

OSCE CPRSI contribution June 15, 2006 CSCE hearing- Human Rights, Democracy, and Integration in South Central Europe

Mr. Chairman,

Distinguished Commissioners,

Ladies and gentlemen,

I would like to thank you in advance for the opportunity to speak about the human rights situation of Roma minorities in South Central Europe. My work as the Adviser on Roma and Sinti Issues with the Organization for Security and Cooperation in Europe, has allowed me to witness first hand some of the injustices Roma face as they attempt to access their political and civil rights. While many constructive steps have been taken to address the multifaceted challenges confronting Roma in this region, much work remains to be done.

As Europe's largest, trans-national minority, Roma populations are unique in the socioeconomic challenges presented to them. Roma number in the millions across-Europe's states, but lack a 'kin state' or any 'ethnic-territorial space'. In addition, having limited political status, many Roma communities throughout the OSCE region, and particularly the countries of South and Central Europe, are viewed by the majority population as a category of "second-class" humans, and a burden to the states and societies which define themselves and "others" in ethno-national public discourses. Even when some Roma do reach income levels on par or above their non-Roma neighbours, the stigmatization that they experience impacts upon their ability to buy land, send their children to local schools and participate in civic life.

While the recognition of civil and political rights of Roma in the countries of South and Central Europe has improved over the recent years, serious problems remain. These problems were well summarized by Livia Jaroka, the first Romani woman Member of the European Parliament: "There are still widespread difficulties in enforcing the social inclusion strategies. The anti-discrimination (laws) where they are ... are not fully implemented in practice. ... public officials and the media frequently make anti-Gypsy remarks, and Roma are racially targeted for violence and verbal abuse."

It is safe to say that the issue of racism and discrimination continues to be the underlying cause behind the problems Roma face in their access to economic, public and political life of the

communities and countries in which they live. Moreover, in recent years, discrimination has taken on new forms and I would like to mention here just two illustrations of these new phenomena which are referred by the activists as “anti-gypsyism”: the rise of the skin-heads movements in countries undergoing political and economic transformation, in particular in Russia; and the escalation of hate-speeches targeting specifically the Roma. In relation to this, in 2005 and 2006, the Football Federation in Romania as well as the National Council for Combat of Discrimination resorted to fines and other punitive measures against clubs, in order to take decisive action against racial hatred. But what is LACKING: the political condemnation of such phenomena by **top political leaders** of the country, by Members of Parliaments, and by opinion leaders with influence on the public mind.

The relations between **Roma and police** play a significant role in this context. They constitute the most visible aspects of relations between minority and majority, highlighted by the media, with multiple implications for successful minority-majority relations in all spheres.

The methodology deployed by the ODIHR Contact Point is based on taking a proactive role in analyzing measures taken by participating States to address points of tension between Roma and non-Roma, which could lead, if neglected, to open conflict. This methodology involves active support of local authorities and Roma communities in participating States to jointly initiate, share practical initiatives, and implement solutions to the root causes of such tensions. This includes strengthening the capacity of Roma and Sinti in democratic NGOs and of Romani media. Moreover, this cannot be realized without extensive co-operation with NGOs and civil society activists acting to combat racism and xenophobia in general, such as those involved in combating anti-Semitism, Islamophobia, etc. We are closely cooperating with the OSCE/ODIHR Tolerance and Non-discrimination Unit in supporting their programmes and data bases on discriminatory issues.

In implementing its programmes and projects, the ODIHR pays special attention to the advancement of fundamental human rights for Roma and Sinti, with a special focus on those agreed upon by OSCE participating States. The OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, endorsed by all 55 participating States, offers guidelines and detailed recommendations for OSCE participating States to formulate Roma-related comprehensive policies that are: “.... aimed at ensuring that Roma and Sinti people are able to play a full and equal part in our societies, and at eradicating discrimination against them”.

Complementary to the OSCE , the Council of Europe, the EU institutions , some UN agencies, the World Bank , some high profile international organizations (among others, the OSI, the project of Ethnic Relations etc.) are elaborating and implementing a variety of programmes and projects towards improving the situation of Roma populations in particular countries, regions, and local communities.

As a result, there are quite numerous programmes /projects(governmental, inter-governmental, and non-governmental) addressing the alleviation of poverty, income-generation, improving schooling or health, building institutions and associations in view of preserving and developing cultural rights,etc.

