

**Recommendation Rec(2005)4
of the Committee of Ministers to member states
on improving the housing conditions of Roma and Travellers in Europe**

*(Adopted by the Committee of Ministers on 23 February 2005
at the 916th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members and that this aim can be pursued, in particular, by joint action in the field of social cohesion;

Recognising that Roma/Gypsies and Travellers have been contributing to European culture and values, just as other European people, and recognising that despite this asset, Roma/Gypsies and Travellers have been experiencing widespread discrimination in all areas of life;

Recognising that there is an urgent need to develop new strategies to improve the living conditions of the Roma/Gypsy and Traveller communities all over Europe in order to ensure that they have equality of opportunities in areas such as civic and political participation, as well as developmental sectors, such as housing, education, employment and health;

Bearing in mind that policies aimed at addressing the problems faced by Roma/Gypsies and Travellers in the field of housing should be comprehensive, based on an acknowledgement that the issue of housing for Roma/Gypsies and Travellers has an impact on a wide range of other elements, namely the economic, educational, social and cultural aspects of their lives, and the fight against racism and discrimination;

Bearing in mind the under-used potential of Roma/Gypsy and Traveller communities and their capacity to contribute to the improvement of their own situation, especially in the field of housing;

Bearing in mind that some member states do not have, or do not implement, a clearly defined national housing-related legislation, addressing various practices such as housing discrimination, discriminatory harassment in housing, discriminatory boycotts, ghettoisation, racial and residential segregation, and other forms of discrimination against nomadic and semi-nomadic Roma/Gypsies and Travellers, as well as unequal housing conditions and access to housing, such as social housing, public housing, do-it-yourself housing and cooperative housing;

Recalling the relevant international documents in the area of housing, such as the Universal Declaration of Human Rights (Article 25.1), the International Covenant on Economic, Social and Cultural Rights (Article 11.1), the United Nations Habitat Agenda (adopted in Istanbul in 1996), and the Declaration on Cities and Other Human Settlements in the New Millennium (adopted by the Special Session of the United Nations General Assembly for an overall review and appraisal of the implementation of the Habitat Agenda, in New York, 6 - 8 June 2001), the Council of Europe's European Social Charter of 1961 (ETS No. 35) (Article 16), its additional Protocol of 1988 (ETS No. 128) (Article 4), and the Revised European Social Charter of 1996 (ETS No. 163) (Article 31);

Taking into account the Framework Convention for the Protection of National Minorities (ETS No. 157);

Bearing in mind its Recommendation No. R (2000) 4 on the education of Roma/Gypsy children in Europe and its Recommendation Rec(2001)17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe;

Bearing in mind Parliamentary Assembly Recommendations 563 (1969) and 1203 (1993) in which mention is made of the living conditions of Roma/Gypsies in Europe;

Bearing in mind Resolutions 125 (1981), 16 (1995) and 249 (1993) and Recommendation 11 (1995) of the Congress of Local and Regional Authorities of the Council of Europe on the situation of Roma/Gypsies in Europe;

Bearing in mind General Policy Recommendation No. 3 of the European Commission against Racism and Intolerance on combating racism and discrimination against Roma/Gypsies in Europe;

Having welcomed with satisfaction the Policy Guidelines on Access to Housing for Disadvantaged Categories of Persons prepared by the Group of Specialists on Access to Housing as well as Parliamentary Assembly Recommendation 1505 (2001) on amelioration of disadvantaged urban areas in Europe;

Bearing in mind European Union Council Directive 2000/43/EC of 29 June 2000 on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;

Bearing in mind that the constitutional structures, legal traditions, and the division of responsibilities differ in Council of Europe member states, which may lead to various ways of implementing the present Recommendation,

Recommends that, in designing, implementing and monitoring their housing policies, the governments of member states:

- be guided by the principles set out in the Appendix to this Recommendation;
- bring this Recommendation to the attention of the relevant public bodies in their respective countries through the appropriate national channels.

Appendix to Recommendation Rec(2005)4

I. Definitions

The term "Roma" used in the present text refers to Roma/Gypsies and Traveller communities and must be interpreted as covering the wide diversity of

groups concerned.

"Housing" in this Recommendation includes different modes of accommodation, such as houses, caravans, mobile homes or halting sites.

The definition provided for by the United Nations Habitat Agenda for "adequate housing", paragraph 60, should be borne in mind in the context of the present text: "Adequate shelter means more than a roof over one's head. It also means adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities: all of which should be available at an affordable cost".

General Comment No. 4 on the right to adequate housing of United Nations Committee on Economic, Social and Cultural Rights should also be recalled here.

