European Commission

Workshop on future policies for Roma Background paper for session 1

[13 September 2019]

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1. Introduction

This discussion paper has been drafted to facilitate the debate during the session "Options for EU action on Roma equality and inclusion post-2020" at the Workshop on future policies for Roma taking place in Brussels on 1st of October 2019.

In chapter 2, the paper includes a short overview of the current situation and progress made since the adoption of the EU Framework for National Roma Integration Strategies (EUFW) as well as the shortfalls and remaining challenges.[1]

The EUFW runs until 2020. In parallel, the European Union is currently entering into a new political, policy and financial cycle, with a European Parliament newly elected in May and a new European Commission taking office on 1st of November. A new Multiannual Financial Framework programming period is set for from 2021 to 2027. This new cycle will allow for different policy options of Roma equality and inclusion at the EU level. These options are described in this paper, including their advantages and disadvantages. Chapter 3 presents six options.

While, in general, Roma face problems of exclusion and discrimination in all European countries, the situation is very diverse in terms of scale (number of Roma population, or share of the total population), as well as specific problems and policy drivers. These different country contexts would justify a common framework for all EU and enlargement countries, while, at the same time, call for differentiated priorities and intensities in countries' commitments and interventions regarding Roma inclusion. This issue is outlined in chapter 4.

Finally, the paper includes some questions that could facilitate the debate during the workshop sessions.

2. Overview of recent years and the current situation

This section provides a brief summary on how the Roma policy context has evolved in recent years, referring to the main contributions and EU added value of the current EUFW as well as highlighting its weaknesses and shortfalls, as identified by the recent evaluation of the EUFW.[2] It then gives an outlook on challenges for a potential post-2020 Roma equality and inclusion initiative and its possible elements at EU and MS level.

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[1] In this paper the EU *Framework* will be referred to as "EUFW". The *strategies* or integrated sets of measures at Member State level and in enlargement countries will be referred to as National Roma Inclusion Strategies (NRIS). The EU Framework for National Roma Integration Strategies up to 2020 is based on the 2011 Commission communication COM(2011)173. In 2013, it has been reinforced by a Council Recommendation (EC. 2013). 2013/C 378/01 "On effective Roma integration measures in the Member States"

[2] The evaluation has been presented in a Communication COM(2018)785 (10 pages), a staff working paper SWD(2018)480 (60 page) and an independent expert study (300 pages). All the products of the mid-term evaluation process are available here: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/roma-and-eu/mid-term-evaluation-eu-framework-nris_en

2.1. Policy context

The circumstances in which the EUFW was conceived are different from the current situation. Many of the key driving factors that existed then are now less relevant. Furthermore, some developments – principally in the wake of the economic crisis, the emergence of social post-crisis problems, the increase in the number of asylum seekers etc. – have pushed the Roma agenda down a level in terms of priorities. The Roma issue today is perceived to be given less relevance than ten years ago at the EU and national level, despite the fact that the current situation of Roma should justify an active engagement and intervention.

On the other hand, in the meantime, there has been an increasing consolidation of the EUFW and national structures and actors.[3] The governments of the Western Balkan countries have also confirmed their commitment to Roma inclusion by signing the Poznan Declaration on Roma integration in the EU enlargement processes.[4] Signatories pledged to take the necessary steps to achieve concrete results in the fields of employment, housing, education, health, civil registration and non-discrimination. In other words, Roma inclusion today forms part of the political and social agenda at the EU level, in many Member States and enlargement countries. However, so far it has generated limited impact.

Today in Europe "policies of recognition" are more present than before in the European agenda.[5] This is also the case with Roma. Together with policies focused on social integration and economic redistribution, there is a claim for cultural recognition and political representation.[6] "*Nothing about me, without me*" has become a claimed, though often not considered, guiding principle for Roma interventions.[7] At the same time, the concept of antigypsyism is gaining ground.[8]

This is a crucial moment for stock-tacking of the impact of the EUFW, forward-looking and redefinition of a future initiative for Roma inclusion and equality. The European Parliament issued a report in 2017 and called for a reinforced EUFW in a 2019 resolution.[9] The Austrian EU Presidency organized a conference on antigypsyism.[10] A note issued by the Romanian EU Presidency to EPSCO, following their high-level conference on Roma, has recently

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[3] A goal framework and reporting system has been established, as documented in the annual EC reports. Likewise, all Member states have published their strategies (NRIS). Additionally, a civil society "shadow reporting" has been held, with a first cycle in 2017 looking into governance and anti-discrimination issues, a second cycle in 2018 covering the four areas of the EUFW and a third cycle to come inquiring into outstanding issues. A similar process is supported in the enlargement countries by IPA funds.

[4] Poznan Declaration. (2019). Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process - 05 July 2019. Poznan.

[5] See Fraser, 2017; for a discussion see Dahl, Stoltz, & Willig, 2004. In the same line Fukuyama, 2018

[6] see Cortéz Gómez, 2019; Vermeersch & Van Baar, 2018

[7] See Kóczé et al., 2015; McGarry & Agarin, 2014

[8] "Antigypsyism" is already mentioned in the 2013 Council Recommendation. It has been extensively treated in the European Parliament Resolution in 2017 (Post & EP, 2017). Recently a number of activist or academic publications have been published. See Alliance Against Antigypsism, 2017; Carrera, Rostas, & Vosyliūtė, 2017; End & Cortéz Gómez, 2019; FRA, 2018.

[9] European Parliament. (2019). European Parliament resolution of 12 February 2019 on the need for a strengthened post-2020 Strategic EU Framework for National Roma Inclusion Strategies and stepping up the fight against anti-Gypsyism (2019/2509(RSP). Strasbourg / Brussels. European Parliament. (2017). Report on fundamental rights aspects in Roma integration in the EU: fighting anti-Gypsyism, Rapporteur Soraya Post (2017/2038(INI)). Strasbourg / Brussels.

