

report issued by an influential NGO, the Budapest-based European Roma Rights Center, notes that:²⁸

According to reasonable estimates, Roma are at least fifteen times more likely to be placed in remedial special schools than non-Roma. A student who has completed remedial special school has greatly restricted choices in secondary education compared to a student who has completed mainstream primary school. Romani children are thereby effectively condemned from an early age to a lifetime of diminished opportunity and self-respect. In addition, the segregation of Roma in inferior schools is used as constant legitimation for discriminatory attitudes and actions by members of the majority society.

These alleged practices in the Czech Republic are currently the subject of a complaint to the European Court of Human Rights. In Hungary, a recent study of elementary schools found that pressure from non-Romani parents had resulted in the allocation of large numbers of Gypsy pupils to “special classes.”²⁹ Researchers, who examined 192 Hungarian elementary schools, concluded that almost 85% of the children in “special classes” are of Roma extraction.³⁰ The standard of instruction provided to the mostly Romani pupils in the “special classes” is often unsatisfactory, while the teachers assigned to these classes are frequently poorly qualified.

However, the educational under-performance of significant numbers of Roma pupils can also be ascribed to the residual effects of deep-seated Romani cultural norms. Traditionally, the Roma generally viewed ‘education’ as the inter-generational transfer of skills, usually within families or communities, rather than as passing exams or attendance at schools. A failure to appreciate the growing importance of formal qualifications as the most reliable route to secure and well paid work remains a widespread problem, particularly in poorer or more traditional Romani communities. In the view of social workers and numerous Romani community leaders, many Romani parents continue to attach insufficient importance to their childrens’ schooling.

Not infrequently, Romani children are expected to play a part in generating income for the family from an early age, whether by hawking goods, begging or, in rural areas, helping to collect medicinal plants, nuts and other commodities that can be sold to wholesalers. For example, children from the Romani settlement of *Pata Rât*, on the outskirts of the city of *Cluj* in Romania, worked alongside their parents at the municipal rubbish dump until a few years ago, combing through the

²⁸ *Ibid*, p. 11.

²⁹ Gábor Havas, “A cigány tanulók elkülönítése az általános iskolában,” in Terézia Reisz and Mihály Andor (eds.), *A Cigánység Társadalomismerete* (Pécs: Iskolakultúra 2002), p. 152, at pp. 166–172.

³⁰ *Ibid*, p. 170.

rubbish for items of value. A local Romani NGO, *Wassdas*, finally persuaded the parents to let their children attend school.³¹

In some instances, traditional notions of “shame” continue to play a decisive role in shaping the attitudes and way of life of Romani sub-groups, with important implications for the education and general status of women in these communities. Amongst the *Gabori* Roma of north western Romania, for example, girls are only permitted to receive 2–3 years of schooling out of concern that an adolescent girl, attending school, might become the subject of gossip, thereby bringing shame on her family.³² The strict division of the sexes and the right of parents to select marriage partners for their children, while the latter are in their early teens, remain widely observed customs amongst this community.

Although the entrepreneurial culture of Romani subgroups, such the *Gabori*, has enabled them to adapt comparatively well to the demands of a market economy, the vast majority of Roma in Central and Eastern Europe have been far less successful. Spiralling unemployment amongst the Roma—particularly at a time of economic transition when former communist states have been shedding many of the subsidies and welfare structures built up during the socialist period—have impacted massively and disproportionately on Roma living conditions throughout the region.³³ Unable to keep up the rent on apartments in towns and cities, or to meet the rising cost of utilities, hundreds of thousands of Roma have vacated their homes, moving to cheaper accommodation in the countryside, or to flimsy shacks in overcrowded settlements such as the one at *Pata Rât*. Still others have become squatters, occupying buildings that frequently lack proper sanitation, water or electricity.³⁴

At both the national and international levels there has been increasing, if belated, recognition of the fact that the impoverishment and marginalisation of the bulk of the substantial Romani population in the CEE region threatens the long-term prosperity of several CEE states, as well as endangering their internal cohesion and democratic institutions. Since the mid to late 1990s, governments throughout the region have introduced programs aimed at alleviating the acute socio-economic problems experienced by their Roma minorities.

