

Prospects and Challenges of EU level Roma Inclusion Governance

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I, the undersigned ORSOLYA SZENDREY hereby declare that I am the sole author of this thesis.

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Abstract

The European Union has successfully used its agenda power to influence policy formation for Roma inclusion through the European Framework for Roma Inclusion Strategies. Nevertheless, the EU institutions are still exploring the legitimate means within the existing coordination and monitoring mechanisms to ensure effective implementation of the strategies by the Member States. This paper is aimed to identify the realized and expected outcomes of the European Roma inclusion policy framework and the main challenges for EU level governance in this policy field.

The chances for “tangible impact on Roma” of the European Roma inclusion framework by 2020 depend on how effectively Member State governments and local actors can be mobilized to implement and the crucial actors within the EU institutions to follow-up on the national strategies. Since the Framework covers several policy areas which fall under national competences, mainstreaming of this policy issue into the relevant sectoral policies is real challenge on EU level governance. The puzzle explored in the paper is to what extent the current policy coordination mechanism can promote efficient policy implementation in the Member States. The paper analysis the conceptual frames, mechanisms and instruments of the EU level governance of Roma inclusion and points at certain aspects in which improvement could enhance the chances for efficient policy implementation and more effective use of EU funds for this cause in 2014-20.

The paper is written from the viewpoint of a policy professional and civil society activist advocating for more efficient policies to target the social exclusion of Roma and the constructive use of available EU resources to enhance the chances for “tangible impact” of these policies.

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I. Introduction

The paper has a biased perspective of a non-state actor interested in using the EU as a political resource to ensure the spread of the EU norms and their resonance in domestic politics (Woll and Jacquot, 2010). This position explains the focus on the governance role of the European Union to facilitate improvements in the domestic policy domains. Outside pressure and support from the EU institutions had a crucial role in building the institutional and legal framework for democracy and non-discrimination in the Central Eastern European countries during the pre-accession period. It is suggested by the paper that there is a continuous need for the active assistance and monitoring pressure by the European Union to make governments accountable for efficiently addressing the most contentious and complex policy challenges, like Roma exclusion.

1. Topic

Roma are the biggest ethnic minority community within Europe with an estimated population between ten and twelve million (Commission Communication 2012). Social exclusion, extreme poverty and severe human rights violations that Roma face became main concerns on EU level, and an issue of continuous policy concern in the domestic political discourses of the Central Eastern European (CEE) countries.

Roma exclusion concerns started to gain political attention during the pre-accession process of the CEE countries, initially centred on the political 'risk import' caused by ethnic and social tensions of New Members after the enlargement (Toggenburg 2004: 7). The peak of this political attention and engagement on EU level was manifested in the recent establishment of the European Framework for Roma Inclusion Strategies in 2011, which embarked the EU level coordination and monitoring of the Roma targeted social inclusion policies of the Member States.

However EU pressure on candidates to demonstrate results in improving the situation for Roma during pre-accession was strong, domestic political and public support was lacking for effective policies (Guglielmo 2004: 42). The question is whether the current policy coordination mechanisms can remedy these former constraints. It is examined in the paper how efficiently the EU can fulfil its role to promote comprehensive interventions through the existing policy coordination, monitoring and programming mechanisms.

2. Scope

The geographical scope of the countries covers the five Central and Eastern European countries. Since these countries are all situated in the same geographic region, and share common political and economical grounds over the 40 years of communist regimes until the 1990's and joined the EU within the same accession phase (although not in the same year, but in two rounds). The political, economical and social development levels of these countries are regularly compared within each other. Finally, it can be argued that these selected cases are the most influential ones for the Roma inclusion problems on EU level, because of the significant size of the Roma population and the scope of the Roma inclusion policy challenges in these countries.

3. Methodology

The analysis presented in this paper follows an institutionalist approach, with an exemption of a slight attempt to use the 'discursive institutionalist' view point for constructing arguments about the potential impact of dominance by the economic, activation and poverty reduction concepts to frame Roma inclusion goals within the discourse of the Europe 2020 process.

The major theoretical concepts applied in the analysis and the argumentation presented in this paper are "experimentalist governance" elaborated by Sabel and Zeitlin (Sabel and Zeitlin 2010, 2012) and the analytical concept of the "social policy coordination framework

and the governance architecture” of the post-Lisbon era by Armstrong (Armstrong 2010, 2012).

The major methodological tool used for the paper is document analysis. It covers the relevant documents of the EU’s Roma inclusion policy framework, the official communications of EU institutions relevant to the topic, the common provision regulations.

Since comprehensive state reports are not available on the implementation of the National Roma Inclusion Strategies (NRIS) and time and language constraints do not make it possible to assess the mainstream education and employment policy documents of the five countries, the analysis relies on three major secondary sources of information to assess the implementation of the Roma inclusion goals through mainstream policies: the Country Specific Recommendations issued within the European Semester in 2013 and 2014, the European Commission’s 2014 Report on the implementation of the EU Framework for National Roma Integration Strategies, and the Civil Society Monitoring Reports on the implementation of the National Roma Inclusion Strategies from 2013. Prospects of implementation of the NRIS through EU funded development programs are assessed in the publicly accessible drafts of human development plans for the 2014-20 programming period (draft Operational Programs).

A few semi-structured interviews have also been conducted with the members of the operational unit of the Roma Task Force of the European Commission, who are responsible for coordination of the Roma inclusion topic within three Directorate Generals Employment, Social Affairs and Inclusion, Education and Culture, and Justice. The expert interviews contributed to a clearer understanding of the institutional structure of coordination within the EU, and provided insight views on strength and weaknesses on reporting and monitoring the implementation of the European policy framework for Roma inclusion.

Expert views of a greater pool of the Commission’s staff presented on a workshop on ‘planning Roma inclusion interventions in the 2014-20 period’ organized¹ for the members of

¹The workshop was organized by the Open Society Foundation’s Making the Most of EU Funds for Roma program on 22 May 2014 in Brussels.

the Education, Employment and the Regional and Urban Policy DGs also provided useful input for the paper. Mainly the country desk officers of the five CEE countries participated in the discussions and exchanged views about the issues related to efficient streaming of the Roma inclusion priorities and targets into the 2014-20 development programming process.

4. Structure

The paper starts with the review of relevant theoretical concepts on experimental governance, policy coordination and policy discourse on EU level. It is followed by an introduction of the milestones of the evolution of the Roma inclusion topic on the EU's agenda and key institutional policy coordination structures, which are relevant for the formation of the European Union's Roma inclusion policy framework.

The analytical parts of the paper include the assessment of the policy frames and concepts of the EU Framework (policy framing), and the institutional structures and instruments of EU level coordination and monitoring (governance structure). Secondly it sums-up observations on convergence of domestic implementation with the EU's Roma inclusion policy framework in the national strategies and the development programs planned in 2014-2020.

Finally, conclusions are offered about the prospects and challenges of the EU level coordination of the Roma inclusion policy field. This last section of the paper points at concrete aspects of EU level governance where improvements are desired for more efficient coordination to maximize impact on domestic level policy implementation.

5. Thesis statement

It is observed that the current Commission continues to exploit the opportunities created within EU policy coordination to use the EU Framework as an instrument for "experimentalist governance" (Sabel, Zeitlin 2012) to enhance efficiency of Roma inclusion policies in Europe. Although serious challenges are tackled, it is argued in the paper that the system of the European Framework mainstreamed into the Europe 2020's monitoring

mechanism could become an elaborate tool to trigger efficient EU level policy coordination. It is also suggested that the Framework has a 'spill-over' potential to become an experimental governance tool for comprehensive approach in social inclusion policy coordination within the EU.

