

## *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

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### Racial Equality Directive and European Convention on Human Rights

- 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

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### ECtHR's Case-Law

- 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

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## Violence

- **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 *Angelova 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

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## Privacy

- **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“

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## Education

- **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

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### Other cases

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

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### Conclusion

- 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*)

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