

# report

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## Combatting discrimination through enhanced access to justice in Croatia and Bulgaria

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### Minority Rights Group Europe (MRGE)

Minority Rights Group Europe (MRGE) is registered as a not-for-profit company under Hungarian law. Based in Budapest since 1996, MRGE is the European regional partner of Minority Rights Group International (MRGI), with the aim of promoting and protecting the rights of minorities and indigenous peoples across Europe and Central Asia. MRGE does this through capacity building, international advocacy, media outreach and networking.

### Information Legal Centre (ILC)

Information Legal Centre (ILC) is a civil society organization registered on 12 June 2002. It was created by transforming the Legal Centre of the American humanitarian organization International Rescue Committee that commenced with work in Slavonski Brod in 1998. Since its establishment, ILC has been working on promotion and protection of human rights, democratization of the Croatian society, and education and empowerment of vulnerable individuals and civil society.

### Center for Interethnic Dialogue and Tolerance 'Amalipe'

Center for Interethnic Dialogue and Tolerance 'Amalipe' is a leading Roma organization, working for the equal integration of Roma in Bulgarian society. The organization plays a central role in organizing a Roma civic movement and advocating for Roma integration within the state institutions. The Amalipe Center works with a network of over 300 schools across the country to reduce dropout rates, introduce intercultural

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education, promote lifelong learning in the Roma community and increase the educational status of Roma. At present the organization supports the work of over 500 educational mediators appointed by the schools in the network 'Every student will be a winner'. In addition, the Amalipe Center cooperates with many Roma and non-Roma organizations from all over the country in activities in various fields, such as: education, health care, social services, organizing advocacy campaigns for Roma integration and others.

### **Roma programme mediators**

#### **Roma mediators from Croatia:**

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**Mirjana Destanovic** lives in a Roma settlement in Slavonski Brod and is an active member of the Roma organization of Croatian youth. She has worked as a mentor for Roma students in an elementary school. Her field visits included to Slavonski Brod and Sisak area.

**Marina Horvat** is from Medjimurje County where a large Roma community lives but currently lives in Zagreb, where she studies at the Faculty of Law. For the last three years, she has been actively volunteering or working for various NGOs. In her free time, as a law student, she often helps Roma in exercising their rights by helping them write various submissions to public bodies. She was on the organizing committee of the first Roma Youth Congress and was elected to the municipal council of the municipality of Orehovica. In addition to ILC's workshop as part of the 'Equality for Roma through Enhanced Legal Access' (ERELA) project, she also attended other courses concerning mediators in Roma communities. Her field visits included to Zagreb and Medjimurje County.

**David Orsus** is a young medicine student. He has extensive experience working with Roma organizations, especially with children and young people. He is a member of various Roma NGOs. In addition, he is a member of the Red Cross intervention team. His field visits included to Zagreb and Čakovec area.

**Jovica Radosavljevic** is a Roma activist and mediator for the integration of Roma. He is the president, leader and choreographer based at the Roma resource center. He is also active as a helper in the Roma cultural and artistic society. His field visits included to Darda and Pula area.

**Ramiz Ajdin** is the founder and president of the NGO called 'Perspektiva', which deals with the interests of national

minorities, with special emphasis on the Roma national minority. He has rich experience as a Roma activist and in humanitarian work. His field visits included to Zagreb.

#### **Roma mediators from Bulgaria:**

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**Irena Mihaylova** lives in the village of Blagoevo in the Municipality of Strazhitsa. She graduated from the Secondary School 'Angel Karaliychev' in Strazhitsa. She has participated in various training events at the JUSTROM programme of the Council of Europe on discrimination and harassment against Roma women and justice for Roma communities. She has also worked on discrimination and domestic violence against women. She has participated in organizing and conducting training events for parents from minority groups, community moderators and educational mediators.

**Stefan Severinov Stefanov** has completed a Bachelor's degree in History, a Master's degree in European integration and is currently in the last semester of a Master's degree in Project Management. Through the various projects he has worked on he has improved his field work using the door-to-door method. In the process he has got to know a wide range of people, working directly with representatives of many Roma groups in Pavlikeni. He has organised many advocacy campaigns and events in Pavlikeni.

**Georgi Sharbanov Samirov** lives in Shumen. He has been working as an educational mediator for seven years and has participated in the work of various NGOs. He is also member of the local activist groups MAG-SHUMEN and RO-MAG.

**Fatme Behçed Arslan** was born in a small village inhabited mainly by ethnic Turks in the Kardzhali region. She holds a degree in Bulgarian and Turkish philology and a Master's degree in Educational Management. In addition to working as a language teacher and translator, she also works as an educational mediator.

**Boycho Kochev** is currently a student at Plovdiv University 'Paisii Hilendarski'. He has been an education mediator for years in Plovdiv. He is of Roma origin and is well recognised by the community.

**Larisa Antonova** is from Byala Slatina. She holds a degree in Economics. For many years, she has worked as a community moderator in the Roma community and later as an educational mediator and social worker.

# Combatting discrimination through enhanced access to justice in Croatia and Bulgaria

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# Executive Summary

The purpose of this report is to summarize the outcomes of the field visits and the legal work conducted in the framework of the 'Equality for Roma through Enhanced Legal Access' (ERELA) project funded by the European Union. The report serves as a follow-up to our baseline reports produced at the beginning of the project, mapping the different areas of discrimination and the obstacles to access to justice faced by Roma in Bulgaria and Croatia. The report summarizes the lessons learned from the fieldwork based on mediators' own experiences and compiles discrimination cases in both countries, including their resolution. It also maps how field visits and legal work contributed to raising awareness among Roma about their rights and supported them in eliminating obstacles to their access to justice. Furthermore, the lessons and outcomes of the field visits and legal work in the two target countries can potentially be applied and implemented in other European contexts where Roma face similar difficulties in their access to justice in discrimination cases.

In Bulgaria and Croatia, Roma routinely experience discrimination, usually fueled by negative attitudes and prejudices, in a variety of areas of their lives from an early age. Despite the high number of well documented occurrences, incidents of discrimination typically go unreported. Roma often think that it is not worth reporting their case as it would not change anything, while others fear that the situation would only become worse. Many Roma do not know whom they should turn to, while others consider the procedures too complicated. What is more, there is a serious lack of trust in state institutions. The citizens are in general misinformed about their rights, including their right to free legal aid. Lack of trust in public institutions and the judicial system further hinders Roma from seeking legal remedies. Therefore, the number of cases reported to the national equality bodies (the Commission for Protection against Discrimination, CPD, in Bulgaria and the Ombudswoman's Office in Croatia) only represent a small proportion of the actual discrimination Roma face. Furthermore, there are serious gaps in the functioning of the equality bodies in both countries which further hinder the efficiency of the system established for the protection of equality.

The legal work of the ERELA project, by raising awareness of Roma communities about their rights and the available legal remedies through mediators, free legal counselling and support in reporting their cases to the

national equality body, aimed to address the obstacles that Roma face in their access to justice. In this way, project partners aimed to encourage Roma to use the national system of institutions established for protection against discrimination to seek legal remedies and to ensure that discrimination cases do not stay unreported and invisible.

In the framework of the project, lawyers, Roma civil society organization (CSO) staff and other Roma activists were trained on the national anti-discrimination legislation, the available legal remedies, and the functioning and competencies of the relevant legal fora. After the training programme was concluded, partners engaged 13 mediators in Bulgaria and Croatia who started to conduct regular field visits in various regions of the two countries. The mediators' role was diverse: they not only raised awareness about discrimination and the available legal remedies in the Roma community, but also mapped and identified incidents of discrimination in the field. In these cases, they provided advice for those discriminated against, or mediated between the parties until they found a solution for the situation. In other, more complex cases, they referred the clients to ILC and the Amalipe Center who provided them with legal counselling or reported the case to the equality body.

