

POLITICAL AND LEGAL POSITION OF THE ROMANIES IN THE CENTRAL AND SOUTHEAST EUROPE

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Abstract. *The Romanies are perhaps the last European nation tending to be represented as a self-determining political nation. They have lately been trying to articulate their national goals such as: all the Romanies have to gather together in a unique movement, their national myths and institutions have to be identified, their collective rights have to be protected, their minority status has to be acknowledged, their poor social, economic, and education status has to be improved and the like.*

Europe was not always ready to understand the problems of the Romanies. Now the awareness of the urgent need to help the Romanies successfully and to integrate them into the society swiftly has been awakened. Thus, the idea of the Romanies as a non-territorial European minority has been accepted. Following this line of thinking, three subjects have to co-ordinate their activities when decisions on the position of the Romanies have to be made:

- 1. International institutions and organisations (CE, OEBS, EU),*
- 2. National states regulating the rights and obligations of their citizens by internal codices (Germany, Finland, Macedonia, and Hungary acknowledged the status of the Romanies as the national minority; Slovakia enabled participation of the Romanies in the bodies of authorities; the governments of almost all the countries of the Southeast and Central Europe adopted programmes of integration of the Romanies population), and,*
- 3. Regional and local bodies of authorities that can contribute to the improvement of the actual position of the Romanies by consistent respect and effectuation of the regulations of their constitutions and laws.*

The problems related to the status and development of the national idea of the Romanies can be expected particularly in contemporary societies where assumptions of ethnic toleration are endangered by politization and political instrumentalization of ethnos. The ethno-political engineering, and mere exploitation and misuse of ethnocentrism respectively, are based on prejudices, misconceptions and inherited ethnic divisions, which are strikingly felt when Romanies are in question.

Key Words: *Self-determining Political Nation, Ethno-political Engineering*

FROM PREJUDICES TO DISCRIMINATION

In the recent literature dealing with the Romanies, there is a widely-spread opinion that the Romanies arrived in Europe through Byzantium and Persia. There are no reliable sources telling us about the early Romanies' migrations from India though it is assumed that they set out to drift along the roads - that were to become one of the key determinants of their identity - in the seventh century. "The romology" has no accurate data confirming whether it used to be an originally unique ethnic mass or a group of related tribes that in time merged into a relatively homogeneous ethnicity¹.

As for the Romanies' history, we are learning about it from some secondary sources as well as from the chronicles and documents of the Persian, Byzantine and Turkish chroniclers who tolerated, with their typical imperial cosmopolitanism, differences just as they tended to relativization of peculiarities of the small number of ethnic and religious communities. The mystery of the Romanies' ethnic genesis was attempted to be solved by the linguists who analyzed the Romanies' dialects in order to explore the linguistic legacy of other nations. On the basis of the lexica of the Romany language it was determined that the early Romanies' migrations were through Armenia and Thrace towards the north of the Balkans and from there towards the other European regions. From the fragments of the preserved chronicles it can be assumed that there were most surely certain civilization differences among the settled Romanies' tribes just as it can be claimed that they quite easily accepted the cultural values of the environments they lingered in somewhat longer. Even in those days the acculturation process was appealing to the Romanies' population that accepted the religion, language, names and customs of the natives.

Depending on the direction of their settlement the Romanies' tribes (Luri, *Dom*, *Sinti* and others) obtained their ethno-names acceptable to the majority population and local administration. Nowadays the frequently used name of the nation, namely, "Tsigani", does not come from the Romany language but from the Byzantine ethno-name *adsincani* (Latin: *aciganus*). The historically more closer sources, namely, the Turkish ones mention the ethno-names "Tsigani" (*cingene*) and "Kipti" (*kipti*) while in the Dubrovnik archives we also come across the name Egyptians (*agiptisas*)². The variants of the mentioned ethno-names are to be found in the lexica of the European nations, namely, *Gitans* among Francophiles, *Gypsies* among Anglophiles and the like. In the sources that are also left by other peoples we find the term the Romanies (*Romniti*) that is mentioned in some

¹ From the rich literature dealing with the origin and migrations of the Romanies I am selecting the following: A. Fraser, *The Gypsies*, Blackwell, 1992; A. Mirga, L. Mroz, *Cigynie, Odmiennosc i nietolerancija*, Waszawa, 1994. (Yugoslav edition, 1998), G.C Soulis, *The Gypsies in the Byzantine Empire and the Balkans in the Late Middle Ages*, *Dumbarton Oaks Papers*, 1961, J.P. Liegeois, *Mutation Tsigane*, Paris, 1971, I. Hancock, *The Pariah Syndrome*, 1987; I. Hancock, *The East European Roots of Romani Nationalism in The Gypsy of Eastern Europe*, New York, 1991; D. Kenrick, *The Destiny of Europe's Gypsies*, London 1972. As for Yugoslav authors the relevant papers are the following: T. Gjorgjevic, *Die Zigeuner in Serbien*, Budapest 1903, \. Petrović, *Cigani u sredovekovnom Dubrovniku*, Belgrade, 1976; \. Petrović, *Društveni položaj Cigana u nekim jugoslovenskim zemljama*, Belgrade, 1976; O. Zirojević, *Romani području današnje Jugoslavije u vreme turske vladavine*, Belgrade, 1981 and others.

² There is no doubt this term refers to the Romanies but there are also opinions that it is a completely different ethnic mass. To consult, see *Zbornik na turovi za etnogenezata na Egiptkani te vo Makedonija*, Skopje, 1996.

contemporary studies as an ethno-name coming from the Romany language. Unfortunately, such a conclusion is not supported by adequate scientific explanations. Maybe another expression of the prejudice towards the Romanies is the very doubt that it is a linguistic speculation necessary in order to realize the political ambitions of the leaders of the Romanies' intellectual and political movement in Europe.

The history of the Balkan and other European nations tell us that the Romanies dealt with the traditional crafts and trade; if they settled at some place they would enjoy the same rights as the majority population. The medieval Dubrovnik made no difference between the Romanies and the rest of its population regarding the rights that would be, using modern terminology, regarded as political, economic or social. Truly, in the west of the Balkan peninsula the Romanies were not so numerous while a considerable number of them settled down on the territories of today's Macedonia, Serbia, Bulgaria, Albania, Turkey and Greece. The Turkish censuses tell that at the beginning of the sixteenth century there were about 70,000 Romanies living in the Balkans (Rumelia); they were mostly of Christian religion. They lived in poorer city quarters where they did blacksmith's and butcher's jobs; they are also mentioned as skillful musicians, healers and traders. According to the Turkish historians in the Osmanli sultanate, the Gypsies had their own administrative unit, *sandjak*, whose jurisdiction referred to the Romanies living in the Balkans. It is interesting that the Osmanli bureaucracy, similarly to the modern European law, tried to solve the Romanies' problem without bringing them into connection with any particular territory but to an imaginary institution of the non-territorial people (minority).

The negative estimate and the anti-Romany feeling was also often the fate of the Romanies; they were wanderers, *čergari*, who, driven by the troubles, took to the roads that they moved along with easiness to the places in which they did seasonal jobs or simply survived by petty crimes. The Venetian and Austrian sources, most often the juridical protocols, point to the problems that the Romanies represented to the Central European states, especially to the Austria-Hungary administration that settled parts of the monarchy in the planned way while taking care of ethnic, economic, military, administrative and other needs. At first trying to win the Romanies over and then to force them to settle down permanently Maria Theresa and later Joseph II brought about some very restrictive regulations limiting the Romanies' movement, changing the Romanies' ethno-name, taking away their children and passing them over to the non-Romany families for upbringing and education³. Only a part of the Romanies accepted the permanent settlements whereas the rest moved towards Russia, Poland and other European countries.

The prejudices and stereotypes that the European nations cherished towards the Romanies can be divided into two value-different groups. In European music and literature the Romanies are an inexhaustible inspiration. The classical works of European cultural legacy are dedicated to the Romany conception of life suggesting that love, freedom and attitude to nature are resistant to materialism peculiar to European culture. Cervantes, Pushkin, Lorca, Dostoievsky, Apollinaire, Bisset, Kwazin, Bora Stanković,

³ Matasović Josip, *Cigani u doba terezijanstva i jozefinizma*, Narodna starina VII, Zagreb, 1928.

Andrić, A. Rousseau, Mickiewics and others introduced the Romanies into European culture while creating the stereotype about a special romantic and tragic culture incomprehensible to the outsiders who, even if they try to get close to it, remain crushed by the energy of the nation whose mastery of living remains inscrutable.

The other kinds of prejudice are rougher and have an exclusive negative value orientation. The Romanies are experienced by their neighbors as less valuable, as racially and ethnically inferior; in the best case they are willing to be tolerant towards the people whose customs, language and feelings are almost totally unknown to them. The negative prejudice gave rise to hatred that even turned into incomprehensible intolerance, xenophobia and genocide.