Yet, while different political commitments, recommendations and programmes/projects are welcome, many of them do not offer the means to combat human rights violations of individual Roma persons (and groups). Moreover, in some countries, and in particular in relation to political circumstances (as for example, those of the accession to the EU of some countries in Central-Eastern and South-Eastern Europe), the elaboration and adoption of Roma-related national or “comprehensive policies” became an activity which consumed time, human resources , money, etc. and which is advertised mainly among international actors and organizations; this policy making exercise (while necessary, as part of imparting social knowledge) it is not matched by the corresponding political will. Political action should be used to build institutional arrangements and to provide the needed funding, commitment and promises laid down by these “policy papers” to be translated in acts. This would reflect the realities experienced by Roma people in their daily lives. In the daily life of a Roma people, families and groups are facing the destructive effects of racial prejudices and discriminatory treatment enacted by the State and public officers, teachers, medical doctors, etc.

We need to **re-focus public policies** and the action tools of the participating States as well as of the international communities working with Roma. This should be done, among other areas, by making the combating of racism and respect for human rights, the central theme and goal of public action. One aim to achieve this objective is to include Roma in all phases of the decision-making process.

If a re-focused approach does not take place, if discrimination in Roma populations continues, if violation of human rights remains unreported, un-investigated and un-tried.... Then we may foresee an increase of frustration for members of Roma communities. This could translate, in turn, to a

possible **radicalization of the discourse** and, eventually, of the action employed by activists of these communities.

While the discourse related to Roma and minority rights policy has broadened, the underlying problems Roma communities face has remained unchanged. If utilizing the poverty discourse allows us to have more data available for supporting policies, if by crying “national Minority” one ensures some form of representation and inclusion of Roma in institutions, it does not address the roots of the continuous violations of human rights of the Roma.

I would like to illustrate my presentation of today by addressing a recent case of what could constitute Roma rights abuse and action in relation to it relevant for my testimony today. In the Former Yugoslav Republic of Macedonia, in May of this year, a 16-year old Roma boy went missing after an encounter between two Roma boys and the police forces. The boy was found dead in a river 16 days later. His father questions the cause of his death, while the body is still at the Institute for Court medicine at the Medical faculty in Skopje, where the cause of death is still being investigated. Beyond the tragedy of the incident, I would like to read here the statement of a Roma activist in relation to how the Roma dealt with this incident: “What kind of a nation are we? I see mistakes done by all of us; we have to be ashamed of ourselves, what kind of activists, what kind of NGOs are we, when we haven’t shown unity and firmness. I can tell this that we have become apparatus which only has a program and we only work according to that.”

A number of countries are witnessing the emergence of **new trends and patterns of abuse of Roma rights**. Denial of political participation, despite (sometimes reluctant and incomplete) recognition of Roma as a national minority; and mounting intricate hurdles on the way of obtaining personal documentation, residence and citizenship – which bar Roma from enjoying a host of other rights – are examples of persistent and systemic exclusion. Furthermore, the region has experienced a rise in right-wing extremism, whose principal targets are often Roma, as well as a rise to power of nationalist politicians and political parties who sometimes score points, and votes, on public anti-Romani sentiments. Mass involuntary return of Roma from Western Europe, usually without any infrastructure set up to receive them, and resulting massive social problems of Roma, have not helped majority acceptance and integration of Roma. Human trafficking is gradually becoming the scourge of the poor and marginalised – which often is the condition of Roma. National responses to these new phenomena have been largely inadequate, which means Roma rights must remain on the agenda of human rights monitors at home and abroad.

Overview of civil and political rights in OSCE countries in the Balkan Area

Most countries in focus are parties to the principal human rights instruments guaranteeing equal access to a range of civil and political rights, such as the International Covenant for Civil and Political Rights (ICCPR); European Convention for the Protection of Fundamental Freedoms (ECHR); International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD).¹ Some countries are parties to the Framework Convention on National Minorities (FCNM) and also specifically recognised Roma as national minorities (Serbia, Former Yugoslav Republic of Macedonia, Croatia, and recently Montenegro). Remarkably, several of the West Balkan countries were among the first to ratify Protocol 12 to the ECHR establishing a free-standing provision against discrimination.