Beginning in 1995, Hungarian governments have adopted a series of legal measures to address some of the worst problems experienced by the Roma.³⁵ These

³¹ For details of conditions at the *Pata Rât* settlement and of the work of *Wassdas* see Pogány, above n. 14, Chapt. 1.

³² For a discussion of *Gabori* notions of shame see *ibid*, Chapt. 7.

³³ See, generally, Ringold, Orenstein, Wilkens, above n. 2, Chapt. 2. On the dismantling of social and economic rights in the CEE states and the effects of this process on the region’s Roma see Pogány, above n. 14, Chapt. 6.

³⁴ Ina Zoon provides many examples of this phenomenon. See, e.g. Ina Zoon, *On the Margins: Roma and Public Services in Romania, Bulgaria and Macedonia* (New York: Open Society Institute 2001), pp. 184–185, 188.

³⁵ The first of these measures was Government Resolution 1121 of 1995. This authorised the establishment of a Public Foundation for the Roma to ‘decrease the imbalance’

instruments include, for example, Government Resolution No. 1047/1999 (V.5), concerning ‘Medium-Term Measures to Improve the Living Standards and Social Position of the Roma Population’.³⁶ Laying down a series of objectives for government departments concerned, variously, with education, employment, housing, health and social affairs, the Resolution tried to tackle the multiple roots of Roma disadvantage and under-achievement, with the ultimate aim of promoting “the integration of the Roma population in society” and improving “their living standards and social position.”³⁷ However, it would be naive to imagine that these ambitious policy objectives have been realized.³⁸

According to official documents, the goal of integrating the Roma within Hungarian society is not to be pursued at the expense of the preservation of Roma identity. Thus, a discussion paper issued by Hungary’s former Minister of Justice, in July 2001, emphasised that, “[t]he aim of the long-term [Roma] strategy . . . is to promote the social and economic integration of the Roma population living in Hungary and to ensure simultaneously the appropriate conditions for the preservation of their minority identity.”³⁹ Though exemplary as a matter of principle this strategy fails to take account of the fact that, partially as a result of successive programs of state-sponsored assimilation, most Hungarian Roma have already lost any real sense of “minority identity”, apart from the consciousness of their social and economic marginality.⁴⁰

Since 1990, Hungary has created a liberal and innovative minority rights regime, allowing the country’s minorities, including the Roma, to form national and local self-governing councils. The creation of these self-governing bodies constituted a radical initiative in constitutional terms, allowing national and ethnic minorities a degree of autonomy in cultural and educational affairs and embodying the still controversial principle of collective rights. As of October 2002, there are

experienced by this minority. See, also, Government Resolutions Nos. 1120/1995 (XII.7); 1125/1995 (XII.12) For an English-language translation of Government Resolution 1121 see <http://archiv.meh.hu/nekh/Angol/6-1-23.htm> (accessed February 24, 2004).

³⁶ For an English-language translation of the 1999 Resolution see <http://archiv.meh.hu/nekh/Angol/6-1999-1047.htm> (accessed February 24, 2004). See, also, Government Resolution No. 1093/1997 (VII.29) on the medium-term package of measures to improve the living standards of the Roma population, and Government Resolution No. 1107/1997 (X.11) on the measures aimed at improving the situation of the Roma ethnic minority. These earlier Resolutions expired with the entry into force of Government Resolution No. 1047/1999 (V.5).

³⁷ Para. 4, Government Resolution No. 1047/1999 (V.5).

³⁸ For a discussion of Roma poverty and marginalisation in Hungary see, e.g. Pogány, above n. 14, Chaps. 4, 7.

³⁹ For an English-language translation of the discussion paper on ‘Guiding principles of the long-term Roma social and minority policy strategy’ see <http://archiv.meh.hu/nekh/Angol/guiding.htm> (accessed February 24, 2004).

⁴⁰ On successive efforts to assimilate Hungary’s Roma see, e.g. Pogány, above n. 14, Chaps. 2, 4.