II. Theoretical framework

The European Roma Inclusion Framework is understood as an instrument of EU level policy coordination within the multi-level governance structure of the European Union. In policy areas like social inclusion and education the European Commission is limited to use the existing coordination framework of the Open Method of Coordination (OMC) to pursue policy convergence (Armstrong 2010), since has no regulatory or sanctioning leverage to ensure compliance with the set policy directions and goals.

1. Experimentalist governance

It is argued in this paper that coordination within the European Roma Inclusion Framework can and should be used as an example for experimentalist policy making on EU level. Experimentalist governance as defined by Sabel and Zeitlin is able to build “bridge between effective responses to urgent problems and the ultimate elaboration of a new form of democratic accountability” (Sabel, Zeitlin 2012: 424).

There are two general conditions for the emergence of “experimentalist governance” (Sabel, Zeitlin 2012). “Polyarchic distribution of power” refers to political structures without one dominant actor in decision making. In the state of “strategic uncertainty” the official decision-makers do not know exactly how to respond to the current or emerging challenges, and there are no other knowledgeable actor informed about ultimate solutions who could be polled. Therefore open for a joint exploration of the possible solutions “to make persistent uncertainty manageable” (Sabel, Zeitlin 2012: 411) seems to be efficient.

Based on the above it can be argued that the EU has limited mandate for interference in the policy areas relevant for Roma inclusion under domestic competence (e.g. education), and that high level uncertainty in the optimal policy responses is also a factor which makes “experimental governance” a constructive solution on EU level.

Experimentalist decision-making is “an acknowledgement that no one at the center can have a panoramic view of the situation”, therefore it is based on an “agreement on broad framework goals, giving local [domestic] actors discretion to advance them in their own way, subject to comparative review of their separate efforts, and revision of both local plans and central goals in light of the resulting comparisons of implementation experience” (Sabel, Zeitlin 2012: 411). A theoretical implication of experimentalist governance is that the “rule following characteristic of principle – agent relations” is replaced by “dynamic accountability”, which is basically institutionalized learning and accountability simultaneously.

The core features of experimentalist governance architecture are multilevel actors and deliberative decision-making. In deliberative processes the initial preferences of the participants can transform through discussion to consensus (which is believed to be the reason for regulatory success and functioning of the European Union). According to Sabel and Zeitlin in this process the socialization of deliberators (civil servants, experts, representatives of interest groups) has crucial influence in deliberation and consequently on the outcome of the process. In these processes epistemic communities of “comitological” experts have an important role, since positions taken during deliberation are usually elaborated within informal networks (Sabel, Zeitlin 2010:2). This feature of the deliberative decision-making process is what some see as the root of democratic deficit and weakness of legitimacy of the EU. Sabel and Zeitlin take an opposite position stating that in transparent processes (a procedural requirement to follow by the European institutions) of reporting and peer review expert opinions are contested publicly. Therefore transparency and participation of multilevel actors together with dynamic accountability established within the experimental architecture “disciple the state and protect the rights of the citizens, without freezing the institutions of decision-making” (Sabel, Zeitlin 2010:5). Involvement of multiple-level actors within deliberative decision-making processes is theorized as a concept for deliberative alternative for the traditional form of representative democracy.

Sabel and Zeitlin described the ‘Agenda 2000’ process as an effective example for experimentalist governance, in which the Commission promoted, monitored and evaluated

the candidate countries' advance towards the common objectives during the accession period.

2. Social policy coordination within the Europe 2020 governance architecture

The European Roma inclusion policy framework is mainstreamed into the “governance architecture” (Armstrong 2012) of the Europe 2020 process, together creating potentials for a policy coordination mechanism which could fulfil the criteria for experimental governance as described in the previous section.

Armstrong recalls that the Europe 2020 agenda was introduced as “an integrated policy strategy based around the mutually reinforcing objectives of ‘smart’, ‘sustainable’ and ‘inclusive’ growth” (Armstrong 2012:288). These aims and policy targets of the Europe 2020 are streamed into the broader policy coordination architecture of the European Semester. Explaining the spill-over of European Union influence on the social policy areas like social welfare and social protection under the Lisbon agenda, Armstrong claims that it went parallel with the emergence of new forms of EU level governance, like the Open Method of Coordination (OMC). This new governance architecture could further strengthen the influence of the EU policy in social policy areas without the need for legislative reinforcement.

The innovation of Europe 2020 is that it requires the mainstreaming of certain social policy goals to other policies, which are subject to mandatory coordination processes. Armstrong argues that this innovation has two-sided effects on European social policy: It fosters convergence in social policy with much stronger accountability tools than in the regular OMC processes of social policy areas. Secondly, as a side effect of concentrated focus on the comprehensive Europe 2020 mechanism “the discrete social OMC process has apparently been held in abeyance” (Armstrong 2012: 293).

The main question – with crucial importance to Roma inclusion - posed by Armstrong regarding the future of the EU’s social policy agenda and governance architecture is whether

the coordination of the result oriented Europe 2020 agenda, which is designed primarily to promote economic growth, can really “act as a vehicle” (Armstrong 2012: 293) through which the social inclusion problems can be addressed and social cohesion promoted.

3. Policy discourse within EU governance

Analysis of the policy discourse within the political – institutional setting can have further contributions to understanding policy change and policy learning in the European context. This “discursive institutionalist” approach of Schmidt and Radaelli suggests that the EU’s multi-level governance setting has “coordinative discourses”, which are addressed to “the networks of governmental and non-governmental actors involved in policy construction at EU level” (Schmidt, Radaelli 2006:199). According to Schmidt and Radaelli through interaction the EU level discourses overlap with the national policy discourses and can influence national level policy formulation, which always reflects the EU’s formulation. It can be therefore inferred that the discursive power of the European Commission is exercised within its coordinative role. The authors also suggest that by framing the discourse the EU institutions define the “acceptable and expectable actions” (Schmidt, Radaelli 2006:194). Under conditions of uncertainty, ideas formulated within the discourse of the EU behave like road maps for specific policy directions (Goldstein 1993 in Schmidt, Radaelli 2006:194).

Ex-post analysis of the policy discourse concentrates on influence on policy implementation after the decision was made about the policy (Schmidt, Radaelli 2006:202). Since the European Roma Inclusion Framework is a policy framework (or ‘strategy framework’) full of empty frames, it can be inferred that discourse within the deliberative processes of EU coordination can have even greater influence on national level policy formulation. By “altering perceptions and influencing preferences” (Schmidt, Radaelli 2006:188), national level actors are capacitated for policy change. In this context policy change can occur “even where preferences remain opposed to EU policies” (Schmidt, Radaelli 2006:188). Nevertheless, the authors also warn that “sometimes words reflect action, and sometimes they obscure or even belie actions”. (Schmidt, Radaelli 2006:193)

III. Evolution of the EU's Roma inclusion policy agenda

This part of the thesis is aimed to highlight how the framing of Roma integration was established as part of the EU's pre-accession monitoring agenda in Central and Eastern Europe (CEE); how it moved away from the fundamental rights protection and anti-discrimination concept towards the social inclusion, anti-poverty, early school leaving and employment activation policy targets within the enlarged Europe during the 2004-2014 period.

1. Social inclusion agenda and OMC in the EU

The redistributive policies of market correction were considered to be a matter of Member States and not of the common agenda of the European Community. Beginning in the 1970's and accelerated through the 1990's the issues of poverty and social exclusion have evolved on the EU agenda in the following major steps: In 1975 the European Economic Community established 'action programs' to combat poverty. In 1989 Council Resolution was accepted on 'combating social exclusion'. In 1997 the European Community Treaty (Amsterdam Treaty) contained new provisions to make actions to combat social exclusion as a joint responsibility of the EU and the Member States. In 2000 a commitment to make impact on the eradication of poverty through „Open Method of Coordination“ (OMC) formed the basis of the Lisbon Strategy (2000-2010), which set the goal to „Europeanize“(converge) the domestic social policies (Armstrong 2010). The OMC through which convergence of social inclusion policies should be pursued must be distinguished from the 'Community Method' in which legislation and litigation are the key drivers, and also from the 'Treaty-based processes' like economic and employment policy coordination. OMC procedures vary according to context and time. The ideal type of OMC includes fixing guidelines, establishing quantitative and qualitative indicators and benchmarks, setting specific targets for Member States and providing periodic monitoring, evaluation and peer review based on mutual learning (Armstrong 2010).