In contemporary Europe the intolerance towards the Romanies is not open but there is potential ethnic narcissism; this, in its turn, might, under more unfavorable social conditions, take on cruder forms of expression as shown by the sociological measurement of the ethnic distance among the Balkan peoples. Egocentrism of small Balkan peoples rests upon primordialism and pathological political culture that condition homogenization of the ethnic space and of the national territory. Despite the wealth of cultures and confessions that used to flourish at the Balkans, this cultural space has lost its cosmopolitan charm; it has closed itself into too narrow limits of irrationality of ethnic homogeneity. The Balkan peoples' intolerance is mutual and it is mostly related to the unjust territorial confinements as well as to excessively ambitious plans to expand one's national borders at the neighbors' expense. However, the common component of the ethnic exclusiveness of the Balkan peoples is intolerance towards the Romanies. According to the research published in 1994 by *BBSS Gallup International* in Albania, Rumania and Macedonia just as the *Marketing Consult OOD* in Bulgaria the greatest degree of intolerance is expressed by the Balkan peoples towards the members of the Romanies' ethnic group⁴. Intolerance towards the Romanies is most expressed in Rumania while it is least expressed in Bulgaria; regarding the secondary data (election lists for the local and minority self-rule, programs for the minority groups' protection) a similar situation can be found in the Central European states⁵. A similar attitude could be also found in previous epochs, whereas the ethnic distance towards the Romanies is somewhat less than in the previous measurement. However, what draws our attention now is the attempt to impose on the Romanies a personal responsibility for the unfavorable social status of their group. This means nothing else but a re-conceptualized stereotype saying that the Romanies cannot overcome their material and cultural poverty exclusively because of their collective anthropological and socio-psychological predisposition. In all this, it is easily forgotten that in the last few decades the economic basis of Romany families, especially in the East European countries, was completely destroyed. The process of de-collectivization, transition to the market economy, competitive employment conditions, increasing costs of public services and impoverishment of the social funds -

⁴ Krasimir Kanev, *Dinamičnija tencija u Bugarskoj i na Balkanu*, Gradi na, No.12, Niš, 1997, p. 171-201.

⁵ The research done in 1991 by dr Barawi, the Gypsies (Romanies) as neighbors were not accepted by 72% examined in Poland, 76% examined in Hungary and 85% in former Czechoslovakia. See: *Vojni i mirni životi, Kulturna prava nacionalnih manjina, i Kulturna prava*, Belgrade, 1999, p 138

all these things meant not only a blow to the marginal groups but also, to a great degree, to the middle social layer. The previously unattractive and low-profit jobs have become the necessity for impoverished members of the majority population that, due to its in-group solidarity, pushed the Romanies further to the margin. Some authors think that more frequent attacks against the Romanies in the post-communist states actually represent a reaction of the impoverished society to the weakest group in the economic, social and political aspects, namely, the one that is ascribed the guilt for its own worsening social and economic status⁶.

Modern technology and the needed education minimum for performing simpler jobs have reduced the ability of the Romanies' work-able population to feed their numerous family members. Without some institutional aid the Romanies are not able to overcome the first obstacle on the way leading them out of poverty. Namely, the schooling of children, beside being dysfunctional regarding the in-group cohesion, represents an uncertain adventure since, even when the material, psychological and other difficulties emerging during the schooling are overcome with much renunciation and family understanding, the society rarely stimulates or provides for the employment of the marginal group members

BALKANS AND THE CENTRAL EUROPE: THE EUROPEAN HOMELAND OF THE ROMANIES

Due to their exceptional population vitality, the Romanies in contemporary Europe amount to some ten million people⁷. However, there are no certain statistic data about the number of the Romanies in the European countries since it is evident, beside the ethnic mimicry that the Romanies are using to provide for vertical social propulsion, that the states are putting some effort into lessening their population potential.

There are about five million Romanies living at the Balkans and in the Central European states. In Rumania the Romanies' community is most certainly more numerous than shown by the Population Census in 1992. Though the state statistics has registered 409,723 members of the Romany population⁸ or 1,8% of the overall Rumanian population, it is assumed that their real number is four times greater.⁹ In Hungary, according to the official statistics, there were 142.683 Romanies in 1992¹⁰. However, it is much closer to the truth to say that there are almost 600,000 of them in permanent residence¹¹, but they are living in great dispersion. The most numerous group, about 120,000 of them are settled in three northern counties, namely, Borshod, Havesh and Nograd, while about 100,000 Romanies live in a few counties in the east of Hungary; in

⁶ Justin Burke, *Anti-Gypsy Fervor Sweeps East Europe*, The Patrin Web Journal, May, 1998.

⁷ Elias Cashmore, *Dictionary of Race and Ethnic Relations*, Routledge, 1996, pr. 332

⁸ *Statistical Data on the Population of Romania u The Legislative and Institutional Framework for the National Minorities of Romania*, Bucurest, 1994.

⁹ Georg Brunner, *Nationality Problems and Minority Conflicts in Eastern Europe*, Bertelsmann, 1996, p.166; Ferentz Glatz, *Minorities in East-Central Europe*, Budapest, 1993, p.52

¹⁰ *Report No.J/3670 of the Government of the Republic of Hungary to the Natinal Assembly on the Situation of the National and Ethnic Minorities Living in the Republic of Hungary*, Office of the Prime Minister, Budapest 1997.

¹¹ Georg Brunner, *Ibid*, p. 166

the Danube region of the Barawe, Tolne, Jale, Veshprema and Somodjija there are 115,000 Romanies whereas in the so-called Hungarian plain there are 60,000 more Romanies. In Budapest there are about 90,000 Romanies, whereas the smallest Romany community of about 15,000 is settled in the western counties Vash and Shopron¹². In Czech Republic there are about 200.000 Romanies meaning about 2% of the overall country's population¹³, it is estimated that in Slovakia there are more than 500,000 Romanies though the official statistic data register only 81,000 persons of Romany nationality, that is, 1,5% of the population¹⁴. In the official sources dating the middle of the nineties concerning the ethnic and linguistic structure of the Polish population we do not find even approximate data about the Romanies that have been living there since the fifteenth century. Some rough estimates say that about 50,000 Romanies live all over Poland¹⁵. In the Federal Republic of Yugoslavia in 1991 the Population Census shows the number of 143,519 Romanies; 70,126 of them live in central Serbia, 45,745 in Kosovo and 24,366 in Vojvodina while only 3,282 are registered in Montenegro¹⁶. The results of the Yugoslav statistics are not reliable, either, since regarding the data of the Romanies' organizations there are at least 450.000 Romanies living in the FR of Yugoslavia. In Bulgaria there are also between 313,000 and 500,000 Romanies depending on the fact whether the source is the official statistics or the international organizations' data are taken into account. According to the Population Census, forty-seven thousand Romanies live in Macedonia, while Greece and Albania tend to push to the margins the presence of their ethnic minorities so that the data concerning these countries are quite unknown. According to the data presented by the *Rene Descartes University*, Paris - also accepted by the EU - there are even 100,000 Romanies living in present-day Albania. Finally, in the former Yugoslav republics of Croatia and Slovenia there are 6.695¹⁷, that is, 4535¹⁸ Romanies. There are no relevant data about Bosnia, but it is assumed that the number of the Romanies that have remained to live there does not exceed 10,000.

BETWEEN MARGINALIZATION AND AFFIRMATION

The Central European states as well as those in the Southeast Europe have kept on trying in the last decade to settle for the position of national and ethnic minorities in the legal and somewhat factual way. The preservation along with the further encouragement of the spirit of multiculturalism and religious tolerance have become a challenge as well as a test from the democratic perspective for the states whose peoples most remember the experience of the totalitarian regimes. It is upon the legacy that once suppressed the civil society just as it imposed the authoritarian patterns of the social behavior and control that new value codes should be established, namely, those that are appropriate to the states of the traditional

¹² *Report on the Situation of the Gipsy Community in Hungary*, Budapest, 1996.

¹³ *Examples of Approaches to the Provisions for Roma in the Czech Republic*, Prague, October 1997.

¹⁴ Georg Brunner, *Ibid*, p. 168

¹⁵ Ferentz Glatz, *Ibid*, str. 38

¹⁶ *Statistički godišnjak Jugoslavije*, Savezni zavod za statistiku, 1995.

¹⁷ *Statističke informacije 1992*, Državni zavod za statistiku, Zagreb, 1993.

¹⁸ Jože Zadavec, *Demografska in socialna podoba Romov v Sloveniji*, u *Romi na Slovenskom*, Ljubljana 1991.

European democracy. After the first decade of the transition towards democracy the experiences those countries went through are diverse. In the Central European democracy multiethnicity has not represented any obstacle to the development of democracy, but Janus has shown its much more somber face at the Balkans. The ethnic animosities have not only been revived at the places where the old wounds have still remained unhealed, but they have even more deeply penetrated all the social pores and thus they have induced ethnification of politics jeopardizing prosperity and safety of the region.

The nationally homogeneous states in which the ethnic minorities do not make up a more important part in the population structure or in which they are widely dispersed all over the state's territory solve more easily numerous problems related to the preservation and advancement of the ethnic as well as the cultural identity of the minority peoples. The states whose population potential is ethnically diverse and in which the members of one or more minorities are concentrated upon an ethnically homogeneous territory are faced with the problems overcoming the existing norms, the limits of the international law in the domain of the minorities' protection and their own experience characterized by the still vivid troublesome memories that the geostrategic interests used to realize through irredentist movements as well as territorial pretensions towards their neighbors. At the end of the twentieth century the Balkan region is haunted by the ghosts of the past that spread fear, *pogroms* and all sorts of terror unbefitting human species.

Depending on the general social conditions the Romanies' positions in the states of those two regions are essentially different; still, beside the numerous difficulties there is a conspicuous initiative in all the states to stimulate the programs of the Romanies' position improvement. The government and the non-government sectors under the influence of the international organizations - especially of the Council of Europe and all the more influencing European Romanies' Movement - make all possible efforts to enable the Romanies to achieve the social equality necessary for the development of both the individual and the ethnic group.