[10] See Conference on Antigypsyism, 2019

conveyed the participants' pledge to the objectives of Roma inclusion and invited the Commission to propose an ambitious new EU framework for the post-2020 period on Roma integration.[11] And the upcoming German EU Presidency is most likely to take up the challenge to deepen the commitment. Already in 2016, the European Council, under the Slovakian presidency, requested the Commission to inquire whether the Council Recommendation requires updating.[12] The European Pillar of Social Rights (EPSR)[13] is gaining impetus and the Sustainable Development Goals 2030 Agenda[14] is becoming relevant for European policies. The President-elect of the European Commission has stressed, in her priorities, a strong commitment towards anti-discrimination, gender equality, diversity, social protection, particularly for children, and the strengthening of the rule of law.[15] She has announced that "A Union of equality" is one of the major priorities of the new Commission and of the implementation of the European Pillar of Social Rights (EPSR).

2.2.   The achievements and shortfalls of the EU Framework in a nutshell

Below we briefly sum up the key EU added value and achievements of the EUFW, including lessons learned and limitations.[16] Much of the debate comes back to the question on how to adhere to the 10 Common Basic Principles, formulated in 2009.[17]

Achievements of the EUFW

- The Roma issue is on the EU agenda as well as on the agendas of the Member States and enlargement countries: there are structures in place; relevant actors are engaged; working mechanisms have been created; synergies have been established with other policies; and more EU funds have been invested.[18]
- There has been a continuous and incremental process of establishing and fine-tuning the EUFW and the National Roma Integration Strategies (NRIS): reporting tools; ESIF funds explicit investment priority; and FRA work on a measurement framework and to establish evidence on the situation of Roma exclusion and discrimination, etc.

[11] EU Council 2019. High Level Conference on EU Framework on National Strategies for Roma Inclusion (Bucharest, 4-5 March 2019) - Information by the Presidency. Note. Brussels, 14 March 2019. 7003/19.

[12] EU Council 2016. Accelerating the Process of Roma Integration. 14294/16 from 18 November 2016

[13] EC 2017. Commission communication establishing a European Pillar of Social Rights. COM/2017/0250.

[14] UN 2015. Transforming our world: the 2030 Agenda for Sustainable Development. Resolution adopted by the General Assembly on 25 September 2015. A/RES/70/1. 21 October 2015.

[15] Ursula von der Leyen (2019). Political guidelines for the next Commission (2019-2024) - "A Union that strives for more: My agenda for Europe", Brussels ec.europa.eu/commission/interim_en#political-guidelines

[16] The contents of this part are based on the on the 2018 mid-term evaluation and the 2019 Commission Communication - EC. (2019a). Report on the implementation of national Roma integration strategies 2019 - COM(2019)406. Brussel; EC. (2019b). Roma inclusion measures reported under the EU Framework for NRIS SWD(2019)320. Brussels.

[17] EC. (2010). The 10 common basic principles on Roma inclusion – Vademecum, Brussels. Brussels.

[18] Amongst other issues, the EU-Roma Network has established an operational learning exchange of public administrations on programming for Roma inclusion related to European Funds. See: European Network on Roma Inclusion under ESI Funds (EURoma Network) www.euromanet.eu

- The 2013 Council Recommendation has provided guidance to Member States in enhancing the effectiveness of their measures and strengthening their national policies.[19]
- The EUFW has been a driving factor for national policies, programmes and interventions, including attracting more funds.
- The Roma Civil Monitor Project provides further evidence, whilst strengthening oversight capacities of local Roma activist organizations.[20]
- Today there is better understanding of the Roma issue, better information, know-how, etc.

Shortfalls of the EUFW

- Limited results: positive trends can be detected in some areas, although this has not yet been translated into substantial improvements in the social integration of Roma.
- Lack of focus on specific issues: the NRIS are too generic with lack of targets in most cases and lack of focus on specific issues and failure to sufficiently address the needs of different Roma groups (EU mobile Roma, children…).
- The dimension of anti-discrimination has been weak: manifestations of antigypsyism – namely discrimination, hate-crime, hate-speech and hate-motivated harassment of Roma, as well as institutional discrimination and continued segregation in accessing universal services – continue to be a matter of concern.
- There are substantial differences between the countries in terms of trends, but also in terms commitments, responses and results. This does not seem to be captured by a one-size-fits-all EUFW.
- Limited sustainability of policies and projects in place at the moment as well as the NRIS and National Roma Contact Points (NRCP) have limited mandate, capacity and means.
- Insufficient funds: limited investments of national and EU Funds and poor information on the results of investments.
- Weak monitoring and reporting systems: scarce access and quality of data, as well as limited information on policy measures or progress.
- Limited mainstreaming of Roma inclusion goals/agenda into public policies and universal services.

2.3.   Challenges for a post-2020 initiative

Overall, the EUFW continues to be necessary as it puts the Roma issue on the agenda, has a European dimension and supports the Member States through instruments and cross-country learning. Also, the EUFW has supported the enlargement countries and has helped them to deal with problems that they would struggle to tackle by themselves. The four key areas - education, employment, health and housing - continue to be critical areas for Roma integration. Nevertheless, there should be an increased focus on discrimination/antigypsyism. Poverty reduction requires more policy attention and decisive

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[19] European Council (2013) Council Recommendation 2013/C 378/01 "On effective Roma integration measures in the Member States", Brussels

[20] https://cps.ceu.edu/roma-civil-monitor

action. The future initiative needs to be more robust in terms of identification of targets in each of the areas, underlying theories of change, explanation of how they will be implemented, budget allocation, and description on how they will be evaluated. The following inventory summarizes some key problems and challenges as described in many reports and potential solutions/measures that could come from EU and national level.[21]

- **Limitations in the areas of engagement:** Roma integration goals only exist in the areas of employment, education, housing and health. There were no specific goals for the areas of poverty and discrimination. Others are important as well such as (a) poverty and social protection, (b) child protection, (c) fighting antigypsyism, and (d) migration and mobility.

- **Intersections:** Child protection and gender equality is a key challenge in many countries. Albeit mentioned in the EUFW, NRIS implementation does not prioritise early interventions and follow a gender equality approach, in most countries.

- **Participation**: Roma empowerment, participation and recognition is still insufficient. One-off consultations are more frequent instead of structural and continued civil dialogue, covering the different spheres of participation from political representation down to integration into community life.

- **Discrimination and antigypsyism** has not been sufficiently addressed, and no specific targets or action are formulated in most NRIS.

- **Country differences:** There are substantial differences between the countries in terms of situations, responses and results. Despite these, NRIS do not operate in a common yet differentiated European framework, which would adapt the response according to *intensity* of the challenge and *specificity* of the context.