On the margin of the social policy agenda of the EU an elaborate coordination mechanism (an experimentalist governance structure) has emerged in the specific field of Roma inclusion policy by 2011, the evolution of which is described in the following section.

2. The emerging Roma inclusion agenda

The 1997 Treaty of Amsterdam enabled the European institutions to take measures to combat discrimination based on ethnic origin. In 1999, the Cologne European Council decided to draw up a Charter of Fundamental Rights. The most important step forward was the adoption of the Racial Equality Directive 2000/43/EC which prohibited racial and ethnic discrimination in employment, education, social security, healthcare, and access to goods and services within the EU. The Directive also provided mandate for a special independent institution (Equal Treatment Body) to promote equal treatment and provide independent assistance to victims of discrimination in pursuing complaints. Later on the Charter of Fundamental Rights became also directly enforceable by the EU and national courts.

2.1 The pre-accession monitoring period

Minority protection received special attention during the accession process of the Central Eastern European (CEE) and Baltic candidates for EU Membership before 2004. The stability and security concern brought the Roma integration topic into the centre of attention, since the EU saw the Roma issue as a major source of tension in the region (Toggenburg 2004: 7). Nevertheless, attention to the problems Roma face in the CEE countries as well as pressure on the governments to develop targeted policies increased significantly after the flood of Roma asylum seekers reached Western Europe in the mid 1990's.

The 1993 decision of the European Council identified „respect for and protection of minorities” among the political criteria for accession known as Copenhagen Criteria. Progress made in the field of minority rights protection had been monitored annually by the European Commission (EC) and based on the findings of the EC report the Council set the

priorities for the countries. This process produced considerable progress in the development of the legal and institutional framework for minority protection and anti-discrimination in the candidate countries.

The adoption of the “Agenda 2000”, a new enlargement strategy by the Council in 1997 paved the way for the “new architecture of networked experimentalist governance then emerging across other areas of EU policy making” (Sabel and Zeitlin 2010:22). It established a mechanism for promoting, and evaluating the progress made by the candidate countries towards the fulfilment of the Copenhagen criteria including bilateral Accession Partnership Agreements and National Plans with defined benchmarks.

2.2 EU influence on the domestic policy arena during and after accession

Although the importance of the developments in the legal institutions and in policy during the accession process generated by the EU’s external pressure should be acknowledged, by now, some of these developments are seen as only formal compliances without effective implementation.

Anti-discrimination norms

In the new EU members the most important steps forward equal rights protection was the transposition of the Racial Equality Directive 2000/43/EC into domestic anti-discrimination laws. Although the evolution of a great variety of the legal and institutional set-ups could be witnessed in the region, several, but not all of the CEE countries ratified strong anti-discrimination laws. National anti-discrimination laws of the EU Member States which transposed RED to domestic level are designed to provide protection from discrimination for individuals and to ensure individual remedies. Still, it is not an easy task to challenge systematic discrimination and segregation of Roma before domestic courts based on these anti-discrimination norms. In cases of segregation several different practices, actions, decisions and non-actions could lead to discriminatory outcome, and such a complexity is hard to trace. Therefore adequate definition and interpretation of segregation in the

domestic legal systems is not sufficient to guarantee that these rules are enforceable. In order to ensure effective protection from discrimination and from segregation in particular progressive procedural tools must be applied (Farkas 2010). Considering the enforcement possibilities of anti-discrimination laws in the CEE countries it can be argued that several New Members introduced important “procedural novelties” when transposed RED to domestic law (FRA 2011), therefore the opportunity is open for effective enforcement mechanisms in most of the CEE countries. Yet, implementation is still weak, which must be related to the fact that anti-Gypsyism is a social norm in these countries “deeply ingrained in society as a justified way to deal with a social phenomenon” (Uzunova 2010: 307). Anti-Gypsyism is a social norm perceived to be stronger than legal norms outside the courtroom (Uzunova 2010), which is the engine of non-compliance with anti-discrimination norms, and it has major effect on decision making and on policy implementation as well.

Policy framing

Roma people were targets of assimilation politics, perceived mainly as social deviants by the state under the communist regimes of CEE countries. Their recognition as an ethnic group and national minority was reinforced by law and policy after democratic transition in the region. During the 1990’s most candidate countries developed comprehensive state policies, midterm plans and long term strategies, with ambitious objectives, but these policies were not elaborated sufficiently, adequate funding was not ensured, therefore the government policies targeted to Roma remained ineffective and inefficient. Lack of accountability of the subsequent governments for the implementation of these policies also continued because of the social and political weakness and political isolation of the object of these policies (Kovats 2001:19).

During the 1990’s long-term strategies and middle-term action plans were elaborated by the subsequent governments of some CEE countries, concentrating mainly on the problems identified behind exclusion: unemployment, poverty, education gap, as well as the promotion of Roma culture, and tolerance within the society. Although the human rights framing appeared in the political discourse as a result of the outside pressure of the EU, the major policy concept applied for the Roma issue remained ‘social exclusion’. Poverty and

social exclusion of Roma were mainly based on arguments of economic determinism, since unskilled Roma labour force suffered the greatest losses during the economic transition. The strategies and the policy measures if implemented usually left the structural causes of exclusion untouched and reinforced the public concept of the weak and marginalized Roma, who live on social subsidies provided by the state.

It can be concluded that despite the positive developments in the legal and institutional frameworks in the pre-accession period, the government policies targeted to Roma remained fairly inefficient and did not produce significant improvement in the life of Roma in the CEE countries. The lack of domestic political and public support for these policies is probably the most persistent obstacle. Prejudice against Roma is widespread in the CEE countries and policy implementation among such circumstances is “dependent upon the discretion and good will of public officials at different levels, who in many cases must contend with considerable public opposition to the idea of special benefits for Roma.”(Guglielmo 2004:42)

The human rights and equality norms concepts were imposed on the governments of the new EU Members from outside pressure. The Copenhagen Criteria was a useful tool for non-governmental actors to advocate for substantive changes, but these changes did not actually go through in the most important policy areas of Roma inclusion in the New Member States. Guglielmo’s statement still remains to be valid for the policy implementation processes in all of CEE countries up to this day. During the two decades following the fall of communist regimes only slim political and intellectual elites internalized and supported these norms. Most of the political elites of these countries responded to Roma rights claims positively because of the compliance pressure from international actors, but only a handful of left-wing politicians deluded themselves with the hope that policies pursuing social justice even if they interfere with the interest of the majority could be politically successful.

Consequently, the lack of political will is the main reason why most of the national level policies have left the structural causes of exclusion and systematic discrimination against Roma untouched. Few instances of more progressive Roma inclusion policy measures can be captured in some of these countries. But these examples also highlight how fragile such

policies are in the domestic political arenas e.g. the example of the anti-segregation policy initiatives in Hungary between 2003 and 2010. Nevertheless a few policy entrepreneurs initiated important changes in discourse and policy instruments, these practices would have needed more time and broader public support to institutionalize and to remain sustainable for longer term. But these norms have not gained broader understanding and support, therefore remained fragile to change in the political opportunity structure following administrative turnover.

