



Can Non-Territorial Autonomy Help to Enforce the Linguistic, Cultural and Educational Rights of the Roma?

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1 INTRODUCTION

Strategies of discrimination against and expulsion of the Roma persist in the policies of contemporary democratic and non-democratic countries, including those that respect human rights and those with challenges in that regard. The ongoing structural discrimination that the Roma face has not yet been properly addressed; the current minority rights framework (Kymlicka, 2008) and post-1990s minority regimes in Europe remain unhelpful for many Roma. The measures that have been proposed to date to address social exclusion and marginalisation in many cases are largely unenforceable; they tend to overlook the harsh living conditions, lack of access to public services, low level of education and the prejudices against and hostility towards the Roma. Moreover, they do not recognise diversity within the Roma community and instead see it as a homogeneous population (Pogány, 2006).

Due to social exclusion, embedded discrimination, a history of persecution and its cultural specificity, the Roma community has particular difficulties in achieving some socially established objectives. The priority areas are interconnected: for example, if the Roma are unable to receive an adequate education,

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they will struggle later to enter the labour market and so on. In that respect, Roma participation in social, economic and political life is a necessary and important factor in addressing the multiple and interconnected issues they face. Cultural participation is vital for all minority groups, but particularly for those who are marginalised, yet some authors argue that only political participation will address existing exclusion and serve as a tool for articulation of shared interests, including socio-economic and cultural needs (McGarry & Agarín, 2014). In the past, cultural activities of the Roma have often proved to be a powerful and successful expression of their lives and indigenous culture. Hence, the promotion of culture can be perceived as an effective instrument not only for affirming Roma identity but also for promoting inter-ethnic tolerance and integration in society. In most of the national strategies, culture is perceived as an important factor for the further emancipation of the Roma. Key documents indicate that Roma culture should be promoted as part of broader education policy because the cultural dimension is inextricably linked with the use of the mother tongue, which, in the domain of education, is a tool for social change. Difficulties in achieving socially established objectives can also be analysed in economic terms, where an enormous gap between the Roma community and the rest of the population persists.

This paper addresses the human rights violability of cultures commonly marginalised in society. In many cases, although human rights protection regimes are enacted for certain cultures, the measures do not encompass groups that are non-dominant and territorially dispersed. This paper highlights this situation with the example of the Roma in respect of their language, cultural and educational rights in Spain and in North Macedonia, and shows how the establishment and implementation of possible non-territorial autonomy (NTA) arrangements can help to overcome the discrimination that persists in those sectors of society. Theoretically and practically, there is no unique model of NTA since it is applied differently in different contexts and circumstances. However, NTA arrangements tend to help non-dominant and territorially dispersed groups secure representation and protect their linguistic and cultural rights.

The topic of this paper is not well explored. Scholarly debates tend to discuss the efficiency of NTA in countries that have already officially enacted NTA arrangements rather than opportunities to enact NTA in other contexts in which dispersed groups lack institutional protection. Hence, we believe there is a need to explore NTA beyond the status quo and examine its potential. This joint paper explores the potential applicability of NTA in Spain and North Macedonia, two countries with significantly different political and historical trajectories but with sound protection of territorial collectivities compared with dispersed communities. Moreover, in both countries, the Roma community: is scattered across the territory but lacks access to NTA arrangements that might be beneficial; has been excluded historically and lacks meaningful political representation; lacks institutional support to advocate for its interests *vis-à-vis* more structurally empowered groups. NTA may not be

the ultimate and only solution, but it can enable visibility and representation. However, to translate mere visibility into an active role in decision-making processes beyond symbolic representation, there is, arguably, a need for a broader approach with political arrangements built specifically for the Roma (with their active input in the process) and a legal framework that comprehensively addresses their needs. In any case, we consider that protection and promotion of Roma language, cultural and educational rights through NTA, together with other programmes designed to improve their socio-economic position in society, can help to overcome the historical marginalisation that prevails.

Methodologically, the paper builds upon existing theory related to NTA, analysing and drawing conclusions from civil society reports, the findings of regional and international organisations, national institutional data, media outreach and scholarly articles.

2 THE DEMOGRAPHIC, SOCIO-ECONOMIC AND POLITICAL POSITION OF THE ROMA IN EUROPE

Roma people live in the territories of various nation-states and are subject to their sovereignty. Roma people speak various languages and exhibit different ethnic and cultural features. However, almost everywhere, they suffer from severe alienation at the hands of majority societies and, since they are in a non-dominant position, they are extremely politically vulnerable (Klimova Alexander, 2007). In the last 20 years, many authors have studied anti-Roma sentiment and highlighted the need to address it in the language and agenda of the European institutions.