- **Roma diversity:** Roma population sub-groups are not taken into account in the practice of Roma inclusion action, both in terms of intersectional vulnerabilities, as well as migrant and EU-mobile Roma. Likewise, the stratification within the Roma according to educational levels, income and access to power is not taken into account.

- **Measurability:** Targets in NRIS are rather imprecise and lack ambition. There is no default set of specific targets. Monitoring is technically challenging and generally weak, both on EU and – more so – on MS level.

- **Evidence base:** Robust evidence on Roma living conditions as well as the impact of Roma inclusion measures is scarce.

- **Good practice and scale:** The limited sustainability of policies and projects points towards the need for long-term projects. Rarely does cross-country learning

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[21] The issues listed below are the author's assessment of the current state of affairs, informed by the aforementioned reports, namely the mid-term evaluation, the successive Commission and FRA reports and academic and activist literature, as well as a personal trajectory of working on Roma inclusion in Spain and Europe over the last decades. It is meant as a synthetic impulse to kick-start the debate.

promote a common understanding of implementing principles and practice. MS do hardly support and prioritise long-term, effective projects and seek sustainability and continuity of interventions.

- **Common basic principles:** key policy principles (i.e. inclusive interventions and mainstreamed interventions) are insufficiently implemented. Current implementation does only sometimes combine mainstreaming and targeting. Implementation of Roma inclusion policy does not follow a common understanding.

- **Learning:** There is limited stocktaking on action on Roma inclusion at EU level, despite the Commission system of MS reporting and some exchange of good practices.

- **Smart funding:** action on Roma inclusion has been funded with a piecemeal approach and unsystematically. Funding priorities for the European funds and implementation guidelines[22] are defined, but do not reach the ground.

- **NRCP mandate:** NRCP have insufficient mandate and resources.

- **Access to universal services:** The NRIS insufficiently impact in the mainstream policies, neither with equality and inclusion targets. NRIS do not describe how mainstream policies are inclusive of Roma and ensure this is monitored.

- **Transnational cooperation:** Insufficient cross-country cooperation has taken place on transnational Roma issues.

- **Local actors:** the NRIS have difficulties in going local. Monitoring and capacity building at sub-national level is scarce. MS governments rarely engage in standard setting, capacity building and experience exchange within sub-national administration.

- **Multilateral:** The European engagement with International organizations (IOs), such as the Council of Europe, OSCE, HCHR, UN agencies and the World Bank, could be more and more strategic, considering the mandate and respective added value.[23].

Any future decision and potential new initiative needs to be aligned with the Pillar of Social Rights, the future post 2020 EU Strategy and its instruments, including the Open Method of Coordination, and the Sustainable Development Goals (SDGs). If it is to be successful, it is essential that any potential post-2020 initiative counts on the consensus and support of the Member States and civil society.

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[22] Such as the EC. (2015). European Structural and Investment Funds: Guidance for Member States on the use of European Structural and Investment Funds in tackling educational and spatial segregation. Brussels.
[23] This applies equally in Member States, enlargement countries and the neighbourhood.

3. Policy options

This chapter present six potential policy options for a potential post-2020 policy initiative for Roma equality and inclusion. Roma equality and inclusion is a fundamental right obligation. It is also an economic imperative.[24] Options should be founded on the principles of the welfare state of equality, redistribution and solidarity, as well as the respect for human rights including the rights of persons belonging to minorities as is established in Art 2 of the Treaty the European Union.[25] The moment of redefinition for the future (post-2020) is a significant opportunity for Roma inclusion, while also posing a number of risks. Formally, the EUFW comes to an end in 2020. If no successor framework is defined, only the 2013 Council Recommendation will remain, which signifies an obligation which is less equipped with policy instruments.[26] This fall back option of a 'no successor strategy' is considered as option 1. Figure 1 gives an overview of all policy options.

Figure 1 – Summary of all policy options

Option 1: No new EUFW (do less)

- No new EUFW is proposed by the Commission or agreed upon by MS. The 2013 Council Recommendation continues.

Option 2: Baseline scenario (do the same)

- The EUFW is carried forward as it is.

Option 3: Antigypsyism approach (do differently 1)

- A new initiative is approved focusing primarily on anti-discrimination measures by an effective implementation of Equality Directives, a strengthened rule-of-law and human-rights approach and, potentially, a new Antigypsyism Directive.

Option 4: Social Inclusion approach (do differently 2)

- A new initiative oriented primarily towards social inclusion and poverty reduction, no exclusive focus on Roma. Member states are guided to devise general anti-poverty measures and ensure access to universal public services for all.

Option 5: A revised EU Framework (do better)

- A revised EUFW, overcoming current operational weaknesses, strengthening the monitoring of the approach, and increasing policy learning, as well as a with a stronger focus on fighting anti-discrimination and anti-gypsyism. Instrumented by a Commission Communication.

Option 6: Broadened approach on equality and inclusion (do more)

