

Special Report

EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground



EUROPEAN
COURT
OF AUDITORS

EUROPEAN COURT OF AUDITORS
12, rue Alcide De Gasperi
1615 Luxembourg
LUXEMBOURG

Tel. +352 4398-1

Enquiries: eca.europa.eu/en/Pages/ContactForm.aspx

Website: eca.europa.eu

Twitter: @EUAuditorsECA

More information on the European Union is available on the internet (<http://europa.eu>).

Luxembourg: Publications Office of the European Union, 2016

Print	ISBN 978-92-872-5306-4	ISSN 1831-0834	doi:10.2865/883533	QJ-AB-16-018-EN-C
PDF	ISBN 978-92-872-5294-4	ISSN 1977-5679	doi:10.2865/587789	QJ-AB-16-018-EN-N
EPUB	ISBN 978-92-872-5326-2	ISSN 1977-5679	doi:10.2865/5721	QJ-AB-16-018-EN-E

© European Union, 2016

Reproduction is authorised provided the source is acknowledged.

Printed in Luxembourg

Special Report**EU policy initiatives and financial support for Roma integration: significant progress made over the last decade, but additional efforts needed on the ground**

(pursuant to Article 287(4), second subparagraph, TFEU)

The ECA's special reports set out the results of its performance and compliance audits of specific budgetary areas or management topics. The ECA selects and designs these audit tasks to be of maximum impact by considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was produced by Audit Chamber II — headed by ECA Member Henri Grethen — which specialises in structural policies, transport and energy spending areas. The audit was led by the Reporting Member Henri Grethen, supported by Marc Hostert, Head of private office; the core audit team consisted of Emmanuel Rauch, Principal Manager, Naiara Zabala Eguiraun, Aino Nyholm and Zhivka Kalaydzhieva, Auditors. Language support was provided by Richard Moore.

Paragraph

Glossary

I – VII Executive summary

1 – 14 Introduction

1 – 3 The Roma population

4 – 8 Legal and policy framework

9 – 12 How does the EU provide financial support to Roma integration measures?

13 – 14 Role of other European and international organisations in relation to Roma integration

15 – 26 Audit scope and objectives

27 – 120 Observations

27 – 56 Progress made in terms of strategies in place at EU and Member State level, but most improvements came too late to have an impact on the 2007-2013 programme period

29 – 40 EU policy initiative on Roma inclusion was agreed upon in 2011, after the EU enlargements in 2004 and 2007

41 – 56 Progress at Member State level: National Roma integration strategies had been adopted, but some shortcomings remained

57 – 94 More attention given to Roma integration measures in the 2014-2020 period as compared to 2007-2013 in the field of cohesion policy

59 – 65 Despite the lack of mention of Roma integration in the legal framework for 2007-2013, the selected Member States referred to Roma integration in their OPs

66 – 83 Greater focus on Roma issues at EU level was reflected in the ESIF framework for 2014-2020

84 – 94 OP-level monitoring tools at disposal during the 2007-2013 programme period were ill-suited for measuring the performance of Roma integration measures

95 – 120	Most projects were carried out as planned, but 'best practice' criteria contributing to successful Roma inclusion were not always applied and monitoring project performance was difficult
96 – 100	All projects examined were in line with OP objectives, but selection procedures did not specifically aim to select Roma inclusion-related projects
101 – 102	Projects were generally carried out according to plan
103 – 115	Indication that better consideration of Roma-specific criteria, such as the common basic principles (CBPs) on Roma inclusion, contributed positively to project performance
116 – 120	Assessing the results for the 2007-2013 period was made more difficult by difficulties in gathering information about Roma people
121 – 133	Conclusions and recommendations
Annex I	— Operational programmes examined
Annex II	— Governance bodies of the Structural Funds in the visited Member States
Annex III	— Common basic principles (CBPs) on Roma inclusion
Reply of the Commission	

Common basic principle (CBP): The common basic principles (CBPs) are a set of 10 criteria for ensuring success in Roma inclusion initiatives. These principles were discussed at the first meeting of the European Platform for Roma inclusion in 2009 in Prague. They were then included as an annex to the conclusions of a meeting of the Employment, Social Policy, Health and Consumer Affairs Council held on 8 June 2009.

Country-specific recommendations (CSR): Country-specific recommendations (CSR) are recommendations relating to structural challenges which it is appropriate to address through multiannual investments that fall directly within the scope of the ESI Funds as set out in the fund-specific regulations. They are adopted by the Commission in accordance with Articles 121(2) and Article 148(4) of the Treaty on the Functioning of the European Union (TFEU).

Discrimination: Directive No 2000/43 defines two types of discrimination:

- o **Direct discrimination** occurs where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin.
- o **Indirect discrimination** occurs where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

European Regional Development Fund (ERDF): The European Regional Development Fund (ERDF) aims at reinforcing economic and social cohesion within the European Union by redressing the main regional imbalances through financial support for the creation of infrastructure and productive job-creating investment, mainly for businesses.

European Social Fund (ESF): The European Social Fund (ESF) aims at strengthening economic and social cohesion within the European Union by improving employment and job opportunities (mainly through training measures), encouraging a high level of employment and the creation of more and better jobs.

European Structural and Investment Funds (ESIF): The European Structural and Investment Funds (ESIF) are the Union's means of reducing disparities between the levels of development of its various regions, and of helping less developed regions to catch up. Based on Article 174 TFEU, they contribute to the goal of strengthening economic, social and territorial cohesion.

Ex ante conditionalities (EAC): *Ex ante* conditionalities (EAC) are criteria established in partnership agreements, which are regarded as necessary prerequisites for the effective and efficient use of Union support covered by those agreements. When preparing ERDF, Cohesion Fund and ESF OPs under the 2014-2020 programme period, Member States have to assess whether these conditions are fulfilled. If they have not been fulfilled, action plans need to be prepared to ensure fulfilment by 31 December 2016.

Institutional discrimination: Discrimination that has become ingrained in organisational structures and procedures.

Intermediate body: An intermediate body is any public or private body or service which acts under the responsibility of a managing authority, or which carries out duties on behalf of such an authority vis-à-vis beneficiaries implementing operations.

Managing authority: A managing authority is a national, regional or local public authority (or any other public or private body), which has been designated by a Member State to manage an operational programme. Its tasks include selecting projects to be funded, monitoring how projects are implemented and reporting to the Commission on financial aspects and results achieved.

National Roma contact point (NRCP): The national Roma contact point (NRCP) is a national authority whose role is to coordinate the development and implementation of the national Roma integration strategy/set of integrated policy measures.

National Roma integration strategy (NRIS): Each Member State with a Roma population was asked by the Commission to prepare a national Roma integration strategy (NRIS) covering the period 2011-2020 or, if a strategy already existed, to adapt it to meet the EU's Roma integration goals, with targeted actions and sufficient funding (national, EU and other) to deliver them. These strategies should also propose solutions to address the current barriers to a more effective use of EU funds and lay the foundations of a robust monitoring mechanism to ensure concrete results for Roma. Some Member States do not have a NRIS as such, but have a 'set of integrated measures' instead.

Non-governmental organisation (NGO): The term non-governmental organisation (NGO) is used to refer to a range of different organisations that typically share the following characteristics:

- They are not created to generate profit. Although they may have paid employees and engage in revenue-generating activities, they do not distribute profits to members.
- They are voluntary citizens' groups.
- They must have some degree of formal or institutional existence (e.g. statutes or other governing document setting out their mission, objectives and scope) as they are accountable to their members and donors.
- They are independent, in particular of government, public authorities, political parties and commercial organisations.

Operational programme (OP): An operational programme (OP) sets out a Member State's priorities and specific objectives and how the EU funding (EU and national public and private co-financing) will be used during a given period (generally 7 years) to finance projects. These projects must contribute to achieve a certain number of objectives specified at the level of the OP's priority axis. OPs exist for each of the funds in the Cohesion area (i.e. ERDF, Cohesion Fund and ESF). An OP is prepared by the Member State and has to be approved by the Commission before any payments from the EU budget can be made. OPs can only be modified during the period covered if both parties agree.

Output: That which is produced or accomplished with the resources allocated to an intervention (e.g. grants distributed to farmers, training courses delivered to unemployed people, a road built in a developing country).

Result: Immediate changes that arise for direct addressees at the end of their participation in an intervention (e.g. improved accessibility to an area due to the construction of a road, trainees who have found a job).

Segregation/desegregation

- o **Segregation** is caused by a number of factors, including discriminatory actions, economic and demographic mechanisms. It is characterised by the physical and social separation of members of a marginalised group from members of non-marginalised groups and unequal access to mainstream, inclusive and high-quality services.
- o **Desegregation** means action to eliminate segregation. Desegregation measures should establish the conditions for equal access to high-quality services, including education, housing, labour market, health and any other relevant field.

Social inclusion: The process of improving the terms for individuals and groups to take part in society. Social inclusion aims to empower poor and marginalised people to take advantage of burgeoning global opportunities. It ensures that people have a voice in decisions which affect their lives and that they enjoy equal access to markets, services and political, social and physical spaces.

I The Roma people of Europe have been subject to discrimination since their arrival on the territory of today's European Union many centuries ago. Today, the Roma population is the largest ethnic minority in the EU, at an estimated 6.2 million, and is mostly marginalised. In the Member States where the concentration of Roma population is highest, Roma people account for between 15 and 20 % of school pupils and new labour market entrants.

II The greater part of EU financial support for social inclusion measures in general, including measures promoting Roma inclusion, is provided through the European Regional Development Fund (ERDF) and the European Social Fund (ESF). The amount channelled specifically to Roma integration initiatives is not recorded. However, Member States' planning documents suggest that around 1.5 billion euros has been earmarked for the socioeconomic integration of marginalised communities such as Roma during the 2014-2020 programme period. Similar indicative figures are not available for 2007-2013.

III In our audit, we assessed whether the EU policy initiatives and financial support through the ERDF and ESF had contributed effectively to Roma integration. In particular, we examined whether:

- the EU and national Roma strategies facilitated the effective use of the ERDF and ESF for Roma inclusion measures in each programme period;
- the ERDF and ESF framework for each programme period was designed so as to allow effective support Roma integration measures; and
- projects implemented under the ERDF and the ESF during the 2007-2013 programme period contributed effectively to Roma integration.

The audit work was carried out at the Commission and in four Member States (Bulgaria, Spain, Hungary and Romania), and covered the period from 2007 to 2015.

IV

We found that the Commission has made significant progress in setting out EU policy initiatives promoting Roma integration, and that all the Member States visited had developed a national Roma integration strategy (NRIS) by 2012, but that this had come too late to have an impact on the design of ERDF and ESF operational programmes (OPs) and the selection of projects during the 2007-2013 programme period. A number of shortcomings remain as regards these NRISs. First, the national strategies do not indicate what level of funding is needed to carry out the proposed measures for Roma inclusion. They also do not state the amount of money available for such measures from the national budget and, through the ERDF and ESF, from the EU budget. Second, anti-discrimination and anti-gypsyism have not been given enough attention. Third, the need for active participation by civil society organisations, in particular representatives of the Roma community itself, was not always taken into account in the selected Member States when NRISs were being drafted. Finally, the role of national Roma contact points (NRCP) set up to coordinate the development and implementation of the NRISs has sometimes been undermined by a mismatch of resources and responsibilities.

V

In relation to the 2014-2020 period, a number of improvements are noted: for example, Roma integration is explicitly referred to in the European structural and investment funds (ESIF) regulation and specific funding priority has been introduced. Moreover, Member States with country-specific recommendations (CSRs) related to Roma integration are obliged to devote funds to promoting it. We consider, however, that additional efforts are required at both Commission and Member State level to make sure that these changes will result in projects better contributing to Roma integration on the ground.

VI

Most ERDF and ESF projects examined during our audit had achieved their general objectives, but these objectives were often not specifically Roma-related. We also concluded that projects that had been selected and implemented in accordance with 'best practice' criteria adopted by the Council, the so-called common basic principles on Roma inclusion (CBP), were more likely to contribute effectively to the integration of the Roma population. Moreover, we found that monitoring the progress made by Roma integration projects has been difficult, mainly because of shortcomings in relation to the availability and quality of data on Roma participants. The lack of comprehensive and robust data is a problem not only in relation to projects, but also for policymaking at EU and national level. Unless swift action is taken, this situation will remain unchanged for the 2014-2020 period.

VII

We make the following recommendations in this report:

Recommendation 1

The Member States should, when revising their NRISs or when making amendments:

- (a) specify what level of funding is needed to carry out the measures for Roma inclusion proposed in the strategy. NRISs should indicate the funding available for such measures from the national budget and, through the ERDF and ESF, from the EU budget. The Member States should also formally undertake to ensure that efforts to implement measures in favour of Roma integration are not jeopardised by short-term changes in political priorities;
- (b) include indicators and target values which deal with anti-discrimination or, more specifically, anti-gypsyism. During the 2014-2020 programme period, these indicators should also be taken into account in the design of measures promoting the inclusion of marginalised Roma communities within the ESIF framework, in line with the requirements of the racial equality directive;
- (c) ensure that civil society organisations including Roma representatives are systematically consulted and included when Roma integration measures are being planned and implemented;
- (d) define in more detail the role played by NRCPs in relation to the NRISs, and ensure that the NRCPs' powers and responsibilities are commensurate with the resources made available to them.

Recommendation 2

- (a) The Commission should make sure, when revising relevant operational programmes that measures carried out under the ESIF are of an inclusive nature and contain provisions aimed at fighting segregation. Segregational practices should be clearly described and explicitly excluded from funding under the ESIF framework (and not only mentioned in the recitals), particular attention being paid in this connection to education and housing projects. This would help to reinforce the link between CSRs and the use of the ESIF.
- (b) The Commission should make full use in OP monitoring committee meetings of the information contained in the reports which Member States are required to provide from 2016 under the Council recommendation on effective Roma integration measures, as well as of the findings arising from that information. This is to ensure that the areas of weakness identified in the reports are tackled by means of ESIF and/or Member State funds (e.g. by reallocating funds to areas where shortcomings have been identified).

Recommendation 3

Member States should make use of the ‘best practice’ criteria for Roma integration (such as the Council’s 10 CBPs) when making calls for proposals and selecting projects. Where appropriate, calls should be organised to select long-term projects in favour of marginalised Roma communities. Finally, wherever possible, the allocation of ESIF funding should be made subject to the sustainability of projects, without continued EU funding, after their completion. These aspects should also be considered when the 2014-2020 operational programmes are modified.

Recommendation 4

The Commission should ensure, in the next programme period or when revising the operational programmes, that Roma integration objectives included in the NRISs are reflected in the ESIF framework at all operational levels, whenever applicable. In this context, it should ensure that data are collected reliably in order to allow progress to be monitored and evaluated between individual projects and at all levels of administration.

Recommendation 5

Member States should complement the common output and results indicators set out in the ESIF legislation with Roma-specific indicators, where appropriate. These indicators should be aligned with those specified in the NRISs, and they should subsequently be used in the monitoring of the 2014-2020 operational programmes. They could build on those developed by the Fundamental Rights Agency in 2016.

Recommendation 6

The Member States should consider acting together, in view of preparations for the next programme period, to seek to ensure legal certainty on the use of ESF to fund any social inclusion measures irrespective of a link to employment. The removal of legal uncertainty would facilitate the Member States in making full use of the ESF for the purpose of social inclusion, including through measures to combat discrimination.

Recommendation 7

The Commission should consider proposing changes to the ESIF legislation to ensure that, from the programme period beginning in 2020, the distribution of funds among the different Member States takes into account specific social inclusion indicators: in particular, the proportion of marginalised groups such as the Roma within the population. It should ensure that any additional ESF funds made available to Member States as a result of this change are earmarked for the specific purpose of supporting marginalised communities.

Recommendation 8

- (a) The Commission should work together with the Member States to develop a common methodology which provides relevant data on the Roma population to monitor their social inclusion, in line with national legal frameworks and EU legislation, including existing possible derogations. This should be done at the latest when preparing the next programme period.
- (b) The Commission should encourage Member States, in accordance with national legal frameworks and EU legislation, including existing possible derogations, to collect in a comprehensive manner statistical data on ethnicity within the next 2 years. Eurostat could include relevant questions in surveys such as the Labour Force Survey and in the European Union Statistics on Income and Living Conditions.

The Roma population

01

The Roma people of Europe are the descendants of groups which left the Indian subcontinent around 1 000 years ago and began arriving on the territory of today's European Union in the 14th century. By 1450, the Roma people had settled in almost the whole of Europe. In central Europe, the first deportations and expulsions of Roma people were already taking place by then. The term 'Roma' refers to different groups (see **Box 1**) which have certain cultural characteristics in common, as well as a history of persistent marginalisation in European societies.

Box 1

What do we mean by 'Roma'?

According to the Council of Europe¹, 'Roma' refers to Roma, Sinti, Kale, and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as Gypsies.

Although the cultural and ethnic identity of these groups is not homogenous, for practical reasons, we have used the word 'Roma' to refer to all of them.

¹ Council of Europe, 'Descriptive Glossary of terms relating to Roma issues', 2012.

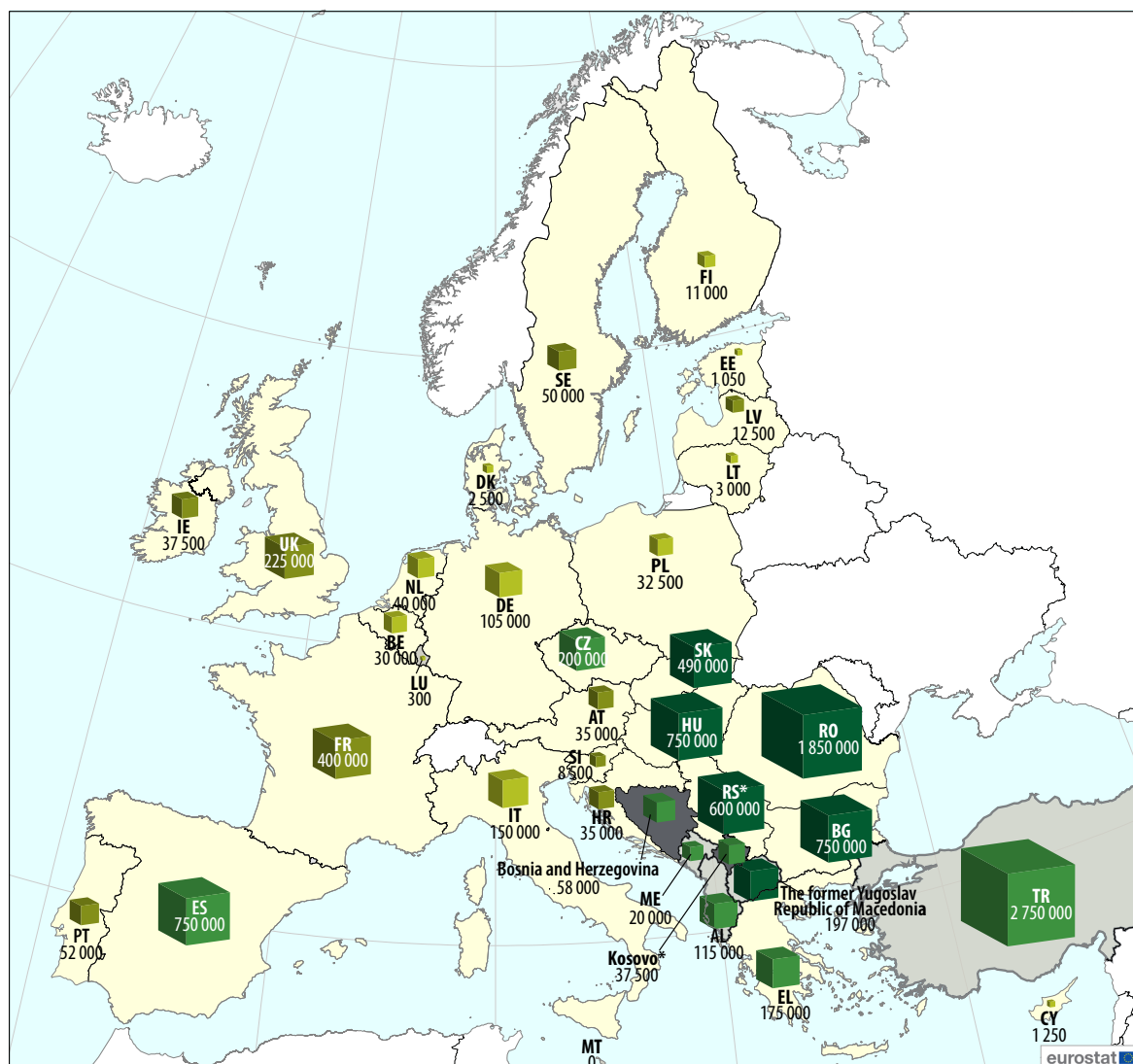
02

Today, the Roma population is the largest ethnic minority in Europe. Estimates of the size of the community vary widely between 10 and 12 million people. Of these, around 6.2 million reside in the EU, most of them in central and eastern Member States. The vast majority of Roma in Europe (80-85 %) now live a settled lifestyle². Roma people maintaining an itinerant lifestyle should not be confused with Roma people moving from one EU Member State to settle in another. **Figure 1** shows the concentration of Roma people in the EU, candidate countries³ and potential candidate countries⁴.

