

Introduction

This set of policy papers is a direct result of the project “To Solve Our Problems Together”, undertaken in partnership by the ECHOSOC Foundation—Romania and the Open University Subotica—Serbia. The papers aim at portraying the situation of the Roma minority in the two countries, in various areas of social life. Moreover, they bring forth a series of recommendations meant to contribute to the identification of feasible intervention means for solving many of the different problems presented.

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We hope these materials contribute to a better knowledge regarding the situation of the Roma population in Romania and Serbia, as well as adequate support for needed interventions.

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Abstract:

Once with the Universal Declaration of Human Rights, the international position of Roma has significantly improved, as this document allows protection of human rights outside the national affiliation, regardless whether that people has its own territory as national state or not. Naturally this is a continuous process that implies a fight on international level for achieving all the human rights for every human being on earth. The Roma is in this respect a “pioneer” people, whose experience and fight for achieving national rights present not only the international position of Roma in the today’s international community, but also point out the maturity (and often immaturity) of the latter, as well as of peoples having national states on “their” territories as majority people.

Besides these, the international position of Roma in the south-eastern Europe is marked by changes that occurred during the past fifteen years and in a negative way, by wars marking the passage from the 20th to the 21st century and in a positive way by the demonstration of the futility of wars for territory. On the other hand the fight towards human rights for all the inhabitants of the region is necessary and asks altogether for a review of statements and setting forth the target of improvement of the position of Roma in a new way, in accordance to the new conditions. This project worked out by the joint effort of Romanian and Yugoslavian non-governmental organisations can bring a significant contribution to this improvement.

1. Initial consideration

The Roma does not have its own national state. About 14 million Roma live today in different countries all over the world as minority population. According to the conservative conception Roma are only an ethnic group and not a people because their lack of an own national state. This is the dominant concept today. On the other hand this is not only old but also dangerous, because with its help forced assimilation as well as oppression and genocide of this people are committed. Therefore, one of the problems that have to be solved on a scientific basis is whether a people is only a community of human beings having its own territory, besides common cultural, linguistic and historical characteristics. In other words, the question is whether the use and development of their mother tongue, and culture of their predecessors, i.e. the evolution based on tradition and language is

a right for people being part of a nation, which occupied some territory during history.

The Roma have strongly expressed specific features of historical and cultural development, of their social, economic and international position, as fundament for defining the Roma as people. However, despite these specific features their economic and social position, their diminished human rights as minority in national states of other people, their international position — could function to a great extent as barometer, measure of general character and culture level of a country and the international community in a certain period. If somewhere oppression against minorities dominates, it is usually the strongest against Roma. If there is a war, the Roma usually suffer hardest, directly or being forced to commit execution of the “enemy” “representative of the people” in offensive, bringing automatically the Roma as target of the “avenger”, at the next turn of the “tides of war”.

But instead of only noticing the irony of fate — that the Roma as people giving the highest value to freedom, have the less freedom of choice of their destiny as people — we must continuously search for truth about the position of Roma, for causes of perpetuating their disadvantageous position and for ways of achieving human rights for members of this people. This should be done not only for the Roma, but also for the interest of the civilisation of the majority people.

A rich literature is available about the position of Roma in certain countries and their international position¹. However, the changes taking place in south-eastern Europe in the past fifteen years call for the re-assessment of former concepts and setting forth the same target: the improvement of the position of Roma, but in a new approach, adapted to new circumstances.

2. The Universal Declaration of Human Rights and position of the Roma — today

The framework for the international position of the Roma is provided for in documents of international law, based on the principles laid down in the Universal Declaration of Human Rights², adopted by the United Nations in the long past year 1948. However, this document has a multiple importance for the international position of Roma in the contemporary world. Firstly because the Roma are the most exposed to violation of their human rights and the Universal Declaration of Human Rights is the document of international law, which is violated thereby.

¹ Of the reason of lack of space we only mention one book: Liegeois, Jean-Pierre, **Gypsies, An Illustrated History** (Al Saqi Books, 1986). An examination of the Roma throughout history, leading to a survey of international Roma organisations. Thomas Acton and Donald Kenrick assisted in the English version of this book. Highly recommended.

² The Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948.

Besides, the Declaration gives the basis for the international protection the Roma started to take advantage of in the past few years. The Declaration is in fact the basis for many international actions meant to protect the basic human and citizen rights of Roma from different countries.

Article 1 of the Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights and should act towards one another in a spirit of brotherhood. Article 2 says that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property or other status.

