

## LEGAL PROTECTION OF ROMA IN SLOVENIA

*The article presents the legal stipulations of special protection of the Roma as a part of minority protection within the scope of human rights protection. The first part of the article focuses on the legal regulation of the status of the Roma at the international level and at the national and local level in Slovenia. It contains the general overview of the legal situation of the Roma in Europe, a brief outline of the legal status of the Roma in European states, and general information on the state policy and the status of the Roma in Slovenia. The author discusses certain characteristics of the status of the Roma in international documents and legislation of individual states with regard to definitions, legal status and special measures aimed either at social integration of the Roma community or their self-determination as a Roma nation.*

*The second part deals with the legal regulation in Slovenia, enshrined in legal acts and relevant strategies, and sketches possibilities for the participation of the Roma at national and local levels in practice. The English translation of the Roma Community in the Republic of Slovenia Act is presented in Annex 1.*

Key words: minority protection, Roma, social integration, Roma nation, prejudices

### PRAVNO VARSTVO ROMOV V SLOVENIJI

Prispevek obravnava pravna zagotovila za posebno varstvo Romov kot del varstva manjšin v sklopu varstva človekovih pravic. Prvi del zajema pravno urejanje položaja Romov na mednarodni ravni ter na državni in lokalni ravni v Sloveniji. Vsebuje splošen oris pravnega položaja Romov v Evropi, pregled pravnega urejanja v evropskih državah ter splošno informacijo o vladni politiki in statusu Romov v Sloveniji. Avtorica razpravlja o nekaterih značilnostih položaja Romov v mednarodnih dokumentih in v zakonodaji posameznih držav glede na sprejete definicije, pravni položaj ali posebne pravice, ki so namenjene bodisi socialni integraciji romske skupnosti ali spodbujanju njihove samoodločbe kot romskega naroda.

Drugi del se nanaša na pravno urejanje v Sloveniji, ki je zajeto v pravnih aktih in relevantnih strategijah ter izpostavlja možnosti za učinkovito participacijo Romov na državni in lokalni ravni. V Prilogi I je priložen Zakon o romski skupnosti v Sloveniji v angleškem jeziku.

Ključne besede: varstvo manjšin, Romi, družbena integracija, Romski narod, predsodki.

THE ROMA IN MODERN EUROPE<sup>1</sup>

International reports, studies, legal and political analyses and empirical evidence show that the main common characteristics of the status of the Roma in the European states are segregation, social exclusion and marginalisation, widespread intolerance and racist violent attacks against them<sup>2</sup>.

The estimated number of the Roma in Europe is about 12-15 million persons. The majority of them live in the Eastern and Central European countries in poor living conditions. According to some international surveys, e.g. research of the UNDP /The United Nations Development Programme, more than 90 % of the Roma are unemployed, in some regions even 100%<sup>3</sup>. In the years 2003- 2004 some Western countries clearly expressed their fears concerning the consequences of opening their borders and ensuring free movement of persons within the EU when accession process started for several Eastern and Central European countries with a large Roma population. International organizations rigorously monitored the situation of the Roma in individual candidate countries. Different topics regarding the Roma and future developments in enlarged Europe (EU) were extensively discussed at numerous international conferences, meetings and seminars<sup>4</sup>.

Some international Roma NGOs claim, that the philosophy behind such a position is that European institutions primarily search for the most effective ways of preventing migration of the Roma from Eastern and Central European countries to Western countries (Cahn, 2002:7). However, the main challenge for international organisations and institutions is how to achieve integration of the Roma at national and local levels in countries where they live, and how to improve the poor socio economic standard of the Roma (Klopčič 2003:79).



1 We use term the "Roma" as the common term for the Roma and Sinti in Europe.

2 Report of the OSCE High Commissioner on National Minorities "Report on the Situation of Roma in the OSCE area", 2000, p.1;

Recommendation 1557 (2002) "The legal situation of Roma in Europe";

The Situation of Roma in an Enlarged European Union, 2004;

ERRC: Stigmata, Segregated schooling of Roma in Central and Eastern Europe, Budapest, 2004;

Monitoring Reports: Equal Access to Quality Education for Roma, an EUMAP (EU Monitoring and Advocacy Program) project, in co-operation with ESP (Education Support program, <http://www.osi-edu.net/esp>) and RPP (Roma Participation Program), Program, <http://www.soros.org/initiatives/roma>);

3 <http://roma.undp.sk>.

4 Regional Roma conference in Budapest, June 2003, "Roma in an Expanding Europe: Challenges for the Future", co-sponsored by the European Commission, the World Bank and the Open Society Institute; "Roma Nation and Travelers", NGO Forum, World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, South Africa, August 27-Sept 1, 2001.

Political participation of the Roma and their organisations in this process has an exceptional importance for the evaluation of achievements and progress made; it is important for expressing of actual needs and interests of the Roma community. Their political participation is instrumental also for the further development of their specific national, ethnic, linguistic and cultural characteristics. The vision of joint activity of all Roma on the international level and the awareness of the political power of their community as the nation, brought a new quality in the processes of self-awareness within the Roma community in the enlarged Europe (EU) and in the process of the implementation of legal provisions concerning the effective political participation of the Roma.

