

The Incomprehensible Flow of Roma Asylum-Seekers from the Czech Republic and Hungary to Canada

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Abstract

This working paper analyses the flow of Roma migrants, in particular asylum-seekers, from the Czech Republic and Hungary to Canada in 1996–2010. Although the fate of the Roma is at the centre of events, statistics on asylum applications along with an interpretation of the history of migration issues, from the perspectives of both international relations and EU policy, illustrate the classical debate on state sovereignty versus universal or at least European solidarity. They reflect the debate on the binding human rights of fragile groups versus security preconditions and prejudices. This amalgam of migration, visa and asylum policies has affected the lives of Roma and their efforts to achieve equal treatment, integration and citizenship in their country of residence as well as their homeland.



This work was prepared as part of a project on Migration and Asylum in Europe and EU-Canada Relations, funded by the European Commission, Directorate-General for External Relations, Relations with the US and Canada. The project studies EU-Canada cooperation on migration and asylum policies. It aims at providing a better understanding of the conceptual, political, sociological and legal elements and dilemmas characterising the development of common European public responses to these issues, and their implications for the relationship between liberty and security in EU-Canada relations.

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The Incomprehensible Flow of Roma Asylum-Seekers from the Czech Republic and Hungary to Canada

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1. Context of the research

This paper assesses two refugee waves from the Czech Republic and Hungary to Canada in 1996–2010. This period of 15 years has witnessed dramatic growth in discrimination, xenophobia and physical attacks against Roma in all the new democracies in Central and Eastern Europe (CEE). Meanwhile, efforts towards social modernisation along with accession to NATO, the Council of Europe and the EU have been accompanied by requirements to meet high standards in terms of respect for human rights, freedom of movement of persons, and effective cooperation in security matters and migration control on the international stage. The unexpected influx of visa-free travellers asking for asylum in Canada has severely affected bilateral relations with the countries of origin, and challenged visa solidarity in the new, unifying foreign and security policy in the EU. A further dimension of the analysis focuses on how these migration waves have affected the dynamics of Canada’s decision-making process on refugee and asylum applications as well as its reception policy. The Roma exodus could draw attention to the need for individual assessment of applicants coming from heterogeneous communities whose members have been facing structural unemployment, segregation in schooling, ghetto housing, racial attacks, hate speech and institutional discrimination. These social and media events have not been compensated by coherent inclusion and effective anti-discrimination policies. The anti-Roma prejudices have been indirectly reinforced by Canadian presumptions about Roma migration as a source of organised crime.¹

In general, refugee policies have a great impact on international relations. In this case these relations were coloured by enlargement of the EU towards the new democratic CEE states and European integration, while the Union’s transatlantic contacts on economic and political matters also intensified. Yet asylum claims and the exodus of Roma have drawn attention to the poor inclusion/integration policies in CEE states during the period under consideration. Although visa policy has played an important role in the history of refugees and the Roma in the past 15 years, this paper attempts to evaluate the interconnected effects of Roma policy on European integration.

To give proper information on Roma migration, appendix 1 provides a chronological summary of the key events relating to Roma migration in the Czech Republic, Hungary and Canada, as well as reactions at the international level. Appendix 2 provides statistical information on the ‘burden of reception’.

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¹ Howard Schneider and Christine Spolar, “Czech Prejudice – and TV – Fuel Gypsy Migration to Canada”, *Washington Post*, 1 September 2010.

2. Roma migration from the Czech perspective

2.1 More freedom for the expression of hate

The influx of Czech Roma refugees began in 1996, when approximately 150 Czech Roma asylum claimants arrived in Vancouver between early autumn and Christmas, after initially being told that they were not welcome in Canada by francophone officials of Canadian immigration upon landing in Montreal. At that time, the Czech Republic and Hungary were the only two former communist countries whose citizens did not need a visa to travel to Canada. This visa exemption was a unilateral gesture by Canada – as the state secretary noted in 2003 – but these new democracies viewed the exemption as compensation for decades of isolation in the bipolar world from the expatriated members of the national diaspora. The establishment of a parliamentary and democratic society together with the liberalisation of the economy covered up the real situation in transition countries. Thus gradually and with some delay the immigration authorities got the picture with the arrival of Roma applicants.

Around 300,000 Roma live in the Czech Republic, the population of which amounts to 10 million. Their problems include poverty and they live in some 300 ghetto-like communities. They also face a lack of education, centuries of prejudice and in recent decades, attacks by far-right extremists.² So life at home is intolerable for more and more Roma. This marginalisation is accompanied by the lack of protection for Roma life, integrity and security by the state. The Czech police “don’t react until the skins beat us up”, complained many Roma.³ Nevertheless, the Roma emigration embarrassed the emerging Czech democracy, which gathered attention when about 550 Gypsies arrived in Canada in 1997, claiming refugee status on the grounds of racial persecution.

A documentary broadcast by Nova TV on 5 August 1997 about Roma life in Canada, *Na vlastní oči* [With your own eyes], had some immediate implications. For a start, the tension between Czech and Gypsy residents became clear, at least in Ostrava, an eastern Czech town where many Gypsies were living. The film mobilised a number of Roma. It was reported that about 5,000 Roma from Ostrava alone sold their property and possessions in preparation for emigration to Canada. The Canadian embassy in Prague received hundreds of calls, mainly from Roma, and flights from Prague to Canada were booked until October. This mobilisation was also fuelled by offers from the mayors of some towns to contribute funds to buy airline tickets for the Roma who wanted to leave. For example, the mayor of Ostrava, Mariánské Hory, told the newspaper *Mlada fronta Dnes* that “we have two groups of people, Gypsies and whites, that live together but can’t and don’t want to. So why can’t one group take the first step toward finding solution? I don’t think it’s racist. We just want to help the Gypsies.”⁴

The Canadian embassy argued that the programme presented only one side of the matter and picked out half-truths that distorted reality and practically invited the exodus of large groups of Czech Roma, concealing a number of facts. The Czech government (more specifically Viktor Dobaš, the deputy minister without portfolio and chairman of the government’s Council of Nationalities) opposed the emigration and actions related to its support, and urged the state to

² See “The Situation of the Roma in the Czech Republic, 1998”, *Czech Radio* (online), 26 February 2000 (<http://romove.radio.cz/en/article/18614>).

³ Sarah Borufka, “Police investigate latest attack against Roma”, *Radio Prague*, 6 April 2010; Jan Richter, “Police to form new riot squads to combat growing extremism”, *Radio Prague*, 10 February 2010.

⁴ Howard Schneider and Christine Spolar, “Toronto – Prague – Ostrava”, *Washington Post*, 1 September 1997; Chris Johnstone, “Police mobilized to investigate Ostrava arson attack on Roma family”, *Radio Prague*, 16 March 2010.

improve the conditions of the Roma minority. Prime Minister Vaclav Klaus also intended to prevent the departure. He met with representatives of Roma and said that emigration to Canada was not the solution. The cabinet promised to release a modified general report on the state of the Romani community in the Czech Republic within some weeks, inserting its own concrete proposals concerning education, employment, housing and prevention of daily discrimination. Still, the Roma leader and member of the Council of Nationalities, Ondrej Gina, encouraged Roma to leave because the situation did not change. Lawyer and activist Klara Samkova-Vesela said that the government of the Czech Republic had no interest in the problems of the national minorities. “The government shouldn’t be surprised at all that the Roma are fleeing the country. There are displays of racism here [that] are unbearable for them. Klaus and his government are to blame for the current Roma crisis.”⁵

2.2 The Roma crisis

The situation had grown worse after floods had ravaged the area in the first week of July. Roma who had lost their homes were less welcome in the areas where they were relocated, and there were widespread rumours of Roma being involved in looting in the flooded regions. One community in Ostrava petitioned the city government with thousands of signatures to remove the Roma housed in a dormitory in their neighbourhood, citing the undesirability of a criminal element in their midst. This conflict was indicative of generally high levels of prejudice. According to a survey, 25% of respondents believed that the problems were mainly based on the incapacity to achieve mutual understanding,⁶ regardless of whether this was caused by language or cultural barriers. They also believed that Roma mentality, traditions and customs differ so much from those of the majority that the Roma should be given an opportunity to live according to their own ideas, if this does not conflict with the law.

In mid-August 1997 the first Roma families returned from Canada after being sent back by Canadian immigration authorities. They said that the trip overseas had cost 130,000 Czech koruna.⁷ Their asylum claims were discouraged by Canada, which referred to the applicants’ criminal record. At the same time, human rights organisations repeatedly criticised the Czech Republic for not doing more to eliminate discrimination against Gypsies, which the organisations said had been growing since the fall of communist rule and the end of laws designed to force their assimilation into the Czech majority in a country whose population was largely homogenous. Human Rights Watch appealed to Klaus to address the problem so that the country could continue its economic progress. “They won’t serve us coffee in restaurants. We’re afraid to go out at night. But do you know what’s interesting?”, asked Helena Sivakova. “We’ve been having these problems for 40 years and nobody’s cared. Only when we want to go to Canada, all of a sudden people pay attention.”⁸

In brief, recognition of the Roma crisis together with the migration wave gave impetus to public discourses and political answers. The government was preparing *to announce a new policy* to aid its approximately 300,000 Gypsies. Whereas this policy was institutionalised by setting up competent organisations, the structural discrimination, segregation, and social and economic exclusion experienced by Roma hardly changed.

⁵ *Lidove noviny* (news agency), 13 August 1997.

⁶ Cited in the Nova TV documentary, *Na vlastni oci*, 5 August 1997.

⁷ Peter O’Neil, “Canada flooded with Czech Roma refugee claims”, *CanWest News Service*, 15 April 2009.

⁸ Schneider and Spolar, “Czech Prejudice – and TV – Fuel Gypsy Migration to Canada” (1997), op. cit.

2.3 Political discourses

In 1998, [Vladimir Mlynar](#), the former editor-in-chief of the weekly newspaper *Respekt*, became the minister without portfolio and cabinet spokesman. Thus he also took on the duties of chairman of the Council for Nationalities as well as the Inter-Ministerial Commission for Concerns of Roma Citizens, which had been created by a decision of the previous government under Vaclav Klaus after the departure of many Roma to the UK in 1997. “The most relevant task is the calling of the commission. We would further like, in cooperation with the Ministry of the Interior, to resolve the problems of the Roma – those [who] returned from Canada, England and other countries”, said Monika Horakova in presenting the commission's first steps.⁹ Nonetheless, the potential for conflicts and exclusion could not be altered. For instance, according to the director of the parochial elementary and nursery school of Premysl Pitter in Ostrava, Helena Balabanova, 50 to 60% of Roma children actually attend special schools.¹⁰

The Inter-Ministerial Commission for Concerns of the Roma Community met on 29 January 1998 to come to an agreement on its priorities, which was to be submitted to the state administration. The Inter-Ministerial Commission held that an even higher share of Roma children attended special schools:

The commission considers schooling and education of the Roma to be most important. The greatest problem is – according to the commission – the special-education schools, which 70% of Roma children attend. They get into them easily, but leave them with difficulty, stated the commission. In practice, no case can be found of a Roma student managing to transfer from a special-education school to a normal school. The current system of education doesn't allow children to be educated in a satisfactory manner.¹¹

Furthermore, the *declared policy* did not address other aspects, such as Roma commuting or arriving from Slovakia. As they were Slovak citizens, social assistance and other state financial support in the Czech Republic were not provided. This legal barrier was combined with the need for physical safety. When a Molotov cocktail attack occurred in Krnov in 1998, it emerged that the victim was a Slovak Roma without proper protection. Moreover, racially motivated attacks of growing aggression were neither officially recognised, nor properly investigated and punished. “The solution is for Roma in the Czech Republic to feel just as safe as other residents”, said Mlynar.¹² He emphasised that similar racist attacks could not be allowed although he admitted that the problems of racism, xenophobia and neo-Nazism could not be solved overnight. The police said that *for now they have no proof that would confirm the suspicion that it was an attack motivated by racial hatred*. Mlynar called on the Krnov Roma not to take the law into their own hands. For public endangerment and violence against a group of individuals, the perpetrators faced up to eight years in prison. “It's premature to talk about whether the attack had a racial motive”, said Bruntal police director Milan Navratil after the arrest of the youths.¹³ All three persons belonged to a group known to the police for their extreme views, although criminologists did not rule out the possibility that the motive of the attack had been the settling of personal accounts, rather than racial intolerance. Some days later, the racial motive of the arson attack became clear. “A search of the homes of all three was made and skinhead-related materials were found – various leaflets and letters with fascist subject

⁹ See “The Situation of the Roma in the Czech Republic, 1998” (2000), op. cit. (<http://romove.radio.cz/en/article/18614>).

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

matter. They are in any case connected with this movement”, announced the head of the investigators.¹⁴ Similarly, a firebomb ignited an apartment inhabited by Roma in Orlov na Karvinsku on 13 February 1998. The classic Molotov cocktail, probably filled with gasoline, hit the floor in the kitchen, where it ignited the curtains and the carpet. The fire was put out by the residents themselves and fortunately nobody was injured. The police began an investigation of the crime as a *breach of public order and damage to property*. After classifying the investigation, the police ruled out a racial motive. The probable reason for the arson attack appeared to the police to be someone wanting to settle some personal matters with the Roma family.¹⁵

In November 1998 two men were sentenced to six and a half years and eight and a half years – much less than is typical for this kind of crime. Members of the Romnet discussion group expressed their outrage at such light sentencing for hate crimes against Roma. A number of Romnet participants (150 persons) formed groups with the intention of delivering a letter entitled, “Stop Velvet Racism against Czech Roma”.¹⁶ As Czech society had been conducting a velvet ethnic cleansing against its Roma citizens, Roma were easily regarded as second-class citizens by the judicial system.