- Broadening the portfolio towards nationally adaptable objectives which includes unaddressed areas such poverty, discrimination, child protection, gender, diversity within Roma groups. Instrumented by a Council Recommendation.
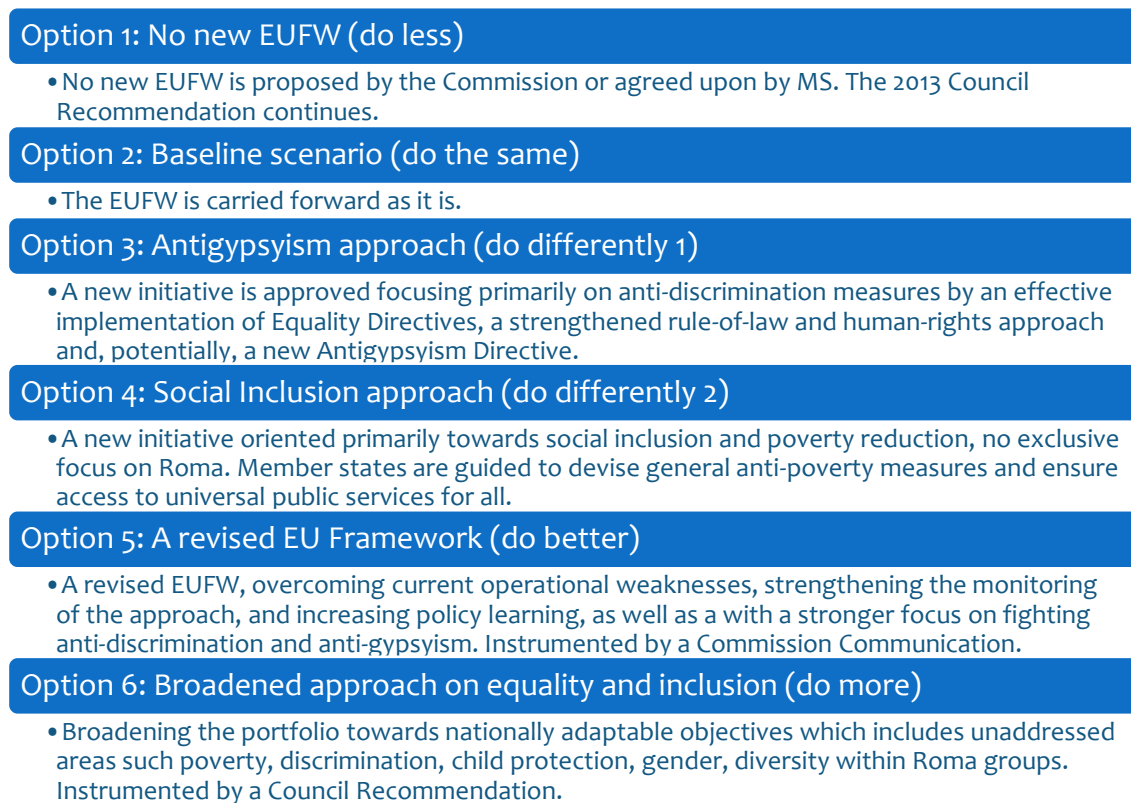
Figure 2 gives a more detailed synopsis of the four options that prescribe *new* developments. As option 1 would be to cease the EUFW and option 2 continue as it is, they are not represented in Figure 2. All of the options are displayed in detail in the following sections, discussing their content and advantages and disadvantages.

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[24] See Ciaian et al. 2018. Long-run Economic, Budgetary and Fiscal Effects of Roma Integration Policies. For critique of the argument that the EU can only address rights violations as a *means* to achieving the EU's economic *ends,* see Iusmen, 2018a, 2018b.
[25] http://data.europa.eu/eli/treaty/teu_2012/art_2/oj
[26] Of course, the aforementioned legal instruments (RED etc) will continue as now.

Option 3: **Antigypsyism approach** (doing differently 1)	EU as vigilant of fundamental rights: Standard setting in Roma-related antidiscrimination policy and practice
	Reinforce anti-discrimination measures and effective implementation of Racial Equality Directive
	Anti-racism strategies, awareness-raising and specific activities towards the policies of historical memory
	Cultural process of recognition to strengthen the visibility of Roma
	Loss of social inclusion approach and current NRIS processes
Option 4: **Social Inclusion approach** (doing differently 2)	New strategy primarily focusing on social inclusion and poverty reduction
	Member states to ensure access to universal public services and anti-poverty measures
	More focus on social aspects at EU and national level, specifically Ministries of Labour and Social Policy
	More attention to most excluded groups, but no specific targeting of Roma
	Loss of antidiscrimination enforcement and action of recognition of cultural diversity
Option 5: **A revised EU Framework** (doing better)	A revised Communication with the same focus but pointing on current weakness and increasing policy learning
	Improving programming for impact and results-orientation
	Targets and indicators could be localized, at sub-national level
	"Soft" role of the European institutions in monitoring, support, exchange, facilitation, etc.
	Continuity of the current process, strengthening of NRCP, improving the use of EU Funds
Option 6: **Broadened approach on equality and inclusion** (doing more)	Adding unaddressed areas: poverty, discrimination, child protection, gender, security
	Broad portfolio of nationally adaptable objectives with targets and indicators and detailed M&E
	Both continuity of the current process and amplification
	Consistent with the EPSR and aligned to SDGs
	Lack of focus by proliferation of policy objectives

3.1.   Option 1. "Do less": no new EU framework

The EUFW comes to an end in 2020. If the Commission does not propose a new policy initiative for post-2020, the 2013 Council Recommendation remains in place. Likewise, the EU legal and funding tools would still be available, but disconnected. In terms of legal tools, the Racial Equality Directive, the Charter of Fundamental Rights and the Framework Decision combating racism and xenophobia will remain as reference points and can be used to fight discrimination. In terms of funding tools, no substantive change would be made in regard to measures for Roma integration, as the programming of the 2021-27 Funds is well underway.[27] The enabling condition and the specific objective on Roma integration is valid throughout the programming period. However, the incremental process of policy learning, monitoring, reporting and regular coordination with the Member States and civil society, as set up under the EUFW, is likely to end.

Advantages

From a Roma rights point of view it is difficult to identify advantages, as the EUFW, despite its critique, is widely recognised as an achievement. Possibly, losing EU support would redirect the attention of Roma activists to exclusively focus their advocacy efforts on national governments. The need for action on Roma inclusion would not be perceived as imposed from outside.

Disadvantages

Clearly, the "do less" scenario presents many disadvantages.

- The principal risk of the "do less" option is that, the Roma issue loses relevance and runs the risk of disappearing from the European agenda in the mid-term. Not adopting a new EU initiative would weaken the Roma agenda at all levels. It would send the political message that Roma inclusion is less relevant than before.
- Incremental work, such as the country reporting and the FRA monitoring, would regress instead of consolidating, current achievements would be lost. National and EU-level planning and monitoring procedures on indicators and targets would disappear.
- The achievements and structures built would be undone and emerging lessons of the shortfalls of the EUFW could not be taken up in new policy proposals. No new elements would be added, despite their identification in a number of circles. As is well known, laws alone without other measures are not enough.
- Moreover, mainstreaming under the Multiannual Financial Framework (MFF) was the result of the EUFW. If the EUFW ends, as a consequence, focus on Roma under mainstream policies, legal and funding instruments would decrease and gradually disappear.

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[27] Having an NRIS it still mentioned as "enabling conditions" in the 2021-27 ESIF regulations ("ex-ante conditionality" in the MFF 2014-20) as well as the specific objective explicitly targeting Roma ("Investment priority 9.2 on the socio-economic integration of marginalised communities, such as the Roma" in the MFF 2014-20), and the implementation guidelines. It seems important to distinguish between ESIF, on the one hand, and the Rights, Equality and Citizenship REC Programme, on the other. In this option "Do less", the annual Roma specific calls would disappear from REC.

