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THE JUSTIFICATION OF HARSH TREATMENT OF HOMELESS ROMANIAN MIGRANTS IN SWEDEN

Abstract

Even though government and local officials in Sweden declare concern for the human rights of the homeless immigrants from Eastern Europe, many of which have a Roma decent, some of these EU citizens fail to receive basic protection such as shelter and access to water and sanitation. The paper questions the influence that the unease toward unwanted migration has on the authorities' actions for human rights law enforcement. By looking at official statements of the government and local authorities, as well as at data gathered through interviewing social workers, the paper analyses the strategies used for legitimization of the harsh measures taken by the authorities and that infringe upon the universal rights of migrants.

Keywords

evictions • homeless immigrants • Sweden • human rights • harsh treatment

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Dragos Ciulinaru*

Faculty of Philosophy, University of Bucharest, Romania

Introduction

As elsewhere in the European Union (EU), the arrival of migrants from marginalized segments of Romanian society, in particular Roma (Djuve *et al.* 2015: 11), is attracting much public debate in the Nordic countries too. Some of these migrants are making a living on the streets and are sleeping in the open, in parked cars, or in camps in the woods. Putting up of settlements on private or public property, begging, suspicions of petty crimes, and the destitute condition of the migrants making a living on the streets are issues that the authorities in the receiving countries are dealing with in one way or another. Elsewhere in the EU, these likely undesired aspects of the free movement of people in the EU have been tackled in ways that have added even more controversy: campaigns of evictions and repatriations, implementation of bans on begging, and even declaring a state of emergency due to a "nomad menace", as was the case in some Italian regions in 2008. Such measures, meant to discourage or send back the undesired Eastern European migrants, have been questioned from a human rights point of view by representatives of EU institutions and by the UN High Commissioner for Human Rights (Office of the High Commissioner for Human Rights 2015). Some scholars name these measures an attempt to curb the "free movement of poverty" (Fekete 2014) and liken this legislation and policies to earlier vagrancy laws regulating the mobility of racialized Roma migrants (Tervonen & Enache 2017: 3). Alongside highly controversial measures such as expulsions, borderline legal measures in limiting Westward migration of Roma have been documented throughout Europe (Bigo, Carrera & Guild 2013; Tervonen & Enache 2017) and

are to be questioned as ongoing practices of unequal treatment of citizens in contemporary Europe (van Baar 2014: 88).

This article examines how state and local authorities in Sweden approach the specific situation of migrants from Romania who live in makeshift shelters or on the street and whether their actions accommodate universal rights protection. Sweden is an interesting case study considering its positive track record in terms of rights protection and an inclusive welfare system that supports it. The inclusive legal and social systems of Sweden also correlate with inclusive moral values that characterize Nordic cultures (Schwartz 2007). On the other hand, Swedish authorities have been considering a number of measures to decrease the number of incoming homeless migrants, leading up to the announcement of a possible ban on begging, in the summer of 2016 (EU Observer 2016).

The analysis of how Swedish authorities deal with the notion of universal rights in the case of the Eastern European homeless migrants contributes to the study of what Huub van Baar considers newly emerged mechanisms of bordering the EU (van Baar 2014: 88). While it has been already argued that the management of migration increasingly functions through the regulation of migrants' access to permanent residence as well as social and economic rights (Mezzadra & Neilson 2013), the exclusion from fundamental rights law enforcement is the ultimate step in creating a de facto category of EU "internal outsiders" (Triandafyllidou 2001). The upcoming section of this article frames policies of the Swedish authorities toward the homeless migrants, by underlining the most salient human rights issues deriving from it. Thereafter, the focus of the article is on the

* E-mail: dragos.ciulinaru@gmail.com

analysis of the discursive strategies used for justifying the incomplete enforcement of human rights law in the case of the homeless migrants.