The government’s policy could not influence public attitudes towards Roma, so the high levels of prejudice remained. According to a survey, 57% of those who watched Czech public television were satisfied with the objectivity of the information presented about Roma, while only 45% of those who watched Nova, the popular commercial station, were satisfied.¹⁷ The Nova audience primarily criticised the tendency to stereotype Roma and thus to create a negative image of them or to use them as objects of jokes. The ‘show’ measures of the policy might have actually confirmed anti-Roma sentiments despite their opposite intentions, without coherent communication, regulatory and institutional reforms concerning all aspects of social inclusion:

- The government took up the pledge of the previous cabinet to erect a dignified monument on the site of the former internment camp at Lety u Pisku.¹⁸
- Vladimír Mlynář suggested that Roma should also be employed with the Krnov police. “It could be helpful, because white policemen possibly have a somewhat different view of the dangers of these matters connected with racism than members of the ethnic group they deal with.”¹⁹
- By government decree, at the beginning of autumn 1997 positions were created for Roma advisory assistants, to help Roma in their communications with officials; yet so far not even a third of these positions have been filled. The role of Roma advisers calls for Roma who have completed technical or preparatory secondary school and through a course they acquire a basic knowledge of law and social policy, perfect their Czech and learn to work

¹⁴ Ibid.

¹⁵ See “Victims of racially motivated arson attack move into new home”, *Radio Prague*, 16 November 2009; see also Ian Willoughby, “Four charged with racially motivated attempted murder over petrol bomb attack on Romany family’s home”, *Radio Prague*, 14 August 2009; and “Third confession in Vítkov arson case”, *Radio Prague*, 22 August, 2009.

¹⁶ See “North Americans call for an end to velvet racism against Czech Roma (Gypsies)”, North America, RNN Romnet, 3 November 1998.

¹⁷ *CTK News Agency*, 22 January 1998.

¹⁸ See the “Program Statement” by the Government of the Czech Republic, 27 January 1998.

¹⁹ *CTK News Agency*, 23 January 1998.

with computers. Roma attending the course have encountered the greatest difficulties in use of the Czech language.

- In the Lobkowitz Palace at Prague Castle on 5 February 1998, an exhibition of works by non-professional Roma visual artists, entitled *E luma romane jakhenca – Svet ocima Romu* [The World through the Eyes of the Roma] was ceremoniously opened.

2.4 Impacts of the visa requirements

When Canada introduced visa requirements for Czech citizens (8 October 1997), the main reaction was reference to *legislative efforts and results* for Roma equality. Yet an absence of impact assessments rather than publicly debated bills and (financially weak) legislation have been a major feature of the new democracies. Hence legal regulation has been over-burdened by governmental aims and popular expectations. Moreover, the fast adaptation to the human rights commitments has tended to make the legal rules more formal instruments of governance. In 1997, a summary of the Czech official reaction was that *racism and persecution of Roma were illegal in the Czech Republic*. Czech President Vaclav Havel and other members of the government also emphasised that Roma in the Czech Republic were protected by the law. The latter failed to publicly acknowledge the substantial evidence that the government was unable to enforce such law and truly protect the lives of Roma in the country. Watchdog organisations, such as Helsinki Watch, the European Roma Rights Centre and the US State Department, disclosed that at least 32 Roma had been murdered in racist attacks in the Czech Republic since the Velvet Revolution. But according to Paul Polansky, the American professor who revealed the existence of the Czech-run concentration camps for Roma at Lety u Pisku in Bohemia and Hodonin in Moravia, the number of Roma murdered since the Velvet Revolution amounted to 50. He also stated that the number of Roma assaulted by skinheads was over ten times this number and ran at a rate of about 20 attacks a month.²⁰ Completely overlooked was the fact that the Czech Republic has been totally *unable to guarantee the life or safety of its Roma citizens or to impose sentences worthy of the name on the perpetrators of this ethnically motivated violence*. Czech law differentiates between ‘racially motivated murders’ and ‘ordinary homicides’, when no witnesses can be found to testify that the accused actually used ethnic slurs while committing the crime. These ordinary murders are not listed as racially motivated murders of Roma. Some Czech Roma refugees also gave oral accounts of Roma children who were being chased by skinheads and accidentally ran in front of a moving vehicle and were either killed or severely injured. They additionally maintained that some elderly Roma who were menaced or attacked by skinheads suffered heart attacks and later died in a hospital.

There was a *great hope* that accession to the EU would almost automatically provide effective protection for Roma (minorities, victims of racially motivated violence) and their equal treatment. The candidate states adopted legal norms and programmes on social cohesion and desegregation measures. Despite this (formal) legislative diligence, European integration could not provide better guarantees for vulnerable groups. Millions of euros have been spent on Roma integration programmes with little result, and the number of poor Roma families living in ghettos has actually increased.²¹ The government Council for Romani Affairs, subordinated to Michael Kocab, the minister for human rights and minorities, has only five staff members and lacks political support, leaving solutions to unprepared municipalities. Furthermore, free travel for Czech citizens to Canada, granted on 31 October 2007, was revoked in July 2009, in the

²⁰ Ronald Lee, “Post-Communism Romani Migration to Canada”, Roma Community & Advocacy Centre, Toronto, 2000.

²¹ Roma Sajtközpon, S. Kállai Szilvia: Nem ritka naponta csak egyszer evő szegény gyerek, 13 May 2010.

context of the Roma exodus and their asylum applications. On average, the number of visitors from the Czech Republic to Canada was 30,000 per month, but in the period after introduction of visa restrictions it fell to 4,000.

In 2009 the BBC, *Le Monde* and other news services published facts on discrimination against Roma. There have been a number of neo-Nazi and skinhead marches into Roma ghettos, as well as reports about the unauthorised sterilisation of Roma women. Roma children are routinely segregated in classrooms and often put in schools for developmentally challenged children, refused jobs and prevented from accessing post-secondary education. Still, for the Czech government “there is no reason to consider them refugees”.²² The Czech government discussed a report on Roma communities in 2008. The report says that Roma in the Czech Republic face general discrimination (July 2009).²³ A surge in right-wing extremism, poor social conditions²⁴ and a widening gap between the majority and minority population is driving increasing numbers of Roma abroad. Some Czech politicians feel that Roma are leaving the country in search of more generous social benefits. Thus the reduction of benefits for job seekers in the UK was supported by mayors in the Czech Republic. The Roma integration programme should have been prepared by October 2009, giving advice for local municipalities on housing, social integration, mainstream schooling and employment. But Human Rights Watch has reported that since 1989, “Czech authorities have failed to adequately protect Roma from the ever-increasing danger of racist attacks. When attacks occur, Roma are often denied equal treatment before the law, a direct violation of both Czech and international law.”²⁵

The negative situation persists. In April 2010 the circumstances of Roma in the Czech Republic were bad, but growing right-wing extremism has since taken tensions to new levels, driving many to seek asylum in Canada. Roma organisations have called on those Roma who feel unsafe in the country to leave. Ivan Vesely, chairman of the Dzeno Association, a Prague-based non-governmental group dealing with Roma issues, told the IPS news service that the intention is only to start a “monitoring patrol, in cooperation with social workers, Roma activists and the police to prevent conflict between Roma and extremists. ...We have prepared protests in ten Czech cities for May 3 [2010], to show to the majority population that we must fight together against neo-Nazism and fascism in the Czech Republic.”²⁶ Supporters of the far-right Workers Party have held regular marches in housing estates, distributing leaflets to non-Roma residents and handing them questionnaires. In many towns, Roma and poor families from around the country have been relocated to housing estates, causing area housing values to fall. In Janov, for instance, this has created tensions with the original population, which cannot move out because the prices of flats have decreased.²⁷

Meanwhile, Czech media have claimed that migration flows are economically motivated and promoted by mediators who tell Roma to exaggerate their experiences of racial discrimination in the Czech Republic and personally profit from their asylum applications. Radmila Locher from the Czechs and Slovaks association in Canada has denied any knowledge of such

²² O’Neil, “Canada flooded with Czech Roma refugee claims” (2009), op. cit.

²³ See “Czech government approves report on the state of Roma communities in 2009”, *Romea.cz* (http://www.romea.cz/english/index.php?id=detail&detail=2007_1653).

²⁴ Rosie DiManno, “No hope for Roma in Czech ghettos”, *The Star.com*, 12 September 2009 (www.thestar.com/).

²⁵ Human Rights Watch, *Czech Republic, Roma in the Czech Republic: Foreigners in their Own Land*, Vol. 8, No. 11 (D), June 1996 (<http://www.hrw.org/legacy/reports/1996/Czech.htm>).

²⁶ Zoltán Dujisin, “Roma Seek to Flee Czech Republic”, *IPS Budapest*, 30 April 2009 (<http://ipsnews.net/news.asp?idnews=46680>).

²⁷ DiManno, “No hope for Roma in Czech ghettos” (2009), op. cit.

emigration being organised. The Czech media have somehow made the outflow of Roma illegal. For instance, the media have cited a recognised refugee who “could use [an] informal communication network”, including the Immigration and Refugee Board (IRB), to let interested asylum-seekers know when might be the right time to fly to Canada and apply for asylum (Lidové noviny)²⁸ and referred to an interpreter who gave examples on misuse of benefits by the applicants (*Mladá fronta Dnes*), but without real evidence and verification. There was no echo of the asylum application by the head of Czech Radio’s Roma programming, Anna Poláková.²⁹ She explained that her family could no longer bear assaults and other incidents. Her teenage son was beaten and seriously injured by four skinheads, two of whom started harassing the family relentlessly for the fine the court had imposed on them, and her little daughter was labelled as a robber in the kindergarten. This campaign confirmed the idea of ‘false asylum claims’ for Czech readers and contributed to anti-Roma sentiment. Neither human solidarity towards Roma³⁰ nor responsibility for fair information could be observed in the news. Yet at the same time the European Court of Human Rights ruled that the Czech Republic was discriminating against Roma children by putting them in special schools on grounds of public policy.

In the Canadian press, discrimination against Roma is back in style. Just looking at Europe (‘special schools’; evicted from their ‘unlawful settlements’; metal barracks to live in; large numbers of Roma to be deported back to Kosovo; in Hungary incidents of violence against the Roma have been on the rise, with 16 recorded by the national police in 2008, resulting in 4 deaths; anti-Roma rhetoric from the Italian media), and the question arises of whether Canada missed the opportunity to get in on this ‘blast from the past’ trend? Perhaps not.³¹ Canada reimposed the visa requirement for travellers from the Czech Republic, largely because of surging numbers of refugee claims by Czech Roma. As noted at the time by Jason Kenney, the immigration and multiculturalism minister, all those Roma claims were “undermining our ability to help people fleeing real persecution”,³² meaning that *Roma are not totally or really persecuted but only discriminated against*.

3. Roma migration from a Hungarian perspective

3.1 Only an economic exodus

Contacts between Hungary and Canada have been partly formed by Roma asylum claims and recognition since 1996. The consequences or criticisms of Roma policy have not been recognised mutually, however, although visa restrictions were introduced for Hungarian citizens (5 December 2001) and were revoked (2 March 2008).

The first surge in asylum applications, and especially its impact on Hungarian political life as well as the media and networking within the Roma community, were described in a comparative

²⁸ Gwendolyn Albert, “Spinning the exodus: Roma refugees smeared in Czech press”, *Czech Radio* (online), 13 July 2009 (www.romove.cz).

²⁹ Rosie Johnston, “Top Czech Radio Roma reporter applies for asylum in Canada”, *Radio Prague*, 4 June 2009.

³⁰ Jan Richter, “Czech–Romany relations hit low point, says government report”, *Radio Prague*, 21 July 2009.

³¹ Ruth Franková, “No visas for now, says Canadian minister in Prague”, *Radio Prague*, 18 July 2008.

³² See “Canada toughens its visa demands”, *BBC News*, 14 July 2009 (<http://news.bbc.co.uk/2/hi/8149351.stm>).

project managed by the Hungarian Academy of Sciences in 2000–01.³³ The results are used in this paper although the ethnic data on applicants, recognised or emigrated persons are not publicly accessible; and the interviews, sociological and anthropological observations can explore only the particularities among the totality.

Since 1995, the number of refugee applicants from Hungary to Canada has been increasing each year. A significant number of claimants have been able to convince the IRB that they are victims of persecution and that the state does nothing to address it. In the late 1990s, Hungarian Roma may have also had reason to feel that way upon arriving in Canada. Starting in 1998, between 5,000 and 6,000 Roma from Hungary have migrated to Canada, most of them settling in Toronto and claiming refugee status based on discrimination and abuse they suffered in Europe.³⁴ The IRB accepted 71% of Hungarian Roma refugee cases in late 1998, but early the following year only 9% were admitted. The reason behind the drop in the recognition rate was the subject of legal controversy, and the issue was later brought up as immigration lawyers and the leaders of the Roma community argued that the IRB had deliberately and illegally shut the door to Hungarian Roma.³⁵

With more than \$1 billion in trade between the countries since 1998, and Canada's support for EU membership for Hungary, accepting thousands of Roma refugees from Hungary would have strained relations between the two countries. The summary in the case of Geza Kozak and Sandor Smajda,³⁶ an IRB test case on the Hungarian Roma situation, excluded testimony from two key witnesses: Dr Ian Hancock, a Roma professor at the University of Texas and author of four books on the history and culture of Roma, and Orest Subtelny, a history and Political Science professor at York University specialising in Eastern Europe. Their testimony was excluded on the grounds that they were not living in Hungary at the time. Statements from the other four witnesses, three of whom were employed by the Hungarian government, were ruled admissible. In 1999 a research paper published by the IRB found that Roma in Hungary faced discrimination beginning in their school years and had serious problems with the police and local authorities.³⁷ Sociological surveys covering 1995–2003 show how the Roma have been farther and farther from mainstream society in Hungary.³⁸ According to the results of the research conducted by the Hungarian Academy of Sciences in 2003, 87% of Roma households belong to the lowest one-third of the total population. Within this group, 56% have been so poor that they have suffered from hunger.³⁹

³³ András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, 2002.