In both countries, most of the identified discrimination cases occurred in the field of employment, either when job seeking or at work. Instances of discrimination at kindergarten were also identified by the mediators by interviewing Roma families in the field. During field visits, community members also talked to the mediator about cases related to access to social rights at the centre for social welfare, health care, education, sports clubs and access to different services.

The initial training provided the mediators with the necessary skills and knowledge so they could provide support for Roma who experienced discrimination. By conducting regular field visits, mediators were able to share this knowledge with members of the local Roma community and raise awareness about discrimination and the available legal remedies. In addition, the training helped mediators to better navigate legal challenges and to develop potential solutions in discrimination cases. As a consequence, mediators could differentiate between discrimination cases and other types of human rights violations, meaning they only asked for partners' help or advice in more complex

discrimination cases. Furthermore, mediators played a crucial role in conducting fact-finding for discrimination cases that were then reported to the equality body.

Members of the Roma community showed little knowledge of the different forms of discrimination and legal remedies available to them in both countries. They often confused discrimination with other problems that they face in their everyday life. Awareness raising by Roma mediators was crucial within the framework of the project, so that Roma victims of discrimination may learn more about this issue. However, even when people learned about the available legal remedies, they were apprehensive about speaking about their own experience. Many people expressed fear of reporting discrimination cases to the equality body, thinking they might face retaliation or even lose their jobs. The fact that mediators were from the local Roma community and that they enjoyed people's trust was of utmost importance.

In Croatia, ILC provided counselling in discrimination cases while in Bulgaria, a lawyer, who completed the anti-discrimination training organized by the Amalipe Center was engaged in the legal work of the project. Once mediators identified a discrimination case, it would be picked up by the legal staff. Apart from providing free legal counselling to clients, mediators checked the available documents and drafted submissions. The legal advisors in both countries organized monthly coordination meetings with the mediators where they discussed the identified cases and looked for collaborative solutions. Alongside the legal solutions provided for the cases, these meetings also aimed at providing constant coaching for the mediators to deepen their knowledge of discrimination and improve their skills when providing support for clients.

In both countries, legal assistance was mostly provided in cases of discrimination in employment, education and cases concerning lack of access to services for members of the Roma community. As the starting point of the legal aid, the legal advisor needed to explain the concept of discrimination and the provisions of the relevant national legislation. Therefore, along with the legal aid provided, Roma clients also increased their awareness of the concept of discrimination. Roma clients often needed this help with the legal concepts, as they regularly explained situations that did not amount to discrimination. The role of the legal advisor was twofold in both countries. On the one hand, they provided free legal counselling in discrimination cases for Roma clients who then could decide whether they wanted to report their case to the national equality body or not. On the other hand, lawyers played a crucial role in raising awareness about the legal term of discrimination, its various forms and the available legal remedies. Lawyers also played an important role in strengthening the clients' trust in institutions as many of them expressed mistrust in the judicial system. The Roma mediators' work was indispensable in connecting legal

advisors with the community and in disseminating information about the possibility of free legal support. In this way, clients who otherwise would not have had access to legal representation and counselling could seek legal remedies and find solutions to their cases.

ILC and the Amalipe Center assisted clients in reporting discrimination on a number of occasions to the respective national equality bodies. Out of the six reported cases in Croatia, three concerned discrimination in access to services, one was related to discrimination in employment, one to physical assault and threats, and one to equality in public information and media. The Bulgarian case was related to hate speech. In three cases, the Croatian Ombudswoman identified evidence of discrimination and warned the perpetrators. In one case, the Ombudswoman has forwarded the complaint to the competent institutions, the State Attorney's Office and the Ministry of Interior. Two cases in Croatia and one case in Bulgaria are still pending.

## Key barriers preventing access to justice:

- Roma often accept discrimination as part of their lives; they are reluctant to report it out of fear of retaliation or because they lack faith in the effectiveness of the justice system.
- Roma often lack the knowledge necessary to proceed with a legal case, while others consider the procedures too complicated. Roma citizens are in general misinformed about their rights, including their right to free legal aid.
- Lack of trust in public institutions and the judicial system further hinders Roma from seeking legal remedies.

## Key findings:

- Awareness-raising in the Roma community about anti-discrimination legislation and the available legal remedies is crucial to increase their willingness to report discrimination cases to the equality body and to pave way for future empowerment.
- Beyond raising awareness in the community about discrimination, Roma mediators have an important role in resolving more straightforward cases through mediation between the parties or by assisting those who have experienced discrimination in drafting submissions or other documents.
- Encouraging those affected by discrimination to report their case is essential. The more positive decisions the equality body delivers in discrimination cases, the more trust Roma will have in the system and institutions for protection against discrimination.

# 1 Introduction

This report was produced in the framework of the ‘Equality for Roma through Enhanced Legal Access’ (ERELA) project.<sup>1</sup> The project has been running since February 2021, jointly overseen by Minority Rights Group Europe (MRGE), Information Legal Centre (ILC, Croatia) and Center for Interethnic Dialogue and Tolerance ‘Amalipe’ (Bulgaria). The aim of the project is to promote and protect the rights of Roma subject to human rights violations and discrimination by raising awareness across society and among stakeholders, enhancing implementation of non-discrimination legislation, and empowering Roma to seek legal remedies in Croatia and Bulgaria. In the framework of the project, partners conducted research in the spring of 2021 on the different fields of discrimination affecting Roma people, and the obstacles they face in accessing justice. The outcome of the research was outlined in a comparative report in both countries that served as a baseline study for the rest of the project implementation.<sup>2</sup> The research was followed by a series of training events held in the autumn of 2021 and in the summer of 2022. These events were aimed at lawyers, Roma activists and CSO representatives on national and international anti-discrimination legislation and they dealt with the available legal remedies and relevant case law. After the training sessions, partners engaged some experienced Roma mediators who conducted regular field visits in both countries. Mediators identified and monitored discrimination cases in the Roma community, and they reported such cases to partner CSOs who provided legal counselling and free legal support to those affected. Partners provided continuous coaching for Roma mediators, advising them on the relevant legislation as well as victim support. With this expert assistance Roma mediators were able to advise Roma who had experienced discrimination on the most appropriate channels to follow in order to tackle violations. The aim of this report is to summarise the positive outcomes of the fieldwork and legal support, to disseminate the lessons learned and to encourage Roma who have experienced discrimination to report their cases by providing them with best practices and good examples from the field.

In Bulgaria, Roma constitute the third biggest ethnic group after Bulgarians and Turks. According to the latest census conducted in 2021, 266,720 people (4.4 per cent of

the population) declared themselves Roma.<sup>3</sup> However, according to other estimates, their number varies from 266,720 to 800,000. According to the latest census in 2021, there are 17,980 Roma in Croatia (0.6 per cent of the population). However, according to other sources, there are 24,524 Roma in Croatia.<sup>4</sup> The Council of Europe estimates that the actual Roma population is 30,000–40,000.<sup>5</sup> According to our baseline report, Roma most often face discrimination in education, employment and housing. Institutional discrimination is also widely reported, particularly by employees of the centres of social welfare and access to basic services. The Covid-19 pandemic also disproportionately affected the Roma population in both countries. Roma women face multiple or intersectional discrimination in various areas of their lives. Antigypsyism and hate speech are widespread in Croatian and Bulgarian society, often manifesting themselves in violent protests against Roma in both countries.