The hardship of the homeless Eastern European migrants, in a framing of state crime

Authors such as Bauman (1998, 2004), Douzinas (2007), Fassin (2011), Weber & Bowling (2004, 2008) identify the policing of migration as part of a reaction of nation-states to the increased movement of people in a globalized world. Governments welcome the most highly skilled migrants to fill gaps in the labour market and take on the role to minimize the arrival and stay of the undesirable. At the same time, governments show much concern for the receiving population's fears of competition in terms of jobs/welfare or of being invaded by an alien culture (Weber & Bowling 2008). The unwanted migrants are subject to a network of visa restrictions and extraterritorial controls. In the case of the unwanted immigrants who still arrive, a second line of punitive policies has been put into place (Weber & Bowling 2004). This seems the likely situation of homeless migrants from the poorer EU members.

Discerning between wanted and unwanted migrants by using criteria such as ethnic or social origin, property, age, etc., might seem impossible when considering that the migration policies of EU member-states such as Sweden are limited by an extensive anti-discrimination framework: the EU Charter of Fundamental Rights, Article 21, and subsequent Directives 2000/43 and 2000/78 (Cahn & Guild 2008: 31, 32). For ensuring compliance with European law and fundamental rights, European institutions can also dispose of infringement proceedings, Article 258 of the Treaty on the Functioning of the European Union (TFEU), and the fundamental rights mechanism stipulated in the Treaty of the European Union. The international normative constraints on migration should not be overstated however (Guiraudon & Lahav 2010: 164). National governments devise a number of ways to avoid normative constraints. The level at which the migration control policy is elaborated and implemented is shifted either to intergovernmental fora, elected local authorities, and private actors such as airline carriers, shipping companies, employers, and private security agencies (Guiraudon & Lahav 2010: 164).

Concerns over the relation between punitive actions of law enforcers and human rights protection do not have to be triggered by gross violations of human rights law. In countries like Sweden, it is less likely that punitive actions against migrants would include torture or other treatments that could fit Campbell's definition of *"totally unacceptable evils which are never justified and undermine the claims to political legitimacy of any system of government"* (Campbell 1999: 18). More likely, punitive strategies take the form of those actions by state authorities that infringe upon freedom, bodily integrity, and second-generation rights such as health and education and those that fit the *"health paradigm"* of state crime (Campbell 1999). Activities in the *"health paradigm"* are of more interest in this context because they are not aberrant or anomalous, their boundaries are not clear, and they easily become common within the routine legitimate activities of the state (Green & Ward 2000: 103). Green and Ward also build on the work of Sykes and Matza (1957) on *"techniques of neutralization"*, to conclude that *"legally contestable state activity is justified by standard criminal defences such as use of reasonable force in the prevention of crime, which may or may not be accepted as valid by the legal system or the social audience"* (Green & Ward 2000: 103).

In other words, the risks migrants face as a consequence of forced evictions and the other punitive measures taken by authorities should not be disregarded even if the public shows support for the actions of the law enforcers. This is the case even if the respective state authorities have had traditionally a concern for human rights protection. In the case of Sweden, the various actors involved do not seem to find the means to coordinate actions in order to also address the protection of the homeless migrants' rights. There is an apparent reluctance from the central government to approach the issue in a more direct manner, leaving responsibility in the hands of local authorities, which may or may not have the will and resources to commit to it.

In the spaces left uncovered by other bodies of state or local authority, it is up to the police to deal with the homeless migrants. The representatives of authorities, the activists, and the migrants themselves have noticed a decrease in the police's tolerance of settlements. Provided that the influx of people has been higher after 2013, evictions have been an increasingly common occurrence ever since. On most occurrences, evictions of informal settlements abide by the legally required steps such as prior notification, the presence of a translator, and involvement of a social worker. On the other hand, on many occasions, evictions result in the destruction of temporary shelters without the provision of alternatives. In Stockholm, for example, there has been an ongoing cat-and-mouse game between the police and the migrants who set up camps in the forests around the city. An eviction results in resettling the assets that can be moved, until a new eviction order is received.