2.3 Spill-over on EU level after enlargement

In 2004 at the time of accession of the ten new CEE and Baltic states the EU had two scenarios to follow: the „status quo scenario” or the „spill-over scenario”, which implied that after the enlargement a comprehensive minority protection policy would be developed on EU level (de Witte, 2004). A third scenario seems to be realized ten years after the enlargement. The EU’s Roma inclusion policy developed although the status quo of EU law was kept, since minority protection issues remain within the competence of individual Member States. Comprehensive EU policy for minority protection has not been developed either, but the specific field of Roma inclusion became a common policy area of the EU after the enlargement.

On EU level several resolutions issued by the European Parliament on Roma (e.g. in 2005, 2006, and 2008), the establishment of the Integrated Roma Platform in 2007 (to bring together civil society organizations and governments), the adoption of the Common Basic Principles of Roma Inclusion in 2009, the set up of a Task Force to examine the impact of the EU’s Structural Funds, and to promote a more efficient and human rights conscious use of the Structural and other initiatives of the Council (Sobotka and Vermeersch, 2012), and the Commission (e.g. the Roma Summits to increase political attention on the situation of Roma and the Roma Inclusion Pilot programs) all illustrate the continuing development of the EU’s Roma inclusion policy agenda until 2012.

The adoption of the Council conclusions in 2007 and 2008 acknowledged that the problems Roma face across Europe acquired greater political attention. Thereafter, a number of new institutional mechanisms were set up on EU level. Between 2010 and 2012 the Commission issued two important policy documents, which presented the Roma inclusion policy as a comprehensive approach of social and economic integration. (Sobotka and Vermeersch, 2012)

The operation of the Decade of Roma Inclusion Program initiated and supported by the Open Society Institute and the World Bank in 2004 was also a valuable input for the emergence of the EU level Roma Inclusion policy framework and coordination mechanism. The determination of the Hungarian Presidency and intensive political negotiations in the background were also needed, as experts of the Commission suggested. Finally, the “opportunity window” was opened (Kingdon 1995) by an extensively criticized radical policy intervention which received wide media coverage in Europe, the scandalous effort of the French Prime Minister Sárközi to expel Roma from France. Consequently, the European Commission took on the role of the “political entrepreneur” and proposed an EU level policy framework for Roma inclusion. In 2011 with the support of the European Parliament the overall EU Framework for Roma Inclusion Strategies was established.

IV. The new era of the EU's Roma inclusion policy framework

This chapter examines the EU's Roma inclusion policy framework focusing on the conceptual frames and the governance structure and coordination instruments in separate sections, following Armstrong's analytical viewpoint, suggesting that the influence of policy coordination can be considered separately on the policy processes and on the substance of policies (Armstrong 2010).

1. The scope and concept of the EU Framework for Roma Inclusion Strategies

The EU Framework established in 2011 is the fundamental document of a comprehensive Roma policy framework, which is applied on the whole community of EU Member States. The Framework is meant to be the end of the era of 'double standards', when human rights concerns related to Roma were thoroughly monitored and governments were pressured to take actions in candidate countries, but similar violations against travellers and Roma migrants in the Old Member States did not trigger any reaction from the European institutions.

The scope of the European policy framework stretches beyond the former anti-discrimination and social inclusion policy agendas of the EU. This policy initiative merges the concepts of minority protection and anti-discrimination with the social inclusion, poverty reduction and activation policy targets to form a complex approach covering the four major policy areas: education, employment, housing and health care.

1.1 Comprehensiveness

The policy framework is designed to facilitate comprehensive Roma inclusion interventions. This comprehensive approach covers diverse policy areas within the same framework and - as a major advantage - it opens the opportunity for European level coordination, agenda

setting and monitoring on previously ‘untouchable policy territories’ for the Commission under national competences. Furthermore this comprehensiveness allows the Framework to be linked to Europe 2020², which became one of the cornerstones of EU level governance of Roma inclusion.

(Advantages and future prospects of the engagement of the Framework with the Europe 2020 targets and the European Semester³ are assessed in a following ‘Governance’ section of this paper.)

1.2 Influence of the EU’s discourse

It can be argued that the policy concepts applied in the EU Framework has significant impact on the scope and directions of the national strategies and have indirect influence on the substance of policy implementation. The policy frames applied in the Framework are the major orientation points for the national strategies. Governments usually intend to elaborate strategies, which at least formally comply with the expectation of the EU to have a smooth and successful review process and to avoid criticism from the Commission. Therefore “policy actors copy mechanisms and respond with inertia to the pressure” (Schmidt, Radaelli 2006:190). Another, less obvious form of influence of EU policy on national level policy implementation can be inferred by lending argumentation from Schmidt and Radaelli. The EU policy framework can promote modification of national policy through empowering some interest coalitions opposed to others within the national discourse (Schmidt, Radaelli 2006). This discursive power of the EU is exercised through the “coordinative discourse” lead by the European Commission.

High level of uncertainty in ‘how to say’ and ‘what to do’ in Roma inclusion policy further increases the potential for influence by the European Institutions. It can be argued that this

² Europe 2020 is the European Union’s ten-year growth strategy.

http://ec.europa.eu/europe2020/index_en.htm Accessed on 08.06.2014.

³ The European Semester is the first phase of the EU's annual cycle of economic policy guidance and surveillance. (...) The European Commission analyses the fiscal and structural reform policies of every Member State, provides recommendations, and monitors their implementation. In the second phase (...), Member States implement the policies they have agreed.

http://ec.europa.eu/economy_finance/economic_governance/the_european_semester/index_en.htm

Accessed on 08.06.2014.

influence could be exploited by enhancing interaction of multi-level actors within the coordination process.

1.3 Merging frames: human rights, social inclusion and activation

The EU's Roma Inclusion Policy Framework merges the social inclusion, economic pragmatism and human rights protection concepts, sustaining that the correlation of these three are essential for adequate and effective policies to tackle the complexity of problems that Roma communities face in Europe. The EU Framework emphasizes that the Member States should put in place concrete measures to tackle exclusion and discrimination of Roma in accordance with existing EU legislation.

After assessing the submitted national strategies the Commission uses even stronger wording in its communication emphasizing the positive duty of the Member States to “step up the fight against racism and discrimination including multiple discrimination” (Commission Communication 2012:14). The severity of widespread discrimination against Roma was again emphasized in the recent implementation report of the EU Framework (Implementation Report 2014:9).

Consequently, significant progress cannot be expected in the Roma inclusion targets without more effective actions to counter discriminatory attitudes and practices in the Member States. Therefore the balancing approach between social inclusion, economic pragmatism and human rights protection, non-discrimination is a crucial element of efficient policies for Roma. Two relevant questions can be posed concerning the proposed comprehensive approach to the Roma inclusion policies: ‘How the envisaged balance between the three policy concepts can be achieved?’ and ‘Have the Member States so far managed to keep this balance?’

Responding to the first question it can be suggested that there are two major constraints of efficient balancing. One is embodied in the EU level governance structure of the Roma inclusion policy, the other derives from the political reality within the Member States. The major challenge on EU level is the shifting of policy priorities through mainstreaming to

Europe 2020. The poverty reduction and activation targets are overemphasized within the Europe 2020 strategy. Member States are incentivized to ‘overuse’ these frames when assessing policy issues and formulating policies targeted to Roma. Recalling the arguments of Schimdt and Radelli the assumption is suggested that ideas conveyed in the EU level discourse about the Europe 2020 targets influence the general understanding of the policy issues mainstreamed into the process. As a result “policy actors cannot act without addressing its concerns, even if they do not agree to the policy” (Schmidt, Radaelli 2006:203), which is the positive impact one could assume. Yet it must also be considered that the dominant framing concepts within the Europe 2020 discourse are economic pragmatism, poverty and activation and human rights protection and non-discrimination is under-represented (it can be argued that it is not represented at all). The conclusion is suggested that the Europe 2020 monitoring mechanism alters the lenses through which exclusion of Roma is perceived as a policy challenge, which has an influence on both the EU level discourse on Roma (how arguments made and recommendations formulated) and the domestic policy discourse in how it responds to the EU. It should also be noted that the distinction between EU level and domestic actors are partially meaningless, since most of the crucial actors of the EU level processes are Member State representatives. This way the influence of EU level “coordinative discourse” on national level policy formulation can be even stronger than suggested by the theory.

