of action, wherever they do not exist, and in securing the progressive implementation of the principle of compulsory primary education free of charge for all. In carrying out her tasks, the Special Rapporteur has developed a regular dialogue with relevant UN bodies, specialised agencies and international organisations in the field of education, such as UNESCO (United Nations Educational, Scientific and Cultural Organization) and UNICEF (United Nations Children's Fund).

The Special Rapporteur has therefore focused her work and her first, preliminary report (1999) on these priorities. She has so far carried out two field missions – in Uganda and the United Kingdom.

### **The Committee on the Elimination of Racial Discrimination**

The Committee on the Elimination of Racial Discrimination (CERD) was the first body created by the UN to monitor and review actions by states to fulfil their obligations under the International Convention on the Elimination of Racial Discrimination. This has been ratified by virtually all European governments (the only exceptions being Andorra, Ireland, San Marino and Turkey).

CERD, in the words of the Convention, is composed of “18 experts of high moral standing and acknowledged impartiality”. Its members are elected for a term of four years by the States Parties to the Convention. Elections take place for half the membership at two-year intervals. The composition of CERD takes into account a fair representation of the geographical regions of the world, as well as of different legal systems.

CERD is an autonomous body. The experts who serve on the Committee are elected in their personal capacity. They can be neither dismissed nor, without their consent, replaced. Under the Convention, they establish their own rules of procedure, and receive no directives from outside. The expenses of CERD's members are met by the States Parties, not by the UN. The links with the UN are, however, clear. CERD was established under a Convention drafted and adopted by the UN. Its Secretariat, established in the Office of the High Commissioner on Human Rights in Geneva, is provided and paid for by the regular budget of the UN. Before any proposal involving expenditure is approved by CERD, the Secretary-General must be consulted. The meetings of the

Committee, which were planned to take place twice a year, are usually held at the UN Office in Geneva.

CERD reports on its activities to the UN General Assembly through the Secretary-General. In addition, CERD has co-operative arrangements with the International Labour Organization and UNESCO.

The International Convention on the Elimination of Racial Discrimination establishes three procedures to make it possible for CERD to review the legal, judicial, administrative and other steps taken by individual states to fulfil their obligations to combat racial discrimination.

The first is the requirement that all States Parties which ratify or accede to the Convention must submit periodic reports to CERD.

States Parties are required to submit comprehensive reports to CERD every four years, with brief updating reports at intervening two-year periods. When a report comes before CERD, a representative of the country concerned may introduce it, answer questions from the experts and comment on the observations they make. CERD's report to the General Assembly summarises these proceedings, and offers suggestions and recommendations.

CERD has provided guidelines to the States Parties on the preparation of their reports, and has frequently asked them for additional information. CERD has also made general recommendations to the States Parties when it has found that information on the

implementation of specific articles of the Convention, useful to the experts in establishing the facts and summarising their views, is broadly lacking.

A second procedure in the Convention provides for state-to-state complaints.

All the States Parties to the Convention recognise the competence of CERD to receive and act on a complaint by one state that another is not giving effect to the Convention. Unless the matter has been settled in another way, a conciliation commission can be appointed. So far, no State Party has ever used this procedure.

The third procedure makes it possible for an individual or a group of persons who claim to be victims of racial discrimination to lodge a complaint with CERD against their state. This may only be done if the state concerned is a party to the Convention and has declared that it recognises the competence of CERD to receive such complaints. It is possible to ratify the Convention and become a party to it without necessarily accepting the Committee's competence to examine individual communications.

The Convention also provides that states which have made such a declaration may establish or indicate a national body competent to receive petitions from individuals or groups who claim to be victims of violations of their rights and who have exhausted other local remedies. Only if petitioners fail to obtain satisfaction from the national body indicated may they bring the matter to CERD's attention.



The procedure for communications from individuals or groups claiming to be the victims of a violation of the Convention to be received by CERD came into operation in 1982. Some 30 countries have so far accepted CERD's competence to receive individual communications.

CERD brings such communications confidentially to the attention of the State Party in question, but does not – without their consent – reveal the identity of the individual or group claiming a violation. When the State Party has given an explanation of its views and perhaps suggested a remedy, CERD debates the matter and may make suggestions and recommendations, which are transmitted, both to the individual or group concerned and to the State Party.

At its 57th session, in August 2000, CERD held its first-ever 'thematic discussion' on any subject. The topic selected for this thematic discussion was the issue of discrimination against Roma. The outcome of this discussion was the unanimous adoption of a number of recommendations covering a wide range of policy areas. The selection of the issue of discrimination against Roma for this first thematic discussion was a ground-breaking and important development.

## UNESCO and the Convention against Discrimination in Education

The Convention against Discrimination in Education was adopted under the auspices of UNESCO in 1960 and came into force on 22 May 1962. It has been ratified by 89 states. The purpose of this Convention is not only the elimination of discrimination, but also the adoption of measures aimed at promoting equality of opportunity and treatment in this field. It is therefore based upon two distinct fundamental principles embodied in UNESCO's Constitution, which proscribe any form of discrimination and promote the right to education for all.

Article 1 of this Convention is very important because it states that:

*For the purpose of this Convention, the term discrimination includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:*

- (a) Of depriving any person or group of persons of access to education of any type or at any level;*
- (b) Of limiting any person or group of persons to education of inferior standard;*
- (c) Subject to the provisions of Article 2 of this Convention, of establishing or maintaining separate educational systems or institutions for persons or groups of persons; or*
- (d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of man.*

2 *For the purpose of this Convention, the term education refers to all types and all levels of education, and includes access to education, the standard and quality of education, and the conditions under which it is given.*

According to Article 3 of the Convention, States Parties undertake to take immediate measures to eliminate and prevent any discrimination; prevent differences of treatment, and forbid preferences and restrictions in various fields. Furthermore, Article 4 stipulates that States Parties undertake to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education. Finally, Article 5 affirms that it is essential to recognise the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and the use or the teaching of their own language.

The Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention was adopted as an instrument complementary to the Convention. It established a Commission to settle possible disputes arising in the event of a State Party to the Protocol not giving effect to a provision of the Convention. The Commission consists of 11 members elected by the General Conference of UNESCO for terms of six years. The Protocol came into force on 24 October 1968.

UNESCO has given financial support to a number of short-term projects related to research, teaching and/or publications, especially in connection with the Romani language. UNESCO has also been involved in literacy and education pilot projects in various countries.

## Control mechanisms

### Individual and group communications

In 1978 the Executive Board of UNESCO laid down a confidential procedure for the examination of communications and complaints received by UNESCO concerning alleged violations of human rights in its field of competence – namely education, science, culture and information.

Individuals, groups of individuals and NGOs may submit communications to UNESCO concerning violations of human rights, whether they are themselves the victims of such violations, or they are deemed to have reliable knowledge of such violations.

A communication may be submitted by a letter sent to the Director of the Office of International Standards and Legal Affairs of UNESCO (7 place de Fontenoy, 75352 Paris, 07 SP, France). This letter must contain a concise statement of the allegations and must be signed and drafted in one of UNESCO's working languages (English or French). Following this, the UNESCO Secretariat will send the author of the letter a form to be completed, which will then be transmitted to the government concerned and examined by the Committee on Conventions and Recommendations of the Executive Board.