1004 Romani, or Gypsy, councils of this type in Hungary.⁴¹ However, it is doubtful whether Hungary's minority rights regime has done much to address the fundamental problems experienced by the country's Roma—unemployment, inadequate living standards and widespread discrimination.⁴²

In 2001, Romania unveiled an ambitious “Roma Strategy” designed to increase Roma employment opportunities while at the same time significantly improving Roma access to public services, including education and healthcare. In accordance with the Strategy, experts on Roma affairs have been appointed to advise county prefects, while a total of 42 local Roma offices have been established across the country.⁴³ At the national level, fifteen commissions have been created to develop sectoral strategies for tackling a wide range of problems affecting the Roma, including unemployment. However, a report issued in 2003, by the European Commission, noted that⁴⁴:

Discrimination against the Roma minority continues to be widespread in practice and the social inequalities to which the Roma community is exposed remain considerable. Living conditions are poor and access to social services is limited . . . the Government has continued with implementation of the Roma Strategy (adopted in 2001), although the results have been uneven . . . Progress in . . . [several] areas covered by the Roma Strategy has been limited due to a lack of clear policies and limited funding.

In June 2000, the Czech Government issued a resolution on the “Concept of the Government policy towards the members of the Roma community, supporting their integration into society.”⁴⁵ Czech authorities subsequently launched a strategic action plan, for the period 2001–2020, with the aim of implementing the resolution. However, in a Report issued in 2002, the European Commission concluded that, “[i]n spite of these efforts, widespread discrimination continues to exist and the

⁴¹ See *National and Ethnic Minorities in Hungary* (Budapest: Office for National and Ethnic Minorities, 13 May 2003), p. 5.

⁴² On the limitations of minority rights regimes as a means of advancing the basic interests of the Roma in the CEE region see, e.g. Pogány, above n. 14, Chapt. 5.

⁴³ For details see, e.g. *2002 Regular Report on Romania's Progress Towards Accession* (Brussels: Commission of the European Communities 2002), pp. 35–36. See, also, *2003 Regular Report on Romania's Progress Towards Accession* (Brussels: Commission of the European Communities 2003), p. 30. These Reports are available at: <http://europa.eu.int/comm/enlargement/report2002/#report2002> (accessed February 25, 2004).

⁴⁴ *2003 Regular Report on Romania's Progress Towards Accession*, above n. 43, p. 30.

⁴⁵ For details of the Czech Roma strategy and of steps taken to implement it see, e.g. Barany, above n. 14, pp. 332–334. See, also, *2002 Regular Report on the Czech Republic's Progress Towards Accession* (Brussels: Commission of the European Communities 2002), pp. 30–33. The 2002 Report is available at: <http://europa.eu.int/comm/enlargement/report2002/#report2002> (accessed February 25, 2004).

Government's efforts to date have not yet reached a threshold capable of bringing about structural change."⁴⁶

Thus, notwithstanding a series of welcome initiatives by the CEE states, inter-governmental organisations, NGOs and independent experts remain deeply concerned at the scale of the problems that the region's Roma are still experiencing. In a recent report, cited above, senior economists at the World Bank felt it necessary to issue a stark warning as to the likely consequences for the CEE region of a continued failure to tackle the multiple difficulties confronting the Roma people⁴⁷:

National governments have a large stake in the welfare of Roma, for human rights and social justice concerns, but also for reasons of growth and competitiveness. In countries where Roma constitute a large and growing share of the working-age population, increasing marginalization of Roma in poverty and long-term unemployment threatens economic stability and social cohesion.

3.2. *The Escalation of Physical Assaults against the Roma in the Transition from Communism*

The worsening economic and social marginalisation of the Roma in the CEE region, in the transition from communism, has been accompanied by an escalation of physical assaults against Roma in several states, notably Slovakia, Romania and the Czech Republic. For example, in its 2002 World Report, Human Rights Watch, a highly respected NGO, drew attention to several incidents of anti-Roma violence in both the Czech Republic and Slovakia. With respect to Slovakia, the Report noted "a continuing pattern of police failure to prevent racist violence against Slovak Roma", offering the following damning picture of the Slovak criminal justice system⁴⁸:

In a week of incidents, racist gang members beat and harassed Roma in the town of Holic, culminating in an August 13 assault on Milan Daniel that left him needing brain surgery. Roma residents asserted that the police had failed to protect them despite repeated complaints. On August 20, police finally charged two youths with the attack on Daniel. On August 30, Peter Bandur was sentenced to seven years' imprisonment for his part in the beating to death of a Roma woman, Anastazia Balasova, a year earlier . . . While Bandur was convicted of the more serious crime of racially motivated assault, his two accomplices received three and five years respectively for simple assault (without racist intent).