According to the Council of Europe, 11–12 million Roma live in the territory of its Member States: the largest Roma population lives in Bulgaria (10.33%), followed by North Macedonia (9.59%), Slovakia (9.17%), Romania (8.32%), Serbia (8.18%), Hungary (7.05%), Turkey (3.83%), Albania (3.18%), Greece (2.47%) and Spain (1.52%) (Council of Europe, 2013). However, given that many Roma people are not registered—civil war, forced migration, expulsion and extreme poverty have made many Roma people stateless or left them without official documentation like birth certificates, identity cards or passports—populations are, arguably, much higher. Moreover, as mentioned, many countries consider the Roma to be a single ethnic entity, when in fact they comprise multiple groups including Arli, Barutčia, Džambazi, Gilanlia, Konopari, etc. (Pogány, 2006) and thus reflect complex, flexible and multiple identities (Petrova, 2003). Historically, their presence in Europe has been marked by nomadism as a means of both escaping mistreatment and discrimination and preserving their unique way of life (Iovită & Schurr, 2004).

When it comes to their socio-economic position, the Roma are considered at high risk of poverty in most central and eastern European countries.

However, reliable information on their living conditions and the characteristics of and reasons for their poverty remains scarce, fragmented and, as some authors have pointed out, anecdotal (Revenga et al., 2002). However, given that many Roma are not registered, they do not possess essential documents such as a birth certificate and they are not part of national census registers. This lack of legal recognition denies them a range of rights, from basic human rights (education, health care) and civil and political rights (voting) to social rights. For example, according to statistical data from various sources such as the United Nations Development Programme, the World Bank and the European Commission (European Commission, 2010, 2021; European Union Agency for Fundamental Rights, 2019; EU Roma strategic framework, 2020; UNDP, 2017; World Bank, 2019), Roma students spend half the amount of time in education that non-Roma students spend in education. In terms of health, assessments indicate that Roma people have poorer overall health than the non-Roma population (Ivanov & Kagin, 2014). Other discrepancies exist in, for example, participation in the labour market, where the Roma unemployment rate is at least 20% higher than the non-Roma population unemployment rate (Slay et al., 2014), despite efforts to improve access to the labour market (Civil Rights Defenders, 2017). These figures reflect the many difficulties that the Roma face and serve to underline the endemic discrimination and undereducation that, inevitably, lead to fewer employment opportunities. Educational challenges include lack of recognised qualifications, lack of skills training, poor or no command of the country's official language, lack of appropriate jobs and, on top of that, existing structural discrimination (Eurocities, 2017).

Historically, discriminatory and oppressive treatment of the Roma has marginalised them from mainstream European society and for a long time denied them access to available socio-cultural and political resources to improve their situation (Mišina & Cruickshank, 2020). The Roma continue to face structural weakness across Europe, illustrated by the fact that they still have not been successfully integrated into official political channels. This puts the Roma community in a precarious position of powerlessness and makes it vulnerable within European socio-cultural and political life (Petrova, 2003). The Roma community is bound by institutions whose rules they played no part in creating. The Roma have not claimed land rights or established a territorial state. Since they are territorially dispersed, the conventional interpretation of the principle of self-determination and autonomy does not apply since it can be exercised only by states or their administrative subunits. As a result, the Roma find themselves in a vicious circle of exclusion that endangers their rights and subordinates them politically (Klimova Alexander, 2007).

3 THE ROMA IN SPAIN

History, Demography and Social Position

The word *gitano* means gypsy in Spanish, is a term that Roma people in Spain generally use to refer to themselves and is widely used in policy-making and academia, therefore it has fewer pejorative connotations than it does in other languages. The first records of Roma people coming to the Iberian Peninsula date back to the fifteenth century. Even though, initially, the Roma were well received, the first persecutions began in the transition between the fifteenth and sixteenth centuries. Since then, a whole series of orders, laws and policies have been implemented, with a clear discriminatory component.¹ It was not until 1878 that specific legislation on the Roma ceased to exist and they had the same duties and rights as the rest of the Spanish population (Laparra, 2009).

In 1943, during the Francoist dictatorship (1939–1975), a new regulation recommended vigilance and close control of Roma community activities. This regulation was not modified until Spain became a democracy in 1975. Although this history of persecution did not result in expulsion, physical elimination or the complete acculturation of the Roma population, its effects continue to be experienced today, despite the new regulations that exist in a completely different political framework. Indeed, the inequality that still affects a great part of the Roma community (health, housing, education, employment, etc.) is not unrelated to the discriminatory treatment they have received for centuries.