The Committee on Conventions and Recommendations examines communications in private session. In principle, it meets twice a year during the Executive Board sessions (in spring and autumn). In the first instance, it examines the admissibility of the communication. There are ten conditions governing admissibility: if one of them is not met, no further action is taken on the communication. Thus, for a communication to be admissible, it must, *inter alia*, meet the following conditions:

- The communication must not be anonymous.
- The communication must not be manifestly ill-founded and must appear to contain relevant evidence.
- The communication must be neither offensive nor an abuse of the right to submit communications.
- The communication must not be based exclusively on information disseminated through the mass media (press, television, radio...).
- The communication must be submitted within a reasonable time-limit following the facts which constitute its subject matter, or within a reasonable time-limit after the facts have become known.
- The communication must indicate whether an attempt has been made to exhaust available domestic remedies with regard to the facts which constitute the subject matter of the communication, and the result of such an attempt, if any.

Once a communication has been declared admissible, the Committee proceeds to examine the substance of the allegations put forward.

During the examination, representatives of the governments concerned are invited to provide information or answer questions asked by members of the Committee on either the admissibility or the merits of the communication. Since the Committee is not in any way an international tribunal, it endeavours to resolve the problem in a spirit of international co-operation, dialogue, conciliation and mutual understanding. The Committee works in the strictest confidentiality.

Following the session in which a communication has been examined by the Committee, its author and the government concerned are informed of the Committee's decisions, which are not subject to appeal. However, the Committee may agree to re-examine a communication if it receives additional information or new relevant facts.

#### **Role of the Director-General**

In accordance with well-established practice, the Director-General of UNESCO has had occasion, through the right of intercession vested in him by the General Conference, to make various personal humanitarian representations on behalf of persons who have allegedly been victims of human rights violations in UNESCO's field of competence, and whose cases have called for urgent consideration.

#### **Reporting system**

States Parties to the Convention against Discrimination in Education must send periodic reports to the General Conference of UNESCO on dates and in a manner determined by it. These reports must indicate the legislative and administrative provisions which states have

adopted, and other action which they have taken for the application of the Convention, including that taken for the formulation and development of the national policy.

This could be another entry point for NGOs that would like to raise any issue in this area. One option would be for them to urge the government to consult them for the purpose of drafting the periodic report. Another option would be for them to send an alternative report or information to the General Conference. In any case, it is of

fundamental importance to raise public and media awareness of the state's reporting obligation, and of any subsequent recommendations from UNESCO.

However, it must be mentioned here that the UNESCO complaints procedures have not proved very effective or transparent so far. It is recommended, therefore, that additional remedies be sought in conjunction with those provided by the UNESCO framework.

# The Council of Europe's Legal Framework

## The right to education

Article 2 of the First Protocol to the European Convention on Human Rights (ECHR)<sup>10</sup> states that:

*No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.*

The First Protocol to the ECHR has been ratified by 38 states. The right to education had a difficult genesis in the Convention and the list of states that have appended reservations to this article is unusually long. Article 2 of the First Protocol extends to all forms of education provided or permitted by the state, although its focus is on primary education.

According to the European Court of Human Rights in its ruling on the Belgian Linguistic Case (1967),<sup>11</sup> the rights protected by the first sentence of Article 2 are:

- the right of access to educational institutions existing at a given time
- the right to an effective education
- the right to official recognition of the studies a student has successfully completed.

None of these rights is absolute. The state must regulate them all and, while it may take into account the needs and resources of the community and of individuals, the regulation must never injure the substance of the right to education or conflict with other rights enshrined in the Convention.

The second sentence in Article 2 must be read together with the first sentence. It is to the fundamental right to education that the right of parents for respect for their religious and philosophical convictions is attached. This right applies to all the systems of education in the state, both public and private, and to all the functions the state exercises in connection with education, whether academic or administrative. It is principally a protection against indoctrination by the state and teachers in schools, but it also covers administrative matters – such as the manner of maintaining discipline – insofar as they are capable of conflicting with parents' convictions. There are two protections for the state against this potentially wide-ranging right of parental influence in the education system. These are that the convictions which are to be taken into account are to be interpreted narrowly, and that the burden of proof on the parent to demonstrate their relevance to his or her stand is heavy.

Article 14 of the ECHR, which prohibits discriminatory treatments, is not a free-standing article. This means that its alleged violation must be invoked together with the alleged violation of the substantial provisions of the Convention.

The main control mechanism provided by the ECHR is the individual communication system. Victims of alleged violations of the rights set forth in the Convention can lodge a complaint to the European Court on Human Rights. However, the complaints must fulfil some admissibility criteria, such as the exhaustion of domestic remedies.

On 4 November 2000 the 12th Protocol to the ECHR was opened for signature. This Protocol broadens the scope of the Convention in relation to the principle of non-discrimination. So far, Article 14 of the ECHR has covered any discrimination which limits the enjoyment of one of the other articles recognised in the Convention or one of its Protocols. It is not, therefore, a free-standing article. But Protocol 12 instead prohibits discrimination on various grounds in relation to any right regardless of whether this is contained in the text of the Convention.

## Minority rights in relation to education

### The European Charter for Regional or Minority Languages

The Council of Europe has examined the situation of national minorities on a number of occasions over a period of more than 40 years.

The first attempt at strengthening the protection of European minorities was the adoption of the European Charter for Regional or Minority Languages in 1992. It entered into force on 1 March 1998 and aims to protect the status of regional and minority languages. However, it does not confer any specific right on those who speak them. It has been ratified by just nine states: Croatia, Finland, Germany, Hungary, Liechtenstein, Netherlands, Norway, Sweden and Switzerland.

The Charter first enunciates objectives and principles that Parties undertake to apply to all regional or minority languages spoken within their territory:

- respect for the geographical area of each language
- the need for promotion
- the facilitation and/or encouragement of the use of regional or minority languages in speech and writing, in public and private life.

Further, the Charter sets out a number of specific measures to promote the use of regional or minority languages in public life. The measures cover the following fields: education, justice, administrative authorities and public services, media, cultural activities and facilities, economic and social activities and trans-frontier exchanges. Each Party undertakes to apply a minimum of 35 paragraphs chosen from among these measures, including a number of compulsory measures chosen from a “hard core”. Moreover, in its instrument of ratification, acceptance or approval, each Party must specify each regional or minority language, or official language which is less widely used in the whole or part of its territory, to which the chosen paragraphs shall apply.

Enforcement of the Charter is under the control of a committee of experts, which periodically examines reports presented by the Parties. Associations and practitioners may contribute to these reports by sending information.

In relation to the right to education, according to Article 8 of the Charter, Parties have the choice between different kinds of obligation in relation to education in or of the regional or minority language at the pre-school, primary or secondary level, and where technical or professional, university and other forms of education are concerned.