³⁴ Joseph Castaldo, "No Longer Welcome: Canada's Immigration Refugee Board closes the door on Roma refugees from Hungary", *Briarpatch Magazine*, December 2005/January 2006.

³⁵ *Ibid.*

³⁶ Gábor Miklósi, "It is Got to Go Through! A Case Study", in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, 2002, pp. 69-74.

³⁷ László Endre Hajnal, "The Roma in Canada: Emigration from Hungary from the second half of the 1990s", in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, 2002, pp. 42-68.

³⁸ András Kováts, "Migration Among the Roma Population in Hungary", in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, 2002, pp. 12-34.

³⁹ Michael Stewart, "Foreword", in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, 2002, pp. 7-11.

Similar to the Czech governmental interpretation and the inadequate results of their Roma policy, in an article for the *Toronto Star* in 2001 Janos Martonyi, the Hungarian foreign minister, was quoted as saying that his country was trying to deal with the social problems faced by Roma and the longstanding prejudice against them, but he insisted they were leaving the country for economic reasons, not because of persecution.⁴⁰ Martonyi said it would be a major setback for Hungary to face visa restrictions from Canada. An immigration department source said the two sides had discussed ways to enhance cooperation in dealing with asylum claimants of Roma origin. For example, Canada wanted to post an immigration control officer in Budapest to monitor the movement.⁴¹

The academic research on migration to Canada (and to France and the UK in 1996–2001) conducted in Hungary and Canada *demolishes the simplistic suggestion* that Hungarian Roma migration is either merely a response to economic misery in Hungary and opportunities elsewhere, or a product of de facto if not *de jure* persecution. Simplistic imagery dominates much popular thinking about migration – and this discourse among the political parties together with attitudes that are both protective of human rights and racially exclusive in the parliament was well documented in 2000–01. The media reflects the wave from poverty to wealth without a critical analysis of the internal and external ramifications of Roma migration. As has been proven, even large differences in economic returns (measured by wages) are not sufficient to induce most individuals to migrate. If the country is a less and less desirable place for the Roma to live, this factor plays an important role in their mobility. Furthermore, the Roma communities are heterogeneous, and migration as a strategy for survival is available for persons in better social and economic positions, while the most segregated groups are unaffected. The *ethnicisation of poverty* and the Roma issue have been the most prominent political features of this area of life in the last two decades in Hungary – and more characteristic of Hungarian public culture than in any of the other CEE countries. Each government since 1990 has followed this ethnicisation, yet without halting the slide towards ever-greater migration. Roma migration is not an ethnic phenomenon, however, but instead a socio-economic and political one, and it can be treated as a part of the great transformation in labour markets in relation to the liberalisation of world trade.

Research has explored an important element in migration to Canada: the *friendship, kinship and business relations among emigrants* that translate into a key factor for success in mobility in at least three ways,⁴² although the Hungarian Roma community is really heterogeneous:

- The first involves mobilising material resources to cover travel expenses and costs of living for the initial months in the new place. There are many who can afford these costs if they sell personal movables (including their own flat or house), through friends or family members.
- The second entails obtaining the documents to support the refugee claim and to acquire the information that will be convincing to immigration authorities (such as police records, medical reports and copies of newspapers). Networks of friends and families can help in this respect, as well as in obtaining the documents for residential authorisation (letters of invitation, material resources and sponsorship).
- The third is mobilising the potential of a network of relationships in order to secure the journey, entry and one's stay in the new place (accommodation, finding the official

⁴⁰ Allan Thompson, “Canada, Hungary discuss Roma Refugees”, *The Toronto Star*, 21 February 2001.

⁴¹ Ibid.

⁴² Hajnal (2002), op. cit.

contacts, obtaining benefits). These ties help newcomers find a (legal/irregular) job and accommodation during the first most difficult period after arrival.

During the period of newly introduced visa requirements, it was reported that the IRB found that the Roma were indeed suffering from “segregation and different treatment in education, prejudice in housing, including incidents of forced evictions, discrimination in employment, cases of police indifference and even brutality...[but] while the applicants may face discrimination if returned to Hungary, *it would not amount to persecution*”.⁴³ The representative of the refugee authority stressed that each case was still judged individually, and judges were permitted to deviate from a jurisprudential guide. Still, Ronald Lee fears the implications. “If they can get away with a test case for Hungarian Roma, then in the future they can stop Afghans, or Somalis, or anyone else”, he said.⁴⁴

A few days after the announcement of visa-free travel in March 2008, groups of Roma living in various regions of Hungary were said to be preparing to leave for Canada to find a job and settle there. Roma in and around Mohács in southern Hungary were also preparing to move. István Kovács, president of the Mohács Roma self-government, encouraged Roma to leave Hungary, saying they had no chance of making a living there.⁴⁵ Officials from the local authorities, as well as the labour and foreign ministries, gave talks to local residents about their legal possibilities for working abroad. The issue moved off the back burner when the *Vancouver Sun* reported that a “sudden wave of refugee claimants has helped make Hungary Canada’s top source of asylum-seekers, prompting Ottawa to call on Budapest to take action – possibly against organised crime elements”.⁴⁶ According to a spokesman for the Canadian immigration minister, “we are working with senior government officials to see if there are other ways to resolve this issue – whether [through a] crackdown on organised crime networks encouraging unfounded asylum claims, or addressing the issue of unregistered immigration consultants misleading people into coming to Canada and making asylum claims”.⁴⁷ So the idea was aired that Roma migration is part of an illegal, business-oriented, profit-making action by organisers, compatriots or travellers – without deeper scrutiny and proof. Meanwhile, the symbolic Roma policy continued. For instance, on 1 August 2008 Ferenc Kumin, head of department of the President’s Office, laid a wreath at the memorial tablet placed on the wall of the National Roma Self-Government hall in the Dohány street in Budapest.⁴⁸

What is the message behind the emigration of Roma and their recognition as refugees even in a limited ratio? “When an EU citizen seeks asylum in any member state, [they are] considered [as coming from] a safe country of origin”,⁴⁹ said the Finnish immigration services in August 2009, after receiving dozens of asylum claims from Bulgarian Roma.

⁴³ Castaldo, “No Longer Welcome: Canada’s Immigration Refugee Board closes the door on Roma refugees from Hungary” (December 2005/January 2006), op. cit. (emphasis added).

⁴⁴ Lee (2000), op. cit.

⁴⁵ Máté Balázs, “Nem várt akadály a Kanadába készülő romák előtt”, *Dunántúli Napló*, 18 March 2008.

⁴⁶ Peter O’Neil, “Canada urges Hungary to stem flow of asylum-seekers”, *Vancouver Sun*, 7 October 2009.

⁴⁷ Ibid.

⁴⁸ See “Roma Holocaust Memorial Day”, *MTI News*, 2 August 2008.

⁴⁹ European Union Agency for Fundamental Rights (FRA), *The situation of Roma EU citizens moving to and settling in other EU Member States*, FRA, Vienna, November 2009, p. 22.

3.2 Migration as a solution?

Against this background, the UK appeared to be an *alternative destination* for Roma during the visa restriction period. In the town of Mohács, about a hundred Roma were preparing to move to the UK for occasional or seasonal work, as by car the route only takes 30 hours, allowing them to return every month. Although the salary is low in the UK, it is high enough for Roma. Since the publication of the short conversation with the chair of the local Roma self-government, István Kovács, news spread about the easy labour migration route to England. He received calls about how to obtain jobs in the UK. He could share with others the stories of Roma family members who could speak some basic terms in English and who had sufficient resources to live on until they were paid. He warned the Roma not to depart without proper information on jobs, housing, food prices and used cars. As the Canadian visa requirement was lifted, however, Roma from Mohács also intended to move to Canada because of the legendary stories about welfare, jobs and non-discrimination in Canada. Even so, he offered to provide a guide to the UK for emigrating families, if they could cover the flight ticket and some per diem for the escort.

Owing to this advice on foreign labour given by the self-government leader to support migration, the ministry of foreign affairs (consular division) and the embassy of Canada organised a forum on conditions of entry and residence in Canada in Mohács (March 2008). The immigration counsellor explained that visa-free travel would allow self-sufficient persons to move. Taking account of either the advice of Kovács or the governmental organs in a limited way, since 2007, in Mohács alone word of mouth on labour in the UK has mobilised at least 500 persons who commute to the UK to spend some weeks in seasonal work (e.g. in the building industry, agriculture, car demolition and logistics) or in monotonous, simple or dirty work without language knowledge (e.g. in kitchens) and some weeks in Mohács. Why? Because they can make better money externally and spend it in Hungary. All these persons are using their personal, family or friend networks, so manpower or labour offices have been totally neglected by Roma. Although the visa-free travel period to Canada (March 2008) prompted a re-evaluation of the destination options, travel costs to Canada are much higher than to the UK. Furthermore, lawful *employment in the UK is as attractive as the generous and helpful asylum welfare system in Canada*,⁵⁰ regardless of recognition, as has been tested by at least 100 Roma from the town, explained the local Roma leader. Yet the economic recession has pushed the seasonal/unskilled/informal workers to return from the UK (and from Germany, Spain, Ireland and Austria), giving further impetus to migration to Canada, especially given the high unemployment in southern Hungary in 2009–10.

In this context, *asylum claims would need to be verifiable with documents on persecution* – so the local Roma leader issued documents proving unsafe conditions for and threats to Roma.⁵¹ This action was confronted by the main official Roma policy. The chair of the National Roma Self-Government refused to issue certificates or other documents on ethnic origin or persecution in Hungary (August 2009). The Ombudsman for data protection and for minority rights also considered the issue of these documents by Roma self-governments unlawful. There were hundreds of Roma who requested these documents for use in asylum procedures. The chair asked the Roma not to leave the country. This message was contradicted, however, by an interview with (and the local presence of) a Roma man returning to visit his birthplace. He had left Hungary in 1996 and obtained Canadian citizenship. Indirectly inspiring a further wave, Ernő Miloskics said,

⁵⁰ *ATV Híradó*, 1 June 2008; Máté Balázs, “Több százan ingáznak Mohács és Anglia között”, *Dunántúli Napló*, 7 July 2008; Máté Balázs, “Egyre több roma indulna Angliába”, *Dunántúli Napló*, 3 July 2007.

⁵¹ Máté Balázs, “Kivándorló romák: papírt kapnak az üldözésről”, *Dunántúli Napló*, 13 September 2009.

[o]ur foundation for assisting migrants is familiar with asylum procedure[s]. There is a case-by-case evaluation, and my experience of unsafe and threatened life for Roma shall be taken into account. In the past, poverty was the main reason for leaving but today it has changed. There are about 1,000 Hungarian Roma waiting for asylum decisions in Vancouver alone. The issued documents would support the claims.⁵²

Nevertheless, the atrocities documented would be changed when an extremist party (Jobbik Party) obtained seats in the European Parliament (2009) and in the Hungarian parliament in May 2010. The Jobbik Party, whose members have made explicit statements against Roma, Jews and other minorities, won 15% of the Hungarian vote in the European parliamentary elections. It has close ties with the outlawed Hungarian Guard, an armed neo-Nazi militia whose members wear fascist-style uniforms and have been convicted for many of the killings. The leaders of the centre-right ruling Fidesz Party, have been slow to censure members who have ties with the extreme right or make anti-Semitic and anti-Roma statements.⁵³

3.3 What to do

The Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE) adopted a list of recommendations for Hungary on how to effectively combat the wave of racial violence against Roma.⁵⁴ It includes recommendations to the legislative powers, law-enforcement authorities, the judiciary and to a smaller extent the political elites and media. Accordingly, regarding the recent violent actions against Roma, it recommends the following actions:

- Ensure without delay vigorous and effective investigations and take all necessary measures to ensure access to effective remedies for the victims and bring the perpetrators to justice. Exercise particular vigilance regarding the investigation of possible racial motivations.
- Take all necessary measures at all levels to ensure protection of the members of the Roma community from further violence and provide an adequate response to their security concerns.
- Ensure the proper and prompt internal and external investigation of complaints against the police for misconduct/not properly investigating crimes against Roma. Raise awareness among the population about the role and tasks of external police oversight mechanisms, such as the Independent Police Complaints Committee and the Parliamentary Commissioner for National and Ethnic Minority Rights.
- Identify and address the possible gaps between domestic legislation, investigation, prosecution and judicial practices with regard to hate crimes and relevant OSCE commitments and international human rights standards. Recognising the particular harm caused by violent hate crimes, make law enforcement a priority for the criminal justice system in cases where there are reasonable grounds to suspect a racial motivation, and ensure vigorous and effective investigation that is in accordance with domestic law and consistent with relevant human rights standards. To this effect, ensure that law-

⁵² Máté Balázs, “Vancouverben közel ezer Magyar roma vár a döntésre”, *Dunántúli Napló*, 4 September 2009.

⁵³ Doug Saunders, “The next stop for the Roma: Canada?”, *Saturday’s Globe and Mail*, 22 January 2010.

⁵⁴ OSCE (ODIHR), *Addressing violence, promoting integration, Field assessment of violent incidents against Roma in Hungary: Key developments, findings and recommendations* (June–July 2009), ODIHR, Warsaw, 15 June 2010.

enforcement officials, prosecutors and judges are well equipped to respond effectively to hate crimes.