Within the Romanies' ethnic movement comprising several fractions there are dilemmas concerning the choice of the social promotion method. The Romanies' intelligentsia that is becoming more numerous in European states finds appealing the idea of the protection of the individual civil rights that would in time affirm and strengthen the civil society values and thus contribute considerably to the Romanies' position improvement. However, regarding the fact that the civil society values have no tradition in the East Europe and that the citizen identity is subordinated to the identities of the ethnic, the national or the religious, the other strategy supported by another current in the Romanies' intellectual elite seems more justified. This strategy rests upon the concept of the protection of the national and ethnic minorities' rights, that is, the protection of the national identity as well as the collective minority rights, while its supporters are not of the same opinion regarding the fact whether the Romanies need special programs for their rights' protection and their status protection or this problems should be solved within the overall integral legal protection of the national and the ethnic minorities.¹⁹

¹⁹ The supproters of the idea about the individual cultural rights are German Romanies (*Sinti*) who think that the Romanies' position settlement should not be separated from that of other minorities. Contrary to this is the approach of the Romanies' national congress which claims that the Romanies have a unique historical and political position

Which of these above-mentioned approaches should be chosen represents a rather complex question since the acceptance of the civil state concept implies a long process of the maturation of the political culture and of the civil society while the option for the position improvement and the rights' protection through the legal procedures of particular states hides a danger that it could be realized only by the Romanies having a citizenship and are acknowledged as an autochthonous minority thus leaving out those Romanies that are immigrants and nomads.²⁰

In any case there is an inspiring dispute concerning the problem of the Romanies' status in Europe. Among other things, there is a discussion on terminology giving the Romany minority a tentative status of the transnational non-territorial European minority or even a nation without a state. Though they seem too ambitious, such opinions are meaningful since they should be considered in relation to the relatively uniform legitimization and legalization of the Romanies' position in the European states. In otherwise heterogeneous ideas and interests of the European movement of the Romanies there is an evident consensus concerning the strategy of further emancipation of the ethnic community. Namely, there is an opinion expressed more and more that the solution of the political status is the condition of the social and every other emancipation. In that sense the Romanies' position in modern Europe is solved due to coordinated activity of the three subjects, namely, as a non-territorial European minority the Romanies require special engagement of the international institutions and organization, then of the national states that should create their internal codes of norms regulating the rights as well as the duties of their citizens and, finally, of the regional and local authorities that can, by active respect and realization of the articles of the Constitution and the other laws, contribute to the improvement of the actual position of the Romanies' population.

PROTECTION OF THE ROMANIES' RIGHTS IN THE INTERNATIONAL LAW

After the signing of the Maastricht agreement in 1992 that established the European Union the mechanisms and instruments for preserving and advancing the ethnic identity of the minorities have been improved. According to the subsidiary principle the ethnic and the cultural aspects of European integration have been excepted from the jurisdiction of the European community institutions; instead, they have been transferred to regional and local authorities

The spreading of the social awareness about the need to establish the political and legal institutions responsible for the protection as well as the advancement of the minority population rights has been particularly affected by the activities of the Council of Europe, the European Parliament and the OEBS. Mostly due to these organizations the following principles and strategic documents have been formulated: European Convention on Human Rights and Basic Freedoms and the European Charter on Regional and Minority Languages; both of them are expected to become the *Magna Carta* of the future European

as a legitimate European nation. This view implies that the Romanies' emancipation process should be inspired by the common roots and perspectives regardless of the citizenship, group membership or a different country of origin (*The Roma in the Twenty-First Century: a Policy Paper*, Princeton, New Jersey, 1997).

²⁰ P. Thornberry and A.A.M. Estebanez, *The Council of Europe and Minorities*, Strasbourg, 1994.

particular right of national and ethnic minorities.

The European Convention on Human Rights and Basic Freedoms (SE, 1950) in its Article 14 makes the present thirty-four member states obliged to respect the fact that the rights and freedoms acknowledged by this Convention are secured without any discrimination by gender, race, skin color, language, religious confession, political or any other opinion, membership of any national minority, property, birth or other similar states.

The European Charter on the Regional and the Minority Languages affirms and regulates the use of the regional and the minority languages thus trying to contribute, to paraphrase freely, to the building up of Europe that would be based upon the principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity. The third part of the Charter in a relatively precise way elaborates the use of the regional and the minority languages in official use, education, media and public life.

Finally, the frame convention for the national minorities' protection - up to now the only multilateral document about the minority rights' protection - in accordance with the international law regulations binds the states that have signed it to guarantee to the minority members the rights that they enjoy on their own or together with others. The advocates for the firm guarantees of the minority rights' protection in Europe criticize the frame convention because the principles implied in it are not applied directly but through the legal systems of the states that signed it and because it fails to bind them in a more obliging way to implement the collective rights of the national minorities. Truly, Article 3 of the Convention guarantees to the minorities the rights that can be realized independently or collectively with others, but this formulation does not refer directly to collective minority rights but to a subjective choice of the majority or minority members to realize certain given rights. In that sense, the state members are obliged to develop the necessary conditions and to establish the measures by which the national minorities' members can preserve and improve their cultural, ethnic, linguistic, religious and regional identity. Though the contents of the frame convention are less obliging and more recommending to the states how to arrange for the issues related to the minority rights' realization, the states, even if willing to sign it, find it hard to ratify it. The reluctance on the part of the European governments and parliaments to oblige themselves more firmly regarding the protection of the minority people's rights, especially to accept the instruments of surveillance over the rights' implementation, is conditioned by the fear of lessening of their state sovereignty. The fear of those states is not eliminated even by the third part of the frame convention that explicitly obliges the national minority members to 'respect the national legislature and the rights of others' and that the document contents are not to be interpreted contrary to the principles of the international law in the sense of preserving the territorial integrity, sovereignty and political equality of the states. So far the convention has not become valid since the condition that it should be ratified by the twelve member states has not been fulfilled. On the contrary, the states in which there are actual inter-ethnic and racial tensions such as Greece, Belgium, Bulgaria and France, refuse to sign it.

Beside the mentioned documents and the universal regulations of the minorities'

rights²¹ there are also several other resolutions and recommendations accepted that immediately refer to the protection and advancement of the Romanies' position and rights.

The UN subcommission for preventing discrimination and protecting minorities adopted, in 1977 and 1992, the resolutions related to the Romanies' discrimination prevention while in 1992 the UN commission for human rights has adopted the general resolution on the Romanies' position. Considerable contribution to the development of the protection of the Romanies' rights was made by the UN in 1979 when the International Romanies" organization was acknowledged the council-giving status at the Economic and Social Council of the UN.

The documents of the European regional organizations related to the legal protection and advancement of the Romanies' position have no obliging character; instead, their aim is to use recommendations and support as means of stimulating the states to bring about as well as to realize the regulations tending to improve an exceptionally unfavorable position of the given ethnic group.

In the Copenhagen Document (1990), the OEBS mentions for the first time specific Romanies' problems in the sense that the member states "...condemn totalitarianism, racial and ethnic hatred, anti-Semitism, xenophobia and discrimination against everyone as well as persecution at the religious and ideological level." In the OEBS Document from Helsinki (1992) there is encouragement for the programs dealing with the Romanies' problems in the sense of creating the conditions for equal opportunities for this population to participate in the social life. Finally, in the concluding remarks of the OEBS Budapest Summit in 1994 the Office for Democratic Institutions and Human Rights is (*ODIHR*) authorized to be the contact place for Romanies' issues. The role of this institution is to provide for the contacts among states, international organizations and non-government organizations, the OEBS and other international organizations.²² Finally, the High OEBS Commissioner for the National Minorities gave in 1993 a report on the Romanies' position in the member states in which it is said that the economic, social and political position of the Romanies will become even worse in near future unless some measures for improving it are urgently adopted.

The Council of Europe has also adopted a few resolutions and recommendations relating to the protection and advancement of the Romanies' (nomads') position and rights in Europe²³. In the 1203 Resolution of the Council of Europe it is recommended to the

²¹ It primarily refers to the *International pact On Civil and Political Rights*, (Articles 2,3 and 26 related to the discrimination prohibition, Article 20 related to the prohibition of spreading national, racial or religious hatred and Article 27 assuming some collective rights: "In the states in which there are ethnic, religious or linguistic minorities, the persons belonging to those minorities cannot be deprived of the right to have, together with other members of their group, their own cultural life, to confess their own religion and to perform religious services as well as to use their own language"), *International Convention on Abolishing All Kinds of Racial Discrimination*, *UN Declaration on the Rights of People Belonging to National, Ethnic, Religious or Linguistic Minorities* (1993).

²² See V i a d i m i r \ e r i c , *Za{ t i t a prava Roma na me|unarodnom ni vou, u Romi u Srbi ji* , Centar za anti ratnu akci ju, I nsti tut za kri mi nol o{ ka i soci ol o{ ka i stra` i vawa, Belgrade, 1998.

²³ Resolution 125 (1981) of the Council of Europe on the role and responsibility of regional authorities in regard to the cultural and social problems of populations of nomadic origin.

Recommendation No. R (1983) of the Committee of Ministers of the Council of Europe to the Member States on stateless nomads and nomads of undetermined nationality.