Serbia, Montenegro, Croatia, FYROM and Bosnia-Herzegovina specifically recognised Roma as national minorities; however, in all of the countries those Roma who are not citizens are not entitled to minority protection. This effectively excludes more than half of the countries' Roma from the scope of protection. In Kosovo, international monitors noted inconsistencies concerning the identity of some communities, e.g. Roma, Egyptians and Ashkali, without regard for self-identification of members of those communities.² Albania only recognised Roma (and not Egyptians) and only as a cultural (rather than national) minority, which limits their opportunities for enhanced political participation, granted to other minorities there. In BiH, the Advisory Committee on the implementation of the FCNM noted that "serious problems remain in the application of the Framework Convention with regard to the Roma. Full and effective equality has not been secured for Roma, who continue to be exposed to discrimination (in all fields of life)."

Remarkably, several of the West Balkan countries were among the first to ratify Protocol 12 to the ECHR establishing a free-standing provision against discrimination. However in practice, these commitments often remain on paper and/or are deviated from. Only a handful of countries have adopted comprehensive antidiscrimination legislation (Kosovo). The rest, despite regular and strong recommendations from international monitoring bodies have been slow in doing so. But even when

¹ Kosovo, in the absence of the settled status, is not a party to international Treaties. Recently, this legal limbo has resulted in a rejection of a case by the European Court for Human Rights ("Strasbourg Court") due to lack of jurisdiction. The case concerned Roma refugees who were settled, initially temporarily, on a heavily poised land, with ensuing severe health problems

² Representatives of the international community often refer to the aforementioned groups together as "RAE communities". While understanding that this term has been devised merely for practical reasons, to facilitate the task of referencing, the Advisory Committee considers that such a designation should be avoided as it may be perceived as a sign of lack of acceptance of the specific identities of the groups concerned. Para 27, AC FCNM on Kosovo.

the antidiscrimination provisions are in place, the lack of proper enforcement and low awareness among Roma and public at large of the ban on discrimination result in limited application of the provisions and thus render those provisions ineffective. In Kosovo, despite having the progressive antidiscrimination legislation, Roma remain *de facto* among the most discriminated communities

Romani women across the board remain the most vulnerable category even among the generally disadvantaged Roma. Discrimination on the basis of belonging to Roma minority for them is compounded by gender discrimination. Romani women represent one of the most endangered segments of the populations of Europe, as it has been pointed out in a recent Report adopted by the European Parliament (on 2 June) . This is emerging as a serious problem in post-communist countries of Southeastern Europe. Although some governments took some steps to address disadvantages faced specifically by Roma women, for example Serbia and Albania specifically included a gender component in their respective Strategies, this remains on the declaratory level, without any visible improvements.

In all countries it has been reported that Romani women appear to be particularly adversely affected by the lack of personal documents.

Roma women seem even more disadvantaged than Roma men when it comes to political participation. Reportedly, some cultural practices result in “family voting” (when husbands vote on behalf of the family), or even in mass non-voting of women.

In addition, women reportedly are afraid to complain to the police in case of domestic violence, as the police officers allegedly often respond with further racial abuse. According to the ERRC CEDAW Shadow Report on Macedonia: “...of 34 cases in which Romani women reportedly informed the police in cases of domestic violence, 20 -- or 59% -- of women stated that the police subjected them to racial prejudice and degrading treatment: In only 5 out of 34 reported cases (15%) did the police actually intervene (which usually simple meant a verbal warning for the perpetrators). When 43-year-old D.D. from Stip sought police assistance after having been beaten by a member of her family, the police official to whom she turned reportedly stated, “You Gypsies fight amongst yourselves all the time. You have to solve your problems among yourselves.”

Anti-Discrimination Legislation

Only a handful of countries have adopted **comprehensive anti-discrimination legislation** (Bulgaria and Romania). The rest, despite regular and strong recommendations from international monitoring bodies have been slow in doing so. But even when the antidiscrimination provisions are in place, the lack of proper enforcement and low awareness among Roma and public at large of the

ban on discrimination result in limited application of the provisions and thus render those provisions ineffective.