Anti-Roma movements are closely related to the Foucauldian tradition of the genealogy of racism as a biopolitical and structural phenomenon. This multifactorial and deeply rooted phenomenon in Spanish society requires careful analysis of texts, images, the media, regulations and other non-discursive practices such as architecture, urbanism, the educational system and the creation of segregated spaces. In Spain, the phenomenon of anti-Roma is not new and is complex. It implies economic factors (that compete with certain traits), religious factors (that contribute to the perception of the Roma as infidels or atheists), demographic and biopolitical factors (that seek to sedentarise them and inhibit their nomadism) and political factors (that relate to the creation of the nation-state). This is an interesting point since it shows that what is today known as *Spain* was born of a homogenisation project based on cultural, religious, linguistic and ethnic intolerance (elimination of the non-white, the non-Catholic and the non-Spanish-speaking). This process, which involved the expulsion of Jews and Muslims and an attempt to exterminate

¹ Such discrimination has been embodied in various ways depending on the historical moment, ranging from attempted expulsion and physical elimination to more or less enlightened acculturation. On 30 July 1749, under the rule of King Ferran VI, a *Great Raid* took place across Spain in which 9,000 Roma people were killed or imprisoned. To this day, the Spanish Roma organise events to commemorate the massacre.

the Roma people, was part of the creation of the Catholic Spanish nation-state (Abajo & Carrasco, 2004).

Considering the demographic data obtained from the Spanish official census held in 2007, the Roma community numbers about 800,000 people (Spanish Ministry of Labor and Social Affairs Report, 2007). This was an estimate, in the same way that the Council of Europe estimated in 2010 that there were 725,000 Roma people in Spain. We consider that, at the time of writing, there are around 1.1 million Roma people in Spain. Half of the Roma population in Spain lives in the south, 80,000–90,000 live in Madrid and Barcelona² and the rest are scattered throughout the country in communities. Most of the Roma community are young (few are older than 65) (Spanish Ministry of Health, Social Affairs and Equality, 2011), which, in demographic terms, means the Roma population in Spain has a very young structure.

However, on a state level, as well as on an autonomous community level, there is a lack of reliable official data on the Roma population, including not only their educational, social and health circumstances but also their access to housing or the labour market. This limitation exists largely because of the Law on the Protection of Personal Data (Organic Law 15/1999), which protects personal data, including information on ethnic origin. However, the law also inhibits the creation of new and apposite policies for the Roma.³

When it comes to the political and social participation of the Roma in Spain, we consider it to remain scarce. For example, at the time of writing, the Roma people have only four deputies in the Spanish Congress and none in the Parliament of Catalonia. This lack of representation affects public policies and reduces opportunities to enact new regulations that will support the changes needed to improve their situation.

Language and Culture

The language of this non-territorial entity is the main component of its identity, together with its religion, music and dance. In Spain, although the use of the Romani language is almost lost, a considerable vocabulary of terms remains in the Roma community, mixed with a variant named *Caló*, which is spoken by around 60,000 Roma people across the Iberian Peninsula (Spanish Ministry of Labor and Social Affairs Report, 2007). *Caló* uses the grammar of Castilian Spanish and the vocabulary of the Romani language. *Caló* is not protected in Spain because it is not accepted by any of the Spanish autonomous communities and it has no territorial base.

² The estimated Roma population in Catalonia in 2013 ranged between 80,000 and 90,000 people, according to data from Catalan Roma organisations (Fundación Secretariado Gitano, 2014).

³ The non-governmental organisation SOS Racismo (2008) indicated that the case of the Roma is the most flagrant example of deeply rooted discrimination.

Most Roma people have abandoned *Caló* and speak the local language where they have settled. In fact, this is a phenomenon that affects the Roma community across Europe. For example, Catalan Roma speak the variant named *Caló Català*. In Catalonia, even within the same city, there are Roma people whose mother tongue is Catalan (the local language) and Roma people who speak only Castilian Spanish. Elsewhere, in southern France for instance, the principal Roma community speaks Catalan as its mother tongue.⁴

When it comes to culture, it is important to note that the *gitano* figure is an essential component of the Spanish national discourse, closely linked with the flamenco culture. Despite this, the majority of the Spanish population, even the Spanish Roma themselves, are ignorant of Roma culture. Moreover, Roma culture is absent from the educational curriculum and textbooks in Spain or, if it exists, the transmitted image is mainly a negative one, which consolidates discrimination in the educational field. Nevertheless, *gitano* culture is today experiencing a burst of cultural projects seeking to revive the historical memory of the Spanish Roma people, which could be considered a first step for the community to regain self-esteem after centuries of persecution and acculturation.⁵