Due to the particularities of the climate of Nordic cities, lack of shelter during cold months is likely to lead to life-threatening situations. From a fundamental rights point of view, there seems to be a twofold problem with living in improvised shelters or directly on the street. The first aspect is a rather intricate one, namely, the alleged obligation of local or governmental authorities to provide housing solutions for people living in precarious conditions. For example, the report *"Vulnerable Union Citizens in Sweden"* released by Civil Rights Defenders (2015) underlines that Sweden has ratified the International Covenant on Economic, Social and Cultural Rights (the ICESCR), under which it has an obligation to provide adequate housing. The Civil Rights Defenders' opinion is that this obligation applies irrespective of the person's citizenship. The authorities seem to have a substantially different approach. Hence, there is a high amount of controversy in this case. Emergency temporary habitation has been provided on some occasions. This was the case of the people evicted from the Malmo camp in November 2015. After eviction, around 150 persons used the accommodation offered by Kontrapunkt Cultural Space and Social Centre until March 2016. The Municipality and church organizations also offered a limited number of beds. By March, both the municipal shelter and the church were no longer available for the homeless migrants seeking a place to sleep and keep warm. Kontrapunkt has also been forced to close its shelter due to threat of a conditional fine imposed by the City Planning Office (Centrum for Sociala Rättigheter 2016: 10).

Unlike the alleged obligation of local and state authorities to offer shelter, the second aspect concerning habitation is more straightforward. From the accounts of all parties involved, evictions took place during winter as well. Provided the rough climate of this Nordic country and the scarcity of emergency shelters, evictions that result in the person living on the streets are not only a habitation issue. It is justifiable to conclude that the loss of shelter, when temperatures outside are below freezing point, is a high risk situation for the person's health and life. In relation to eviction and the loss

of shelter, of high relevance for the discussion on fundamental rights is the seizure by the police of any means that would allow the homeless person to keep warm. Another friction point is access to water and sanitation. An analysis by Marta Davies (2016) of the documents of the Enforcement Authorities that operate evictions, received from municipalities in Sweden, concludes that the local authorities do not always understand their responsibility for access to water and sanitation of the people in the settlements. Davies looks at 82 requests on behalf of municipalities for evictions from public properties. The vast majority of these evictions were requested on grounds of sanitation hazards and littering. Davies (2016) points out that the concern is expressed only for the risks bearing upon the formal residents. There is rare mentioning of the risk for the settlement inhabitants themselves. Even when such concerns are expressed, the respective municipal authorities do not complement eviction with any measure to mitigate this hazard (Davies 2016: 17). In the absence of alternatives for habitation, the camp dwellers are likely to move to another place until a new eviction order. Hence, the health risk due to improper sanitation is not dealt with. The study also points out situations when the evictions amplify the gravity of the sanitation conditions of the homeless migrants. This was the case of evictions from a camp in Sollentuna, where volunteers had provided the camp with portable toilets and garbage disposals. An action in court led to the approval of the eviction of the 40 people living in the settlement. The same report names only one case of municipal authorities explicitly showing concern for the settlement inhabitants. This concern took the form of a request that the eviction should take place at a time when a social worker could be present to assist the eight people being evicted.

Data and methods

The intention was to collect data regarding specifically the population of migrants from Romania who lived in makeshift shelters and on the street. The differentiation of this category from other migrants from Eastern Europe is not always present in the actions and declarations of the authorities. Hence, efforts have to be made in order not to reproduce the discourse that lumps all Eastern European street workers into one group (Tervonen & Enache 2017). The nomination "Roma migrants" is common in the Swedish public discourse and in the discourse of those interviewed, including nongovernmental organization (NGO) representatives. This nomination was not accepted by all migrants who were interviewed. Some declared themselves Romanian. Others declared themselves Roma from Romania. The common denominator among the migrants who took part in the study, acknowledged by all parties involved, is their habitation situation. Subsequently, this study uses rather the term "homeless migrant".

The analysis questions the connection between the allegations of harsh treatment of, and respectively, a lack of assistance to the homeless migrants and an overarching policy of curbing migration. The subsequent questions to be answered are the following: how is the issue of universal rights protection for this specific category of migrants represented in the official discourse of Swedish authorities, if at all; and how official documents and statements of the government respond to allegations of nonintervention and rights abuses by law enforcers and social workers. In this sense, the analysis uses those official documents of the Swedish Government that make recommendations regarding how Swedish laws, including fundamental rights law, should be enforced in the specific case

of the Eastern European homeless migrants. Particular attention in the analysis is given to the report titled "Future Wanted – The final report of the National Coordinator for Vulnerable EU Citizens" (in Swedish "*Betänkande av Nationell samordnare för utsatta EU-medborgare*"). The report was released as an official document of the ministry that had commissioned it, became a guideline for the other governmental and local actors involved, and likely influenced public opinion.