These basic human rights are then listed in the following articles of the Declaration. These are the right to life, liberty and security of person (Article 3). The Declaration prohibits slavery and all forms of slave trade (Article 4), torture or cruel, inhuman, degrading treatment or punishment (Article 5). Each person has the right to recognition everywhere as a person before the law (Article 6). All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration (Article 7). Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted them by the constitution or by law (Article 8). No one shall be subjected to arbitrary arrest, detention or exile (Article 9).

Article 15 of the Universal Declaration of Human Rights refers to the right to a nationality and that no one shall be arbitrary deprived of their nationality nor denied the right to change their nationality (paragraph (2)).

According to the Universal Declaration of Human Rights, everyone has the right to take part in the government of their country, directly or through freely chosen representatives. Everyone has the right to equal access to public service in their country (Article 21).

Everyone, as a member of society has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for their dignity and the free development of their personality (Article 22).

Article 23 of the Declaration proclaims that everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Furthermore, everyone who works has the right to equal pay for equal job. Everyone who works has the right to just and favourable remuneration, ensuring for them and their family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

According to Article 26, everyone has the right to education. Education shall be free, at least in elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial and religious groups and shall further the activities of the United Nations for the maintenance of peace.

The right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits are proclaimed in Article 27 of the Declaration, including the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which they are the authors.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized (Article 28). However, everyone has duties to the community in which alone the free and full development of their personality is possible. Everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations (Article 29).

In the end, the Universal Declaration of Human Rights states that nothing in it may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth therein.

As it can be seen above, the Universal Declaration of Human Rights refers to all people, regardless their dwelling and their rights to choose national affiliation, to fully develop their national culture is totally independent of the country of their dwelling. Therefore this international document was the basis for fight of the Roma to obtain equal rights with other citizens of each country in the world. However, in order to achieve national rights, it is still often necessary to prove that possessing territory is not a prerequisite for a nation to exist.

The recognition of an ethnic group as nation depends today on the informal recognition of the United Nations and individual states. The recognition as people, as nation is achieved in the United Nations through its institutions, such as its Economic and Social Council — ECOSOC. Organisations representing a people

are granted observer status and then consulting status within. Member states can give informal and tacit recognition of a nation or people by admitting their right to ensure all human rights, including those for national identification. Even if human rights are in accordance with the Universal Declaration for each person as individual, some of these rights are achieved by an individual as member of a national community and besides, the human rights of people belonging to a racial or national group are usually violated. In accordance their affiliation to national organisations is not only legitimate in order to defend their human rights, but this discrimination has also led to the raise of consciousness of individuality and community, national consciousness of many oppressed peoples, especially Roma. Facing and admitting the existence of the violation of human rights of certain groups of people give them the possibility to seek for collective protection, as well as protection as people, based on their collective exposure to the violation of human rights.

This was not possible before adopting the Universal Declaration of Human Rights and the establishment of a national state through territorial wars only protected a national entity. (However, fighting territorial wars in the space of former Yugoslavia since 1991 has been highly unnecessary and anachronous.)

3. Roma as non-territorial nation

There is no doubt, that throughout history of mankind, the identification with a certain territory played significant role in establishing a nation. Between the inhabitants of a certain territory, consciousness of community and common territory often develops even in spite of differences in culture and language. The definition of the nation is based on this experience, stating that a larger group of people living on the same territory represents a nation, with other characteristics, among which the territory is a key factor. According to this concept, the only difference between nation and state is that state has sovereignty on its territory³.

According to that definition, Roma were treated as minority ethnic groups. Of course the difference lies not only in terminology, but they were exposed to discrimination on basis of the negation of their existence as nation. The discrimination led in fact to genocide. Even if adopting the Universal Declaration of Human Rights was the basis of changes, the changes has been a continuous process. And which still needs a lot of strive and fight. It is now important that the national identity of Roma is developing in a strong interaction with international

³ Anthony Smith, *States and Homelands: the Social and Geopolitical Implications of National Territory*. "Millennium: Journal of International Studies". 1981, 10 (3): 187–203. Also: Anthony Smith, *National Identity*. Reno, NV: University of Nevada Press, 1991.

organisations, in a positive sense. Whereas before the Universal Declaration of Human Rights the Roma people was scattered and treated as ethnic group or race in each country, in the past fifty years the consciousness of a common national identity of the Roma throughout the world, regardless of the geographic distances and language differences. It is true that Roma had their identity as people at their arrival to Europe (about year 1250), based on their joint cultural features, different from the culture they found in the new homeland, wherever they settled in Europe. This feeling of being different and particular was also evidenced by the discrimination the Roma have faced since their arrival to Europe. Today, however, there is a series of effective international instruments for preserving and developing the national identity of Roma and so they can be a “pioneer people” of the contemporary international community.