Article 8 states that:

1 *With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:*

*(a) i. to make available pre-school education in the relevant regional or minority languages; or  
ii. to make available a substantial part of pre-school education in the relevant regional or minority languages; or  
iii. to apply one of the measures provided for under (i) and (ii) above at least to those pupils whose families so request and whose number is considered sufficient; or*

*iv. if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under (i) to (iii) above;*

*(b) i. to make available primary education in the relevant regional or minority languages; or  
ii. to make available a substantial part of primary education in the relevant regional or minority languages; or  
iii. to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or  
iv. to apply one of the measures provided for under (i) to (iii) above at least to those pupils*



- whose families so request and whose number is considered sufficient;*
- (c) *i. to make available secondary education in the relevant regional or minority languages; or*  
*ii. to make available a substantial part of secondary education in the relevant regional or minority languages; or*  
*iii. to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*  
*iv. to apply one of the measures provided for under (i) to (iii) above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;*
- (d) *i. to make available technical and vocational education in the relevant regional or minority languages; or*  
*ii. to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or*  
*iii. to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*  
*iv. to apply one of the measures provided for under (i) to (iii) above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient.*
- (e) *i. to make available university and other higher education in regional or minority languages; or*  
*ii. to provide facilities for the study of these languages as university and higher education subjects; or*  
*iii. if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs (i) and (ii) cannot be applied,*
- to encourage and/or allow the provision of university and higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;*
- (f) *i. to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or*  
*ii. to offer such languages as subjects of adult and continuing education; or*  
*iii. if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;*
- (g) *to make arrangements to ensure the teaching of the history and culture which is reflected by the regional or minority language;*
- (h) *to provide the basic and further training of the teachers required to implement those of paragraphs (a) to (g) accepted by the Party;*
- (i) *to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*
- 2 *With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all appropriate stages of education.*

## The Framework Convention for the Protection of National Minorities

The Framework Convention for the Protection of National Minorities is the first legally binding multilateral instrument devoted to the protection of national minorities in general. It was adopted in 1994 and entered into force on 1 February 1998. It has been ratified by 12 states. Its aim is to specify the legal principles which states undertake to respect in order to ensure the protection of national minorities.

In view of the range of different situations and problems to be resolved, a choice was made for a Framework Convention which contains mostly programme-type provisions setting out objectives which the Parties undertake to pursue. These provisions, which will not be directly applicable, leave the states concerned a measure of discretion in the implementation of the objectives which they have undertaken to achieve, thus enabling them to take into account particular circumstances.

In addition to its preamble, the Convention contains an operative part which is divided into five sections.

In relation to the right to education, the relevant articles of the Convention are Articles 12, 13 and 14.

Article 12 states that:

- 1 *The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.*

- 2 *In this context, the Parties shall, inter alia, provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.*
- 3 *The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.*

This article seeks to promote knowledge of the culture, history, language and religion of both national minorities and the majority population in an intercultural perspective. The list in the second paragraph is not exhaustive, while the words “access to textbooks” are understood as including the publication of textbooks and their purchase in other countries.

Article 13 states that:

- 1 *Within the framework of their education systems, the Parties shall recognize that persons belonging to a national minority have the right to set up and manage their own private educational and training establishments.*
- 2 *The exercise of this right shall not entail any financial obligation for the Parties.*

The establishments covered in this article may be subject to the same forms of supervision as other establishments, particularly with regard to teaching standards. Once the required standards are met, it is important that any qualifications awarded are officially recognised. The exercise of the right referred to in paragraph one does not entail any financial obligation for the Party concerned, but neither does it exclude the possibility of such a contribution.



Article 14 states that:

- 1 *The Parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.*
- 2 *In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.*
- 3 *Paragraph 2 of this Article shall be implemented without prejudice to the learning of the official language or the teaching in this language.*

The obligation to recognise the right of every person belonging to a national minority to learn

his or her minority language concerns one of the principal means by which such individuals can assert and preserve their identity. There can be no exceptions to this. This provision concerns teaching of and instruction in a minority language. In recognition of the possible financial, administrative and technical difficulties associated with instruction of or in minority languages, this provision has been worded very flexibly, leaving Parties a wide measure of discretion. The obligation to endeavour to ensure instruction of or in minority languages is subject to several conditions; in particular, there must be sufficient demand from persons belonging to the relevant national minorities. The text deliberately refrains from defining “sufficient demand” – a flexible form of wording which allows Parties to take account of their countries’ own particular circumstances.

The control mechanism provided in Section IV of the Convention includes a reporting system on the measures taken by the Parties to give effect to the principles set out in the Convention. The Committee of Ministers of the Council of Europe, which is assisted in this task by an advisory committee, examines the reports submitted by the Parties.

### Other instruments

In February 1993 the Parliamentary Assembly of the Council of Europe adopted Recommendation 1201, which directly addresses the issue of minority rights. The appendix to this Recommendation contains the text of the proposal for an Additional Protocol to the ECHR on the rights of national minorities. This proposal offers one of the first international attempts at defining the term “national minority”. Article 8/1 of the proposed Protocol states that every person belonging to a national minority shall have the right to learn his or her mother tongue, and to receive an education in his or her mother tongue at an appropriate number of schools and state educational and training establishments, located in accordance with the geographical distribution of the minority.

On 24 January 2001, the Parliamentary Assembly of the Council of Europe adopted Recommendation No. 1492 (2001), which reiterates the importance of the protection of national minorities in Europe as the only way to reduce ethnic tensions. In addition, the Recommendation condemns the denial of the existence of minorities and of minority rights in several Council of Europe Member States. It also recognises that immigrant populations whose

members are citizens of the state in which they reside constitute special categories of minorities, and recommends that a specific Council of Europe instrument should be applied to them. This statement is welcomed, as migrant groups tend to be excluded from any definition of a “minority”. However, this statement is still restricted to immigrant groups whose members are citizens of the state where they reside. This requirement may, in practice, prevent these groups from enjoying greater protection, as the conditions for acquiring citizenship, particularly in Western European Member States, are very hard for immigrants to satisfy. Finally, this Recommendation calls for the adoption of an Additional Protocol to the ECHR on the rights of national minorities, the adoption of an Additional Protocol to the Framework Convention for the Protection of National Minorities, and the establishment of a unit dealing with minority issues in the office of the Council of Europe’s High Commissioner for Human Rights.

In 1998 the Parliamentary Assembly adopted Recommendation 1353 on access of minorities to higher education. The Recommendation recognises that members of national minorities are often under-represented in higher education. The cost of provision, problems of recognition of qualifications, the lack of suitable primary and secondary education and, in some cases, political opposition, contribute to this situation. The Recommendation goes on to say that, according to several studies, the socio-economic situation of minorities is very often also an obstacle to their access to higher education. This is particularly true in the case of Roma/Gypsies. (This is the only specific reference throughout the whole text

to a minority group.) It is recommended, therefore, that:

- persons belonging to a linguistic minority have access to suitable kinds and levels of public education in their mother tongue in order to prepare for higher education
- all citizens have the possibility of studying their own language and culture in general and also at university level
- persons belonging to minority groups be encouraged to take part in higher education in their own country as well as abroad
- mutual recognition of qualifications be promoted, especially in neighbouring countries.

## Instruments relating specifically to Roma/Gypsy and Traveller children

Over a number of years the Council of Europe has shown a sustained interest in questions relating to school provision for Roma/Gypsy and Traveller children.

Recommendation 563 (1969) of the Consultative Assembly of the Council of Europe deals with the situation of Roma/Gypsies and Travellers and other nomadic communities in Europe, including children's education.

Resolution 125 (1981) of the Standing Conference of Local and Regional Authorities in Europe – a body within the Council of Europe framework – opened up new spaces for future action specifically on education-related issues. The Resolution includes proposals to:

- carry out “a thorough study of the education and vocational training problems of nomads”

- prepare “as part of its work on intercultural education, information on dossiers for teachers on the history, culture and family life of people of nomadic origin” and
- develop “a specific training programme for teachers with a view to enabling them to teach the Romani language”.

In response, the Council for Cultural Co-operation prepared a report entitled *Gypsies and Travellers* (1985), and since 1983 has organised, as part of its teacher bursary scheme, a series of seminars on schooling for Roma/Gypsy and Traveller children, as well as training courses for teachers. Originally, most of the activities within the Council of Europe were devoted to the Roma/Gypsy and Traveller populations in Western Europe. New perspectives have opened up with the dissolution of the communist bloc. Thus, resolutions and recommendations now refer to Roma/Gypsy and Traveller people in Europe in its new and extended borders. Thus a new and revised edition of *Gypsies and Travellers* appeared in 1994, and further developments have given a new framework for dealing with the schooling of Roma/Gypsy and Traveller children, although the resulting action has not been adequate in scope or in depth.