"Transit/halting sites" indicate sites to which Travellers are admitted, pending re-housing or further movement.

II. General principles

Integrated housing policies

1. Member states should ensure that, within the general framework of housing policies, integrated and appropriate housing policies targeting Roma are developed. Member states should also allocate appropriate means for the implementation of the mentioned policies in order to support national poverty reduction policies.

Principle of non-discrimination

2. Since Roma continue to be among the most disadvantaged population groups in Europe, national housing policies should seek to address their specific problems as a matter of emergency, and in a non-discriminatory way.

Freedom of choice of lifestyle

3. Member states should affirm the right of people to pursue sedentary or nomadic lifestyles, according to their own free choice. All conditions necessary to pursue these lifestyles should be made available to them by the national, regional and local authorities in accordance with the resources available and to the rights of others and within the legal framework relating to building, planning and access to private land.

Adequacy and affordability of housing

4. Member states should promote and protect the right to adequate housing for all, as well as ensure equal access to adequate housing for Roma through appropriate, proactive policies, particularly in the area of affordable housing and service delivery.

Prevention of exclusion and the creation of ghettos

5. In order to combat the creation of ghettos and segregation of Roma from the majority society, member states should prevent, prohibit and, when needed, revert any nationwide, regional, or local policies or initiatives aimed at ensuring that Roma settle or resettle in inappropriate sites and hazardous areas, or aimed at relegating them to such areas on account of their ethnicity.

Participation

6. Member states should, as appropriate, provide Roma communities and organisations with the means to participate in the process of conceiving, designing, implementing and monitoring policies and programmes aimed at improving their housing situation.

Partnership

7. Moreover, member states should encourage and promote empowerment and capacity-building on a wider basis among Roma communities by fostering partnerships at local, regional and national levels, as appropriate, in their policies aimed at addressing the housing problems facing Roma.

The member states should also ensure that members of the Roma communities are also actively involved in this process.

Coordination

8. Member states should ensure that proper coordination is provided in the field of housing between, on the one hand, the relevant national, regional and local authorities and, on the other, the Roma populations and organisations who represent the majority active in this field.

Role of regional and local authorities

9. Member states should encourage local authorities to meet their obligations with regard to Roma – in the same way as for any persons with the same legal status – in the area of housing. They should encourage regional and local authorities to ensure that area-based and local development strategies contain concrete and clearly specific sets of objectives targeting Roma communities and their housing needs.

III. Legal framework

Legal framework for housing rights

10. Member states should develop a comprehensive policy and legal framework related to housing, which is necessary for sedentary and itinerant people (in accordance with the geographical specificity) to exercise their right to adequate housing.

Legal framework for related rights

11. Within this framework, member states should develop mechanisms with a view to ensuring the access of Roma to related rights, such as water supply, electricity and other forms of relevant infrastructure, such as education, medical care, social support, etc., as enshrined and articulated in international human rights laws and related standards.

Implementation of the legal framework

12. In order to provide equal access to housing, member states should ensure the implementation of the aforementioned legal framework and provide clear guidelines to the relevant authorities with regard to the exercise of housing rights. They should also provide clear guidelines for access to and distribution of housing and services.

The need for legal aid

13. Member states should make available to poor people free legal aid, advice and representation related to the denial of housing rights in order to ensure that their ability to protect their rights or seek effective remedy, including judicial redress against denial of housing rights, is not undermined by the lack of legal aid mechanisms.

Transparency, good governance and access to information

14. The legal system should ensure transparency and good governance, including the right of Roma to access information related to housing policies and decisions of national and local authorities likely to concern them.

Support to NGOs

15. Non-governmental Organisations involved in Roma issues, in particular in the fields of counselling and legal assistance, should be given fair conditions in which to perform their activities and effective support. Member states should also provide for the legal conditions to regulate NGOs' activities in the field of housing.

Monitoring of housing policy implementation

16. Member states should establish appropriate monitoring mechanisms to ensure the implementation of housing policies and practices for Roma. Roma representatives should be involved on an equal footing in any monitoring and evaluation process.

Control mechanisms

17. In accordance with the autonomy of regional and local authorities, member states should make use of the legality control mechanism referred to in paragraph 22 to make sure that regional and local authorities' decisions do not have discriminatory effects on Roma's access to housing, or in any way impede the enjoyment of their right to adequate housing.

IV. Preventing and combating discrimination

Adopting anti-discrimination legislation

18. Comprehensive legislation should expressly prohibit direct or indirect discrimination on the grounds of racial and ethnic origin in employment and access to and supply of goods and services which are available to the public including, *inter alia*, housing, land, property, education, employment, health, social services.