That fact gradually gives birth to a new concept of people, with possessing a state territory losing importance and becoming superfluous. The Roma people, through their suffering, their golgota across centuries, comes to a way where it becomes an example itself that has to be followed. And that happens in the contemporary international territorial order. As Cara Feys says, the experience of the Roma is the basis for re-evaluation of the concept of nation and the history of their national development and their international position today is the best illustration of this new concept. Based on that experience, a new definition, in accordance with the new international order could be that people is “nation, a politically active ethnic community, acting with or without link to a certain territory⁴”.

During the past decades many famous personalities took the point of view of fight for the rights of peoples without homeland. So did in 1972 a delegation of Roma, including the well-known actor Yul Brynner, addressed to the United Nations and received the permanent status of National People Without a Homeland”.

Of course, the concept of a national Roma state exists and it should be named according to its supporters “Romanestan”. This tendency arose temporarily as the Roma intellectuals used every effort in the fight for equal rights with the majorities. The logical solution then seemed to found an own national state with Roma majority. However, the first World Roma Congress, held in 1971, threw away this idea. It was accepted that Romanestan should be created in the hearts and souls and not by bordering some territory. The Roma activist Ronald Lee is often quoted. He gave the question “What is Romanestan?” the answer “Romanestan is the freedom of Roma to live by their laws and tradition⁵”.

In the same time with the general acceptance that Romanestan exists in the hearts and not on the map, another important concept crystallized about the fight of Roma

⁴ Cara Feys, Towards a New Paradigm of the Nation, **Journal of Public and International Affairs**, 1997, Princeton University.

⁵ Lee, Patrick Jasper, **We Borrow the Earth** (Thorsons Publishers, 2000). A first-hand account of Romani-Gypsy life.

for national identity and national rights. And this is the right of Roma to define their national being themselves and not to receive definition from outside. Strive to self-determination is the right of every people and this came to complete expression for the Roma after World War 2.

Based on this definition and on the activity of international organisations for protection of the rights of Roma, the international position of the Roma people is in a process of essential improvement.

4. International organisations for protection of the human rights of Roma

After World War 2 in almost every European country, including many Eastern-European countries, national Roma organisations and in 1959 in France the World Gypsy Community (Communaute Mondiale Gitane) were founded⁶. A Roma emigrant from Romania, Ionel Rotaru, founded the latter. This Roma organisation connected many Roma organisations from different countries. A fraction of this international organisation founded in 1965 the International Gypsy Committee (Comité International Tsigane). Until 1972 the number of Roma organisations members of this committee grew to 23, coming from 22 countries. The activity of the Committee was targeted to receive recognition of the Council of Europe and the United Nations Educational, Scientific and Cultural Organisation (UNESCO).

In 1968 this Committee sent a petition to the United Nations Commission on Human Rights, demanding the recognition of the national identity of Roma and organised in 1971 the first World Roma Congress. Delegates from 14 countries took part at this congress and among other topics replacing the term “Gypsy” with “Roma” changed the name of the Committee. The second World Congress of Roma took place in 1978 with the participation of 60 delegates and observers from 26 countries.

The third World Congress of Roma was held in 1981, with 300 delegates and the fourth in 1990 with 250 delegates, for the first time with delegates from Albania, Bulgaria and some of the republics still belonging to the Soviet Union⁷.

The fact that the Roma became aware of the importance of international activity in the process of ensuring their national rights as nation without national territory strengthened the international activity, making it more successful. On the second World Congress of Roma a new organisation was founded: the International Romani Union (IRU). It coordinates the activity of over 70 organisations from 30

⁶ I translate the term “gitane”, “Gypsy” as “Roma”, according to the terminology that is almost generally accepted today, but in searching sources and bibliography, the old terminology should also be considered.

⁷ Liegeois, Jean-Pierre, **Roma Gypsies: a European Minority** (Minority Rights Group, 1995).

countries having since 1970 observer status in ECOSOC as non-governmental organisation and since 1993 also consultative status.

Based on the activities of IRU to coordinate the international activity of many Roma organisations from different countries in the protection of human rights of the Roma in the educational, cultural and political field, in 1994 The European Parliament of Roma (EURO) was founded. The purpose of this new organisation is to ensure democratic representing of Roma on European level in the Council of Europe and institutions of the European Union.