In February 1993 the Parliamentary Assembly adopted Recommendation 1203 on “Gypsies in Europe”, which was based on the report entitled *On Gypsies in Europe* of the same year.<sup>12</sup> The Assembly drew attention to the difficult situation of Roma/Gypsy and Traveller communities and the importance of implementing texts already adopted. The Assembly recommended that the Committee of Ministers:

- initiate, where appropriate, by means of proposals addressed to national governments, regional and/or local authorities of the Member States measures in the fields of culture, education, information, equal rights and daily life
- take general measures such as research, co-operation with the EU, consultation with representatives of international Roma/Gypsy and Traveller organisations and the appointment, in consultation with Roma/Gypsy representative organisations, of mediators to fulfil a range of advisory and consultative tasks.

The section devoted to education recommends several measures, such as the extension of the existing European programmes for training teachers of Roma/Gypsies and Travellers, and the encouragement of talented young Roma/Gypsies and Travellers to study and act as intermediaries for Roma/Gypsies and Travellers.

### **Specialist Group on Roma/Gypsies**

The setting up by the Committee of Ministers of a Specialist Group on Roma/Gypsies (MG-S-ROM) was decided in September 1995, following another report of 1995.<sup>13</sup> This Group is the first Council of Europe body responsible for reviewing the situation of Roma/Gypsies in Europe on a regular basis.

MG-S-ROM's terms of reference stipulate that it shall advise the Committee of Ministers, through the European Committee on Migration (CDMG), on matters concerning Roma/Gypsies. It also plays the role of "catalyst" for other sectors of the Council of Europe, through encouraging

and stimulating activities already underway and promoting new initiatives, if the need arises. It can also carry out specific studies or other activities in accordance with the decisions of the Committee of Ministers or the CDMG. Lastly, it co-ordinates activities concerning Roma/Gypsies, in liaison with the Co-ordinator of Activities on Roma/Gypsies, who is responsible for the Secretariat of the Group.

MG-S-ROM now has ten permanent members, though all member states have the possibility of sending one or more experts at their own expense, if they so desire. The Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe can send one or more representatives. In addition, representatives of the Organisation for Co-operation and Security in Europe (Office for Democratic Institutions and Human Rights/Contact Point for Roma and Sinti Issues) and the European Commission attend MG-S-ROM meetings as observers. MG-S-ROM can invite representatives of other Council of Europe bodies and other international organisations where appropriate. Lastly, depending on the agenda of its meetings, it may invite competent experts and representatives of Roma/Gypsy organisations. The Group has met twice a year since it was set up.

### **Plan of work**

The plan of work drawn up by MG-S-ROM, and adopted by the Committee of Ministers, identifies various themes which are to be examined progressively and lead to the drafting of notes and guidelines for use by Member States.

The main points are:

- economic development and employment

- human rights violations and discrimination, training for the police and the judicial administration, and the question of the legal status of Roma/Gypsies as a minority
- questions connected with citizenship
- problems faced by Travellers
- housing and caravan sites
- the role of the media in the promotion of tolerance, training for journalists and the situation of the Romani media
- education, schooling, training and culture
- problems connected with health care and health education
- the situation of Roma/Gypsy women
- community relations.

MG-S-ROM has carried out three **urgent actions**, each of which resulted in a report. The only urgent action for which details were made available was that carried out by the Chair for the Specialist Group. It consisted of the participation in a joint OSCE/ODIHR-Council of Europe field visit to Kosovo (27 July – 2 August 1999), aimed at enquiring about the situation of Roma, Ashkalija and Egyptians in Kosovo and in neighbouring areas.

On 3 February 2000 the Council of Europe adopted a Recommendation on the Education of Roma/Gypsies and Travellers in Europe, which was drafted by its Council for Cultural Co-operation in close co-operation with MG-S-ROM. This followed a procedure of written consultation of a number of organisations and persons involved in the education of Roma/Gypsy and Traveller children. The Recommendation recognises the urgent need to build new foundations for future educational

strategies toward the Roma/Gypsy and Traveller people in Europe, particularly in view of: the high rates of illiteracy or semi-illiteracy among them; their high drop-out rate; the low percentage of students completing primary education and the persistence of features such as low school attendance. Furthermore, it goes on to say that the disadvantaged position of Roma/Gypsies and Travellers in European societies cannot be overcome unless equality in the field of education is guaranteed for Roma/Gypsy and Traveller children. It states that education of Roma/Gypsy and Traveller children should be treated as a priority in national policies.

The Recommendation has an appendix containing guiding principles for an education policy for Roma/Gypsy and Traveller children in Europe. The first principle states that educational policies for Roma/Gypsy and Traveller children should be accompanied by adequate resources and the flexible structures necessary to meet the diversity of the Roma/Gypsy and Traveller population in Europe. Principles 4 and 5 call for the promotion of pre-school education and of better communication with parents using, where necessary, mediators from the Roma/Gypsy and Traveller community. Principle 9 deals with curriculum and teaching materials. These should be designed so as to take into account the cultural identity of Roma/Gypsy and Traveller children. Romani history and culture should be introduced in the teaching materials in order to reflect the cultural identity of Roma/Gypsy and Traveller children. The participation of representatives of the Roma/Gypsy and Traveller community should be encouraged in the development of teaching materials on the history, culture and language of

the Roma/Gypsies and Travellers. Principle 12 recommends that in the countries where the Romani language is spoken, opportunities to learn in the mother tongue should be offered to Roma/Gypsy and Traveller children.

Principles 13 and 15 encourage specific training for future teachers, and the recruitment of teachers from within the Roma/Gypsy and Traveller community. Finally, the guiding principles call for the strengthening of information research, consultation and co-ordination, including exchange of experience and good practice in the area of education.

## The European Commission against Racism and Intolerance

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe. It was set up by its Member States, in particular Heads of States and government representatives, at the first Summit held in Vienna in October 1993.

ECRI is composed of independent members with recognised expertise in dealing with questions of racism, xenophobia, anti-Semitism and intolerance. Its activities are multidisciplinary and wide-ranging, but are framed within agreed terms of reference. The terms of reference include evaluating the range of measures (legal, policy and other) taken by Member States to combat racism, xenophobia, anti-Semitism and intolerance, and proposing further action in this field at local, national and European levels.

ECRI is unique within the Council of Europe insofar as it can issue independent general policy recommendations addressed to all Member States. It also proposes specific measures aimed at combating racism and intolerance.

ECRI's general policy recommendation No. 3, published in 1998, deals specifically with combating racism and intolerance against Roma/Gypsies and Travellers. The recommendation calls for, *inter alia*:

- the adoption of adequate legislation, particularly in the context of civil law, in order to ensure that discriminatory practices in the fields of employment, housing and education are eliminated
- the elimination of all forms of school segregation among Roma/Gypsy and Traveller children and the effective enjoyment of equal access to education
- the introduction of information on the history and culture of Roma/Gypsies and Travellers into the curricula of all schools, and the provision of training for teachers in this subject.

As with recommendations in general, ECRI's recommendations are not legally binding. However, they can contribute towards more authoritative interpretations on particular issues of racism and discrimination.