#### LEGAL STATUS

The most important legal and political international documents regarding the status and rights of minorities are: the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities<sup>5</sup>, OSCE Copenhagen Concluding Document on the Human Dimension of the CSCE and other CSCE documents, the European Charter on Minority or Regional Languages and the Framework Convention for the Protection of National Minorities adopted within the Council of Europe.<sup>6</sup>

Particularly important for the improvement and development of the legal protection of Roma was the adoption of the Document of the Copenhagen meeting of the Conference on the Human Dimension of the CSCE in 1990. The Copenhagen Document, although in its nature a political document, was a really substantial shift in the approach towards protection of minorities. It expressed the political consensus and commitment of the European states to establish the base of European standards for minority protection. In Article 40 the Copenhagen Document, *inter alia*, stresses:

“The participating States clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds. In this context they also recognize the particular problem of Roma (gypsies)”.



5 Resolution 47/135 adopted on 47. session of the General Assembly UN, 1992.

6 National minority standards : a compilation of OSCE and Council of Europe texts. Council of Europe (COE) ; OSCE, Published: Strasbourg : COE, June 2007, ISBN 978-92-871-6220-5.

The Central European Initiative Instrument (CEI Instrument) for the Protection of Minority Rights (1994) devoted a special article (Article 7) for the status of the Roma in the region, which reads:

“States recognize the particular problem of Roma (gypsies). They undertake to adopt all the administrative or educational measures as foreseen in the present Instrument, in order to preserve and to develop the identity of Roma, to facilitate specific measures for the social integration of persons belonging to Roma (gypsies) and to eliminate all forms of intolerance against such persons”<sup>7</sup>.

The European Parliament Resolution on the Situation of the Roma in the European Union (April 2005) points out the importance of the respect for adopted legal obligations in democratic societies:

“underlining the importance of urgently eliminating continuing and violent trends of racism and racial discrimination against Roma, and conscious that any form of impunity for racist attacks, hate speech, physical attacks by extremist groups, unlawful evictions and police harassment motivated by Anti-Gypsyism and Romaphobia plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action for its eradication ( in the para C)”<sup>8</sup>.

Nevertheless, it is obvious that the international community recognized the specific needs of the Roma community and wanted to eliminate prejudices. The legal status of the Roma is a more ambiguous issue and various approaches concur at the European level. There is no consensus among experts, NGOs, political sphere and doctrine about the legal status of the Roma. Legally, “Roma” can be defined as: a “national minority”, “ethnic group”, “dispersed ethnic minority”, “socially disadvantaged group”, or as “the European nation”.

The working group of the Council of Europe Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN) held a special meeting in September 1999 on “dispersed” minorities<sup>9</sup>. The Roma were listed among the groups which could be considered “dispersed” minorities within particular states. Although the working group did not formulate the definition, according to the Final Activity Report on “Dispersed Ethnic Minorities”, the following characteristics apply to the majority of them: *they have no kin-state; they live in more than one*



7 Minorities and the Central European Initiative : on the occasion of the 10th Anniversary of the CEI Instrument for the Protection of Minority Rights (1994-2004). [S. l.]: CEI Executive Secretariat: Slovenian CEI Presidency, 2004.

8 European Parliament, joint motion for a resolution on the situation of the Roma in the European Union, Session document, Brussels, 25.4.2005.

9 CM Documents, 694 Meeting, 19 January 2000.

*state; persons belonging to these groups share common ethnic, religious, linguistic or cultural characteristics; they do not form a majority in any Council of Europe member State.* The DH-MIN emphasized the sensitivity of self-identification and stressed that this terminology should not be used in reference to groups against their will.

The Framework Convention for the Protection of National Minorities (FCNM) does not contain a definition of the term “national minority” and gives discretionary power to the states to implement the principles enshrined in it. Thus it offers a possibility for inclusion of the Roma within the groups, which are protected under the FCNM<sup>10</sup>. Several states explicitly mentioned the Roma in their declarations contained in the instruments of ratification<sup>11</sup>. Some of them, e.g. Germany, underline, that in Germany, only those Roma having the German citizenship should be treated as members of national or ethnic minorities:<sup>12</sup>

“The Framework Convention will also be applied to members of the ethnic groups traditionally resident in Germany, the Frisians of German citizenship and the Sinti and of Roma of German citizenship”.

Although this issue was discussed also in Slovenia, the Declaration of the Republic of Slovenia did not follow that approach. The adopted Declaration does not make such a distinction:<sup>13</sup>

“In accordance with the Constitution and internal legislation of the Republic of Slovenia, the provisions of the Framework Convention shall apply also to the members of the Roma community, who live in the Republic of Slovenia”.

The Parliamentary Assembly of the Council of Europe adopted the Recommendation 1557 (2002) “The legal situation of Roma in Europe”<sup>14</sup>. It offers



<sup>10</sup> Source: <http://conventions.coe.int>.

<sup>11</sup> For example:

Sweden: The Declaration contained in the instrument of ratification deposited on 9 February 2000 - Or. Eng. The national minorities in Sweden are the Sami, Swedish Finns, Tornedalers, Roma and Jews.

Macedonia: The Declaration contained in the instrument of ratification, deposited on 10 April 1997 - Or. Engl. The Republic of Macedonia declares that the provisions of the Framework Convention for the Protection of National Minorities will be applied to the Albanian, Turkish, Vlach, Roma and Serbian national minorities living on the territory of the Republic of Macedonia.

