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## Concept note for the Regional Roundtable on Housing

12-13 September 2012

Zagreb, Croatia

### About the project

“Best Practices for Roma Integration” (BPRI) is a regional project for the Western Balkans. Its aim is to contribute to the integration of Roma in the countries of the region and Kosovo\*, reflecting commitments they have made with a view possibly to joining the EU and as OSCE participating States. This project is funded by the European Union (90%) and OSCE participating States (10%).

As part of the OSCE Action Plan on Roma and Sinti, the Decade of Roma Inclusion and national government strategies for Roma integration, governments, non-governmental organizations and Romani civil society in the Western Balkans are working together on promoting social inclusion for Roma and combating discrimination against them.

The EU's Enlargement Directorate General held a number of high level conferences on Roma involving all the governments in the region, which led to a series of conclusions and commitments. If Roma are to truly benefit from these, governments will need to increase their efforts and find innovative solutions. Civil society organizations, and especially Roma NGOs, will need to continue advocating for reforms, proposing more inclusive solutions and raising awareness about the status of the Roma minority.

The BPRI project will support this process by promoting innovative programmes and facilitating co-operation between local and national governments, independent institutions and civil society. Housing is one of the five areas that BPRI will work in: 1. Participation in political and public life and decision-making; 2. Access to legal aid; 3. Improvement of living conditions; 4. Combating discrimination and promoting visibility for Roma communities; and 5. Regional co-operation.

### Objective of the roundtable

The objective of the roundtable is to support the Governments and civil society to improve national and local mechanisms for legalization and improvement of Roma settlements. Because legalization and improvement are not a viable option in all settlements, the roundtable will also highlight potential links with the social housing development initiatives. By bringing together experts from ministries and municipalities working in the field of housing, this roundtable will:

- promote an exchange of experience with different models of housing improvements;
- raise awareness about the development of social housing and realization of housing rights;
- address the challenges of Roma integration in relation to housing developments.

### Participants

The roundtable participants will include 41 municipalities from the Western Balkans, including Roma Co-ordinator and Referents where applicable, ministries responsible for construction and spatial planning,

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

Best Practices for Roma Integration  
Supported by OSCE participating States



Project funded by the EU



associations of municipalities where relevant, non-governmental organizations and other experts working on housing issues.

## Background

### *Legislation on legalization in the Western Balkan region*

The OSCE working definition of an illegally built settlement is “any human settlement where housing has been constructed without the requisite permits or legal title for use of the land.”<sup>1</sup> The issue of legalization of informal Roma settlements is one of the most pressing concerns identified in the 2003 OSCE *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*.<sup>2</sup> In most jurisdictions in the Western Balkan region, having a legal residence is a prerequisite for the fulfilment of other rights. Roma people living in informal settlements lack justifiable access to the land and property they occupy and are therefore vulnerable to eviction. They also face difficulties in accessing civil registration, education and other public services. Resolving housing and settlement issues is necessary for combating social marginalization and exclusion.

Informal Roma settlements are present in all jurisdictions in the Western Balkan region. In 2002, the OSCE Mission to Bosnia and Herzegovina identified about one hundred informal Roma settlements, in over thirty municipalities, with a total population of approximately 22,000 persons. In Serbia, out of approximately 590 Roma settlements, it is estimated that 35% are illegally constructed, while an additional 35% are a combination of illegal and legal settlement.<sup>3</sup>

Recognizing the issue of legalization is complex and must involve a multi-layered approach. Most jurisdictions in the Western Balkan region have taken the initial steps by adopting relevant legislation and strategies which would enable the formalization of illegally constructed housing and settlements. In 2006, Albania adopted its first Law on Legalization, Urbanization and Integration of Informal Construction. In 2009, Serbia adopted the Law on Planning and Construction which defines subsequent legalization of illegally constructed objects. In 2011, this was followed by the adoption of the Law on Treatment of Illegally Constructed Objects in the former Yugoslav Republic of Macedonia and the Law on Treatment of Illegally Constructed Buildings in Croatia. Croatia is currently in the process of adopting amendments to its Law on Treatment of Illegally Constructed Buildings. Montenegro is in the process of adopting the Law on Legalization of Informal Objects, while Kosovo\* is in the process of adopting a Strategy on Regulating Informal Settlements. While Bosnia and Herzegovina does not have umbrella legislation on state level, numerous municipalities adopted a Decision on Legalization of Illegally Constructed Objects.