- Unequivocally condemn and speak out at the highest political level against all forms of violence motivated by racial and ethnic hatred against Roma whenever they occur. Such condemnation should be immediate, strong and clear.
- Acknowledge that media cannot be permitted to (directly or indirectly) insult or promote hatred against any minority, and media organs fostering anti-Roma racial hatred should consistently be held accountable.

Although the recommendations cover the mainstreaming of Roma, in a period of growing social inequality and weak solidarity the proposals on integrative measures should be more applicable or pragmatic in Hungary instead of generalised. The outcomes of past Roma social-inclusion policies and programmes need to be thoroughly assessed, with a view to identifying effective approaches capable of leading to the real and sustainable integration of Roma and the remaining challenges. Such an assessment should bear in mind the special importance of addressing the situation in both smaller and segregated settlements and poor regions, be transparent and include all relevant stakeholders, including national and local authorities, Roma representatives and civil society.

Because of the *racially blind collection of personal data* and processing, the racially motivated atrocities are not registered. Neither the races of the perpetrators nor victims, nor the genuine motivations behind the violence are collected, with certain exceptions. This is based on the misinterpreted freedom of self-identity, which requires freedom in the declaration of affiliation(s). Although the Act on Personal Data Protection (1992) provides legislative power on ethnic data collection and processing in order to pursue fundamental rights and to protect constitutional values and human rights, it has not been fulfilled by proper regulation on police measures, investigation and criminal justice. Consequently, police, public prosecutors and judges have neglected the racial component of legal violations in criminal justice, as well as in civil justice and public administrative law. The OSCE (ODIHR) has recommended that the authorities use legislative power for ethnic-data collection and processing in practice. In this context, they would utilise the relevant international standards, recommendations and experience of data protection and minority rights ombudsmen as well as the proposals of Roma non-governmental organisations (NGOs) and human rights organisations.

In brief, Roma applicants have followed the normal way of survival, with 97% of the Hungarian refugee claimants to Canada subsequently withdrawing their refugee claims in 2010. “I haven’t got an answer to why that is happening”, marvelled Kenney, the immigration minister,⁵⁵ suggesting that it could be because refugee claimants are allowed to work in Canada, collect welfare and claim other social benefits even after they abandon their refugee claims. Richard Kurland, a lawyer specialising in immigration matters put it in simple terms: it was an *abuse of Canada’s generosity*.⁵⁶ Refugee claimants are from the Roma community and are primarily interested in coming to Canada for free health care, education and other social services. If they were really facing persecution, Kurland said they could much more easily travel to another EU country.

⁵⁵ See “Refugee claims from Olympics ‘ridiculous’: minister”, *CTA.ca*, 2 March 2010.

⁵⁶ See “Refugee claims from Olympics ‘ridiculous’: minister”, *supra*; see also “Should Canada Gyp the Roma?”, *Legal Frontiers: McGill’s Blog on International Law*, 22 January 2010 (<http://www.legalfrontiers.ca/2010/01/should-canada-gyp-the-roma/>).

4. The Canadian context

4.1 Endangered public order

Canada has become a destination country for refugees, with a rich tradition and experience over decades in this respect. It receives on average about 20,000 claims a year from people seeking refugee status. Of these, roughly half are accepted.⁵⁷ Why was the influx of some thousands of Roma from Europe to Canada so threatening? Why do they have to impose visas as a final obstacle to stop Roma migrants?

According to a simplified and generalised answer, the wave of Roma immigration has been *presumed a threat to internal security* throughout its duration. For instance, in 1997 the Canadian police and diplomatic officials were talking publicly about the threat of increased *crime* that the Gypsies might bring, and immigration officials were having to investigate whether clerks at Toronto's Pearson International Airport discouraged some Gypsy families so strongly that they waited at the airport for the next flight home.

Still, the first slurs against applicants also provoked other issues. Digging deeper into events in 1997–2000, Ronald Lee notes that *while Roma migration to Canada was nothing new*, there was no need for them to claim refugee status as Roma.⁵⁸ When the communist governments of Eastern Europe came to an end, the citizens of these former communist countries could no longer request status in Canada as refugees fleeing communism, as under the 1951 United Nations (UN) Convention.⁵⁹ The subsequent wave of their *migration have differed from previous ones in that the immigrants have publicly identified themselves as Roma, and this has resulted in their being given a different reception from that of the historical migrants*.⁶⁰ Because of systemic discrimination and the rise of neo-Nazi groups, fear of skinhead violence, ethnic cleansing and overt persecution at the hands of governments and the police in many countries, Roma have been forced to make a claim based on their Roma ethnicity when applying for asylum in other countries. Roma who fled to Western Europe soon found that these countries were reluctant to accept many of them.⁶¹ The Gypsy stereotype, media sensationalism and public fear of refugees have combined to make things more difficult. Altogether, this has created a problem for the Canadian immigration department, since Roma claiming to be victims of ethnic persecution have become *a new group of refugees*.

The conditions and features of Roma movement were initially unfamiliar to Canadian immigration officials. Persecution of a minority group on ethnic grounds is nonetheless a valid reason for a refugee claim and as long as the numbers of Roma refugees remained low, Canadian immigration officials processed their cases individually while they slowly gathered background information on the conditions of Roma in the countries the refugees were fleeing. The claims of all the Czech Roma were also delayed for weeks while criminal checks were conducted from the Canadian embassy in Prague by Canadian immigration. These checks were declared illegal and a violation of the (Canadian) Charter of Rights. If a specific refugee claimant, from anywhere, is suspected of having links to a terrorist organisation or having

⁵⁷ See "Canada and Czech Roma", *Migration News*, Vol. 4, No. 4, October 1997.

⁵⁸ Lee (2000), *op. cit.*

⁵⁹ UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, U.N.T.S. Vol. 189, p. 137.

⁶⁰ Reuel S. Amdur, "The Plight of the Roma: From Europe to Canada 2009", *Toward Freedom* (online) 11 November 2009.

⁶¹ Isabel Fonseca, "Afterword", in (1995), *Bury Me Standing – The Gypsies and Their Journey*, London: Vintage, Random House, 2009.

committed a war crime or a serious criminal offence, it is the Royal Canadian Mounted Police who conduct the investigation, not an official of Canadian immigration based in Prague. Nonetheless, no significant criminal records were discovered among the Czech Roma refugees. A side effect of these criminal checks was that the *Toronto Sun*, a daily tabloid whose coverage of issues relating to immigration and racial and ethnic communities has come under heavy criticism for its presentation of a single, prejudiced view of the world, was able to publish information gleaned from these police checks.⁶²

4.2 Genuine applicants

The IRB decided to work out some verification of Roma ethnicity (September 1997) based on a questionnaire that could be issued to the IRB judges. Apparently their researchers had been reading some books about Roma and collecting material from various sources to compile ‘country condition’ reports. The IRB judges are neither government employees nor civil servants but are appointed by the Privy Council of the federal government after being nominated by a member of parliament. They are assigned to the Convention Refugee Determination Division and are paid a starting salary of \$85,000 per annum, which is twice the starting salary of a federal government civil servant. The claimant is represented by a lawyer and in most refugee cases the costs are covered by legal aid. The fledgling Roma Community & Advocacy Centre (RCAC) was just coming into being with the help of Patricia Ritter, a Toronto-based immigration lawyer who had worked with many Roma refugee claimants in the past. She and Ronald (RCAC) were invited to an informal meeting with representatives of the IRB to discuss the situation of the Czech Roma refugees. This contributed to a sort of Roma identification kit for judges. Furthermore, input from experts on Vlach Roma culture was requested – but the Czech Vlach Roma were a minority group. Romungere Roma from the Czech Republic, who were the majority of the Czech Roma refugees, had a different culture, as did the Czech-Sinti refugees. So the kit was useless because *there is no universal or homogeneous culture/language of Roma*. A video conference (17 October 1997) proved that many Czech Roma could have a valid reason to seek refugee status in Canada under the UN Convention.⁶³

Up to summer 1998, the judges also become familiar with the country conditions and a particular group of refugees could then be considered to generally have a valid claim for refugee status, as happened earlier with non-Roma refugees from Bosnia. The IRB thus saw no need for lengthy hearings. Fewer backlogs and a high recognition rate were the results.

While some small influxes of Czech Roma received a lot of local publicity in the Vancouver area, mainly because of the involvement of Julia Lovell, a young Roma activist, they did not make national headlines. The Vancouver media seemed mostly interested in creating a hometown celebrity out of Julia Lovell, because of her devoted efforts to help the Roma refugees find shelter, clothing, furniture and other help upon their arrival. Unfortunately, this media coverage alerted certain hate-mongers that ‘Gypsies’ were arriving in Canada, which resulted in anonymous telephone threats to Julia Lovell’s life, followed by an incident in which unknown persons spray-painted swastikas and Nazi slogans all over her vehicle. So the *media created the perception of a ‘Gypsy invasion’*. They were also described as having come to Canada to ‘sponge off’ the welfare system and worst of all, they were accused of being a ‘group of criminals’. All of this was unfounded. The ‘Czech Gypsies’ were actually Slovakian Roma,

⁶² Jozef Klima, “The Roma exodus to Canada”, *Czech Radio* (online), 26 February 2000 (www.romove.cz).

⁶³ Attila Leitner, “Hundreds of Roma seek refuge in Canada”, *Budapest Times*, 14 October 2009 (<http://www.budapesttimes.hu/index>).

most of whom had not even been citizens of the Czech Republic when they left for Canada. As usual, the ‘why’ of the ‘five Ws’ (who, what, when, where and why) of journalism was completely absent from the Canadian media reports. All of this reflected *entrenched racism in Canada*: Czech Roma refugee claimants alarmed the public, who put pressure on government officials, with the consequence that Czech Roma refugees were made to undergo criminal checks (which were not required for any other group of refugees). Eventually, to stop the flow of refugees, visa requirements were reimposed on all Czech visitors to Canada.

4.3 How to stop them

Up to 1999, the number of all Roma applicants from Hungary was 3,000, and they lived in the Toronto area. But shelters in the Greater Toronto Area were full to capacity so they were accommodated farther away in motels. The Canadian government decided this flow must be stopped⁶⁴ but seemed reluctant to simply reimpose the visa requirement for Hungary as was done to stop the influx of Czech Roma. On the other hand, it did not want to accept large numbers of Hungarian Roma as UN Convention refugees.⁶⁵ Hungary was also a member of NATO. In this context the evidence of persecution had to be verified. In autumn 1998 a panel of Hungarian ‘experts’ on Roma was asked to testify at hearings about country conditions in Hungary. While widespread discrimination and instances of persecution in Hungary were acknowledged, so to were the laws put in place to protect minorities. As described in the paper by Ronald Lee, the consensus of IRB judges Vlad Bubrin and Barbara Berger, after hearing their testimony, was that “the claimants faced discrimination but not severe enough to be considered persecution and require refugee protection”.⁶⁶ Thus the Hungarian Roma claimants in both cases were denied UN Convention refugee status and these decisions were promptly appealed. Since then, this testimony and the findings have been published and distributed to IRB judges in an *Issue Paper, Roma in Hungary: Views of Several Specialists*. In autumn 1999, a Roma leader, József Krasznai, vice-president for the Province of Fejér in the Hungarian Roma Parliament (a national non-governmental organisation (NGO), whose members are elected only by Roma), made two visits to Toronto. On his second visit, he testified on behalf of a Toronto immigration lawyer at an IRB hearing for a Hungarian Roma claimant. He challenged the Issue Paper and gave a much more accurate picture of the persecution and systemic discrimination of Roma in Hungary. In January 2000, at the request of a Toronto immigration lawyer, the Canadian Federal Court of Appeals agreed to review the Issue Paper and the test cases in March 2000.⁶⁷

This “template decision” was used by many IRB judges to refuse further Hungarian Roma refugee claimants, and as a result the rate of acceptance for Hungarian Roma refugees was less than 12% of cases heard as compared with the 89% acceptance rate for Czech Roma.⁶⁸ This was the first time that the refugee division of the IRB had used such lead cases as precedents for future trials. According to Jack Martin, executive director of the Refugee Lawyers Association of Ontario, the test cases are illegal because refugee claimants who will be affected by this decision should have been given the chance to cross-examine the witnesses from Hungary.⁶⁹ In the data files of the Hungarian Roma claiming refugee status under the UN Convention, the reasons they gave for feeling forced to leave Hungary were no different from those of the Czech

⁶⁴ “Kanada intézkedést kér Budapestről a menekülthullám miatt”, *MTI News*, 7 October 2009.

⁶⁵ Máté Balázs, “Ezúttal nem marasztalták a romákat”, *Dunántúli Napló*, 1 August 2007.

⁶⁶ Lee (2000), op. cit.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

Roma. Summing up, the situation of the Hungarian Roma refugee claimants in Canada differed from that of the Roma refugees from the Czech Republic and the recognition rate of applicants from Hungary was significantly lower than applicants from the Czech Republic. During this time, the Czech Republic and Hungary were both sending and receiving countries for 1951 UN Convention-based refugees. *Evidence has proven that economic and political relations between Canada and the refugee-producing countries affect the policy towards refugees.* It was difficult for Canada to accept refugees from countries that were supposed to be democracies and with which it would like to maintain good relations.

