

*DISCRIMINATION AGAINST  
ROMA BEFORE THE  
EUROPEAN COURT OF  
HUMAN RIGHTS*

Legal Seminar  
on the implementation of EU law on  
equal opportunities and anti-  
discrimination

Brussels, 6 October 2009

# Racial Equality Directive and European Convention on Human Rights

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- Different scopes
  - RED: Article 3 par. 1
  - ECHR:
    - Art. 14: Enjoyment of the rights set forth therein
    - Art. 1 of Protocol 12: Ratified by 7 EU member states only
- Different responsible subjects
  - RED: Any subject
  - ECHR: Member states
- Overlaps

## ECtHR's Case-Law

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- Roma applicant, but
  - no discrimination found, or
  - not necessary to examine the discrimination claim
- Violation of the Article 14
- Article 1 of the Protocol 12

# Violence

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- **Nachova and others v. Bulgaria**
  - first finding of the racial discrimination in the history of the Court
  - burden of proof: change of the attitude adopted in *Anguelova* and *Velikova* cases
  - followed by *Bekos and Koutropoulos v. Greece* and many other cases
  - *Šečić v. Croatia*: discrimination caused by the passive investigation
  - *Moldovan and others v. Romania*: state's responsibility for the mob violence

# Privacy

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- Connors v. United Kingdom
  - summary eviction from the gypsy site
  - „*special considerations should be given to the needs and different lifestyle of gypsies*“
  - not necessary to examine under Art. 14
  - applicability on housing cases and „ghettoisation“

# Education

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- D.H. and others v. the Czech Republic
  - different attitudes of the Chamber and the Grand Chamber
  - reference to the EC/EU law including RED
  - further development of the burden of proof issue
  - statistical evidence
  - no need to examine the individual cases
  - no violation of the right to education taken alone
  - followed by *Oršuš and others v. Croatia* – no discrimination

## Other cases

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- *Čonka v. Belgium* – collective expulsion
- *K.H. and others v. Slovakia* – sterilisation of Roma women – case concerned access to court only

# Conclusion

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- ECtHR's Case-Law applicable in the EU context
  - where the scopes of RED and ECHR overlap
  - in case of general principles
- Mutual influence – ECtHR refers to the EC/EU law (*D.H. and others*)