Resolution of 5 March 1992 on the protection of Romanies adopted by the Commission of Human Rights of

governments of the member states to acknowledge the Romanies as an ethnic minority and to bring into accordance their instruments of the legal procedure for issuing personal documents to the Romanies - nomads. The Council of Europe is of opinion that the acknowledgment of the European minority to the Romanies would somewhat compensate for the lack of the mother state. The adoption of the Resolution recommendations surely gives some positive effects regarding the protection and development of specific group rights of the Romany ethnic group but it is hard to assume what legal consideration should be given to the European minority concept. It is also assumed that the adoption and elaboration of the idea of acknowledging the European minority status might induce more profound detachment of the Romanies from the majority population in the countries in which they are settled. Most of the postcommunist states in the Central and Southeast Europe are giving a strong resistance to the concept of collective rights of ethnic minorities so that it is hard to believe that the numerous and expansive Romany population would be willingly recognized any rights outside the set of individual rights related to the protection of the cultural, ethnic, linguistic and religious particularities.

As for the contents of the 1203 Council of Europe Recommendation there is no general agreement among all the Romanies in Europe. For example, the Central Assembly (*Zentralrat*) of the *Sinti* and Romanies in Germany states that no principle of protecting Romanies as an European minority should be accepted but that each state should solve this issue at its own national level²⁴.

ROMANIES' RIGHTS AT THE NATIONAL LEVEL

While trying to improve the Romanies' position in the states that are applying for the membership in the European Union, the international community has established the mechanisms and instruments that should contribute to a much faster democratic transition in the given states, to alleviate the racial and ethnic animosity towards the Romanies and to introduce the measures for solving their social, economic and political position. The most important instrument providing for the support for advancing the Romanies' position in the Central and Southeast Europe is the Phare Program by which the governments of the states in the region are allotted the resources for the programs of education, employment, training and involvement of the Romanies in the public administration jobs and others. In 1998 the governments of Bulgaria, Romania, Czech Republic and Hungary were given considerable means from this program, namely, those that were dedicated to the programs of the Romanies' social promotion and their rights' protection²⁵.

The strategy of supporting the national states in establishing and developing the

the UN Economic and Social Council.

Recommendation 1203 (1993) of the Parliamentary Assembly of the Council of Europe on Gypsies in Europe.

²⁴ Agnus Frazer, *Gipsy*, Oxford, 1992.

²⁵ The EU supports the programs dealing with the Romanies' position improvement in the Central and East Europe through the Phare and Tacis Democracy Programme (44.2%), the Phare Lien Programme (24.4 %), the Phare-funded Civil Society Development Programme (5.1%), as well as the other Phare funds reserved for the Romanies (26.3 %). Since 1993 the EU is allotted for the so-called *Romany program* 7,5 million euros distributed in Albania, Bosnia, Bulgaria, Czech Republic, Hungary, Macedonia, Poland, Romania, Slovakia, Slovenia and Ukraine.

Romanies' position improvement programs is primarily directed towards creating the conditions for normal living and work of the Romany family just as it is aiming at educating non-Romany and Romany population for life in the multicultural society, that is, towards affirming the values and principles of multiculturalism. In that sense there are programs established that are realized at the local, national and regional level. Up to now the greatest success in applying and developing those programs has been achieved by the countries of the Višegrad group.²⁶

Hungary

The Central European countries are trying to institutionalize legally the Romanies' position and to bring it into accordance with the existing standards of the minorities' protection. In that sense a positive example is the Act on the Rights of National and Ethnic Minorities of the Republic of Hungary²⁷ preceded by the 1991 Constitution Articles. Article 48 of the Constitution of Hungary recognizes the right of national and ethnic minorities to participate in the government together with the majority population members. The national and ethnic minorities are acknowledged the right to cherishing and advancing their own cultural identity at the national and local level. The Constitution regulations are further elaborated by the solutions presented in the above-mentioned law that in the legally equal way treats the members of national and ethnic minorities under the conditions that they are citizens of Hungary and that their ethnicities have been settled on the Hungarian territory for the last hundred years. Once they fulfill the conditions set by the legislator, the Romanies are legally equal with the other ethnic groups in Hungary.

In Hungary the Romanies just like other national and ethnic groups choose their representatives for the local government organs in which they solve their problems related to the realization of their rights in local communities. The Acts on the Election of the Local Governments and Local Minority Self-governments²⁸ were adopted in 1994 and its Chapter XI, namely, Articles 48 - 50c precisely determine the election as well as distribution of the terms of the representatives of national and ethnic minorities for the local self-government organs. The chosen representatives form self-government bodies in settlements, at the local and national level and especially at the level of the capital. The aim of the minority self-government is to create, by legitimate procedures, the political, social and economic conditions for the national and ethnic minorities.²⁹ At 1999 elections out of 1360 elected self-governments of the minorities there were even 759 Romany ones, while more than 3000 Romanies' representatives actively participate in the self-government activities at the local and national level.

At the country's level of the self-government, there are 2/3 Romanies' organizations; the most influential among them are the *Democratic Union of the Gypsies in Hungary*, the *Romanies' Civil Forum* and the organization *Phralipe*. The central Romanies' self-

²⁶ State Politics Toward Romany Communities in Candidate Countries to the EU: Government and Romany Participation in Policy -Making, PER, 1999.

²⁷ Act LXXVII of 1993 On the Rights of National and Ethnic Minorities, adopted by the National Assembly of the Republic of Hungary, July, 7.

²⁸ Acts on the Election of the Local Governments and Local Minority Self-governments, 1994.

²⁹ See: Report No. J/3670 of the Government of the Republic of Hungary to the National Assembly, p. 24-27

government comprising 27 Romanies elected from 19 counties makes efforts to bring into accord interests of all the organizations representing the Romanies, especially in order to put the pressure on the government to form a network of institutions for the protection of the Romanies' rights that should, by a special program and special activities, alleviate the consequences of the Romanies' assimilation in the past as well as to create the conditions for their faster national and social emancipation³⁰.

The efforts made by the Romanies' central self-government have had a positive effect since the Hungarian government has taken the concrete steps for improving the social status, education, health care and prohibition of all sorts of discrimination against Romanies³¹. The decree No. 1125³² of the Government of the Republic of Hungary on the most urgent tasks referring to the Romanies' community are obligatory for the respective ministers; they should, in cooperation with the Country Self-government of the Romanies in Hungary undertake activities in the field of education, employment, improvement of the housing conditions and protection of the rights. In order to carry out such an ambitious plan the Government also brought about another two decrees, namely, 1120/1995³³ and 1121/1995³⁴ related to the establishment of the institutions at the level of the Republic of Hungary that would be responsible for realizing the Government's program. A special role is assigned to the Government Interdepartmental Board for the relations with the Romanies that is headed by the Minister of Justice.

Czech Republic

In the Czech Republic in the last decade there were frequent racist attacks on the Romanies. The most evident cases were brutal skinheads' attacks and the building of a wall between the Romany and the non-Romany parts in a city quarter of Prague. In reaction to this as well as in trying to realize the Constitution regulations concerning the basic rights and liberties of the ethnic minorities (Articles 24 and 25) guaranteeing the cherishing and advancement of the national culture, the official use of the mother tongue, the organization of political parties and associations on the ethnic base beside the right to participate in making the decisions that are relevant for realizing the given rights, the Government of the Czech Republic in 1997 promoted and adopted the concept of social integration of the Romanies. Formulated as twelve points the program goals bind the Government to create the conditions for eliminating all kinds of discrimination on racial, ethnic or national bases, to make the education system available to all the citizens until

³⁰ The proposal for forming the Network of institutions for the protection of the Romanies' rights is given in a letter signed by thirteen representatives of the minority self-governments in Hungary sent to the President of Hungary (Srpske narodne novi ne, Nova seri ja, Year V, No. 26, Budapest, June, 29, 1995).

³¹ See in: *Report on the Situation of the Gypsy Community in Hungary*, Budapest, 1996 and in *Information on the Situation of the Hungarian Gypsies and the Most Urgent Measures of the Government Affecting the Gypsies*, Budapest, 1996.

³² *Government Decree 1125/1995 (XII.12) on the Most Urgent Tasks Concerning the Gypsy Community*, Hungarian Gazette, No.107/1995.

³³ *Government Decree 1120/1995 (XII.7) on the Establishment of the Co-ordination Council for Gypsy Affairs*, Hungarian Gazette, No.106/1995).

³⁴ *Government Decree 1121/1995 (XII.7) on the Establishment of the Public Foundation for Hungarian Gypsies*, Hungarian Gazette, No.106/1995.

2020, to protect individual and collective rights of the Romanies, to advance the judicial system in the sense of an efficient and just legal protection of the Romanies, to provide the protection and support for the development of the cultural and linguistic rights of the Romanies especially through the multicultural approach to the education system as a means of affirming the given values, to include the Romanies' representatives in the process of making the decisions relevant for the interests of the Romanies' community, to advance the social policy methods in the sense of a positive work motivation, to cooperate with the non-profit sector and non-government institutions and so on.

The program for improving the Czech Republic Romanies' position is established as the backbone for preventing the Romanies' assimilation as well as their emigration to Canada and other Western countries. The instruments for implementing the government programs are the appointment of councilors for the Romanies' issues in the administrative centers in which the Romanies are living, the employment of consultants for the Romanies' issues in schools while, since 1998, the work of the government Interdepartmental Board for the cooperation with the Romanies has been reorganized, namely, the Board that includes twelve Romanies' representatives advocating for the interests of the Romanies from all parts of the country.

Rumania

In Rumania, according to the Population Census 1992, there are 409,723 members of the Romanies' ethnic group in permanent residence, that is, the Romanies make up 1.8% of the overall population, while they are most numerous in the counties of Muresh (5.7%), Sibiu (4.1%) and Bihor (3.6%)³⁵. It is assumed that the Romanies in Rumania are by far the most numerous group while the most daring estimates even exceed 2,000,000 members of this ethnic group.