Monitoring and review of existing housing legislation

19. Member states, through their relevant authorities, should undertake a systematic review of their housing legislation, policies and practices and remove all provisions or administrative practices that result in direct or indirect discrimination against Roma, regardless of whether this results from action or inaction on the part of state or non-state actors. They should establish adequate mechanisms (for example, parliament, human rights commissions, ombudsmen, and so on) to ensure, and promote, compliance with anti-discrimination laws with regard to housing matters. Such mechanisms should allow for participation of Roma representatives and NGOs at all stages of monitoring.

Protection of the rights of Roma women

20. Member states should ensure that anti-discrimination laws prohibit gender-based discrimination, directly or indirectly, in the supply of goods and services, including housing. Member states should also foster housing policies addressing the needs of Roma women, and in particular single mothers, victims of domestic violence and other categories of disadvantaged Roma women; the relevant authorities should ensure that access to social housing is provided to them, taking into consideration their urgent needs. Member states should create mechanisms that protect women's housing rights from any form of violation.

Preventing segregation in environmentally hazardous areas

21. Member states should take measures to combat any forms of segregation on racial grounds in environmentally hazardous areas. This includes investing in the development of safe locations and taking steps to ensure that Roma communities have practical and affordable housing alternatives, so as to discourage settlements in, near or on hazardous areas.

Providing effective sanctions

22. Member states should provide for effective, proportionate and dissuasive sanctions on the institutions, agencies, public officials and private persons who violate anti-discrimination laws with regard to housing. Existing remedies should be accessible and well-publicised and appropriate remedies should be available for victims.

V. Protection and improvement of existing housing

Security of land, housing and property tenure

23. Member states, bearing in mind that the right to housing is a basic human right, should ensure that Roma are protected against unlawful eviction, harassment and other threats regardless of where they are residing.

Legalisation of Roma settlements and encampments

24. The public authorities should make every effort to resolve the undefined legal status of Roma settlements as a precondition for further improvements. Where Roma camp illegally, public authorities should use a proportionate response. This may be through negotiation or the use of legal action. However, they should seek, where possible, solutions, which are acceptable for all parties in order to avoid Roma from being excluded from access to services and amenities to which they are entitled as citizens of the state where they live.

Access to property

25. Member states, through their relevant authorities, should ensure equal opportunity for Roma to acquire the ownership of the land on which they currently live, and an access to the information on the possibilities of doing so. Adequate alternatives should be provided in situations where this is not possible.

Legal protection from unlawful evictions and the procedure for legal evictions

26. Member states should establish a legal framework that conforms with international human rights standards, to ensure effective protection against unlawful forced and collective evictions and to control strictly the circumstances in which legal evictions may be carried out. In the case of lawful evictions, Roma must be provided with appropriate alternative accommodation, if needed, except in cases of force majeure. Legislation should also strictly define the procedures for legal eviction, and such legislation should comply with international human rights standards and principles, including those articulated in General Comment No. 7 on forced evictions of the United Nations Committee on Economic, Social and Cultural rights. Such measures shall include consultation with the community or individual concerned, reasonable notice, provision of information, a guarantee that the eviction will be carried out in a reasonable manner, effective legal remedies and free or low cost legal assistance for the persons concerned. The alternative housing should not result in further segregation.

Provision of adequate services

27. Member states, through their relevant authorities, should provide the same adequate level of services to Roma settlements and camp sites as to other groups of the population, while keeping in mind the need for sustainable solutions. Moreover, authorities should be aware that, beyond the delivery of adequate services, they should act so as to improve the overall quality of life in Roma settlements and camp sites by promoting better management of daily life, that is: area-based administrative, commercial, social and sanitary services, public transportation, refuse disposal, the upkeep of public apartments, buildings or camp sites and their surroundings, adequate management of neighbourhood conflicts and of problems linked to non-payment of rents and services, and so on.

VI. Framework for housing policies

Policies to promote access to housing

28. The member states should make the improvement of Roma housing conditions one of their priority areas for action. They should promote equal opportunities for Roma as regards access to the private or public property markets, particularly through non-discriminatory policies and criteria for the allocation of housing, and through a legal and political framework that is consistent nationwide and is binding on local authorities, since they have prime responsibility for housing issues.

Comprehensive and integrated housing policies

29. Member states, taking into account the potentially synergetic links between housing policies and other socially-oriented policies concerning access to welfare, employment, health and education, should encourage public authorities, at all levels, to adopt comprehensive approaches and policies.