- The current architecture – National Strategies, NRCP, the role of the FRA, the governance system, dialogue with the civil society, the European Platform and subsequent national platforms in some countries – would also be at risk of disappearing.

3.2.   Option 2. "Do the same": Carrying forward the current EU Framework

The scenario, in this case, is a "baseline" case in the sense that the current initiative is renewed. A new EUFW identical to the current EUFW is adopted or the current one is extended for the next ten years. Member States will continue their NRIS or integrated set of measures or adopt new ones for the future period. Consequently, it is likely that the incremental process of policy learning of the NRCP continues functioning, and no significant policy-turn-around shifts attention away from the four key areas.[28]

Advantages

- The current architecture - National Strategies, NRCP, the role of the FRA, the governance system, dialogue with the civil society, the European Platform and subsequent national platforms in some countries – would probably continue.
- At the national level, this option would allow for a prolongation of the existing strategies.

Disadvantages

- The relevance of the agenda would likely decrease. The necessary impetus to address current challenges that require greater ambition would not be given at EU level. At national level, the current EUFW may imply a risk of impasse and self-complacency. NRCPs and their capacity to lead Roma inclusion policies would continue to be weak or even lose relevance.
- The emerging lessons of the shortfalls of the EUFW, specified in the mid-term evaluation, could not be taken up in new policy proposals. No new elements would be added, despite potential new elements having been identified in a number of circles.
- A lack of limited ownership in Member States and, particularly, regional and local governments, could continue as well as the risk of acting solely in response to European requirements.

3.3.   Option 3. "Do differently (1)". Fighting antigypsyism approach

A new initiative replaces the current one by focusing on fighting antigypsyism. In line with a number of past EP propositions,[29] a reinforced rule-of-law and human-rights approach

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[28] The evaluation confirmed the importance of having an EU-level initiative for continued political commitment at national level.

[29] EP 2017. Report on fundamental rights aspects in Roma integration in the EU: fighting anti-Gypsyism. A similar approach is conveyed in the 2019 Expert Recommendations articulated at the Conference on anti-Gypsyism organised during the Austrian Presidency of the EU Council, which calls the EC to place the fight against antigypsyism into the focus of the post-2020 EU Framework on Roma.

would promote the full use of anti-discrimination instruments in the Member States.[30] Most of them, at least the "hard ones", are judicial measures, whilst there are a number of other soft ones, such as strengthening Roma organizations in monitoring hate speech or general awareness-raising. In this direction, processes about recognition of the historical legacy, most notably, but not only the persecution and extermination of Roma during 1933-45, and the public representation of Roma culture, including a potential Truth and Reconciliation Process at national and European level, could be added.

This initiative could be equipped with a number of instruments, namely a new Directive on fighting antigypsyism. There is a strong risk (almost certainty) that MS will not accept a Directive for fighting antigypsyism. If however, a Directive were adopted, it would constitute a stronger commitment by Member States and establish better guarantees.

Member States would be required to acknowledge antigypsyism as a specific form of racism, strengthen non-discrimination and the fight against antigypsyism. The Member States would also include specific measures in their national Roma integration and/or wider anti-racism strategies.[31] This could include awareness-raising and specific activities towards the policies of historical memory.[32] Furthermore, Member States could be obliged to reinforce their rule-of-law approach towards prosecuting discrimination and hate-speech.[33]

Advantages

- Public institutions and actors could be more explicit in public positioning in favour of the Roma. Action against discrimination and prosecution of hate speech and hate crimes would be reinforced.
- The 'visibility' of Roma would be promoted through launching a cultural process of recognition. Combined with agency of Roma actors themselves, through a number of participatory and self-driven mechanisms, spaces are offered for self-determined redefinition of the imagery, historical narratives and self-conceptualizations. At the national level potential media campaigns could be developed in order to raise public awareness of discrimination against Roma.

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[30] Namely the Racial Equality Directive - RED (2000/43/EC), the Employment Equality Directive - EED (2000/78) and the 2008 Council Framework Decision on Racism and Xenophobia (L 328/55). On a discussion see Carrera et al. (2019). *Scaling up Roma Inclusion strategies: Truth, reconciliation and justice for addressing antigypsyism.* Brussels.

[31] The FRA declares the following in its 2019 annual report: "*FRA opinion 5.1 - EU Member States should review their national Roma integration strategies and acknowledge anti-Gypsyism as a form of racism, which can lead to forms of structural discrimination. National Roma integration strategies should specify which of their general anti-discrimination measures address anti-Gypsyism explicitly and how. Specific measures should address both Roma – for example, through rights awareness campaigns or facilitating access to legal remedy – and the general public – for example, through raising awareness about historical discrimination, segregation and persecution of Roma.*" (FRA, 2019)

[32] "Policies of historical memory" is used to describe a policy field that has a range of denominations in the respective member states, such as "Vergangenheitsbewältigung" or "Geschichtspolitik" in German or "Memoria Historica" in Spanish.

[33] "*FRA opinion 5.2 - To tackle limited reporting of discrimination and anti-Gypsyism to the authorities, EU Member States should ensure that law enforcement agencies cooperate with equality bodies, as well as Ombuds and national human rights institutions. This would help to develop actions that foster an environment where Roma, like everyone else, feel confident about reporting incidents of discriminatory treatment, including discriminatory ethnic profiling, in the knowledge that the competent authorities will take their complaints seriously and follow up on them. Such actions could include, for example, third-party reporting referral procedures, which engage civil society organizations with law enforcement to facilitate reporting of hate crime and discrimination.*" (FRA, 2019)

- The Roma agenda could be more visible in the agenda of other actors, such as political parties, civil society organizations, the media, etc.