The Romanies realize their rights together with the other citizens of Rumania in accordance with the Constitution and other laws. Article 4(2) of the Rumanian Constitution dating 1991 defines Rumania as a civil state in which all the citizens realize the same rights regardless of their nationality, ethnic origin, language, confession.³⁶ Article 6(1) guarantees to the persons belonging to the national minorities the right of preserving, developing and expressing their ethnic, cultural, linguistic and religious identity. The Rumanian Constitution in the usual way regulates the other spheres that are also of importance for realizing the position of the minority ethnic groups such as legal equality of all the Rumanian citizens³⁷, freedom of movement³⁸, freedom of consciousness and confession³⁹ and freedom of expression⁴⁰. The Constitution also allows for the minorities' right that in a court case they can ask for an official interpreter in the case they are ignorant of the Rumanian language⁴¹.

³⁵ *Rights of the Persons Belonging to the National Minorities*, Ministry of Foreign Affairs of Rumania, 1995, p. 75/6.

³⁶ *Constitutia Romaniiei*, Art. 4(2).

³⁷ *Constitutia Romaniiei*, Chapter II, Art. 16(1).

³⁸ *Constitutia Romaniiei*, Chapter II, Art. 25(1-2).

³⁹ *Constitutia Romaniiei*, Chapter II, Art. 29(1-6).

⁴⁰ *Constitutia Romaniiei*, Chapter II, Art. 30(7).

⁴¹ *Constitutia Romaniiei*, Chapter VI, Art. 127(1-2).

Most of the Rumanian Romanies do not realize their recognized rights due to a high percentage of illiterate population while the lack of education and separation in clans and family *tabor* represent a great obstacle to the Romanies' emancipation in Rumania. The Constitution also determines the conditions under which the national minority members enjoy the right to education in their mother tongue. Though the Constitution solutions are of wide range and provide for the formation of classes and schools at all the levels at a low census for all the minorities on the territory of Rumania, a very small number of the Romanies use these opportunities⁴². The causes should be looked for in the passivity of the state institutions that fail to provide for additional measures to encourage the Romanies to enroll their children into schools as well as in growing inter-ethnic conflicts among the Romanies and the other ethnic groups but also in the Romanies' distrust of the school institution experienced as an agent of breaking up the family and the *tabor*.

The right to participate in the political and public life the Romanies can realize just like all citizens of Rumania, namely, in accordance with the Constitution regulations as well as the respective laws. Article 57(1-2) of the Constitution precisely determines the conditions under which the citizens can associate themselves into political parties, unions and other forms of association, while in accordance with Article 59 of the Constitution regarding the choice of the representatives to the Chamber of Deputies and Senate and in accordance with Article 4 (1-5) of the Law on the Election to the Chamber of Deputies and the Senate⁴³ the members of the national minorities can choose their representatives for the Parliament. The members of the national and ethnic minorities can propose their candidates on the special lists reserved for the minority associations and political parties, as well as on the common lists and within the Rumanian political parties' lists. Depending on the will of the election body each political party participating in the elections can win a certain number of seats in the Rumanian Parliament. The parties and associations representing the interests of small-numbered minorities, that is, those that do not win the support of 5% of the total election body have the right to one seat in the Chamber of Deputies⁴⁴. At the parliamentary elections in 1992 and 1996 the Romanies were, on the basis of such positive discrimination, given one seat on each occasion. This sufficiently tells about the lack of organization and information among the Romanies' population in Rumania especially regarding the fact that the given population, if the data about the overall Romany population are at least approximately accurate, has an election body that is as strong as the Hungarian minority but that fails even to approximate the same number of seats.

⁴² Since the school year of 1992 the Romanies have been learning their mother tongue in elementary schools, more precisely, they have four lessons per week in the low classes (from the first to the fourth) and three lessons per week in the high classes. Since 1991 in Bucures, Trg Muresh and Baku there are special classes in which all the teaching is done in the Romany language (*The Education System in Romania Tuition in the Languages of National Minorities*, The Council for National Minorities).

⁴³ Law on the Election to the Chamber of Deputies and the Senate, Law No. 68 of July 15, 1992.

⁴⁴ At the parliamentary elections in September, 1992, all the organizations of the national minorities' members in Rumania proposed their candidates on separate lists; the greatest success was achieved by the Democratic Union of Hungarians in Rumania (M.D.U.R.) with 27 seats in the House of Deputies (7,5% of the votes of the total election body) and 12 seats in the Senate (7,58% of the votes of the total election body). All the other organizations representing the national minorities' interests did not exceed the census defined by the Constitution, that is, 5%, but they obtained one seat each in the House of Deputies.

In the Parliament the national minorities' representatives form the Council for National Minorities that discusses all the questions related to the realization of their rights. The jurisdiction of this body is to distribute the means from the budget, namely, those that are allotted to financing the minority organizations' activities, while the donations that a minority organization receives per year cannot exceed 0,005% of the budget state income.

In the Rumanian Parliament the Romanies are represented by a representative of the Romanies (Gypsy) Party; in addition to this one, in the register of the parties enlisted in the Budapest Municipality Court⁴⁵ there are also other Romanies' parties such as the Congregational Democratic Union of the Romanies, the Demochristian Party of the Rumanian Romanies, the Progressist Party of the Romanies, the Party of the Nomad and Vardar Rumanian Romanies, the Party of the Romanies Bricklayers of Rumania, the Social-democratic Party of the Romanies and the Party for Defending the Romanies' Rights. It is the elected representative of the Romanies in the Rumanian Parliament who is the most responsible to fight for a more favorable position of his compatriots that are - just like members of other ethnic groups - looked upon with suspicion by the majority population. In the last decade it is Rumania that witnessed a set of assaults upon the lives and property of the Romanies. Since 1990 over thirty inter-ethnic conflicts have taken place all over Rumania in which four Romanies have lost their lives while hundreds of them have been beaten up or driven away from their households while their property has been burnt or destroyed⁴⁶.

Articles 119 and 120 of the Constitution and their elaboration by the decrees of the Law on Local Public Administration⁴⁷ and the Law on Local Elections⁴⁸ precisely determine the way in which the national minorities' members can participate in the activities of the local administration bodies thus taking an active part in arranging for the social life in the local communities. At the elections for City Mayor, Mayor Deputies and delegates in the counties, cities and municipalities, the Romanies obtained two Mayor positions and 104 delegates; that is not something proportional to their election body; it is even far from being sufficient to contribute effectively to the solving of considerable problems regarding inter-ethnic relations, housing, education and fulfilling the basic needs of living.

Slovenia

In the Republic of Slovenia as the state of equal citizens,⁴⁹ the status of autochthonous ethnic communities⁵⁰ is given to the members of Hungarian and Italian minorities that are guaranteed a wide range of rights regarding the preservation of the national, cultural and

⁴⁵ The conditions for establishing political parties in Rumania are not favorable for not so numerous national minorities since for the registration of a political party it is necessary to submit the signatures of at least 10,000 members settled in at least 15 counties in which at least 300 members of a given minority are permanently settled.

⁴⁶ Poročilo koordinacijskoga odbora Romskega etničnega združenja iz Romunije, *Romi na Slovenskom*, Institut za narodnostna vprašanja, Ljubljana, September, 1991, p. 70.

⁴⁷ *The Law on Local Public Administration*, Low No. 69 of November 26, 1991.

⁴⁸ *The Law on Local Elections*, Low No. 70 of November 26, 1991.

⁴⁹ "Slovenia is a state of all of its citizens based on the lasting right of the Slovenian people to the self-determination". Consitution of the Republic of Slovenia, Article 3.

⁵⁰ "The state...protects and guarantees the rights of the autohtone Italian and Hungarian people's community." Consitution of the Republic of Slovenia, Article 5.

linguistic identity on the whole territory of Slovenia regardless of the number of the members in the local communities. The Constitution determines the state's obligations regarding the provision of the conditions necessary for preserving and developing those communities; it is also stated that the state can transfer some of its jurisdiction to the self-government of autochthonous ethnic communities. The other laws make more concrete the realization of the rights of the Italian and Hungarian minorities while their legitimate representatives have the right to put a veto regarding the decisions made by central and local government organs that are related to the realization of their Constitutional rights⁵¹.

In the Republic of Slovenia in 1991 there were 35 municipalities in which there were 2282 members of the Romanies' ethnic group; that makes up 0,12% of the overall population⁵². The Romanies who have lived on the territory of the present-day Slovenia since the fourteenth century⁵³ are not acknowledged as an autochthonous community but Article 65 of the Constitution states that the Romanies' communities' position and special rights in Slovenia are ordered by law. Up to the present day there has been no concrete action taken regarding the mentioned Article which has, consequently led to further pushing of the Romanies to the margins; namely, the Romanies are also in Slovenia an unprivileged social group. The uneducated and non-qualified, having poor knowledge of Slovenian language, the Romanies do simple and poorly-paid jobs that are ever harder to find. Even 83,5% of the work-able Romanies were unemployed in 1990; they earned for living by begging, collecting and selling secondary resources as well as by social aid. The inquiry carried out among the employed Romanies in the industrial towns in Slovenia has shown that the Romanies are poorly motivated for permanent employment. As reasons for their willingness to leave permanent jobs, the Romanies state underpayment, poor health, dissatisfaction with the jobs and the environment's misunderstanding of specific problems related to their way of living and discrimination on the part of other workers especially managers.⁵⁴ An unfavorable social and economic position causes, among other things, bad housing conditions. According to the reports done by the Centers for Social Aid in Črnomelj, Grosuplje, Kočevje, Lendava, Murska Sobota and other municipalities in Slovenia the Romanies live in non-urban, periphery settlements with no water, electricity and other infrastructure. The socio-economic position improvement depends of the state' program for measures to be taken just as it depends on the Romanies' abilities to develop their own potentials and participate in social life. From the study written by dr. Mladen Tancer entitled *Vzgoja in izobraževawe Romov na Slovenskem*⁵⁵, we learn that the Romanies are

⁵¹ Constitution of the Republic of Slovenia, Article 65.