# The European Union's Legal Framework

## Instruments relating specifically to Roma/Gypsy and Traveller children

Following the Resolution of the European Parliament, dated 16 March 1984<sup>14</sup> on the education of children whose parents have no fixed abode, and the Resolution of the European Parliament of 24 May 1984,<sup>15</sup> on the situation of Roma/Gypsies and Travellers in the Community, the Commission assigned the task of undertaking a study of the state of school provision for Roma/Gypsy and Traveller children to the Gypsy Research Centre of the Université René Descartes in Paris. This study took place from late 1984 to late 1985. The Gypsy Research Centre set up a co-ordinated network of experts throughout the participating states to carry out the study, in the wake of which a monograph on the subject was compiled for every Member State.

It became clear that over 700,000 child citizens of the then European Community were getting little or no schooling, and that action to rectify the situation was urgently required. Study, discussion and evidence from a variety of sources all demonstrated that the situation of Roma/Gypsy and Traveller communities is generally poor and, in relation to schooling in particular, is quite alarming. For centuries policies pursued with regard to Roma/Gypsy and Travellers have been policies of negating their culture, and even their very existence, both as individuals and as distinct groups.

At the Commission's initiative, the conclusions and recommendations included in this report were discussed with representatives of the ministries of

education, experts and representatives of the population groups concerned from various Member States.

The proposals concerning measures in the area of education for Roma/Gypsy and Traveller children were articulated in the Commission's proposal presented to the Council of Ministers of Education on 24 May 1988 in a communication entitled *Education in the European Community: Medium Term Perspectives, 1988-1992*. They included the reduction of disparities; taking cultural richness and the diversity of educational traditions into account; ensuring that actions remain coherent; encouraging initiative and innovation, and providing support for the capacity of education systems to engender social changes.

On 22 May 1989 the Council, and the Ministers of Education meeting within the Council, adopted a Resolution on school provision for children of Occupational Travellers, taking into account the results and recommendations of the 1988 study and the guidelines emerging from the consultations with the representatives of Occupational Travellers.<sup>16</sup> The aim of the Resolution is to develop a global and structural approach to help these children overcome the obstacles which hinder their access to schooling. The Resolution calls on Member States to make every effort in order to:

- improve information for travelling families
- improve access to nursery and primary school
- make available full secondary education and appropriate vocational training
- encourage the provision of accommodation in boarding schools or in lodgings



- encourage agencies to inform teachers during their initial in-service training of the specific circumstances and needs of the children of Occupational Travellers
- promote support for teachers, educators, heads of schools and boarding schools and mobile teaching units.

A number of programmes developed by the Commission over a period of many years are directly relevant to school provision for Roma/Gypsy and Traveller children, in particular with regard to:

- combating illiteracy and low level attainment
- equal education opportunities for girls and boys and the reduction of disparities
- education and training, particularly for migrant workers and their families
- introduction of new information technology – for example, the relevance of distance learning
- teacher training, particularly in-service training, which has been inadequate up to now
- information exchange, which was practically non-existent prior to the Resolution of 1989
- relations between representatives' organisations.

Legislation in this area includes:

- Resolution of the Council and of the Ministers of Education meeting within the Council, 9 February 1976, comprising an Action Programme in the field of education
- Council Directive of 25 July 1977 on school provision for the children of migrant workers
- Conclusions of the Council and of the Ministers of Education meeting within the Council, 14 May 1987, on in-service training for teachers

- Resolutions of the European Parliament of 11 February 1983 on measures favouring minority languages and cultures, in which it invited the Commission to pursue and intensify its efforts in this field, particularly with regard to setting up projects and pilot studies
- Resolution of the European Parliament of 30 October 1987 on the languages and cultures of regional and ethnic minorities in the European Community.

A number of parliamentary questions attest to the European Parliament's sustained interest in this issue. Furthermore, by opening up a budgetary line earmarked for school provision for Roma/Gypsy and Traveller children, the Parliament once again demonstrated the importance it attaches to this question.

## Accession to the European Union

In 1993 the EU's Heads of State and Government gathered in Copenhagen for a meeting of the European Council, and agreed upon criteria for countries wishing to join the EU. These are referred to as the "Copenhagen Criteria", and include the following:

*Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union; and the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.*

The situation of minorities such as the Roma/Gypsies and Travellers is therefore being taken into account in assessing the capacity of candidate countries to become members of the EU.

Following the Copenhagen Summit, Europe Agreements were concluded with each of the candidate countries. These form the legal framework for association between the EU and the candidate countries, with a view to their gradual integration into the European Union. Article 6 of the Agreements stipulates the “respect for the democratic principles and human rights established by the Helsinki Final Act and the Charter of Paris for a new Europe”.

In July 1997 the European Commission published Agenda 2000 to look at the future of the main areas of EU policy, the EU's financial perspectives for the period 2000–2006, and EU enlargement. With regard to respect of minorities, Agenda 2000 pointed out that the integration of minorities into the societies of the applicant countries was, in general, satisfactory “except for the situation of the Roma minority in a number of applicant countries”. As part of Agenda 2000, Opinions on the application for membership of the EU were adopted for each of the ten candidate countries of Central and Eastern Europe. These aimed to spell out how each candidate country was fulfilling the Copenhagen Criteria, including the protection of minorities and, where relevant, Roma/Gypsies.

In March 1998 the European Commission produced Accession Partnerships for the ten candidate countries of Central and Eastern Europe. These are roadmaps designed to help prepare these countries to fully meet the membership criteria. Under the Accession Partnerships, EU assistance will be conditional on respect of commitments under the Europe Agreements, further steps towards satisfying the Copenhagen Criteria, and progress in implementing the Accession Partnerships. Failure to respect these general conditions could lead to a decision to suspend financial assistance.

The European Council meeting in Luxembourg in 1997 invited the Commission to draw up regular reports on each candidate country's progress towards accession, in the light of the Copenhagen Criteria. The Commission's reports are designed to serve as a basis for taking the necessary decisions – in the Council context – on the conduct of the accession negotiations or their extension to other applicant countries.

In November 1998 the European Commission issued the first of these regular reports for each candidate country, as well as a composite paper containing a synthesis of the analysis in each of the reports, together with a series of recommendations. The composite paper concludes that: “the situation of the Roma continues to be problematic as the candidate countries concerned have made little progress in addressing the issue. Although their legal status and rights remain stable, the Roma still suffer discrimination and social exclusion”.

In October 1999 the European Commission published updated Regular Reports for each candidate country. It concluded that:

“deep-rooted prejudice in many of the candidate countries continues to result in discrimination against the Roma/Gypsy and Travellers in social and economic life... There has been an increasing incidence of racially motivated violence against the Roma/Gypsy and Travellers which has not received the unequivocal response from the authorities which it demands. Roma/Gypsy and Traveller communities suffer unemployment, slum-like living conditions, poor health and education and increasing dependence on social welfare (where it exists). Roma/Gypsy and Traveller children are segregated in some school systems and many are street children.”

Since then the European Commission has published Progress Reports on the accession countries every year. These always raise the

problems of discrimination in various fields, among them education, that Roma/Gypsy people, including children, have to face throughout the region.

The increasing attention which is being paid to the compliance of accession countries with minority rights must not, however, deflect us from addressing the deep-rooted discrimination that Roma/Gypsy and Traveller children still face in EU Member States. In relation to this, it is necessary to mention the EU Race Directive, 2000/43/EC, adopted on 29 June 2000, which implements the principle of non-discrimination contained in the Treaty of Amsterdam which entered into force in 1997. This Directive, which is addressed to EU Member States, instructs them to lay down a framework for combating discrimination on the grounds of racial or ethnic origin. EU Member States will have three years to take all the necessary measures at domestic level to implement this directive.