In general, there are four main criteria regarding urban planning and legalization of illegally constructed Roma settlements that should be considered:

- Planned status of occupied land;
- Land ownership or right to use the land;
- Geographic location on the settlement relative to the city centre; and
- Whether the settlement is on public urban land or non-public land.<sup>4</sup>

In most cases the Roma must legalize their dwellings or settlements within the general legalization processes, which apply to the entire population. They face obstacles in submitting applications for legalization due to lack of necessary documents (personal and property-related), substantial amount of money for different fees and certificates and lack of education, just to mention a few important factors. Some national and local governments made proactive steps in this field by lowering application fees and introducing the position of municipal Co-ordinators for Roma Issues who can support the local communities in getting relevant documents. Others took a step further by donating land where the Roma settlements are located, investing in infrastructural improvements, improving access to public services

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<sup>1</sup> OSCE Mission to Bosnia and Herzegovina, *Report on Roma Informal Settlements in Bosnia and Herzegovina*, 2003, p. 3. <http://www.osce.org/node/14860>.

<sup>2</sup> OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Areas <http://www.osce.org/odihr/17554>.

<sup>3</sup> Guidelines for Improvement of Legalization of Informal Roma Settlements.

<http://www.romadecade.org/files/downloads/14th%20ISC/Guidelines%20ISC%204-5%20Sept%2008%20Macura.pdf>.

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

<sup>4</sup> OSCE, *Roma Housing and Settlements in South-Eastern Europe*, 2006, <http://www.osce.org/odihr/23336>.

(including garbage collection, public lighting, public transport, policing, etc) and providing social integration programmes. This type of integrated approach is necessary not only to ensure that everyone is able to participate in the legalization process, but also to promote the social and economic integration of Roma communities.

#### **Example of legalization: study visit to the City of Sisak, Croatia**

In 2005, the settlement of *Capraške poljane* in the City of Sisak was an informal Roma settlement built on land owned by the Croatian Forestry Company. It was public urban land and not planned for residential use. With an objective of providing sustainable housing solution for the 150 Roma families who made *Capraške poljane* their home, the City of Sisak advocated for transferring land below the Roma settlement from the Republic of Croatia to the City of Sisak.

Acquisition of land was the first step in legalization of the informal settlement. The City of Sisak then amended the City's urbanization plans and reclassified the land from public urban to non-public residential land. Furthermore, the City of Sisak developed detailed settlement plans. This enabled the City to provide formal access to infrastructural services such as water, electricity and garbage collection. With this initiative, the City of Sisak formalized an illegal settlement and enabled the residents of the settlement to commence the legalization process of their illegally constructed houses.

Please note that during this study visit, translation will be provided in Macedonian and Albanian languages.

#### *Social housing policies in the Western Balkan region*

Catholic Relief Services defined social housing as “housing funded, constructed and/or granted by the Government, and is generally intended for groups with low or no income. Social housing usually has an affordable rent, and the property owner repays it through loans or credits with low interest. Within standard market conditions, social housing is provided to persons with limited funds or income.”<sup>5</sup>

Most jurisdictions in the Western Balkans possess some form of strategies or laws regulating social and/or affordable housing. In 2001, Croatia adopted a program of Public Funded Housing Construction in accordance with the Law on Public Funded Housing Construction, which give an advantage to citizens living in dwellings they do not own. In 2004, Albania adopted the Law on Social Housing. In 2009, Serbia adopted the Law on Social Housing, following an earlier adoption of the Poverty Reduction Strategy in Serbia and National Strategy for Solving Issues of Refugees and Displaced Persons of the Republic of Serbia. In 2010, Kosovo\* adopted the Law on Financing Special Housing Programs, which regulates social housing. The Government of Montenegro is currently in the process of adopting Law on Social Housing.

While no formal legislation on social housing has been adopted in the former Yugoslav Republic of Macedonia, in 2010 the government adopted the National Strategy for Poverty Reduction and Social Inclusion, which addresses persons who are socially excluded in the housing sector. Similarly, Bosnia and Herzegovina does not have any legal framework for social housing but the government implemented several social housing development projects with support from the Catholic Relief Services, UNDP and Hilfswerk Austria.

In general, the provision of housing for socially vulnerable groups should be understood as a combination of several elements: ensuring housing units; integrating vulnerable groups; and improving living conditions of targeted groups.<sup>6</sup> By promoting the exchange of experience, BPRI aims to support the governments in ensuring that Roma have access to social housing and that this provision is accompanied by other integration policies.

<sup>5</sup> Catholic Relief Services, *Recommendation for Development of Non-Profit/Social Housing in BiH*, October 2011 pg. 42.

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence.

<sup>6</sup> Catholic Relief Services, *Recommendation for Development of Non-Profit/Social Housing in BiH*, October 2011, pg. 42.

## *Housing development and settlement improvements*

In the recent report published by the European Commission<sup>7</sup>, Roma communities mostly live in integrated urban/suburban neighbourhoods; segregated urban/suburban neighbourhoods; and segregated rural settlements. There is a lack of basic infrastructure, such as pavements or electricity or running water. Moreover, housing units are of low quality often consisting of makeshift shacks of limited space and devoid of windows, doors or walls<sup>8</sup>. Furthermore, for Roma communities living in segregated rural settlements they are often cut off from schools, health services and other social services.