<sup>12</sup> The Declaration contained in a letter from the Permanent Representative of Germany, dated 11 May 1995, handed to the Secretary General at the time of signature, on 11 May 1995 - Or. Ger./Engl. - and renewed in the instrument of ratification, deposited on 10 September 1997 - Or. Ger./Engl.

<sup>13</sup> The Declaration contained in a Note Verbale from the Permanent Representation of Slovenia, dated 23 March 1998, handed to the Secretary General at the time of deposit of the instrument of ratification, on 25 March 1998 - Or. Engl.

<sup>14</sup> The term “Roma” used in this report and Recommendation always refers to the “Gypsy”, “Sinti” and

a comprehensive overview of the historical and social background stating that: "Marginalisation and the economic and social segregation of Roma are turning into ethnic discrimination, which usually affects the weakest social groups"(para 3).

Concerning the legal situation of the Roma in Europe this Recommendation *inter alia* points out in para 6:

"From a legal point of view, the Romany community is still not regarded as an ethnic or national minority group in every member state, and thus it does not enjoy the rights pertaining to this status in all of the countries concerned. Roma must be treated as an ethnic or national minority group in every member state, and their minority rights must be guaranteed".

States should regulate the legal status of Roma in individual countries. In order to promote their position, both individual and collective rights should be respected<sup>15</sup>.

#### EUROPEAN APPROACH

A prevailing approach in Europe in the past, particularly in the period of enlightenment was that authorities should solve the "Gypsy problem, change their lifestyle and force them to work"<sup>16</sup>. Special expulsion protocols/odgonski protokoli/ were drafted as a regular part of legislative policies and legal order in numerous European countries. They demanded accurate supply of data on the migrations and settling of Roma in different municipalities. Specific *circulus vitiosus* was taking place. Only Gypsies/Roma with a official documents of "domicile" status were allowed to stay in a certain municipality or a state. *Vice versa* local authorities were reluctant to grant them such a status. And they rather expelled them to another municipality, which again was not ready to accept them...

On the territory of Austro-Hungarian empire special law on Gypsies was adopted in 1888, aiming to provide "efficient defence" against expected invasion of Roma/Gypsies from Romania and Moldavia who were released from slavery after the years 1855/1856(Halbreiner,2003: 68). Increasing number of police patrols were sent to border regions to prevent illegal crossings of nomadic Romany families. Similar policies of forced relocations, segregated settlements or expulsions of

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"Traveller" categories.

15 para 6: i. to recognise Romany individuals as members of an ethnic or national minority group;  
ii. to acknowledge the minority group status of Romany communities.

16 First sentence of the document issued in 1900 in Rudolfovo/ today Novo mesto/ reads: "As it is very well known Gypsies cause lot of troubles for local inhabitants".

Roma/ Gypsies as marginalised group were governed by state and local authorities and implemented by police officials even in some contemporary, democratic societies.

Within the last two decades almost all European institutions started with projects and programs for Roma inclusion within the frame of human rights protection, protection of minorities, anti discrimination legislation, elimination of prejudices, activities against racism, awareness raising, social cohesion projects etc.<sup>17</sup>. Two specialized bodies for the fight against racism and intolerance – ECRI (European Commission against intolerance and racism) and CERD (UN Committee on the Elimination of Racial Discrimination) – have already adopted special recommendations on Roma.

At European level the issue of self determination of Roma and political representation of the Roma at an institutional level have occurred. For the first time in the political history of Europe, the request for adequate political representation of the Roma was extensively discussed as a priority at institutional level and at numerous international conferences and meetings (Klopčič 2004: 44). Proposal for establishment of the “European Roma Forum” as a permanent consultative body forum within the Council of Europe was submitted by the President of the Finland Tarja Hallonen in the year 2001.

Roma leaders and activists demanded the possibility for effective and actual implementation of declared principles in terms of the guaranteed political participation in decision-making processes and recognition of historical injustice towards them. The Parliament of the International Romany Union explicitly defines itself as a “representatives of the Roma Nation” and demands practical and theoretical acknowledgement of their identity. In January 2002, the Parliament of the International Romany Union adopted a Resolution, where they

“call for an adequate representation of the Roma and of the Roma strategy in the work of the European Convention and other international fora as representatives of the Roma Nation, as a Nation which does not want to become a State and is in search for a representation in the frame of the supra-national European institutions. The Roma are, in Europe, the only Europeans and are fully engaged in the process of transformation of the existing European institutions” (IRU Resolution, Skopje, January 2002)<sup>18</sup>.

The perception of the identity of the Roma people as a “Roma nation” has been further developed on the international level since the World Roma Congress

17 Open Society Institute, EU accession Monitoring Program, Monitoring the EU accession process, Country reports, 2002.

18 Resolution is published in the news paper “Romano them”, Murska Sobota, april 2002.

/London, 1971) particularly within the activities of the International Romani Parliament /IRU and European Roma and Travelers Forum/ERTF/. In the theoretical and political evolution of this notion, some parallels could be drawn with the situation of the community rights of indigenous people or other dispersed minorities as groups living in different states (Thornberry 2001: 96-98).