Education

Besides improving the employment rate of the Roma population, education is the most effective way to break the vicious cycle of poverty and exclusion. In Spain, the Roma community gained access to school classrooms just 40 years ago, following Franco's death and the birth of the democracy. This aligns with the fact that the Roma population has higher levels of illiteracy and, due to the early age of marriage in Roma culture, poor school attendance. Today, the number of secondary school students is increasing, but they are still low compared with the general population. Also, as authors Abajo and Carrasco (2004) stated, the level of non-attendance remains high, which leads to academic underachievement, especially at the secondary school level. In January 2011, the European Union reported that, of all the minorities in Europe, the Roma had the highest school dropout rate. Among other actions, the report recommended implementation of policies that eliminated segregation of Roma children in Member State schools (European Commission, 2010). However, despite the fact that Roma students are often placed in specific schools or even in separate classrooms, the current Spanish educational system does not officially recognise school segregation on the basis of race,

⁴ In Perpignan, the first written evidence of the Roma crossing to the Iberian peninsula dates back to 1415, when Perpignan was a Catalan city.

⁵ This movement is led by young people who want to maintain their identity. Hence, different Roma organisations aim to empower the Roma culture, raise awareness and spread it to the general public as well as among the Roma community itself. One of the most remarkable is *Secretariado Gitano* (<https://www.gitanos.org>), a non-profit foundation that leads most awareness campaigns.

and hence new mechanisms and policies to improve the situation are lacking. This situation, which in some circumstances creates so-called ‘ghetto schools’, negatively influences the quality of education that Roma students receive and effectively prevents any opportunities for intercultural coexistence. The impact of this segregation on the right of Roma children to education is enormous and is manifest in low academic performance, school failure, early dropout, lack of socialisation with other non-Roma children, etc. In the long term, this represents a significant barrier to accessing employment, which feeds back into the cycle of exclusion (Abajo & Carrasco, 2004).

Current Policies Towards the Roma

In the case of the Spanish State, unlike other European countries, there is no specific anti-discrimination legislation. However, there are norms and principles aimed at the prohibition of discrimination at all levels and areas of the Spanish legal system. The fundamental rights recognised in the Spanish Constitution are the right to education (art. 27), the right to non-discrimination (art. 14), human dignity (art. 10) and the principle of equality (art. 1). The right to education is related to these fundamental rights. When referring to cases of discrimination in the judicial sphere, there is little anti-discrimination jurisprudence in Spain. For example, the applicability of an aggravating circumstance due to racist motivations is considered no more than circumstantial.

In the last decade, the Spanish State has developed the National Strategy for the Social Inclusion of the Roma Population. The competencies in policies addressing the Roma minority are the responsibility of the different autonomous communities. For example, in the case of Catalonia, the turning point was in December 2019 when the Catalan Government—with the support of Roma organisations, universities and civil society—pioneered a preliminary draft of a law that developed a key concept of ‘inclusiveness’ specifically for the Roma, which is still under examination. This preliminary draft aligns with international human rights standards, which, in terms of successful action in the political sphere and social impact, is currently a benchmark for other countries in the European Union. Considering the overall situation, even the current representation of Roma people in Spanish Congress (with two men and two women belonging to different political parties) we can consider it as some progress, because since May 2019 this is the first time in Spanish history Roma people to enter into this institution, and many see this as a great opportunity to improve the social image of the Roma.

One forthcoming initiative is the establishment of an autonomous body named the Catalan Roma Institute (*Institut del Poble Gitano de Catalunya*), not only as a reference institution for transversal policies, dissemination, promotion and research linked to the Roma minority, but also to serve as a guarantor for the implementation of new public policies. The initiative is still under discussion, but it is the first of its kind in Europe and seeks to

offer guidelines on regulations and to enhance the participation of the Roma in governmental decisions. The Government of Catalonia has committed to defining specific public policies and a new legal framework for the groups vulnerable to social inequalities, such as the Roma minority, to improve their living conditions and equalise compliance with their rights with the rest of Catalan society. One initiative aligned with the creation of the Roma Institute is the Integrated Plan for the Roma People in Catalonia (Generalitat de Catalunya, 2018), which was created in 2017. Due to its popularity, it has been improved, renewed and extended until 2023. Under the umbrella of the plan, 100 different actions are currently being implemented. One noteworthy action of the Integrated Plan is a collaboration with the University of Barcelona, which has jointly initiated voluntary training courses for its teaching staff about the history, traditions and socio-educational aspects of the Roma people. This plan also offers Roma students academic accompaniment and supports both in the enrolment process and throughout their degree. In the 2021–22 school year, 200 students (mostly male) benefited from the plan and, in this sense, the Integral Plan has boosted the access to education of the Roma people. Within the university community, Roma students are mostly associated with the Roma University Network. Created in 2016 at the Autonomous University of Barcelona, the network was designed as an information channel and to offer mutual support. The network has since spread to include all Roma students in the country and there are plans to expand to other countries.