For this body of data collected, critical discourse analysis is employed for revealing discourses and linguistic strategies that have implications on migration policies (Fairclough 2003) and that fit the definition of punitive state actions (Campbell 1999). The analysis looks especially at the argumentation structures used to justify those actions taken in relation to the homeless migrants that were inconsistent with human rights protection. The analysis aims to separate these argumentation strategies from one another and to point out, where the case, their fallacies when used as justification for harsh punitive actions. The truth claims, the normative, and the evaluative claims made in relation to homeless migrants reveal which social norms and which value systems are considered adequate. At the same time, the analysis highlights the perceptual evidence or common knowledge, as well as the theories, that authorities use as a reference to support the claims (Iețcu 2006).

The second category of data was collected in order to locate the claims and argumentation strategies in the specific sociopolitical context. Semistructured interviews were conducted with two representatives from the Swedish Ministry of Health and Social Affairs and one representative of the Stockholm Municipality. NGO representatives were interviewed as well: two individual and one group semistructured interviews with representatives of the HEM organization, and one semistructured interview with a representative of the Civil Rights Defenders organization. Both organizations assisted the homeless migrants in and around Stockholm. Participant observation was undertaken in April 2016, at the Swedish Language course organized by HEM in Farsta, Stockholm, as well as during a visit to one of the informal settlements in the forest around Farsta. There were about 20 migrants present at the language course, of various ages, both men and women. Most of them were originally from the same village in Argeș County, Romania.

Analysis: arguments for not enforcing human rights law as a means of migration prevention

Three topics dominate the gathered data, both the documents and the interview texts: an acknowledgment of the unease of the public at the situation of the homeless migrants, a preoccupation for equality in front of the law, and the integration of the population in the country of origin. At first sight, these themes are related to an inclusive approach of the homeless migrants' situation. The framing of universal rights used in the analysis reveals, however, that the claims are underpinned rather by arguments that place the homeless migrants outside the reach of the inclusive policies of the Swedish Government or of the local authorities. The following section aims to untangle the claims under these main themes and point out, where the case, the fallacies of the arguments used.

Those interviewed appreciate as rather small the numbers of incoming migrants who eventually make a living on the streets of Swedish cities. The amount of attention received by the homeless migrants in the public debate is attributed to their visibility and to the alleged unease at their presence. In the words of one of the persons

interviewed at the Ministry of Health and Social Affairs, this is not a problem of cost as there are no costs involved, other than the cost of eviction.

there aren't so many people as a matter of fact and there is no cost for the social system in Sweden because the reason is that people who are staying just temporarily and who don't have a residence don't have the right to receive social security and they are only entitled to receive from the local government an emergency entitlement [Interview of a Specialist at the Ministry of Health and Social Affairs Division for Family and Social Services]

Homeless migrants rarely access the welfare system because this depends on obtaining residency, an impossible task for one without an address. In addition to not having the status of resident, accessing social services is conditioned also by a formal request, which the migrant has to make in this respect. Such practice is a rare occurrence, according to the interviews at the Ministry of Health and Social Affairs and at the Municipality of Stockholm.

The interviews also reveal an expectation that the report of the National Coordinator for Vulnerable EU Citizens would advise the involved parties on how to provide social support for the homeless migrants. The various actors do not seem to have found the means to coordinate actions. The central government assumed the role of creating a framework by appointing the National Coordinator. Moreover, there is a wide margin within which the local authorities deal with their obligations toward the homeless migrants. Some municipalities go as far as to provide accommodation. Some others do not take any action.