- ² COM(2011) 173 final of 5 April 2011 'An EU Framework for National Roma Integration Strategies up to 2020'.
- ³ Albania, former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey.
- ⁴ Bosnia and Herzegovina and Kosovo*.

Figure 1

Estimated Roma population in the EU, candidate and potential candidate countries (2012)



- EU Member States
- Candidate countries
- Potential candidate countries

Number = Average estimated size of Roma population.

Average estimate as proportion of total population (in %):

- From 5 to 10
- From 1 to 4.9
- From 0.4 to 0.9
- Less than 0.4

Administrative boundaries: © EuroGeographics © UN-FAO © Turkstat
Cartography: Eurostat - Gisco, 01/2015

0 200 400 600 800 km

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Source: ECA, based on Council of Europe data.

03

Around four fifths of the EU's estimated Roma population live in the eight Member States listed in **Table 1**. In the Member States where the concentration of Roma population is highest (Bulgaria, Slovakia, Romania and Hungary), Roma people account for between 15 and 20 % of school pupils and new labour market entrants.

Table 1

Member States with the largest estimated number of Roma people

Member State	Average estimated size of Roma population		Minimum estimate	Maximum estimate
	Number of people	Proportion of total population		
Romania	1 850 000	8.6 %	1 200 000	2 500 000
Bulgaria	750 000	9.9 %	700 000	800 000
Hungary	750 000	7.5 %	500 000	1 000 000
Spain	750 000	1.6 %	500 000	1 000 000
Slovakia	490 000	9.0 %	380 000	600 000
France	400 000	0.6 %	300 000	500 000
Czech Republic	200 000	1.9 %	150 000	250 000
Greece	175 000	1.5 %	50 000	300 000
Total	5 365 000	3.0 %	3 780 000	6 950 000
Total for all EU	6 197 100	1.2 %	4 368 700	8 025 500

Note: The 'Total for all EU' figures include Croatia.

Source: Council of Europe, 'Estimates and official numbers of Roma in Europe', July 2012.

Legal and policy framework

04

The EU treaties are the main legal basis for all EU initiatives aimed at promoting social inclusion in general, and the integration of Roma people in particular. Article 2 of the Treaty on the European Union (TEU) is particularly relevant: among other things, it safeguards the rights of persons belonging to minorities (see **Box 2**).

Box 2

Article 2 of the Treaty on the European Union

'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail'.

05

Furthermore, Article 10 of the Treaty on the Functioning of the European Union (TFEU) establishes the EU's aim of combating discrimination on the grounds of racial or ethnic origin by means of action by the Council (Article 19 TFEU). Article 21 TFEU also establishes the right of EU citizens to move and reside freely within the EU.

06

The following legal and policy instruments are also relevant to Roma integration measures:

- the Charter of Fundamental Rights of the European Union of 2000⁵, in particular Article 21 on non-discrimination. It became legally binding after the Treaty of Lisbon entered into force on 1 December 2009;
- the two Council directives from 2000 on equal treatment⁶: the racial equality directive, which prohibits discrimination on the grounds of racial or ethnic origin in various areas; and the employment equality directive, which contains provisions stipulating equal treatment in the workplace;

5 Charter of Fundamental Rights of the European Union (OJ C 364, 18.12.2000, p. 1).

6 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('racial equality directive') (OJ L 180, 19.7.2000, p. 22), Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('employment equality directive') (OJ L 303, 2.12.2000, p. 16).

- the European Parliament and Council Directive of 2004 on the right of free movement for EU citizens⁷;
- the Council Framework Decision of 2008 on combating racism and xenophobia⁸, which defines a common criminal law approach to fight against racist and xenophobic speech and crime;
- the Council Recommendation of 2013 on effective Roma integration measures⁹; and
- the Commission's Communication of 2011 on the EU's framework for national Roma integration strategies up to 2020¹⁰, which also establishes the role of the Fundamental Rights Agency in this connection¹¹.

07

Current EU-level policy priorities aimed at promoting the inclusion of Roma people stem from the EU 2020 strategy, which was agreed in 2010 and which aims to deliver smart, sustainable and inclusive growth in Europe. To measure progress towards achieving the EU 2020 goals, five headline targets were agreed for the whole EU. The success of Roma inclusion policy has the potential to affect three of these five targets (the targets concerning education¹²; employment¹³; and fighting poverty and social exclusion¹⁴) in Member States with a high proportion of Roma residents.

08

In this report, the terms 'integration' and 'inclusion' are both used to refer to measures aimed at improving the living conditions and human rights situation of Roma people living in the EU's Member States¹⁵ (see **Box 3**).

7 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77). In particular, Articles 6 and 7 on the right of residence for up to 3 months and right of residence for more than 3 months, respectively.

8 Council Framework Decision of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

9 Council Recommendation of 9 December 2013 on effective Roma integration measures in the Member States (OJ C 378, 24.12.2013, p. 1).

10 COM(2011) 173 final.

11 The role of the Fundamental Rights Agency in connection with national Roma integration strategies consists of the following: (a) providing expertise to EU institutions, (b) collecting of data and (c) working together with Member States in order to come up with tools to provide evidence on progress made.

12 The targets in the field of education are to reduce the rates of early school leaving below 10 % and having at least 40 % of 30-34 year-olds completing their third level education.

13 The target is to have 75 % of the 20-64 year-olds in employment.

14 The target is to have at least 20 million fewer people in or at risk of poverty and social exclusion.

15 This approach is consistent with the Council of the European Union's definition presented in its conclusions on the EU Framework for National Roma Integration Strategies up to 2020: Council of the European Union (2011), Council Conclusions on an EU

Box 3

Interchangeable use of the terms ‘integration’ and ‘inclusion’

The words ‘integration’ and ‘inclusion’ are often used interchangeably to describe the overall objectives of political initiatives aimed at improving the situation of the Roma population.

‘Integration’ is used more frequently in the context of initiatives aimed at protecting fundamental rights and values (as described in Article 2 TEU). It can be found in the national Roma integration strategies.

‘Inclusion’ is used more in the context of socioeconomic initiatives. It appears, for example, in the Europe 2020 strategy, which aims to achieve smart, inclusive and sustainable growth.

How does the EU provide financial support to Roma integration measures?**09**

The greater part of EU financial support for social inclusion (where measures in favour of Roma integration were co-financed) is provided mainly through the European Social Fund (ESF), and also the European Regional Development Fund (ERDF), in the context of the EU’s cohesion policy. Other funds are also available under specific programmes subject to direct management by the Commission¹⁶.

10

The ESF and ERDF are implemented through national and regional multiannual operational programmes (OPs) prepared by the Member States and approved by the Commission. Within each OP, total available funds are broken down among the different priority axes of the OP.

11

The ERDF and ESF budget for 2007 to 2013 was around 201 billion euros and 76 billion euros, respectively. In the 2014-2020 programme period, the ERDF and ESF are part of the European Structural and Investment Funds (ESIF)¹⁷; their overall budget is around 197 billion euros (ERDF) and 86 billion euros (ESF) for the entire period.

Framework for National Roma Integration Strategies up to 2020, 3089th Employment, Social Policy, Health and Consumer Affairs Council meeting, Brussels, 19 May 2011.

16 Programme for Employment and Social Innovation (EaSI) 2014-2020; its predecessor was ‘Community Programme for Employment and Social Solidarity — PROGRESS 2007-2013’; ‘Rights, Equality and Citizenship Programme (2014-2020)’; its predecessors being the Fundamental Rights and Citizenship Programme, the Daphne III Programme and the Progress Programme in the actions on Anti-discrimination and Gender Equality.

17 In the 2014-2020 programme period, the ERDF, the ESF and the Cohesion Fund, together with the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF), they make up the European Structural and Investment Funds (ESIF).

12

The proportion of these amounts channelled specifically to Roma integration initiatives is not recorded. But we can infer from Member States' planning documents that around 1.5 billion euros has been earmarked for the socioeconomic integration of marginalised communities such as Roma during the 2014-2020 programme period (see also paragraph 69 and **Table 6**). Similar indicative figures are not available for the 2007-2013 programme period.

Role of other European and international organisations in relation to Roma integration

13

The Council of Europe was the first institution to address Roma integration at European level. For over 40 years, it has been carrying out work aimed at combating discrimination against Roma people and improving the integration of marginalised Roma communities.

14

Other international organisations had also been active in the field of Roma integration, their role being distinct, such as the World Bank, the Organisation for Security and Cooperation in Europe (the Office for Democratic Institutions and Human Rights) and the United Nations Development Programme.

15

Through this audit we assessed whether the EU policy initiatives and financial support through the ERDF and ESF had effectively contributed to Roma integration. Our audit scope covered both the 2007-2013 and the 2014-2020 programme periods. In particular, we examined whether:

- the EU framework and national Roma strategies facilitated the effective use of the ERDF and ESF for Roma inclusion measures in each programme period;
- the ERDF and ESF framework of each programme period was designed so as to allow effective support to Roma integration measures; and
- projects implemented under the ERDF and the ESF during the 2007-2013 programme period contributed effectively to Roma integration.

16

We collected audit evidence from interviews with Commission and Member State officials, as well as project promoters and project participants. We also reviewed documents obtained from EU and Member State authorities and project promoters.

17

We first evaluated the support for Roma integration provided by the Commission. This support included EU legislation, policy frameworks, and specific guidance describing the EU's priorities and targets; we examined these in connection with initiatives from both the 2007-2013 and the 2014-2020 programme periods. We also looked at how the Commission ensured the respect of fundamental rights. This part of our audit work was carried out at the Commission's directorates-general (DGs) which deal most substantially with policies related to Roma integration: DG Justice and Consumers, DG Employment, Social Affairs and Inclusion and DG Regional and Urban Policy¹⁸.

18 Other directorates-general with responsibilities in relation to areas of the EU Framework for National Roma Integration Strategies are DG Education and Culture, DG Health and Food Safety and DG Neighbourhood and Enlargement Negotiations.

18

We also reviewed Member States' strategic frameworks for promoting Roma integration, and in particular the national Roma integration strategies (NRISs). We considered that Roma integration measures supported by the ERDF and the ESF should be closely linked to these frameworks to achieve maximum effectiveness. We also examined whether the visited Member States had put in place appropriate administrative arrangements to implement their strategic frameworks for Roma inclusion successfully. Coordinating the development and implementation of NRISs is the responsibility of national Roma contact points (NRCs). We therefore held meetings with the NRCs of the four visited Member States, i.e. Bulgaria, Spain, Hungary and Romania, as well as those of Germany, Greece, France, Slovakia and the United Kingdom, in order to gain a wider knowledge of the national strategies and of the possible changes made between the two programme periods in terms of strategies, plans and programme design.

19

For the 2007-2013 programme period, we also evaluated how the ERDF and ESF OPs had been designed, implemented and monitored in order to assess their ability to support Roma integration measures effectively. We examined a sample of projects from that period in order to evaluate their contribution to the integration of the marginalised Roma populations. Our assessment of the 2014-2020 ESIF was limited to the design of the aspects of the ERDF and ESF which were relevant to Roma integration, since the audit took place at a very early stage in the programme period.

20

We selected four Member States (Bulgaria, Spain, Hungary and Romania) on the strength of the number of Roma people living there, and because they had allocated a large amount of funding to policy areas which could potentially have supported Roma inclusion initiatives¹⁹.

21

For the four Member States visited, we selected seven ERDF and ESF OPs from the 2007-2013 programme period which we considered relevant to Roma inclusion initiatives, and examined a total of 19 projects implemented under those OPs²⁰ (see **Annex I**); these projects were selected on the basis of information supplied by the national authorities. We focused on education, employment, healthcare and housing projects, but we also visited projects dealing with other topics, such as social inclusion or anti-discrimination (see **Table 5**). All selected projects had been completed by 2013. A list of the bodies responsible for selecting and implementing the projects examined in the context of this audit can be found in **Annex II**.

- 19 In the 2007-2013 programme period, these four Member States together received 14.1 billion euros of aid for social inclusion measures from the ERDF and ESF. This is 20 % of the total amount allocated from the Structural Funds for social inclusion measures in all Member States across the same period.
- 20 One initially selected project was removed from the sample for want of relevance.

Audit scope and objectives

22

Our audit criteria draw on the experience of the EURoma network²¹, which has issued recommendations²² for ensuring success in Roma inclusion initiatives. We also visited the Fundamental Rights Agency (FRA) to obtain information on data collection²³.

23

The most important of these criteria are the ten common basic principles, or 10 CBPs; these are shown in **Figure 2** and described in detail in **Annex III**. These principles were discussed at the first meeting of the European Platform for Roma inclusion in 2009 in Prague. They were then included as an annex to the conclusions of a meeting of the Employment, Social Policy, Health and Consumer Affairs Council held on 8 June 2009.

24

The measures addressing the integration of the marginalised Roma population of the OPs which we had selected from the 2007-2013 programme period were incorporated into nine new OPs for the 2014-2020 period. We assessed the new ESIF framework on the basis of these nine new OPs.

25

During the audit, we were assisted by external experts on Roma integration. We also put in place a panel of four advisors, providing input to our audit approach and ensuring that important aspects of the Roma integration issue had been taken into account.

26

Since measures promoting the integration of marginalised Roma, and their results, may be perceived very differently by different stakeholders, we put together focus groups in each selected Member State. In doing so, we aimed to bring together experts, and stakeholder representatives to allow them to share their opinions on Roma inclusion measures in connection with our preliminary findings for each visited Member State. Later, we held a final focus group meeting with 13 different stakeholders (including our panel of advisors). The aim of this meeting was to review our preliminary findings and to discuss potential conclusions and recommendations.

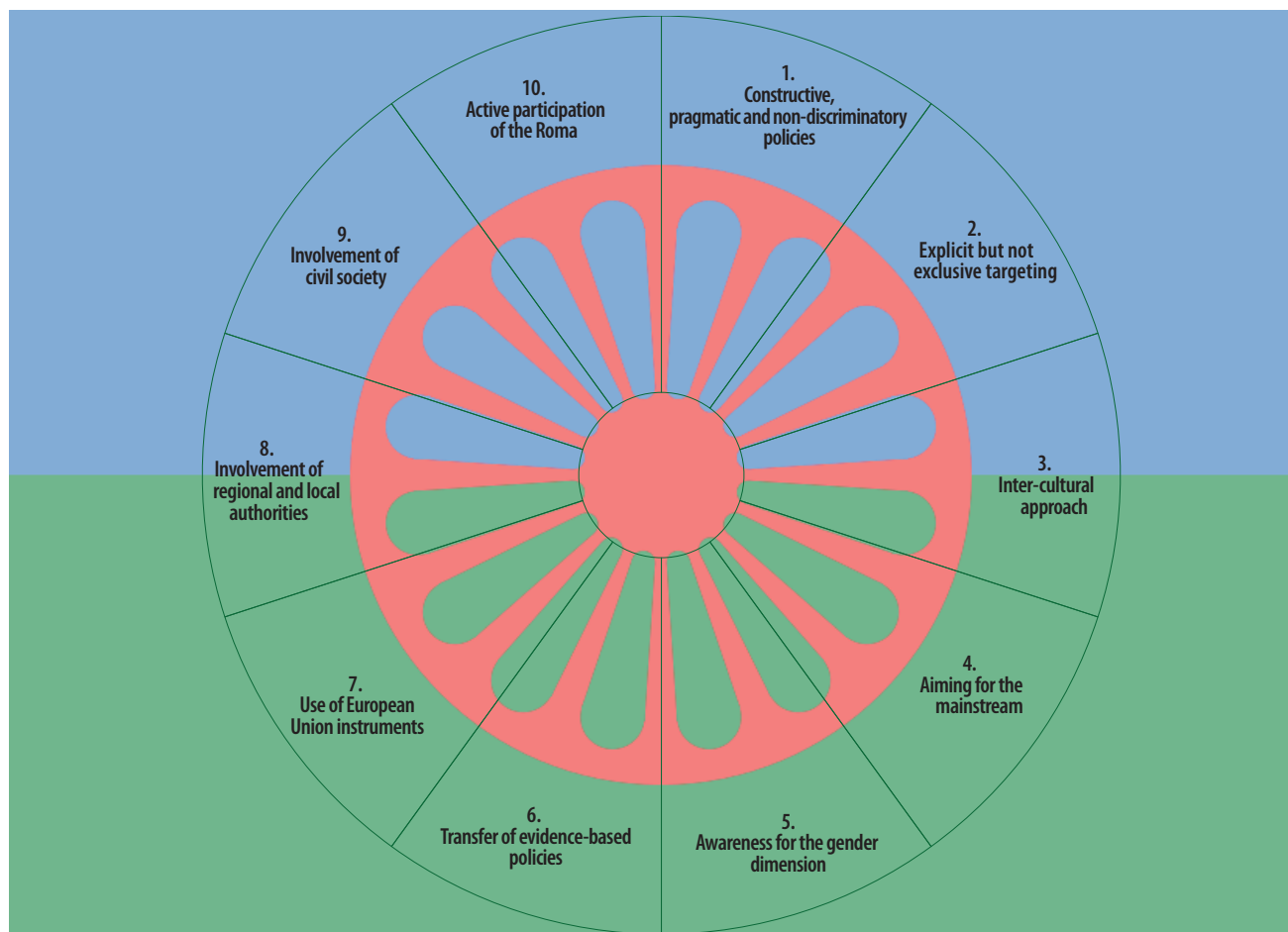
21 The EURoma network is a European network involving representatives of EU Member States aiming to promote the use of the Structural Funds to enhance the effectiveness of policies targeting the Roma community.

22 Fundación Secretariado Gitano, Technical secretariat of the EURoma network, 'Tackling Roma Needs in the 2014-2020 Structural Funds Programming Period — Guide to improve the planning process', May 2013.

23 The FRA was established in 2007 as an EU Agency with the specific task of providing independent, evidence-based advice on fundamental rights. The FRA and the United Nations Development Programme, UNDP, have carried out separately and jointly Roma household surveys in 2004, 2009, 2012 and 2015.

Figure 2

Ten common basic principles (CBP) on Roma inclusion



Source: ECA.

Progress made in terms of strategies in place at EU and Member State level, but most improvements came too late to have an impact on the 2007-2013 programme period

27

We examined policy developments at both EU and national level towards improving the targeting and fostering of Roma integration measures. First, we assessed the policy developments at EU level. Second, we reviewed the national Roma integration strategies and evaluated whether they were an appropriate tool for better addressing Roma integration issues.