4 THE ROMA IN NORTH MACEDONIA

History, Demography and Social Position

Roma people live throughout the territory of North Macedonia and are considered to be a homogeneous group. According to the last census (2021), they represent 2.53% of the total population (1,836,713). However, as in Spain, the lack of reliable administrative data suggests that the actual Roma population is much higher than the official figure, with some commentators estimating that they represent closer to 10% of the total population. Moreover, it should be noted that North Macedonia is home to nearly 1,700 refugees, many of whom are Roma people who fled because of the Kosovo conflict in 1999, and around a third of them still do not have resolved legal status (Civil Rights Defenders, 2017).

The trend in North Macedonia is not much different than other countries in Europe, with low inclusion of Roma people across all social sectors (Council of Europe, 2012). Although moderate progress is being made towards the equitable representation of all ethnic communities in the public domain, the Roma are still underrepresented. In public institutions, for instance, only 1.10% of the total number of public sector employees are Roma, and representation in local self-government administrations is even lower. The unemployment rate of the Roma population is high compared with the unemployment rate of

the non-Roma population. Official figures highlight not only the difficulties of integrating Roma people into the labour market, but also the challenges of getting reliable data about actual unemployment rates (Civil Rights Defenders, 2017). According to some statistics, the overall unemployment rate among Roma people in North Macedonia is 53%, in comparison with 27% of the general population, and the unemployment rate for Roma women increases to 70% in comparison to 61% unemployment rate of the non-Roma women (European Roma Rights Centre, 2013).

Language and Culture

According to the Law on Primary Education in North Macedonia (beyond the Macedonian language and its Cyrillic alphabet), education should be conducted in the language and the alphabet of the community if that community speaks a different language. However, in practice, the Roma community is educated in the Macedonian language. The Law on Primary Education guarantees that the course *Romani language and culture* can be studied as an elective (from the third grade until the end of primary education, with up to two classes per week), but often this regulation is ignored in practice and sometimes the option is not even available for Roma students. Moreover, there is a shortage of qualified Roma teaching staff in primary and secondary schools, yet qualified Roma teachers cannot find employment in primary and secondary schools (Minority Rights Group International, 2018). Apart from those issues, programmes for educating Roma children in primary education are still under development.

The Roma are a stateless, non-territorial people without a native literary tradition. Although the Romani language can be considered indigenous across much of Europe, many Roma people speak distinct dialectics (Friedman, 1999), which makes it impossible to create a single Roma language. In fact, many Roma people do not speak Romani but Macedonian, Albanian and Turkish languages. Nevertheless, some standardisation has been attempted and the Roma language has been introduced as an elective course at the faculty level (National Roma Inclusion Strategy,).⁶

North Macedonia has a solid legal framework and broad institutional setup for the protection and promotion of the Roma culture. The Law for the Rights of the Communities that are less than 20% from the Population in the Republic of North Macedonia (2020) stipulates that members of the communities can organise and establish associations of citizens and foundations for the realisation of their cultural, educational, artistic and scientific purposes. There is a Law on Culture and the National Strategy that sets goals and priorities for cultural development, assigning financial and administrative measures for their realisation. Under this law, budget funds should be used for the

⁶ From the academic year 2012–2013, the Romani language has been offered as an elective course at the state university Faculty of Philology in Skopje.

affirmation and promotion of the culture of all communities, and that competence is assigned to the Directorate for Affirmation and Advancement of the Culture of the Members of the Communities. Additionally, several local radio stations and two local television stations in the country broadcast programmes in the Romani language, some of which are included in the programme of the national radio and television service (Macedonian Radio Television—MRTV). However, the Roma culture is mostly nurtured and presented by the non-governmental organisations (NGOs), including amateur folklore societies, music groups, theatre and others. Such NGOs receive little or no state financial support (the distribution of state support is rarely transparent). An additional disadvantage is that the Roma initiatives compete for budgetary support on an equal footing with other national institutions, which in practice means they have little or no chance of attracting any funding (National Roma Inclusion Strategy, 2014–2020). Hence, considering the circumstances, many do not even apply for funding. At the local level, some municipalities promote in their annual programmes implementation of programmes for development and promotion of Roma culture, but only to a small extent. Given the often negative presentation of Roma culture by the media and in educational material, a large part of the Roma community thinks not only that their culture is presented inaccurately, but also that their culture is presented in such a way as to intensify existing prejudices (National Roma Inclusion Strategy, 2014–2020), and can cite examples to prove it.