International pressure has played a serious role in encouraging the countries to take measures for improving the situation of Roma. In particular, several of the countries aspiring for the EU membership have already adopted special integration programmes for Roma (Albania, Bulgaria, Romania) or are in progress (Serbia). Furthermore, Serbia has made a declaration upon joining the Council of Europe to pay a special attention to the integration of Roma. Several countries (Serbia, Montenegro, Macedonia, Croatia, Bulgaria and Romania) participate in the Roma Decade.

However, critics claim that these measures are often void of concrete impact. This is because their implementation is lagging; because there is inadequate financial and administrative support; because the stakeholders were not duly included in the elaboration of the programmes concerning them; and because allegedly the governments themselves view such initiatives as a ticket to international acceptance, rather than a genuine commitment.

Emerging trends of abuse of Roma rights

Civil registration

Lack of personal documents and registration presents a very serious obstacle to Romani access to virtually all other rights and benefits. Some Roma have never been registered, others may have been registered in a different place but cannot recover their documents. Thousands of returned failed refugees from Western Europe do not have papers. Children born to unregistered parents cannot be registered, sometimes because their parents are themselves unregistered, sometimes allegedly because mothers cannot pay medical fees, which is perpetuating the vicious circle.

The lack of birth certificates, ID cards, health cards, working booklets etc exclude Roma from access to basic services such as education, health care, social welfare and registration with the employment office. In addition, individuals do not appear on voters' lists and cannot exercise their voting rights. The lack of an ID card and passport does not allow them to leave their country legally. The consequences are further marginalization of Roma persons and communities.

There were initiatives to overcome the problem. In Albania, for instance, registration was included among key priorities in the recently adopted National Programme for Roma, and a law was adopted

to allow speedy and free-of-charge registration for unregistered persons (the estimated majority of whom are believed to be Roma) . Many Roma are, in principle, eligible to benefit from the law. However, in process Roma encountered serious hurdles, for examples documents required in support of the registration were not free or were difficult to obtain; the public servants in charge of registration allegedly were not helpful explaining the procedures and requirements; and overall awareness of the law was so low that reportedly only those Roma who were informed and assisted by NGOs managed to register. The short duration of the Law (three months) meant that many more individuals were bound to be left out.

In Serbia, where according to the Amnesty International lack of registration has become “chronic” as generations of Roma live without papers, registration was also prioritised in the Draft National Strategy. However, since the adoption of the Strategy is being continuously delayed, the implementation of measures contained there, including registration, is also stalled.

In Croatia, the legal provisions of the Citizenship Law evidently have a disproportionately negative effect on Roma, who are excluded due to illiteracy, unawareness of the procedures, and other factors.

In FYROM, an exclusionary nationality law has caused statelessness among members of ethnic minorities, and particularly Roma.

Political Participation and voting rights

Even when Roma are eligible to vote and stand in elections, their chances for meaningful political participation are very slim. In most countries, Roma are able to participate in the elections only through mainstream parties (sometimes without disclosing their identity, which means their communities do not recognise them). When Roma parties are formed, their chances for election are limited by thresholds or methods of allocation of seats that are proven disadvantageous toward minority candidates

In BiH, Roma as a “non-constituent” people are essentially barred from having a say in the country’s affairs. Moreover, as the government uses outdated and underestimated data on the Roma population (from the 1991 census) this makes it more difficult for the Roma to participate in the elections.

In Croatia, according to the new law, in order for minorities to vote they have to be registered in advance on the so-called “minority voting list.” The majority of Roma voters were not informed about this rule and as a result could not vote. There were alleged cases of voter manipulation, especially of those who were illiterate.

Although Roma are recognised as national or linguistic minorities, authorities in very few countries in focus have made an effort to provide electoral material in the Romani language, whether in written or oral form (e.g. via TV or radio). For many members of Romani population who are illiterate, this means they have not had an opportunity to make an informed choice. Cases of *vote buying* among Roma communities were reported in several countries (such as FYROM and Bulgaria).

A positive trend is that politicians increasingly take into account Romani populations as voters whose ballots can make a difference, and reportedly many candidates across the region make visits to Romani settlements and encourage Roma to vote for them. However, often the electoral promises are broken. Even though this fact of political life is not limited to pledges made to Roma, in case of disadvantaged communities failure to deliver has a particularly negative reaction. Many Roma claim that politicians promise a lot – providing infrastructure to segregated Roma ghettos, creating more jobs for predominantly unemployed Roma, and so forth. But once elected, politicians often forget Roma exist. As a result, many Roma appear to lose faith in the political process.