As suggested by these grim developments in Slovakia (similar examples could be provided with respect to the treatment of Roma in the Czech Republic, Romania,

⁴⁶ 2002 Regular Report on the Czech Republic's Progress Towards Accession, above n. 45, p. 32.

⁴⁷ See Ringold, Orenstein, Wilkens, above n. 2, p. 1.

⁴⁸ See entry for 'Slovakia' in Human Rights Watch, *World Report 2002*, at <http://hrw.org/wr2k2/europe.html> (accessed September 3, 2003).

Bulgaria and elsewhere), the Roma have had to contend with discriminatory and unsympathetic treatment by criminal justice systems in the post-communist transition, in addition to a surge of racially motivated violence. The Roma have also faced routine denigration by sections of the media and by opportunistic politicians, eager to exploit popular prejudices. This contrasts with the broadly paternalistic, if authoritarian, treatment that the Roma generally experienced during the years of state socialism, when racial stereotyping by the press or electronic media would not have been tolerated.⁴⁹ Unsurprisingly, thousands of Roma have sought asylum in North America and Western Europe.⁵⁰

4. THE EUROPEAN UNION'S POLICIES CONCERNING THE ROMA OF CENTRAL AND EASTERN EUROPE

The European Union's policies concerning the Roma of Central and Eastern Europe have to be understood in the context of the Union's general approach to enlargement. These policies can be analysed in terms of three separate but closely linked functions: (a) laying down standards for the applicant states with respect to the observance of human rights and the treatment of national and ethnic minorities including the Roma; (b) monitoring states' compliance with these norms; (c) funding projects in the CEE region that are intended to aid Roma communities, as well as providing material incentives to the applicant states to fulfil their responsibilities towards the Roma. For reasons of convenience, the standard setting and monitoring functions of the EU will be examined together.

4.1. *Standard Setting and Monitoring*

In 1993, the European Council adopted the "Copenhagen criteria." This sets out, in broad terms, the political and economic conditions that candidate states must satisfy in order to qualify for membership of the EU.⁵¹ According to the Copenhagen formula applicants must demonstrate, *inter alia*, that they have achieved "stability of institutions guaranteeing democracy, the rule of law, human rights and *respect for and protection of minorities*."⁵² Thus, with the adoption of the Copenhagen test, the

⁴⁹ On the treatment of the Roma by the former communist regimes see, e.g. Barany, above n. 14, Chapt. 4.

⁵⁰ See above, n. 5.

⁵¹ In addition to the political and economic conditions, specified in the Copenhagen criteria, candidate states must also demonstrate that they have the ability to assume the obligations of EU membership, i.e. the *acquis*.

⁵² My emphasis. The Copenhagen criteria are reproduced, for example, in European Union Support for Roma communities in Central and Eastern Europe (undated), p. 4, at http://europa.eu.int/comm/enlargement/docs/pdf/brochure_roma_oct2003_en.pdf (accessed March 1, 2004). Subsequently, the political criteria recognized at Copenhagen were included,

situation of the Roma (and of other national and ethnic minorities in the candidate states) came under formal EU scrutiny. From that date, candidate countries have understood that their efforts to join the EU hinge, at least in part, on their treatment of various national and ethnic minorities, including the Roma.