# The Legal Framework of the Organisation for Security and Co-operation in Europe

Since its inaugural meeting in Helsinki in 1975, the Conference on Security and Co-operation in Europe (CSCE) – now known as the Organisation for Security and Co-operation in Europe (OSCE) – has focused on questions of military security, East–West political co-operation and human rights. The Conference on the Human Dimension of the CSCE held its first meeting in Paris in 1989. The second meeting took place in Copenhagen in 1990, during which an important document was adopted. This five-chapter text spells out that participating states come together to reinforce “respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of those issues of a related humanitarian character”. Chapter IV is devoted entirely to national minorities: Roma/Gypsies and Travellers are the only minority mentioned by name within this context.

As a follow-up to the Copenhagen meeting, a CSCE expert group on national minorities held a meeting in Geneva in 1991. In this meeting’s final report, participating States expressed their concern at the proliferation of acts of violence on racial, ethnic, and/or religious grounds. In this context “the participating States... reaffirm their recognition of the particular problems of Roma. They are ready to undertake effective measures in order to achieve full equality of opportunity between persons belonging to Roma communities ordinarily resident in their State and the rest of the resident population. They also encourage research and studies regarding Roma and the particular problems they face.”

On the occasion of the Moscow Meeting on the Conference on the Human Dimension of the CSCE in 1991, and at the CSCE meeting in Helsinki in 1992, representatives of participating states again drew attention to the situation of Roma/Gypsies and Travellers. In the final report the participating states reaffirmed the need to develop appropriate programmes to address the problems of their respective nationals belonging to Roma/Gypsies and Travellers and other groups traditionally identified as Roma/Gypsies and Travellers, and to create conditions for them to have equal opportunities to participate fully in the life of society. They agreed to consider how to co-operate to this end.

The Budapest document of 1994 made further progress in enhancing the role of the OSCE in monitoring and reporting on the situation of Roma/Gypsies and Travellers and Sinti in the OSCE area. This document expanded the mandate of the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR), giving it the additional task of serving as a contact point for Roma/Gypsy and Traveller and Sinti issues. More specifically, its mandate included performing the functions of a clearing house, which would inform the participating states about the implementation of commitments pertaining to Roma/Gypsies and Travellers and Sinti.

At the OSCE Summit held in Istanbul in 1999, many references were made to the problems faced by Roma/Gypsies and Travellers and Sinti. In particular, the Istanbul Summit Declaration openly deplores violence and other manifestations of racism and discrimination against minorities,

including the Roma/Gypsies and Travellers and Sinti. Moreover, it recognises that these issues are primarily a responsibility of the participating states concerned. In addition, in the Charter for European Security of November 1999, the OSCE Member States undertook effective measures in order to achieve full equality of opportunity for persons belonging to Roma/Gypsies and Travellers and Sinti.

Various OSCE documents refer to the issue of equal access to education free from discrimination according to race, colour, sex, language, religious or political affiliation, national or social origins, property, birth or any other such status. Participating states have also expressed a commitment to the objectives of education, making special reference to problems of racial prejudice and the development of an education that respects different civilisations and cultures. The right to education for minority groups in particular is also addressed in terms of giving/receiving education on minority cultures and languages, and where appropriate having lessons taught in the mother tongue.

None of these OSCE Declarations and Documents are legally binding. They merely contain principles and objectives which the Member States have to take into consideration in drafting their national legislation and policy. As far as control mechanisms are concerned, further to the Conference on the Human Dimension in Copenhagen in 1990, if a Member State receives a communication from another state regarding an alleged violation of human rights, it must reply within ten days in writing. If the problem remains unsolved, the state which sent the original request

may ask for some bilateral meetings to be held, normally within a week from the request, in order to examine and discuss that particular case. The state may also, through diplomatic channels, raise the same issue with other OSCE Member States and may ask that any unsolved problems be included in the agenda of the next OSCE meeting. In addition, further to the Conference on the Human Dimension held in Moscow in 1991, a group of four to five experts was created. A Member State may invite the group to undertake missions on its territory in order to facilitate the settlement of a particular dispute related to the Human Dimension. A mission of three experts may be sent, upon invitation of some OSCE Member States, to investigate facts, draft a report and propose solutions with regard to problems related to human rights.

## The OSCE High Commissioner on National Minorities

At the OSCE meeting in Helsinki in July 1992, the Heads of State decided to establish a new tool for conflict prevention – a High Commissioner on National Minorities. The main task of the High Commissioner is to prevent conflicts involving national minorities and to provide early warning – that is to identify problems and encourage solutions before they develop into armed conflicts. The High Commissioner can conduct missions in countries, without the consent of the government concerned, if he receives information indicating the potential for a bilateral conflict. The High Commissioner has dealt with the issue of Roma/Gypsies and Travellers on several occasions.

For instance, in April 1993 the High Commissioner was requested to study the social, economic and humanitarian problems relating to the Roma/Gypsy and Traveller population in some participating states, and the relevance of these problems to its mandate. The resulting report recommends:

“• *devising and implementing special policies particularly at the national and local levels for addressing certain Roma-related issues in such areas as employment, education, health care and general welfare with the participation of affected communities*

- *highlighting the relevance of the Human Dimension of the CSCE, under which Roma issues generally fall, in assisting participating States to improve, implement and evaluate the effectiveness of policies at the national and local levels aimed at addressing the problems of the Roma and underscoring the importance of international co-operation among multilateral organisations and States in making appropriate material and technical assistance available for these efforts*
- *devoting proper attention to migration, refugees and related issues and considering, if the State had not already done so, ratification of relevant international instruments.”*



In March 2000, the High Commissioner issued a comprehensive report on the situation of Roma/Gypsies and Travellers and Sinti in the OSCE area. The report covers issues related to discrimination and racial violence, education, living conditions and political participation. The High Commissioner notes that, while improvements can be observed for many minority groups, by contrast Roma/Gypsies and Travellers and Sinti are generally left outside the scope and beyond the reach of progressive developments. On the basis of these considerations, the High Commissioner felt that the situation of Roma/Gypsies and Travellers and Sinti merited fuller study and analysis, with a view of offering OSCE participating States some recommendations for practical and effective action in overcoming particular aspects of the general problem.

## The OSCE/ODIHR Contact Point for Roma/Gypsy and Traveller and Sinti Issues

The Contact Point for Roma and Sinti Issues was established within the OSCE/ODIHR Office following the decision by the OSCE Heads of States at the 1994 Budapest Summit. In Concluding Document of the Budapest Summit, the Contact Point was given the tasks of:<sup>17</sup>

- acting as a clearing house for the exchange of information on Roma/Gypsy and Traveller and Sinti issues, including information on the implementation of commitments pertaining to Roma/Gypsies and Travellers and Sinti
- developing, maintaining and facilitating contacts on Roma/Gypsy and Traveller and Sinti issues between participating States,

international organisations and institutions and NGOs, as well as between OSCE institutions and other international organisations and institutions.

In December 1998 the OSCE Ministerial Council decided to strengthen the Contact Point and to broaden its mandate. Subsequently, in May 1999, the ODIHR appointed an Adviser – Mr Nicolae Gheorghe – devoted solely to Roma/Gypsy and Traveller and Sinti issues.

The Contact Point has started to develop a work programme for the year 2000, which will include projects and workshops aimed at promoting the rights of Roma/Gypsies and Travellers and Sinti in the OSCE area.