(The role of the monitoring and indicator system on Europe 2020 in the governance of Roma inclusion policy is discussed further in the following ‘Governance’ section.)

The second constraint of efficient balancing of the human rights approach with the other conceptual frames is described already in the previous chapter. It has been argued that although the necessary legal and institutional frameworks have been created for non-discrimination in the New Member States, persistent lack of political and public support for anti-discrimination and affirmative policies to compensate Roma for long-term and systemic discrimination is a major obstacle for efficient Roma inclusion policy formation in each New Member State. Therefore it can be argued that new conceptual frames promoted within Europe 2020 better suit the taste of the domestic political actors. By the same token, their desire to drop the human rights and anti-discrimination frames for Roma inclusion is resonated in the new EU level discourse of Europe 2020. One could say that this shift in the

discourse can be beneficial to Roma since the social inclusion and poverty framing is more compatible with the public understanding of social exclusion, and can contribute to broader solidarity and public support for the Roma inclusion goals. Nevertheless, this argument can be acknowledged, it must be re-emphasized the need for balancing and for consequent promotion of the human rights and non-discrimination approach within EU level coordination to fight widespread discrimination against Roma.

The second question, whether Member States have so far managed to keep the balanced approach, will be discussed in the final chapter of this paper, which tackles compliance and coherence with the European policy framework in domestic policy implementation and programming.

2. EU level governance of Roma inclusion

The European Framework for Roma Inclusion Strategies is an elaborate instrument for experimental policy coordination of a complex policy issue within the European Union. The following section examines the institutional structure and the instruments of EU level governance within the new policy framework.

2.1 Coordination within the European Framework

The implementation of the European Framework until 2020 is envisaged through the National Roma Inclusion Strategies for which „the Commission has also put forward a number of tools for promoting a more effective use and better absorption of EU funds for Roma inclusion” (EU Framework 2011) The Commission took the leading role in drafting the European Framework in 2011. Nevertheless, New Member States had already elaborated strategies and action plans to address this policy issue, and reported regularly on implementation within the Roma Decade Program, for the Old Members it was the first instance to elaborate a national level plan on Roma. As highlighted by an interviewee the Commission conducted extensive negotiations with Member States to ensure that they

submit the strategies within the very short period of time despite that it was not a binding legal obligation.

As an important milestone, the development of the legal framework of the EU's Roma inclusion policy was completed by the Council Recommendations, adopted in December 2013. It is the first legal, but a legally non-binding "soft law" instrument in this field which guides the Member States on how to implement cross-cutting policies effectively to foster Roma inclusion within the European policy framework (Council Recommendations 2013). With this legal act participation in the European Framework become mandatory for the Member States and enlargement countries alike.

Contact points for Roma issues are appointed in every Member State. The Commission has made attempts to facilitate multilateral exchange of experience through the network set up from these delegated national contact points. According to the interviewees some of the contact points have no mandate and capacity to coordinate or follow-up on the activities of the government in the relevant policy areas, so it is far from the truth that all of the contact points can fulfil their coordinative roles on domestic level. On the other hand interviewees confirmed that the crucial role of the contact points within EU level coordination is that they are they channel information between domestic actors and the Commission. The believed to be a huge advantaged after painfully complicated and inefficient communication between the Commission and the Member States on operative level. Yet, capacity building for these actors is necessary, which was affirmed in the 2013 Council Recommendations.

Coordination by the Commission is limited to following up on the implementation by Member States and to fostering cooperation and exchange of information within the network of domestic contact points for Roma inclusion. The 2013 Council Recommendations did not acknowledge the need for the Commission's stronger coordination role, despite that it acknowledged the findings of the Commission's communication which stated that after the adoption of the national strategies the Member State should make more efforts to start implementing them.

Neither did the recommendations initiate changes in the reporting system; the Commission continues to assess yearly progress and reports to the Council. Yet, considering the fact that the Recommendations were supported by both the Council and the European Parliament, it is expected that the Member States will make more efforts to implement the national strategies and will more actively contribute to the Commission's reporting.

It is obviously a very rough reporting framework, but it also has one major advantage. Since the rules pertaining to the reporting process and the responsibilities of diverse actors within it have not been elaborated, it leaves high degree of flexibility for the Commission to fulfil its task. Assuming the need for accurate and up-to-date information about implementation in the Member States for the report the Commission is urged to find way for accessing this information. It can be inserted that this is the driving force for following-up on implementation and engaging diverse social actors to validate (triangulate) the information gathered from diverse official and informal sources. As a result a progressive civil society reporting scheme has been established in 2012 in eight countries (including Albania), yet not by the Commission, but the Roma Decade Program Secretariat, and the Open Society Foundations. It was made possible by the previous fusion between the Roma Decade plans and the national strategies of the European Framework. The 'civil society shadow reporting' activity was extended in 2014 to cover more Old Member States cooperating with the Decade and the Newest Member, Croatia.

The goal of this activity is "to channel local knowledge into national and European policy processes and reflect on the quality and outcomes of government measures". The reports are intended to supplement or present alternative information to the Decade Progress Reports of the participating states and to the European Commission on the implementation of the national strategies. (Roma Decade Program Secretariat 2012)

Interviewed staff of the Commission praised this instrument with one voice and suggested that the Commission should take over this initiative and promote civil society monitoring as part of its coordination tasks within the European Framework. The main advantage of this facilitated civil society reporting – pointed out by the interviewees – is that it provides the type of information needed for the Commission to evaluate implementation. The reports

covered the four priority areas of the Roma inclusion framework, moreover they reflected on the structural and monitoring issues and discrimination against Roma as an additional cross-cutting area of the evaluation.

According to the interviewees the reporting templates used by the civil society coalitions were adjusted to the inquiries of the Commission. By reviewing the reports it is suggested that diversity in the used methodological approaches (and probably also in the reporting experience) of the civil society coalitions and the quality of publicly accessible data resulted in divergence in the quality of the reports. Yet this reporting exercise is perceived to be a useful instrument for mobilizing civil society actors to get engaged in monitoring.

2.2 The potential impact of triggering civil society involvement

It can be argued that cooperation fostered between the EU level coordination and the civil society partners actively engaged in Roma inclusion work in the domestic arenas can have at least two major advantages: Firstly, these civil society actors can channel a pool of useful information, data, observations and experiences from domestic and local level into the reporting process. Secondly, these actors can help to convey the relevant messages towards domestic and even local level actors, which can foster convergence with the EU Framework during implementation. The need for broader social and political support in the domestic and local context has already been emphasized.

It is a relevant question to be further explored in relation to Roma inclusion policy coordination how EU criticism matters in domestic political discourses, since the impact of the Commission's policy coordination efforts relies on the resonance of EU criticism in the domestic policy arena. As Woll and Jacquot observed the presence of non-state actors interested in using the EU as a political resource could ensure the spread of the EU norms and their resonance in domestic politics. (Woll and Jacquot, 2010) Woll and Jacquot pointed at the use of informal EU procedures by domestic NGOs to push for policy reform. Similar dynamics could be observed in the Commission's progress reporting process in 2013.