Even though discrimination against Roma is widespread and well documented, many discrimination cases committed against Roma go unreported. In Croatia, most of the people who participated in our baseline research said that they never reported discrimination, nor did they know anybody else who reported it.<sup>6</sup> Roma often think that it is not worth reporting their case as it would not change anything, while others fear that the situation would only become worse. Many Roma do not know whom they should turn to, while others consider the procedures too complicated, lengthy and expensive. What is more, there is a serious lack of trust in state institutions. The citizens are in general misinformed about their rights, including their right to free legal aid.<sup>7</sup> Lack of trust in public institutions and the judicial system further hinders Roma from seeking legal remedies. However, most of the focus group participants agreed that discrimination should be reported.

It is clear from the above that there are serious gaps in the functioning of the equality bodies in both countries. In Croatia, there has been a significant decrease in implementation of the Ombudswoman’s recommendations by the competent bodies since 2018. This demonstrates a lack of parliamentary will for the implementation of systematic reforms. Moreover, the Croatian Parliament has not accepted the Ombudswoman’s reports since 2017.<sup>8</sup> In Bulgaria, lawyers and legal expert participants of the focus

groups highlighted that the decisions of the Commission for Protection against Discrimination (CPD) are not sufficiently clear and are often contradictory.

The purpose of this report is to summarise the outcomes of the field visits and the legal work conducted in the framework of the project. This serves as a follow-up to our comparative baseline report produced at the beginning of the project, which mapped the different areas of discrimination and obstacles faced by Roma in Croatia and Bulgaria when seeking to access justice. This report revisits

the lessons of the fieldwork based on the mediators' own experiences and compiles several discrimination cases in both countries, including their resolution. This report also shows how field visits and legal work have raised awareness among Roma about their rights and how our programme has supported them in their effort to access justice. The lessons learned and outcomes of the field visits and legal work in the two target countries can also be applied and implemented in other European contexts where Roma face similar difficulties.

## 2 Mapping and Identifying Discrimination Cases in the Community

### Mediators

Mediators played a crucial role in the implementation of the field and legal work. In the autumn of 2021, and within the framework of the ERELA project, Roma activists were trained on national anti-discrimination legislation. The focus of the training was the available legal remedies and fora to report discrimination and how to support victims of discrimination. All mediators agreed that the training proved to be extremely useful for their work. In Croatia, the training proved especially useful in terms of deepening an understanding of theory and analysis of conflicts and methods of resolution, methodology, self-awareness about dealing with discrimination as well as gaining knowledge about the procedure of the Ombudswoman. In Bulgaria, the training was also considered to be motivating and informative by the participants. Bulgarian mediators said that following the training, they had gained increased knowledge of how to deal with discrimination cases. Furthermore, their skills had improved and they had become more familiarized on how to work with the cases, who to approach, how to recognise discrimination cases and how to work in the field.

The training helped me use the acquired knowledge in the field with people, advise them on the appropriate procedures and encourage them to report.

**(Marina Horvat, Croatian mediator)**

After the training, various Roma activists were contracted by partners as Roma mediators who conducted regular field visits to raise awareness about discrimination in local Roma communities and to encourage and support victims of discrimination to report their cases. The mediators had solid connections with the local Roma community and enjoyed their trust. In many cases, the mediators themselves lived in Roma settlements and were aware of the issues and concerns of their communities.

In Croatia, three mediators were engaged in the field work for ten months (for the final two months when one

of them left the country, three more mediators were hired). The Covid-19 pandemic hindered field visits during the winter months. Between 1 December 2021 and 30 September 2022, Croatian mediators conducted 136 field visits and interviewed 163 people (84 women and 79 men). The field visits took place in Slavonski Brod, Zagreb, Čakovec, Orehovica, Sisak, Mala Subotica, Kuršanec, Pribislavec, Donje Vratno, Piškorovec, Parag, Pula and Darda.

In Bulgaria, eight mediators were contracted following the training. However, due to the Covid-19 pandemic and the related restrictions, mediators could only start the field work in May 2022. Finally, seven mediators were engaged in the project. Between 1 May and 31 October 2022, mediators conducted 140 field visits and interviewed 283 people (129 women and 154 men) in Shumen (Divdyadovo district), Karadzovo, Byala Slatina (Latinka district), Batak, Varbovka, Strazhitsa (Hollywood district), Plovdiv (Stolipinovo district) and Suhindol.

### Cases

#### Croatia

Between 1 December 2021 and 30 September 2022, 20 incidents of discrimination were identified by the mediators during the field visits in which further counselling was provided.

Out of the total population of Croatia, 21.3 per cent are classed as unemployed persons according to a December 2021 study. Although this figure was lower than the previous year, the number of unemployed Roma increased by 16.4 per cent, during this same period. Unemployment rates among members of the Roma community in Croatia affect mainly people between the ages of 20 and 44 who have not completed elementary school studies (68.7 per cent). The mediators' field visits also showed that the most common problem was direct discrimination during the hiring procedure and at work. Many Roma stated that when they applied for a job for

which they fulfilled the requirements, they were often not even invited for an interview. Participants believe that employers can identify whether a candidate is Roma on account of their first and last name, or else by their address. In other cases, Roma applicants were invited for the interview but were not offered a job when their ethnic origin became clear to the employer.

Discrimination in the workplace was also often mentioned by community members during field visits. In one case, E.B. found out that his salary was lower than other colleagues even though he was equally qualified. When he asked the manager why this was so, the manager replied that he should be happy he was hired at all because until recently that particular organization did not hire Roma at all. E.B. is still employed in that company, because he is the only one in the family who works and his relatives depend on his income. For this reason, he is afraid to report the case.

Clients also raised issues regarding discrimination in the healthcare system. B.O., a Roma woman from Čakovec, was told during childbirth that she should not cry and that she would give birth again the following year. B.O. felt humiliated because hospital staff insinuated that Roma women give birth to many children in a short period of time.

Although it is not usual in Croatia to publicly announce that Roma are banned from entering certain places, mediators heard about three such cases in Čakovec. These cases relate to incidents that took place in two cafés and a nightclub. These establishments announced on social networks that they would not serve Roma, that they would not sell tickets to concerts to Roma people, and that they were prohibited from entering. All three cases were reported to the Ombudswoman's office (see Chapter 4 for details).

The Croatian Anti-discrimination Act defines segregation as a specific form of discrimination, which is the forced and systematic separation of persons. In Croatia, the situation has improved significantly in recent years, but segregation is still present in many schools in Medjmurje County. This is mainly due to the fact that certain villages are predominantly Roma. Different action plans have sought to find a systematic solution. During field visits, mediators heard about segregation in the kindergarten. Kuršanec, a place where the majority of the population is Roma, has a kindergarten attended by mainly Roma children. D.O. wanted his child to improve his knowledge of Croatian language, and when presenting the request, he stated that he was looking for a kindergarten in Čakovec where the majority of the children were Croatian. The kindergarten administration told him that he could not enroll his child there and that his child had to go to the kindergarten in Kuršanec.

During field visits, community members also talked to the mediator about cases related to ill-treatment by the police, false accusations of theft, access to social rights at the centre for social welfare, education, sports clubs and access to different services.

## Bulgaria

Between 1 May and 31 October 2022, ten incidents of discrimination were identified by the mediators during field visits during which further counselling was provided.