As part of its function as a clearing house, the Contact Point collects information from participating States on legislative and other measures related to the situation of Roma/Gypsies and Travellers and Sinti, and makes it available to the OSCE community and other interested international organisations. The Contact Point has assumed a proactive approach with regard to providing advice to governments on policy-making on Roma/Gypsies and Travellers and Sinti, by, among other means, promoting capacity-building and networking among Roma/Gypsy and Traveller and Sinti communities and encouraging the participation of Roma/Gypsy and Traveller and Sinti representatives in policy-making bodies at local, national and international levels. The Contact Point has also been promoting better co-ordination and co-operation among various international organisations and NGOs.

# Other regional initiatives

## The Stability Pact for South Eastern Europe

In order to respond to the need – highlighted by the Kosovo crisis – to establish peace, stability and economic development in the region, a Stability Pact for South Eastern Europe was launched on 10 June 1999. It constitutes a framework for international co-operation aimed at the development of the region as a whole. The overall strategic direction of the Stability Pact is:

- to ensure lasting peace, prosperity and stability for South Eastern Europe
- to foster effective regional co-operation
- to give a firm European anchorage to the region in which the EU will play a leading role.

Central to these aims is the development of the necessary institutional capacity and legislative practices to meet standards in the area of human rights, democracy and the rule of law. Furthermore, the Member States are pledged to co-operate towards full respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, to preserve the multinational and multi-ethnic diversity of countries in the region and to protect minorities.

The *Special Co-ordinator* is responsible for promoting achievement of the Pact's objectives within and between the individual countries, supported by appropriate structures tailored to the need.

The role of the *Regional Table* is to ensure that the Working Tables (see below) focus on areas of work that are decisive from the point of view of

stability in the region, and that they engage on issues in which the Stability Pact process can create added value in relation to other existing processes and initiatives. The Regional Table facilitates an exchange of information between the Working Tables and supports the identification of synergies between them. It is also responsible for establishing priorities between approaches and initiatives of the different Working Tables against the strategic objectives of the Stability Pact to ensure the most effective use of resources.

Three *Working Tables* operate under the Regional Table:

- Working Table 1 Democratisation and human rights
- Working Table 2 Economic reconstruction, development and co-operation
- Working Table 3 Security issues

The Working Tables are developing strategies and action plans for different priority areas, and their implementation is being co-ordinated.

The Working Tables have established task forces for different priority areas within their mandates. For instance, Working Table 1 has seven task forces, the first of which is the Task Force on Human Rights and National Minorities, sponsored by Slovenia with the Council of Europe as co-sponsor. In 1999 the sponsors initiated a systematic assessment of the views of governments and national minorities in South-Eastern Europe regarding projects related to resolving minority issues and inter-ethnic tensions. Missions consisting of representatives of the Council of Europe and of the OSCE High

Commissioner on National Minorities are carrying out these consultations in Croatia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Albania, Romania, Hungary and Greece. The assessments were concluded in a conference, hosted by Slovenia in the spring of 2000. The Task Force is also examining a series of activities aimed at overcoming obstacles to inter-ethnic understanding, including a comprehensive programme to promote the status of the Roma/Gypsy population and a series of civil society conferences. These and other proposals were put forward to the second Working Table 1 meeting in February 2000.

The first meeting of Working Table 1 also identified education as a priority area, and assigned responsibility for developing the work plan for the Task Force on Education and Youth to the Enhanced Graz Process, established under the Austrian EU Presidency. The overall aims of the Task Force are:

- developing European structures which enhance the flow of information about ongoing and planned activities, and support synergies
- facilitating inter-institutional, cross-regional and international networking and co-operation to guarantee sustainable impact of reform processes
- building strongly on regional expertise and involving regional experts to support regional empowerment and ownership
- integrating all South-Eastern European countries into an inclusive European educational area, which will require a strong commitment and a learning process from all concerned

- searching for funding possibilities to support the necessary reforms and developing innovative funding mechanisms and partnerships.

On the political level, the Task Force on Education and Youth,<sup>18</sup> is the main decision-making body. It meets twice a year. Participating countries are represented by one permanent member.

On the operational level the main body for the Task Force is the Technical Committee. An Advisory Board, or Board for Excellence, comprising eminent persons in the field of education – five from the region and two international – should ensure that the interests of the region are safeguarded and that the activities within this framework correspond to the needs of the region. Under the auspices of the Task Force on Education and Youth, a proposal for an action framework was agreed by the participants in the Sinaia workshop “Building an Education Strategy for Southeast Europe – Vision for the Future”, held from 3 to 6 July 1999 and organised jointly by KulturKontakt<sup>19</sup> and the UNESCO European Centre for Higher Education. The first point of this action framework includes the creation of an inclusive European educational area, which “promotes access and equal opportunities to all levels of education, including both formal and non-formal programmes”.

In addition, participants agreed upon an action framework for higher education co-operation for peace, stability and democracy in South-Eastern Europe, the main objective of which is to increase

participation in higher education and ensure equal opportunities in lifelong education and training. One of the priorities for action is “the widening of access and the increase of participation rates in higher education with special reference to minorities”.

Working Table 2 on Economic Reconstruction, Development and Co-operation also impacts on regional education goals through the Co-ordination Initiative in Human Resource Development for South Eastern Europe. The initiative acknowledges that the stabilisation process needs to be accompanied by a healthy economic environment, which creates a sufficient basis for the livelihood of the population. Co-ordinated by the European Training Foundation and the OECD, the initiative will undertake consultations with national authorities, the business community, donors and existing associations representing social partners and civil society. Lifelong learning, including early childhood care and development, is one of five key activity areas that it will develop. Although the initiative will operate under Working Table 2, it undertakes to ensure the exchange of information with the partners of the Task Force on Education and Youth.

## **The Commissioner of the Council of the Baltic Sea States on Democratic Institutions and Human Rights<sup>20</sup>**

The Commissioner is an instrument for promoting and consolidating democratic development and the protection of human rights, including the rights of persons belonging to minorities in the Member States including Roma/Gypsies and Travellers. The Commissioner acts independently and is accountable to the Council of the Baltic Sea States (CBSS). The Commissioner is mandated to study and report on the situation of democratic institutions and the protection of human rights, including the rights of persons belonging to minorities in Member States. S/he may make recommendations to the Council on how to overcome obstacles and contribute to the further development of democratic institutions. The Commissioner may receive communications from individuals, groups and organisations regarding human rights concerns.

### **Who can complain?**

If you are living in a Member State of the CBSS, you have the right to make a complaint to the Commissioner of the CBSS. You may complain on your own behalf or on behalf of a group or an organisation. Member States are: Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia and Sweden.

### **What can you complain about?**

You can complain if you believe your human rights are being violated by a Member State. The Commissioner examines complaints about violations of human rights conventions of the

UN and the Council of Europe, and other internationally accepted human rights instruments. The Member States have undertaken not to prevent persons or organisations on their territory from communicating with the Commissioner, and not to persecute individuals and/or organisations for providing information to the Commissioner. As a general rule, the CBSS Commissioner will not deal with a complaint if it is at the same time pending before a national court or before a national ombudsman or similar institution.

### **How can you complain?**

You can write to the CBSS Commissioner's office and present your complaint. The official language of the Commissioner's office is English, but you may write in any language of the CBSS Member States. There are no formal requirements. Your letter should contain the following information:

- your name and address
- which institution you want to complain against and a description of the grounds for your complaint



- a description of the events or problems you want to complain about
- if possible, copies of official letters or documents of importance to your complaint
- if possible, a reference number or file number with the authorities in your country which you are complaining against. This will make it easier to identify your complaint.