## GENERAL INFORMATION ABOUT THE POSITION OF ROMA IN SLOVENIA

It is estimated that about 7.000 to 10.000 Roma live in Slovenia<sup>19</sup>. Most of the Roma are traditionally settled in the region near the Hungarian border (Prekmurje) in the area of the Murska Sobota municipality in the Pušča settlement, and in the surroundings of municipality Novo mesto in the central part of Slovenia, in Dolenjska and Bela Krajina region. The majority of Roma in Slovenia live in isolated settlements located at the margins of villages. Until now, their social position was marginalized by a wider social community in all fields of social and political life. Majority attitudes and estimations are still mostly based on general impressions and prejudices. Due to different historical reasons, the Roma in the central part of Slovenia, the Dolenjska region, face more problems, conflicts and huge rejection by the majority population at local level.

At the moment 22 Romany societies and associations operate in Slovenia, whose membership consists of both the traditionally and non-traditionally settled Roma. Since 1996, they are united within the common umbrella organization – Association of Roma in Slovenia<sup>20</sup>. As in other countries the major problems of Roma in Slovenia are unemployment, housing and living conditions, their low level of education and social marginalisation. Only 13% of the Roma are regularly employed. The prejudices of employers also partially contribute to this, since some data show that unemployed persons who complete one of the employment programs are more likely to be employed if they are not Roma<sup>21</sup>. In Slovenia, a number of activities are going on, directed towards the improvement of the Roma status. The Government of the Republic of Slovenia adopted a special Programme of Measures for Help for Roma in 1995. The Programme is aimed at improving the



19 According to the data from the census 2002, 3246 persons declared themselves as Roma and 3834 persons declared that Roma language is their mother tongue.

20 The President is Jožek Horvat-Muc.

21 See: South East Europe Regional Project to Promote Employment Opportunities for Roma, Final Report: Training workshop for the staff of local employment services working with Roma jobseekers, Workshop I – Slovenia, Strasbourg, 2001.



situation of the Roma, and comprises activities of various governmental bodies and local authorities in this area. Measures for the Roma community in Slovenia outline efforts for the integration of the Roma (housing, employment, education, social participation, preventive health protection) within the paternalistic prospective of the social integration and inclusion process (Perić 2001: 34).

In May 2000, the "Equal Opportunity" program for the employment of the Roma was adopted by the Slovenian government. The central aim of the employment programs for Roma is the education and training of the Roma, thereby increasing the number of regularly employed Roma. At present, opportunities lie either in the public works program, subsidizing employment or in the founding of special companies and cooperatives. Several training programs for specific target groups e.g. young Roma, Roma women, illiterate and unemployed Roma, are aimed to improve educational structure of Roma and increase motivation of Roma for participation in the social and political institutions. Strategy for inclusion of Roma in the field of education, which follows the principles of multi-cultural education was drafted in 2004, and in April 2006 action plan for implementation of the "Strategy for inclusion of Roma in the field of education" was prepared<sup>22</sup>.

Only recently, the preservation of Roma culture, identity and traditions, standardization of the Roma language, the development of media (Roma TV and radio broadcasts, Roma newspapers), etc., emerged as new topics, as for majority population as well for Roma organisations. After a training program for young Roma journalists within the international project, the Roma journalists prepared the first broadcast in the Roma language for National TV in Slovenia in June 2007.

#### STATUS AND SPECIAL RIGHTS OF THE ROMANY COMMUNITY

Members of the Roma community in Slovenia are entitled to individual and community rights as all other citizens of the Republic of Slovenia. Their status is defined as "special ethnic community", entitled to collective, special rights. The Constitution of the Republic of Slovenia stipulates that the status and special



22 Action plan for implementation of the "Strategy for inclusion of Roma in the field of education" introduces:

employment of Roma assistants in schools with Roma pupils and Roma coordinators at the level of education for adults, aimed to facilitate integration of Roma;

definition of a new occupation "Roma assistant" or "Roma coordinator" within the National Vocational Qualifications system as a regular employment classification;

provides a two years period of preschool education for all Roma children, free of charge.

Adapt programs and courses within adult education system for education of illiterate and under educated Roma / 30% of all participants within adult education system in Slovenia are Roma/.

The chair of the responsible working group is the president of the Roma Union in Slovenia, Jožek Horvat-Muc, and the author of this article Vera Klopčič is a member of the working group.

rights of the Romany community living in Slovenia are determined by a statute (Article 65). In the grounds for its ruling concerning the political participation of the Romany Community at the Local Level, the Constitutional Court of the Republic of Slovenia determined also the approach towards “positive action” and special rights for protection of the Roma in Slovenia.<sup>23</sup>

Individual human rights are ensured for all individuals, not only citizens, in the territory of the Republic of Slovenia in accordance with the Constitution and adopted international obligations. Article 14 of the Constitution states that in Slovenia, all shall be guaranteed equal human rights and freedoms.<sup>24</sup> Any incitement to national, racial, religious or any other kind of discrimination and the inflaming of national, racial, religious or other hatred and intolerance is unconstitutional (Article 63 of the Constitution of the Republic of Slovenia). The legal system of the Republic of Slovenia envisages criminal punishment for the violation of equality, promotion of intolerance and spreading of ideas of racial supremacy. The violation of equality is defined as a criminal offence in Article 141 of the Criminal Code of the Republic of Slovenia<sup>25</sup>. Inflaming of national, racial or religious hatred, discord or intolerance is defined as a criminal offence in Article 300 of the chapter “Criminal Offences against Public Order and Peace” of the Criminal Code of the Republic of Slovenia.<sup>26</sup>

The law on equal treatment is an umbrella law in this field. The “Law on Equal Treatment” was adopted on April 22, 2004 (O.G. No 50/2004). Its intention is to identify common standpoints and to ensure equal treatment for all persons. It does not intervene in the legally determined competences which are derogated to the Human Rights Ombudsman or other institutions in this field. The Law on equal treatment introduces a new body - Council for antidiscrimination as an expert and consultant body.