Precarious living conditions of Roma are yet another of many obstacles to their political participation. A number of Roma reportedly do not vote because the polling stations tend to be far away from their settlements, which are poorly connected and sometimes virtually inaccessible.

Roma women seem even more disadvantaged than Roma men when it comes to political participation. Reportedly, some cultural practices result in “family voting” (when husbands vote on behalf of the family), or even in mass non-voting of women.

As a consequence of the obstacles to effective political participation, Roma are vastly underrepresented in all levels of government and administration across Europe. Roma are often completely excluded from the political life of their respective countries, and Romani issues are virtually invisible in the national political discourse, perpetuating the vicious circle of exclusion.

Rights of refugees, returnees and IDPs

Currently mass return of Roma refugees from Western Europe has a destabilising effect on the already fragile social fabric in some countries.

In Serbia, where thousands of refugees are now sent from the countries of Western Europe, virtually no infrastructure has been set up to receive the returnees, many of whom are Roma. As a result, Roma are forced to settle in makeshift settlements which lack elementary human conditions, e.g. cardboard shelters under the bridges or along the roads, without water, sewage or other essentials. Such settlements in themselves attract racist attacks by skinheads (see the section on Hate Crimes). Recently, the government announced opening a readmission office at the Belgrade airport. On this occasion, a Romani leader, Dragoljub Ackovic, noticed, “They open the office now, but it has been already three years that Roma are being returned from Western Europe. We expect that approximately 70,000 Roma will be repatriated ... during the next one or two years. ... There are no conditions for a return of Kosovo Roma who do not have a place to return to. Their no conditions for their reintegration in Central Serbia either, where unemployment is a big problem. We are asked to facilitate the return of Roma who have lived abroad for 15 years, where they had a job, and whose children don’t speak Serbian. Here the children will end up rummaging on the communal garbage dumps.”

In Kosovo, a scandalous and ongoing case of “temporary” settlement of Roma on the lead-poisoned land, in Northern Mitrovica, has cost health to many Roma, in particular to children. Moreover, among other minorities, Roma are evidently not safe in Kosovo, and not so long ago became victims of the ethnic riots there (see the section on Hate Crimes).

In Bosnia, ECRI noted with concern “reported instances of return-related violence and of manifestations of hostility *vis-à-vis* Roma. ... Verbal abuse and threats of violence have been widely reported and physical attacks have also taken place. There have also been demonstrations of local residents against plans to establish facilities for Roma.

Hate Crimes

Recent years have seen a dramatic increase in levels of racially-motivated crimes, aggravated by patent impunity for the perpetrators of such crimes. Both have a demoralising effect on victims and society at large, where mistrust of the justice system and cynicism develop about the ability and willingness of both domestic and international actors to intervene for the sake of human rights.

In Croatia, according to the International Helsinki Federation, “Violence against the Roma population became almost a daily phenomenon with no public reaction at all.”

In Serbia, the Minority Rights Centre criticised the Court's lenient sentencing for a dozen of skinheads who attacked a Roma settlement in February 2006. The thugs in black leather jackets in combat boots broke windows on several Roma houses shouting: "Gipsies, You're Dead Meat!" The perpetrators were fined 10,000 Dinars, while Roma were fined 15,000 Dinars. In Kosovo, in March 2004 some 50000 individuals took part in ethnic riots, injuring hundreds and displacing thousands of members of ethnic minorities, including a group of returned Askhalia , in Vucitrin. However despite the international presence, justice was slow to come: as of March 2006, only 426 persons were charged, primarily for petty crimes, and only half of those were sentenced.

Police Abuse

Relations between Romani communities and police have traditionally been strained. However in recent years there have been more and more reports that in addition to usual unwarranted stops and searches of persons perceived to be Roma, the police use unnecessary force and even resort to practices that in many occasions were qualified as inhuman and degrading treatment, and even torture.