Disadvantages

- Focusing on discrimination and judicial strategies could mean losing the social inclusion aspect of Roma integration and leave the most vulnerable behind, since the social protection and social inclusion dimensions would be relegated.
- Social inclusion and social protection policies in key areas - education, employment, health, housing, etc. - would lose focus on the Roma agenda, reducing the capacity of targeted and mainstream measures to compensate for disadvantages. The current departments (namely social inclusion departments) responsible for Roma policies at national and regional level would lose their competences and funding; responsibilities would pass to equality departments with the risk of lack of budget.
- This approach would reinforce an ethnic conception of Roma integration, and fuel potential activists or anti-liberal populists against Roma. There is a risk that the culturalist framing of Roma inclusion reinforces and institutionalizes ethnic competition.
- A lack of ownership by Member State governments, and particularly regional and local governments, could frame the deployment of judicial recourses as imposition of European requirements, which could generate anti-liberal nationalistic mobilizations. In some countries, associating the protection of Roma rights with a perceived intrusion into national sovereignty by "Brussels technocrats" could fuel sentiments that are easily captured by anti-European nationalistic politicians. If there is no genuine national commitment and ownership towards the enforcement of anti-discrimination law and empowering Roma with recourse against discrimination, populist demagogues could then isolate Roma as an example of undeserved protection by supposedly interfering forces from outside, and reinforce the image of "non-citizens".

3.4. Option 4. "Do differently (2)": Social Inclusion Approach

A new initiative replaces the current one by focusing principally on social inclusion of vulnerable groups. A general anti-poverty strategy, independent of ethnicity, would benefit Roma as well as other vulnerable groups. National Programmes could target poverty with a range of programmes covering the whole life-cycle with enhanced social protection, development of human capacities and activation for employment programmes. Leadership in the Commission would potentially shift to DG Employment. This option would mainly orient Member States in a non-binding manner. Competencies for most social policies are situated at national (or sub-national) level. Therefore, the lead role would shift to MS. The Commission would be discharged from their role to monitor equality and inclusion of Roma as European minority and could enter into an advisory role of policy guidance and bench-learning on social inclusion practices.

This initiative would link up with the future EU Social Agenda of the EU, namely the potential Child Guarantee and related measures against child poverty, reduction of poverty and social exclusion; as well as reforms on social protection systems and guaranteed

minimum income.[34] Also early childhood education and care, reduction of early school drop-outs, and continuous learning and vocational training would be reinforced amongst the most vulnerable population.[35] Much of these priorities are already structured in the European Pillar of Social Rights (EPSR).

Advantages

- As social policy competencies are with the MS, the Commission, and the EU as such, would not risk to be perceived as intrusive and imposing policy at national level.
- Funding could go large-scale and more effort could be focused on making universal services more inclusive.
- Alignment to the social dimension of the potential future EU 2030 Strategy.
- Potential for better co-financing at national level and more engagement from social policy departments (in the Ministries of Labour, Health, Housing).

Disadvantages

- The rights based approach could be weakened.
- Discrimination is a critical point, which would not be addressed. Roma policies could dilute into the policies targeted at socially excluded people, without any differentiation, and would not take into account specific needs and the issue of discrimination. Roma inclusion will be understood mainly as the exclusion of poor people.
- A combined approach of compensating for disadvantages and tackling discrimination would be broken. By focusing exclusively on the most excluded, intervention into mainstream society would wane – both towards institutional discrimination in accessing universal services, as well as towards wider attitudes and exclusionary practices of mainstream society.
- Whilst it could be argued that with a 'pure' social inclusion approach the most excluded groups within Roma would receive more policy attention and would access services, it has been established that Roma, due to discrimination, cultural barriers as well as historic disadvantages, tend to fall through public social safety nets, and a combined approach of both targeted and mainstream measures is needed to reach out to the most vulnerable.[36]
- Roma exclusion would be individualized. The burden of proof would shift towards individual Roma persons who could be blamed for not having taken advantage of the opportunities of the respective inclusion programmes.
- At European level, this approach would weaken the monitoring and enforcement under the Racial Equality Directive, which had profited from the policy focus on Roma in the same unit of the Administration (DG Justice).

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[34] This is the portfolio of DG EMPL
[35] This is the portfolio of DG EAC – Education and Culture
[36] Fresno, J. M. (2012). *What works for Roma inclusion in the EU - Policies and model approaches.* European Commission.

3.5.   Option 5. "Do better": A revised EU Framework

A revised EU Framework would provide guidance to Member States. It builds on the current Framework, but takes into account those lessons learnt from the evaluation that can be addressed through policy measures. Its focus is both on the areas of education, employment, health and housing, and as well as on advancing non-discrimination and the fight against antigypsyism, including through awareness-raising, need to combat stereotypes in general population, increasing Roma participation. It asks MS to improve enforcement of existing legislation and ensure that policies reach the Roma (mainstream and targeted; support for local level etc.). Revised Framework to increase policy learning as well as monitoring of progress with the objective to direct Member States towards common objectives and increase peer pressure.

As the impact of Roma inclusion programmes frequently depends on the "street level" implementation, this approach would deploy soft measures to ensure that EUFW principles are operationalized on the ground.[37] It would shift the focus from the "what" to the "how-to", namely by benchmarking principles of good programming and policies, such as long-term programming, integrated approaches, and genuine participatory methods. MS would be encouraged to follow a combination of targeted and mainstream approaches and to advance in the priorities according to the Roma situation in their countries by identifying specific objectives. To that end, the revised EUFW could combine a more constructive and pragmatic approach towards applying principles with better adaptation according to each local context. Policy-relevant knowledge generation and uptake into practice will be strengthened. Interventions need to be guided by demonstration of results (outcomes and impacts), and based on an evidence-based approach: larger long-term programmes should be equipped with a longitudinal, counterfactual and independent evaluation.[38]

This option could be realized through a Commission Communication. It would assign a mandate to the Commission to (1) support MS in ensuring that mainstream universal services reach the Roma and targeted programmes are aligned to general policies; (2) provide guidance to MS on how to support local level action and the monitoring of municipal performance in Roma inclusion; (3) use the open method of coordination (OMC) in order to direct MS towards common objectives and increase peer pressure; (4) provide different support by means of technical advice and expertise; mutual learning processes; transferring of experiences; support to piloting initiatives in the long term; transferring know-how, etc.; (5) encourage MS to reaffirm and renew the Common Basic Principles[39] including learnings from the present period; and (6) strategically engage with international organizations, on governance (OSCE, UNDP), economic development (WB), human rights (OHCHR) and sectors (WHO, UNICEF).

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[37] It had been noted that local interpretation of the EUFW occasionally perverts the spirit of inclusion see Sobotka & Vermeersch, 2012.