28

We assessed whether an EU strategic framework concerning Roma integration initiatives had been in place for the 2007-2013 programme period, as well as whether there were any amendments or improvements over time. For EU-funded Roma integration policy to be effective, the Commission needs to support the work of Member States by providing EU legislation, policy frameworks or specific guidance.

EU policy initiative on Roma inclusion was agreed upon in 2011, after the EU enlargements in 2004 and 2007

EU policy initiatives were adopted too late to have an impact on the design of the 2007-2013 programme period

29

The issue of Roma inclusion gained particular significance at EU level in the run-up to the accession to the EU of a number of central and eastern European states, some of them with large Roma populations, in 2004 and 2007. The Accession Partnership agreements for Bulgaria, the Czech Republic, Hungary, Romania and Slovakia²⁴ made the further integration of the Roma people a medium-term political priority.

24 Council Decisions of 30 March 1998 and 6 December 1999 on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Republic of Bulgaria, the Czech Republic, the Republic of Hungary, Romania and the Slovak Republic.

30

However, the EU did not make Roma integration a specific political priority after the accessions of 2004 and 2007. No reference was made to Roma integration in the initial versions of the 2007-2013 regulations. Nor was there any requirement to include it as a specific priority in ERDF or ESF OPs. The first specific reference to Roma integration appeared in 2010, when the eligibility conditions in the ERDF regulation governing housing measures were amended²⁵.

31

In 2008, the Commission started making efforts to improve the situation of marginalised Roma. Following the first EU Roma summit in September 2008, it established a European Platform for Roma inclusion, an inter-service Roma Task Force, a network of NRCPs and a working party on Roma integration indicators which is coordinated by the Fundamental Rights Agency (see paragraph 94). Other support structures include two thematic working groups under the NRCP network and regular consultation meetings with civil society organisations, international organisations and academic networks. DG Justice and Consumers, together with the directorates-general responsible for managing ESIF, also organises regular fact-finding missions and high level bilateral dialogues with Member States. These visits give national and local authorities, civil society organisations and all Commission departments concerned the chance to discuss policy developments face-to-face.

32

But it was in April 2011 that the first important EU-level document addressing Roma integration was issued: a communication issued by the Commission on an EU framework for national Roma integration strategies²⁶ (NRISs). Then, the EPSCO Council²⁷ adopted Conclusions in May, in which Member States committed to prepare, update or develop their NRISs. This took place after the Commission, through its Commissioner for Justice, Fundamental Rights and Citizenship, made a statement on the latest developments in the Roma situation, stating that discrimination on the basis of ethnic origin or race was not welcome in Europe. The Commissioner also indicated that the Commission was ready to launch infringement proceedings against one Member State (France) for having applied the free movement directive in a discriminatory fashion which was incompatible with the Charter of Fundamental Rights of the European Union. The European Council Conclusions of June 2011 noted the major importance of Roma inclusion and called on the rapid implementation of EPSCO conclusions as regards the preparation, updating or development of Member States' strategies.

25 Regulation (EU) No 437/2010 of the European Parliament and of the Council of 19 May 2010 amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of housing interventions in favour of marginalised communities (OJ L 132, 29.5.2010, p. 1).

26 COM(2011) 173 final.

27 Employment, Social Policy, Health and Consumer Affairs Council configuration.

33

This was the first EU initiative specifically concerning the Roma community, which included a follow-up mechanism. It proposed that each Member State draw up its own NRIS (see paragraph 41). This initiative provided a sound framework for fostering Roma inclusion and set out areas in which action should be taken and targets set. Specifically, it set out four key priority areas of intervention: education, employment, healthcare and housing. Member States were asked to set achievable goals in these areas.

34

The Member States were not asked to deal separately with anti-discrimination measures, or to establish associated targets. These were addressed as a cross-cutting theme in all of the other four areas²⁸ mentioned above; however, specific measurable indicators and targets on anti-discrimination were rarely set. This is a significant shortcoming of the existing policy framework, as it makes it difficult for the Commission to measure progress made.

Inclusion of the Roma population since 2011: from a policy-based approach to political commitment

Council recommendation dealing with Roma integration adopted in 2013

35

A 2013 Council recommendation²⁹ was the EU's first legal instrument dealing exclusively with Roma integration, reflecting a fundamental step forward in the EU's approach to Roma inclusion. Instead of persisting with a policy-based approach, the recommendation established the inclusion of the Roma population as a Member States' political commitment reflecting established provisions protecting human rights. The recommendation provides specific guidance to help Member States to improve and speed up work to promote Roma integration in the fields of education, employment, healthcare and housing. It also gives guidance on horizontal policy measures; these include guidance on tackling anti-discrimination. The recommendation also refers explicitly to anti-gypsyism, which refers to a specific form of racism fuelled by historical discrimination.

28 Equal treatment is horizontal principle of the EU Framework, which sees it as precondition for effective Roma inclusion. The EU Framework explicitly recognises that 'first of all, Member States need to ensure that Roma are not discriminated against but treated like any other EU citizens with equal access to all fundamental rights as enshrined in the EU Charter of Fundamental Rights', 'An EU Framework for National Roma Integration Strategies up to 2020', p. 2.

29 Council Recommendation of 9 December 2013 on effective Roma integration measures in the Member States.

Commission issuing country-specific recommendations (CSRs) on Roma inclusion since 2012

36

Since 2012, the Commission has issued country-specific recommendations (CSRs) on Roma inclusion. Since then, this kind of CSRs has been addressed to five Member States with large Roma minorities: Bulgaria, Hungary, Slovakia, Czech Republic and Romania. **Table 2** gives details of the subject of these CSRs addressed to each of these five Member States.

Table 2

Subject of Roma integration CSRs in the five Member States concerned

	2012	2013	2014	2015
Bulgaria	Roma integration in general	Education	Employment/Education	Education
Czech Republic	n/a	Education	Education	Education
Hungary	Roma integration in general	Poverty/Education	Poverty/Education	Education
Romania	n/a	Roma integration in general/ Education	Employment/Education	Education
Slovakia	Education	Education	Education	Education

Source: ECA, based on Commission data.

37

The Commission has also monitored closely the implementation of the two relevant directives³⁰ on equal treatment (**Table 3** contains more details about the implementation of the racial equality directive). It launched infringement proceedings against the Czech Republic in 2014 and Slovakia in 2015, in both cases due to the segregation of Roma pupils in the education system. The remaining cases do not relate specifically to Roma people. The Commission monitors as well the implementation of the 2008 framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law. Since 2014, this framework decision is enforceable.

30 Council Directive 2000/43/EC ('racial equality directive'), Council Directive 2000/78/EC ('employment equality directive').

Table 3

Monitoring of the implementation of the racial equality directive 2000/43/EC

Member State	Transposition		Infringement ¹	
	Deadline	Completed by deadline	Non-conformity of MS legislation with EU law	Incorrect application of EU law by MS
Belgium	19-Jul-03	√		
Bulgaria	1-Jan-07	√		Closed
Czech Republic	1-May-04	√	Closed	Open
Denmark	19-Jul-03	√	Closed	Closed
Germany	19-Jul-03	√		
Estonia	1-May-04	√	Closed	
Ireland	19-Jul-03	√		
Greece	19-Jul-03	√		
Spain	19-Jul-03	√	Closed	
France	19-Jul-03	√		
Croatia	1-Jul-13	√		
Italy	19-Jul-03	√		
Cyprus	1-May-04	√		
Latvia	1-May-04	√	Closed	
Lithuania	1-May-04	√	Closed	
Luxembourg	19-Jul-03	√		
Hungary	1-May-04	√	Closed	
Malta	1-May-04	√	Closed	
Netherlands	19-Jul-03	√	Closed	
Austria	19-Jul-03	√	Closed	
Poland	1-May-04	√	Closed	Closed
Portugal	19-Jul-03	√	Closed	
Romania	1-Jan-07	√	Closed	
Slovenia	1-May-04	√		Open
Slovakia	1-May-04	√	Closed	Open
Finland	19-Jul-03	√		Closed
Sweden	19-Jul-03	√	Closed	
United Kingdom	19-Jul-03	√	Closed	Closed

¹ Information as at December 2015.

Note: Only the cases of the Czech Republic and Slovakia are infringement procedures related specifically to Roma people.

Source: ECA, based on Commission data.

Guidance issued by the Commission and enhanced cooperation with the Council of Europe

38

Alongside these main initiatives, the Commission has issued many pieces of policy guidance on the use of funds for Roma inclusion. These include, among others, thematic guidance documents on Roma and on marginalised communities, document relating to the thematic *ex ante* conditionality on the integration of marginalised Roma communities and a guidance note for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation.

39

Moreover, in 2014, the Commission has issued a European Code of Conduct for Partnership, which stipulates that Member States should involve civil society organisations in partnership agreements and ensure that they play an active role in designing and implementing programmes supported by the ESIF³¹.

40

To increase the effectiveness of its work in the field of Roma integration, the Commission has also since 2011 worked more closely with the Council of Europe, an organisation with a great deal of experience in this area (see paragraph 13). In particular, the Commission has participated in meetings organised by the secretariat of the Council of Europe and in certain joint programmes with the Council of Europe (Romact³² and ROMED³³).

Progress at Member State level: National Roma integration strategies had been adopted, but some shortcomings remained

41

Member States were requested in 2011 to prepare national Roma integration strategies (NRIS) covering the period 2011-2020 or, if a strategy already existed, to adapt it to meet the EU's Roma integration goals. These strategies should set out targeted actions and information on the funding (national, EU and other) to deliver them. They should also propose solutions to address the current barriers to a more effective use of EU funds and lay the foundations of a robust monitoring mechanism to ensure concrete results for Roma.

31 Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds (OJ L 74, 14.3.2014, p. 1).

32 Romact aims to improve the responsiveness and accountability of local authorities, particularly elected officials and senior civil servants, towards marginalised Roma communities. It focuses on generating long-term sustained political commitment which will lead to sustainable plans and measures for Roma inclusion (see also <http://coe-romact.org/>).

33 ROMED consists of two phases. The first phase of ROMED has been leading an initiative aiming to train mediators in delivering quality mediation between Roma communities and local authorities. Since the programme started in 2011, over 1 300 mediators have been trained in 22 countries. The second phase of ROMED, which started in 2013, focuses on local contexts and in particular on how mediation can stimulate the participation of Roma communities for a more inclusive and democratic governance of selected municipalities in 11 country-members of the Council of Europe (see also <http://romed.coe-romact.org/>).

Observations

42

As regards these national strategies for Roma integration, we:

- examined the specific content of the NRISs of the visited Member States;
- checked whether relevant stakeholders had been identified for the implementation of the NRIS and what the role of the national Roma contact points (NRCPs) was in this context;
- assessed the monitoring arrangements in relation to their implementation; and
- reviewed how the Commission assessed the Member States' reports on implementation of their NRIS.

National Roma integration strategies (NRISs)

National Roma integration strategies adopted by all Member States visited

43

After the Commission issued its communication asking Member States to adopt a NRIS, all Member States³⁴ did so. Some Member States opted for an integrated set of policy measures for the purpose of Roma integration, which we considered to be the equivalent of a NRIS. NRISs were followed by action plans in all four visited Member States. They also each set up a national Roma contact point.

44

The Commission did not stipulate that anti-discrimination should be included among the key priority areas in NRISs. However, the NRISs of Bulgaria, Hungary³⁵ and Spain went beyond the four main prescribed areas of education, employment, healthcare and housing: they included a chapter dealing specifically with anti-discrimination. Romania's NRIS referred also to anti-discrimination but only indirectly, when discussing the four main prescribed areas. Of the four selected Member States, only Bulgaria and Hungary had set any targets concerning anti-discrimination.

34 Apart from Malta which states that it has no Roma population.

35 National Social Inclusion Strategy-Extreme poverty, child poverty, the Roma (NSIS), as in Hungary the strategy was not only for Roma. For the sake of clarity, it will be referred hereafter as NRIS.

45

Three of the four NRISs included targets concerning education, employment, healthcare and housing. The fourth one, Hungary's NRIS, included general targets, but there were no quantified target values associated with them, and not all targets referred specifically to the Roma population, such as in the field of housing. While the strategy provided relevant information on the situation of the Roma population in Hungary, this was not used to formulate Roma-specific indicators or baseline values in the NRIS. The NRIS of Romania included baseline values only for certain indicators. This made it difficult to evaluate the results achieved under these NRISs, since the starting point was unknown.

All national Roma integration strategies refer to the 10 common basic principles (CBP) on Roma inclusion

46

All strategies either directly (Bulgaria, Hungary and Spain) or indirectly (Romania) referred to the 10 common basic principles (CBP) on Roma inclusion (see paragraph 23 and **Figure 2**). We found, however, that the Member States had not always applied the 10 CBPs when they were drafting the strategies themselves:

- in the case of Spain and Bulgaria, written evidence was provided on the consultation of civil society organisations and the feedback provided by the national authorities on the NGOs contribution,
- in the case of Romania and Hungary, CBP 9, concerning the involvement of civil society, and CBP 10, concerning the active participation of Roma people in policymaking, had only partially been followed:
 - In Romania, a consultation process took also place prior to the adoption of the NRIS, with several meetings being organised, but civil society organisations questioned the transparency and the number of these. They also stated they had not been informed on how their contributions had been taken on board. We found no evidence on whether and how the Romanian authorities took into account the NGOs contributions.
 - In Hungary, there was little evidence on how the NRIS consultation process had been carried out, and the updated version of the NRIS included no information about whether or how the comments from the different stakeholders had been taken into account. No consultation had taken place concerning the action plan. In addition, two civil society organisations had been appointed to implement the most important measures of the NRIS alongside public authorities. This had the effect of crowding out other civil society organisations.

Observations

National Roma integration strategies do not specify the financial support available in the Member States for measures supporting Roma inclusion

47

Our analysis showed that the NRISs of Bulgaria, Hungary and Spain contained no information on the financial allocations available for Roma-related measures, be it either under the national budget or from the ERDF or ESF OPs co-financed from the EU budget. In the case of Bulgaria, the NRIS stated that the EU funds were the main source of financing for projects implementing the NRIS. Only in Romania was a budget provided, though it contained some inconsistencies: the ERDF was not mentioned in the NRIS as a source of funding, even though it had been used as such since the ERDF was amended in 2010, before the NRIS was even adopted³⁶. The absence of information on the financial means available to tackle the issues related to Roma inclusion makes it difficult to assess whether the Member States' strategies were realistic from the start.

Assignment of responsibilities for the implementation of the NRISs: the role of the national Roma contact points (NRCs)

48

All Member States covered by our analysis had set up and defined the responsibilities of NRCs in accordance with the requirements of the Commission's communication of 2011. The NRCs are responsible for coordinating the development and implementation of the NRIS. They monitor progress made under the NRIS and share this information with the Commission³⁷. However, NRCs' powers are limited. The assignment of operational responsibilities to national ministries meant that the NRCs from the selected Member States had no powers in the areas of employment, education, housing or health. The NRCs also had no power to decide how financial resources were allocated to integration programmes.

49

The size, structure and responsibilities of the nine selected NRCs varied widely. Several NRCs had already existed under a different name before the concept of an NRC was introduced by the Commission; some had then been assigned further responsibilities without being provided with any additional resources³⁸. The capacity of the Bulgarian NRC was insufficient, as described in paragraph 50.

36 Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 (OJ L 210, 31.7.2006, p. 1).

37 COM(2011) 173 final, p. 9.

38 E.g. the Spanish NRC recognised in the 2014 annual report to the Commission the challenge of allocating more resources to the NRC in order to ensure an adequate implementation of the NRIS.

50

However, we identified two shortcomings in terms of assigning responsibility for implementing the NRIS. First, poor cooperation was found in Romania and Spain. Second, a mismatch between responsibilities and resources was found in Bulgaria and Spain:

- In Romania, we observed that poor cooperation between the National Agency for Roma and various government ministries in the provision of data was jeopardising the proper monitoring of the NRIS. Similarly, in Spain, we observed that the existing coordinating bodies (such as the Group on Technical Cooperation) were not effective in providing reliable data and coordinating policies, showing a need for better coordination in order to ensure that the NRIS is implemented properly. Both of these examples of poor coordination hampered the collection of reliable data, making it harder to monitor the implementation of the NRIS.
- In Bulgaria, low levels of powers and resources were made available to the Bulgarian NRCP, despite it being one of the main bodies in charge of implementing and monitoring the NRIS. Several non-profit organisations in Bulgaria drew attention to a lack of political will³⁹. A similar problem was identified by the Spanish NRCP in its 2014 progress report.

Shortcomings in monitoring the progress of the national Roma integration strategies

51

We found that monitoring and assessing the progress of the NRIS was a significant challenge for all visited Member States (see also paragraph 74):

- In Bulgaria, no specific monitoring and accountability procedures were provided for in the NRIS. Moreover, not all measures had quantifiable targets.
- In Hungary, although an indicator system for the programme monitoring had been developed, the data it contained had not been updated since 2012.
- In Romania, the monitoring process was significantly weakened by the absence of information on the indicators set out in the NRIS and by a lack of structured financial data concerning the implementation process. Monitoring reports did not mention the targets set or the degree to which they had been achieved, making it difficult to assess how effectively they had been implemented.
- In Spain, the 2014-2016 action plan only included a description of the actions for 2014. Actions for 2015 were not drawn up until mid-2015, which hindered the planning process for that year.

³⁹ Civil Society Monitoring Report on the implementation of NRIS and Decade Action Plan 2012 in Bulgaria, p. 9.

Commission's assessment on the implementation of the NRISs

52

The European Commission assessed these national strategies, identifying their weaknesses, and in May 2012 published its conclusions in a communication (National Roma Integration Strategies: a first step in the implementation of the EU Framework). The Commission began in 2013 to carry out a yearly assessment of how successfully NRISs were being implemented. This yearly assessment contains details of overall shortcomings that need to be addressed. The main conclusions of the last years' assessments referred to the fact that the necessary preconditions for implementing the strategies successfully were still not in place, rendering the implementation of the NRISs slow. In particular, the following elements were missing: concrete targets and corresponding measures to tackle segregation of Roma children in the educational system, a clearer timeframe for implementation and a clearer financial allocation, as well as measures to fight discrimination and racism towards the Roma people.

53

Since then, Member States have made some progress in implementing their NRISs. But the Commission's 2015 report showed that certain shortcomings that had existed at least since 2012 had still not been resolved in 2014: certain necessary conditions for implementing the strategies successfully were still not in place. This confirmed the observations we made in the four selected Member States.

54

For example, the goal of tackling the segregation of Roma children in the educational system was set out in the strategies, but the insufficient number of measures and targets which had been introduced made it difficult to achieve. Where such measures did exist, the timeframe for their implementation was unclear, as were the budgetary arrangements. These shortcomings have slowed down the implementation of the NRIS. In Bulgaria, the progress report also referred to the lack of political will and the need to improve anti-discrimination measures.

55

Such shortcomings, in particular the issue of segregation in education, have been included in country-specific recommendations issued to several Member States. In the case of the Czech Republic and Slovakia, the Commission even initiated infringement procedures on these grounds against the Member States (see paragraph 37).

56

At the start of the 2014-2020 programme period the Commission checked whether these elements had been addressed in the Partnership Agreements. It has made use of its advisory role in the Monitoring Committee meetings of the OPs we assessed for the 2014-2020 programme period to also point out the relevance of the Roma-related CSRs for the relevant OPs.

More attention given to Roma integration measures in the 2014-2020 period as compared to 2007-2013 in the field of cohesion policy

57

We analysed whether Roma integration had been clearly referred to in the 2007-2013 Cohesion policy framework. We also checked how Member States receiving ERDF and ESF co-financing for Roma integration initiatives ensured that the initiatives developed at EU level were incorporated into relevant national strategies and OPs.