Education

Reports and surveys published by international and domestic civil society organisations and state institutions show that in North Macedonia there is a difference in the level of education and literacy between the Roma community and the rest of the population (European Commission, 2021; European Roma Rights Centre, 2013; Institute for Human Rights, 2013; Minority Groups Rights International, 2018; State Statistical Office, 2022; UNDP, 2017; World Bank, 2019). The Constitution and the Law on Primary Education guarantee the right to education under equal conditions. However, in practice, Roma children still suffer from social stigma, discrimination and segregation and face barriers in their access to regular and quality education (International Minority Rights Group, 2018). For example, in the 2020–2021 school year, only 347 Roma children aged 6 were enrolled in schools, out of 186 649 students, which is less than 1% of the total number of children enrolled in school for the first time. In kindergartens, only 90 Roma children received subventions from public funds. The annual dropout rate per grade for Roma children in primary education was 6% and for secondary education was 4%. There is no system and baseline data for the reintegration of children who have dropped out. Additionally, concerning the situation with the Covid-19 pandemic, the majority of Roma children did not have access to technical equipment to continue their education through distance learning (European Commission, 2021; State

Statistical Office, 2022). Although the percentage of Roma students enrolled in higher education institutions has increased since 2019 (42% to 48% of the Roma youngsters have enrolled in high school), segregation in school remains high with Roma children most often separated in the education system (European Commission, 2021): either they are placed in a separate classroom or they are required to sit at the back of the class (Cuculoska & Doda, 2016; Doda & Dzeladin, 2016; Institute for Human Rights, 2013).

The difficulties that Roma students encounter stem from their parents' low level of education and from low socio-economic status. These two factors have a demotivating effect, producing low interest in school activities, poor grades, inability to attend classes regularly and dropout from school. Moreover, there appears to be little institutional interest in improving the situation. However, perhaps the main reason why Roma children lag behind in studying the basic material, especially reading and writing, is not knowing the Macedonian language. Most often this is a consequence of not attending preschool because there are not any where they live, they cannot afford them or they are rejected for various reasons (Cuculoska & Doda, 2016; Institute for Human Rights, 2013).

Current Policies Towards the Roma

Although the Roma are officially recognised and explicitly mentioned at the national level as an ethnic community, they are still largely excluded from society. At the national level: the Ministry of Political System and Inter-Community Relations advances and monitors all aspects related to the rights of the communities; the Inter-Community Relations Committee represents all the communities, aims to advance their rights and manages the distribution of public funds and the Agency for Community Rights Realisation protects the rights of the communities that are less than 20% and seeks to ensure equal focus on all communities regardless of their position in society and level of political power. In terms of political participation, there is one Roma representative in parliament at the time of writing, although there are more Roma councillors in municipal councils. It is interesting that the municipality of Shuto Orizari has a majority of Roma residents, and the mayor and some councillors are Roma. Some sources point out not only that Shuto Orizari is the only municipality in the world where the Roma are the majority⁷ but it is also the only municipality in the world where Romani⁸ is an official language, next to Macedonian. The protection of members of non-majority communities in North Macedonia is also regulated at the local level, through a law on local self-government. This law outlines ways that citizens can participate directly

⁷ See more at <https://sutoorizari.gov.mk>.

⁸ In 2020, the Roma got support from the government in the standardisation of the first grammatical dictionary of the Romani language comprising the dialects spoken in the Balkan Peninsula.

in local self-government and defines the individual or collective involvement of the inhabitants of the municipality in decision-making. Citizens can submit proposals and petitions to the council as ways to achieve participation in local affairs. This seems like a positive option given that most of the problems related to exclusion of the Roma are the responsibility of the local government (education, health care, culture, etc.). Within this diverse political landscape, and despite the established legal and institutional network, the Roma population in North Macedonia remains the most vulnerable minority and continues to struggle with institutional discrimination and social prejudice.

5 NTA AND THE ROMA PEOPLE

NTA is a statecraft tool or policy instrument applied in countries that are ethno-culturally diverse (Salat, 2015). NTA is a generic term, not a specific model, therefore it refers to diverse theories and practices as well as a variety of related interpretations. Those related concepts, envisaging similar elements (personal, cultural, extraterritorial, etc.), most commonly refer either to the main principle (personal) or to the content of the autonomy (cultural) (Osipov, 2015, 2018). NTA assumes elected institutions to administer minority cultural-educational affairs and represent often small and territorially dispersed communities (Malloy, 2015). This model can be contrasted with theories of national autonomy that require a territorial base for autonomous national communities. However, NTA requires no territorial base for autonomous communities to be organised as sovereign collectives, no matter where they reside within a multinational state (Nimni, 2000). NTA arrangements work best in cases where minorities or the beneficiaries are dispersed among the majority population and territorial autonomy cannot apply. In that sense, the implementation of NTA models represents a practical solution, namely, NTA can be extended if territorial autonomy is not applicable. But the same applies when territorial autonomy is not applicable due to political factors or power imbalances beyond demographic and geographical factors. NTA has certain advantages over territorial autonomy since it is based on the principle of identity and associated rights (the personality principle), where territorial autonomy is based solely upon the principle of territoriality (Lapidoth, 1997).