As indicated above, the problems facing the Roma of the CEE states, particularly since 1990, are different in character, scope and in sheer intractability from those encountered by most other national or ethnic minorities, of any size, in the region. Consequently, in applying the Copenhagen formula, the EU Commission has been particularly concerned at the desperate situation of the Roma in several candidate states in Central and Eastern Europe. As already indicated, in Parts II–III of this chapter, the Roma in the CEE countries have experienced sharply increased levels of economic and social marginalisation, since the collapse of state socialism, resulting in a state of affairs that economists and human rights experts regard as catastrophic. According to conservative estimates, there are almost six million Roma currently living in the CEE region, representing by far the largest ethnic minority in the area.⁵³

The European Commission first drew attention to the problems experienced by Central and Eastern Europe's Roma in July 1997. In *Agenda 2000*, a document that dealt with a range of issues including EU enlargement, the Commission noted that the integration of national and ethnic minorities in the candidate countries

albeit in modified form, in both the consolidated Treaty on European Union, as amended by the Treaty of Amsterdam, and in the Charter of Fundamental Rights of the European Union proclaimed at the Nice European Council. Thus, Article 6(1) of the Treaty of European Union emphasizes that, '[t]he Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law'. For the text of the Treaty of European Union see above, n. 9. However, there is no express reference in the Treaty to the rights of national or ethnic minorities. The Charter of Fundamental Rights, of December 18, 2000, while articulating the rights recognized by the EU, is notably cautious in its treatment of minority issues. Article 21 prohibits discrimination on the grounds of "membership of a national minority", while Article 22 stipulates that "[t]he Union shall respect cultural, religious and linguistic diversity". For the text of the Charter of Fundamental Rights of the European Union see above, n. 9. However, the Charter falls some way short of the commitment, enshrined in the Copenhagen formula, of "respect for and protection of minorities". In particular, the terms "minority" and "protection" have been omitted from Article 22 of the Charter, resulting in a considerably weaker and less clearly defined obligation. However, the Charter of Fundamental Rights and Article 6(1) of the Treaty of European Union must be understood, first and foremost, as setting out the duties of EU institutions and bodies with respect to the recognition and protection of basic freedoms. See, e.g. Article 51, Charter of Fundamental Rights of the European Union. By contrast, the Copenhagen criteria embody the standards, political and economic, that applicant states must satisfy in order to qualify for membership of the EU.

⁵³ *European Union Support for Roma communities in Central and Eastern Europe*, above n. 52, p. 4.

was, in broad terms, satisfactory “except for the situation of the Roma minority in a number of applicant [countries], which gives cause for concern.”⁵⁴ The Commission emphasized the extent of the difficulties, including discrimination and social hardship, facing Roma minorities in Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia.⁵⁵

Since 1998, at the invitation of the European Council, the Commission has produced “Regular Reports” on the progress made by the candidate states towards compliance with the Copenhagen criteria.⁵⁶ These Reports, some of which were cited in Part III of this chapter, provide detailed information about the continuing difficulties experienced by the Roma in the CEE region, including poverty, inadequate housing, as well as discrimination in employment and in the provision of public services. The Reports also present the Commission’s assessment of efforts by the candidate countries to tackle these problems through wide-ranging programs, such as the Roma Strategy adopted by the Romanian authorities in 2001.⁵⁷ As a result of the admission of the Czech Republic, Hungary, Poland, Slovenia and Slovakia to the EU, in May 2004, along with five other candidate countries, the Commission’s most recent Regular Reports no longer deal with these countries. However, the Commission has continued to publish Reports on Bulgaria, Romania and Turkey.⁵⁸

The broad requirement contained in the Copenhagen formula, to ensure ‘respect for and protection of minorities’, has been translated by the European Commission into more specific obligations for the various CEE states with respect to the situation of the Roma in each of these countries. Accession Partnerships drafted in March 1998 for CEE states with substantial Roma minorities—Bulgaria, the Czech Republic, Hungary and Romania—referred expressly to the plight of the Roma. The Partnerships stipulated that continued improvement in the situation of the Roma in these countries constituted “a medium-term political priority.”⁵⁹ The obligations contained in the original Accession Partnership for Slovakia differed only insofar as further measures were considered necessary by the Commission to strengthen the protection available to *all* national and ethnic minorities in the

⁵⁴ The Commission’s observations concerning the Roma in the applicant states, in Agenda 2000, are summarised at *id.*

⁵⁵ For the full text of Agenda 2000 and the European Commission’s 1997 opinions on the various candidate states see: http://www.europa.eu.int/comm/enlargement/intro/ag2000_opinions.htm (accessed February 28, 2004).