2.3 Prospects for more efficient coordination

Four possible directions for improvement in coordination and in reporting in particular can be imagined within the European Framework to foster policy convergence and accountability. One is transparent reporting process. The second is an elaborate benchmarking instrument with comparable indicators. The third is the promotion of deliberative process within policy coordination to foster convergence and learning. The fourth is more efficient mainstreaming of the Roma inclusion policy goals into the sectoral OMC processes (e.g. employment, social protection and education).

Regarding the first direction the need for developing the reporting system must be emphasized. As an interviewee noted although Member States are not obliged to submit progress reports to the Commission if they want to ensure that the Commission's assessment is based on accurate facts they do have to cooperate and provide information about domestic implementation. By the same token, it is also important for the governments to balance the influence of the civil society monitoring reports in the Commission's evaluation. The need for coordination and higher transparency and deliberation to ensure that diverse actors involved on multiple levels can interact and reflect on each other's input is evidenced in the 2013 reporting process. Besides pragmatic reasons supporting this claim, it is worth underlining that principles of 'transparency', and the 'right to information' and the 'right to be heard' for 'interested parties' within administrative procedures are elaborated within the case law of the European Courts, and became a progressive element of EU level governance (Sabel, Zeitlin 2012).

The second direction which the EU Framework coordination could take towards the "ideal type of the Open Coordination Method" (Armstrong 2010) is the use of comparable indicators and jointly agreed goals defined as benchmarks for evaluation. As a positive example for "experimentalist governance" of the Agenda 2000 a similar coordination mechanism was piloted which resulted in "real breakthrough in the accession process" (Sabel, Zeitlin 2010:22).

As regards monitoring indicators interviewed members of the Commission referred to a 'promising initiative' coordinated by the Fundamental Rights Agency (FRA). A permanent working group on monitoring indicators were established with the aim to elaborate indicators which can make Roma inclusion policy outcomes and impact measurable and comparable for Member States. The main challenge of their activity is to identify efficient proxies, since ethnic data is not gathered in several Member States. Currently the delegated members of fourteen countries take part in the work, which is hoped to serve as a basis for developing a reporting template with common set of indicators to enhance transparency and accountability in the implementation.

It is important to note that the use of the above monitoring instruments is recommended within a deliberative decision making and coordination process, in which the actors enjoy high level of autonomy to pursue their tasks and which allows them to reflect on progress and to compare their results with others in a peer review process, as well as to deliberate on necessary adjustments or revisions of the established benchmarking process. (Sabel, Zeitlin 2010) Based on this view of experimentalist governance it can be inferred that more opportunities for deliberation within the Roma inclusion policy coordination with the involvement of multiple actors from diverse levels of the policy process could foster efficient policy making and policy implementation on domestic level.

Roma inclusion is a policy area of complex problems, which are deeply rooted in the social, political and economic constructions. Policy makers working on this issue are frequently puzzled with very complex and contentious questions, which require comprehensive and innovative approaches to trigger social change. Although there have been attempts with EU support facilitate learning and exchange of experiences e.g. about programming of EU funds for Roma inclusion (within the Euroma network) and also to point at promising policy initiative (e.g. in the Commission's communication about the Roma inclusion framework), a solid knowledgebase about the necessary and sufficient policy interventions is still missing. While searching for meaningful solutions the domestic decision makers are probably more motivated to take part in joint efforts to explore efficient responses to the Roma inclusion challenges in deliberative processes. It is suggested that Roma inclusion policy is a challenging area of policy learning for state actors, which should be facilitated by the EU, yet

– as one of the interviewees noted – currently, fruitful learning and experience exchange activities take place within thematic and mainstream professional networks outside of the scope of the Commission (e.g. in the Eurocities network or in the East-West exchange program, which started to explore this policy area).

The fourth field in which Roma inclusion policy coordination within the Framework could foster impact is cross-cutting (or horizontal) cooperation in sectoral policy areas on operative level. Every interviewee confirmed that representation of the Roma inclusion policy issues on the political agenda is secured and that the Roma Task Force and the members of the Roma inclusion policy coordination on operative level have been actively promoting this policy issue through the monitoring and reporting processes of the European Semester and the 2014-20 programming. Yet, there is a room for development in mainstreaming the Roma inclusion policy goals into sectoral policy coordination (e.g. the work of the committees concerned with education, employment and social protection), in which Member State delegates actively participate. The opportunity to maximize efficiency by fostering structured interaction between the different policy coordination instruments of interrelated (and mutually dependant) policy areas is reinforced in Armstrong's analysis of "hybrid governance" within the EU (Armstrong 2012:297).

2.4 Monitoring impact through the European Semester: opportunities and constraints

The first report of the EC stipulated pre-conditions for successful implementation of the strategies, among them: "working with local and regional authorities and civil society; allocating proportionate financial resources; monitoring and enabling policy adjustment; fighting discrimination convincingly; and establishing national contact points for Roma integration" (EU Framework, 2011).

Although these structural pre-conditions must be met by Member States when forming and implementing the National Roma Inclusion Strategies, crucial procedural elements of the coordination process is missing, which could ensure effective implementation on Member State level. The Roma inclusion policy coordination mechanism - with the few basic

structural pre-conditions and only indirect result type of convergence (through the Europe 2020 monitoring process) - diverges from the ideal type of Open Method of Coordination (Armstrong, 2010) in two relevant aspects: comparable impact indicators have not been established, and specific benchmarking targets have not been set for the National Strategies. These aspects constitute the weakness of the policy coordination process within the Framework, which consequently limit the scope of direct influence by the EU on domestic policy implementation for Roma Inclusion.

Yet, it is important to consider that the comprehensive approach of this policy created the opportunity for the European Framework to channel the Roma inclusion goals to the economic policy coordination process of the European Semester by linking these goals to the related employment and social inclusion targets of Europe 2020. This way open coordination of the Roma inclusion policy targets intersects the strictly monitored treaty-based economic and employment policy coordination procedures. As underlined in the Commission's report in 2013: „As part of the Europe 2020 process, close monitoring of Roma inclusion and its coherence with mainstream policies will continue on an annual basis up to 2020. To make progress towards the Europe 2020 employment, social inclusion and education targets, Member States with larger Roma populations will have to tackle the challenges of Roma inclusion highlighted in the 2012 European Semester.” (Commission Communication 2013) This however implies, that progress on Roma inclusion related policy areas are only monitored in the five CEE countries and not in every Member State.

2.5 Mainstreaming to Europe 2020 targets

Commission staff interviewed for this paper all emphasized that the most important advantage of linking the European Framework to the monitoring mechanism of the Europe 2020 targets is to guarantee continuous political attention and to keep Roma inclusion high on the agenda of EU institutions. It is also emphasized that Europe 2020 and the European Semester together contain regular reporting and monitoring activities, which believed to contribute to more transparent and more efficient policy making in the Member States.

It is also worth noting that within Europe 2020 synergies and cross-sectoral impact of policy interventions are assessed regularly and cross-sectoral policy approaches are facilitated, which are progressive features of this monitoring process and crucial for comprehensive targeting of the complex Roma inclusion challenges.

It is also highlighted by the interviewees that most of the New Member States have gained extensive experience in writing strategies and action plans in social inclusion topics since pre-accession times, and can successfully use the EU language to meet the expectations. Yet they are far less experienced in how to implement strategies especially with a comprehensive approach that covers several policy areas. Without efficient accountability instruments the national Roma inclusion strategies in several countries would just remain on paper. The European Semester is believed to be a useful, but not sufficient tool for making Member States accountable for Roma inclusion policy implementation.

It must also be underlined that the link to the Europe 2020 process is a tool to promote mainstreaming of these policy goals into the sectoral policies and development programs. Nevertheless, from Armstrong's rather sceptical point of view this impact should not be overestimated, knowing that Europe 2020's "social dimension" is only concerned with the social implications of the mainstream policies which are aimed to promote economic growth, and which are in conflict with social cohesion goal in many ways (Armstrong 2012: 293).