In BiH, ECRI noted that Roma are allegedly "the objects of disproportionately frequent checks and sometimes of harassment by law enforcement officials. Prejudice *vis-à-vis* Roma still appears to be widespread and some law enforcement officials have been reported to have held Roma responsible of crimes on the basis of little or no evidence and to have failed to investigate crimes committed against Roma. According to the Advisory Committee on the implementation of the FCNM, "The general lack of confidence in law-enforcement authorities by the Roma partly explains why few incidents involving police abuse against Roma are reported, a state of affairs which is aggravated by the extremely low number of Roma employed as police officers.

In Serbia, the Humanitarian Law Centre (HLC) reported physical and verbal abuse by unidentified police officers of Roma children washing car windows on the Belgrade streets. However, allegedly, investigation against the perpetrators has been slow and ineffective.

In the Former Yugoslav Republic of Macedonia, according to the ERRC, in June 2005, two police officers have abused three Roma men, after arresting them without providing justification or informing of their legal rights. Medical reports confirmed that the three men sustained serious injuries. However, the criminal charges that the victims brought against the police were dismissed by the Public Prosecutor. Instead, the victims were advised to file a private lawsuit. As March 2006, proceedings were delayed because the accused officers reportedly did not show up at the hearing.

In addition, women reportedly are afraid to complain to the police in case of domestic violence, as the police officers allegedly often respond with further racial abuse. According to the ERRC CEDAW Shadow Report, “(o)f 34 cases in which Romani women reportedly informed the police in cases of domestic violence, 20 -- or 59% -- of women stated that the police subjected them to racial prejudice and degrading treatment: In only 5 out of 34 reported cases (15%) did the police actually intervene (which usually simple meant a verbal warning for the perpetrators). When 43-year-old D.D. from Stip sought police assistance after having been beaten by a member of her family, the police official to whom she turned reportedly stated, “You Gypsies fight amongst yourselves all the time. You have to solve your problems among yourselves.”

Trafficking of Human Beings

Human trafficking is increasingly becoming a lucrative industry taking advantage of the poor and marginalised, and the countries in the West Balkans, besides serving as a convenient trafficking route, also supply large numbers of slaves for human trade.

In Albania, allegedly a disproportionate number of Roma and Egyptian children are victims of this phenomenon, according to both governmental and non-governmental sources. This was notes by ECRI: “Trafficked children tend mostly to be exploited as a source of labour, for instance sent to beg or sell small items in the streets, or to wipe car windows. Sometimes they are also used for illegal activities, in particular drug dealing or organised theft. Some children, especially adolescent girls, are also exploited for prostitution. The children that are most vulnerable come from broken families that also suffer from extreme poverty and high rates of illiteracy.” Although the Albanian Roma Strategy devotes attention to the issue, there appear to be problems with the actual implementation.

Recently Kosovo was featured in the international media for large-scale trafficking facilitated, disturbingly, by members of the international peacekeeping forces. Amnesty International as kept track of these media reports³, the following are two examples:

“Since the deployment in July 1999 of an international peacekeeping force (KFOR) and the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK) civilian

³ Amnesty International <http://web.amnesty.org/library/Index/ENGEUR700102004>

administration, Kosovo(6) has become a major destination country for women and girls trafficked into forced prostitution.

KFOR and UNMIK were publicly identified in early 2000 as a factor in the increase in trafficking for prostitution by the International Organization for Migration (IOM).(35) In May 2000, Pasquale Lupoli, IOM's Chief of Mission in Kosovo, alleged that KFOR troops and UN staff in Kosovo had fed a "mushrooming of night clubs" in which young girls were being forced into prostitution by criminal gangs. "The large international presence in Kosovo itself makes this trafficking possible."

Serbia and Montenegro, according to the most recent US State Department report, do not comply even with the minimum requirements for the elimination of human trafficking. An estimated 30-50 percent of females in prostitution in Montenegro are victims of trafficking, and half of them are minors.

In closing, the challenge for international institutions is to assist national governments with large Roma population to re-conceptualize policies towards Roma which emphasize the positive aspects of Roma inclusion in majority society. Pursuing larger policies for the protection of minorities must not be done at the expense of those very individuals whom they aim to protect. For this to take place, recognition of Roma civil and political rights by local and national authorities will need to be better articulated and enforced. For any lasting changes to take place, there must be a thorough examination of the underlying root causes of human rights abuses towards Roma communities- namely issues of racism and discrimination- and these must be addressed through legislation and with the full support of international institutions.