Like the Croatian cases outlined above, most of the discrimination cases identified by the mediators in Bulgaria were related to employment. Many clients reported cases of discrimination when applying to positions at government institutions. Participants thought that the reason for such discrimination is that many of them cannot read or write.

In one case, a Roma woman applied for a job as a cleaner at an institution in her municipality, after which she was accepted. However, the client was separated from the other non-Roma cleaners in the institution. The mediator explained to the client that her case could be reported to the CPD, but she preferred not to proceed with the case.

Other cases concerned discrimination in education. Roma children were reported to have been treated unequally and were not provided with the same opportunities as the children of Bulgarian majority groups. In one case, a Roma child with a disability could not go with his peers to school trips and could not attend celebrations and other events at school. After the parents raised the issue with the school management and it was discussed at the parents' meeting, the school's attitude towards the child changed for the better.

Discrimination in access to health care was also raised by members of the Roma community during field visits. On one occasion, a Roma woman mentioned that she took her niece to the doctor after her niece had a temperature. Although the waiting room was not full, the doctor told this Roma woman that they should wait outside even though it was rainy and cold and there was no shelter to cover from the pouring rain.

Other cases were also mentioned in the context of which Roma clients were not allowed to enter restaurants or cafés, or where discrimination took place in particular shops. One client mentioned that when he entered a café with a friend in the centre of Shumen, the waitress came over and behaved in a rude way toward them. The waitress started hitting the plates on the table and kicking the chair of one of the clients. When the client asked her why she behaved like this, she told them that it was because Roma behave like animals. In another case, a client was not allowed inside

a local shop because the owner did not like him. The man had to go to another village to do the shopping.

Community members raised concerns about incidents where they felt discriminated against in institutions, such as social assistance, job centres and other institutions where they sought professional advice. Administrative staff of these institutions often treated members of the Roma community differently and did not provide them with detailed information. As a result, many of them lost their rights due to non-compliance with applications or submission deadlines.

## Victim support

In both countries, mediators found that training organised by the project partners prior to fieldwork was very useful, and that it expanded their knowledge of discrimination. In Bulgaria, mediators acknowledged that by completing the training, they felt more secure, informed and familiar about discrimination and available legal remedies.

The training was very motivating and useful for my work. Overall, it was quite extensive and covered a lot of topics and all of them were useful to me. I am practising this knowledge in my daily work among the community I work with.

**(Angel Aleksandrov Angelov, Bulgarian mediator)**

The Croatian mediators also found the training very useful for their work.

I have always been interested in similar topics. Personally, the theory and analysis of conflicts and methods of resolution were most useful to me during the training.

**(Mirjana Destanovic, Croatian mediator)**

Mediators can support victims of discrimination in a variety of ways. For instance, mediators can advise community members on what action to take, who to contact if they become victims of discrimination, how to refer cases to relevant institutions, how to access free legal advice, and how to draft and file a complaint with the relevant institutions.

In Bulgaria, a local publication published a headline expressing discrimination against a Roma child. Once the mediator explained to the author of the article the discriminatory character of the publication and drew his

attention to the fact that these cases could be reported to the Commission for Protection against Discrimination, the author finally changed the title of the article. In another case, a Roma child was bullied at school because of his ethnic origin. The Roma child became so angry that he slapped his classmate on one occasion. As a consequence, the school board punished the child. However, when the Roma mediator learned about the case, he convened a meeting with the school principal and explained to him that the Roma child was harassed. After the meeting, the principal clarified with the board that any kind of discrimination was forbidden at school. Afterwards, children stopped bullying the Roma child.

In addition to raising awareness in the community about discrimination, mediators in Croatia participated in fact-finding to gather evidence for the cases and connected clients with ILC legal staff.

## Lessons from the fieldwork

Members of the Roma community showed little knowledge of the different forms of discrimination and legal remedies available to them in both countries. They often confused discrimination with other problems that they face in their everyday life, for example domestic violence or debt. Awareness raising by Roma mediators was crucial in the framework of the project, so that Roma victims of discrimination may learn more about this issue. However, even when people learned about the available legal remedies, they were apprehensive about speaking about their own experience, particularly when the cases concerned discrimination in employment. Many people expressed fear of reporting discrimination cases to the equality body, thinking they might face retaliation or even lose their jobs. In Croatia, mediators could convince some people to report discrimination but most of them eventually decided not to proceed. In both countries, many people who wanted to initiate a procedure found that the incidents they wished to report had happened in the past, and that by law they were no longer entitled to bring a complaint.

The fact that mediators were from the local Roma community and that they enjoyed people's trust was of utmost importance.

People like to talk about discrimination with me because I live in a Roma settlement too, so we have known each other for a long time. The problem is that people don't want to talk about it in front of other people. They say it's not fear, they want to stop there, they don't want to go any further.

**(Mirjana Destanovic, Croatian mediator)**

I think my work is extremely important. I represent the community and as their representative it's good to stand up for their rights. I think it takes years for democratic values to manifest themselves in the Roma community and for them not to be afraid to report cases of discrimination.

**(Georgi Samirov, Bulgarian mediator)**

My work as a mediator is necessary because we are the bridge between the community and the institutions. Moreover, we are from the community itself, which is essential for the work of every mediator. People trust us if they have a problem because they consider us closer than the institutions themselves, who go to them. At every level they realise that mediators are needed because through them it is easier to reach the community.

**(Stefan Stefanov, Bulgarian mediator)**

# 3 Legal work: free legal counselling

The provision of legal counselling was organized in different ways in the two target countries. In Croatia, ILC<sup>9</sup> provided counselling in discrimination cases, while in Bulgaria, a lawyer who completed the anti-discrimination training organized by the Amalipe Center<sup>10</sup> was engaged in the legal work of the project. Once mediators identified a discrimination case, it would be picked up by the legal staff. Apart from providing free legal counselling to clients, mediators checked the available documents and drafted submissions. The legal advisors in both countries organized monthly coordination meetings with the mediators where they discussed the identified cases and looked for collaborative solutions. Alongside the legal solutions provided for the cases, these meetings also aimed at providing constant coaching for the mediators to deepen their knowledge of discrimination and to improve their skills when providing support for clients.

## Cases

Mediators in both countries conducted regular field visits in their municipalities and regions. Once they identified a discrimination case, they either advised clients themselves based on the knowledge gained through the training, or they referred the case to the relevant legal staff. In this chapter, legal cases are described in detail along with the legal advice provided in each of these cases.

### Croatia

Between 1 December 2021 and 30 September 2022, free legal counselling was provided in 20 instances. Legal assistance was mostly provided in cases of discrimination in employment concerning lack of access to services for members of the Roma community. Most cases concerned direct discrimination.<sup>11</sup>

Other cases in which clients asked for legal remedies concerned indirect discrimination.<sup>12</sup> One case was related to the practice of the Slavonski Brod social welfare centre. Two different clients complained that they could not access social rights because they are required to fulfill certain conditions that the centre's employees knew the applicants were not in a position to fulfill. Clients knew that other social welfare centres do not make such

preconditions, and they were also aware of the fact that non-Roma clients who turn to the Slavonski Brod social welfare centre do not have to comply with such requirements.

In one case, parents M.N. and M.N. complained about the attitude of their local school staff towards their son, who attends the 6th grade. The parents believed that their son is discriminated against because he is Roma. The parents described the events at school to the school authorities. The child (V.N.) felt bad and began to show resistance towards school and certain teachers. One such incident resulted in the school reprimanding the child. At the first meeting, the parents expressly intended to file a private lawsuit. The legal advisor explained the course of action to them. It was agreed that the legal advisor would first help them write a complaint to the school. After some time, the situation improved, and the parents decided not to proceed with the case.