⁵² According to the data from 1982 there were 4535 Romanies living in Slovenia. There are no reliable data, but it is assumed that after the former Yugoslavia's collapse a part of the Romanies left Slovenia while another part could not realize the right to citizenship. The revision on the Act on Citizenship in 1993 established high terms for achieving the Slovenian citizenship regarding marriage with a citizen of the Republic of Slovenia or a very good material welfare. Those conditions had a negative effect upon the members of the non-autochthonous ethnic groups, the most negative on the Romanies since, beside an outstanding ethnic distance, the Romanies are the poorest social group. It is estimated that today in Slovenia there are about 6 5000 Romanies.

⁵³ Pavla Štrukelj, *Etnološke raziskave romske populacije v Republiki Sloveniji*, in *Romi na Slovenskom*, Institut za narodnostna vprašanja, Ljubljana, 1991.

⁵⁴ Jasna Žugel, *Integracija Romske skupnosti v Slovensko družbo*, u *Romi na Slovenskom*, Institut za narodnostna vprašanja, Ljubljana, 1991.

⁵⁵ Založba Obzorja, Maribor, 1994.

gradually being involved in the system of education and upbringing, but a high percentage of children still abandon or fail to complete their schooling; thus, the Romanies would get an adequate degree of education if the society would provide for them to study, in addition to the regular program, their own language, culture and history.

As early as 1991 a multi-party Slovenian Parliament dedicated one of its sessions to the problems related to the Romany' population⁵⁶. The results of the debate were reported in eleven points and referred to advancement of the social, legal and socio-economic position of the Romanies.

Slovakia

The Republic of Slovakia can only conditionally be regarded as nationally homogeneous since the Population Census dating 1991 recorded that the minority ethnic groups made up 14,31% of the population. It is believed that the percentage is slightly higher since care has to be taken about the phenomenon of hiding one's national and ethnic membership which is a result of the pressure exerted by the majority population or its elite upon particular ethnic groups. This assumption, as a rule, refers to the Romanies who with 75.802 members make up 1,44% of the overall Slovakian population. It is estimated that the number of the Romanies who are permanently settled or wander as nomads throughout Slovakia is far greater; it goes as far as 500,000⁵⁷. In that case, it is estimated that the ethnic minorities make up almost 20% of the population.

The Constitution of the Slovakian Republic dating 1992 was largely criticized for its ordering of the national minorities' position as stated in Articles 33 and 34 and the Charter on Basic Rights and Freedoms that represents a constituent part of the Constitution. The members of the national minorities and of the ethnic groups are regarded as equal citizens of Slovakia having the right to settle independently the issues concerning the development of their cultural and linguistic identity. The remarks to the above-mentioned Constitution attitude were made by the legitimate representatives of the Hungarian minority that won, at the 1992 parliamentary elections, 15 seats in Parliament. The Christian Democratic Movement of the Hungarians in Slovakia sent the Memorandum to the Council of Europe⁵⁸ in which it precisely defined the following remarks that generally referred to the other national and ethnic minorities in Slovakia. Namely, the Constitution gives a dominant role to the national state which arises in the members of national and ethnic minorities the feeling of being second-rate citizens. Moreover, Article 6 of the Constitution defines Slovakian language as the official one while the use of the minority language is left to be settled for by the legislature. Finally, the minorities have no possibility of any legal influence upon making decisions of their own status. Considering the critiques implied in the Memorandum, it should be noted that the members of the Hungarian minority in Slovakia are in a far more favorable position comparing to the other minority groups. The students of Hungarian nationality attend the schools using all

⁵⁶ Session of the Republic of Slovenia Assembly, April, 18, 1991.

⁵⁷ Alain Reyniers, *Evaluation Of Gypsy Populations and of their Movments in Central and Eastern Europe and in Some OECD Countries*, Organisation for Economic Cooperation and Development, Paris, June, 1993. or *World Directory of Minorities*, Minority Rights Group, Longman, 1991.

⁵⁸ *Memorandum on the Slovak Republics Future*, Council of Europe, February, 1993.

the opportunities given by the Act on Education, that is, the schools in which the teaching is done in Hungarian, in the bilingual schools and classes in which the minority language is taught as a special subject⁵⁹.

If we accept the fact that the truth about the Romanies' number in Slovakia is somewhere between the official statistics and always suspicious estimates, we can guess that their election body is half the number of the Hungarian minority members. This means that, with adequate organization, they could win⁶⁰ 5-8 terms at parliamentary elections. The participation in the social and political life of Slovakia would contribute to the advancement of an exceptionally low social, economic and educational level of the Romanies' population as well as to lessening of inter-ethnic conflicts and tensions. Numerous but poorly organized Romanies' organizations try to educate gifted young people who would appropriately represent Romanies' interests. It is assumed that such attempts would give respective results in near future. Up to that time, the authorized administrative offices would continue their reluctant communication with the Romanies' representatives concerning very serious problems of employment, education, housing, increasing crime rate, social and health care. A difficult material position, life in undignified conditions and lack of employment opportunities force the Romanies to provide for their means of living in an illegal way. Thefts, violence and illegal trade induce conflicts with the local population while the authorities are often unable to intervene in a satisfactory way⁶¹.

It is expected that the Romanies' position in Slovakia would become more favorable when the measures taken by the new Government, elected in the late 1998 start to give expected results. The new Government policy is created in a dialogue with the Romanies' representatives as well as the experts who proposed a program of improving housing, education and social position. The program will be in future supplemented by new ideas, while its realization depends on the means planned in a special issue of the state budget as well as on the success of the action aiming at enabling activists for work in the sphere of human rights, namely, the actions to be undertaken by Minister of Justice as well as a specially established body of the Minister of Culture.

Macedonia

The Constitution of the Republic of Macedonia defines Macedonia as "a national state of Macedonian people in which there is full civil equality provided for as well as lasting co-living of Macedonian people with Albanians, Turks, *Vlasi*, Romanies and other

⁵⁹ In 1991/2 in Slovakia there were 345 pre-school institutions in which the children and the staff communicated exclusively in Hungarian. In the same schoolyear 257 elementary schools organized their teaching in Hungarian while 17 did it in Ukrainian. There were 11 grammar schools and 5 technical ones in which the teaching was done in Hungarian, while at Universities there were successful departments for the study of Hungarian and Ukrainian language and literature. Of all numerous cultural organizations and activities of those minorities we should single out three theaters in Hungarian and two in Ukrainian in addition to over 25 papers issued in those two minorities' languages. At the same time, the Romanies had not a single class at school or any relevant cultural association on their own.

⁶⁰ In Slovakia there are seven registered Romanies' parties and even ten social associations that are not mutually –ly united in a unique Romanies' organization.

⁶¹ Sarlota Pufflerova, *National Minorities in Slovakia*, 1993.

nationalities... ". Article 7 of the Constitution defines that Macedonian language and Cyrillic alphabet are in official use, while Items 2 and 3 of the Article leave a possibility for using a minority language officially in units of local self-government in which either a national minority forms majority or its number is considerably great. The free expression of one's nationality is, along with the principle of the rule of law, division of government, political pluralism and others, considered as one of the highest values of the Constitution order⁶² while equality in freedoms and rights regardless of gender, race, national, social, political and religious membership, property and social position is guaranteed by Article 9 of the Constitution. Any encouragement and inducement of national, racial or religious hatred is strongly prohibited⁶³, while the members of nationalities are given constitutional freedoms and guarantees to express freely, cherish and develop their identity and national peculiarities, to establish cultural, artistic and scientific institutions for the sake of improving and cherishing their identity. Finally, the nationalities' members are allowed to organize teaching in their own language in elementary and high school education. In the schools in which the teaching is done in a nationality language it is obligatory to introduce, as a special subject, the study of Macedonian language.⁶⁴The inter-national relations in Macedonia are supervised by the Council for inter-national Relations established at Macedonian parliament (Sobranje). The Council consists of elected representatives, namely, two per each large ethnic group (Macedonian, Albanian, Turks, *Vlasi* and Romanies) and two representatives of the other ethnic communities.

In the structure of the overall Macedonian population the Romanies are the fourth ethnic group with 43.125 members⁶⁵. The Macedonian Constitution has directly acknowledged the status of the national minority to the Romanies thus enabling them to participate in political and public life. However, the actual position of the Romanies is far more unfavorable comparing to what has been done in the normative way. Many Romanies in search for employment leave Macedonia; most of them earn for their means of living by doing seasonal and poorly paid jobs. The developed cultural institutions, issuing of several journals and presence in the media are important for preserving and developing the ethnic identity of the Macedonian Romanies. However, their true effect would most adequately be felt only after undertaking some meaningful actions for solving the basic problems of schooling, housing and employment.