As the subsequent analysis demonstrates, the expectation that the report of the National Coordinator for Vulnerable EU Citizens will give advice on how to facilitate the access of the homeless migrants to social services was not met. The report reiterates the limitations of the current Swedish welfare system and even expresses doubt toward some of the solutions found at the local level. The report emphasizes the apparent impossibility of creating new rules or making exceptions from the current rules, in order to provide this category of migrants the protection that other EU citizens would receive. Also echoed in the discourse of the authorities at the local level, as shown in the example below, are the arguments against creating such exceptions. These arguments make reference to either the apparent lack of fairness toward all other categories of people or to the prediction that this would send the signal that such migrants are welcomed and that more can come.

the problem is the principle of equality because you wouldn't do that to any homeless Swedish people we lack any roof over your head guarantee daily women and children are evicted around the nation and they are not offered free space for camping it wouldn't be equal if you do that to a small group then you have to do that for every European citizen any British citizen for example so you can't do that [Interview of a Specialist at the Stockholm Municipality]

Equality in front of the law seems to be a complicated issue at the hands of the receiving country's authorities. Equality is rather explained from a paradigm of equal responsibility for all to respect the legal order of the country. One such example is the section regarding evictions in the report of the National Coordinator for Vulnerable EU Citizens in Sweden (2016), which clarifies the legal

framework under which evictions could be operated and also clarifies the margin of action for the involved actors. Basically, this section of the report mentions the rules to be followed by all, including the migrants themselves. Especially from the point of view of evictions, looking at the situation of the migrants under a paradigm of equality in front of the law, but somehow disconnected from a discussion on human rights, seems to prevent the author from formulating concrete solutions.

The National Coordinator's approach has been that Swedish law was to be applied equally in similar situations. No group gets special treatment, whether negative or positive. The message from the Swedish society should be clear: all EU citizens are welcome here and all of which follow the laws receive the same treatment. Therefore, a legal accommodation is to be used. It is forbidden to settle in the parks and other public place or on private land. It is also forbidden to leave faeces or garbage behind. If the Swedish society as a whole becomes clearer with this information, people will adapt to it and the need for evictions will decrease. A more consistent enforcement of Swedish law should be combined with a respectful and humane approach towards those concerned. (National Coordinator for Vulnerable EU Citizens 2016: 63)

Though acknowledging the exceptional state of destitution of this category of migrants, the National Coordinator for Vulnerable EU Citizens reiterates the impossibility of granting exceptions to a specific category of people. The approach of the National Coordinator focuses more on making sure that all parties involved obey the law. Under an interpretation of equality in front of the law as same treatment for all, the National Coordinator for Vulnerable EU Citizens fails to consider exactly the exceptional situation that the report makes reference to. Restricted to adopting the same course of action as for Swedish nationals, the authorities are left to figure out the solutions themselves. The report does not clarify the means through which "the Swedish society as a whole" (National Coordinator for Vulnerable EU Citizens 2016: 70) should adopt the message of equal responsibility for obeying the law and how the migrants themselves would adhere to it. For example, the National Coordinator expresses skepticism regarding the provision by local municipalities of assigned places for camps where proper sanitation could be arranged. The argument is yet again that this would mean preferential treatment for this category of homeless people. Concern is expressed for this solution's compliance to laws of competition, as local authorities would compete with private camping site owners (National Coordinator for Vulnerable EU Citizens 2016: 70).

In the same section of the report, reference is made to the legal prohibition to defecate in the forest and also the opinion that the Police should not turn a blind eye to such offenses (National Coordinator for Vulnerable EU Citizens 2016: 68). Considering all legal restrictions combined, there seems to be little space for acting to provide unrestricted access to sanitation facilities to the homeless migrants. The report does not propose a solution in this sense. Again, the main concern is to make sure that the legal obligations of all parties are clear, even if it is not obvious how each party can respect these obligations. In the absence of other facilities, it is evident that the forest will be used by the homeless despite the prohibition in law. The overemphasis on obligations overshadows the right to water and sanitation, to which the report makes no reference. The need for migration policies to reflect the binding national and international regulations on human rights to water

and sanitation is emphasized, for instance, by Marta Davies in the aforementioned report. Davies purposefully approaches this issue following the eviction of Roma people in November 2015 from the Songenfri camp in Malmö and considers that *“the absence of these basic human rights undermines the human dignity of vulnerable EU citizens and virtually assures their ultimate eviction and social marginalisation”* (Davies 2016: 5).