The years from 2001 to 2007–08 were a period of visa restrictions. Why was the visa requirement inevitable in Canada? As explained by a Canadian assistant minister for foreign affairs in November 2003, the visa waiver for Czech, Slovak, Slovenian and Hungarian nationals was *a unilateral decision* by Canada, whose nationals also had to obtain a visa in order to travel to these countries in the 1990s. “We do not see this as a reciprocal thing to us, it was a unilateral gesture to these three countries to allow them to come freely to Canada in the concept of freedom of movement.”⁷⁰ Consequently, lifting the visa would also be one-sided, although awkward. As assistant minister said,

unfortunately we ended up in a rather uncertain, uncomfortable situation because we found there were a number of people who pretended to come to Canada just for holidays or trips but in fact were coming for other purposes, and overstaying their period of visitors’ time and entering our social system through the back door...the result [was] that we ended up in a situation where many of them decided to apply for asylum [which had to be evaluated individually and meant a great burden].⁷¹

In brief, instead of visitors, Canada receives asylum-seekers consuming more and more social transfers. The assistant minister added, “[s]o basically there was an abuse of the system which resulted in long discussions with the Czech government and later with a similar problem with Hungary”. The unilateral introduction of the visa requirement was considered the solution rather than the modification of a procedure of accelerated asylum claims or reception conditions for a large influx. “Canada found itself with no other alternative but to reimpose the visa.”⁷² In 2004, Hungary and the Czech Republic acceded to the EU. While the visa requirement was being applied, these countries were implementing EU laws on visas and border crossing and had adopted the Schengen *acquis*, which may have contributed to these countries being re-evaluated by Canada. Finally, Canada thought it was able to lift the visa requirements without again engaging in a situation in which there would be abuses, but the arrangements were tested for how to avoid misuse of visa-free travel by asylum applicants.⁷³

The lifting of visa restrictions resulted not only in the growth of asylum applications, but also in hostile reactions by the Conservative Party’s minority government in Canada in 2007–09. Jason Kenney argued that *Czech Roma were not real refugees*⁷⁴ (or in another interview, *false refugees*)⁷⁵ owing to free movement within the EU. Hence it was logical to block their influx by

⁷⁰ Kay Gringar, “Does Canada and the Czech Republic have more to learn from each other than hockey?”, *Czech Radio* (online), 24 November 2003 (www.romove.cz).

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Ian Willoughby, “Why did so many Czech Roma apply for asylum in Canada?”, *Radio Prague*, 28 July 2009.

⁷⁴ Amdur, “The Plight of the Roma: From Europe to Canada 2009” (2009), *op. cit.*

⁷⁵ O’Neil, “Canada flooded with Czech Roma refugee claims” (2009), *op. cit.*

the introduction of visa restrictions in July 2009.⁷⁶ The subsequently imposed visa was explained in this way: this high volume of abusive claims of economic migrants *undermined the ability to help genuine applicants seeking protection*. But the recognition rate was 85% in 2008 and 2009. In parallel, the Hungarian Roma were considered clients of human smugglers or partners in *organised crime* – according to the minister’s communication director.⁷⁷ The executive director of the Roma Community Centre in Toronto explained in vain that these applicants faced discrimination and racism in their home countries, so their requests were genuine.⁷⁸ In mid-April 2009, Kenney said, “[i]f indeed there are some commercial operations, I would hope the Czech authorities are able to identify those and crack down on them”.⁷⁹ So false applicants making money for illegal commercial businessmen was one way to frame the actions of the Czech government and Roma, in cooperation against Canada. Many applicants, it was believed, *paid mediators* – in both the Czech Republic and Canada – who helped facilitate asylum applications, which included advice on how to exaggerate their experiences of racial discrimination, or so it appeared in the Czech press.⁸⁰ For instance, Martin Simacek (People in Need, a relevant NGO for Roma) said in 2009, “there is no proof but mediators in both here and in Canada were behind the exodus of the past two years, with employers in Canada on the hunt for cheap labour”.⁸¹ The channels of diaspora and family contacts have never been taken into account in the migration destinations, even though Czech and Hungarian Roma have mentioned these factors. A “prospector” system (as referred to by Roman Krystof in July 2009)⁸² was based on the invitation of family members who were accompanied by individuals who advised them, a lot of whom were from NGOs and some from Roma political circles. Upon arriving, individuals followed more or less the same living strategy as at home: an amalgam of welfare revenues and illegal work. Roma activists, for instance Ivan Vesely of the group of Dzeno dismissed the assertions about an organised exodus as a form of anti-Roma propaganda.

In summer 2009, when Canada imposed visas on visitors from Mexico and the Czech Republic,⁸³ the Canadian press warned that a visa requirement for Hungarians could *provoke even more backlash from the EU*, which has spoken out against the requirement for Czech travellers. The IRB sent two immigration officers to the Czech Republic in March 2009 to gather background information from NGOs, experts and governmental representatives. According to the media,⁸⁴ they summarised their experiences in a report and stated they found that at times, *Roma are not protected* by the government, and that Roma often face discrimination from local police and are treated rather as criminals. There was a wide distrust between the authorities and Roma, a lack of cooperation, the fear for their lives is real and attacks by skinheads were not perfectly investigated. On these grounds *applications from Roma*

⁷⁶ Lida Rakusanová, “Czech–Canadian visa war is the worst of bad solutions”, *Czech Radio* (online), 27 July 2009 (www.romove.cz).

⁷⁷ Amdur, “The Plight of the Roma: From Europe to Canada 2009” (2009), op. cit. (emphasis added).

⁷⁸ For instance, *The Hamilton Spectator*, 20 March 2010, gives information on an investigation against three Hungarian Roma men who had recruited six others from Hungary for well-paid employment in Canada in 2008–09, but they were forced to claim asylum and to pass the recruiters their social benefits during the procedure. The recruited men had to work illegally in bad conditions. The perpetrators operated in a network blackmailing the family members of the recruited workers.

⁷⁹ O’Neil, “Canada flooded with Czech Roma refugee claims” (2009), op. cit.

⁸⁰ Albert, “Spinning the exodus: Roma refugees smeared in Czech press” (2009), op. cit.

⁸¹ DiManno, “No hope for Roma in Czech ghettos” (2009), op. cit.

⁸² Zoltán Dujisin, “Roma Exodus Provokes Diplomatic Conflict”, *IPS*, 27 July 2009.

⁸³ Peter O’Neil and Meagan Fitzpatrick, “Canada to require visas from Mexico, Czech Republic”, *Canada.com*, 13 July 2009.

⁸⁴ See “Ottawa report finds evidence of Czech discrimination against Roma”, *CBC News*, 25 June 2009.

could be accepted – if those seeking protection are able to enter Canada. Max Berger, an immigration lawyer from Toronto said that “[t]o re-introduce this visa requirement, it really tarnishes our reputation in the international community with respect to refugee protection because we are slamming the door on genuine refugees”.⁸⁵

It is important to note that the IRB is an *independent statutory undertaker* deciding on admissibility, while the visa requirements are introduced and dropped by the government. The independence and impartiality of the IRB was nonetheless challenged by the statements of Jason Kenney in June 2009, who said that the legitimacy of the refugee claims made by Roma from the Czech Republic was questionable because they faced no real risk of state persecution.⁸⁶ Refugee lawyer Max Berger compared the acceptance rates of the Czech applicants, which dropped from 81% to almost 0 within a year, owing to the impact of the statements. (He was hoping that the Federal Court judge would deliver a judgment on a claim that was refused by the IRB.)⁸⁷ Although the IRB is an independent agency, the immigration minister decides who is appointed and re-appointed. Furthermore, determining ‘state persecution’ – as the minister applied the term – would also mean determining whether the state is able and willing to protect these claimants from non-state persecution, added the former IRB chairman, Peter Showler.⁸⁸ In 2006, the lawyer Rocco Galati used the same statistical argument before the Federal Court of Appeal. He argued that e-mail exchanges between board members and officials at the Canadian immigration department reflected a strategy designed to reduce the percentage of successful refugee claims by Hungarian Roma. Galati argued that board members did not separate their management and case adjudication duties, leading a reasonable person to believe they were biased when handing down decisions for those specific claimants. Finally the Court agreed.⁸⁹

Despite similar conditions for Roma life in the Czech Republic and Hungary, individuals from the latter have enjoyed visa-free travel since March 2008. In recent years the waves of applicants have not reduced.⁹⁰ In March 2010, Kenney said that it was “ridiculous” that a “person from Japan could claim to be a refugee”⁹¹ and told CTV News that it was a sign that the system has broken down. “Japan is a liberal democratic country with full human rights protections. ... You have to wonder what kind of a system we have that encourages people from a democracy like that to be saying that they’re victims of persecution and coming to Canada”, said the immigration minister.⁹² He continued, “Hungary is a member of the European Union, it’s a democratic country in full compliance with human rights laws. While there are challenges for people there, there’s *no evidence of state persecution*”.⁹³ Using this rationale, democratic states cannot produce genuine applicants, and reception conditions should be reformed to avoid attracting too many abusive individuals to Canada, Kenney said, although changes to the refugee determination system were already on the way.

⁸⁵ See “Looking at the New Visa Requirements”, *GlobalVisas.com*, 14 July 2009; see also Rob Cameron, “Alarm as Canada receives more refugees from Czech Republic than from Iraq, Afghanistan”, *Czech Radio* (online), 16 April 2009 (www.romove.cz).

⁸⁶ Anca Gurzu, “Federal Court asked to rule on Kenney’s refugee claims”, *Embassy*, 10 March 2010.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ Balázs Máté, “Van akinek bejött Kanada”, *Dunántúli Napló*, 23 June 2010.

⁹¹ “Refugee claims from Olympics ‘ridiculous’: minister”, *CTA.ca* (2010), *op. cit.*

⁹² *Ibid.*

⁹³ *Ibid.* (emphasis added).

Part of the lesson here is that we need to fix our refugee system...I think it's a pretty obvious signal to people when they can come to Canada, make a claim, get welfare benefits, get a work permit and stay here sometimes for years. ...It's a backdoor to immigration, which is unfair to all the other legal immigrants waiting to come to Canada.⁹⁴

On the other hand, the reluctant reform may be balanced by visa restrictions and preventive international communications.⁹⁵ The government of Canadian Prime Minister Stephen Harper seems likely to require Hungarians to make applications for visas at Canada's consulates in Hungary, an expensive process that could draw waves of protest from the sizable Hungarian–Canadian community, many of whom arrived in Canada as refugees after the 1956 Soviet invasion. The visa requirement is supposed to screen for poor, abusive or genuine applicants as well as perpetrators.⁹⁶ The move would follow similar visa restrictions imposed on the Czech Republic and Mexico in July 2009, which have provoked diplomatic reprisals from the countries concerned and threatened to damage trade relations. The influx has been so alarming to the Harper government that Kenney visited Budapest in summer 2009 to lobby the Hungarian government to take tougher action on anti-Roma crimes.

5. European perspectives

5.1 Roma as a minority group

The Council of Europe, which sets human rights standards, has adopted numerous documents that call for the respect of dignity and equality, likewise for the Roma living in party states. For instance, the Parliamentary Assembly stated that over the last two decades, Roma have left their countries in Central Europe to seek asylum in other parts of Europe or the world.⁹⁷ A wave of racist violence against the Roma in 2007–09, including firebombing, shootings, stabbings and beatings, which resulted in eight deaths and many injured, have swept the Czech Republic, Hungary and Slovakia. Out of approximately 3,000 applicants in 2008–09, many hundreds have been granted asylum in Canada. Meanwhile, those who have sought asylum in other EU member states have been denied protection because member states are deemed *safe countries of origin without persecution*. This matter is controversial, so the Assembly should propose action aimed at dealing with the issue of Roma asylum-seekers.

Yet it is notable that the right to movement within the EU is not an option for many Roma in these countries. The EU Citizen Directive (2004/38/EC), which provides for *free entry and residence for persons with self-subsistence*,⁹⁸ but some Roma cannot fulfil this requirement and instead become irregular migrants, or return to the place they fear or migrate out of the EU in search of asylum. For this reason the Assembly has urged European states to respect Arts. 3 and 14 of the European Convention of Human Rights (1950) and to enhance inclusion and anti-

⁹⁴ Ibid.

⁹⁵ See “Canada, Hungary cooperate to prevent Roma emigration”, *MTI News*, 17 July 2008.

⁹⁶ See “Magyar romák emberkereskedők karmaiban – kanadai lap leleplezése”, *HVG*, 21 March 2010; see also Nicholas Keung, “Czech, Mexican refugee claims plummet”, *The Star*, 27 January 2010.

⁹⁷ Council of Europe, Roma asylum-seekers in the Council of Europe members, Motion for Recommendation, Doc. 12073, Parliamentary Assembly, Council of Europe, Strasbourg, 15 October 2009.

⁹⁸ Art .7(1)b is applicable to persons residing for longer than three months.

discrimination measures. The Assembly has also requested the monitoring of discrimination against Roma and a resolution to the legal status of the Roma.⁹⁹

In 2005 the European Parliament adopted a resolution on the situation of the Roma in the EU.¹⁰⁰ It recognises the Roma as a *European minority* and calls for steps to be taken to combat anti-Gypsyism or Romaphobia in all forms at all levels. It also calls for the transposition of EU laws against discrimination and segregation into the national legislation of EU member and candidate states. It nonetheless views the problems suffered by Roma living in the EU (about 12 million) – racial discrimination and in many cases severe structural discrimination, poverty and social exclusion, as well as multiple discrimination on the basis of gender, age, disability and sexual orientation – as essentially social problems. The discrimination they face is confirmed by the European Roma Rights Centre, with additional reference to violations of the right to housing in the Czech Republic and Hungary (e.g. in 2007 in a communiqué on International Roma Day).¹⁰¹ The European Parliament’s recent resolution on a European strategy on the Roma held that a “complex development programme should be established that targets simultaneously all related policy areas and makes immediate intervention possible in ghetto areas struggling with serious structural disadvantages”.¹⁰²

Summing up, the approach of the European institutions concerning Roma is rather *normative*. They are considered human beings, citizens with a right to equal treatment without discrimination, and as EU citizens they also have the right to free movement. The Roma policy at least indirectly supports their social inclusion through comprehensive, affirmative programmes partly financed by EU resources. Even so, the legal redress for violated fundamental rights, social inclusion and criminalised migration policies cannot make these countries safe for many Roma.