Albania

The demographic indicators of the Romanies in the Republic of Albania vary from one source to another. The Population Census does not propose at all that citizens of Albania can declare themselves as members of the Romanies' ethnic group, while the reports of the international organizations and experts who study the ethnic groups' position in East Europe

⁶² Article 8 of the Constitution of Macedonia, Basic Provisions.

⁶³ Article 20 of the Constitution of Macedonia.

⁶⁴ Article 48 of the Constitution of Macedonia.

⁶⁵ In the Republic of Macedonia the most numerous are the members of the majority Macedonian ethnic group with 1,279,323 members followed by the members of the minority ethnic groups, namely, Albanians (377,208), Turks (86,591), Serbs (44,468), Romanies (43,125), *Vlasi* (6,384).

vary from 5000⁶⁶ to 100,000⁶⁷ members of Romanies' population in Albania. Very coarse assimilation of ethnic minorities that has been carried out for decades has caused the loss of consciousness about the ethnic origin of most of the members of the non-Albanian population. The nationally homogeneous state was the aim of both the monarchy and the communist governments⁶⁸. The autocratic communist state has built a part of its pseudo-legitimacy on the concept of the "new man" absolutely subdued to the state interest⁶⁹. The typical Romanies' settlements that dissipated even in the first half of the twentieth century have almost completely vanished. The Albanian Romanies mostly live in towns while the poor socio-economic position of all the citizens does not make the Romanies' problems typical in the same way as in most of the other countries they are living in.

Bulgaria

The research entitled "The Ethno-cultural Situation in Bulgaria " carried out in 1994 by the International Center for Minorities' Problems Cultural Cooperation from Sofia shows a high degree of ethnic divisions within the Bulgarian society. The most conspicuous is religious segmentation between Christian and Muslims, while the majority population prejudice and ethnic distance are the greatest towards Romanies and Turks. The aggregate indicators point to the fact that the Romanies are the most disregarded ethnic group while in the last decade the ethnic distance became even more profound. Even 93,8% of Bulgarians, 93,6% of Bulgarian Muslims and 94% Turks would never get married to a Romany woman/man; the members of the same ethnic groups would unwillingly have Romanies as friends (69%; 67,5%; 66,6%) and if they were given a chance to choose (that is, decide) 27,9% of Bulgarian, 27,3% of Bulgarian Muslims and 18,4% Turks would choose to live in a state without Romanies. At the same time the Romanies' ethnic distance is considerably less since only 34% of Romanies would not get married to a member of Bulgarian nationality, as few as 6,9% of them would not have Bulgarians as friends while only 1,3% of Romanies express extreme nationalism that would make them choose to live in an ethnically homogeneous state.

What especially worries is an increasing opinion among the Bulgarian population that the rights acknowledged to the ethnic minorities in Bulgaria are too broad and that the state should lead a more restrictive policy concerning the opening up of minority schools and cultural institutions⁷⁰. However, on the other hand, what encourages is the fact that

⁶⁶ Hugh Poulton, *The Balkans, Minorities and States in Conflict*, Minority Rights Publications, London, 1991.

⁶⁷ The Council of Europe, 1993.

⁶⁸ The Constitution of the Kingdom of Albania dating 1928 established the Albanian language as the only official one. The Constitution Revision dating 1933 forbid activities of religious and private minority schools thus performing the unification of the educational system. The non-Albanian population assimilation was carried on by the communist regime. The 1966 Decree brought changes into topographic names of the places settled down by minorities' population, while Decrees 5354 and 5339 on changes of personal names and of geographic names from 1975 made it obligatory for the citizens to change their names if they are contrary to the political, moral and ideological principles.

⁶⁹ See in Zori ca Radovi c, Gra |ani n u Al bani ji , Arhi v za pravne i dru { tvene nauke, 1-2, 1989, Pravni fakul tet, Belgrade.

⁷⁰ In the document entitled "The Basics of the Bulgarian national Doctrine" what discourages is the Bulgarian intellectuals' attitude that only superficially mentions the state's multicultural structure while at the same time it

the members of all the nationalities would support a valid political and economic program regardless of the ethnic membership of the person(s) submitting it.

In April 1999 the Government of the Republic of Bulgaria, under the pressure of the international community ⁷¹ as well as of the Romanies' national organization started a debate on the equal involvement of the Romanies into the social community. The Romanies' representatives are also participating in conceiving the program while the Government's program draft mentions such issues as suppression of discrimination by legislature reform as well as setting up of a special state institution for developing the Romanies' rights, employment and training for particular jobs, bringing of system measures that would improve health care, education and the position of woman in the family and society at large, protection of peculiarities and culture of the Romanies and an active and permanent participation of the Romanies in mass media.

The responsible party for carrying out the above-mentioned program is the Government administration while the Romanies' representatives are appointed in those bodies at all the levels. The program success is to be contributed to by the experts of the Council of Europe and the PER (Project of Ethnic Relation), Princeton. However, since it has been estimated that any success of the Romanies' position improvement program depends on the ability for living in a multicultural community of all its members, the program was allotted, only in 1998, 800,000 euros dedicated for the programs for affirmation and development of dialogue and tolerance.

Yugoslavia

The position of the Yugoslav Romanies does not essentially differ from that in the other countries in the region. The Romanies are an unprivileged social group whose members live in non-urban settlements mostly in the cities' suburbia; the percentage of illiterate population in the FR of Yugoslavia is the highest among the Romanies; the employment rate is the lowest; they do not possess either social or political power; their participation in the government institution is negligible. Rare examples of the Romanies who have moved up the social hierarchy ladder slightly above the bottom speak more about their weakness than their affirmation. In that sense we can interpret an attempt made by the Government of the Republic of Serbia to appoint a Romany as the Minister without portfolio since, at best, it reveals the need to involve an expert in the Government. The intention to start a systematic, permanent and qualified work upon the Romanies' position improvement was completely left out by this appointment since it lacked to provide for a program that would - so far as the Yugoslav Romanies are concerned - refer to the following items: the solving of the humanitarian situation that emerged before, during and after the NATO aggression on Yugoslavia, the educational system improvement as well as that of employment, housing, human rights' protection and prevention of discrimination, the creation of the conditions for a tolerant life in a multicultural community in which specific traits and culture of the Romanies would be encouraged to enable them to affirm

ardently follows the position of their compatriots abroad thus advocating for the thesis of the unity of state and nation. Bugarska naci onal na dok t ri na, Fundament na bugarska naci onal na dok t ri na, Sof i a, 1997.

⁷¹ Project of Ethnic Relation intervened to establish a dialogue between the Bulgarian government and Romanies' organizations.

themselves and develop in the fastest and most favorable way.

In addition to the experts and the appointed Government representatives the Romanies' participation in such a program should be considerable since among the Yugoslav Romanies there is a whole new generation of younger intellectuals able to recognize as well as to articulate their national goals and program. The means for realizing the program should be expected from the budget and from the international institutions as soon as the necessary conditions are fulfilled.

Still before proceeding to the program it would be desirable to achieve, in the multicultural Yugoslav community, a consensus about the social and state organization that would satisfy particular interests of all the ethnic communities. The ethnic minorities in Yugoslavia have been living for a decade in some sort of social and legal vacuum created in the process of the state identity formation that has entered a complex crisis caused by a conflict between the civil state proclaimed in the Federal Constitution and the national state's practice that has its essential foundation in the political culture of Serbia and Montenegro. In that sense, in order to overcome this attitude it is necessary that the state's activities and attempts should be directed towards winning the citizens' support for the society's values and institutions in view of the fact that loyalty is not any transcendent conception bestowed by the state by its very formation but it is a set of pragmatic and - for the citizens - meaningful and efficient actions that provide for the state's legitimacy. If it fails to realize at least the minimum of the requirements necessary for establishing the basic identification values, it is hard to expect for any state - including this one - to count on a stable social development.

The Romanies' position improvement would be certainly contributed to by re-defining of the outdated concept that claims that the national minority status is acknowledged only to those ethnic groups that had their mother country at the moment when the original Yugoslav community took over the responsibilities regarding minority protection. The Constitutionally, that is, legally and factually-established equality in the rights of all the minority communities, along with the development of regional as well as over-the-border cooperation, would contribute to a better understanding of the actors in an ethnically-polarized and de-homogenized state community. By taxation and codification of the existing rights that, regardless of the chaotic situation in legislature and law practice and other weaknesses, still guarantees, at a relatively decent level in the Constitutional and legislative system of the FR of Yugoslavia, to the national minorities a relevant basis for protecting and improvement of culture, language, education and other collective needs would help a lot in overcoming the situation in which the political parties and their elites negotiate over the issues related to the national interests of the majority and the minority peoples or their relationships.