Under Article 11 of the International Convent on Economic, Social and Cultural Rights<sup>9</sup> ratified by the jurisdictions in the Western Balkan region, authorities have a legal obligation to ensure adequate housing for all its citizens. While the International Convent on Economic, Social and Cultural Rights does not provide a definition for “adequate housing”, agencies such as UN-Habitat define “adequate housing” as “more than a roof over one’s head”. According to UN-Habitat “adequate housing” includes: privacy and adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; basic infrastructure: water supply, sanitation and waste management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities, all of which should be available at an affordable cost. Most of the Western Balkan jurisdictions have undertaken some activities aimed at improving or developing housing for Roma. For example:

- The Government of Croatia is implementing three IPA-funded projects aimed at improving the infrastructure in Roma settlements;
- Following the completion of the mapping of housing needs for Roma in 2009, Bosnia and Herzegovina implemented two housing projects aimed at construction and reconstruction of Roma houses and smaller scale infrastructural projects;
- The former Yugoslav Republic of Macedonia implemented a microcredit loan program for Roma families, which enabled them to improve their houses.

### **Reconstruction of the infrastructural network: study visit to Medjimurje County, Croatia**

Medjimurje County is the home to the largest population of Roma in Croatia. It is estimated that approximately 11% of the County’s population are Roma. Medjimurje County identified that most of the Roma population had inadequate living conditions: either as a result of lack of infrastructure in the Roma settlements or lack of adequate condition of the individual houses.

Together with the Government Office for National Minorities, Medjimurje County secured funding for numerous infrastructural and housing projects, including:

- “Reconstruction of the infrastructural network (water, sewage and electricity) of the Parag settlement” (PHARE 2005);
- “Reconstruction of the infrastructural network (water, sewage and electricity) in Pribislavec, Piškorovec and Lončarevo settlements” (PHARE 2006);
- “Reconstruction of the infrastructural networks in Orahovica and Sitnice settlements and commencement of the legalization process” (IPA 2008).

All three projects aimed at improving the standard of living of the Roma communities in Medjimurje County and further integration and inclusion of Roma.

Please note that during this study visit, translation will be provided in Bosnian/Croatian/Montenegrin/Serbian languages.

<sup>7</sup> Fresno, Jose Manuel, *What Works for Roma Inclusion in the EU*, 2012, [http://ec.europa.eu/justice/discrimination/files/whatworksfor\\_romainclusion\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/whatworksfor_romainclusion_en.pdf).

<sup>8</sup> According to the 2012 UNDP Survey, *The Situation of Roma in 11 EU Member States: Survey Results at a Glance* ([http://ec.europa.eu/justice/discrimination/files/whatworksfor\\_romainclusion\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/whatworksfor_romainclusion_en.pdf)), about 45% of Roma live in households that lack at least one of the following basic housing amenities, namely indoor kitchen, indoor toilet, indoor shower or bath and electricity.

<sup>9</sup> International Covenant on Economic, Social and Cultural Rights, 1966, <http://www2.ohchr.org/english/law/cescr.htm>.

In general, housing development and settlement improvements within Roma communities should be conducted in accordance with the 10 Common Basic Principles on Roma Inclusion<sup>10</sup> which, among others, include the use of European Union instruments and active participation of Roma.

### *Vulnerable Position on Roma Women and Children*

Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the on the right to non-discrimination, while examining the implementation of women's right to adequate housing was informed of the multiple discrimination which women from minorities, in particular Roma women, were exposed to, impacting negatively on their rights. According to the report, "testimony indicted that many women were subjected to multiple layers of discrimination within the community and by the State on the grounds of them being women, as well as a member of a minority group."<sup>11</sup> Furthermore, the report indicates, "multiple discrimination has, according to numerous account, let to women living in inadequate housing, degraded living conditions, as well as in segregated communities, which are not provided with basic services such as water, sanitation or heating."

Report published by the European Roma Rights Centre<sup>12</sup> highlights the International Convention on the Elimination of All Forms of Racial Discrimination which obliges the States "to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right to everyone [...] to equally before the law, notably in the enjoyment to [...] the right to housing."<sup>13</sup> It further defines international treaties which dictate the treatment of vulnerable groups, such as women and children, and their right to housing, such as the Convention on the Elimination of All Forms of Discrimination against Women, which regulates:

Such parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such woman the right [...] to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transportation and communication.<sup>14</sup>

Article 27 of the Convention on the Rights of the Child clarifies that the State is responsible for assisting and supporting parents or guardians in the area of housing, if necessary to ensure an adequate standard of living for the child.<sup>15</sup>

Council of Europe Commissioner for Human Rights<sup>16</sup> recognized that the violation of the right to adequate housing may have different meaning for women and men, stating that:

Women usually bear the primary responsibility for sustaining and maintaining homes, and it is vital that this critical role is recognized and their rights advanced. Any understanding of adequate housing in relation to women must take into account the context and housing and living conditions of the community and the family in which they live. The impact of inadequate living conditions and homelessness on children therefore becomes equally important for their mothers. The lives of many women are intrinsically linked to those of their families and their children.