5.2 The missing solidarity in visa issues

The situation between Canada and the Czech Republic on the reintroduction of the visa requirement affects the applicability of the *solidarity* clause within the Union. This solidarity is based on the visa reciprocity principle. The visa reciprocity principle in accordance with amended Regulation 539/2001/EC was intended to be put into practice when the visa requirement was reintroduced by Canada for Czech nationals. In mid-July 2009 Prague *unilaterally imposed a visa requirement on Canadian diplomatic and service personnel*. The issue was discussed in the Council at least four times, as well as bilaterally and at a tripartite meeting (e.g. at the EU–Canada ministerial troika in Ottawa) in 2009, when the member states

⁹⁹ Adopted in Recommendation 1557 (2002), The legal situation of Roma in Europe, Parliamentary Assembly, Council of Europe, Strasbourg, 25 April 2002.

¹⁰⁰ On 25 April 2005 the European Parliament adopted the Resolution on the Situation of Roma in the European Union (P6_TA(2005)0151).

¹⁰¹ The 2nd European Roma Summit (Cordoba, 8–9 April 2010) discussed it, and 8 April is International Roma Day. Mercedes Cabrera, the Spanish minister of education, social policy and sports, made this announcement during the Conference “Facing the Future: Key Factors in the Development of the Roma Population” on 24–25 March 2009.

¹⁰² Adopted on 25 March 2010. The European Roma Policy Coalition (ERPC) has called on the leaders of Europe to adopt a clear and comprehensive European framework strategy for Roma inclusion. The coalition has also urged the European Commission to move swiftly to finalise its investigation of France’s expulsion of EU citizens. (See “Decade of Roma Inclusion 2005–2015, ERPC Calls for a European Roma Strategy”, 17 September 2010 (http://www.romadecade.org/erpc_calls_for_a_european_roma_strategy)).

indicated that this conflict should be solved quickly by the Commission, avoiding escalation.¹⁰³ A joint working group was also set up. Canada set out its position on several issues:

- A high influx of asylum seeking Roma from the Czech Republic overburdened a refugee system that is based on case-by-case assessments. Thus the visa requirement is not a reaction to the minority policies of the EU or the Czech Republic, but part of a reform to Canada's asylum system to prevent abuse and delays. The Canadian IRB had sent a fact-finding mission to the Czech Republic on Roma issues (March 2009), which rejected the assertion that the Czech Republic could be termed a safe country of origin as the Czech side had offered.
- The reimposed visa procedure had been facilitated such that 99% of applicants would be accepted through questionnaires. Thus the vast majority of applicants would not require a visa interview or could do it by telephone.
- The growth in the violation of migration rules (documented infractions) by Czech travellers had been high in 2008–09.

The Czech Republic had this response:

- Visa restrictions have to be lifted within some months instead of years, being viewed as a “unilateral and unfriendly step” as expressed by Czech Prime Minister Jan Fischer.
- The Czech Republic is a safe country, so the reception of asylum claims is absurd.
- The situation of Roma (high unemployment, the rise of right-wing extremism and feelings of insecurity) in the Czech Republic is the same as in any other member state in the EU. But in this case the generous and permissive Canadian asylum system offers better material conditions and income, including social benefits allocated to refugee applicants – so Canada has become the main destination for Roma. In this regard, Canada should change the legislation on refugee claimants.
- The Canadian consular office in Prague would be reopened to enable a smooth visa procedure.

It was clear that the overture of reciprocity in practice was faltering, that the Commission was reluctant to propose a visa requirement for Canadian nationals,¹⁰⁴ and that the EU has a greater interest in its economic relations with Canada than standing up for solidarity by adopting some retaliatory measures. Although Jacques Barrot, the former EU commissioner for justice and home affairs, warned Canada about retaliatory measures, the visa war was postponed and the EU ruled out immediate action.¹⁰⁵ A willingness to engage in dialogue was revealed, no more than that. The maximal gesture was to propose future visa requirements for Canadian diplomatic and service passport-holders. The Swedish EU presidency (in the second half of 2009) passed the initiative to the Commission. The Swedish minister Tobias Billstroem told the AFP news

¹⁰³ See the Council of the European Union, Justice and Home Affairs, Conclusions, 3018th Council meeting, Luxembourg, 3-4 June 2010; see also European Commission, *Report from the Commission to the Council on the re-introduction of the visa requirement by Canada for citizens of the Czech Republic in accordance with Article 1(4)(c) of the Council Regulation (EC) No. 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirements, as amended by Council Regulation (EC) No. 851/2005 as regards the reciprocity mechanism*, COM(2009) 562 final, Brussels, 19 October; and Council of the European Union, “EU–Canada Summit”, Press Statement, Brussels, 5 May.

¹⁰⁴ See “Hungary supports Czech Republic in visa dispute with Canada”, *MTI News*, 26 February, 2010.

¹⁰⁵ Ian Willoughby, “Prague asks EU to activate procedure aimed at imposing visa requirement on Canadians for all EU states”, *Radio Prague*, 15 July 2009.

agency that his country was in favour of respecting the EU solidarity principle but it was up to the European Commission to handle the proposal – since the Commission was responsible for the reciprocity mechanism.¹⁰⁶ President Vaclav Klaus could nonetheless criticise the EU for curbing the Czech Republic’s option of retaliation after Canada had imposed visas on Czech nationals. While Canada was free to decide on its visa restrictions, it was up to Brussels to decide on behalf of the member states – so the during the ratification process the euro-sceptical Czech leader reasoned that the Lisbon Treaty should be rejected as a threat to Czech sovereignty. The president sought to somehow profit from the visa war by using it as evidence of the demolished sovereignty of member states and the level of solidarity under the dominance of the EU’s institutions or interests.

5.3 The visa as a political and economic instrument

This debate proves that *Canadian officials underestimated the visa requirement as a political instrument* because Czech nationals have come to regard it as unequal treatment despite their EU citizenship. The visa issue was declared a technical obstacle, imposed to relieve an allegedly unacceptable burden on Canada’s refugee system, while visa policy is an EU competence. Regardless of the neglected opportunity for a strong reaction by the EU, bilateralism has been replaced by multilateral relations even on visa issues by the EU.¹⁰⁷ Perhaps this change was not so obvious for the Canadian government. Furthermore, Roma from the Czech Republic would become a scapegoat for the imposed visa restrictions, so the entire measure strongly contributed to the anti-Gypsyism, a high level of prejudice against Roma in Central Europe, not at least in the Czech Republic (and in Hungary owing to news about a possible reintroduction of the visa requirement). In addition, they were labelled as abusive applicants or persons fleeing real persecution, which also reinforced anti-Roma sentiments. Human rights organisations such as Amnesty International criticised Canada for closing doors through the visa requirements to protect its refugee and asylum system, while for years the recognition rate had been high for applicants from the visa-affected state and conditions had grown worse in the country of origin.¹⁰⁸ The European Roma Rights Centre expressed concern about how the Canadian government dropped the case-by-case assessment of the independent IRB when it decided on visa requirements.¹⁰⁹ The Zšvule práva (an NGO providing free legal aid)¹¹⁰ confirmed that refused applicants returning home had to face severe problems in resettlement, and they complained about unequal treatment in Canada as well. Summing up, *it was a disproportionately high price to pay on the international stage for curtailing the number of asylum applicants from certain countries* (Mexico, the Czech Republic or Hungary).¹¹¹

¹⁰⁶ Daniela Lazarova, “Swedish EU presidency backs Czechs in visa row with Canada”, *Czech Radio* (online), 15 July 2009 (www.romove.cz).

¹⁰⁷ Oliver Schmidtke, “Canada and the EU towards an international standoff? The increasingly troublesome Czech visa saga”, Commentary, University of Victoria, September 2009 (www.carleton.ca/europecluster).

¹⁰⁸ Rosie Johnston, “Amnesty International calls on Canada to drop visa requirements for Czechs”, *Czech Radio* (online), 26 August 2009 (www.romove.cz).

¹⁰⁹ European Roma Rights Centre (ERRC), “ERRC calls on Canada to press the Czech Republic on anti-Roma discrimination”, Press Release, ERRC, Budapest, 15 July 2009.

¹¹⁰ Zšvule práva, “Unsuccessful asylum seekers have somewhere to turn”, Press Release, Zšvule práva, Prague, 29 July 2009.

¹¹¹ See “Canada may reintroduce Hungarian travel visas”, *Politics.hu*, 4 March 2010 (<http://www.politics.hu/20100304/canada-may-reintroduce-hungarian-travel-visas>).

Nevertheless, it may contribute to *influencing the direction of migration* from new member states in future, preserving good international contacts with economic partners. “Canada has strong ties with the Czech Republic. ...We continue to welcome all genuine travellers to Canada from this country”, maintained Jason Kenney.¹¹² Indeed, the Czech foreign ministry said in a statement that there was no reason to consider Czech asylum-seekers refugees, and that they were in constant contact with the Canadian authorities to resolve the problem (April 2009)¹¹³ – which is really unusual between the country of persecution and country of recognition. This nice message was also sent during the visit of the Canadian Governor General Michelle Jean in Prague: “Let me say that the relationship between Canada and the Czech Republic is a success story”, and Czech asylum claims are “not a problem”¹¹⁴ although there was already some speculation about a visa reintroduction by Canada. As regards the bilateral contacts with other Central European states, including Hungary, the governor general’s visit aimed at strengthening Canada’s links with the region. In addition, she sought to promote the issues of minorities’ integration and cultural diversity by celebrating Roma traditions, while the number of asylum applications submitted by Roma was growing at that time in Canada. Just on the basis of good contacts, the two countries “must work together in an attempt to lower the number of Czechs seeking asylum in Canada”, said Diane Finley, the Canadian citizenship and immigration minister, in Prague in July 2008.¹¹⁵ For all that, the second reimposition of visas could have been a hard decision, reading the evaluation of Michael Calcott, the Canadian ambassador to Prague in a March 2008 article for Radio Prague.¹¹⁶ As for the Czech Republic, the country is not in the same position as it was a decade ago, when Czech Roma applied for asylum en masse. Calcott summarised his view:

The situation is incompatible in the sense of the historic changes: membership of the EU, membership in the Schengen zone, in NATO. The Czech Republic is indeed a very different country than it was when we reimposed back in the ‘90s. These factors are part of what we examine. So while I am not going to belittle the number of refugee claims as a factor that we look at, we have to put it in context with democratic processes which are now in place, a human rights record which is excellent and other factors like that.¹¹⁷

In brief, the Roma exodus could not disrupt the good bilateral and EU external contacts over the long term, only for a short time and in a limited way.

Clearly, however, the *importance of economic interests* is much more predominant – as demonstrated by the story of negotiations on the free trade agreement in parallel with the visa war. The visa issues emerged as Canada–EU free-trade obstacles: reintroduction of the Czech visa in 2009 to stem the flood of refugee claimants has hindered the negotiations.¹¹⁸ Ottawa hopes to strike an even more comprehensive deal than the North American Free Trade Agreement (NAFTA) by the end of 2011, and predicts that such a treaty could boost the

¹¹² See “Canada imposes visa on Czech Republic”, News Release, Citizenship and Immigration Canada, Ottawa, 13 July 2009.

¹¹³ Cameron, “Alarm as Canada receives more refugees from Czech Republic than from Iraq, Afghanistan” (2009).

¹¹⁴ Rosie Johnston, “Czech asylum claims ‘not a problem’ says Canadian governor general in Prague”, *Czech Radio*, 1 December 2008.

¹¹⁵ See “No visas for now, says Canadian minister in Prague”, *Radio Prague*, 18 July 2008.

¹¹⁶ Velinger (2008), op. cit.

¹¹⁷ Ibid.

¹¹⁸ Peter O’Neil “Canada urges Hungary to stem flood of asylum-seekers”, *CanWest News Service*, 7 October 2009.

country's GDP by \$12 billion annually through reduced tariffs, easier cross-border movement for workers or harmonisation of product standards (such as in labelling or in safety regulations). It will give a new impetus to trade, investment, innovation and job creation, rejecting protectionism during a period of trade deficits. Moreover, informal discussions have extended to the security, social and justice spheres. Leaders have reaffirmed their commitment to resolving the issue of visa-free travel to Canada for all EU citizens as soon as possible. According to EU officials, the travel restriction means persecution – so a re-normalisation of the situation is needed. The Canadian government considers it a minor irritant because just the Czech representatives are leading the negotiating team. The Czech government has announced that a deal depends on how the travel restrictions are overturned. It has also questioned the logic of tightening borders while at the same time negotiating a deal to open them.¹¹⁹ The Comprehensive Economic and Trade Agreement (CETA) is at odds with the visa restrictions. Consequently, the Czech Parliament will not ratify the CETA, constituting blackmail from the Czech side.¹²⁰ The European Parliament called for the Canadian government to lift the visa requirements for Czech, Romanian and Bulgarian citizens in early May 2010. During the negotiations in Brussels, the visit by Prime Minister Stephen Harper was quizzed by Czech journalists. He projected a possible change of policy through the complete refugee reforms in Canada. The government wanted to speed up the deportation of rejected applicants and to reduce backlogs through the amendment of legal rules. And this would be the key to removing the visa requirements. The close connection between the visa and CETA negotiations were dismissed by the Canadians.

6. Conclusions

The waves of Roma asylum-seekers from the Czech Republic and Hungary to Canada during the period of 1997–2010 may have contributed towards the recognition of certain social and political trends internally and in external relations (both bilaterally and for EU policy-makers), but hardly towards recognition for the Roma. This analysis has sought to highlight at least some of them, as follows.