The CBSS Commissioner will treat your complaint confidentially. No outside person will have access to your files with the Commissioner. However, in order to deal effectively with your complaint, the Commissioner will normally communicate with public authorities in your country about your case, if you agree.

Anonymous complaints will not be examined, but you may request that you remain anonymous with the authorities in your country.

#### **What will happen to your complaint?**

The CBSS Commissioner will first examine your complaint to see if it can be dealt with. The complaint must fall within the Commissioner's mandate and it must concern internationally recognised human rights law and standards. The Commissioner may write to you and ask for additional information.

You will receive a letter informing you as to whether or not the Commissioner can deal with your complaint. If s/he is able to deal with your complaint, s/he will begin an inquiry with the relevant authorities in your country.

#### **What can the Commissioner do?**

Some cases are resolved in the initial stages of an inquiry, whereas others will take longer. If the Commissioner finds that a violation of your human rights has taken place, s/he will recommend your government to remedy the situation, or s/he may make suggestions to prevent similar situations from arising again. The Commissioner will inform you of the outcome of the inquiries. As of 1 May 1999, the Commissioner had received a total of 197 communications from almost every CBSS Member State, mainly from individuals but also a number of collective complaints, for example from trade unions. Approximately 17 per cent of these communications fell outside the scope of the Commissioner's mandate and consequently were rejected. As of 1 May 1999, 58 cases were pending; the rest had been closed. For some of these cases a solution was found; others were closed with the conclusion that the Commissioner found no grounds for expressing any criticism. Occasionally, cases were closed because the complainant did not supply the Commissioner with the necessary information, despite repeated requests.

# Conclusion

This handbook has shown the available international human rights instruments for the protection and promotion of the right to education of Roma/Gypsy and Traveller children. These include the instruments related to the right to education in general, those concerning minority rights and the specific instruments on Roma/Gypsies and Travellers. In addition, it has outlined some of the control mechanisms and their effective use. No opinion has been expressed as to what is the best set of instruments and mechanisms to advocate for these children's right to education. Indeed, a combination of some of the relevant instruments, according to the specific circumstances of the case, may provide the strongest and best advocacy tool. The choice of instruments will necessarily be linked to the particular objectives of any given advocacy work, and the vision of each organisation involved in it.

It has been demonstrated that the legal commitments of the international community are quite comprehensive. There is no shortage of

international legal and political instruments to deal with the right to education and minority issues. However, implementation of legislation related to the right to education of Roma/Gypsy and Traveller children is still at a backward stage, for there is insufficient political will to accept and implement it.

There is also a risk that resources provided by various institutions are channelled towards public policies of a predominantly social character, while strategic structural problems related to racism and discrimination remain rooted in societies and in some branches of public administration. The enactment of comprehensive anti-discrimination legislation and its enforcement would contribute to providing the necessary framework for action, while further stress should be placed on policy measures promoting multiculturalism, education for tolerance, and anti-racism.

# Notes on the text

1 Mrs Audrey Chapman, during the day of the general discussion held by the Committee on Economic, Social and Cultural Rights, 30 November 1998.

2 The division of human rights into generations has an historical and political origin. The first generation includes civil and political rights (the right not to be tortured, to freedom of opinion and expression, etc.), whereas the second generation includes economic, social and cultural rights (the right to an adequate standard of living, to work, etc.).

3 Article 14 of the Covenant states that “Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.”

4 Resolution adopted on 31 August 1977, Doc. E/CN.4/Sub.2/399, p. 47.

5 33rd Session, 28 August 1991, 1991/21 Protection of Minorities.

6 See: E/CN.4/2000/112, 16 February 2000.

7 The term ‘session’ is used for the whole period (three weeks in the case of the Sub-Commission) when the Sub-Commission or Working Group meets. ‘Meeting’ describes the periods during a session when members of these bodies are gathered for discussion

8 Commission on Human Rights Resolution 1995/24.

9 See: E/CN.4/2000/16/Add.1, 7 February 2000.

10 The ECHR has been ratified by 41 states.

11 The case entitled “Relating to certain aspects of the laws on the use of languages in education in Belgium” v Belgium (1967) relates to whether or not certain provisions of the Belgian linguistic legislation relating to education are in conformity with the requirements of Articles 8 and 14 of the Convention (the right to family life and prohibition of discrimination) and Article 2 of the First Protocol (the right to education). The applicants, who were

parents of families of Belgian nationality, applied to the Court both on their own behalf and on behalf of their underage children, of whom there are more than 800. Pointing out that they are French-speaking or that they express themselves most frequently in French, they complained that the Belgian State:

- did not provide any French-language education in the municipalities where the applicants lived or that the provision made for such education was, in their opinion, inadequate
- withheld grants from any institutions in the said municipalities which may fail to comply with the linguistic provisions of the legislation for schools
- refused to ratify leaving certificates issued by such institutions
- did not allow the applicants’ children to attend the French classes which existed in certain places
- thereby obliged the applicants either to enrol their children in local schools, a solution which they considered contrary to their aspirations, or to send them to school in the “Greater Brussels district”, where the language of instruction was Dutch or French according to the child’s mother tongue or usual language, or in the “French-speaking region” (Walloon area). Such “scholastic emigration” is said to entail serious risks and hardships.

However, the Court, after specifying the meaning and interpretation of linguistic discrimination, did not find any violation of the ECHR.

12 G. Verspaget, *On Gypsies in Europe*, Council of Europe, Parliamentary Assembly, ADOC 6733, 1403-7/1/93-4-E.

13 G. Verspaget, *The Situation of Gypsies (Roma and Sinti) in Europe*, report adopted by the CDMG-COE, 5 May 1995.

14 This Resolution has been published in the Official Journal C 104, 16 April 1984, p. 144.

15 This Resolution has been published in the Official Journal C 172, 2 July 1984, p. 153.

16 This Resolution has been published in the Official Journal C No. 153, 21 June 1989, pp. 1–2.

17 OSCE, *Concluding Document of the Budapest Summit*, Part VIII, paragraph 23.

**18** The Task Force on Education and Youth is also often referred to as the 'Task Force for the Enhancement of the Graz Process'. In November 1998, during Austria's term of EU presidency, a conference was held in Graz on 'European Educational Co-operation for Peace, Stability and Democracy'. The recommendations of this conference led to the formation of a task force to initiate 'the Graz Process'. At the first meeting of Working Table 1, the Graz Process, joined by additional countries and institutions, formed the basis of the Task Force on Education and Youth.

**19** KulturKontakt is an Austrian-based association which initiates bilateral and pan-European collaborative projects between the East and West in the field of training, and encourages the exchange of information relating to training policy. In the training programmes, it works under contract to, and with the help of, the Federal Ministry of Education and Cultural Affairs and the Austrian Ministry of Science and Transport. It is presently in charge of the co-ordination of the Task Force.

**20** The information for this section was taken from the CBSS website: <http://www.cbss-commissioner.org>

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## Biographies

**Federica Donati** was Human Rights Advisor for Save the Children UK and a leading member of the *Denied a Future?* project team. She is now Assistant Programme Officer for UNICEF in New Delhi, India.

**Poppy Szaybo** is a professional photographer and runs photographic projects with Gypsy/ Traveller and refugee children across Europe, including the UK. She is also a cultural projects advisor for organisations such as London Arts and the British Council. Currently, she is curating an exhibition of Romani art for the University of Hertfordshire and is also working on a number of projects as part of *Denied a Future?* for Save the Children UK.