58

For the 2014-2020 programme period, we assessed whether Roma integration had been clearly referred to in the ESIF legal framework and whether the Commission tackled the shortcomings which had arisen in the 2007-2013 programme period. For both periods, we examined whether the Commission and the Member States had set up an effective monitoring system in the field of Roma integration.

Despite the lack of mention of Roma integration in the legal framework for 2007-2013, the selected Member States referred to Roma integration in their OPs

The 2007-2013 OPs examined made reference to Roma integration in general terms

59

When the Cohesion policy framework for the 2007-2013 programme period was being drafted, Roma integration had not yet been identified as a specific EU-level priority. The word 'Roma' did not appear at all in the 2007-2013 regulations. Nevertheless, all four visited Member States had at least one existing regional or national Roma integration strategy or an equivalent programme. They all addressed Roma integration in at least some of their OPs, in the ways described in **Table 4**.

Table 4

Reference to Roma inclusion in the 2007-2013 ERDF and ESF OPs

	Specific target group	Specific indicators	References to the Roma community	
			in measures aimed at vulnerable groups	in measures aimed at helping the least developed areas
Bulgaria	X	X	X	
Spain	X		X	
Hungary		X	X	X
Romania		X	X	

Source: ECA, based on Commission data.

60

Despite the change to the ERDF regulation in 2010, most measures in our sample which were relevant to marginalised Roma were co-financed under the ESF (see paragraph 30). A high proportion of them (7 out of 17) were employment-related measures (see **Table 5**). This can be explained by the fact that Article 162 of the TFEU implies that ESF projects and measures must have a link to employment. The ESF regulation, on the other hand, allows, and even encourages social inclusion measures to be funded. This does not provide authorities with legal certainty that ESF funding can be used for any social inclusion measures irrespective of a link to employment.

Table 5

Fields of action of examined projects

Bulgaria	ESF				ERDF
	Project 1	Project 2	Project 3	Project 4	Project 5
Education		√			
Employment			√		
Health				√	
Social inclusion	√				
Social infrastructure					√

Hungary	ESF				
	Project 6	Project 7	Project 8	Project 9	Project 10
Education					√
Employment	√	√			
Health					
Social inclusion			√	√	
Social infrastructure					

Romania	ESF				ERDF
	Project 11	Project 12	Project 13	Project 14	Project 15
Education			√		
Employment	√				
Health		√			
Social inclusion				√	
Social infrastructure					√

Spain	ESF (Fight against Discrimination OP)		ESF (Andalusia OP)	
	Project 16	Project 17	Project 18	Project 19
Education		√		
Employment	√		√	√
Health				
Social inclusion				
Social infrastructure				

Note: Relevant ERDF-funded social infrastructure projects in Hungary were implemented but were not selected for audit because they had not been completed by 2013.

Source: ECA.

Limited reference to Roma integration strategies and few number of Roma-specific indicators in the 2007-2013 ERDF and ESF OPs

61

However, only one of the seven 2007-2013 ERDF and ESF OPs examined referred to the NRIS and three OPs set out Roma-specific indicators:

- The OP for the development of Human Resources (POSDRU) in Romania explicitly referred to the Roma integration strategy in place when the OP entered into force. Implementing this integration strategy was one of the OP's stated objectives. Although this OP was not specifically targeted at the Roma community, it did also include an output indicator and a result indicator specifically referring to Roma people.
- The Bulgarian ESF OP which we selected also included Roma-related output and result indicators for certain measures.
- The Hungarian OP we selected included one Roma-specific indicator which was not directly related to a specific measure.

The remaining four selected OPs did not have any Roma-specific indicators.

No information on the financial support for Roma integration specified in the 2007-2013 OPs examined

62

ESF funding was provided according to priority themes: objectives to which the ESF aimed to contribute. Roma integration initiatives were most likely to contribute to the objectives of the ESF priority themes for social inclusion⁴⁰. Over the 7-year programme period, 11.5 billion euros were initially allocated (of EU and national funds) to social inclusion measures in ESF OPs with dedicated Social Inclusion Priority Axes. However, no financial information was available on which proportion of this funding was devoted to the integration of marginalised Roma communities. In addition, Roma inclusion initiatives were also able to access funding under other, more general, priority themes, such as those concerning education and employment.

40 Increasing the adaptability of workers and firms, enterprises and entrepreneurs, improving access to employment and sustainability, improving the social inclusion of less-favoured persons, improving human capital.

63

ERDF funding was also provided according to other priority themes, of which the most relevant to Roma integration was 'Social infrastructure'⁴¹. A total 18.6 billion euros of funding was allocated under this priority theme. This consisted mostly of mainstream support which was not targeted at a specific group, as explained in **Box 4**.

41 This encompasses the following investment categories: education, health, childcare, housing and other social infrastructure.

Box 4

Mainstream and targeted support: complementary approaches to Roma inclusion

Mainstream support refers to policies addressed to the general public, with no distinction being made between recipients on the grounds of race, ethnic origin, or other irrelevant factors.

Targeted support refers to policies aimed explicitly but not necessarily exclusively at one or several specific target groups, such as a specific minority group.

Experience shows that Roma people are more likely to integrate successfully into society if they can also access support under mainstream initiatives which do not target them exclusively. There is no single model for administering this: a tailor-made approach needs to be used which takes into account local circumstances⁴².

42 'How to mainstream Roma inclusion in general programmes, projects and interventions', Reinforcing Policy Learning for Roma Inclusion, European Social Fund (ESF) Learning Network.

64

Until the ERDF regulation was amended in 2010, the ERDF was unable to provide support targeted at specific groups, with the exception of Member States that acceded to the EU on or after 1 May 2004 and in certain circumstances. Since this amendment, a total of 80 million euros has been allocated to integrated housing schemes targeting marginalised communities, including Roma people, across eight Member States⁴³.

43 Bulgaria, Czech Republic, Greece, France, Italy, Hungary, Romania and Slovakia.

65

Our analysis also showed that many Member States did not collect ethnicity data and were consequently unable to determine the size of the Roma population in a given geographical area and to assess the specific difficulties faced by this group. This may have contributed to the difficulties in determining the necessary level of funding for Roma integration.

Greater focus on Roma issues at EU level was reflected in the ESIF framework for 2014-2020

Better alignment of ESIF financial support with the EU's 2020 Strategy and the Commission's country-specific recommendations (CSRs)

66

The ESIF regulations⁴⁴ (i.e. the common provision regulation, the ERDF regulation and the ESF regulation) stipulate that the ESIF must provide support that is consistent with the EU's 2020 Strategy for Smart, Sustainable and Inclusive Growth and with relevant country-specific recommendations (CSRs).

67

The Partnership Agreements in three of the four Member States visited (Bulgaria, Hungary and Romania) made reference to the specific CSRs concerning the Roma community issued since 2012. This was also the case in Slovakia. For Spain, no such CSR was issued.

68

The CSRs regarding Roma integration have mainly concerned education (see also paragraph 36 and **Table 2**). When the OPs were being drawn up, the Member States which had received a CSR on this subject were encouraged by the Commission to use EU funds to carry out reforms of their mainstream education policies to ensure that Roma people had equal access to the education system. In Hungary, though, the education desegregation measures included in the OPs for the 2014-2020 programme period which we examined were insufficiently detailed. We therefore doubt that Hungary will be successful in tackling the segregation which remains in its education system with the help of the ESIF (see **Box 5**).

44 Article 4(1) in all three regulations.

Box 5

Lack of desegregation measures in the field of education in ESIF framework in Hungary

Hungary's 2007-2013 'Social Renewal' OP, priority 3 of which dealt with education, used the number of active local educational desegregation programmes as an indicator. 'Desegregation' was an indirect reference to the Roma target group. The indicator was aimed at disadvantaged regions and areas, with a target value of 100 implemented programmes by 2013 (the 2007 baseline figure was 2).

However, this indicator was not included in the last modified version of the OP. Consequently, it was not measured and will also not be measured at the end of the programme period. There is also no detailed description of what education desegregation measures Hungary intends to carry out in the 2014-2020 programme period. This shows a lack of commitment to addressing the issue of segregation in education using the Structural Funds.

Specific investment priority for marginalised communities (such as Roma) in 12 EU Member States

69

The ESIF framework 2014-2020 also puts greater emphasis on ensuring that the objectives of OPs co-financed under the ESIF are consistent with EU priorities. It includes a specific investment priority for ESF OPs, which explicitly mentions the Roma people. This investment priority (IP 9(ii) 'Integration of marginalised communities such as the Roma') provided a link between policy priorities as reflected in the CSRs and EU funding priorities, as well as providing a dedicated way to earmark funds for this purpose.

70

Moreover, one of the *ex ante* conditionalities⁴⁵ (EACs), i.e. the criteria which it sets for co-financing, refers specifically to that investment priority, thus ensuring that proper attention is paid to it in OPs. The Roma integration EAC for IP 9(ii) is: '[...] a national Roma inclusion strategic policy framework is in place'.

45 Article 2(33) of Regulation (EU) No 1303/2013: 'applicable *ex ante* conditionality' means a concrete and precisely predefined critical factor, which is a prerequisite for and has a direct and genuine link to, and direct impact on, the effective and efficient achievement of a specific objective for an investment priority or a Union priority' (OJ L 347, 20.12.2013, p. 320).

Observations

71

All five Member States (Bulgaria, Czech Republic, Hungary, Romania and Slovakia) which had received CSRs concerning Roma inclusion had included IP 9(ii) in at least one of their OPs for 2014-2020 (see **Table 6**). These five Member States had previously included proposals in their partnership agreements about ways to use EU funds to promote Roma inclusion.

72

Another seven Member States (Belgium, Greece, Spain, France, Italy, Austria and Poland) had also included IP 9(ii) in at least one OP. In other words, 12 Member States which are collectively home to more than 90 % of the EU's estimated Roma population had included IP 9(ii) in at least one OP. As **Table 6** shows, 1.5 billion euros has been allocated to IP 9(ii) for the 2014-2020 programme period.

Table 6

Amounts made available to Member States under investment priority 9(ii) 'Integration of marginalised communities such as the Roma' for the 2014-2020 programme period

Member State	Amount (million euro)	Proportion of Member State's total ESF funding	Proportion of total funding under IP 9 (ii)
Hungary ¹	470	10.0 %	85 %
Romania ¹	372	7.8 %	
Czech Republic ¹	200	5.8 %	
Bulgaria ¹	143	9.4 %	
Slovakia ¹	99	4.6 %	
Greece	73	2.0 %	15 %
Italy	71	0.7 %	
Spain	48	0.6 %	
Poland	19	0.1 %	
Belgium	10	1.0 %	
France	8	0.1 %	
Austria	4	0.9 %	
Total	1 518	n/a	100 %

1 Member States with country-specific recommendations regarding Roma.

Source: ECA, based on Commission data.

73

In these Member States, though, not all OPs which covered geographical areas with large Roma populations included IP 9(ii), or any indicators relevant to it. This was also true of some OPs which had allocated significant amounts to the main areas relevant for the integration of the Roma population. Two examples of this are the regional OP for Andalusia, where almost 50 % of the Spanish Roma population live, and the ESF OP 'Economic Development and Innovation' in Hungary under which many employability measures will be implemented.

74

Four Member States (Bulgaria, Czech Republic, Greece and Slovakia) had only partially met, at the time of the audit, the EACs applicable to IP 9(ii) which had been set in the common provisions regulation, mostly due to the fact that they had no proper monitoring tools or methodology for implementing their NRISs (see paragraph 51). Croatia, Italy, Hungary and Slovakia had not met the general EAC concerning anti-discrimination. All of these Member States subsequently submitted action plans to the Commission explaining how they intended to meet these EACs. The Commission then assessed their content. From the information received the Commission concluded that Hungary had fulfilled the criteria on anti-discrimination and that Slovakia had met the EAC regarding IP 9(ii) on the basis of the action plan they submitted.

75

Although IP 9(ii) is a helpful innovation, the ESIF are currently managed in a way that ignores differences between Member States in the current situation of the Roma population. ESIF funds are allocated among the Member States according to indicators with no specific relevance to the Roma population, such as overall population, unemployment rate or GDP. In our opinion, these indicators are not the most appropriate way of determining how much EU funding for Roma integration should be allocated to each Member State.

Integrated approach to provide financial support to Roma integration also used by all four Member States visited

76

Using an integrated approach has a positive effect on efforts to encourage Roma integration using the ESIF. All four selected Member States had used an integrated approach — addressing several different fields simultaneously⁴⁶ — in at least one of their OPs with single or multi-fund⁴⁷ OPs. In this respect, on the one hand, Romania provided a good example (see **Box 6**). On the other hand, in Spain the lack of arrangements defining an integrated approach in the regional OP for Andalusia was a missed opportunity.

46 For Roma integration, the relevant fields are housing; education; health; social affairs; employment and security; and desegregation measures.

47 Hungary.

Box 6

A good example of an integrated approach — a joint selection committee in Romania

In order to make better use of the Structural Funds, Romania used an integrated approach with two OPs (the Human Capital ESF OP and the Regional ERDF OP). One of these OPs drew co-financing from the ERDF, and the other from the ESF. Both OPs shared a common priority axis. Romania also set up a joint selection committee in which the managing authorities of the two OPs were represented, as well as three other common bodies, including the NRCP and the national anti-discrimination council. Common calls for proposals were issued for both OPs, with the same eligibility conditions and in the same areas of action. The OPs also provided complementary co-financing (i.e. using ERDF and ESF for different project activities which are carried out in a related or consecutive manner).

Funding devoted to anti-discrimination measures

77

Article 8 of the ESF regulation states that Member States should use the ESF to support initiatives with the specific objective of combating discrimination. ESF investment priority 9(iii) 'Combating all forms of discrimination and promoting equal opportunities' (IP 9(iii)) is used to provide support to such initiatives.

78

Eleven Member States included IP 9(iii) in at least one of their OPs for the 2014-2020 programme period. The total amount of funding which had been allocated under IP 9(iii) was 414 million euros (see **Table 7**).

Table 7 Amounts allocated under IP 9(iii) 'Combating all forms of discrimination and promoting equal opportunities' per Member State

Member State	Amount (million euro)	Proportion of Member State's total ESF funding	Proportion of total funding under IP 9.3
Spain	145	1.9 %	91 %
Greece	99	2.7 %	
Portugal	51	0.7 %	
Slovakia ¹	40	1.8 %	
Czech Republic ¹	22	0.6 %	
Poland	19	0.1 %	
Cyprus	14	10.8 %	9 %
Ireland	11	2.0 %	
France	8	0.1 %	
Belgium	4	0.4 %	
Germany	1	0.0 %	
Total	414	n/a	100 %

1 Member States with country-specific recommendations regarding Roma.

Source: ECA, based on Commission data.

79

Of the four Member States which we examined, Spain had included IP 9(iii) in seven of its OPs. The Czech Republic and Slovakia, both of which were subject to infringement proceedings due to the segregation of Roma pupils in the education system (see paragraph 37), had each included IP 9(iii) in one OP. Bulgaria, Hungary and Romania had not included it in any. This is a missed opportunity to support anti-discrimination measures that could be integrated with measures under IP 9(ii), hence enhancing the chances for initiatives on Roma inclusion to be more effective, since the lack of anti-discrimination measures is considered as one of the main reasons why Roma inclusion measures can fail.

Significant amounts of funding have been devoted to education, employment and social inclusion measures

80

The ESIF framework also earmarks significant amounts of money for mainstream social inclusion measures; experience shows that these are a crucial tool for successfully promoting Roma integration, as the recognised 'Spanish model of Roma inclusion' can prove⁴⁸. According to information published by the Commission in February 2016, 100 billion euros of ERDF and ESF funding have been allocated to education, employment and social inclusion measures for the 2014-2020 period⁴⁹.

81

The five Member States which have been the subject of specific CSRs regarding Roma inclusion (Bulgaria, Czech Republic, Hungary, Romania and Slovakia) account for around one fifth of this total, i.e. around 20 billion euros. The estimated share of marginalised Roma among different target populations (e.g. people at risk of poverty and social exclusion) implies that, if equal access is provided, around 500 million euros per year could benefit Roma people of target populations under mainstream ESIF-supported programmes in these countries⁵⁰. For this same period and the same five Member States, 183 million euros per year will be made available under IP 9(ii) (i.e. targeted initiatives). This demonstrates the importance of using mainstream policies effectively for Roma inclusion initiatives.

New tools for improving consultations and cooperation between public authorities and civil society organisations

82

The most important tool for encouraging the involvement of civil society organisation in ESIF's planning and implementation process is the European Code of Conduct on Partnership⁵¹. This document contains guidelines helping Member States to establish ESIF partnership agreements and OPs. These guidelines include a recommendation to use transparent procedures for finding potential partners and working with them. They also stipulate that calls for proposals, progress reports, and programme monitoring and evaluation procedures should be transparent. The guidelines include a number of good practices concerning the rules of membership of partnerships and the internal procedures of monitoring committees.

48 Rodríguez Cabrero, G. 'Promoting Social Inclusion of Roma. A Study of National Policies. Spain', Universidad de Alcalá on behalf of the EC, DG Employment, Social Affairs and Inclusion, July 2011.

49 Of this, 33 billion euros are estimated to be allocated to education measures, 34 billion euros to employment measures and 33 billion euros to social inclusion measures.

50 Adam Kullmann: Litmus Test of Effective Use of Structural Funds, Supporting Structural Reforms of Basic Public Services to Promote Roma Inclusion, EStf, 2015, p. 231.

51 Commission Delegated Regulation (EU) No 240/2014.

83

From the OPs selected for the 2014-2020 period, which included IP 9(ii), monitoring committee meetings had been organised for seven of the nine OPs. In total, 14 meetings had taken place and in 10 of them Roma representatives were present in the meetings. In all monitoring committee meetings of the ESF OPs (except for one case in Hungary⁵²) there was a Roma organisation representative and, in the case of Bulgaria, also the NRCP.

OP-level monitoring tools at disposal during the 2007-2013 programme period were ill-suited for measuring the performance of Roma integration measures

Monitoring systems provided an inadequate basis for reporting on Roma integration during the 2007-2013 programme period

Limitations for public authorities to collect data on ethnicity in some Member States

84

In some Member States, there are constitutional limitations on the collection of data by public authorities (see two examples in **Box 7**). This makes it more difficult to monitor Roma-specific indicators.

52 In the case of Hungary where no Roma representative was present at the monitoring committee meeting, this absence and the need to have one, was discussed during the meeting.

Box 7

Gathering data on ethnicity: legal difficulties

Germany has not collected any socioeconomic and population statistics on the basis of ethnic origin since the end of the Second World War: its NRCP has confirmed that no specific figures are known for any national minority.

French law specifically forbids the state from collecting personal ethnicity data.

85

Nevertheless, Directive 95/46/EC on the processing of personal data and on the free movement of such data, and Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data stipulate a number of exceptions to the prohibition of processing of personal data revealing racial or ethnic origin, in particular ‘when the data subject has given his or her express consent to the processing of those data’. Such provisions remain in the draft general data protection regulation⁵³.

86

The Fundamental Rights Agency considers that the European Data Protection Supervisor and these EU’s data protection legal provisions provide adequate regulation for processing personal and sensitive data. Moreover, during our audit, several bodies (including the Commission, the FRA and the EURoma network) have confirmed that processing disaggregated data pertaining to ethnicity is not unlawful in any EU Member State⁵⁴. It was also pointed out to us that, in cases where it genuinely is difficult to collect the data on the ethnicity of participants, practical alternatives exist, such as the use of anonymous surveys where randomly selected respondents are asked to self-identify on the basis of unambiguous consent.

87

However, even if ethnicity data can lawfully be collected, there is no guarantee that it will be reliable or useful. In Romania, for example, information on ethnicity was collected in the census. But this data was not used for the purposes of Romania’s NRIS, the Romanian authorities relying instead on estimates made by the Council of Europe. This indicated that the Member State’s knowledge of its own Roma population was unreliable.