The Czech Republic and Hungary are receiving countries for Roma asylum-seekers coming from non-EU countries (e.g. Kosovo and Serbia). Their recognition rate has been low but statistics on the ethnic origin of applicants are not available,¹²¹ and readmission agreements provide for the refusal of potential claimants across the external borders of the Union. Regardless of these facts, Roma with EU citizenship arriving from another member state cannot be similarly recognised because of EU law, and travellers not meeting the requirements of entry and residence are deported back to their home country (e.g. from Italy to Romania). This means that the structural discrimination and social exclusion of Roma in member states has been below the threshold of mass violations of fundamental rights, and the claim of state persecution has not been accepted despite documented evidence of ethnic violence by extremist, non-state groups. In this way, there has not been an attempt to implement Art. 7 of the Treaty on European Union¹²² in favour of Roma living in member states. Although the EU, Council of Europe and OSCE have expressed deep concerns about the insecurity of Roma and anti-Roma attacks, these

¹¹⁹ See “Canada toughens its visa demands”, *BBC News*, 14 July 2009.

¹²⁰ Janet Dench, “Czech visa issue emerges as Can–EU free-trade obstacles”, *CTV News*, 7 May 2010.

¹²¹ Eurostat, “Asylum in the EU27: Around 260 000 asylum applicants registered in 2009”, News Release 64/2010, Eurostat, Brussels, 4 May 2010.

¹²² Art. 7 of the Treaty on the European Union provides a mechanism to suspend certain of the rights deriving from the Treaties to any member state that has committed a serious and persistent violation of the values upon which the EU is founded, including the respect for human rights (OJ C 83/19, 30.3.2010).

agreements have not changed the safe country principle or the non-recognition of Roma as refugees in any member state.

Yet these same international documents support recognising the flight of Roma to Canada in certain cases. The Canadian procedure to assess asylum claims can take into account the escalation of hate-motivated violence (Molotov cocktail attacks, arson and shootings) against Roma, which has dramatically changed in the CEE since 1989. This evaluation has been separately applied at the individual level from changes in the bipolar world and European architecture or membership in human rights treaties. In doing so, the principle of safe country of origin has become a conditional and regional phenomenon, because non-EU countries have recognised Roma as refugees on the grounds of the 1951 UN Convention. Naturally, the recognition rate has oscillated but it still challenges the safe country principle in general. The Eastern European enlargement of the EU is not an automatic basis for refusing the claims for international protection outside the Union.

The Canadian government has tried to handle the institutional tensions within its refugee regime through the introduction of visa requirements. The test countries have been the Czech Republic (twice) and Hungary (once). According to political statements, the reintroduced visa has been an organic part of reforms to an overburdened and inflexible, generous reception and processing system in Canada. It is obvious that the ‘country profile’ cannot be a vent for the government of Canada with regard to applications by Roma. The use of template cases as precedents, testimony from experts, issue papers and legal advisers together cannot provide a country profile because the Roma population is different from other communities of persons seeking protection; the vision of a generalised, country-based homogeneous group cannot apply to Roma. This helps to explain why the recognition rates have been different for Czech and Hungarian Roma and why these rates have varied even though the Roma have arrived from rather similar conditions, made the same arguments and followed a similar survival (migration) strategy. It is questionable how the visa restrictions will contribute to the reform (e.g. an accelerated procedure, limited social transfers for applicants or the ceasing of case-by-case evaluations for situations involving persecution). Using a visa as a panacea for disruptions in refugee systems may reflect the Canadian government’s neglect of the independence of the IRB. The same level of negligence can be observed in the visa issue, in regarding it as a purely technical, administrative instrument without impacts on external, migration and Roma policies. The criticisms by NGOs that the visa prevents access to protection by genuine asylum-seekers have remained without much resonance.¹²³

Neither the unilateral changes in visa restrictions, nor recognition of Czech/Hungarian Roma as refugees on the grounds of the 1951 UN Convention can endanger the good relations between Canada and the EU. Although the Czech government intended to use the grievance mechanisms as determined by EU law and to blackmail Canada through non-ratification of the CETA – its voice was shy. The negotiations on CETA are going ahead regardless of these embarrassing attempts. A normative closure on the matters of solidarity and reciprocity in visa issues has occurred, which remain confined to the ‘statute book’. There is no precedent whereby EU countries have united to slap visa requirements on another country because of ‘local difficulties’ with one member state. Economic and security interests have been dominant in transatlantic relations, which cannot be altered by local difficulties without security or economic implications.¹²⁴

¹²³ Gringar, “Does Canada and the Czech Republic have more to learn from each other than hockey?” (2003), op. cit.

¹²⁴ See “None is too many: Asylum in Canada necessary until EU can guarantee safety for Roma”, Press Release, *Czech Radio* (online), 16 July 2009 (www.romove.cz).

The reception of Roma refugees in the Czech Republic and Hungary (e.g. from Kosovo) as well as in Canada from these two states cannot be allowed to affect inclusion policies for Roma. The movement of Roma returnees¹²⁵ or those who have voluntarily come back from Canada has remained clandestine.¹²⁶ And in this way the supposed impact of the exodus through media publicity has not profoundly shaped Roma policies in either in the Czech Republic or in Hungary. The side effect has been the growing anti-Roma sentiments and scapegoating, playing a key role in the reintroduction of visas for Czech (and Hungarian) citizens. The accession criteria in the EU enlargement process – including the protection of minority rights – can be considered rather formal in the absence of minority policy in the EU. The Roma have not been influential in either hindering transatlantic/external relations, or in achieving a complete, comprehensive European policy that is inserted into all relevant European freedoms and policies (on development, employment, the regions, competition, agriculture, environment and trade). They remain a ‘source of concern’ in the absence of equal treatment.

The visa requirement and limited chances for recognition as refugees or access to social transfers during the asylum procedure inspire Roma in the CEE to move to alternative destinations. Canada is in competition with other states on social systems, along with reception and recognition conditions – and not on results for Roma inclusion and integration policies, at least in the short term.

¹²⁵ Máté Balázs, “Hazakényszerülnek a külföldi munkavállalók”, *Dunántúli Napló*, 17 March 2009.

¹²⁶ ZS.J., “Újra Kanadába tartanak a romák”, *MTI News*, 28 January 2010.

References

- Council of the European Union (2010), “EU–Canada Summit”, Press Statement, Brussels, 5 May.
- Council of the European Union, Justice and Home Affairs (2010), Conclusions of the 3018th Council meeting, Luxembourg, 3-4 June.
- European Commission (2009), *Report from the Commission to the Council on the re-introduction of the visa requirement by Canada for citizens of the Czech Republic in accordance with Article 1(4)(c) of the Council Regulation (EC) No. 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirements, as amended by Council Regulation (EC) No. 851/2005 as regards the reciprocity mechanism*, COM(2009) 562 final, Brussels, 19 October.
- European Roma Rights Centre (ERRC) (2009), “ERRC calls on Canada to press the Czech Republic on anti-Roma discrimination”, Press Release, ERRC, Budapest, 15 July.
- European Union Agency for Fundamental Rights (FRA) (2009), *The situation of Roma EU citizens moving to and settling in other EU Member States*, FRA, Vienna, November, p. 22.
- Eurostat (2010), “Asylum in the EU27: Around 260 000 asylum applicants registered in 2009”, News Release 64/2010, Eurostat, Brussels, 4 May.
- Fonseca, Isabel (2009), “Afterword”, in (1995), *Bury Me Standing – The Gypsies and Their Journey*, London: Vintage, Random House.
- Hajnal, László Endre (2002), “The Roma in Canada: Emigration from Hungary from the second half of the 1990s”, in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, pp. 42-68.
- Human Rights Watch (1996), *Czech Republic, Roma in the Czech Republic: Foreigners in their Own Land*, Vol. 8, No. 11 (D), June (<http://www.hrw.org/legacy/reports/1996/Czech.htm>).
- Kováts, András (2002), “Migration Among the Roma Population in Hungary”, in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, pp. 12-34.
- Kováts, András (ed.) (2002), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest.
- Lee, Ronald (2000), “Post-Communism Romani Migration to Canada”, Roma Community & Advocacy Centre, Toronto.
- Miklósi, Gábor (2002), “It is Got to Go Through! A Case Study”, in András Kováts (ed.), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, pp. 69-74.
- Organisation for Security and Cooperation in Europe (OSCE), Office for Democratic Institutions and Human Rights (ODIHR) (2010), *Addressing violence, promoting integration, Field assessment of violent incidents against Roma in Hungary: Key developments, findings and recommendations* (June–July 2009), ODIHR, Warsaw, 15 June.
- Stewart, Michael (2002), “Foreword”, in András Kováts (ed.) (2002), *Roma Migration*, Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences, Budapest, pp. 7-11.
- Zšvule práva (2009), “Unsuccessful asylum seekers have somewhere to turn”, Press Release, Zšvule práva, Prague, 29 July.

Appendix 1. Chronology of migration issues and responses by the Czech Republic, Hungary, Canada and international organisations (1996–2010)

Date	CZ	HU	Canada	On the international stage
1996			Canada abolished the visa requirement for the Czech Republic and Hungary.	
6 August 1997	The Czech TV documentary, entitled <i>Na vlastní oči</i> [With your own eyes] was aired in the Czech Republic by the commercial TV station, Nova. It had been filmed in the Toronto area in the summer of 1997 for the current affairs section and consisted of interviews with a few Czech Roma refugee claimants and their Czech-speaking Canadian immigration lawyer. The slapdash coverage by the Czech journalists, who glorified the carefree life that the Romani asylum-seekers were enjoying in Canada, living off the fat of the land, while ignoring the obstacles the refugees would face, gave a false picture.		About 1,500 Czech nationals (including Romani), hit by poverty and discrimination, arrived in Canada between August and October (the first wave of emigration) to try to obtain refugee status. They made up 6% of all Convention refugee claimants in 1997.	Owing to the mass influx of Roma asylum applicants from Slovakia to Finland, visa requirements were introduced for Slovak nationals.
26 August 1997			A gang of Canadian skinheads gathered outside the Lido Hotel near Toronto (Scarborough), a temporary home to some of the hundreds of Gypsies who had fled the Czech Republic for Canada. The organiser was arrested and charged under the Hate Crimes Law for wilful promotion of hatred. He pleaded guilty, received a three-month conditional, suspended sentence and was ordered to write a letter of apology to the Roma.	

Appendix 1. cont'd

September 1997			The Czech and Slovak Association of Canada, an immigrant aid group that operated on government grants and which had done excellent work to help integrate non-Roma refugees from former Czechoslovakia during the communist era, sent a formal letter to Lucienne Robillard, then Canadian federal minister of citizenship and immigration. The Association protested at the idea that Canada should accept Roma refugees from the Czech Republic. The letter stated that racism and persecution of Roma were illegal in the Czech Republic.	
8 October 1997	About 3,000 Czech and Slovak Roma arrived in the UK (in Dover).	During several weeks, 86 Roma from Hungary applied for refugee status in Canada.	Visa restrictions for Czech nationals were reimposed, which effectively ended the migration. Thus many families were divided (around 600 Czech Roma claimants returned to the Czech Republic rather than be separated).	
17 October 1997			An information seminar (video conference) on Roma and their persecution was held for the Canadian Immigration and Refugee Board (IRB). It proved that many Czech Roma could have a valid reason to seek UN Convention refugee status in Canada.	
20 October 1997			The CBC broadcast a documentary report produced by Joe Schlessinger entitled <i>Refugees from Democracy</i> , providing hour-long, in-depth coverage of the Czech Roma, their persecution and the xenophobic, venomous attitude of most non-Roma Czechs towards them.	

Appendix 1. cont'd

17 January 1998	A fire ravaged a Romani family's one-room apartment in Krnov in the early morning hours after unknown assailants threw a Molotov cocktail into the flat. Of the five Roma sleeping in the room where the bottle landed, one of them, Emilie Zigova, suffered serious burns, and the flat sustained damages of approximately 100,000 Czech koruna. An hour after the arson attack, someone set fire to a foreign-made car belonging to another Roma individual on the other side of Krnov.			
22 January 1998	A petition was launched by intellectuals to Vladimir Mlynar (the minister without portfolio), the Council for Television and Radio Broadcasting, and the boards of Czech Television and Czech Radio. The petition said that "Czech public broadcasting does not present all of our citizens and foreigners as a natural part of society". For the most part, television and radio, according to the petition, indirectly invite the idea that if for example there is Romani representation solely within the framework of segregated programmes or as a problem on the news, then they don't belong in normal life anywhere other "than in the ghetto or somewhere the trouble comes from".			