NTA can enhance a group's ability to self-govern matters relevant to group members. Representation and autonomy go hand in hand, that is minorities have views and interests related to the polity as a whole as well as ideas and concerns relevant only to themselves. Minority inclusion requires not only that members of minorities can 'have their say' through mechanisms of representation (shared rule) on matters related to the polity as a whole, but also that they have a significant measure of control (self-rule) or self-governance over decisions that affect them primarily (Henrard, 2005). However, NTA arrangements tend not to isolate groups to run their internal affairs, meaning

it is sometimes difficult to distinguish between self-rule and shared-rule initiatives (Kettley, 2001). Because the shared rule relates more to consociation than to autonomy, some authors point out that self-rule has more obvious implications for the study of NTA (Coakley, 2012). However, shared rule or shared decision-making (co-decision) is no less important. Therefore, when studying NTA, it is important to examine the competencies of the relevant bodies as well as the nature of the wider political system in which they operate. Minorities' rights to participation can be secured if NTA arrangements allow their voice to be heard on issues connected with their identity, both through control of their own affairs and through participation in the decision-making processes at the state level (Prina et al., 2018). But can we justify talking about autonomy in NTAs, bearing in mind that autonomy is a construct of state and that power is shared by states defined by territoriality rather than by nations? There is a need to explore how in different surroundings power that is territorial in nature can be shared in NTAs and identify which conditions and institutional practices contribute to reaching the desired outcomes (Salat, 2015).

NTA strategies comprise minority policies that involve diverse arrangements and practices, mostly implemented in central and eastern Europe (Nimni et al., 2013). Personal, cultural and functional autonomy can be seen as modules of NTA. *Personal autonomy* is based on personal choices among arrangements that exist in the legal framework. In institutional terms, personal autonomy can be seen as an opportunity to create associations or legal bodies to protect or improve minority interests (Suksi, 2011). *Cultural autonomy* can be understood as self-rule by a culturally defined group seeking to maintain and reproduce its own culture (Eide, 1998). Cultural autonomy and management are allocated to a group that is culturally rather than territorially defined, and the scope of self-management is limited to cultural aspects. Thus, cultural autonomy supposes that some institutions are created under the freedom of association that can enable a community to take action as a group (Suksi, 2008b). *Functional autonomy* is a pragmatic approach and an organisational option to the promotion of rights of a minority population. That is related to the provision of adequate public services to a minority population. That is when the state transfers particular public functions and public powers to a private form of minority organisation (Suksi, 2008a).

Here, NTA is the broadest denominator; it is not so much a particular model but a generic term that refers to different practices of minority community autonomy that do not entail exclusive control over a territory (Nimni & Pavlovic, 2020). Traditionally, NTA comprises not only a mix of different arrangements—such as consociationalism and national cultural autonomy—but also forms of representation that de-territorialise self-determination (Nimni, 2015).

Examples of NTA and the Roma

The accommodation of minorities through mechanisms of territorial and NTA is regaining prominence today, and that is visible both in political theory and in comparative politics (Nimni et al., 2013). The relevant regulations can be found in national constitutions and in specific regulations that grant cultural autonomy (Smith, 2013). An overview of existing practices reveals the wide variety of NTA forms determined by the political system, the number of minorities and their position within the society.

Perhaps the most prominent example of a country that institutionally enacts NTA is Hungary, where minorities (nationalities) are dispersed, making territorial autonomy infeasible (Dobos, 2016). Nevertheless, historical communities—those present in Hungary over the past 100 years—have minority status. Some 13 ethnic nationalities enjoy minority rights, based on the use of their language and as defined in the Act on the Rights of Nationalities of Hungary (2011, art. 22), and among them is the Romani/Roma language. These nationalities enjoy educational, cultural and media rights and can self-govern their education. Indeed, the state supports the use of their languages in national public education, and Roma children can receive education in their first language. Roma education may also be delivered in Hungarian, however, based on local opportunities and needs, including that there are at least eight children, the institution shall also make available teaching in the Roma language. The local self-government has the right to arrange supplementary education when there are fewer than eight children (Act on the Rights of Nationalities of Hungary, 2011, art. 25).