In view of the above-presented analysis of the regulations of the so-called European minorities' rights as well as of the national legislatures that are ready more or less willingly to accommodate to it, it is clear that no state can approach the issues of the protection of the rights and status as well as the improvement of the ethnic minorities' culture - especially concerning the Romanies - in agreement with the atmosphere or the interests conditioned by the respective political situation. According to the official statistics, there are at the moment in the FR of Yugoslavia 143,519 Romanies⁷²; much closer to the truth are estimates that this number is

⁷² Statistički godišnjak Jugoslavije za 1995. Savezni zavod za statistiku, Belgrade, 1995.

about 450,000. If the estimate is approximately accurate, the Romanies in the FR of Yugoslavia have a population resource that is much stronger than that of Hungarians, Rumanians, *Rusini*, Slovaks, Turks and Bulgarians that realize the rights referring to the national minorities' position. It is beyond doubt that the Romanies' ethnic group in that sense must be legally equal regarding the protection and advancement of its specific cultural, linguistic and other traits. In the article entitled *The Legal Position of the Romanies in Yugoslavia*⁷³ Vesna Rakić - Vodinelić, ph. d., states the following legal and political reasons taken into consideration by the states when they are expected to recognize the status of the national minorities: the number of the minority population members, the awareness of the given population that the recognition of the national minority status can provide for their promotion, an exceptionally poor social and socio-economic position of the given ethnic group and the state's material capacities. The Yugoslav Romanies have clearly stated their political requirements⁷⁴; they make up a demographically significant segment of the population; besides, the truly difficult material situation in the country should not be an obstacle to the institutionalization of their position. Even more so since in Serbia there is a semi-institutionalized way of satisfying the minimal needs of the Romanies' population. In several schools in Vojvodina, since the schoolyear of 1996/97, there has been a new subject introduced entitled "Language with elements of the Romanies' national culture". The Romanies' children take this course optionally while the methodological handbook for children and teachers entitled "*Pismenica*" ("*Primer*") is partly in accordance with the curriculum and syllabus for the national minorities' education in Vojvodina⁷⁵. In the Radio Television Serbia and in the independent media the Romanies' boards prepare for their own independent program; there are several journals issued in the Romany language while their financing is done not only by non-government organizations but also by the respective Ministers of the Republic of Serbia. There is also an interest shown by the scientific and social public in the Romanies' issues and, consequently, in the legalization of their status. In the Serbian Academy of Arts and Sciences there is the Commission for studying the life and customs of the Romanies that has many times pointed to the above-mentioned problem just as it has warned the public that its solution does not have to mean unconditional affirmation of the Romanies in Yugoslavia⁷⁶.

Perspectives of the Romanies' National Idea

The cultural and the national identity of the Romanies in Europe is developing upon the

⁷³ Romi u Srbiji, Centar za anti ratnu akciju, Institut za kriminološki i sociološki istraživanja, Belgrade, 1998.

⁷⁴ See: Nacionalni program Roma, Drugi kongres Roma Jugoslavije, Niš, 1997, Program Kongresne partije Roma, Belgrade, 1997.

⁷⁵ Tri funđimci, Put do kolektivne klupe, u Alav e Rromengo, Novi Sad, December, 1997, p. 9

⁷⁶ Rajko Ćuric, Bez prava nema demokratije; Radimir Lukic, Ustavni položaj Roma u Jugoslaviji; Dragočub Acković, Konstitucionalni problemi Roma, all in Razvitak Roma u Jugoslaviji, problemi i tendencije, SANU, 1992; Konstantin Obradović, Prava i položaj mawina u SRJ - gde su Romi? in Društvene promene i položaj Roma, SANU, 1993; Dragočub Acković, Prilog analizi ustavnopravnog položaja Roma u evropskim zemljama i u Jugoslaviji, in Položaj mawina u SRJ, SANU, Belgrade, 1996; Aleksandar Fira, Položaj Roma u ustavnom sistemu SRJ; Goran Bačić, Položaj Roma u centralnoj jugoistočnoj Evropi posle 1989. godine, all in Zborniku SANU, Ci gani /Romi u prošlosti i danas (in print).

model of diversity comparing to the Western cultural space that, in this case, implies Christian and Muslim states settled by the Romanies. The recognizable and successfully-preserved ethnic identity of the Romanies was contributed to by inacceptance of their tradition and value codes on the part of the European nations, namely, the inacceptance that represented the basis for the development of discrimination that has been accompanying the Romanies ever since their coming to Europe. The slavery, the genocide and the brutal attacks against the Romanies as well as numerous conflicts are also the backbone of identity as well as the driving power of the Romanies' nationalism. They also represent, as stated by N. Gonzales, the theoretical basis for the practice in which the conflicts are very often the initial triggering-off of ethno-genesis or ethno-re-genesis⁷⁷. Anthony Smith and Mann also admit the role of conflict or trouble in the process of clarifying ethnic or national identification. For Mann, this process develops through warring; however, the discrimination that the Romanies are permanently facing is almost possible to compare to warring since it meant occasional but organized violent attacks. Unfortunately, due to their neighbors' aggressiveness, the Romanies have, in spite of their wide dispersion, preserved their sense of group identity. Though the cohesive links within the process have mostly been weak, the national consciousness exists at the level at which it can be identified and articulated. Thomas Acton has every right when he observes that the Romanies are disunited and poorly defined people having more continuity than common culture. The individuals having the same antecedents and bear the burden of the "Tsigani" in the pejorative sense of the word, may have nothing in common in the way of living or in the manifested or the linguistic culture⁷⁸.

According to Acton, the Romanies' nationalism is more an ideal that feeds the political activity for the sake of realizing practical benefits rather than it is a task for the sake of realizing the national idea in the spirit of European nationalism. The Romanies' nationalism is more an inspiration for a small group of intellectuals than it is mass ideology. The elite groups encourage a broad hidden identity of the Romanies; they advocate the idea about the unity of the Romanies of all sorts of origin. Those Romanies' nationalists most often express the feeling that the Romanies used to be a single people when they came to Europe and that upon this basis they must reunite. It is believed that their fragmentation is not a result of their conscious internal factors, but rather of inimical external factors⁷⁹. The Romanies' nationalists are trying to achieve mobilization and cohesion of the nation by an international political action.

Following this line of thinking, the considerations about the territorialization of the Romanies' national idea that mostly come from non-Romany authors are utterly vague. At the First World Congress of the Romanies held in 1971 the idea of creating a national state was decisively rejected. The movement accepted the idea that the Romanies should cherish their allegiance to *Romanistan* primarily in their hearts⁸⁰. *Romanistan* should be understood in the same way as Kenrick and Puxon did. For them, this concept is a symbol of the Romanies'

⁷⁷ Gonzales, Nancie L, *Conflict, Migration and the Expression of Ethnicity: Introduction*, in *Conflict, Migration and the Expression of Ethnicity*, 1989. p. 6.

⁷⁸ Acton Thomas, *Gypsy Politics and Social Change*, London, 1974, p.54.

⁷⁹ Hancock, Ian, *The East European Roots of Romani Nationalism*, in *The Gypsies of Eastern Europe*, edited by David Crowe and John Kolsti, London, 1991. p. 139.

⁸⁰ Acton Thomas, *Ibid*, pp. 234, 240.

nation⁸¹.

The problems related to the Romanies' status and the development of the national idea can be expected especially in the contemporary societies in which the assumptions of ethnic tolerance are jeopardized by politicization and political instrumentalization of ethnos. The basis of the ethno-political engineering, that is, sheer exploitation and abuse of ethnocentrism springs from preconceptions, prejudices, delusions and inherited ethnic divisions that are more than evident among the Romanies.

POLITIČKO-PRAVNI POLOŽAJ ROMA U CENTRALNOJ I JUGOISTOČNOJ EVROPI

Goran Bašić

Romi su, verovatno, poslednji evropski narod koji nastoji da svoj etnički identitet prevede u formulu samoopredeljive, političke nacije. Poslednjih decenija, Romi teže artikulaciji nacionalnih ciljeva koji se odnose na okupljanje svih Roma u jedinstven pokret, identifikaciju nacionalnih mitova i institucija, zaštitu kolektivnih prava, priznavanje statusa manjine, unapređenje lošeg socijalnog, ekonomskog, obrazovnog stanja i drugo.

U Evropi, u kojoj često nije bilo razumevanja za probleme Roma, sazrela je svest da Romima treba pomoći kako bi se uspešno i brzo integrisali u društvu. U tom smislu prihvaćen je koncept da su Romi neteritorijalna evropska manjina čiji položaj se rešava se uz koordiniranu delatnost tri subjekta:

1. Međunarodnih institucija i organizacija (SE, OEBS, EU)

2. Nacionalnih država koje unutrašnjim kodeksom normi regulišu prava i obaveze svojih državljanina (u Nemačkoj, Finskoj, Makedoniji, Mađarskoj Romima je priznat status nacionalne manjine, u Rumuniji, Češkoj, Slovačkoj omogućena je participacija predstavnika Roma u organima vlasti na svim nivoima, a vlade u gotovo svim državama u Jugoistočnoj i Centralnoj Evropi, usvojile su program integracije Roma)

3. Regionalnih i lokalnih organa vlasti koji doslednim poštovanjem i sprovođenjem odredbi ustava i zakona mogu da doprinesu unapređenju faktičkog položaja romske populacije.

Problemi u vezi sa statusom Roma i razvojem nacionalne ideje kod Roma mogu se očekivati posebno u savremenim društvima u kojima su pretpostavke etničke tolerancije ugrožene politizacijom i političkom instrumentalizacijom etnosa. Osnova etno-političkog inženjeringa, odnosno puka eksploatacija i zloupotreba etnocentrizma, zasnovana je na predubeđenjima, predrasudama, zabludama i nasleđenim etničkim podelima, koje su upečatljivo prisutne kada su Romi u pitanju.

Ključne reči: *samoopredeljiva politička nacija, etno-politički inženjering*

⁸¹ These authors quote the Romanies' activist Ronald Lee who asks: "What is the Romanistan? I will tell you, my brothers, the Romanistan is our freedom, freedom to live as 'Tsigani' by our laws and our ways " (Kenrick, Donald, and Grattan Puxon, *The Destiny of Europe's Gypsies*, New York, 1972, 206).