My child no longer wants to go to school because of fear and shame. The other children also started teasing him when they saw how the teacher was treating him. After the legal advisor helped us write a letter to the school, the situation improved as far as the teacher's relationship is concerned, but the child still resists the school.

(M.N., mother)

In another case, ILC's legal advisor provided legal aid to S.B. who believed he was discriminated against because his ethnicity was stated on his high school diploma. Since finishing his education, S.B. has not been able to find a job, and he thinks that employers can easily conclude that he is Roma based on his certificate, which creates a problem for him.

In two cases, ILC addressed the competent institutions in an official letter in order to resolve the individual rights of certain clients. The first letter referred to the irregular collection of garbage in a Roma settlement. The competent company did not respond to the letter. In another case, ILC addressed the municipality regarding the clarification of the procedure for awarding aid to vulnerable families. The municipality did not respond to the submission.

As the starting point of the legal aid provided in Croatia, the legal advisor needed to explain the concept of discrimination and the provisions of the relevant national legislation. Therefore, along with the legal aid provided, Roma clients also increased their awareness of the concept of discrimination. Concepts such as burden of proof<sup>f13</sup> were also explained in detail to clients. Roma clients were often confused about the legal concepts, and they regularly described situations that did not amount to discrimination. For example, A.R. stated that he believed he was discriminated against because the employees of his local financial agency were unkind to him. In addition, he said that on one occasion he waited for a long time at the emergency room in the hospital and that he believed that this was also because he is Roma. He insisted on making a complaint to the Ombudswoman. When the legal advisor learned about the circumstances of the cases, she explained to A.R. that these cases did not amount to discrimination and that in these cases, he could lodge his complaint to the head of the institution.

## Bulgaria

Between 1 May and 30 October 2022, free legal counselling was provided in ten instances. Free legal aid was provided for cases related to discrimination in education, employment, access to restaurants and public institutions.

In one case, D.I. from Byala Slatina mentioned that his relatives had told him that at their workplace they are called 'gypsies' and that colleagues say that 'nothing good can be expected from them'. However, they do not want to share this experience with anyone else as they are afraid of losing their jobs.

In one case, a Roma client submitted documents to the relevant company to have a separate electricity meter installed at her property. However, her request was refused by an employee at the company who had a different attitude towards her because she was Roma. The client felt discriminated against, even though another reason was explained to her for rejecting her request. Although the lawyer explained to her what legal remedies she could pursue, she decided not to report the case.

Another Roma client explained that in one school Roma children were treated differently as they were not offered the same opportunities as children of Bulgarian origin. The lawyer provided him with the relevant legal information, but the client decided not to proceed with the case.

In another case, Roma customers were treated differently in retail outlets. As the case took place a long time ago, it could not be reported.

In a separate incident, a Roma father talked about the discrimination that he had faced in various state institutions. He said that at that time he did not know that it was discrimination and that he could seek any legal remedies by reporting the cases.

Like the Croatian cases mentioned above, the explanation of the concept of discrimination during the legal work was also very much needed because of a lack of awareness among Roma clients about what constitutes discrimination in the legal sense. For example, one of the clients talked about various cases of discrimination. She did not understand that she was being discriminated against. She said that she did not know how to react, whether she could defend herself, and in what way. All the incidents she recounted took place in the past, and she could not provide specific details. The legal advisor explained to the client in detail what discrimination meant, on what grounds people can be discriminated and if present, what the rights of the person concerned are under the Protection from Discrimination Act.

## Lessons learned from the legal counselling

The role of the legal advisor was twofold in both countries. On the one hand, they provided free legal counselling in discrimination cases for Roma clients who then could decide whether they wanted to report their case to the national equality body or not. On the other hand, lawyers played a crucial role in raising awareness about the legal term of discrimination, its various forms and the available legal remedies. For example, in Croatia, Roma clients knew about the institution of the Ombudswoman, but they did not know what she could do for them. The legal advisor informed them about all the steps needed as part of the formal legal procedure. The legal advisor not only reported discrimination cases to the Ombudswoman's Office but also intervened in other ways. For example, in one case, she helped the parents prepare a letter to the school principal, after which the situation improved significantly. Lawyers also played an important role in strengthening the clients' trust in institutions as many of them expressed mistrust in the judicial system. Fear of reprisals might also prevent Roma victims of discrimination from reporting discrimination cases, particularly when they are related to employment.

As clients often cannot make a distinction between discrimination and other human rights violations, or problems which do not necessarily have any legal aspect, both mediators and lawyers play a crucial role in raising awareness among Roma about their rights and its legal

aspects. Some clients did not have sufficient financial means to pay for legal counselling or legal representation, therefore the provision of free legal support played a crucial role in ensuring access to justice. The Roma mediators' work was indispensable in connecting legal

advisors with the community and in disseminating information about the possibility of free legal support. In this way, clients who otherwise would not have had access to legal representation and counselling could seek legal remedies and find solutions to their cases.

# 4 Reporting discrimination cases to the equality body

In many cases, mediators identified discrimination cases during their fieldwork and clients decided to report them to the national equality body. Along with the partner and the client, mediators conducted fact-finding and

collected all the necessary documentation for these cases. The submissions were prepared by the legal advisor who was in touch with the equality body and followed up on the cases.

## The national equality bodies

	Bulgaria <sup>14</sup>	Croatia <sup>15</sup>
The institution which holds the mandate of national equality body	Commission for Protection against Discrimination (CPD)	Office of the Ombudsman/woman
Specialized bodies/panels	The CPD has five specialized permanent panels and, depending on the specific case, ad hoc panels	<ul style="list-style-type: none"> <li>• Discrimination based on gender, gender identity and expression and sexual orientation ▶ Ombudsman/ woman for gender equality</li> <li>• Discrimination based on disability ▶ Ombudsman/woman for persons with disabilities</li> <li>• Complaints related to children ▶ Ombudsman/woman for children</li> </ul>
Legal regulation	Law on Protection against Discrimination (2004)	Anti-discrimination Act (2009)
Date of establishment	2005	1992 – it became the national equality body in 2009
Accountable to	Parliament	Parliament
Type	Predominantly tribunal-type (quasi-judicial) body	Predominantly promotion-type and legal support body
Litigation power	<ul style="list-style-type: none"> <li>• Bringing proceedings in its own name</li> <li>• Formally deciding on complaints (e.g. decision or recommendation addressed to the parties)</li> </ul>	<ul style="list-style-type: none"> <li>• Bringing proceedings in its own name</li> <li>• Intervening before the court</li> <li>• Formally deciding on complaints (e.g. decision or recommendation addressed to the parties)</li> </ul>
Decisions	Legally binding	Not legally binding
Members	Permanent collegial body composed of nine members, including at least four lawyers. The National Assembly elects five of the members, including the chair and vice-chair of the CPD, and the President of the Republic of Bulgaria appoints the remaining four. Their term of office is five years. The CPD meets in five permanent chambers of three members each, specializing in different grounds of discrimination.	Single-headed equality body led by Ombudsman/woman and three deputies. One deputy Ombudsman/woman deals with anti-discrimination issues and is the head of the Department for Non-discrimination.

*(this Table continues overleaf...)*

The national equality bodies (continued...)