Participation in the preparation of housing policies

30. Roma should be involved as early as possible in the process of planning and setting up of their future settlement areas or permanent housing units, so as to assess as precisely as possible what their particular needs are, or will be, in the future. Member states should also ensure that Roma residing on their territory – whether sedentary, nomadic or semi-nomadic – are given an appropriate assistance to define their specific needs in terms of housing, as well as access to appropriate welfare and social services (health, education, employment, culture, and so on).

The need for adequate housing models

31. Bearing in mind the diversity of national, regional and local situations, member states should provide for adequate housing models, through national legislations, policies or strategies. Provision should also be made for Roma to be able to acquire their own accommodation by different means, forms and methods of access to housing, such as social housing, cooperatives, do-it-yourself housing, public housing, caravans and other innovative forms of housing. All the relevant elements to the housing models mentioned (financial, social and other) should be carefully defined.

Housing policy adapted to specific situations

32. Member states should develop and implement programmes and projects that are tailored to the specific situations of the diverse Roma communities.

Such programmes and policies should include the building or development of the entire physical and social infrastructure that is needed for adequate and sustainable housing.

Providing equipped transit/halting sites

33. Member states should ensure that an adequate number of transit/halting sites are provided to nomadic and semi-nomadic Roma. These transit/halting sites should be adequately equipped with necessary facilities including water, electricity, sanitation and refuse collection. The physical borders or fences should not harm the dignity of the persons and their freedom of movement.

Access to health and sanitary services

34. Nomadic or semi-nomadic groups should be provided access to proper and adequate sanitary conditions as well as easier access to existing health infrastructures and services (especially in emergency situations, and as part of preventive health campaigns). Roma who are permanently and legally settled in derelict or unhealthy surroundings should receive assistance in order to improve the sanitary conditions of their homes (help for repairs, assistance in improving their living conditions and environment, measures to allow them better access to short-term loans for acquiring better housing, mediation in their relations with administrations or public services).

Role of regional and local authorities

35. Member states should make sure that local and regional authorities meet their obligations with regard to Roma, even when the latter do not reside permanently on a given territory. Local government agencies should be educated in the area of non-discrimination and should be held accountable by the state for discriminatory practices and policies in the field of housing.

International relief

36. When they are unable to carry out their obligations in the field of housing, member states should accept international relief assistance for the benefit of Roma. Member states should pay particular attention to international assistance projects or programmes so as to ensure a high level of cooperation, transparency and closer cooperation with local partners.

Awareness-raising

37. Member states should launch and encourage local authorities and Non-governmental Organisations active in the field of housing to launch awareness-raising campaigns on the rights of Roma to equal access to the housing market and information campaigns for the Roma communities on their rights to adequate housing. National campaigns on secure tenure promoted by the national committees on implementation of the United Nations Habitat Agenda, as adopted and ratified by member states at the Habitat II Conference, could be an adequate framework for such awareness-raising campaigns.

Employment initiatives and construction

38. Member states should encourage employment initiatives at local level *inter alia* by providing incentives for Roma to participate in the entire process of renovation/construction works of their future homes. This would contribute to improving their economic situation, help to give them better access to funding for their projects, both individual and collective, help to mitigate their feeling of precariousness and rejection, and foster a sense of ownership. This would also provide Roma with new competences that would allow them to explore new vocational avenues and would leave them less vulnerable to unemployment.

Statistical data-base and housing policy indicators

39. As a preliminary tool for policy development, in order to better assess the actual situation of disadvantaged categories of persons as regards housing, member states should ensure that the relevant national public authorities gather statistical data on a regular basis in accordance with, and in the spirit of, international and national norms in the field of personal data protection. They should also establish indicators for measuring the achievement of policy objectives over time. Member states which regularly collect Habitat housing indicators should also apply this to Roma housing.

VII. Financing of housing

Sustainability of financial resources

40. Member states should acknowledge that successful social cohesion policies require proper funding and assistance, continuous commitment and a long-term approach. Moreover, it should be borne in mind that solutions to such a wide array of different issues and problems will necessarily have to be implemented in a flexible manner. Suitable and proper access to funding and to means of fostering stability and security (including, but not restricted to, access to property) are central to any long-term action in this field.

Financing housing projects from various sources

41. Member states should ensure that housing-related projects are financed from national public budgets as well as from a variety of sources (private donors and international financial institutions) and be administered through a network of partners, at local, regional, national and transfrontier level. Since the implementing period of housing projects is quite long, these projects should be accurately planned in terms of financing and works so as not to raise false expectations among the populations concerned. In addition, since these are mainly area- and community-based projects, it is of the utmost importance that local networks and partnerships be built and fostered.