⁵⁶ The Reports are available at: <http://europa.eu.int/comm/enlargement/report2002/> (accessed February 28, 2004).

⁵⁷ The Hungarian, Romanian and Czech programs, which are aimed at improving the overall situation of the Roma minorities in these countries, are discussed above, Part III.

⁵⁸ The most recent regular reports, for 2003, are available at: http://europa.eu.int/comm/enlargement/report_2003/index.htm (accessed February 28 2004).

⁵⁹ *European Union Support for Roma communities in Central and Eastern Europe*, above n. 52, p. 5.

country. Revised Accession Partnerships, adopted in 2001, emphasised the urgent need for continued progress in improving the overall situation of the Roma in Bulgaria, the Czech Republic, Hungary, Romania and Slovakia. For example, the Accession Partnership for Slovakia called on the Slovak authorities to⁶⁰:

Continue improving the situation of the Roma through strengthened implementation of the relevant strategy, including the provision of the necessary financial support at national and local levels; measures aimed at fighting against discrimination (including within the public administration), fostering employment opportunities, increasing access to education, improving housing conditions; provide adequate financial support.

Reference should also be made to the EU's Equal Treatment Directive, adopted on June 29, 2000.⁶¹ This provides for equal treatment of all persons, without regard to their racial or ethnic origins. The Directive, which applies to both the public and private sectors, covers the fields of employment, education, social protection (including both health care and social security) and access to goods and services, including housing. In addition, Member States are required under the Directive to "designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin" (Art. 13(1)). This body shall provide, *inter alia*, "independent assistance to victims of discrimination in pursuing their complaints about discrimination." As the Directive forms part of the Community *acquis*, candidate countries are bound to give effect to it by the date of their accession to the EU.

Although the Directive was not adopted solely, or even primarily, with the candidate states in mind, it has obvious and important implications for the Roma in these countries. As indicated in Parts II–III of this chapter, the Roma have experienced widespread and severe discrimination, particularly since 1990, whether in access to public services such as education, housing and health care, or in terms of employment. However, the scale of Roma disadvantage in the CEE states, including discrimination by public services and employers, cannot be explained solely by reference to the problems confronting the Roma since the collapse of state socialism.

Undoubtedly, the monitoring and standard setting functions of the EU have had a significant, albeit variable, impact on candidate states' efforts to improve the situation of their Roma minorities. Countries in Central and Eastern Europe have been acutely conscious of the need to satisfy the European Commission's expectations in terms of establishing a satisfactory legislative and administrative framework, together with programs aimed at boosting Roma educational performance and Roma access to employment.

⁶⁰ For the text of the 2001 Accession Partnership with Slovakia see, e.g. http://www.europa.eu.int/comm/enlargement/report2001/apsk_en.pdf (accessed March 1, 2004).

⁶¹ See Council Directive 2000/43/EC of June 29, 2000, *Official Journal of the European Communities* (19.7.2000), L.180/22.

However, it would be wrong to exaggerate the extent to which the EU has been the catalyst for the development of concerted policies to tackle Roma disadvantage in at least some of the CEE states. For example, Hungary's efforts to address the causes of Roma poverty and social exclusion began in 1995, at least two years before the EU Commission first drew attention to the socio-economic problems experienced by the Roma. As noted in Part III of this chapter, the Hungarian authorities adopted three separate government resolutions, in 1995, on the alleviation of Roma disadvantage and on the promotion of the minority's social integration.⁶² Thus, the influence of the EU on Hungary's policies concerned with the Roma, though useful and constructive, has been limited. At most it has served to highlight various deficiencies in government programs aimed at eradicating Roma poverty and disadvantage and in the legislative framework—notably the lack of a comprehensive anti-discrimination law. Under persistent pressure from the EU, a draft anti-discrimination law, prepared by Hungary's Ministry of Justice, was finally approved by the government in September 2003.