	Bulgaria <sup>14</sup>	Croatia <sup>15</sup>
Functioning	The meetings of the CPD are open or closed. In the first session, the chair of the chamber invites the parties to resolve the matter. If an agreement is reached in the conciliation proceedings, the CPD will approve it and close the case. If the parties fail to reach an agreement, the proceedings continue regarding the merits of the case. When s/he considers that the facts of the case have been clarified, the chair of the board gives the parties an opportunity to be heard and, when the dispute has been clarified as to fact and law, the chair closes the hearing and announces the day on which a decision will be delivered.	A procedure before the Ombudswoman can be initiated by an individual or <i>ex officio</i> if the victim of discrimination gives his/her consent, except if it is related to the protection of child welfare or in cases where the Ombudswoman learned of the case through the media or if the case is urgent. The complaint can be lodged in writing or orally, and it will be recorded. The Ombudswoman does not take action where judicial proceedings are ongoing, except if it is apparent that the proceedings in question are being unnecessarily delayed or that powers are manifestly abused, in which cases she may request an explanation from the president of the competent court. The Ombudswoman considers a complaint without conducting an investigation when, on the basis of facts stated in the complaint and submitted documentation, it can undoubtedly be ascertained that the complainant's constitutional or statutory rights have been jeopardized or violated. When the Ombudswoman conducts an investigation, she will request the necessary explanations, information and documentation from the bodies to which the complaint refers. When the Ombudswoman concludes the investigation of a complaint in which she established the violation of the right, she will draft a case report which will be delivered to the body to which the complaint refers and to the complainant.
Appeal	Decisions of the CPD are subject to appeal before a three-member panel of the Supreme Administrative Court.	There is no appeal against the Ombudswoman's decisions.
Mandate as an equality body	<ul style="list-style-type: none"> <li>• Establish violations of equality of treatment, the perpetrator of the violation and the person concerned</li> <li>• Order the prevention and cessation of the violation and the restoration of the original situation</li> <li>• Impose the sanctions and administrative coercive measures provided for</li> <li>• Appeal against administrative acts issued in violation of the Law on Protection against Discrimination or other laws governing equality of treatment</li> <li>• Make proposals and recommendations to the state and municipal authorities for the cessation of discriminatory practices</li> <li>• Give opinions on draft normative acts for their compliance with the legislation on prevention of discrimination, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Collect and analyse statistical data on discrimination concerning all grounds stated in the Anti-discrimination Act</li> <li>• Inform the Croatian Parliament on the instances of discrimination in his/her annual report (and, when required, special reports)</li> <li>• Conduct surveys concerning discrimination</li> <li>• Give opinions and recommendations</li> <li>• Suggest appropriate legal and strategic solutions to the government</li> <li>• Intervene in the court proceedings on behalf of the discriminated person</li> <li>• Under specific circumstances, bring proceedings in his/her own name when the right to equal treatment of a larger group of persons has been violated</li> <li>• Start misdemeanour proceedings</li> </ul>
Data about the complaints	The public records of the Commission for Protection against Discrimination do not list the number of discrimination complaints filed.	In 2021, the Ombudswoman received 638 complaints, out of which 13 per cent were related to discrimination. Complaints were most frequently based on race/ethnicity/skin color and national origin (69 complaints/15 per cent). The largest number was received in the area of employment, access to goods and services, public information and the media, in the area of administration, education and health care. There is no publicly available information the number of complaints submitted by Roma complainants. <sup>16</sup>

## Cases reported to the equality body

### Croatia

In Croatia, six discrimination cases were reported to the Ombudswoman's Office by ILC within the framework of the project.

#### *Cases related to access to services*

ILC turned to the Ombudswoman's Office in three cases that concerned café-bars in Čakovec that in an announcement published on social media prohibited the entry of Roma clients. Mediators and ILC made screenshots of the announcements and collected the necessary information for the submission. The Ombudswoman issued a warning in all three cases. In the warning sent to the café-bars, the Ombudswoman stated that banning entry into café-bars and refusing to provide services to a person because of their race, ethnicity or national origin is direct discrimination. She stressed that it is illegal to publish public announcements denying certain rights to members of a minority group referring to the decision of the Court of Justice of the European Union in the *Firma Feryn NV* case.<sup>17</sup> She further referred to the EU Racial Equality Directive<sup>18</sup> according to which the provision of café services is the primary activity of café-bars and their decision amounted to direct discrimination. The Ombudswoman concluded with a warning against the illegal treatment of Roma customers and stated that she expected a change in the attitude towards the Roma population which would contribute to a better integration of the Roma and the common life of the Roma and the majority population.

Given that the content of the announcement ('tickets are no longer sold to Roma, and they do not have the right to enter') was published on social networks, a large number of Roma could see it. In order to eliminate the consequences of the harmful behavior at least to some extent, she recommended that the café-bars announce on their website that they do not identify with the social media post, consider it inappropriate, that it is against their principles, as well as that everyone is welcome in the bar, regardless their racial, ethnic or national origin. She pointed out that as the holder of the mandate of the equality body, she is authorised to file lawsuits and that depending on the further actions of the café-bars, she will consider taking further legal steps in these cases. The Ombudswoman requested that the café-bars inform her about the measures taken within 8 days.

The owner of one of the café-bars sent a letter to the Ombudswoman explaining the incident. They stated that no content was ever published on their official website

that would offend Roma. However, they were aware of the fact that controversial content was published on social media by one of the event promoters of their café-bar. They stated that they considered such content as inappropriate and contrary to their principles. They warned all their promoters and employees about the obligation to treat all people equally, regardless of their racial, ethnic or national affiliation, and that the owners of the café-bar will also respect the same. They will take all necessary measures to avoid discrimination in the future.

After the Ombudswoman's warning, one of the café-bars posted the following announcement on its social networks: *'The café always welcomes guests who respect house rules, staff and other guests, regardless of national origin, race or ethnicity.'* After the announcement was published, the Ombudswoman sent a letter to the café-bar stating that they had achieved the desired effect with their announcement. She expressed her satisfaction because the café-bar had committed itself to treating all people equally in their service. She additionally noted that they can always contact her if they have questions, doubts or difficulties with the application of the legal framework that regulates discrimination.

#### *Discrimination in employment*

At a job interview, M.D. was directly asked if she was Roma. When she replied that she was, she was told that they could not hire her because they did not know how the hotel guests would react to that. Although she had work experience for the requested position, they hired another person with no work experience. ILC submitted a complaint to the Ombudswoman.

I felt very bad when I was told at a job interview that I was too dark and that the hotel guests would not accept me well.

**(M.D., discriminated Croatian Roma woman)**

The Ombudswoman requested a statement from the hotel. In its response to the Ombudswoman, the hotel stated that it was unable to make a statement due to the significant time lag and that the letter did not state the name and surname of the person who conducted the job interview. Following the hotel's response, the Ombudswoman, in her next letter to the hotel, requested a supplement to the statement stating that the specific job offer was published on the official website of the Croatian Employment Service and that for this reason she believed that the hotel's official archive contained records of communication with the Croatian Employment Service, notification of candidates as well as copies of all

communications. She stated that if the hotel does not respond as requested, she will obtain the same from the Croatian Employment Service. Referring to the name and surname of the person who conducted the job interview, the Ombudswoman wrote that the hotel must have the identity of the person who is authorised to conduct employment procedures. Also, a copy of the entire tender documentation (including received applications, decisions and accompanying documentation) related to the selection of the employed person was requested without delay. In addition, a call was requested to submit a notice of all vacancies for jobs at the hotel from February 2021. The case is still pending.