The issues presented in the earlier paragraph have to do with the bodily needs of any human being. Despite the report’s emphasis on observing the laws, the National Coordinator makes no reference to the applicable binding international human rights law, though other rules, such as competition laws, are mentioned. A lack of consideration by the receiving authorities, or a reluctance to admit a responsibility for the provision of water and sanitation, can be mirrored with the binding human rights legislation on this topic. For example, access to water and sanitation has an indisputable connection to the rights to life and inherent dignity protected by the International Covenant on Civil and Political Rights (1966). Alongside these international human rights provisions, EU institutions make specific reference to an obligation of authorities to ensure access to water and sanitation for the Roma ethnics (European Parliament 2015). The emphasis at this level on the responsibility of the Member-States is in contrast with the rather small amount of concern shown by Swedish local and central authorities.

The fact that there is no knowledge of casualties from the cold among those evicted is not a sufficient argument to disregard the high risk of such measures. Temperatures during winter nights can go as low as -30°C , and even in spring, night temperatures are negative. The people living in the informal settlement I visited in April 2016, in the forest of Farsta, Stockholm, had already been evacuated several times since the beginning of that year. A few days after my visit, they were evicted again. Once on the streets, the police and the private security guards prevent the homeless from remaining in those places that offer at least a limited amount of protection from cold, such as spaces under staircases or terraces. In Stockholm, the street beggars have been carrying with them their blankets or sleeping bags. Those interviewed justified the practice not only by the fear that other people could appropriate the items but also by the fear that the police removed it if found. This practice might be a new development, as a study in 2015 found only one case of police seizing property from migrant street beggars (Djuve *et al.* 2015: 106). Though it is the responsibility of the police to make sure that property laws and public order are respected, this can hardly be justified when done in a manner that threatens the safety and integrity of individuals.

There are indications that the lack of tolerance toward informal settlements, despite the lack of alternative habitation, is not a coincidence or a contradiction in the actions of the municipal authorities. There is an intention to make conditions harsher for the homeless migrants, and this intention is to some extent shared among the various authorities. For example, representatives from the Ministry of Health and Social Affairs in Sweden mention that the law regulating evictions might be modified, in order to speed up the process.

I would say that’s what the Government does when it comes to the national level there is no new legislation other than I would say one the law regulating evictions the Ministry of Justice is responsible for the law they are doing an investigation on how to maybe make it simple to evict people from private properties [Interview of a Specialist at the Ministry of Health and Social Affairs, Division for Family and Social Services]

These plans are confirmed also in the aforementioned report “Future Wanted – The final report of the National Coordinator for Vulnerable EU Citizens”, commissioned by the Swedish Government. It is unlikely that the more-or-less coordinated actions of the local and central authorities are purposefully intended to restrict the fundamental rights of migrants. But, as long as there are homeless migrants on the territory of the country, as long as there are no other habitation options, and as long as weather conditions are harsh, all these measures attract additional risks for the health and life of a category of already vulnerable people. As the spokesperson from the Municipality of Stockholm who participated in the study underlined,

evictions are the hottest topic we want to prevent settlements but we don’t have that much to offer instead [Interview of a Specialist at the Stockholm Municipality]

The Police force’s enhanced zeal in undertaking evictions of the makeshift shelters of migrants is also indicated by attempts to involve the local community in the process. Volunteers at HEM even accuse the Police in Farsta, Stockholm, of using its social media pages in order to mobilize citizens to report any settlement. Any such call to mobilize the receiving population might come as further confirmation for an already-active far-right movement. Both the volunteers working with migrants and the migrants themselves express a conviction that attempts were made to set fire to camps. Though the Police or any other body of the state authority might justify these strategies for discouraging migration as simply applying the law, it is controversial when the effects of law enforcement are disconnected from their implications on the rights of those subject to it. Without the framing provided by human rights, the inherently vague legal limits of state authorities’ legitimate force (Green & Ward 2000: 102) become even vaguer.

Taking action for the improvement of the situation of the migrants in Sweden and taking action for the improvement of the conditions in the country of origin, namely Romania, are presented as alternatives by the Swedish Government in documents reinforcing the collaboration with its Romanian counterpart (Government of Sweden 2016). Authorities regard the latter as a solution to curb the influx of migrants. The overarching belief is that one should act at the root cause if one is to solve the problem. The argument of this article is that while acting for alleviating poverty and discrimination in Romania is highly desirable, this is complementary and not the alternative to ensuring that the people who do come to Sweden fully enjoy their rights.