53 In January 2012, the Commission proposed a comprehensive reform of the EU data protection rules, the central element of which is a general data protection regulation. On 18 December 2015, the Committee of Permanent Representatives endorsed the regulation; and on 12 February 2016, the Council confirmed this agreement. The general data protection regulation shall apply from 25 May 2018. One distinction between the directive and the regulation on the issue of sensitive data is that the latter expands the definition of sensitive data to include genetic data, biometric data and data concerning sexual orientation. A second distinction is the disappearance of the term ‘substantial public interest’. The regulation refers to the exemption of data processing necessary to ‘the performance of a task carried out in the public interest’ and makes the link to the provision of ‘suitable measures to safeguard the data subject’s legitimate interests’.

54 Fundación Secretariado Gitano, Technical secretariat of the EURoma network, ‘Tackling Roma Needs in the 2014-2020 Structural Funds Programming Period - Guide to improve the planning process’, May 2013, p. 65.

Data on ethnicity of participants collected at project level, but not passed on to the OP monitoring system

88

At project level, however, we found that a number of the promoters in all four Member States visited during the audit collected data on the ethnicity of participants, but this data was not passed on to managing authorities or intermediate bodies (see also paragraph 118). This meant that Roma-related data which was available at project level did not reach the OP monitoring system.

89

For example, this was the case in Spain. The intermediate body of the regional OP for Andalusia was not even aware of which projects had addressed Roma people, although this information was available at project level. The intermediate body was only able to provide us with a list of projects which had targeted disadvantaged groups in general, whether or not there had been any Roma participants. This was similar in Hungary.

OP monitoring in three out of four Member States hampered by inconsistencies in defining and recording indicators at project level

90

Moreover, OP monitoring in three out of four Member States visited (Bulgaria, Hungary and Romania) was hampered by inconsistencies in defining and recording indicators at project level. In Romania, the existence of three types of indicators (programme, supplementary and additional indicators) at the time the projects were implemented, together with the lack of obligation to report on any of them, made the monitoring process unnecessarily complicated and produced results which were difficult to compare.

91

In Hungary, four of the five examined projects mentioned in **Annex II** did not report formally on the attainment of results targets, since the project included no results targets (results targets had in fact been set, but they were erroneously classified as output targets and were consequently not reported as results).

Efforts to improve monitoring have been made for the 2014-2020 programme period, but certain limitations remain

92

Monitoring Roma integration remains a challenge for the period 2014-2020. One element that might help measure progress of Roma integration measures is the availability of common indicators; each fund has specific rules setting out common indicators which must be used in all programmes financed under it. Annex 1 of the ESF regulation, for example, specifies a number of standardised indicators which are relevant to Roma integration programmes:

- A common output indicator 15: 'Migrants, people with a foreign background, minorities (including marginalised communities such as the Roma)';
- A common immediate result indicator 28: 'Disadvantaged participants engaged in job searching, in education/training, gaining a qualification or in employment, including self-employment, upon leaving';
- A common longer-term result indicator 32: 'Disadvantaged participants in employment, including self-employment, 6 months after leaving'.

These indicators can be complemented with relevant programme-specific indicators.

93

However, unless specific Roma-related indicators are specified, these common indicators will not provide an effective basis for monitoring Roma integration initiatives. In addition, weaknesses in monitoring tools persist, and even led to the associated EAC being only partially fulfilled (see paragraph 74). This demonstrates how difficult it is to carry out accurate monitoring in the field of Roma integration.

94

To alleviate these difficulties, the Commission asked the Fundamental Rights Agency⁵⁵ to set up a working group on indicators to be used in connection with Roma integration. As planned, the indicators were set up by 1 January 2016; this may enable an agreement to be reached with the NRCPs (which all participated in the working group) on using a comparable reporting structure throughout all participating Member States. It can also allow the impact of the ESIF on the implementation of the NRIS to be measured to a certain extent, especially in Member States which have aligned the ESIF measures and indicators to those of the NRIS, such as Greece and Slovakia (see **Box 8**). At March 2016, according to the Commission, 21 Member States accepted to test these indicators, but it is not yet clear whether the Commission will be successful in brokering an agreement to this effect between all Member States, since there is no requirement for Member States to make any changes to the system they use.

55 Mandate set in the Commission's communication on an EU framework for national Roma integration strategies (COM (2011) 173 final).

Box 8

Improving the monitoring of Roma inclusion initiatives — a good example of aligning the monitoring of OPs with NRISs

The Commission recommended to Slovakia that funds from its OP Human Resources (OP HR) be used for implementing measures adopted in the NRIS up to 2020. The Slovak NRCP, which took part in all technical and formal meetings with the Commission, contributed to the conception of all measures under OP HR that focused specifically on marginalised Roma communities. These measures are consistent with the objectives of the NRIS; this will make it easier to measure progress made towards achieving the NRIS targets, as they have been reflected in the OP itself. Subsequently, the Monitoring and Assessment project Slovakia has put in place will be used to monitor the implementation of the NRIS, as well as the implementation of measures within OP HR.

Most projects were carried out as planned, but 'best practice' criteria contributing to successful Roma inclusion were not always applied and monitoring project performance was difficult

95

During this audit we also visited 19 projects for Roma integration, looking at how they had been prepared, selected and implemented, and how their results had been monitored (if at all). All examined projects were carried out under the 2007-2013 programme period. For each of these projects we examined whether:

- the selection procedures were in line with the specific Roma integration objectives and priorities defined in the OP;
- the projects had been implemented according to plan;
- the projects delivered their expected results;
- monitoring arrangements were in place in order to monitor the results achieved by the projects regarding Roma inclusion.

All projects examined were in line with OP objectives, but selection procedures did not specifically aim to select Roma inclusion-related projects

Selection procedures for some OPs not geared towards Roma inclusion-related projects

96

The selection procedures for all OPs examined in the four Member States ensured that each project was in line with the relevant OP objectives. Of the 16 calls for proposals⁵⁶ which we assessed, nine explicitly referred to Roma people as a target group: three of five in Bulgaria, the two in Spain, three of five in Hungary and one of four in Romania. The other seven were aimed at disadvantaged groups in general. Part of one further Spanish OP was designed around a link with Roma people. This explains why the application documents of some of the examined projects did not always contain references to the Roma population: they often addressed a wider group, such as vulnerable groups in general, in line with the OP objectives.

56 The 19 projects were selected through these 16 calls for proposals.

97

Evaluators generally had no specific experience of Roma inclusion issues. Instead, they tended to have knowledge of social inclusion in general. The OP 'Fight against Discrimination' in Spain was an exception; here, the evaluators had specific knowledge on Roma inclusion.

Roma-specific indicators to monitor project performance not systematically required

98

Our analysis showed that there was also some confusion about the way to set out indicators for monitoring the project performance. In Hungary, result targets (such as 'finding a job within 6 months after having taken part in a project') were not always required in calls for proposals. In Spain, result-based targets were also not compulsory. In three cases in Bulgaria, output targets had occasionally been wrongly categorised as result targets in the project application, and this had not been corrected during the selection process (see also paragraph 118).

99

In cases where they were required, result targets did not always refer explicitly to the Roma population. Instead, they referred to a wider group, such as 'vulnerable groups'. This was seen in an ERDF OP in Bulgaria and ESF OPs in Hungary and Andalusia.

Relevant stakeholder groups not always appropriately involved

100

The involvement of all relevant stakeholders, either in the preparation of the project or as project partners, contributes significantly to the success and sustainability of projects. However, project selection procedures generally failed to incentivise such wide involvement. Within our sample, this problem affected in particular social housing projects in Bulgaria. Local residents were not involved in the project, and no awareness-raising campaigns were carried out; this led to the social rejection of project proposals.

Observations

Projects were generally carried out according to plan

14 out of 19 projects examined had achieved their objectives in terms of outputs, budget, timing and scope

101

In terms of outputs, budget, timing and scope, 14 of the 19 examined projects had met the objectives set out in the grant agreement. Four projects had not been carried out as planned, due to delays (two projects in Bulgaria) or changes in the scope of projects (one project in Bulgaria and another project in Romania). For another project in Hungary, both the indicators and the information available were so complex that it was not possible to reconcile them and assess whether output targets had been attained. The number of Roma participants had been recorded as an output for all but two of the examined projects.

Picture 1

An IT room for users of a social services centre in Baia Mare (Romania)



Source: ECA.

10 out of 13 projects for which monitoring data was available had also met their results targets

102

For 17 of the 19 examined projects, results targets had been set, though they did not necessarily refer to the Roma population specifically. These targets were only monitored in 13 cases. Ten of these 13 projects had generally achieved their objectives. Specific targets concerning the Roma population had been set for four of the 17 projects with results targets. Three of these four projects had achieved their targets (one in Bulgaria, two in Romania and one in Spain).

Indication that better consideration of Roma-specific criteria, such as the common basic principles (CBPs) on Roma inclusion, contributed positively to project performance

103

Based on our examination of the selected projects, we consider that a better consideration of Roma-specific criteria would have made it more likely for some of these projects to positively contribute to a sustainable integration of Roma people. Of the 19 examined projects, 17 were implemented after the common basic principles (CBPs) on Roma inclusion had been adopted by the Council in June 2009 (see paragraph 23). The following examples illustrate how an application of the CBPs at the selection stage could have made a difference to the success of the project.

CBP 2: Roma integration policies and projects should target the Roma population explicitly but not exclusively

104

CBP 2 stipulates that Roma integration policies and projects should target the Roma population explicitly but not exclusively. They should be aimed broadly at targets such as 'disadvantaged groups'; mention clearly that these groups include Roma people; and describe specific action to ensure that projects reach the Roma population successfully. An employment programme in Spain was a good example of the application of this principle (see **Box 9**).

Box 9

Explicit but non-exclusive targeting helped an employment programme to reach the Roma population successfully (Spain, project 16)

An employment programme of OP 'Lucha contra la discriminación' in Spain aimed to integrate Roma people into the labour market. Participants were interviewed, and one of three courses of action was recommended: 1. find a job, 2. undertake professional training or 3. attend workshops to acquire skills needed to find employment. Companies were then contacted for information about vacancies or internship possibilities.

Disadvantaged Roma people had been addressed together with other people in a similar socioeconomic situation. Across Spain, a target had been set stipulating that 70 % of participants should be of Roma origin. Thanks also to other initiatives to encourage Roma participation (such as awareness-raising measures), this target was achieved and the results sustained throughout the programme's operation.

CBP 3: Need for an intercultural approach involving the use of mediators and awareness-raising campaigns

105

CBP 3 describes the need for an intercultural approach involving the use of mediators and awareness-raising campaigns. Applying this principle is crucial for ensuring the success of projects, especially those concerning housing. A lack of awareness can fatally undermine projects that could otherwise have been successful (see example in **Box 10**).

Box 10

Lack of focus in terms of determining the target group and insufficient attention to cultural factors negatively affected the implementation of a health project (Bulgaria, project 4)

A project involving health screenings was implemented in Bulgaria under the priority axis of 'Social inclusion'. This project was listed in the action plan for implementing the NRIS. However, no indicators referring to the 'vulnerable population' target group were included. This project had three target groups. These were 'vulnerable population' (consisting of groups at specific risk to health; people with a disability; socially excluded groups and communities; and vulnerable ethnic groups), 'people of working age' and 'inhabitants of outlying regions'.

About 620 000 people were invited to undergo a screening; about 56 000 actually did. There is no information about how many of these were from the target groups. The lack of any explicit mention of the Roma population, and even of the target group 'vulnerable population', suggests a lack of a focus in attracting participants from those groups to the project.

Two factors inhibited the wider participation of Roma people. One of them was that the invitations were sent by letter: illiteracy is comparatively high among the Roma. Another was Roma women's widespread fear of medical services, for historical reasons. Mediators could have been used to alleviate this problem.

CBP 4: Importance of promoting the inclusion of the Roma population in mainstream society

106

CBP 4 states the importance of promoting the inclusion of the Roma population in mainstream society. Ten of the examined projects which had set entry into the mainstream labour market as a results target had achieved good results by involving both public and private entities when implementing projects. Four projects had not fulfilled their objectives in this respect:

- In Hungary, three examined projects did not involve private-sector employers during the implementation phase; this turned out to be a shortcoming, as participants subsequently could not find a job in the primary labour market. If they were employed at all, they were hired by public authorities.
- In Bulgaria, one project also failed to achieve its target of getting at least 8 % of its participants into the primary labour market.

107

On the other hand, the measures implemented under Spain's 'Lucha contra la discriminación' OP, which in the area of Roma integration focused mainly on employment, were not designed to work in tandem with mainstream policies. The Spanish public employment service, SEPE, was not involved in conceiving or implementing them until December 2014. It was therefore unable to bring its own experience to bear in planning the measures. Nor could it incorporate the experience gained from the project in its own policies.

108

In contrast, three of the five projects examined in Romania had been carried out by an NGO in partnership with a public entity. This ensured that project partners benefited from each other's knowledge, and allowed public bodies to make good use of project results in the design and implementation of their mainstream policies. For example, the results of the ERDF project were disseminated by the intermediate body after the project was completed.

CBP 5: Awareness of gender issues

109

CBP 5 concerns awareness of gender issues. Roma women are more likely than women in general and Roma men to experience social exclusion from mainstream society. They are often victims of double discrimination: discrimination on the grounds of gender, and on grounds of ethnic origin. However, Roma women have a crucial role to play in promoting inclusion; for example, promoting the integration of children into the education system. Overall goals for Roma integration will be very difficult to attain if gender issues are not taken into account and if programmes fail to reach women.

110

In Spain, all four examined projects explicitly addressed gender issues. The projects succeeded in reaching women, the proportion of female participants varying between 50 % and 70 %. In two cases, there were high rates of success in job insertion. In one of these cases, the same rate of employment was achieved for women as for men (about 24 %) and in another case, the labour market insertion rate for women reached 90 %. Another successful example is described in **Box 11**.

Box 11

Women participation in a health project: multiplying the effects of inclusion (Romania, project 12)

One key objective of a health project in Romania was the creation of a network of health mediators for Roma communities. This project was run in partnership with the Romanian Public Health Institute.

The general objective of the project was to increase the employment rate among Roma women and to offer them better access to the labour market, in order to avoid social exclusion and to promote equal opportunities.

Among other things, the project trained 100 Roma women to work in 100 Roma communities that had never had a health mediator.

The project was successful because it promoted the inclusion of Roma women through qualifications and employment. Moreover, it was positive for the reason that using Roma women as mediators is likely to multiply the effects of inclusion.

CBP 6: Importance of learning from previous experience

111

CBP 6 stresses the importance of learning from previous experience. In 14 of 19 cases, this principle had been respected: previous experience of carrying out projects had demonstrably increased the capacity of project promoters, some of whom had also applied this expertise to subsequent projects.

112

In Spain, the 'Promociona' education project built on an employment programme ('Acceder') that had been running successfully since 2000. The NGO managing those programmes as intermediate body also shared its own expertise with other NGOs acting as intermediate bodies for the 'Lucha contra la discriminación' OP. Each NGO had a focus on different vulnerable groups, and they regularly shared experience among themselves. The examined projects of the Andalusia OP added to the knowledge and information held by the public bodies which implemented the projects, because all data collected by the project promoters was stored in the public employment service's records. This provided public authorities with a valuable tool for policy evaluation and further planning; it had been in use since the programme started in 2004.

CBP 7: Use of EU instruments

113

CBP 7 concerns the use of EU instruments. All examined projects had by definition used EU instruments to some extent, since they had received funding from the ERDF or the ESF. Four projects had gone further, using a combination of funding from the two funds; we consider this to be a good method of providing integrated support. The project described in **Box 12**, which was implemented in Bulgaria, gives an example of this.

Box 12

Use of integrated approach involving the ERDF and the ESF (Bulgaria, project 5)

The objective of this ERDF project (see **Picture 2**) was to improve the inclusion of people in underprivileged and vulnerable circumstances by raising their living standards and by generally improving the quality of the housing stock in the municipality. Social housing was intended to provide access to basic living conditions for approximately 165 socially vulnerable people who lived in dilapidated, overcrowded housing that did not comply with legal requirements for the construction and planning of residential buildings.

In Bulgaria, it was necessary for housing projects to be integrated with the provision of social services. Consequently, project selection criteria stated that promoters should provide the residents of new homes with employment, education and health services. Those social services were part of a programme called Integra, which was financed under the ESF in parallel with the housing measures.

Picture 2

The rear façade of the refurbished social housing apartment block in Devnya (Bulgaria)



Source: ECA.

CBP 8: Involvement of regional and local authorities

114

CBP 8 concerns the involvement of regional and local authorities, as they play a key role in the practical implementation of policies. Often, to have a long-term effect, projects need a sustainable source of financing and, sometimes, the backing of a private promoter or a public authority. A good example was found in Romania where an important element of one project was passed over to the National Institute for Public Health, which was also an implementation partner of this project (see **Box 11**).

115

Ten of the 19 examined projects depended heavily on the continued availability of long-term public financing, because the project promoters were non-profit organisations. Four other projects had been taken over and funded by public authorities; in each case, this had been planned from the start. The long-term sustainability of three further projects should have been guaranteed by a public authority as stated in the project description, but had not been, either because of weaknesses in project management (in one case in Bulgaria) or because of a lack of sustained financial support at local level (see **Box 13**).

Box 13

A lack of sustainable financial support made it difficult for successfully implemented projects to have a lasting impact (Romania, projects 12 and 14)

One project involved training and hiring 210 Roma people as Roma local experts. During the project, these experts had worked for local authorities for no charge. It was planned that the local authorities would hire and pay the experts on a permanent basis after the project ended. Soon after it did, the local authorities stated that they were unable to do so because of the economic circumstances. This meant that only 67 Roma local experts were hired by municipalities in 2015.

In the second project, 100 Roma women were trained as health mediators. As part of the project, lobbying work had taken place at local level to promote the benefits of health mediators to the community and to encourage the creation of corresponding positions within the local administration. Although this lobbying work elicited a generally positive response, the level of support ultimately granted by local authorities to the health mediators programme was lower than expected. This had a significant effect on the impact of the project, as well as on the provision of health mediators in general: only approximately 350 health mediators were employed in Romania in 2015, compared to 860 in 2009.

Although both projects were carried out successfully, the lack of sustained financial and institutional support from local authorities hampered the projects' potential impact on the integration of the Roma population.

Observations

Assessing the results for the 2007-2013 period was made more difficult by difficulties in gathering information about Roma people

116

We also assessed how project promoters had monitored project results, in particular in terms of integration of the Roma population, and whether the Commission or the Member States had carried out evaluations, particularly thematic evaluations regarding the inclusion of the Roma population or vulnerable groups.

Project-level monitoring: inconsistent approaches to data collection and indicator definitions

117

Monitoring the success of Roma integration projects is not easy, because it is affected by methodological and practical difficulties in gathering information about Roma people. We will discuss these difficulties in further detail below. In most cases (17), though, project promoters had managed to gather information about the number of Roma participants their project had, and sometimes even about the results these participants had achieved: for example, in terms of finding jobs. Monitoring of this type was usually carried out when projects ended, but in some long-term projects it was also done while the project was being implemented.

118

For 14 of these 17 projects, ethnicity data was collected by means of self-identification. One further project did not provide any information on how participants' data had been collected. Two other projects did not collect any such data at all (one project in Bulgaria and another one in Romania). The quality of the monitoring was hampered by the following main weaknesses:

- First, for 13 of the 19 examined projects, the results which were recorded were not specifically related to Roma integration but rather to the benefits brought to a wider target group — for example, 'vulnerable groups' in general, if indeed a target group was specified at all. Data about Roma participation was in fact available, but had not always been passed on to the managing authority or the intermediate body (see paragraph 88). This implies that the information submitted to the managing authorities did not include any reliable insights into the specific contributions made by projects to the inclusion of marginalised Roma people.