However, despite the great and fundamental improvement of the international position of Roma, there are major difficulties on the way to uniting Roma for a more efficient fight and effectively achieving all human rights. The collapse of the so-called socialist world order had a double-edged effect on the Roma organisations. A large number of Roma organisations were founded in countries where they live, but coordination of their activity became more difficult. Release of creativity in fields where Roma were previously marginalised had positive influence and drew attention of public opinion in certain countries and on international level to the problems and position of Roma.

Since 1989 the political activity of Roma organisations ensured transparency of the Roma interest to achieve national self-preservation without territorial demands. However, it is still a lot to be done to develop consciousness of unity of the Roma nation, even if its representatives live in different states.

5. The Roma on the international scene — today

At the Summit on human rights, held on 11 December 1998 in Paris, the International Parliament adopted a Plan of Action⁸, based on and resulted from the “Declaration on the rights and obligations of individuals, groups and social organisations to support and defend universally accepted human rights and basic freedoms”. This Declaration was adopted at the General assembly of the United Nations on 9 December 1998. The purpose of the Plan of Action is to ensure a common basis to protect both the individual fighting for achieving human rights and the fight itself, bringing contribution at the same time to reaching targets of the Universal Declaration of Human Rights. The Plan is based on the experience

⁸ The Human Rights Defenders Summit: The International Assembly, Paris, 11 December 1998, Plan of Action, Final draft with amendments and re-structured (Prevention-Protection; Assistance/Reparation), following meeting of Extended Steering Committee, Geneva, April 1999. Finalised: Wednesday, 09 June 1999 (Original: Spanish).

accumulated by a large number of fighters for human rights from all over the world and on the result of their previous international conferences⁹.

Many Roma organisations exist today, intended to protect the national identity of Roma and human rights springing thereof. One of these organisations is the European Roma Rights Centre (ERRC). This organisation follows from the point of view of international common law the achieving of human rights of Roma in Europe and provides legal protection in cases of violation of human rights. In its report submitted on occasion of the Meeting for including the problems of human rights in the fields of activity of the Organisation for Security and Cooperation in Europe (OSCE), held in November 1997 in Warsaw, the ERRC presented data about many cases of violation of human rights of Roma in Europe. According to this report, having all the attributes of trustworthiness, the human rights of Roma in many European countries are highly uncertain and exposed to violation. The Roma are exposed in many European countries exposed to the risks of racist violence, not only from skinhead-type racists, but often from state institutions and juridical authorities.

The mass emigration of Roma from the war and poverty areas of south-eastern Europe at the end of the 20th century and their move towards western European countries and countries across the ocean revealed prejudices against the Roma in developed and rich countries, otherwise rightly disapproving the existence of such prejudices in eastern European countries. Especially in Canada, United Kingdom and Ireland, in the fear from the “danger” of mass immigration to their countries, the interest of public opinion of these countries and of the international community was directed to that question. According to the ERRC report, even highly respected newspapers as the “Independent” started to publish articles with racist headlines. ERRC presents specific examples of discrimination from state authorities against Roma demanding to settle down. So did British authorities demand passenger-transporting companies not to allow Roma embarking on ferryboats to Britain. Similar events were noted in Canada, where, according to the ERRC report, Roma from the Czech Republic were exposed to special procedure based on racial discrimination.

The largest refugee camp for Roma, named Castilino 700 exists near Rome. ERRC points out that police observation and physical ill-treatment (beating and forced cropping short) are regular events in this camp.

These phenomena of the past few years have turned the attention of international organisations generally dealing with issues of human rights towards the issue of Roma human rights’ violation.

⁹Vienna – 5 (Ottawa, 1998), Forum ’98 (Geneva 1998), regional conferences held in Columbia (Bogota 1996 and 1998), Sweden (lund 1997), South Africa (Johannesburg 1998), Morocco (Rabat 1998).

The Organisation for Security and Cooperation in Europe (OSCE) on the Summit of state and government presidents of its members set up in 1994 in Budapest a "Contact Point for Roma and Sinti Issues" (the "Contact Point"). Its main task is to provide exchange of information about issues related to the interest of Roma.

The meeting of the OSCE Council of Ministers in December 1998 in Oslo adopted a Declaration and nine conclusions about the situation in Kosovo. This document also included the Roma question and one of the conclusions mentioned the Contact Point.

Before the Oslo meeting, the Czech Republic suggested to raise the status of this function to the level of "High Commissioner for Roma". According to the Czech arguments, the problems related to Roma as cross-national people shall be considered in the pan-European context, such as OSCE. It turned out that the Czech proposal cannot be agreed upon during the meeting from Oslo and it was re-formulated as decision to "strengthen" the Contact Point. Besides, during the implementation meeting of OECD between October 26 and November 6, 1998, some participants to the Round-table on Roma issues stated the need to strengthen the Contact Point in order to increase the possibilities for dealing with issues of human rights.