23 Ruling No. U-I-416/98-38 of 22 March 2001.

24 In cases of the violation of constitutional rights, provisions of the Constitution of the Republic of Slovenia envisage the possibility of appeal to the Constitutional Court of the Republic of Slovenia.

25 Article 141/1 in the Chapter 16 of the Penal Code, “Criminal Offences Committed in Violation of Human Rights and Freedoms” defines the criminal offence of “violation of equality”: Anybody who out of differences in nationality, race, colour, religion, ethnic identity, sex, political or other beliefs, sexual orientation, economic status, family background, education, social status or any other reason denies somebody a human right or fundamental freedom acknowledged by the international community or defined by the Constitution or law, or if he/she limits any of these rights, or if he/she grants a special right or privilege to the other based on these differences, shall be punished by a fine or imprisonment of up to one year.

26 Article 300 of the Penal Code, “Incitement of National, Racial or Religious Hatred, Discord or Intolerance) provides”: (1) Anybody promoting or encouraging national, racial or religious hatred, discord or intolerance or promoting ideas of racial supremacy shall be punished with imprisonment of up to two years. (2) If the offence from the previous paragraph involves use of force, abuse, threat, defamation of national, ethnic or religious symbols, damage to foreign property or desecration of monuments or graves, the offender shall be punished by imprisonment of up to five years.

Special rights of the Roma are only briefly mentioned in the cited Article 65 of the Constitution. However, the Constitutional Court of the Republic of Slovenia states that constitutional provision in Article 65 of the Constitution “empowers the legislator to grant special rights, apart from general rights held by everyone, to the Romany community as a special ethnic community.”<sup>27</sup>

On the basis of the quoted decision of the Constitutional Court, the “Act Amending Local Government Act” (OG RS no. 51/2002) was adopted. It enumerates 20 municipalities in which the Roma are traditionally settled. In these municipalities the Roma have the right to representation in bodies of local self-government and the right to elect a Roma representative as a member of municipal council must be ensured<sup>28</sup>. During the local elections in 2002 and 2006, Romany members of municipal councils were elected in 19 municipalities. Since January 2003, Romany representatives of municipal councils created a councillors’ forum as a basis for coordination of activities at national level.

In accordance with the Law on the Roma community/ *the Roma Community in the Republic of Slovenia Act*/ which was adopted in 2007, the special status of the Roma community in the Republic of Slovenia is linked to its successful integration into the Slovenian society<sup>29</sup>.

The new representative body the National Council of Roma was created in June 2007. The members were elected on the common meeting of the Assembly of Roma associations and the Roma councillors’ forum. Elected members stressed the importance of the cooperation of the newly elected members of the National Roma council with the Association of Roma, which has already been operating for a long time as the primary form of organization of Roma at national and local level.

Legal status of Roma in Slovenia and their special protection is based on distinction between the special status of traditionally and non traditionally settled Roma in Slovenia. Such approach has been strongly criticized and opposed by some national NGOs in Slovenia and international organizations. In practice, the elections for members of the National Roma Council softly overcame this problem and among members who were appointed by the Roma Union of Slovenia



27 Ruling No. U-I-416/98-38 of 22 March 2001.

28 The Governmental Office for Nationalities financed a special program of training and education for candidates for municipal council from the ranks of the Roma community. The program was prepared and in July 2002 implemented by the Papilot institute, together with the Association of Roma of Slovenia. The program embraced basic knowledge about the position of Roma in Europe, legal and political system in Slovenia and particularly the decision-making process at a national and local level.

29 Article 2, see text in the Annex 1

two of them belong to the “non” traditional Roma communities from Maribor and Velenje.<sup>30</sup>

THE HISTORICAL, CURRENT AND FUTURE PATHS TOWARDS ACHIEVEMENT OF EQUALITY AND EQUAL OPPORTUNITIES FOR ROMA IN SLOVENIA

Absence of the mutual intercultural dialogue still significantly influences process of the shaping and preservation of stereotypes and distrust between the majority population and Roma in all European countries. Historic circumstances led to the social exclusion of Roma in the past. Their lifestyle was often defined by words as “Vagrancy and begging”, automatically associated with criminal offences, e.g. with “gypsy style burglaries” or with drug trafficking and smuggling in modern time. Isolation and marginalization of Roma caused growing distrust towards any measures of the authorities among members of the Roma community. Consequently, distrust was also transmitted to those members of the Roma community who had accepted the values and lifestyle of the majority nation and they were excluded from the Roma community.