- Second, where projects had collected ethnicity data, the underlying methodology for doing so was not consistent across Member States, or even across projects in individual Member States. In six cases, participants had been asked to answer a yes/no question on whether they were of Roma ethnicity. In six other cases, participants had been able to choose from a list of vulnerable groups to which they belonged. In two further cases, participants had been able to choose only one particular identity, either ethnic or national. Thus, it was not possible for participants to self-identify as being, say, Hungarian **and** Roma, though they may in fact have described themselves as belonging to both groups given the chance. This meant that the collected data was not necessarily exhaustive.
- Third, indicators were classified differently in different Member States, and sometimes even within individual countries. As an example, four of the examined Hungarian projects did not have any formal result indicators. Nevertheless, the project's output indicators included indicators which should properly have been classified as result indicators: for example, the successful completion of training courses. In Bulgaria, three projects' result indicators were duplicates of the projects' output indicators; for example, the number of campaigns held or health screenings undertaken under the project. In Romania, an employment indicator was classified as an output indicator on one occasion, and as a result indicator on another.

Evaluations partially balanced out the lack of Roma-specific monitoring at OP level

119

Even though they do not always present a complete picture evaluations can serve as a basis for certain conclusions. Evaluations of the support provided under the ERDF and ESF with focus on the integration of marginalised Roma (albeit sometimes part of a larger evaluation on disadvantaged groups) had been carried out in all the four visited Member States and by the Commission.

120

These evaluations provided information not contained in the monitoring reports, making it possible to gain useful information on progress made:

- In 2011, an evaluation carried out by DG Employment, Social affairs and Inclusion, for example, concluded that Roma participation in ESF-funded measures had increased from 100 000 people with a Roma background during the entire 2000-2006 period to 110 000 Roma in the first 2 years of the 2007-2013 programme period⁵⁷. However, this had not had a sustained effect on reducing unemployment among the Roma population, despite the increased ESF contribution to promoting labour market participation. The evaluation pointed out that measures that uniquely target employment alone are unlikely by themselves to address the multifaceted obstacles to Roma inclusion. It stressed the importance of a holistic approach to promoting Roma inclusion that addresses wider barriers to their inclusion, in particular in the fields of education, health and housing.
- In 2013, an evaluation was carried out in Spain to determine the impact of the OP 'Lucha contra la discriminación' OP between 2006 and 2011⁵⁸. It concluded that investing in integrating vulnerable groups into the labour market had many positive outcomes, including economic ones. The evaluation concluded that every euro invested in these measures had attracted an overall return of 1.38 euros.

57 Roma Thematic Report, commissioned by DG EMPL and carried out in 2011. This report forms a part of a wider study 'Evaluation of ESF support for Enhancing Access to the Labour Market and the Social Inclusion of Migrants and Ethnic Minorities'.

58 El Empleo de las personas vulnerables: una inversión social rentable. Evaluación de Impacto del Programa Operativo Plurirregional Lucha Contra la Discriminación, dirigido por Gregorio Rodríguez Cabrero, 2013.

121

In the 2007-2013 programme period, the extent to which Structural Funds contributed to the inclusion of marginalised Roma communities was made difficult to assess by the fact that the objectives were often not explicitly Roma-related and the consequent failure of the selected Member States to record reliable and comparable information specifically on Roma beneficiaries, on the funding made available and on progress made. When data were available, the contribution of the Structural Funds projects to the integration of the Roma population depended to some extent on whether specific success factors concerning Roma integration had been respected in policy design and when projects were designed, selected and implemented.

122

In the 2014-2020 programme period, the design and criteria of funding priorities have been improved. Roma integration has been explicitly referred to in the ESIF legislation. Indeed, an investment priority makes reference to it, and Member States with CSRs related to Roma integration are obliged to devote funds to promoting it. Finally, the new results-oriented approach of the ESIF legislation introduces a monitoring framework that should eventually improve the quality of data which can be collected. However, it is too early to make a meaningful assessment of how this has been implemented.

123

Despite the progress which has been made, certain obstacles and dilemmas remain. These make it more difficult for the ESIF to maximise their impact on Roma integration. These shortcomings are presented below, together with recommendations for addressing them.

Progress made in terms of strategies in place at EU and Member State level, but most improvements came too late to have an impact on the 2007-2013 programme period

124

The Commission has made significant progress in setting out EU policy initiatives promoting Roma integration over the last decade. Since 2011, the Commission has devoted greater attention to Roma integration, requiring each Member State to draft a NRIS and to set up a NRCP. This has however come too late to have an impact on the design of ERDF and ESF OPs and the selection of projects during the 2007-2013 programme period (see paragraphs 29 to 34 and 38 to 40).

Conclusions and recommendations

125

The NRIS, and later the Council Recommendation of 2013, transformed Roma integration from an issue dealt with exclusively through policies into a Member States' political commitment reflecting established provisions protecting human rights. With this change, anti-discrimination was established as a key area where action by the Member States was required (see paragraphs 35 to 37 and 43 to 45).

126

Our audit identified a number of shortcomings as regards these NRIS:

- First, the national strategies do not indicate what level of funding is needed to carry out the proposed measures for Roma inclusion. They also do not state the amount of money available for such measures, from the national budget and, through the ERDF and ESF, from the EU budget (see paragraph 47).
- Second, anti-discrimination and anti-gypsyism have not been provided enough attention. None of the NRISs which we assessed made any reference to anti-gypsyism as a particular form of discrimination. In none of the OPs we examined it was explicitly referred to, and we saw almost no projects dealing specifically with this aspect. Up to now, the Commission has not required Member States to set measurable targets connected with anti-discrimination. The lack of any such targets leaves scope for institutional discrimination to develop or continue unchecked; this can significantly undermine the effectiveness of Roma integration projects, including those co-financed from the EU budget (see paragraphs 34 to 44 and 54).
- Third, the need for active participation by civil society organisations, in particular representatives of the Roma community itself, was not always taken into account in the selected Member States when NRISs were being drafted. Failing to include civil society organisations and the Roma community at every stage of the process risks undermining the effectiveness of policies and projects (see paragraph 46).
- Finally, the role of NRCPs has sometimes been undermined by a mismatch of resources and responsibilities (see paragraphs 48 to 50).

127

Since 2012, country-specific recommendations have been used to draw attention to various issues; for instance, that of segregation in education. During the 2014-2020 programme period, Member States must comply with these recommendations when using ESIF funds. Furthermore, under the Council Recommendation on Effective Roma Integration measures, Member States will be required from 2016 to provide information on fighting discrimination and anti-gypsyism. The resulting information will give the Commission more information about the progress which has been made in each Member State (see paragraph 36).

Recommendation 1

The Member States should, when revising their NRISs or when making amendments:

- (a) specify what level of funding is needed to carry out the measures for Roma inclusion proposed in the strategy. NRISs should indicate the funding available for such measures from the national budget and, through the ERDF and ESF, from the EU budget. The Member States should also formally undertake to ensure that efforts to implement measures in favour of Roma integration are not jeopardised by short-term changes in political priorities;
- (b) include indicators and target values which deal with anti-discrimination or, more specifically, anti-gypsyism. During the 2014-2020 programme period, these indicators should also be taken into account in the design of measures promoting the inclusion of marginalised Roma communities within the ESIF framework, in line with the requirements of the racial equality directive;
- (c) ensure that civil society organisations including Roma representatives are systematically consulted and included when Roma integration measures are being planned and implemented;
- (d) define in more detail the role played by NRCs in relation to the NRISs, and ensure that the NRCs' powers and responsibilities are commensurate with the resources made available to them.

Conclusions and recommendations

Recommendation 2

- (a) The Commission should make sure, when revising relevant operational programmes, that measures carried out under the ESIF are of an inclusive nature and contain provisions aimed at fighting segregation. Segregational practices should be clearly described and explicitly excluded from funding under the ESIF framework (not only mentioned in the recitals), particular attention being paid in this connection to education and housing projects. This would help to reinforce the link between CSRs and the use of the ESIF.
- (b) The Commission should make full use in OP monitoring committee meetings of the information contained in the reports which Member States are required to provide from 2016 under the Council Recommendation on Effective Roma Integration measures, as well as of the findings arising from that information. This is to ensure that the areas of weakness identified in the reports are tackled by means of ESIF and/or Member State funds (e.g. by reallocating funds to areas where shortcomings have been identified).

More attention given to Roma integration measures in the 2014-2020 period as compared to 2007-2013

128

Despite the lack of focus on Roma integration during the 2007-2013 programme period, the selected OPs made reference to the need to promote the inclusion of the Roma population. Similarly, most of the assessed calls for proposals made reference to the Roma people as a target group, or referred to the need to promote the social inclusion of the Roma people. Overall, however, the design of the ERDF and ESF during the 2007-2013 programme period was poorly suited for Roma-inclusion measures: OPs contained few Roma-specific indicators and the assessed calls for proposals, despite having often Roma marginalised population as a target group, did not specify selection procedures that would take into account the specific requirements of Roma projects such as making use of the 'best practice' criteria for Roma integration (such as the Council's 10 CBPs) or the funding of long-term projects. Financial information on the support made to Roma integration was available for none of the ERDF and ESF OPs examined by us (see paragraphs 59, 61 to 65 and 96).

Conclusions and recommendations

129

A number of these shortcomings have been addressed in the 2014-2020 period. In particular, Roma integration is explicitly referred to in the ESIF legislation and specific funding priorities have been improved. On the basis of the most recent information made available by the Commission, it can be estimated that around 1.5 billion euros will be available for measures targeting marginalised communities (such as Roma). Further improvements are the issuing of Roma-specific CSRs and the better alignment of the ESIF framework to EU policy priorities (including those on Roma integration), the availability of common indicators relevant to Roma integration programmes or the issuing of guidance by the Commission such as on the use of ESIF funds in tackling spatial and educational segregation. Moreover, Member States with CSRs related to Roma integration are obliged to devote ERDF and ESF funds to promoting it (see paragraphs 66 to 83 and 92 to 94).

130

We consider, however, that efforts are required at both Commission and Member State level to make sure that these changes will result in projects better contributing to Roma integration on the ground: this applies in particular to the criteria used to select the best projects for Roma inclusion and the OP's monitoring systems for the 2014-2020 period (see paragraphs 88, 89 and 92 to 94).

131

Furthermore, the way the ESIF, and the ESF in particular, are set up prevents their impact in terms of the social inclusion of Roma people from being maximised. Indicators used to allocate ESIF funds among Member States ignore differences in the current situation of the Roma population (see paragraphs 60 and 75).

Recommendation 3

Member States should make use of the 'best practice' criteria for Roma integration (such as the Council's 10 CBPs) when making calls for proposals and selecting projects. Where appropriate, calls should be organised to select long-term projects in favour of marginalised Roma communities. Finally, wherever possible, the allocation of ESIF funding should be made subject to the sustainability of projects, without continued EU funding, after their completion. These aspects should also be considered when the 2014-2020 operational programmes are modified.

Conclusions and recommendations

Recommendation 4

The Commission should ensure, in the next programme period or when revising the operational programmes, that Roma integration objectives included in the NRISs are reflected in the ESIF framework at all operational levels, whenever applicable. In this context, it should ensure that data are collected reliably in order to allow progress to be monitored and evaluated between individual projects and at all levels of administration.

Recommendation 5

Member States should complement the common output and results indicators set out in the ESIF legislation with Roma-specific indicators, where appropriate. These indicators should be aligned with those specified in the NRISs and they should subsequently be used in the monitoring of the 2014-2020 operational programmes. They could build on those developed by the Fundamental Rights Agency in 2016.

Recommendation 6

The Member States should consider acting together, in view of preparations for the next programme period, to seek to ensure legal certainty on the use of ESF to fund any social inclusion measures irrespective of a link to employment. The removal of legal uncertainty would facilitate the Member States in making full use of the ESF for the purpose of social inclusion, including through measures to combat discrimination.

Recommendation 7

The Commission should consider proposing changes to the ESIF legislation to ensure that, from the programme period beginning in 2020, the distribution of funds among the different Member States takes into account specific social inclusion indicators: in particular, the proportion of marginalised groups such as the Roma within the population. It should ensure that any additional ESF funds made available to Member States as a result of this change are earmarked for the specific purpose of supporting marginalised communities.

Most projects were carried out as planned, but not always 'best practice' criteria contributing to successful Roma inclusion were applied and monitoring project performance was difficult

132

Most ERDF and ESF projects examined during our audit had achieved their general objectives, but these objectives were often not specifically Roma-related. We also concluded that projects that had been selected in accordance with 'best practice' criteria adopted by the Council, the so called the common basic principles (CBP) on Roma inclusion, were more likely to contribute effectively to the integration of the Roma population (see paragraphs 104 to 115).

133

Moreover, we found that monitoring the progress made by Roma integration projects has been difficult, mainly because of shortcomings in relation to the availability and quality of data on Roma participants. This lack of comprehensive and robust data is a problem not only in relation to projects, but also for policy making at EU and national level. Unless swift action is taken, this situation will remain unchanged for the 2014-2020 period (see paragraphs 51, 84 to 94 and 117 to 120).

Recommendation 8

- (a) The Commission should work together with the Member States to develop a common methodology which provides relevant data on the Roma population to monitor their social inclusion, in line with national legal frameworks and EU legislation, including existing possible derogations. This should be done at the latest when preparing the next programme period.
- (b) The Commission should encourage Member States, in accordance with national legal frameworks and EU legislation, including existing possible derogations, to collect in a comprehensive manner statistical data on ethnicity within the next two years. Eurostat could include relevant questions in surveys such as the Labour Force Survey and in the European Union Statistics on Income and Living Conditions.

Conclusions and recommendations

This report was adopted by Chamber II, headed by Mr Henri GRETHEN, Member of the Court of Auditors, in Luxembourg at its meeting of 4 May 2016.

For the Court of Auditors



Vítor Manuel da SILVA CALDEIRA
President

Operational programmes examined

Member State	Operational programme 2007-2013	Operational programme 2014-2020
Bulgaria	2007BG161P0001 OP 'Regional Development' (ERDF) 2007BG051P0001 OP 'Human Resources Development' (ESF)	2014BG16RFOP001 OP 'Regions in growth' (ERDF) 2014BG05M9OP001 OP 'Human Resources Development' (ESF) 2014BG05M2OP001 Operational programme 'Smart Education for Sustainable Growth' (ESF)
Hungary	2007HU05UP0001 OP 'Social Renewal' (ESF)	2014HU16M0OP001 OP 'Economic Development and Innovation' (multi-fund OP ESF and ERDF) 2014HU05M2OP001 OP 'Human Resources Development' (multi-fund OP ESF and ERDF)
Romania	2007RO051P0001 Sectoral OP for the development of Human Resources (ESF) 2007RO161P0001 Regional OP (ERDF)	2014RO05M9OP001 Human Capital OP (ESF) 2014RO16RFOP002 Regional OP (ERDF)
Spain	2007ES05UP0002 OP 'Fight against discrimination' (ESF) 2007ES051P0005 Regional OP 'ESF 2007-2013 Andalusia'	2014ES05SFOP012 OP 'Social Inclusion and Social Economy' (ESF) 2014ES05SFOP022 Regional OP 'ESF 2014-2020 Andalusia' (ESF)

Source: ECA.

Governance bodies of the Structural Funds in the visited Member States

Bulgaria	ESF				ERDF
	Project 1	Project 2	Project 3	Project 4	Project 5
Managing Authority	ESF MA (Ministry of labour and social policy)				ERDF MA (Min. of Reg. Dev. and Public Works)
Intermediate Body	Not applicable as the MA is the beneficiary	Ministry of Education and Science	Public Body (Social Assistance Agency)	Public Body (Social Assistance Agency)	For this ERDF OP, there are no IBs foreseen
Project Beneficiary	Ministry of Labour and Social Policy	NGO	Public Body (Dupnitsa Municipality)	Ministry of Health	Public Body (Devnya Municipality)

Hungary	ESF				
	Project 6	Project 7	Project 8	Project 9	Project 10
Managing Authority	ESF MA (Ministry of Human Resources)				
Intermediate Body	does not exist				
Project Beneficiary	Ministry of National Economy	Public Body (Balassagyarmati Prison)	Public Body (Ózd Municipality)	NGO	

Romania	ESF				ERDF
	Project 11	Project 12	Project 13	Project 14	Project 15
Managing Authority	ESF MA (Ministry of EU Funds)				ERDF MA (Min. of Reg. Dev. and Public Admin)
Intermediate Body	Regional (NW) IB (Dep. of the Labour Ministry)	Regional (Bucharest) IB (Dep. of the Labour Ministry)	Ministry of Education (acting as IB)	Regional (North-West) IB (Dep. of the Labour Ministry)	Regional (North-West) IB (Dep. of Min. of Reg. Dev. and Public Admin)
Project Beneficiary	NGO			Public Body (National Agency for Roma)	Public Body (Baia Mare Municipality Social Service)

Spain	ESF (Fight against Discrimination OP)		ESF (Andalusia OP)		
	Project 16	Project 17	Project 18	Project 19	
Managing Authority	ESF MA (Ministry of Employment and Social Security)				
Intermediate Body	Foundation		Regional IB (Junta de Andalucía)		
Project Beneficiary	NGO				

Source: ECA.

Common basic principles (CBPs) on Roma inclusion

The ten common basic principles (CBPs) were discussed at the first meeting of the European Platform for Roma inclusion in 2009 in Prague. They were then included as an annex to the conclusions of a meeting of the Employment, Social Policy, Health and Consumer Affairs Council held on 8 June 2009.

1. Constructive, pragmatic and non-discriminatory policies

Policies aiming to promote the inclusion of Roma people respect and realise the core values of the European Union, which include human rights and dignity, non-discrimination, equality of opportunity, and economic development. Roma inclusion policies are integrated with mainstream policies, particularly in the fields of education, employment, social affairs, housing, health and security. The aim of these policies is to provide the Roma population with effective access to equal opportunities in Member State societies.

2. Explicit but not exclusive targeting

Explicit but not exclusive targeting of Roma people is essential for inclusion policy initiatives. This means focusing on Roma people as a target group, though not to the exclusion of other people who share broadly similar socioeconomic circumstances. This approach does not separate Roma-focused interventions from broader policy initiatives. In addition, where relevant, consideration must be given to the likely impact of broader policies and decisions on the social inclusion of Roma people.

3. Inter-cultural approach

There is a need for an inter-cultural approach which involves Roma people together with people from different ethnic backgrounds. Inter-cultural learning and skills are essential for effective communication and policy, and deserve to be promoted; combating prejudices and stereotypes is also indispensable.

4. Aiming for the mainstream

All inclusion policies aim to insert the Roma in the mainstream of society (mainstream educational institutions, mainstream jobs, and mainstream housing). Where partially or entirely segregated education or housing still exists, Roma inclusion policies must aim to remove them. The development of artificial and separate 'Roma' labour markets should be avoided.

5. Awareness of the gender dimension

Roma inclusion policy initiatives should take into account the needs and circumstances of Roma women. They should address issues such as multiple discrimination and problems of access to health care and child support, but also domestic violence and exploitation.

6. Transfer of evidence-based policies

It is essential that Member States learn from their own experiences of developing Roma inclusion initiatives and share their experiences with other Member States. It is recognised that the development, implementation and monitoring of Roma inclusion policies requires a good base of regularly collected socioeconomic data. Where relevant, the examples and experiences of social inclusion policies concerning other vulnerable groups, both from inside and from outside the EU, should also be taken into account.