[38] The European Joint Research Centre is preparing a meta-evaluation on what works in Roma inclusion.

[39] EC. (2010). *The 10 common basic principles on Roma inclusion* – *Vademecum,* Brussels.

Advantages

- The main advantage would be to ensure progress in Roma inclusion by reinforcing the current methodologies and ensuring a better evidence base, by promoting a learning process that could lead to better results.
- Member States would benefit from exchange and mutual learning. The Commission and the respective agencies – FRA, Eurofound, EIGE etc. – could come in as facilitators and would not be perceived as "imposing from Brussels". The role of the European Commission would be strengthened and welcomed by many countries as it would not only focus on monitoring but also on supporting.
- This option would contribute to strengthening the NRCP and their leadership in the NRIS by facilitating their role of coordination with different departments and administrative levels.
- Facilitate evidence-based approaches, orientation to results, support in the policy planning and evaluation, transfer of know-how resulting in better interventions.

Disadvantages

- Some of the critical issues that have been demonstrated as weaknesses in the current period would not be tackled, namely the non-binding nature of the EUFW.
- Being principally based on voluntary participation by Member States, the risk of non-engagement of some Member States as well as of other key actors can result in a stalemate in the absence of a stronger legal basis for this.

3.6. Option 6. "Do more": Broadened approach to equality and inclusion

This option focuses on maintaining and raising MS commitment to Roma equality and inclusion through a soft-law initiative: a proposal for a revised Council Recommendation (as requested by EPSCO in its December 2016 conclusions). It should be a stronger recommendation that reiterates and disaggregates the existing key areas and adds further areas. The recommendation could follow a segmentation criteria: common objectives as well as objectives from an opt-in menu according to a differentiation of countries with their respective challenges. It proposes a portfolio of individually adaptable Roma integration objectives with accompanying targets and indicators as well as detailed monitoring and evaluation arrangements. Thus, the Recommendation should include an ambitious toolbox of measures for MS, some of them compulsory (to be addressed by all MS) and others to choose from according to national circumstances, as well as a portfolio of individually adaptable Roma integration objectives with accompanying targets and indicators as well as detailed monitoring and evaluation arrangements.

Advantages

- Fighting antigypsyism would be elevated to a self-standing thematic area in addition to education, employment, health, and housing. While on the other hand fighting antigypsyism in each of these areas is a cross-cutting priority. Antigypsyism could be taken up within the cross-country learning practices, and peer pressure on good practice could move the agenda in a non-confrontational manner.

- Likewise combating poverty, in line with the Pillar of Social Rights, and increasing child protection would be promoted. This is in line with SDG targets 1.3 (Social Protection) and 5.4 (gender equity and care economies), and with SDG 16.2. (Child Protection from violence).
- A better operational definition of participation, empowerment and representation could be included. This would allow to categorize the level of presence, voice or influence that Roma have at the respective levels from 'inclusive community development' to national politics.

Disadvantages

- The main disadvantage is that this approach could lead to a potential loss of focus with overburdening with objectives, whilst adding a further complexity of segmenting the Roma groups within themselves. The multiplication of areas – from 4 key areas to likely 8-10 – creates the risk of not being feasible or losing focus.
- Another main difficulty with this option would be opening up the 2013 Council Recommendation with negative consequences if final adoption is not in line with what is proposed here.
- There is a risk that some MS will not accept this approach or will not agree with the priorities that they need to take on board.

4. Diversity of country situations, responses and challenges

This chapter reflects on the diversity of country situations. Despite this diversity, there is a core common challenge. This may justify the need to adjust a potential post-2020 EU Roma initiative to the different Member States' context in a common framework. A future EU Roma initiative should define a logic on how to group EU countries according to their respective situations and challenges as regards Roma equality and inclusion. While all of them have shared objectives, there are specific situations, policy drivers, and trends that justify different priorities and intensities of policy responses. Based on existing information, different criteria or dimensions for clustering countries could be devised.[40]

A pragmatic proposal for the potential post-2020 EU Roma framework logic for country groups could be a "*common, yet differentiated approach*". The Roma are a European minority. All the countries face challenges with guaranteeing inclusion and equality for Roma population. This justifies the common EU Framework and the need for national policies/strategies. However, the scale/relevance of the challenges is different in two dimensions:

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[40] A country clustering could draw on criteria using different sources of information. Such exercise has to take into account the limitations of accessing data that is available across the MS, updated, rigorous and comparable over years. In fact, the lack of robust data may limit the results of the exercise. The disparity in the sources of data and their quality – a combination of data based on primary research for some countries (EU-MIDIS), self-reported progress by the NRCPs, a largely qualitative report from the RCM, further secondary sources and citizens' opinions (e.g. Eurobarometer) represents a fragile ground of evidence.

- Intensity: This is mainly related to the size and share of the Roma population. Also, it is assumed that Roma exclusion is more intense in poorer countries.
- Specificity: There are specific problem drivers and specific issues that especially apply to some countries