From a more optimistic point of view the Europe 2020 process should be praised as a progressive instrument for setting social inclusion targets and monitoring education and poverty reduction indicators within the European Semester, which were considered as purely Member State competences. On the other hand the current mechanism can not make Member States accountable for the Roma inclusion policy targets. In order to ensure that the Europe 2020's social inclusion, poverty reduction, education and activation targets reflect on the expected improvements regarding Roma (and non-Roma facing social exclusion), a sub-indicator system would be needed. The need for further specifying the Europe 2020 indicators can be illustrated by the fact that the early school leaving targets set by 2020 can be fulfilled for some CEE countries without meaningful policy interventions to

address the wide achievement gap, which contributes to high level unemployment and social exclusion. The education gap between the majority and the socially most disadvantaged, mainly Roma children should be captured by the indicators in order to ensure that domestic policies target the social inclusion challenges sufficiently. The target for tertiary level education is also irrelevant for Roma since their participation rate is just the fragment of that of the non-Roma⁴ in these countries.

Considering the existing indicator system within Europe 2020 an interviewee emphasized that a not efficient indicator is still far better than nothing. Indicators have an important orientation role in European policy coordination. The reporting pressure makes indicators matter a lot for Member States and as soon as an indicator is dropped the related policy goal weakens significantly in the coordination process. “There are so many policy issues within the European Commission, which are competing for inclusion in Europe 2020 and for being mentioned in the country specific recommendations.”

The midterm review of Europe 2020, which will start as soon this year, is an opportunity to reconsider and to make adjustments to the indicator system. It is also worth considering that without more sophisticated social inclusion indicators influence of the country specific recommendations on the social inclusion policy area and on Roma specifically may further weaken after the formal approval of the 2014-20 programming plans, when direct funding pressure on the governments will fade away.

2.6 Funding for implementation

Funding is considered to be a major constraint for effective implementation according to the Commission’s communication in 2013. It highlighted that in some Member States, the implementation of the national strategies is delayed because of the allocation of insufficient resources.

⁴According to 2011 Household survey of the UNDP/World Bank/ European Commission the rate of Roma university graduates is around 1 percent in the respective countries. Assuming that they are under-represented in the survey, the participation rate is suggested to be higher, but still below five percent.

The European institutions have made attempts to push Member States to secure funding for implementation especially by the Council Recommendation on effective Roma integration measures (in December 2013). The Council Recommendations stipulated that the Member States should allocate the necessary financial resources for the sustainable implementation of the policies from their state budgets and also urged the constructive use of the EU's financial instruments to promote the Roma inclusion goals.

Besides its importance of being source of funding for Roma inclusion interventions the EU's cohesion policy has another important role, since the development projects implemented with EU support are the main sources of experience with EU norms and priorities for institutions, non-governmental organisation, informal communities and individuals. Cohesion policy can also foster institutional learning and innovation. This effect can be frequently tackled on project level in the social inclusion field. It is therefore a strong tool for the EU to have influence on local level. Moreover, examples show that it can promote policy learning between different policy fields, when progressive instruments used within one policy area of structural funds programming spilled over to other sectors or triggers changes in domestic policy making⁵. Consequently, EU funds programming in 2014-20 has different leverages to promote social inclusion and equal opportunities for Roma if used cleverly.

The 2014 Implementation Report of the Roma Inclusion Strategies highlighted that the potentials of EU funds has not been fully exploited in the 2007-2013 period for several reasons including lack of expertise, co-financing funds, and cooperation between authorities and Roma, insufficient use of technical assistance, and over-administered implementation. Concerning the potential use of the EU's funds for the implementation of the Roma inclusion policies in the 2014-20 programming period, significant improvements can be noted in the regulatory framework in these regards.

⁵ One example for such spill over is the Hungarian policy of „equal opportunity conditionality” initiated in 2007.

2.7 New regulatory framework for 2014-20

The special importance of the 2014-20 programming in relation to Roma inclusion lies in the fact that the EU funds have a lever to promote social aims at times of austerity (Armstrong 2012). Moreover, EU funds are instruments for conveying relevant European norms, values, policy concepts and experiences and address them directly to important actors on local level.

Efforts have been made to ensure that appropriate share of cohesion funds are allocated to investment in human capital, employment and social inclusion for the upcoming programming period. At least 20% of the European Social Fund (ESF) is earmarked for social inclusion and poverty reduction purposes (Implementation Report 2014: 10). The ESF regulations also contain provisions gender equality and non-discrimination (Article 5) and promotes capacity-building to foster access to the Funds for non-governmental organisations, particularly in the field of social inclusion, gender equality and equal opportunities (Article 6.3). Moreover, Article 8 stipulates the positive duty of the states to allocate ESF for specific actions to promote equal opportunities and non-discrimination. It is also important for monitoring and evaluation purposes that 'migrants, participants with a foreign background, minorities (including marginalised communities such as the Roma)' are all listed among the required common output indicators for participants in the programs (OSF - MtM Toolkit 2013).

Besides the above listed improvements pertaining to the use of ESF the common provision regulations of the EU's overall cohesion policy contain several important provisions, which e.g. stipulate non-discrimination in the preparation and implementation of all programs (Article 7), and the need for specifying actions for promoting equal opportunities for – among others – racial and ethnic minority groups (Article 96.7). A progressive instrument of ex-ante conditionality has also been established linked to the eleven thematic objectives and fulfilment criteria for seven general areas of the programming period. Among the general provisions anti-discrimination is the most relevant, which requires arrangements for involving equality bodies and training for staff of the authorities involved in the management and control of the Structural Funds. Important thematic provisions on sustainable and

quality employment and labour mobility and on education, training and vocational training for skills and lifelong learning include the fulfilment criteria to pay specific attention for the inclusion of people from marginalised communities. (OSF -MtM Toolkit 2013)

The new thematic objective for the integration of marginalized communities opens the door for greater and more comprehensive programs to promote social inclusion and to combat poverty and discrimination in the next programming period. The national Roma inclusion strategy is among the criteria for fulfilment, which implies that the gap between the Roma and the general population should be targeted, Roma civil society capacitated and involved in the implementation of the programmes, and a robust monitoring system is operated to evaluate direct impact on Roma (Annex XI of Common provision regulations).

These conditional criteria are aimed to secure link between the EU Framework and EU funding to maximize the effectiveness in promoting the Roma inclusion goals. However, the scope of this conditionality is limited only to those countries which include 'integration of marginalized communities' among their investment priorities. It is still an open question what happens if a country with significant number of Roma population and severe social inclusion challenges decides not to include this investment priority in their plans. The position of the European Commission is that during negotiations it will make sure that „the identified Roma inclusion challenges are adequately reflected in the funding priorities” (Implementation Report 2014: 10) The negotiations on the 2014-20 OP plans have not ended yet, so yet it can not be observed how far the Commission goes to put pressure on the Member States.

Besides conditionality and specific fulfilment criteria established by the new regulations, a few incentives are also provided on programming level to assist Member States prioritizing social inclusion investments. E.g. if a specific priority axis is devoted to social innovation, EU contribution to the implementation of the programs can be increased with 10%. More flexibility in cross-financing between European Social Fund (ESF) and European Regional Development Fund (ERDF) is also offered for specific social inclusion interventions⁶.

⁶ Interview on phone with a member of the European Commission's staff on 06.06.2014.

A new integrated project implementation mechanism has also been elaborated (in Article 15.2 and 96.4) to address the specific needs of geographical areas most affected by poverty or of target groups at highest risk of discrimination or social exclusion, with special regard to marginalised communities (OSF - MtM Toolkit 2013). This promotes comprehensive and more efficient targeted interventions from diverse funding sources. New instruments introduced in the regulations like the community-led local development (CLLD) can also become an efficient tool for interventions promoting Roma inclusion.