Integrated funding

42. Since housing projects are part of wider-based, further-reaching policies, member states, through their relevant authorities, should approach the financing of such projects in a comprehensive manner that takes into account aspects such as physical and health infrastructures, social cohesion needs and potential initiatives, culture, education, or employment opportunities.

International support for Roma housing

43. Member states should be encouraged to make use of the possibilities, including loans offered by international financial institutions in favour of Roma housing projects. They should also make use of the expertise of international financial institutions that have gained extensive knowledge in managing this kind of integrated project in many parts of the world, among them the Council of Europe Development Bank, whose mandate includes operating in areas such as housing of disadvantaged population groups in Europe so as to promote social cohesion. The World Bank, the European Bank for Reconstruction and Development, as well as some European Union programmes could also be of particular use in this respect.

Access to funding possibilities to acquire housing

44. Member states should develop adequate financial structures that provide for easier access to available sources of funding for housing, in cooperation with international financial institutions if necessary. Member states, through their relevant authorities, should also consider appropriate mechanisms to enable nomadic and semi-nomadic people to acquire caravans or mobile homes through low interest loans or other financial schemes, which do not put them at a disadvantage with regard to possibilities offered to sedentary people.

Funding infrastructure and services

45. Member states should ensure that local authorities and financial institutions provide funding for accompanying measures aiming at developing or building basic infrastructures and services and enhancing the quality of life of Roma in general, in order to improve the daily management of settlements or sites and to strengthen the overall social cohesion.

Specific budgetary provisions

46. Competent bodies of member states should allocate specific financial means to serve as an incentive for positive action on the part of the responsible authorities, such as development of field work, inclusion of the issue of Roma housing in land-use plans, access to expert advice and mediation for municipalities concerned, and so on.

VIII. Housing standards

Adequate housing as a basis for all housing standards

47. Member states should regulate and implement in practice, the concept of "adequate housing" as defined in Paragraph 60 of the United Nations Habitat Agenda, and General Comments Nos. 4 and 7 of the United Nations Committee on Economic, Social and Cultural Rights, bearing in mind the human rights dimension, economic conditions both locally and in the country as a whole, and related social and cultural elements. This concept should be defined so as to apply to all citizens, including Roma. The definition of "adequate housing" should form the basis for all other housing standards.

Standard for housing location and surroundings

48. Member states, through their relevant authorities, should ensure that Roma housing is located in areas that are fit for habitation or suitable for construction under current legislation, and in ecologically healthy surroundings. Moreover, they should adopt measures that would enable Roma communities to react to unexpected events, such as natural disasters or epidemics, which often disproportionately affect vulnerable groups living in precarious settlements. The existing settlements which cannot be removed from unsuitable locations should be improved by appropriate and constructive environmental measures.

Legal standards for public and social services

49. Legal standards applying to public services – water, electricity, street cleaning, sewage systems, refuse disposal, and so on – should equally apply to Roma settlements and camp sites. Public transportation should be a part of area-based facilities. The authorities should also make sure that public services, such as health care facilities, access to education, police stations, post and telecommunication offices, are available in these areas. Authorities should pay specific attention to the physical distance between Roma settlements and camp sites and schools, as it is an important factor in fighting against the creation of ghettos.

The need for non-discriminatory security standards

50. The Roma housing environment should not be worse than, or inferior, to the housing areas, settlements and towns of the majority population. The standards used in supplying settlements and building apartments should not discriminate against Roma in any way.

Minimum construction standards

51. The quality of the material (built-in and permanently visible parts of the apartments and houses, such as joinery, wall and floor coatings, installations, sanitary fixtures, technical equipment, and so on) depends directly on the economic possibilities of the tenants, on community funds, and ultimately on the economic situation of society as a whole. Member states should therefore ensure that minimum construction standards exist, guaranteeing a healthy life, balanced family relations and proper conditions for children, and good neighbourhood relations.

Standards for adaptability and enhancement of housing

52. The apartment surface area should correspond to the number of tenants, while bearing in mind normal human adjustment to the spatial framework. Since families are dynamic – an increasing number of members, changes in economic possibilities and cultural needs, changes in vital needs and the development of aspirations – the architectural and legal solutions should make it possible to follow these dynamics by facilitating extensions to, and improving the interior properties of, apartments. Even when apartments are built with less surface area than average, they should be designed in advance for extension and enhancement. Standards regarding the adaptability of structure and surface size should be introduced, providing the technical possibilities for poor families to start with modest housing that they can expand and enhance later on.