Figure 3 – adapting NRIS to local context
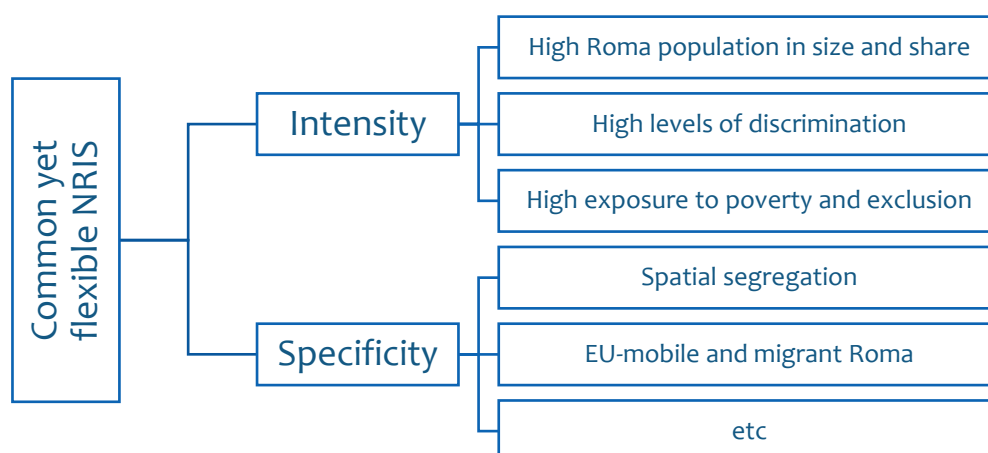
As a result of this approach, the nature of policy responses could be incremental by country groups according to **intensity** as presented in the table below:
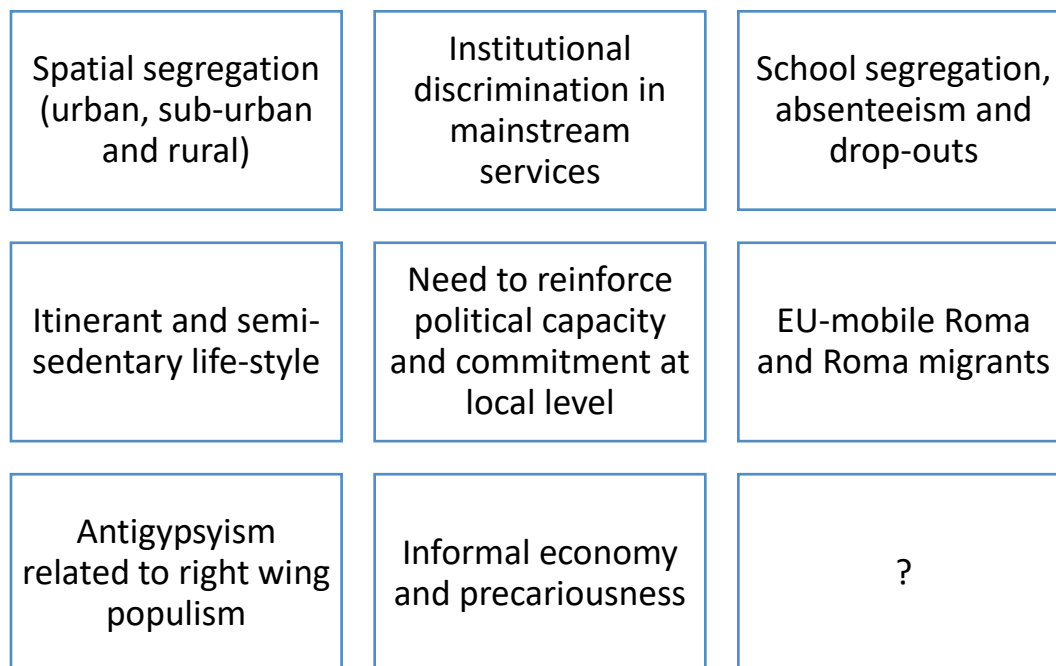
Table 1 – Scaled Policy Response according to "intensity"

Type of cluster	Characteristics of the NRIS (minimum requirements)
Group 1 **Countries, with very low Roma population (absolute and relative) and higher welfare levels**	• Explains how the country will compensate for the disadvantages faced by Roma and promote equality. • Develops a combination of targeted and mainstream measures. • Light reporting, monitoring and evaluation. • Light NRCP structure, probably assigned to one ministry or agency. • System of consultation with Roma. • Allocates a specific budget, etc. • Participation in some activities of the NRCP network.
Group 2 **Countries with small numbers or share of Roma and with higher welfare levels**	All of the above and • Identifies specific targets and sub-targets in the key areas (education, employment housing health, discrimination, poverty/social protection). • Engages other relevant ministries in the process. • Foresees the presentation of an annual progress report based on the standards set by the Commission. • Provide measures for specific groups (Roma children, women…). • Participates in the support and coordination measures (mutual exchange, peer learning, etc.) provided by the Commission.
Group 3 **Countries with lower welfare levels, average number or share of Roma.**	All of the above and • Counts on an NRCP with sufficient means and staff capacity to provide permanent support coordination and monitoring of the NRIS. • Demonstrates how ESIF will be invested in Roma integration. • Reports on the mid-term progress achieved (besides annual reports). • Working plan in close coordination with the FRA and the National Statistics

	Institutes on how to improve data on Roma and how to count on regular information on the situation in the key areas (e.g. every four years).
Group 4 **Countries, high concentration of Roma population, lower general welfare levers and high rates of social exclusion**	All of the above and • The NRCP should count on a specific dedicated team, mandate and institutional anchorage that ensures political weight. • A specific plan or set of measures for addressing and reducing Roma spatial segregation; prejudices and stereotypes towards Roma; access to universal services such as health care, education, social services etc. • Addresses the issue of security and protection (e.g. dealing with hate crimes and police brutality against Roma). • Demonstrates how key mainstream public policies and plans relevant for Roma will address Roma needs (e.g. legislative reforms or plans on policies on education, employment, health care, housing, inclusion, social services, minimum income systems, antidiscrimination legislation). • Involvement in a regular annual monitoring process with the Commission, including special surveys and counter-factual programme evaluations. • Includes in the planning of the ESIF funds, specific measures addressed to Roma by using the specific objective and demonstrates how mainstream measures and operations tackle Roma needs.

Additionally, countries should focus on "**problem drivers**" or specific individual challenges as termed "**specificity**" in Figure 3 – adapting NRIS to local context. The following enumeration could help with this exercise.

Figure 4 – Problem drivers of Roma exclusion

Spatial segregation (urban, sub-urban and rural)	Institutional discrimination in mainstream services	School segregation, absenteeism and drop-outs
Itinerant and semi-sedentary life-style	Need to reinforce political capacity and commitment at local level	EU-mobile Roma and Roma migrants
Antigypsyism related to right wing populism	Informal economy and precariousness	?

5. Questions for the debate

1. Which of the policy option proposed would best address the weaknesses and challenges of the current EU Framework? Is there any policy option you consider unrealistic or not feasible?

2. Would you agree with the idea of adjusting the post-2020 initiative to the different Member States contexts in a framework of core common challenges (meaning different degrees of intensity according to country situation as well as the respective context)? Which advantages and disadvantages do you see in following this method?

3. The paper refers to eight problem drivers (see Figure 4 – Problem drivers of Roma exclusion) that may be present in different countries. Do these problem drivers require specific actions and responses from the countries? Do you consider that these are the key problem drivers? Are there any other problem drivers missing from the list?

> Written comments can be sent
> to JUST-ROMA-POST-2020@ec.europa.eu
> until the end of October 2019.

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