#### *Case related to public information and media*

The ILC mediator, in a conversation with a larger group of members of the Roma national minority, found out about the existence of a Facebook group, created in 2019. Since then, media articles from various portals have been published there on a daily basis, in which the authors write about unrest in Roma settlements and other places in their vicinity. In the accompanying comments of the authors of the posts, as well as of various people who follow the page, they highlight the Roma national minority as the exclusive factor affecting citizens' security. The page is followed by a significant number of people. In addition to the direct discrimination that is present in every publication of the above-mentioned page, ILC, in its complaint to the Ombudswoman, also warned about publications and comments that represent harassment because they are unwanted behavior that aims or actually represents a violation of a person's dignity, that causes fear, hostility and humiliation, and that creates an abusive environment. In addition, ILC also complained about very frequent hate speech, which is a criminal offense under Croatian criminal law. ILC considered all of the above to be a more serious form of discrimination because it was committed multiple times and over a long period of time. After ILC's complaint, the Ombudswoman forwarded it (together with all screenshots with examples of disputed posts) to the State Attorney's Office, the Ministry of the Interior (Minister's Cabinet) and the Police Directorate (Director General's Office).

#### *Case of physical assault and threats*

M.M. was attacked at his workplace while working as a traffic warden. He was harassed, physically attacked and threatened, all of which is related to his Roma origin, which the competent police station was informed about on the same day. In its complaint to the Ombudswoman, ILC stated that publicly available information shows that an indictment is being filed for the commission of a misdemeanor from the Anti-discrimination Act, but that

M.M. as a victim, for a long time, did not receive any notification about the actions taken against the perpetrator. After receiving the complaint, the Ombudswoman requested notification from the Ministry of the Interior (minister's cabinet and police directorate) about all relevant decisions or actions taken in the case. The case is pending.

## **Bulgaria**

In Bulgaria, due to the Covid-19 pandemic and related restrictions, mediators could only start the field work in May. The awareness of Roma community members about discrimination was so low that mediators needed significant amount of time to raise awareness among them. Also, there is a lack of trust in the judicial system and fear of reprisals. Therefore, at the beginning of the field work, people were rather reluctant to report any discrimination cases to the equality body. Until the publication of this report, only one case had been reported to the CPD.

On 18 September 2022, during the election campaign for the parliamentary election scheduled for 2 October 2022, one of the clients came across a 3.44-minute video posted on TikTok which was also posted Facebook. It shows Kostadin Kostadinov, the leader and representative of a political party called 'Revival', speaking in front of an audience. Kostadinov said, 'When I say gypsies, the solution for the gypsies is one and it is very simple - we start applying the laws and when we apply the laws, the gypsies will leave, believe me'. Then Kostadinov's statement continued with an attack on the Roma population, saying that the latter do not let their children go to school, but they do not receive any sanctions and no cases are filed against them. Kostadinov's entire statement was aimed at dividing society into Bulgarians and Roma and suggested that the Roma population creates problems for the Bulgarian population, does not respect the laws, etc. The case was reported by Amalipe to the Commissioner for Protection against Discrimination and is currently pending.

## Lessons of reporting discrimination cases to the equality body

Croatia		
Case	Rights at stake	Outcome
<i>Café-bar 1</i>	Access to service	Discrimination established; warning issued
<i>Café-bar 2</i>	Access to service	Discrimination established; warning issued
<i>Café-bar 3</i>	Access to services	Discrimination established; warning issued
<i>M.D.</i>	Right to equality in employment	Pending
<i>Facebook page</i>	Right to equality in public information and media	The complaint was forwarded to the competent institutions (State Attorney's Office and the Ministry of the Interior)
<i>M.M.</i>	Physical assault and threats	Pending
Bulgaria		
Case	Rights at stake	Outcome
<i>R.S.</i>	Hate speech	Pending

In total, seven cases were reported to the national equality body in the two countries covered by this programme. In three cases, the Croatian Ombudswoman identified evidence of discrimination and warned the perpetrators. In one case, the Ombudswoman forwarded the complaint to the competent institutions, the State Attorney's Office and the Ministry of Interior. Two cases

in Croatia and one case in Bulgaria are still pending. Out of the six reported cases in Croatia, three concerned discrimination in access to services, one was related to discrimination in employment, one to physical assault and threats and one to hate speech. The pending case in Bulgaria concerns hate speech against Roma.

# 5 Conclusions and recommendations

## Fieldwork

The fieldwork was valuable in terms of raising awareness among the Roma community of discrimination and how it manifests itself. Community members were acquainted with the available legal mechanisms for protection of the right to equality. Interviews conducted with Roma by the mediators were also important as the problems they are facing do not account to discrimination but concern other human rights violations. This programme helped both the mediators and local community members distinguish between the two categories through actual examples. Thanks to the fieldwork, Roma were better acquainted with discrimination, but also with the competence and functioning of the equality body and the protection available to them, as well as understanding the importance of reporting discrimination.

Mediators in both countries rated the field work as extremely successful because they talked to people from different parts of the country and made them aware of the problem of discrimination. All mediators are Roma, and most of them live in Roma settlements or visit them regularly and often privately. For this reason, people have trust in them. In most cases the problem would arise because they did not want to tell anyone else or take any steps. People often realised that they had faced discrimination before while they were speaking to the mediators who acquainted them with the relevant legal concepts. Many of the discussed cases were related to discrimination in employment but only three cases were reported in this field as people were afraid of reprisals and other negative consequences.

Raising awareness of discrimination, encouraging Roma to report cases, and increasing their trust in the mediators and in the institutions is a process that requires time and thus needs to be continued.

While all mediators successfully completed the training, they also received continuous coaching by the project partners and the legal advisors during fieldwork in relation to identification of cases; how to conduct interviews and provide support for victims. All mediators stated that this had been a valuable experience for them, both during the training and the fieldwork. The programme certainly helped in as much as the complainants knew they could expect professional help.

It was also important that the mediators tried to advise on other cases or, where necessary, sought the help of lawyers.

## Legal counselling

As Roma community members showed little trust in the judicial system, it took some time for them to turn to legal advisors with regards to their cases. When they finally decided to ask for free legal counselling, it often turned out that the case was not discrimination but another type of human rights violation. Legal counselling was also of particular importance as many Roma in need cannot afford to pay a lawyer.

The general conclusion is that individuals who are discriminated against are usually socially vulnerable, without knowledge of relevant procedures and available protection mechanisms, and the legal counselling provided to them in the identified cases was extremely important at various levels: (i) in raising awareness of discrimination and protection mechanisms; (ii) in increasing the trust of Roma in institutions; (iii) in increasing the number of discrimination cases brought by Roma; and ultimately (iv) in raising public awareness of what constitutes discriminatory behaviour.

## Reporting discrimination cases

Whenever victims of discrimination were advised on the available legal remedies and mechanisms, they frequently decided not to take any actions for fear of further victimization. It may be concluded that provision of adequate legal counselling and trust in partners' legal staff were extremely important in encouraging clients to report cases to the equality body. Furthermore, most Roma clients were not aware of the possibility of seeking protection from discrimination. Likewise, they lacked knowledge of the relevant procedures and institutions that could provide protection, which further emphasizes the importance of free legal assistance.