V. Implementation of the EU framework in domestic policy and programming

This chapter sums up observations on the implementation of the European Framework in few points based on the relevant Commission Communications, country specific recommendations and civil society monitoring reports. Compliance with the requirement to ensure effective use of EU funds for Roma inclusion and to apply the Common Basic Principles (an instrument endorsed in the Framework) is assessed in the draft Operational Program plans with specific focus on the education field.

1. Implementation of the national strategies

Two years after the Framework was formulated the European Union institutions found that the National Roma Inclusion Strategies have not efficiently addressed discrimination against Roma. The European Council warned that stronger political efforts are needed to ensure equality; and proposed further specific measures, including positive action to fight against discrimination (Council Recommendations 2013). The conclusion is suggested that beside the lack of political will the dominance of the poverty and activation frames in the Europe 2020 discourse also contributes to this outcome. Therefore political efforts should be persistent on EU level to make Member States accountable for the implementation of efficient anti-discrimination measures.

The Commission also underlined in its 2013 Communication that „most Member States need to make further efforts and involve local authorities more closely and systematically in developing, implementing, monitoring, evaluating and reviewing policy” and kept on emphasizing the need for real involvement of civil society and local level in the 2014 progress report.

2. Civil society participation

The civil society monitoring reports indicated that the degree and quality of civil society involvement in the planning and implementation of the Roma inclusion strategies diverge significantly in the five countries. Although involvement of civil society and active participation of the Roma are part of the common basic principles, moreover, compliance with the EU's Code of Conduct on Partnership is required; some Member States fulfil this requirement formally with online consultations on document drafts, or consultations limited to committees with closed membership or with state actors representing Roma, and do not make efforts to involve a wider pool of informed actors in social dialogue within the planning and implementation processes. Similar divergence can be observed in how civil society and Roma community participation in planned program implementation is indicated in the 2014-20 OP drafts.

3. Roma inclusion within the European Semester

By reiterating Armstrong's scepticism it can be argued that in the era of economic stabilization and austerity several constraints must be faced for building a strong social inclusion dimension for the EU. Nevertheless, some important signs for progress can be observed in the evolution of the discourse of the Europe 2020 process. It is perceived that the Commission is putting more efforts into addressing the crises of basic social protection norms (believed to be European), growing poverty and widening social gap, as important social inclusion challenges. Improvement in this respect in the language of the subsequent country specific recommendations can be tackled. Some of the 2014 CSRs contain very specific and elaborate recommendations to address particular aspects of social inclusion or education policy areas. These recommendations are not necessarily linked directly to the Europe 2020 growth and activation targets, which suggests that there is less pressure for legitimizing these critiques through packaging them into economic or activation frames.

Regarding Roma inclusion it can also be seen in the CSR that in the five countries subject to scrutiny in this respect, Roma related problems in different policy areas (mainly education) is

mentioned in the recommendations. By comparing the recommendations of the five countries it can be observed that very similar problems of Roma inclusion in these countries are addressed with different degree and weight in the recommendations. The conclusion can be suggested that the representation of diverse policy problems and challenges in the country specific recommendations is more dependent on the process and context of the recommendations than the severity of the highlighted problem in the country. As stated by an interviewed Commission staff member there is a competition between different policy issues to be included in the recommendations. Consequently, it can be inferred that the actual content of the country specific recommendations are influenced more by the circumstances of this uncertain competition, the argumentation and position of the competitors (e.g. in internal discussions within the Commission), and the bargaining power of the negotiators representing the Commission's position, rather than on the outcome of objective weighting of different policy problems against each other. Yet, attempts to consistency in following up on the same problems year by year can be recognised.

Additionally it must also be noted that the Roma inclusion problems indicated in the Recommendations are predominantly framed in poverty and social inclusion concepts and the Recommendations do not adequately reflect on the effect of widespread structural discrimination against Roma in the main policy areas. (E.g. in the Commission's position on the 2014 CSRs, only the Hungarian CSR raised the concern for systematic segregation of Roma in education, a severe violation of the non-discrimination norms, which should be addressed in other CEE countries as well).

4. Roma inclusion in the 2014-20 programming plans

Reviewing the 2014-20 Operational Programs (OP) drafts⁷ reveals that still not all major Roma inclusion challenges are addressed adequately in the programming plans. In most cases the programming plans include references to some of the problems assessed or goals formulated in the Roma Inclusion strategies. Social inclusion challenges and poverty are the

⁷ The draft human development OPs of the five countries were accessed with the assistance of the OSF's MtM Program. The document versions made public for partnership consultations until 22.05.2014 have been used for this review.

issues most frequently addressed. Yet, in most cases the structural problems and the most contentious issues did not gain recognition in the plans. E.g. discrimination and segregation of Roma children in the education system and discrimination against Roma in employment are not addressed efficiently. In the draft OPs of some CEE countries these policy targets are not even mentioned as problems that development programs should address.

Common Basic Principles

If convergence with the most important Common Basic Principles is assessed, the following arguments can be suggested. Some OPs have trouble with 'explicit, but non exclusive' targeting. In these OPs the interventions are targeted to different vulnerable groups, without mentioning Roma explicitly as target of any intervention. The 'aiming for the mainstream' principle seems to be in conflict in some OPs with another important tool promoted within the Framework, the territorially targeted interventions. In some OPs implementation of the equal opportunity measures are restricted to the most excluded Roma communities, leaving out most of the Roma population who live in integrated neighbourhoods. Implementation of the principle of 'constructive, pragmatic and non-discriminatory policies' can be questioned by the fact that e.g. in education policy segregation of children is not addressed efficiently. If the principle of 'evidence –based planning' is considered it must be underlined that measurable objectives and relevant result indicators are missing from the OPs.

Concerning planned development programs in education the following observations are offered. In most of the OPs targeted interventions aimed to enhance equality in education are not properly linked to mainstream development measures, non-segregation conditionality are not applied consequently and segregation of Roma children in the education system is not addressed. Although it must be praised as a major improvement that early child education and care for Roma is a focused area, the planned interventions do not pursue a comprehensive approach and do not address all the major access constraints.

VI. Conclusions

It can be argued that the European Framework has an important role in keeping the Roma inclusion problem high on the political agenda on European level, but actual impact on domestic policy implementation is uncertain. Nevertheless, concerning the five Central Eastern European (CEE) countries, the European Framework linked to the Europe 2020 monitoring process can put some pressure on Member States to move beyond formal compliance, assess the impact of mainstream policies on Roma and implement targeted interventions. The new regulatory framework of the 2014-20 programming period also have relevant contributions to this more optimistic scenario since it fosters the constructive use of EU funds for social inclusion programs with several important improvements in the planning framework, programming toolkit, funding and implementation rules.

On the other hand the European Roma inclusion policy framework is a very fragile system based on several political compromises. In the domestic arena of the Central Eastern European countries the lack of social and political consensus to support measures to fight discrimination and social exclusion of Roma and the missing political will and capacity for implementation on local level are all potential pitfalls of Roma inclusion policy interventions.

Therefore it is suggested that the coordination and monitoring role of the European institutions to facilitate improvements in the domestic policy domains should be strengthened. Accountability of governments for the impact of policies on Roma could be fostered through a transparent and coordinated monitoring and benchmarking process involving civil society actors. Policy implementation could also be promoted through capacity building, deliberation and exchange of experiences. It is also highlighted in the paper that constructive use of EU funds to promote equal opportunities for Roma is still an unfulfilled promise in the New Member States and therefore efforts need to be concentrated on influencing planning for 2014-20.

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