The tendency to divert the debate about immediate enforcement of human rights law in the receiving country toward a debate about inclusion in the country of origin is something common also at the EU Level. As an example, the EU Framework for National Roma Integration Strategies was issued by the European Council in 2011 in the aftermath of the increase of migration of Eastern European Roma citizens and subsequent evictions and expulsions. The document, however, does not address the issue of discrimination of migrant Roma EU citizens. It rather focuses on inclusion in the home country instead. There is a twofold risk if this digression happens. On the one hand, in a rush to appease both the opponents and the supporters of homeless migrants’ reception, authorities may tend to break their human rights obligations and point out that something is being done for the migrants through help offered to Romanian authorities. This might be a strategy satisfactory for the general public in the receiving country, but can it be satisfactory for the migrants themselves? Can long-term promises of better lives in Romania be a substitute for

acting for the protection of the fundamental rights of people found in situations that imply risks for their lives and their physical and mental integrity?

The argument that support for better inclusion can replace actions for guaranteeing human rights law enforcement works also in the sense of reducing the responsibility of the receiving state. The legal obligation to enforce the law and protect the rights of the Roma homeless migrants is replaced by a course of action that does not entail clear obligations. As the joint declaration of the social affairs ministries of Romania and Sweden stipulates, "*the collaboration is not binding and does not produce rights or obligations*" (Government of Sweden 2016). It is needless to say that after leaving Sweden, the migrants would be outside Swedish jurisdiction.

The text of the joint declaration does not individuate in any way the situation of the Roma. There are three priority areas of cooperation: children's rights, social welfare and social security, and gender equality. The action plan for 2016 and 2017 does not individuate the Roma either. The two parties prefer as a course of action the exchange of good practices through the organization of seminars. Though it might be controversial to specifically nominate an ethnic group as target population for social welfare strategies, in the case of the Roma, this might be beneficial, as – otherwise – it will be up to the Romanian party to make sure these best practices benefit the Roma population. Provided the past experience (UN Committee on Economic, Social, and Cultural Rights 2014), there is a high risk that this will not happen.

Conclusions

The experience of Sweden's neighbors could indicate that, although a segment of the public will remain preoccupied with the fate of homeless migrants who begged on the streets, over time, the acceptability of their presence could decrease. After 2011, Helsinki has had a de facto "*no informal camps*" and "*no emergency shelters*" policy (Tervonen & Enache 2017). Although evolutions in 2016 indicate an ease of this policy, the zero-tolerance strategy over the years has allegedly been the reason why the number of homeless beggars has remained steady in Helsinki. Begging is outlawed in Denmark under Section 197 of the penal code. The Norwegian Government left the local authorities to decide on banning the practice or not (The Guardian 2015). Faced with an increasing number of unwanted homeless migrants, Sweden might adopt a similar stance to that of the other Nordic countries. The report of the National Coordinator for Vulnerable EU Citizens may well be perceived as a solid argument for further toughening the approach of Swedish authorities. Both the report and the people interviewed state that, given the novelty of the phenomenon and the shocking level of destitution of these people, it took longer for the police to act. So it could be that the more-permissive attitudes are a consequence of a period of analysis. The report of the National Coordinator for Vulnerable EU Citizens might be the indication of direction that the various actors and the public in general have been awaiting. The report qualifies the reaction of Swedish authorities up to that moment as "*cautious*" (National Coordinator for Vulnerable EU Citizens 2016) and assumes as the causes of this caution the lack of previous experience in dealing with people in such a destitute state, as well as Sweden's legacy with Roma evictions. The report assumes that due to the aforementioned reasons, those responsible for enforcing the laws were hesitant to do so. The striking omission of the National Coordinator for Vulnerable Citizens is the enforcement of human rights laws, which, as previously indicated, is absent in the report.