If the EU's monitoring function has had a beneficial impact on the development of Roma policies in the CEE region, there remains a widespread perception amongst Roma activists and community leaders that this function has not been exercised with sufficient rigor. For example, a well-placed Romani official in Budapest, whom I interviewed in September 2003, told me that 'experts' had been dispatched from Brussels whose knowledge is superficial, at best: "[t]hey know little of Hungary and are easily persuaded that things are OK."⁶³ In Romania, in March 2003, an experienced Romani community leader assured me that, despite the adoption of a wide-ranging Roma Strategy by the government, in 2001, little had changed. He described the efforts of the Romanian authorities to improve the situation of the country's Roma as largely a "*teatru spectacol*", or 'theatre performance', intended to convince Western audiences that something constructive was being done.⁶⁴

While the observations of Roma commentators (as of any interested parties) should be treated with a degree of caution, there is considerable evidence to support the view that the European Commission's Regular Reports, on candidate countries, could have been more searching with respect to the situation of the Roma. For example, the 2002 Regular Report on Romania stated⁶⁵:

The Government has made steady progress in implementing last year's Roma Strategy, which is explicitly aimed at addressing discrimination. During the reporting period, the structures for the implementation of the Roma Strategy were progressively established. At the county level, the Roma offices provided for

⁶² See Government Resolutions Nos. 1120/1995 (XII.7); 1121/1995 (XII.7); 1125/1995 (XII.12).

⁶³ Interview recorded September 2003 (on file with the author).

⁶⁴ Interview recorded April 2003 (on file with the author).

⁶⁵ *2002 Regular Report on Romania's Progress Towards Accession*, above n. 43, at 36.

in the strategy have become operational. Over 400 Roma have been hired as experts, the responsibilities of these experts have been clarified, and all 42 local Roma offices have elaborated Action Plans for the 2001–2004 period.

I know of at least one Roma ‘expert’, appointed to a senior post under the terms of Romania’s Roma Strategy, who had no previous work experience of any kind. In another case, I was told of a Roma adviser to a County Prefect who had been told not to try to see his boss unless the Prefect specifically summoned him. The adviser’s numerous and elaborate proposals, for tackling the problems of the local Roma went unheeded. A meaningful evaluation of the implementation of the Roma Strategy in Romania would have had to consider not simply whether Roma experts had been appointed across the country, as provided for by the Strategy, but the background and qualifications of those appointed, as well as the extent to which the advisers have been permitted to initiate or influence the formation of policy. These issues are not even touched upon in the Commission’s subsequent Regular Report on Romania, for 2003.

4.2. Financial Incentives and Funding for Roma-Related Projects in the CEE Region

In addition to standard setting and monitoring the performance of candidate countries, the EU has used financial incentives to encourage these states to comply with EU objectives, including the adoption of appropriate measures to improve the situation of Roma minorities in the CEE region. Thus, financial assistance to a candidate country, in accordance with the PHARE Programme or other schemes of EU-funded assistance, can be suspended if a state is in breach of its obligations under EU instruments.⁶⁶ As noted above, for several CEE states—Bulgaria, the Czech Republic, Hungary, Romania and Slovakia—such obligations included the adoption of far-reaching measures to improve the situation of their Roma minorities.⁶⁷

The scale of financial assistance from the EU to candidate countries, in order to prepare them for EU membership, has been impressive. For example, for the period 1995–1999, grants under the PHARE Programme amounted to almost 6.7 billion Euros.⁶⁸ For the period 2000–2006, the total value of grants available under the PHARE Programme, for infrastructure and other projects, represents 1.5 billion Euros annually.⁶⁹ Potentially, at least, this has served as a strong incentive

⁶⁶ This is spelt out in the 1998 Accession Partnerships drawn up by the European Commission for the then candidate countries. The revised Accession Partnerships, of 2001, reaffirm this principle of conditionality.

⁶⁷ These obligations are specified, for example, in the various Accession Partnerships.

⁶⁸ *European Union Support for Roma Communities in Central and Eastern Europe*, above n. 52, p. 6.

⁶⁹ *Id.*