Nowadays it is reflected in misunderstandings in interpretation of legal status and social position of Roma in legal and political analyses and strategies. It is still unclear whether legal treatment of Roma should only follow goals of integration of “socially vulnerable community”, or should it also create a sufficient basis for the implementation of the vision of the Roma nation. The partnership between the Roma and non-Roma, promotion of political and cultural dialogue and cooperation among Roma and non-Roma in order to overcome segregation and discrimination against Roma, are still insufficiently developed in practice.

The activities taking place on the international scene encourage changes on the political and institutional levels of regulation in individual states of East and Central Europe and inspire some states to recognize importance of compensation for historical injustice towards Roma. This process is until now reflected in passing and only in certain segments in the current discussions on the situation of the Roma on the national and local levels in Slovenia. Clear standpoint of the political elite and among the general public in Slovenia concerning the condemnation of racially-motivated attacks on the Roma people, hate speech, physical attacks on Roma, forced evictions, school segregation, is completely absent from public discourse. They neglect the fact that signatories of several international instru-



30 Members who were appointed by the Roma Union are:

1. Horvat, Jožek - D 2. Tudija, Bojan, 3. Baranja, Oto, 4. Rošar, Janja, 5. Baranja, Stanko - 6. Bečiri, Fatmir, 7. Nezirović, Slobodan 8. Brajdič, Nataša, 9. Miklič, Bogdan, 10. Drvarič, Marija, 11. Cener, Slavko, 12. Baranja, Milan, 13. Kosec Suzana, 14. Lah, Albin.

Elected members of the Councillors Forum: 1. Rudaš, Darko, 2. Ratko, Vera, 3. Horvat, Emil, 4. Olah, Jožef, 5. Jurkovič, Silvo, 6. Hrvat, Damjan, 7. Grm, Zoran.

ments, e.g. FCNM have assumed the obligation to create adequate conditions for the expressing, preserving and promoting of national minority identity, as well as to provide for an atmosphere of tolerance and dialogue, which is to allow for cultural diversity to become an enrichment of every society. In this context, creation of “equal opportunities” includes fight against all forms of segregation, manifestations of racism and racial discrimination, particularly in education and housing as essential elements of this approach.

Particularly important is the discussion on positive discrimination of Roma in the field of improvement of their social status, as well as special measures for the elimination of prejudice and racial hatred. Having been subject to hostile historical situation and negative attitudes on the part of majority populations, the Roma continue to live in unfavourable social conditions and are still victims of marginalization and prejudice. That is why some international documents primarily treat them as a disadvantaged/vulnerable community which has to be given the chance of social integration.<sup>31</sup> In 2004 legal experts in EU even proposed a special Directive on social integration of Roma. The question is whether legal treatment of Roma as a socially vulnerable community offers grounds for substantial developments in future. From historical perspective it might be understood as just another pragmatic *status quo* solution which fails to deal with the essential developmental issues and does not try or even dare to challenge the relations of power within the existing political structures. In this context, the paternalistic approach, which always seeks for a continuation of affirmative action, without proper monitoring and evaluation and is primarily reflected in the gradation of social benefits as a “help for Roma” could be sought as a permanent and vital source for strengthening the barriers and mutual prejudices between Roma and non-Roma.



31 General Policy recommendation No 3 (1998) of the Council of Europe's European Commission against Racism and Intolerance on combating racism and intolerance against Roma/Gypsies, which emphasises the double discrimination faced by Romani women; [www.coe.int](http://www.coe.int)

Report by Mr. Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights on the human rights situation of the Roma, Sinti and Travellers in Europe (2006). [www.coe.int](http://www.coe.int).

Action plan on improving the situation of Roma and Sinti within the OSCE area.

(PC Journal ; no. 479, agenda item 4) Vienna, 27 November 2003.

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## ANNEX 1

## ROMA COMMUNITY IN THE REPUBLIC OF SLOVENIA ACT (ZROMS-1)

## ARTICLE I

This act shall regulate the status and define the special rights of the Roma community living in the Republic of Slovenia, the competence of national authorities and authorities of self-governing local communities for their implementation and cooperation of representatives (hereinafter: representatives) of the Roma community in implementing their rights and obligations as provided by law.

## ARTICLE 2

In taking into consideration the special status of the Roma community in the Republic of Slovenia and its successful integration into the Slovenian society and for the purposes of assuming the responsibility for its development, the members (hereinafter: members) of the Roma community shall have special rights provided by law, in addition to the rights and obligations appertaining to all citizens of the Republic of Slovenia, particularly the special rights provided by law.

## ARTICLE 3

The Republic of Slovenia shall provide for the implementation of special rights in the area of education, culture, employment, spatial planning and environmental protection, health and social security, notification and participation in public affairs referring to Roma community members in compliance with this Act, other acts, implementing regulations and acts of self-governing local communities and special programmes and measures of national authorities and authorities of self-governing local communities.

## COMPETENCE OF NATIONAL AUTHORITIES AND AUTHORITIES OF SELF-GOVERNING COMMUNITIES IN IMPLEMENTING SPECIAL RIGHTS OF THE ROMA COMMUNITY

## ARTICLE 4

(1) The Republic of Slovenia shall create the conditions for the integration of Roma community members into the system of education, provide for the conditions for the improvement of education level of Roma community members and an appropriate scholarship policy.