7. Use of European Union instruments

In the development and implementation of their policies aiming at Roma inclusion, it is crucial that the Member States make full use of European Union instruments, including legal instruments (racial equality directive, Framework Decision on Racism and Xenophobia), financial instruments (European Social Fund, European Regional Development Fund, European Agricultural Fund for Rural Development, Instrument for Pre-Accession) and coordination instruments (Open Methods of Coordination). Member States must ensure that the use of financial instruments accords with these common basic principles, and make use of the expertise within the European Commission, in respect of the evaluation of policies and projects. Peer review and the transfer of good practices are also facilitated on the expert level by EURoma (European Network on Social Inclusion and Roma under the Structural Funds).

8. Involvement of regional and local authorities

Member States need to design, develop, implement and evaluate Roma inclusion policy initiatives in close cooperation with regional and local authorities. These authorities play a key role in the practical implementation of policies.

9. Involvement of civil society

Member States also need to design, develop, implement and evaluate Roma inclusion policy initiatives in close cooperation with civil society actors such as non-governmental organisations, social partners and academics/researchers. The involvement of civil society is recognised as vital both for the mobilisation of expertise and the dissemination of knowledge required to develop public debate and accountability throughout the policy process.

10. Active participation of the Roma

The effectiveness of policies is enhanced with the involvement of Roma people at every stage of the process. Roma involvement must take place at both national and European levels through the input of expertise from Roma experts and civil servants, as well as by consultation with a range of Roma stakeholders in the design, implementation and evaluation of policy initiatives. It is of vital importance that inclusion policies are based on openness and transparency and tackle difficult or taboo subjects in an appropriate and effective manner. Support for the full participation of Roma people in public life, stimulation of their active citizenship and development of their human resources are also essential.

Executive summary

II

The Commission notes that, apart from the amounts of 1.5 billion euros corresponding to the allocation to the investment priority 9(ii) of the ESF, further financing for the benefit of Roma inclusion is provided through a number of other investment priorities (IPs) of both ESF and ERDF.

IV

The Commission recalls that anti-discrimination is a horizontal principle that should be taken into account during the preparation and implementation of the Partnership Agreements and Operational Programmes in all ESI Funds (as laid down in Article 7 CPR).

The partnership principle as enshrined in the common provisions regulation (CPR) (Article 5) and in the European Code of Conduct requires relevant partners to be involved in the design and implementation of the partnership agreements and operational programmes (including in the monitoring committees as required in Article 48 CPR) in the ESF and ERDF OPs.

V

The Commission notes that in the context of its responsibilities under shared management it is helping Member States to make sure that the changes introduced for the 2014-2020 period will result in projects better contributing to Roma integration, for example through assessment of the fulfilment of relevant *ex ante* conditionalities, guidance or its advisory role in monitoring committees.

VI

The Commission acknowledges that monitoring of EU-funded projects' effective contribution to the integration of the Roma is challenging due to objective legal obstacles for collecting data based on ethnicity and the application of the explicit but not exclusive targeting approach often making that Roma are not the only group benefiting from support to marginalised groups.

However, the Commission believes that in the 2014-2020 period, the monitoring of Roma integration will be significantly improved on the basis of the ESF Investment Priority 9(ii), the relevant specific objectives in the ESF and ERDF operational programmes and the use of the ESF common output indicator for participants as well as programme-specific indicators and targets.

Recommendation 1

The Commission notes that the recommendation is addressed to the Member States.

Recommendation 1 (a)

The Commission recalls that the level of the European Structural & Investment Funds (ESI Funds or ESIF) support to measures for marginalised communities such as the Roma can only be indicative given the fact that Member States are only required to provide financial data when the dedicated ESF investment priority 9(ii) is selected and/or when specific targets/objectives/indicators have been set in other ESF and ERDF relevant thematic objectives.

Recommendation 1 (b)

The Commission underlines that, if the CPR contains a general *ex ante* conditionality on anti-discrimination for all the ESI Funds, the assessment of its fulfilment shall be limited to the criteria laid down in the ESIF regulations. Also, when deciding on the specific and adequate policy measures — including the content of strategies — within national and regional competences the principle of subsidiarity should be respected.

Member States were expected to include specific objectives and targets in their OPs in cases where they have selected the dedicated ESF investment priority 9(iii) 'Combating all forms of discrimination and promoting equal opportunities'. This is particularly the case for Member States with country-specific recommendations (CSRs) in this field.

Recommendation 1 (c)

Article 5 CPR states that relevant bodies representing civil society are part of the partnership and multi-level governance principle. In accordance with Article 5(2) CPR, the partners shall be involved, *inter alia*, in the preparation of partnership agreements and through the preparation and implementation of programmes.

Recommendation 2 (a)

The Commission accepts the recommendation, considers that it should be implemented at the level of the operational programmes, and stresses that it is already taking measures in this direction.

As it is pointed out in paragraph 38, the Commission has issued thematic guidance called 'Guidance for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation' in 2015. Member States are invited to follow the provisions of the guidance in programming and implementation in order to prevent and tackle both educational and housing segregation of marginalised communities, including Roma.

The Commission is fully aware that effective implementation on the ground is critical. Experts are therefore being contracted by the Commission to help Member States to implement the guidance note primarily focusing on Czech Republic, Slovakia, Hungary, Romania and Bulgaria.

Reallocation and modification of Operational Programmes (OPs) should as a general rule be initiated by Member States.

Reply of the Commission

Recommendation 2 (b)

The Commission accepts the recommendation and considers that it is already taking measures in this direction.

The Commission will make full use of the national progress reports, including in monitoring committee meetings, with a view to invite and encourage Member States to reinforce measures supported by ESI Funds where necessary to better address the Roma-related challenges identified. Following this discussion the Member States may submit requests for OP amendments as laid down in Article 30(1) CPR.

Moreover, the Commission notes that in accordance with Article 23(1)(a) CPR, it may only use its powers to request Member States to re-programme their OPs to address those Roma-related challenges that are identified in country-specific recommendations and where the reallocation of funding to address them is needed.

Recommendation 3

The Commission notes that the recommendation is addressed to the Member States.

The possibility to fund sustainable actions to effectively support Roma integration is addressed in different ways in the ESIF regulations.

First of all, long-term (7-year long) actions are possible under the 2014-2020 programming period and the length of any given project should be commensurate with the planned objectives.

Secondly, the ESF regulation contains a framework for better tracking positive outcomes in terms of marginalised groups inclusion (of which Roma) through its common output and longer term result indicators which aim at promoting the sustainability of the ESF-funded actions for marginalised Roma communities.

Thirdly, in the case of infrastructure projects financed through ERDF, as is the case for any sector, the Member State should take into consideration how the sustainability of the project will be ensured in those cases where this is relevant after their completion (e.g. maintenance).

Recommendation 4

The Commission accepts the recommendation and will take it into account as much as possible for the next programming period.

Regarding the funding period 2014-2020, it should be noted that the Roma integration objectives have been already reflected in the ESIF framework from the design of the operational programmes for the Member States where the Roma-specific *ex ante* conditionality applies.

The initiative for revising operational programmes lies mostly with the Member States. In accordance with the CPR, requests for amendment of programmes submitted by a Member State shall be duly justified and shall in particular set out the expected impact of the changes to the programme on achieving the Union strategy for smart, sustainable and inclusive growth, and the specific objectives defined in the programme.

Within the legal framework for 2014-2020, subject to audits, the managing authority of the relevant Operational Programme has the obligation to establish a system to record and store in computerised form data on each operation necessary, inter alia, for monitoring and evaluation purposes. This refers to financial data, as well as to outputs and results.

Recommendation 5

The Commission notes that the recommendation is addressed to the Member States and draws the attention to the fact that beside the legal limitations to collect data on the ethnicity ground in some Member States, any Roma specific indicator falls under the data protection regime (Article 8 of Directive 95/46/EC) of so called sensitive data. Individuals retain the right to refuse consent for the data to be collected. Therefore, the data on the number of Roma participating in ESIF-funded activities rely indeed mostly on self-declarations.

Recommendation 6

The Commission notes that the recommendation is addressed to the Member States.

The Commission, however, underlines that its full implementation concerning the possibility for the ESF to fund any social inclusion measures, irrespective of a link to employment, would require a treaty change modifying the ESF mission as set out in Article 162.

The Commission further considers that the ESF regulation, as it stands and interpreted in accordance with Article 162 TFEU, can already address the issue of Roma integration in a legally sound way through the social inclusion thematic objective.

In this context, the ESF can finance Roma integration measures provided that these measures are part of an integrated set of actions aimed at bringing, even indirectly, the Roma closer to the labour market.

This legal interpretation of the eligibility of Roma integration measures under the ESF has been communicated to Member States in November 2015.

The Commission, therefore, considers that there is no legal uncertainty.

Recommendation 7

The Commission accepts the recommendation and it will consider, in the context of the preparation of the next multiannual financial framework when examining the criteria for the allocation of funds, the role that social inclusion challenges should play as well as the need for a further targeting of resources to support marginalised communities.

Recommendation 8 (a)

The Commission does not accept the recommendation.

While it is always willing to work with the Member States, given the diversity of national situations and approaches and the need to respect the subsidiarity principle, the Commission does not consider it feasible or appropriate to develop a common methodology in this field.

Recommendation 8 (b)

The Commission does not accept the recommendation as it considers that this issue should be left to the discretion of the Member States in line with the principle of subsidiarity.

Furthermore, the Commission does not plan to collect statistical data on ethnicity in the Labour Force Survey and in the European Union Statistics on Income and Living Conditions. Collecting statistical data on the Roma population is technically and legally very difficult, as well as expensive.

Introduction

12

The Commission notes that, apart from the amounts of 1.5 billion euros corresponding to the allocation to the investment priority 9(ii) of the ESF, further financing for the benefit of Roma inclusion is provided through a number of other investment priorities of both ESF and ERDF.

Observations

30

In the 2007-2013 period the ESF regulation followed a mainstreaming approach not targeting the Roma but more generally disadvantaged groups. As such Roma integration was covered by the priority 'reinforcing the social inclusion of disadvantaged people'.

Some Member States have even chosen to explicitly cover the issue of Roma Integration in their National Strategic Reference Framework for the programming of the structural funds in the 2007-2013 period.

34

The Commission notes that the EU Framework explicitly recognises that 'first of all, Member States need to ensure that Roma are not discriminated against but treated like any other EU citizens with equal access to all fundamental rights as enshrined in the EU Charter of Fundamental Rights'. Equal treatment is therefore a horizontal principle and considered as precondition for effective Roma integration. While EU institutions and Member States have a joint responsibility to improve the social inclusion of Roma using all instruments and policies under their respective competence, Member States have the primary responsibility and competences to change the situation of marginalised populations, in accordance with the subsidiarity principle.

39

Partnership, together with multi-level governance, is a long-standing key principle of shared management funds (which was applied also in the previous programming periods) and as such it is also enshrined in Article 5 CPR governing the ESI funds for 2014-2020. The Code of Conduct adopted by means of a Commission delegated regulation helps Member States in organising the partnership and covers a number of practical issues such as the representative nature of the selected partners, selection procedures, procedural requirements to ensure timely, meaningful and transparent consultation, as well as the principle of partner representation throughout the whole cycle, including at monitoring committees.

40

The Commission notes that it has contributed with significant financing to the two mentioned joint programmes (Romact and ROMED).

44

While it has not set targets on anti-discrimination, the Spanish NRIS emphasises the need for complementarity and synergies with the Second Plan for Citizenship and integration for 2011-2014 and the National Strategy against racism, discrimination, xenophobia and intolerance that foresee concrete measures to fight discrimination.

45

As described in the Hungarian NRIS strategy, the objective of social inclusion policy does not only address Roma, but it targets a wider group. Its objectives are: to reduce the rate of people living in poverty or social exclusion, to reduce the social arrears of disadvantaged children and to reduce social differences between Roma and non-Roma. These objectives are horizontally addressed via five areas: improving labour market opportunities of long-term unemployed at active age; reducing child poverty; targeting socialisation-related and socio-cultural disadvantages; addressing the disadvantages related to education and labour market for Roma women; addressing the development gap in disadvantaged territories.

49

In its 2015 assessment on the progress made in the implementation of NRIS for Bulgaria, the Commission indeed noted that the NRCP 'lacks human and political resources to effectively fulfil its mandate and convincingly steer progress'. However, it is also true that the implementation of NRIS relies heavily on the ESIF. Thus, in practice, the NRCP is supported in its functions by supplementary structures. An inter-ministerial working group on planning and coordination of ESIF interventions in 2014-2020 was set up in 2015 under the leadership of the ESIF Central Coordination Unit, with participation of the NRCP and the relevant ministries at deputy minister level (labour, education, health, regional development, agriculture), experts (coordinators under the six priority areas of NRIS) as well as representatives of the municipalities.

50 Second indent

The Commission notes that in the current political context there are developments which may lead to more and more attention being devoted to the problems of the Roma in Bulgaria.

51 First indent

In Bulgaria, annual monitoring of the implementation of the NRIS takes places on the basis of administrative reporting of all relevant institutions and municipalities, and it will be further strengthened through a new monitoring system to be ready by end-December 2016.

54

See Commission reply to paragraph 50 concerning Bulgaria.

Reply of the Commission

60

The Commission does not share the Court's observation implying that there is legal uncertainty. The mission of the ESF as laid down in Article 162 TFEU is to improve the employment opportunities for workers in the internal market. Therefore, applying the thematic objective 9 on social inclusion in accordance with Article 162 TFEU implies that the ESF can finance any Roma integration measures that are part of an integrated set of actions which contribute, even if only indirectly, to bringing Roma closer to the labour market. This legal interpretation of the eligibility of Roma integration measures under the ESF has been clarified and communicated to Member States in November 2015. The ESF support can be further complemented by other instruments that Member States can use to address the basic needs and to provide material assistance to the Roma such as the Fund for European Aid to the Most Deprived (FEAD).

The Commission also notes that the Court has only included in its sample completed ERDF housing projects. Given the date of modification of the regulation and the lead time necessary for the preparation of such projects, a number of projects were still underway at the time of the audit.

61

The Commission notes that no regulatory requirement existed for such indicators in the programme. However, as regards ESF, Annex XXIII required the reporting of actual participation of minorities, and of disadvantaged groups into ESF operations.

The Commission notes that as under the programming period 2007-2013 the ESF followed a mainstream approach to support disadvantaged groups, the definition of target groups as well as the specific objectives, targets and indicators to be used were left to the Member States on the basis of the challenges they faced as outlined in their national reform programmes (NRPs) and national action plans for social inclusion (NAPSI).

62

The absence of financial information is explained by the fact that the Roma population was not exclusively targeted for ESF support.

64

For instance, Hungary and Czech Republic launched actions supported by ERDF targeting deprived neighbourhoods populated by Roma before the amendment.

65

The Commission notes that according to the EU legal framework on data protection, individuals have the right to refuse consent for the collection of data related to ethnicity. As such, data collected on ethnicity can indeed prove unreliable to support a decision on the necessary level of funding for Roma integration.

A few Member States (e.g. Hungary, Slovakia) have introduced either ethnic or socioeconomic proxy indicators (such as poverty maps, segregated neighbourhoods in urban and rural areas, people in extreme poverty) in order to identify the needs and determine the necessary funding. Involvement of Roma communities is ensured by these approaches.

See also paragraph 87 of the Court's report.

Moreover, in several Member States, the collection of ethnic data is prohibited by law.

68

The Commission underlines that the relevant operational programme clearly and repeatedly commits that educational measures should lead to inclusive education and desegregation, including a specific indicator referring to the number of educational facilities participating in desegregation programmes.

The calls for project proposals developed from the operational programmes contain more details about the specific requirements linked to educational measures. These are consulted with the programme monitoring committees in which the Commission is also participating as advisory member.

The guidance note on the use of ESI funds for desegregation provides a methodological guidance to be followed for designing the calls for proposal and implementation of the projects.

What is more, during the negotiations Hungary took into account the CSRs in place, and selected the relevant IP which can provide support for Roma communities.

In 2015 the Commission requested from the Hungarian authorities further information on the support provided for the development of public education, and would like to see more detailed description of funding available in this field.

Box 5 — Lack of desegregation measures in the field of education in ESIF framework in Hungary

The Commission notes that a local educational equity plan is a precondition for local governments applying for funds including actions supported by ESI Funds.

In the 2014-2020 ERDF/ESF Human Resources Development OP there is clear and repeated commitment towards desegregation and there are a number of measures aimed at desegregation (e.g. education, housing).

With regard to the level of detail of these measures in the OP, see Commission reply to paragraph 68.

69

The Commission notes that a number of other investment priorities from both ESF and ERDF falling under the thematic objectives 8, 9 and 10 of the CPR relating to employment, social inclusion and education also support Roma integration with significant amounts in areas such as inclusive education, social housing, access to social and health services. These also contribute, where relevant, to implementing the CSRs (e.g. for pre-school and educational infrastructure).

This is consistent with the application of the Common Basic Principle 2 on 'explicit but not exclusive targeting' and 4 on 'Aiming for the mainstream'. According to these, Roma inclusion should be an integral part of mainstream social inclusion and poverty alleviation measures, in order to prevent further isolation of Roma communities.

A good example of this is to be found in the Slovak OP on Human Resources, as confirmed by the Court in Box 8. Slovakia agreed to the Commission's recommendation to establish a multi-fund OP with two dedicated priority axes for ESF and ERDF respectively, each consisting of a series of specific objectives to be implemented in an integrated fashion.

Reply of the Commission

73

The Commission notes that the IP 9(ii) has been systematically selected for the OPs of the Member States with the highest proportion of Roma population (i.e. Bulgaria, Czech Republic, Hungary, Romania and Slovakia) and of those who received a CSR on Roma inclusion.

In Spain, the National OP for Social Inclusion active in the whole territory of Spain contains provisions for Roma Inclusion measures under IP 9(ii).

With the aim to adopt an inclusive approach, Spain agreed with the Commission to implement comprehensive social inclusion measures under the IP9(i) addressed to various vulnerable sub-groups, including Roma. In the case of Andalucía, the measure included in the regional ESF Operational programme under the Investment priority 9(i) called 'Diseño Y Ejecución De Estrategias Locales de Empleabilidad e Inserción Social de las Personas en Situación o Riesgo de Exclusión Social' targets specific local areas affected by poverty and social inclusion and provide assistance for employment, housing, social integration, education, etc. The Commission considers that the Roma population from Andalucía can be effectively covered by the abovementioned measure and also by the national OP.

In the case of Hungary, the Human Resources OP — which has a complementary set-up in 2014-2020 covering the six convergence regions of Hungary — has an allocation on Investment Priority 9(ii) as part of its Priority 1 and as transnational cooperation and financial instrument in Priority 5.

75

The Commission notes that for the financial support made available to Member States in the context of cohesion policy, the allocation of resources follows a repartition key based on criteria linked to the overall cohesion objective and therefore principally reflecting their level of development. In this respect, the level of financial support also reflects the financing capacity of the Member States and regions and helps them address their key challenges, including in the context of social inclusion. Moreover, the obligation of Member States to allocate a certain minimum share of the funds to the ESF (Article 92(4) CPR), the obligation to earmark at least 20 % of these ESF resources to thematic objective 9 'promoting social inclusion, combating poverty and any discrimination' (Article 4(2) of the ESF regulation) and the need to concentrate the support taking into account relevant CSRs (Article 18 CPR) ensures that in all Member States where the integration of the Roma is a particular challenge, sufficient ESI funds support is made available to address it.

79

The Commission notes that it is common that anti-discrimination measures are included under specific objectives and examples of actions of other IPs, including 9(ii) but also 9(i).

In Hungary anti-discrimination is handled as a horizontal element in the Partnership Agreement negotiations and in the structuring of OP allocations. This is a choice of the Member State.

In Bulgaria, although IP 9.3 is not selected as an investment priority, anti-discrimination awareness-raising measures aimed at tackling stereotypes and promoting the cultural identity of the ethnic communities are mainstreamed in both 'Human Resources Development' and 'Science and Education for Smart Growth' OPs as a tool to prevent discrimination and promote equal opportunities.