The report rather emphasizes compliance with the existing laws, especially public order and property laws, of all parties: migrants, police, and authority representatives. It also stresses the impossibility to change laws in relation to the exceptional situation of the homeless migrants. So, it seems that the official position of the Swedish government is that it does not find justifiable the arguments for new tools and new approaches to respond to the homeless migrants' exceptional situation. And this is the case even if there are signs that the enforcement of the existing laws and acting within the current limits of the welfare system have not been sufficient to ensure universal rights protection. On the contrary, the limitations of the current legal and welfare systems to effectively protect the fundamental rights of homeless migrants are used as a strategy for the deterrence of migrants. Breaches of human rights law are thus used as an anti-immigration strategy.

The unwanted migrants, such as the Eastern European homeless migrants of Roma descent, seem not to be granted the legitimacy required so that the receiving countries' authorities make the additional effort needed for respecting and protecting their universal rights. These people might well be perceived as too much of a nuisance and their situation might be too disturbing for the receiving population. Hence, authorities would have a hard time to justify a protective approach, if it were to even consider one. The situation of the homeless migrants seems to highlight the outer limits or, in other words, the border of inclusiveness not only of the legal and welfare systems of Sweden but also of the respective society's moral inclusiveness (Schwartz 2007). The legal and welfare systems are insufficiently broad to reach the homeless migrant, and widening their reach is not possible because it is not morally justifiable to include these people.

Studies of both migration and of homelessness (Esses *et al.* 2008; Hodson & Costello 2007; Pedersen, Attwell & Heveli 2005; Schweitzer *et al.* 2005) link the strategies for legitimization of harsh policies with the emotional unease generated by the ill-being of migrants and the homeless, as well as to a process of dehumanization. By perceiving these people as lacking human qualities, morally questionable behavior toward them can be seen as justified and appropriate. If the homeless migrants are less human than those perceived like oneself, then normal moral restraints do not apply, and punitive and coercive treatment can be carried out without remorse (Haslam & Pedersen 2007: 215).

The strategies for legitimizing harsh treatment used by state and local officials seem to complement a wide range of emotional reactions at the entire population level. During a discussion with the migrants participating at the language course organized by the HEM NGO in Farsta, Stockholm, several of the migrants, who either begged or sold a street newspaper, stated that they had been spat on frequently. Some mentioned also other types of aggression that had been used against them. The respondents identified the aggressors as Swedes, but as extremist Swedes [*"extremiști"* in Romanian], as opposed to a majority of the receiving population otherwise portrayed as helpful. Other migrants from Romania who were approached while they were asking for money on the street and who were not part of the group present at the HEM language course gave similar accounts of aggression: people spitting on them, people kicking the cup in which money was collected, and verbal abuse. These accounts are in agreement with the data put forward by Djuve *et al.* (2015: 102), which confirmed that it is rather common for street workers in Stockholm to be spat on, to have beer poured on them, and to being yelled at by strangers. Admittedly less common than in the other Scandinavian capitals, the study by Djuve *et al.*

reported not only cases of harassment and humiliation but also cases of more severe physical violence. Such reactions of anger and disgust are very likely toward social groups that are stereotyped as lacking warmth and competence, such as welfare recipients and homeless people (Haslam & Pedersen 2007: 214). Homeless migrants, many of Roma descent, who arrived destitute, helpless, and needy, are hence likely to be perceived in precisely this manner.

The debate regarding the homeless migrants has remained a debate of migration and not one of rights. The final scope of the Swedish authorities' approach is to reduce the influx of undesired migrants. Concern for the rights of the migrants is expressed, but when enforcement of human rights law seems to not support the agenda of either the local authorities or the Government, exceptions are made at the expense of the migrants. Authorities are using strategies to reduce migration pull factors for undesirable categories

of EU citizens. When enforcement of human rights law is perceived as a potential pull factor, then full enforcement does not happen. Furthermore, protection has been replaced with policing actions, which at times breached the fundamental rights of the migrants.

Dragoş Ciulinaru is a Ph.D. student at the University of Bucharest, Faculty of Philosophy, and holds a Master degree in Social Science from the University of Helsinki, as well as a Bachelors of Law. His current research is focused on the enforcement of human rights law in the case of migrants, as part of a wider concern for the cultural relativity of human rights. In November 2015, Dragoş was a guest researcher at the Center for Migration Law, Radboud University Nijmegen, the Netherlands. He also acted as a teaching assistant for the course "Principles of the European Union Law" at the Faculty of Philosophy, University of Bucharest.

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