(2) In the area of the labour market and employment, the Republic of Slovenia shall pay special attention to the promotion of employment, vocational education and training of Roma community members.

(3) The Republic of Slovenia shall encourage the maintenance and development of the Roma language and culture, information and publication activities of the Roma community.

(4) The Government of the Republic of Slovenia (hereinafter: Government) shall report annually to the National Assembly of the Republic of Slovenia on the implementation of the obligations referred to in the previous paragraphs and in Article 5 of this Act.

#### ARTICLE 5

(1) The national authorities and authorities of self-governing local communities shall provide for the conditions for spatial planning of Roma settlement issues and improvement of living conditions of Roma community members.

(2) The system of spatial planning of Roma settlements referred to in the preceding paragraph shall be realised with appropriate spatial planning solutions. Pursuant to the regulations concerning spatial planning, these spatial planning solutions shall be considered as the spatial planning arrangement of local importance or as the spatial planning arrangement of national importance, whether the initiative for their planning is transferred to the Government by the city or municipal council of that municipality in the region in which the proposal of such spatial planning is necessary, or it is so decided by the Government.

(3) The Government itself may take a decision referred to the preceding paragraph and other necessary measures for the settlement of conditions in cases where legally undeveloped Roma settlements in the self-governing local community result in posing serious threats to health, long-term disturbance of the public order and peace, or in posing a permanent threat to the environment. On the basis of the national spatial planning act, the Government may, in this case, carry out activities affecting any region of any municipality, however, thus giving priority to the region of that municipality which did not fulfil the obligations referred to in the preceding paragraph. For the purposes of preparing and adopting such a spatial planning document, the procedure defined in the regulations concerning spatial planning in a shortened procedure shall be applied.

(4) For the purposes of implementing the state's tasks referred to in this article, funds shall be provided in the budget of the Republic of Slovenia.

#### ARTICLE 6

(1) For the purpose of coordinated implementation of special rights of Roma community members, the Government, in cooperation with the self-governing local communities and the Roma Community Council of the Republic of Slovenia, shall adopt the programme of measures laid down in Article 9 of this Act on the basis of which the obligations and tasks that are carried out by competent mini-



stries, other national authorities and authorities of selfgoverning local communities shall be laid down pursuant to Articles 4 and 5 of this Act.

(2) The authorities referred to in the preceding paragraph shall adopt detailed sectoral programmes and measures, and shall provide for the necessary funds earmarked in their financial plans.

(3) The Government shall designate a special working body for monitoring the implementation of the programme referred to in the first paragraph of this Article. At least once a year, the competent national authorities and authorities of self-governing local communities shall report to the working body on the implementation of the programme referred to in this Article.

(4) The working body shall consist of eight representatives of national authorities, four representatives of self-governing local communities on the proposal of the self-governing local authorities as laid down in Article 7 of this Act, and four representatives of the Roma Community Council of the Republic of Slovenia. The head of the working body shall be a representative of the national authorities.

(5) For the purpose of its operation, the working body referred to in the third paragraph of this Article shall adopt rules of procedure to be approved by the Government.

## ORGANISATION

### ARTICLE 7

(1) In municipalities in which representatives of the Roma community shall be elected to the city and/or municipal council (hereinafter: municipal council) in accordance with the law regulating the local self-government, a special working body for monitoring the status of the Roma community shall be established in the municipal council.

(2) The working body referred to in the preceding paragraph shall consist of at least six members (hereinafter: member) out of which not more than one half shall be represented by inhabitants of the municipality who are not municipal council members and out of the latter the majority shall be represented by Roma community members.

(3) A representative of the Roma community in the municipal council shall be a member of the working body referred to in the first paragraph of this Article.

(4) The working body referred to in the first paragraph of this Article shall be set up in accordance with the act governing the local self-government.

(5) Notwithstanding the provision of the first paragraph of this Article, other self-governing local communities may also set up a special working body for the purposes of monitoring the status of the Roma community in applying the provisions of this Article.

#### ARTICLE 8

The working body referred to in the previous Article shall pursue the following activities, in particular:

- it shall monitor and address the status of the Roma Community in the self-governing local community;

- it shall address and present proposals and initiatives concerning issues relating to the status of Roma community members and their rights; ii shall actively participate in the implementation of the development programme of the self-governing local community, particularly in programmes and in solving issues relating to the status and development of the Roma community in the self-governing local community;

- it shall deal with issues relating to the maintenance of the Roma language and culture; it shall cooperate with Roma societies and other organisations in the self-governing local community.

#### ARTICLE 9

(1) A Roma Community Council of the Republic of Slovenia (hereinafter. Council) shall be established.

(2) The Council shall represent the interests of the Roma Community in Slovenia in relation to the national authorities.

(3) The Council shall be a legal entity of public law. The status of legal entity shall be designated on the day of its establishment.

#### ARTICLE 10

(1) The Council shall consist of twenty-one members, of which fourteen shall be representatives of the Roma Association and seven representatives of the Roma community in the councils of self-governing local communities referred to in Article 7 of this Act.