In Croatia, three of the reported cases concerned a discriminatory announcement of three café-bars banning the entry of Roma customers. As the announcements were published on social media, discriminatory practices had

wide outreach in this particular case. It was of utmost importance to report the case immediately and to take the necessary legal steps. Finally, discrimination was established in all three cases and the Ombudswoman issued a warning for all three establishments. One of the café-bars immediately took the necessary steps and changed its attitude. Reporting discrimination cases also had preventive effects on the perpetrators of discrimination. The Ombudswoman was also quick in instituting the necessary proceedings. In all six cases for which ILC filed a complaint, the Ombudswoman reacted within the stipulated deadlines. The letters she sent to the people who committed discrimination were clear, specific and contained all the necessary instructions. All letters regarding ILC's complaints were delivered to ILC by the Office of the Ombudswoman. ILC is satisfied with the Ombudswoman's actions on the complaints. We must especially emphasize the importance of the complaint on the Facebook page, for which urgent action was vital. The Ombudswoman forwarded the same to the competent institutions; namely, the State Attorney's Office and the police.

In Bulgaria, the creation of a mechanism for the implementation of interim measures in cases of discrimination would be useful so that the person who has been discriminated against can have quick reactions from the CPD. A similar example is the special mechanism for female victims of domestic violence. The same mechanism could be adopted for discrimination cases. In this way, cases involving discrimination can be quickly reported and reviewed by the CPD.

Reporting discrimination is especially important when it comes to increasing the visibility of discrimination against Roma. From the point of view of those affected, reporting discrimination contributes to building trust in official institutions. Furthermore, it may serve to prevent or deter potential perpetrators by adopting recommendations (in Croatia) or by ordering the cessation of the infringing situation, prohibiting future discriminatory conduct or even imposing a fine (in Bulgaria).

Fieldwork, legal counselling and reporting cases of discrimination all significantly contributed to raising awareness among Roma about discrimination and available legal remedies, thus increasing their access to justice by helping them resolve incidents either through mediation or by bringing the case to the equality body.

It was important for me to file a complaint because I can now see how it works and I will be able to tell my family and friends firsthand what to do when they experience the same thing.

**(M.D., discriminated Croatian Roma woman)**

## Recommendations

### Croatia

- The government should guarantee sufficient financial resources to providers of free legal aid in order to ensure adequate provision of free legal aid in exercising rights, and especially in protection against discrimination.
- Strengthen the capacities of institutions to solve the needs and problems of vulnerable social groups, and the risks of discrimination they face.
- Strengthen the capacities of civil society organizations dealing with Roma rights to represent and provide support to the community in cases of discrimination.
- State administration bodies should plan additional activities that will contribute to the achievement of the goals of the National Plan for Roma Inclusion and incorporate them in the next action plan.
- The government should establish local multi-sectoral teams that should work directly and in a coordinated manner in Roma communities, with the aim of combating discrimination and achieving more effective integration of Roma.
- The Croatian Employment Service should continue to inform employers about the ban on discriminatory conditions in employment advertisements.
- The Ombudswoman's Office should strengthen its efforts in disseminating information about its role in addressing discrimination. It should make sure that information about its role reaches the Roma communities as well.
- The Ombudswoman's Office should regularly organize roundtable events on the topic of discrimination to present examples of good practice and to change public perception.

### Bulgaria

- State and municipal/regional bodies should raise awareness of their work related to discrimination and their network of local offices should be expanded.
- The CPD should cooperate with NGOs working with Roma communities to request the Bulgarian government's support, including financial support, as well as providing opportunities for them to participate in the discussion and implementation of legislation related to the protection of Roma rights.
- There is still racial discrimination and racism within state institutions that governments should not deny. Administrative anti-discrimination regulations for state officials should be adopted. Regular training programmes should be implemented. An independent

and confidential complaints procedure should be put in place, and appropriate sanctions should be enforced against state officials found guilty of these regulations. While a complaint is being pursued, the complainant should be kept informed at every stage of the process.

- There is recognition of the bodies responsible for implementing equality policies, but their cooperation is rarely sought. Often local structures are not present or are not known to the community, and this requires wider dissemination of the main functions and location of structures of the CPD in Bulgaria.
- In cooperation with CSOs and Roma mediators, the CPD should increase its outreach to the Roma community.
- The government should ensure continuous funding for providers of free legal aid to ensure the clients in need receive free legal counselling in discrimination cases.
- Statistics should be collected and published on the number of discrimination complaints submitted to the CPD disaggregated by the protected characteristics of the complainants.

# Notes

- 1 Project number: 963284 — ERELA — REC-AG-2020 / REC-RDIS-DISC-AG-2020, funded by the European Union's Rights, Equality and Citizenship Programme (2014–20).
- 2 Atanas Atanasov, Nataša Kovačević, Andrea Spítálszky & Željka Vukasović Ravlić, *Discrimination against Roma in Croatia and Bulgaria: A comparative report*, MRGE, 2021, available at <https://minorityrights.org/publications/roma-croatia-bulgaria/>
- 3 See: <https://www.nsi.bg/census2021/> (in Bulgarian).
- 4 Kunac, S., Klasnić, K. and Lalić, S., *Roma Inclusion in the Croatian Society: A Baseline Data Study*, Zagreb, Croatia, Centre for Peace Studies and Ecorys Hrvatska d.o.o., 2018, <https://pravamanjina.gov.hr/UserDocsImages/dokumenti/Roma%20Inclusion%20in%20the%20Croatian%20Society%20-%20a%20Baseline%20Data%20Study.pdf>.
- 5 European Commission, 'Roma inclusion in Croatia: EU funding for Roma integration', [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatingdiscrimination/roma-eu/roma-inclusion-eu-country/romainclusion-croatia\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatingdiscrimination/roma-eu/roma-inclusion-eu-country/romainclusion-croatia_en)
- 6 Atanas Atanasov, Nataša Kovačević, Andrea Spítálszky & Željka Vukasović Ravlić, *Discrimination against Roma in Croatia and Bulgaria: A comparative report*, p.15.
- 7 *Ibid.*
- 8 *Ibid.*, p.14.
- 9 ILC is an authorised provider of free legal aid by the Ministry of Justice and the Administration of the Republic of Croatia.
- 10 The Amalipe Center has been active in the prevention of discrimination against Roma. Over the years, the organization has been included in a number of important monitoring committees and has always monitored the manifestations of discrimination of public figures, institutions and media, and promptly reported cases of discrimination in the public domain. Prior to the project, the organization actively assisted individuals who were discriminated against and approached it for support.
- 11 Direct discrimination is when a person is put or could be put in a less favorable position than another person in a comparable situation.
- 12 Indirect discrimination is when an apparently neutral provision, criterion or practice puts or could put people in a disadvantageous position compared to other persons in a comparable situation, unless such a provision, criterion or practice can be objectively justified by legitimate goals, and the means to achieve them are appropriate and necessary.
- 13 According to the principle of reverse burden of proof, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment. (See EU Racial Equality Directive, Art. 8.)
- 14 Commission for Protection against Discrimination – Bulgaria - <https://kzd-nondiscrimination.com/layout/>
- 15 Office of the Ombudsman – Croatia, 'Brief profile', [https://adsdatabase.ohchr.org/IssueLibrary/OFFICE%20OF%20THE%20OMBUDSMAN%20\(Croatia\).pdf](https://adsdatabase.ohchr.org/IssueLibrary/OFFICE%20OF%20THE%20OMBUDSMAN%20(Croatia).pdf)
- 16 Ombudswoman's 2021 report. Available at <https://www.ombudsman.hr/hr/interaktivno-izvjesce-za-2021/>
- 17 <https://curia.europa.eu/juris/liste.jsf?num=C-54/07>
- 18 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000L0043&from=EN>



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Combating discrimination through enhanced access to justice in Croatia and Bulgaria

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