On the other hand, the Czech Republic was characterised on the last meeting of the Council for international rights of OSCE as the country with the worse result of respecting the human rights of Roma. Some formulations used by the Czech delegation in their proposal, for instance the necessity to solve Roma questions on the pan-European level raised suspicion of the real causes of the initiative. It can be interpreted as an attempt of the state where the human rights of Roma are less respected to divert the attention of international public opinion from its own passivity to an international bureaucratic system, unable to influence events at national level.

As it was mentioned before, for the recognition as nation, besides presenting to and accepting by the agencies of the United Nations and the European Union, the position of certain states is also important. To illustrate this, we present the statement made by Ambassador David Johnson, head of the United State mission at the OECD at the Permanent Council from Vienna on December 17, 1998 after the Decision referring to the Contact Point was adopted. The United States of America give their support to the decisions from Oslo and hope to increase the possibilities of the OECD regarding Roma issues through strengthening the existing Contact Point for Roma issues in ODIIR. We hope that this decision will help OECD and the member states to take the adequate position regarding the position of Roma. We salute therefore the initiative of the High Commissioner for national minorities regarding Roma issues". The statement also says that since

constituting the Contact Point on the Budapest Summit in 1994, its activity was limited by the lack of resources and therefore including the Contact Point in the budget for 1999 is greeted. However, it is the responsibility of member states to take steps in order to solve problems.

The Americans therefore saluted the announcement of the Slovak delegation on occasion of the Meeting on human rights from Warsaw, that Slovakia will give more attention to Roma issues in the future. On the other hand, the problem of citizenship of Roma after division of Czechoslovakia was presented. "We are aware of the decision of the Czech government that Czechoslovakians who chose in 1993 Slovak citizenship, but have their permanent residence in the Czech Republic can also obtain Czech citizenship. It would be helpful if this decision was dealing with the problem of citizenship of many Czech Roma. If this does not happen we call the Czech government to solve this permanent problem"

Related to the future activity of the Contact Point, American officials consider two directions where the participation of the OECD would be most useful. Firstly, the Contact Point could assist ODIHR to support member states in working out drafts of anti-discrimination statutes on request, efficiently opposing to existing ways of discrimination. Secondly, the Contact Point should cooperate with the Secretariat in order to prepare and instruct field missions and other groups about issues and decisions of OECD related to Roma.

In the announcement of the American officials already mentioned it is underlined that the USA will follow the future work of the Contact Point with special attention and calls member states to double their efforts, not only within this office, but also in their national policy and practice, to fight non-tolerance against Roma. "We call the states to take a stand against violence and discrimination and take political and legal steps for solving the problems faced by Roma communities."¹⁰

6. Conclusion

If we consider history of mankind as road to its maturity, the histories of individual peoples are milestones for the right way that is for the danger of turning aside that road. The Roma shall not repeat the mistake of the Jewish people, which succeeded to getting a territory where it could found a national state. In the defense of this state the Jewish people went to the false track of committing a similar genocide to that it was faced with during its history of non-territorial people.

¹⁰ Erika B. Schlager, Counsel for international Law Commission on Security and Cooperation in Europe, Room 234, Ford House Office Building Washington DC 20515, Tel.: (202) 225-1901, Fax: (202) 226-4199, E-mail Erika.Schlager@mail.house.gov Web: <http://www.house.gov/esce/>
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The fight for territories represents today not only a dark side of history of mankind falling into a chain of crimes, but also an anachronism tightening those chains around its neck. If those chains are not cut off once forever, mankind will be destroyed. This stays not only for mankind as a totality, but also for its parts, whose most horrible example is the self-destruction of South-eastern European peoples that started with battles for conquering or keeping territories of former Yugoslavia. While the Swiss and the Japanese are the example of being great and strong on a small territory, today it is the Roma who are pioneers of preserving, cultivating developing national values and sharing them with others without having territory. From that point of view the Roma represent today the most modern people, an example which, if followed, could be the step of cutting the chains tightening around the neck of mankind.

The road of the Roma people and its mission is to find the best possibilities to win all the rights within the contemporary international community that guarantee the accomplishment of all the real interests of a people.

In the existing international order, the role of stateless subjects grows and so does their possibility to fight for human rights from the field of culture, language and education. This creates the pre-requisites for protection of national rights of peoples without a national state. Of Roma, too. And it seems the Roma have done the most up to now.