(2) The seven representatives referred to in the preceding paragraph shall be elected by secret ballot from among themselves from the representatives of the Roma community in the councils of self-governing local communities laid down in Article 7 of this Act. In the voting procedure, each representative can cast seven votes but only one vote per individual candidate. Those representatives of the Roma community in the councils of self-governing local communities who

received the most votes shall be elected to the Council. If the membership of a representative in the Council terminates, the next person who received the most votes shall replace the representative. If such a person does not exist, a substitute member shall be elected in compliance with the provisions of this paragraph. For the purposes of the election referred to this paragraph, at least the majority of all the representatives of the Roma community in the councils of the self-governing local communities laid down in Article 7 of this Act must be present. The competent national office for nationalities, which is also accountable for the legality and regularity of the election, shall be responsible for the organisation and implementation of elections.

(3) The members of the Council shall elect a president of the Council (hereinafter: president) from among themselves by a majority of two thirds of the votes cast in a secret ballot by all members of the Council. The president of the Council shall be elected for a term of office of two years. The president of the Council shall represent and act on behalf of the Council.

(4) The Council shall be re-established within three months at the latest after each effected regular election to municipal councils. The competent national authority for nationalities shall convene a constituent meeting. The Council shall be re-constituted with the election of the president of the Council.

(5) Membership in the Council shall terminate for representatives of the Roma community when their term of office in the council of a self-governing local community terminates.

(6) The Council shall be deemed to have a quorum if the majority of its members are present at the meeting.

(7) The tasks of the Council shall include, in particular;

- addressing issues relating to the interests, status and rights of the Roma community; presenting proposals and initiatives to competent authorities; promoting activities for the maintenance of the Roma language and culture; encouraging and organising cultural, informative, publishing and other activities significant for the development of the Roma community; developing and maintaining contacts with Roma organisations in other countries.

#### ARTICLE 11

(t) The Council shall adopt rules of procedure by a two-thirds majority of votes of all of its members and shall publish the rules in the Official Gazette of the Republic of Slovenia.

(2) The rules of procedure shall determine, in particular: the address of the Council;

the manner of convening the sessions;

the method for the internal organisation of work; the method for international cooperation;

attendance fees and costs of participation in Council meetings; detailed rules for decision-making in Council meetings;

the manner of notifying the public about the operation of the Council.

(3) The Government shall give prior consent to the provisions in the rules of procedure which relate to attendance fees and the costs of participation at meetings of the Council.

#### ARTICLE 12

(1) The Council may present proposals, initiatives and opinions in matters of its competence to the National Assembly of the Republic of Slovenia, National Council of the Republic of Slovenia, Government( other national authorities, holders of public authorisations and authorities of self-governing local communities.

(2) The national authorities, holders of public authorisations and authorities of self-governing local communities must obtain the prior opinion of the Council for the purposes of adopting and issuing regulations and other general legal acts relating to the status of the Roma community.

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## FINANCING

### ARTICLE 13

(1) Funds for financing tasks and measures for the implementation of special rights of the Roma community shall be provided in the budget of the Republic of Slovenia, in the financial plans of direct users of the budget of the Republic of Slovenia and as funds earmarked for the communities referred to in Article 7 of this Act concerning the financing of tasks confirmed.

(2) The amount of funds required shall be brought in line with the government programme of measures for the implementation of special rights of Roma community members and shall be laid down in the budget of the Republic of Slovenia.

### ARTICLE 14

(1) Funds for the operation of special working bodies in the councils of self-governing local communities shall be provided for in the budgets of the self-governing local communities.

(2) Funds earmarked by the communities for financing the needs of Roma community members shall be provided for in the budget of the Republic of Slovenia in accordance with the provisions of the act governing the financing of municipalities.

### ARTICLE 15

Funds for the operation of the Council shall be provided for in the budget of the Republic of Slovenia.

## TRANSITIONAL AND FINAL PROVISIONS

### ARTICLE 16

(1) The municipal councils referred to in Article 7 of this Act shall establish the working bodies referred to in the stated Article within three months after the entry into force of this Act.

(2) The Council referred to in Article 9 of this Act shall be established within four months after the entry into force of this Act.

A competent national body for nationalities shall convene the founding meeting. At the founding meeting, the president of the Council shall be elected. Until the election of a president of the Council, the oldest member of the Council shall manage the work of the Council.

(3) The national authority competent for nationalities shall appoint their representatives of the Council within eight days of the entry into force of this Act. The Roma Association of Slovenia shall appoint its representatives in the Council not later than within one month after receipt of the invitation.

(4) Within eight days from the entry into force of this Act, the competent national authorities for nationalities shall convene representatives of the Roma community in the councils of selfgoverning local communities referred to in Article 7 to elect from among themselves their representatives to the Council. The elections shall be carried out not later than forty-five days following the entry into force of this Act.

(5) The Council shall be established via the election of the president of the Council.

(6) The Council shall adopt its rules of procedure within three months after the Council has been established.

(7) The programme of measures referred to in the first paragraph of Article 6 shall be adopted within one year after the entry into force of this Act.

(8) Detailed sectoral programmes and measures referred to in the second paragraph of Article 6 of this Act shall be adopted within six months after adopting the programme of measures referred to in the seventh paragraph of this Article.

(9) The working body referred to in the third paragraph of Article 6 of this Act shall be set up within one month after establishing the Council referred to in the second paragraph of this Article.

#### ARTICLE 17

This Act shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Slovenia (Uradni list Republike Slovenije).