In Romania the ESF-financed Human Capital OP (HCOP) takes the view that social exclusion is not related to ethnicity, but to poverty in general. The programme therefore explicitly targets the Roma without excluding other marginalised communities and disadvantaged groups.

83

See Commission reply to paragraph 39.

Common Commission reply to paragraphs 84-85

The Commission stresses that beside the legal limitations to collect data on the ethnicity ground in some Member States, individuals have the right to refuse consent for the data to be collected. The data on the number of Roma participating in ESF-funded activities rely indeed mostly on self-declarations. Nevertheless, all participants under the investment priority 9(ii) can be considered as part of marginalised communities such as Roma, which will facilitate the reporting on this target group during the programming period 2014-2020.

Common Commission reply to paragraphs 86-87

The Commission notes that the Fundamental Rights Agency is not a competent body to interpret EU legal provisions.

The Commission underlines that the collection of ethnic data is unlawful in some Member States and that it is a national competence. If data cannot be lawfully collected, the question of its processing becomes irrelevant.

The practical alternatives mentioned by the Court to gather data on ethnicity are in effect not exempted of severe limitations for monitoring purposes, although they could provide qualitative evidence on ESF support to ESF Roma participants.

Since they are based on self-declaration and requiring consent, their reliability could be reduced (there could be low response rates due to reluctances to self-declare and/or respond, and responses might be biased). Also the drawing of samples and extrapolation could be hampered by the uncertainty of the actual population universe observed.

The NRIS adopted by Romanian Government in 2015 uses as reference the data from the 2011 census, based on the hetero-identification: the self-declared Roma account for 3.3 % of the population, representing 621 573 persons.

The Romanian authorities acknowledge in the strategy that estimates of Roma population vary and the strategy makes reference to Council of Europe and World Bank estimates, but the baseline remains set according to the census.

Instead, the Human Capital OP (ESF co-financed) takes into account the Council of Europe's estimation of 1.85 million Romanian Roma. Hence, the reliability of baseline and ethnicity data for monitoring purposes remains challenging.

Reply of the Commission

88

In 2007-2013, there was no requirement to report Roma as a separate category and, consequently, to gather such data from the beneficiaries.

Member States were only required to report (and gather data) on the characteristics of the participants in ESF operations. Data on Roma participants were reported as part of the categories 'Minorities' or 'Other disadvantaged' in the breakdown of participants by vulnerable groups, in accordance with national rules.

The 2007-13 OPs did also not have Roma-related common output indicators, reflected in relevant OPs as 'programme indicators' and aggregated at EU level.

Roma as a separate category would only have been reported in the annual implementation reports if such a specific indicator was selected for target setting in the OP.

89

For Spain in the 2007-2013, the Roma population was not a specific target group for many of the operations; therefore there was no obligation to specify the ethnicity of the participants. In addition, as acknowledged by the Council recommendation on Effective Roma integration, data collection on ethnic grounds can be a sensitive issue and Member States should be allowed to choose their own monitoring methods in line with the principle of subsidiarity.

90

For the 2014-2020 programming period, the OPs contain provisions to ensure data consistency. These also emphasise the need to make all definitions available to all beneficiaries. Moreover, the Commission provided practical guidance on ensuring the consistency of indicator definitions.

There is also a new requirement to record and store performance data by operation in a computerised form in order to allow them to be aggregated where necessary for the purpose of monitoring, evaluation, financial management, verification and audit (Article 24(2) of Commission Delegated Regulation 480/2014).

In Romania the existence of three types of indicators has been raised and eventually addressed in the Human Capital OP 2014-2020 which foresees output and result indicators at programme level that have subsequently been defined in the Specific Guidelines that accompany each call for applications.

91

When targeting particularly vulnerable groups, it is sometimes meaningful not to set quantified result targets (as opposed to outputs targets) so as to prevent 'creaming' effects (i.e. that lesser disadvantaged groups are selected for the intervention in order to achieve a higher success rate).

For the 2014-2020 programming period, targets are to be set at operation level for each relevant result indicator (see Annex III of the Commission Delegated Regulation 480/2014).

92

While Annex I of the 2014-2020 ESF regulation does not foresee a precise common indicator for Roma participants, the monitoring of Roma integration will be significantly improved in cases where specific indicators are agreed in the OP or if the specific objective targets exclusively Roma population.

Furthermore, the collection of data on individual participants will enhance the possibility of bodies responsible for the operations and managing authorities to aggregate and monitor data on Roma participants, including results.

In case of operations exclusively targeted to Roma, detailed information about the socioeconomic characteristics and labour market situation and results of the ESF participants will be collected through the common output and result indicators and any additional specific indicator agreed in the OP. This applies also to IPs not exclusively targeted to Roma but for which the OP foresees a specific indicator on Roma. These have to be recorded and stored at operation level, as required by Annex III of the Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014.

93

The weakness identified by the Court is addressed by the current regulatory framework.

Member States with important challenges in the social inclusion of Roma are addressing them through separate Investment Priority 9(ii) on marginalised communities such as Roma. In this case, detailed information about the socioeconomic characteristics and labour market situation and results of the ESF participants covered by the IP will be collected through the common output and result indicators.

Furthermore, Roma-related programme specific indicators may provide specific information on Roma. In the adopted operational programmes, 69 programme specific indicators refer to Roma, in particular in Croatia, Romania, Slovenia and Spain.

The existence of an *ex ante* conditionality in this area will improve the monitoring of the Member States in this area. Member States have until end 2016 to fulfil all *ex ante* conditionalities.

96

The Commission underlines that the selection criteria should be in line with the specific objectives set out in the OPs. Therefore, if the specific objectives of the OPs do not target Roma people, the selection criteria will embrace the disadvantaged groups as mentioned in the specific objectives of the OPs.

For the ERDF managing authority concerned in Bulgaria, the target group was wider than Roma people as the calls for proposals were structured in a way to open up these for all marginalised communities, not just Roma.

Reply of the Commission

98

For the 2014-2020 programming period, the OPs contain provisions to ensure data consistency. These also emphasise the need to make all definitions available to all beneficiaries. Moreover, the OP provides practical guidance on ensuring the consistency of indicator definitions.

For ERDF, the reporting on indicators at programme level was not obligatory in 2007-2013. Indicators at project level are included in the relevant applications, and monitored by the Member States.

The Commission receives the applications only for major projects.

99

During the 2007-2013 programming period, there were no common result indicators by target group in the EU regulatory requirements.

‘Vulnerable groups’ may therefore be used to target a wider population in similar life circumstances as some of the Roma population, and not differentiate on ethnic basis.

In the specific case mentioned, the Roma population was not a separate target group in the ESF Andalucía OP in the 2007-2013 programming period, but was addressed as part of the vulnerable population at risk of social exclusion. Result targets were defined for the number of people overall at risk of exclusion.

100

While two municipalities in Bulgaria failed to implement their projects due to negative public opinion in the local area, all other municipalities are about to finalise (or in one case have already done so as in the case of Devnja) their successful social housing projects.

101

The Commission notes that while project implementation deviated in some cases from the initial planning, it did not have a direct impact on the target groups.

102

See Commission reply to paragraph 91 relating to ‘creaming’ effects.

103

The Commission underlines that the use of Roma-specific criteria is appropriate in cases where the selection criteria set out in the call for proposals specifically target Roma people, which was not systematically the case for the 19 projects audited by the ECA.

Box 10 — Lack of focus in terms of determining the target group and insufficient attention to cultural factors negatively affected the implementation of a health project (Bulgaria, project 4)

The fact that the population of vulnerable people could not be identified in advance and therefore the Roma were not specifically mentioned as a target group was due to limitations in the data of the national screening register and the non-collection of information on the basis of ethnicity.

In the case of the project involving health screenings in Bulgaria, the beneficiary explained that, for reasons linked to non-discrimination, no sub-population was specifically targeted.

107

While it is true that SEPE was named Intermediate Body for this OP only in 2014, its participation in the last Monitoring Committee was an opportunity for exchange of best practices, useful especially in the current programming period.

118 — First indent

See Commission replies to paragraphs 81 and 88 on reporting requirements and to paragraph 91 relating to 'cream-ing' effects.

118 — Second indent

For the 2014-2020 programming period, the OPs contain provisions to ensure data consistency. These also emphasise the need to make all definitions available to all beneficiaries. Moreover, the OP provides practical guidance on ensuring the consistency of indicator definitions.

Conclusions and recommendations

121

In a number of cases, the projects selected did not target explicitly Roma people but rather disadvantaged/vulnerable groups of people due to the mainstreaming approach explained in the Commission reply to paragraph 30. It is for this reason that the data collected, including financial ones as well as the indicators used, were not Roma-specific.

The Commission also recalls that the 2007-2013 regional operational programmes covered pilot projects on support for housing for the benefit of vulnerable groups, including Roma; such projects were explicitly developed with an enhanced focus on an integrated approach, addressing several dimensions associated to social inclusion goals. Unfortunately these projects were not finalised at the cut-off date of the ECA audit targeted at completed operations.

Reply of the Commission

124

The Commission recalls that certain countries (e.g. Hungary and Slovakia) identified Roma inclusion as an important topic in their National Strategic Reference Frameworks (NSRF) for the 2007-2013 period and developed comprehensive approaches for addressing it, prior to the development of the NRIS in the context of the EU policy framework.

125

The Commission notes that the 2013 recommendation is rather an extension of the EU framework that goes beyond the framework and provides new areas that were not mentioned in the 2011 communication.

126

The shortcomings mentioned by the Court were already identified by the Commission in its 2012 assessment.

Recommendation 1

The Commission notes that the recommendation is addressed to the Member States.

Recommendation 1 (a)

The Commission recalls that the level of ESI funds support to measures for marginalised communities such as the Roma can only be indicative given the fact that Member States are only required to provide financial data when the dedicated ESF investment priority 9(ii) is selected and/or when specific targets/objectives/indicators have been set in other ESF and ERDF relevant thematic objectives.

Recommendation 1 (b)

The Commission underlines that, if the CPR contains a general *ex ante* conditionality on anti-discrimination for all the ESI Funds, the assessment of its fulfilment shall be limited to the criteria laid down in the ESIF regulations. Also, when deciding on the specific and adequate policy measures — including the content of strategies — within national and regional competences the principle of subsidiarity should be respected.

Member States were expected to include specific objectives and targets in their OPs in cases where they have selected the dedicated ESF investment priority 9(iii) 'Combating all forms of discrimination and promoting equal opportunities'. This is particularly the case for Member States with CSRs in this field.

Recommendation 1 (c)

Article 5 CPR states that relevant bodies representing civil society are part of the partnership and multi-level governance principle. In accordance with Article 5(2), the partners shall be involved, inter alia, in the preparation of partnership agreements and through the preparation and implementation of programmes.

Recommendation 2 (a)

The Commission accepts the recommendation, considers that it should be implemented at the level of the operational programmes, and stresses that it is already taking measures in this direction.

As it is pointed out in paragraph 38, the Commission has issued thematic guidance called 'Guidance for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation' in 2015. Member States are invited to follow the provisions of the guidance in programming and implementation in order to prevent and tackle both educational and housing segregation of marginalised communities, including Roma.

The Commission is fully aware that effective implementation on the ground is critical. Experts are therefore being contracted by the Commission to help Member States to implement the guidance note primarily focusing on Czech Republic, Slovakia, Hungary, Romania and Bulgaria.

Reallocation and modification of operational programmes should as a general rule be initiated by Member States.

Recommendation 2 (b)

The Commission accepts the recommendation and considers that it is already taking measures in this direction.

The Commission will make full use of the national progress reports, including in monitoring committee meetings, with a view to invite and encourage Member States to reinforce measures supported by ESI Funds where necessary to better address the Roma-related challenges identified. Following this discussion the Member States may submit requests for OP amendments as laid down in Article 30(1) CPR.

Moreover, the Commission notes that in accordance with Article 23(1)(a) CPR, it may only use its powers to request Member States to reprogramme their OPs to address those Roma-related challenges that are identified in country-specific recommendations and where the reallocation of funding to address them is needed.

128

The Commission stresses that as far as the ESF is concerned, the lack of focus on Roma integration during the 2007-2013 programming period derives from the mainstream approach on disadvantaged people adopted (see the priority 'reinforcing the social inclusion of disadvantaged people'). Therefore, it was up to the Member States to define the disadvantaged people they wanted to target based on the needs and challenges they faced.

As far as the Roma-specific indicators are concerned, there was no regulatory requirement in place.

Moreover, it has to be noted that the selection criteria should be in line with the specific objectives set out in the OPs. Therefore, if the specific objectives of the OPs did not target Roma people, the selection criteria embraced the disadvantaged groups of people as mentioned in the specific objectives of the OPs.

Reply of the Commission

129

The Commission notes that, apart from the amounts of 1.5 billion euros corresponding to the allocation to the investment priority 9(ii) of the ESF, further financing for the benefit of Roma inclusion is provided through a number of other investment priorities of both ESF and ERDF (see also Commission reply to paragraph 69).

130

The Commission notes that in the context of its responsibilities under shared management it is helping Member States to make sure that the changes introduced for the 2014-2020 period will result in projects better contributing to Roma integration, for example through assessment of the fulfilment of relevant *ex ante* conditionalities, guidance or its advisory role in monitoring committees.

131

The Commission refers to its reply to paragraph 75 and considers that the obligation of Member States to allocate a certain minimum share of the funds to the ESF (Article 92(4) CPR), the obligation to earmark at least 20 % of ESF resources to thematic objective 9 'promoting social inclusion, combating poverty and any discrimination' (Article 4(2) of the ESF regulation) and the need to concentrate the support taking into account relevant CSRs (Article 18 CPR) ensure that in all Member States where the integration of the Roma is a particular challenge, sufficient ESI funds support is made available to address it.

Recommendation 3

The Commission notes that the recommendation is addressed to the Member States.

The possibility to fund sustainable actions to effectively support Roma integration is addressed in different ways in the ESIF regulations.

First of all, long-term (7-year long) actions are possible under the 2014-2020 programming period and the length of any given project should be commensurate with the planned objectives.

Secondly, the ESF regulation contains a framework for better tracking positive outcomes in terms of marginalised groups inclusion (of which Roma) through its common output and longer term result indicators which aim at promoting the sustainability of the ESF-funded actions for marginalised Roma communities.

Thirdly, in the case of infrastructure projects financed through ERDF, as is the case for any sector, the Member State should take into consideration how the sustainability of the project will be ensured in those cases where this is relevant after their completion (e.g. maintenance).

Recommendation 4

The Commission accepts the recommendation and will take it into account as much as possible for the next programming period.

Regarding the funding period 2014-2020, it should be noted that the Roma integration objectives have been already reflected in the ESIF framework from the design of the Operational Programmes for the Member States where the Roma-specific *ex ante* conditionality applies.

The initiative for revising operational programmes lies mostly with the Member States. In accordance with the CPR, requests for amendment of programmes submitted by a Member State shall be duly justified and shall in particular set out the expected impact of the changes to the programme on achieving the Union strategy for smart, sustainable and inclusive growth, and the specific objectives defined in the programme.

Within the legal framework for 2014-2020, subject to audits, the managing authority of the relevant Operational Programme has the obligation to establish a system to record and store in computerised form data on each operation necessary, *inter alia*, for monitoring and evaluation purposes. This refers to financial data, as well as to outputs and results.

Recommendation 5

The Commission notes that the recommendation is addressed to the Member States and draws the attention to the fact that beside the legal limitations to collect data on the ethnicity ground in some Member States, any Roma specific indicator falls under the data protection regime (Article 8 of Directive 95/46/EC) of so-called sensitive data. Individuals retain the right to refuse consent for the data to be collected. Therefore, the data on the number of Roma participating in ESIF-funded activities rely indeed mostly on self-declarations.

Recommendation 6

The Commission notes that the recommendation is addressed to the Member States.

The Commission, however, underlines that its full implementation concerning the possibility for the ESF to fund any social inclusion measures, irrespective of a link to employment, would require a treaty change modifying the ESF mission as set out in Article 162.

The Commission further considers that the ESF regulation, as it stands and interpreted in accordance with Article 162 TFEU, can already address the issue of Roma integration in a legally sound way through the social inclusion thematic objective.

In this context, the ESF can finance Roma integration measures provided that these measures are part of an integrated set of actions aimed at bringing, even indirectly, the Roma closer to the labour market.

This legal interpretation of the eligibility of Roma integration measures under the ESF has been communicated to Member States in November 2015.

The Commission, therefore, considers that there is no legal uncertainty.

Reply of the Commission

Recommendation 7

The Commission accepts the recommendation and it will consider, in the context of the preparation of the next multiannual financial framework when examining the criteria for the allocation of funds, the role that social inclusion challenges should play as well as the need for a further targeting of resources to support marginalised communities.

133

The Commission underlines that the collection of ethnic data is unlawful in some Member States and that it is a national competence.

Beside the legal limitations to collect data on the ethnicity ground in some Member States, individuals have the right to refuse consent for the data to be collected. The data on the number of Roma participating in ESIF-funded activities rely indeed mostly on self-declarations.

Nevertheless, all participants under the investment priority 9(ii) can be considered as part of marginalised communities such as Roma, which will facilitate the reporting on this target group during the programming period 2014-2020.

The 2014-2020 OPs also contain provisions to ensure data consistency. These emphasise the need to make all definitions available to all beneficiaries. Moreover, the OP provides practical guidance on ensuring the consistency of indicator definitions.

There is also a new requirement to record and store performance data by operation in a computerised form in order to allow them to be aggregated where necessary for the purpose of monitoring, evaluation, financial management, verification and audit (Article 24(2) Commission Delegated Regulation 480/2014).

Article 142 CPR states that all or part of the interim payments may be suspended if 'there is a serious deficiency in the quality and reliability of the monitoring system or of the data on common and specific indicators'.

Recommendation 8 (a)

The Commission does not accept the recommendation.

While it is always willing to work with the Member States, given the diversity of national situations and approaches and the need to respect the subsidiarity principle, the Commission does not consider it feasible or appropriate to develop a common methodology in this field.

Recommendation 8 (b)

The Commission does not accept the recommendation as it considers that this issue should be left to the discretion of the Member States in line with the principle of subsidiarity.

Furthermore, the Commission does not plan to collect statistical data on ethnicity in the Labour Force Survey and in the European Union Statistics on Income and Living Conditions. Collecting statistical data on the Roma population is technically and legally very difficult, as well as expensive.

HOW TO OBTAIN EU PUBLICATIONS

Free publications:

- one copy:
via EU Bookshop (<http://bookshop.europa.eu>);
- more than one copy or posters/maps:
from the European Union's representations (http://ec.europa.eu/represent_en.htm);
from the delegations in non-EU countries (http://eeas.europa.eu/delegations/index_en.htm);
by contacting the Europe Direct service (http://europa.eu/europedirect/index_en.htm) or
calling 00 800 6 7 8 9 10 11 (freephone number from anywhere in the EU) (*).

(*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

Priced publications:

- via EU Bookshop (<http://bookshop.europa.eu>).

Event	Date
Adoption of APM/Start of audit	22.10.2014
Official sending of draft report to Commission (or other auditee)	21.3.2016
Adoption of the final report after the adversarial procedure	4.5.2016
Commission's (or other auditee's) official replies received in all languages	14.6.2016

At an estimate of 6.2 million, the Roma population is the EU's largest ethnic minority. But it is mostly marginalised. This report assesses whether EU policy initiatives and financial support in Bulgaria, Spain, Hungary and Romania have contributed effectively to Roma integration. Some 1.5 billion euros has been earmarked for the integration of marginalised communities such as Roma between 2014 and 2020. We found that while the European Commission has made significant progress in setting out policy initiatives to promote Roma integration, obstacles and dilemmas remain and additional efforts are required at both Commission and Member State level.



EUROPEAN
COURT
OF AUDITORS



Publications Office