It is for these reasons that the Special Rapporteur recommends that the States ensure that gender-sensitive housing policies and legislation are developed, taking into account the situation of the specific groups of women who are particularly vulnerable to homelessness and other housing right violations due to multiple forms of discrimination.

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<sup>10</sup> Council of Europe, *The 10 Common Basic Principles on Roma Inclusion*, 2011, [http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011\\_10\\_Common\\_Basic\\_Principles\\_Roma\\_Inclusion.pdf](http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011_10_Common_Basic_Principles_Roma_Inclusion.pdf).

<sup>11</sup> Economic, Social and Cultural Rights: Women and adequate housing. Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, Miloon Kothari. E/CN.4/2006/118. 27 February 2006.

<sup>12</sup> European Roma Rights Centre. Standards Do Not Apply: Inadequate Housing in Romani Communities. December 2010.

<sup>13</sup> International Convention on the Elimination of All Forms of Racial Discrimination. Article 5 (e) (iii). <http://www2.ohchr.org/english/law/cerd.htm>

<sup>14</sup> Convention on the Elimination of All Forms of Discrimination Against Women. Article 14(2). <http://www2.ohchr.org/english/law/cedaw.htm>

<sup>15</sup> Convention on the Rights of the Child. <http://www2.ohchr.org/english/law/crc.htm>

<sup>16</sup> CoE. Commissioner for Human Rights. Issue Paper: Housing Rights: The Duty to Ensure Housing for All. 25 April 2008. <https://wcd.coe.int/ViewDoc.jsp?id=1292391>

## Resource documents

### Legalization:

- Government of Albania, Law on Legalization, Urbanization and Integration of Informal Construction, 2006
- Government of Serbia, Law on Planning and Construction, 2009
- Government of the former Yugoslav Republic of Macedonia, Law on Treatment of Illegally Constructed Objects, 2011
- Government of Croatia, Law on Treatment of Illegally Constructed Buildings, 2011 (currently in the process of being amended)
- Government of Montenegro, Law on Legalization of Informal Objects
- Government of Kosovo\*, draft Strategy on Regulating Informal Settlements, 2012
- Bosnia and Herzegovina does not have umbrella legislation on state level, but numerous municipalities have adopted a Decision on Legalization of Illegally Constructed Objects

### Social housing:

- Government of Croatia, Program of Publicly Funded Housing Construction, 2001
- Government of Albania, Law on Social Housing, 2004
- Government of Serbia, Law on Social Housing, 2009, and National Strategy and Action Plan for Social Housing, 2012
- Government of Kosovo\*, Law on Financing Special Housing Programs, 2010
- Government of Montenegro, draft Law on Social Housing, 2012
- While no formal legislation on social housing has been adopted in the former Yugoslav Republic of Macedonia, in 2010, the former Yugoslav Republic in Macedonia adopted the National Strategy for Poverty Reduction and Social Inclusion which addresses persons that are socially excluded in the housing sector
- Bosnia and Herzegovina does not have any formal strategic or legal documents for social housing, but several social housing development projects were implemented with support of Catholic Relief Services, UNDP and Hilfswerk Austira

### International frameworks:

- International Convent on Economic, Social and Cultural Rights, 1966, <http://www2.ohchr.org/english/law/cescr.htm>
- International Convent on the Elimination of All Forms of Racial Discrimination, 1969. <http://www2.ohchr.org/english/law/cerd.htm>
- Convention on the Elimination of All Forms of Discrimination Against Women, 1979. <http://www2.ohchr.org/english/law/cedaw.htm>
- Convention on the Rights of the Child, 1990. <http://www2.ohchr.org/english/law/crc.htm>
- OSCE Action Plan on Improving the Situation of Roma and Sinti within the OSCE Areas, 2003, <http://www.osce.org/odihr/17554>
- Council of Europe, *The 10 Common Basic Principles on Roma Inclusion*, 2011, [http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011\\_10\\_Common\\_Basic\\_Principles\\_Roma\\_Inclusion.pdf](http://www.coe.int/t/dg4/youth/Source/Resources/Documents/2011_10_Common_Basic_Principles_Roma_Inclusion.pdf)