Appendix 1. cont'd

<p>27 January 1998</p>				<p>The Parliamentary Assembly of the Council of Europe in Strasbourg approved a report pointing out that members of the Roma community, as well as other minorities in Europe, have poor conditions for acquiring higher education. Generally, minorities do not receive 'enabling' elementary and intermediate education and the Roma's access to higher education, according to the Council of Europe's deputies, is hindered by their economic and social situation. The Assembly called on the member countries to attempt to improve this situation.</p>
<p>30 January 1998</p>				<p>The US State Department gave its observations on the state of human rights in its report for 1997. The report stated that as in past years, widespread prejudice towards the Roma and attacks by skinheads on members of the Roma minority continued to be a problem. In spite of the reduced discriminatory impact of the law on Czech citizenship with the amendment of 1996, hundreds of Roma remained without citizenship and they struggled with many obstacles to obtaining it. The report also mentioned the exodus of Roma to Canada and the UK.</p>

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13 February 1998	Another firebomb ignited an apartment inhabited by Roma in Orlov na Karvinsku. The classic Molotov cocktail, probably filled with gasoline, hit the floor in the kitchen, where it ignited the curtains and the carpet. The fire was put out by the residents themselves and fortunately nobody was injured.			
20 February 1998	A 26-year old Roma woman was attacked and savagely beaten, kicked and thrown unconscious into the Elbe River by three young skinheads in Vrchlabi. While struggling and begging for her life, the two men threw her into the fast flowing river because, as they told police, “her skin was too dirty and she needed a wash”. Her cries were heard by a 48-year old passerby. The murdered Helena Bihariova was the mother of four, the youngest being just eight months old. The police charged the three attackers with the crime of bodily harm in complicity, committed with a racial subtext and put them in custody.	In April a Slovak-born Canadian attorney Jiri Kubes said the example set by Roma immigrants from the Czech Republic (and Slovakia) would be followed by several thousand Hungarian Roma. Both the National Roma Self-Government and the ministry of foreign affairs denied the claim that masses of Hungarian Roma were preparing to leave for Canada.		
Summer 1998	Six thousand Czech Roma who immigrated to Canada in August 1997 returned to their country. In parallel, the Czech and Slovak Roma arrived at Heathrow Airport.	Despite the statement by the data protection ombudsman that issuing a certificate on Roma origin was unlawful, some local Roma self-governments issued this document upon request.		The recognition rate for Czech Romani refugee claims was 85-95%, even as the Czech Republic was marching towards EU membership.
Autumn 1998			A panel of Hungarian ‘experts’ on Roma was invited by the IRB to testify at hearings about country conditions in Hungary. Owing to the Issue Paper that reported the findings, the recognition rate was about 12%.	

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January 1999			Canadian officials said on various occasions that Canada was not considering the introduction of visa requirements for Hungarian citizens.	The International Organisation for Migration cooperated with the Hungarian government to support voluntary returnees who could not pay their return fare.
Summer 1999		There were an estimated 3,000 Hungarian Roma in the refugee system, most of them in the Greater Toronto Area. In January the Canadian IRB invited experts from Hungarian government and non-government organisations to give testimony in sample cases – and in these cases the claims were refused. So the recognition rate dropped.	The Canadian government decided this flow must be stopped but seemed reluctant to simply reimpose the visa requirement for Hungary as it did to stop the influx of Czech Roma. Yet it did not want to accept large numbers of Hungarian Roma as Convention refugees.	In summer, Finland reintroduced visa restrictions (which had previously been annulled) owing to a new influx of Slovak Roma (1,069 asylum claims were registered).
October 1999			Prime Minister Viktor Orbán paid an official visit to Canada.	
May 2000		Roma from Zámoly were unwilling to move from France back to their village, as they were afraid of conflicts and homelessness after unsuccessful asylum applications. Several reports were published on families who immigrated to Canada but were disappointed by what they found there and returned to Hungary as homeless.	In January 2000, at the request of a Toronto immigration lawyer, the Canadian Federal Court of Appeals agreed to review the Issue Paper and the test cases in March 2000.	
Summer 2000		In July 2000 an entire Roma family were recognised on the basis of general discrimination in Hungary, so the recognition rate began to grow.	Canadian authorities expressed their concern about the fact that in the previous two years, on average 100 Hungarian persons applied for refugee status per month.	The Parliamentary Assembly of the Council of Europe entrusted Csaba Tabajdi with preparing the report on the situation of Roma in Europe.

Appendix 1. cont'd

21 February 2001		In March, 15 Roma from Zámoly were recognised as refugees in France. Problems of interpretation arose between the French authorities and the Hungarian government, i.e. whether the asylum was of a political nature.	Janos Martonyi, the Hungarian foreign minister, embarked on a three-day visit to Canada to meet with the Elinor Caplan, the Canadian immigration minister, and discuss the influx of Roma Hungarian citizens making refugee claims. Concerns arose about the prospect of Canada imposing visa restrictions on Hungary.	Erika Schlager, legal adviser to the board of the US Congress dealing with European security and cooperation drew attention to the fact that in Hungary Roma children were often transferred to special schools and thus isolated, even in cases where the children concerned were far from being mentally disabled.
5 December 2001			Canada reinstated a visa requirement for Hungarians	The European Commission annually evaluated progress on EU accession criteria, including the protection of minority rights and the social integration of Roma in each candidate state.
2002				
2003				
2004				The Czech Republic and Hungary acceded to the EU.
2005				The European Parliament adopted a resolution on the situation of the Roma in the EU. It endorsed recognition of the Roma as a European minority and urged that steps should be taken to combat anti-Gypsism or Romaphobia in all forms at all levels.
2006		More than a hundred Roma from the town of Mohács requested asylum in Sweden; after some weeks of refusal they returned.		
31 October 2007			Canada lifted the visa requirement for nationals of the Czech Republic.	

Appendix 1. cont'd

2 March 2008		In 2008–09 the number of attacks against Roma persons, families and their houses or other properties reached a peak: in 45 settlements these crimes (arson by Molotov cocktails, hand grenades, severe bodily harm, menacing and shootings) were inflicted on at least 140 Roma and caused 10 deaths. In ten cases, the police, public prosecutor or judge assessed the crime as not being racially motivated and some Roma were kept in wrongful detention, later obtaining compensation for damages.	Hungary's visa exemption agreement with Canada came into effect. Canada also lifted the visa requirements for visitors from Poland, Lithuania and Slovakia, who could travel visa-free to Canada for stays of up to three months, but they should not seek employment. Canadian immigration authorities went to the Czech Republic on a fact-finding mission on Roma issues.	
17 July 2008	The Canadian minister of citizenship and immigration was in Prague, and said that Canada was not considering reimposition of the visa.	About 100 Roma families were planning to migrate to Canada – in absence of visa restrictions – or to the UK for employment. The travelling costs were lower in Europe so Canada was not so attractive (yet) – as announced in the news.	Both the Hungarian and the Canadian governments wanted to prevent a second wave of emigration by Hungarian citizens, stated Diane Finley, the Canadian immigration minister, on a visit to Budapest. The minister held talks with Hungarian government officials on possible measures, including exchange of information. Hungarians seeking refugee status and settling in Canada within a tourist capacity would be disappointed.	
November 2008	Extremists fought running battles with police after trying to attack a Roma ghetto in the northern Bohemia town of Litvinov.			
April 2009	A Molotov cocktail attack (arson) took place against a Roma family in Vitkov in a racially motivated incident. Three people were badly injured, primarily a two-year old child who suffered third-degree burns to 80% of her body.	The Ombudsman for Minority Rights issued a leaflet giving advice for Roma migrating and travelling without proper knowledge on rules of entry, residence and labour abroad. It was modestly supported by the Canadian embassy, although the leaflet confirmed the slim chances of obtaining refugee status within the EU and in Canada.		

Appendix 1. cont'd

May 2009	The trial of four men accused of taking part in the racist attack in Vitkov started in May 2009. They were members of the neo-Nazi movement. An arson attack occurred on a Roma family on the outskirts of Prague.			The rise of refugee applications was among the bilateral issues discussed when the Canadian Prime Minister Stephen Harper met with Czech leaders in Prague (6 May) for the Canada–EU summit.
June 2009			Jason Kenney, the Canadian immigration minister, was in Prague (28-30 June) to inform authorities about the decision to reintroduce visa requirements soon.	
July 2009	Angered by the imposition of visas by Canada, the Czech Republic called – in vain – on the EU to impose visa restrictions on Canadians travelling to Europe. Brussels expressed irritation at the policy of Canada and the US to continue to treat EU countries on an individual basis, rather than negotiating reciprocal visa deals with the 27-member bloc as a whole. Prague imposed a visa requirement on Canadian diplomatic and service personnel. The Czech ambassador was recalled to Prague for consultations.	The chair of the National Roma Self-Government refused to issue certificates or documents on persecution in Hungary. In August, hundreds of Roma requested these documents for asylum procedures. The chair asked the Roma not to leave the country. In parallel, the ministry of foreign affairs warned them that claiming asylum in Canada was totally hopeless.	Visa exemptions for Czech nationals were revoked on 14 July 2009 after the number of asylum claims made by Czech Roma citizens mushroomed. The applicants claimed they were the victims of persecution at home. Nevertheless, neither the Czech Roma nor Hungarian Roma applicants were considered victims of genuine persecution.	Prague and the EU anticipated measures as ‘surrebutter’ to the newly introduced visa restrictions by Canada.
8 October 2009	An arson attack on a Roma family by Molotov cocktail took place in the town of Mikulov in September.	The Hungarian foreign ministry issued a statement saying it had no knowledge of imminent plans by Canada to take action in Hungary’s asylum cases. It did, however, urge Hungarian citizens to be aware of the conditions for legal travel, residence and work in Canada.	The Canadian government urged Hungary to take proper measures against outflows of asylum-seekers. There were 750 applicants in Canada from Hungary during the first part of the year. Jason Kenney visited Budapest, discussing the strategies on how genuine visitors could enjoy the advantages of visa-free travel.	The Parliamentary Assembly of the Council of Europe adopted a document on Roma asylum-seekers in Council of Europe members – referring to the asylum-seekers from the Czech Republic as having a relatively high rate of recognition in Canada. The Commission adopted a report to the Council on a visa reciprocity mechanism in the EU.

Appendix 1. cont'd

			“Canada is aware of an increase in refugee claims from Hungary and is monitoring the situation closely,” Canadian Citizenship and Immigration office spokeswoman Kelli Fraser told the <i>Budapest Times</i> (Attila Leitner, “Hundreds of Roma Seek Refuge in Canada”, 14 October 2009). “However, Canada has no plans to reimpose a visa requirement at this time.”	
25 February 2010	The Czech police planned to establish new riot units in two regional centres (Ústi nad Labem and Ostrava) to help combat the threat of extremism, which had grown in recent years. Yet the police faced serious understaffing owing to budget cuts. The number of extremist-related incidents rose by an alarming 650% in 2008–09. The far-right Workers’ Party was banned and dissolved by the Supreme Administrative Court upon request by the government.			In Brussels (at a meeting of the EU interior and justice ministers) the Czech Interior Minister Martin Pecina said that only Bulgaria, Hungary, Romania, Slovakia and Spain, the latter holding the current EU presidency, expressed support for the Czech Republic in its efforts to have visas lifted in Canada. Intensified talks were underway between Canada and the European Commission on this issue.
March 2010	An arson attack by Molotov cocktail occurred on a Roma family at night in the eastern city of Ostrava. The police said that they did not rule out an attack with a racist motive.			The European Parliament passed a resolution on the main tasks of the second European Roma summit, urging the adoption of a European strategy on the Roma.
5 May 2010				An EU–Canada summit was held, during which a Canadian and EU free trade agreement was discussed. The visa restrictions were also mentioned in the margins of the negotiations.

Appendix 1. cont'd

3-4 June 2010				<p>The EU's Justice and Home Affairs Council was also briefed by the Commission and the Czech Republic on the visa requirements imposed by Canada. The Council requested that the Commission continue to press for the visa requirements to be lifted, in consultation with the Czech Republic. After the consultation the Commission would examine possible reciprocity measures in cases where a country enjoying visa-free travel to the EU introduces visa requirements for citizens of one or several EU member states (in accordance with Regulation 539/2001 modified by Regulation 851/2005). Canada is among the non-EU countries whose nationals are not subject to a visa requirement to enter the EU. Canada also continues to maintain a visa requirement for Bulgarian and Romanian citizens.</p>
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Sources: Author's compilation.

Appendix 2. Asylum-seekers and refugees by citizenship (not distinguishing the ratio of Roma/non-Roma applicants)

Year	Czech Republic		Hungary		Canada from the Czech Rep.		Canada from Hungary	
	Reception	Recognition*	Reception	Recognition**	Reception	Recognition	Reception	Recognition
1994	1,187	116	2,901	239	–	–	10	–
1995	1,417	59	5,912	116	–	–	38	–
1996	2,211	162	1,259	66	During the visa-free period the total number of applicants was 4,000	–	64	–
1997	2,109	96	2,109	27		–	300	–
1998	4,085	78	7,118	362 + 232	–	–	982	153
1999	7,220	79	11,499	313 + 1,776	–	–	1,579	74 (rec. rate = 4.7%)
2000	8,788	133	7,801	197 + 680	–	–	1,936	334 (rec. rate = 17.3%)
2001	18,094	83	9,554	174 + 290	–	–	400 (until April)	–
2002	8,484	103	6,412	104 + 1304	–	–	–	–
2003	11,400	208	2,401	178 + 772	–	–	–	–
2004	5,459	142	1,600	149 + 177	–	–	–	–
2005	4,021	251	1,609	97 + 95	–	–	–	–
2006	3,016	268	2,117	99 + 99	6	–	–	–

Appendix 2. cont'd

2007	1,878	191	3,425	169 + 83	During the visa-free period (18.5 months) the total number of Roma applications was 2,869 and of these 1,720 were filed in Jan-June 2009 alone	–	24	–
2008	1,656	157	3,120	160+88+42		Of the final decisions (196), 84 were recognised (rec. rate = 43%)	272	22
2009	1,240 (Mainly from Ukraine, Kazakhstan, Mongolia); without repetitive cases	Of the total decisions on merit (530) 100 cases were recognised (rec. rate = 18.9%) on first instance	4,672 (Mainly from Kosovo, Afghanistan, Serbia); without repetitive cases	Of the total decisions on merit (1,805), 390 cases (177+64 + 156) were recognised (rec. rate = 21.6%) on first instance		Of the 2,200 the rec. rate was 10%	2,434	–

* 1951 UN Convention-based recognition

** All categories of protected status since 1998

Sources: Czech/Hungarian Statistical Office, United Nations High Commissioner for Refugees and the Canadian Immigration and Refugee Board.

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