Slovenia is another example of a country where NTA arrangements have been made for the Roma community. The Slovenian Constitution (1991) recognises Hungarian and Italian national communities, but the Roma community has a special status as regulated by law. In some areas, the Roma enjoy full cultural autonomy and can elect a national minority council. Unlike the Italians and Hungarians, the Roma are dispersed throughout Slovenia, and those municipalities with the biggest established Romani populations (around 20) need to elect one Roma councillor (Act Amending the Local Self-Government Act, 2018). The 2007 Roma Community Act established the Roma Community Council of the Republic of Slovenia, a special body tasked with representing the interests of Slovenian Roma in relation to state bodies. The community council comprises 14 representatives of the Roma Union of Slovenia and 7 representatives of elected municipality councils (Roma Community Act, 2007). According to this legislation, persons belonging to the Roma community have access to special rights (Council of Europe, 2018).

The examples provided above are far from perfect. The details of individual NTAs are determined by the political system and the status of minorities within that system. As such, in Slovenia, only three minorities enjoy NTA because they are legally recognised, whereas other minorities are outside of the system. Hence, Roma people who have traditionally lived in Slovenia and those who

arrived following the dissolution of the Socialist Federal Republic of Yugoslavia are seen as distinct, and that distinction makes rules for protection unclear. Although the Roma community has access to special rights, the implementation of legislation is unsatisfactory and, at the time of writing, the authorities have not yet addressed the situation (Council of Europe, 2018). Moreover, the Roma Community Council is often regarded as divisive and unrepresentative of the whole Slovenian Roma community (FRANET, 2021), and its competencies are often limited and its functionality in practice is problematic for financial reasons (Komac & Roter, 2015).

In Hungary, NTA is reserved for cultural or educational issues, where minorities can obtain consultative roles or achieve representation through different forms or modalities (such as minority self-governments (MSGs), national councils, etc.). Thus, minorities: can enjoy functional and financial autonomy in the establishment, running and management of institutions of an educational and cultural nature; have the right to be consulted; can propose decisions; can obtain views and opinions but do not have decision-making powers that will allow significant self-government. The question is whether the objectives of the minority law and MSGs that focus on preserving minority languages and cultures also have the potential to address the basic needs and interests of the Roma who predominantly speak Hungarian but who are socially and economically marginalised (Vizi, 2009). During the creation of the minority law (in 1992), the principal idea was to distinguish the Roma from other minorities on the basis that their language and other cultural aspects were less important than their social, ethnic and identity issues. Hence, it was argued that the Roma's right to self-organisation and empowerment was a necessary but insufficient condition to overcome their social problems (Molnar Sansum & Dobos, 2021). Additionally, lack of clarity about their ethnic identity has often stimulated debate about the complexity of their belonging and so-called 'ethno-business'. Other considerations concern the relatively weak competencies and high dependence of the Roma MSGs on central and local funding, which questions their ability to influence and create policies capable of improving their socio-economic position.

In summary, this autonomous model has flaws derived from the general deficit of legitimacy of the minority organisations, lack of political integration of the Roma and considerable differences in ethnic identity within certain minority groups (Dobos, 2016).

These examples from other countries highlight that NTA, cultural autonomy and minority rights are not always enough to address the needs of the Roma, mainly because (considering their socio-economic position) they are not well integrated into societies and remain socially and economically marginalised. It should also be noted that special laws and the practices that stem from them are often blind to the differences between various groups. Arguably, these differences make it impossible for a single law to provide the same level of cultural autonomy across all minority groups (Molnar Sansum & Dobos, 2021). The Hungarian one-size-fits-all approach makes it hard to

translate a group's visibility into voice given that, for instance, the institutional constraints that the Roma face are effectively beyond their control (McGarry & Agarín, 2014). However, in Romania, beyond the cases of the institutionalised forms of NTA (applied towards the Roma) mentioned above, some authors consider that, even without set legal, political and institutional safeguards, Roma people have a special or unique legal order. That legal order is based on the personality principle, and it is effective. It illustrates that official recognition and authorisation by the state may not always be a necessary condition for the functionality of a particular autonomy arrangement, and that needs to be taken into account given the Roma's traditional mistrust of mainstream institutions and their low level of participation in local and national policies. This means that NTA can exist as an empirical reality, tacitly recognised by the official state, but those practices of unofficial and tacit NTA are often neglected in reality. Separate legal status (as *de facto* NTA) has deep roots in Roma history, their distinctive worldview and moral code, and the way of life that most Roma people prefer (Salat & Mişcoiu, 2021). However, to pursue their interests *vis-à-vis* structurally more empowered majorities, the Roma need more institutional support (McGarry & Agarín, 2014).

Can NTA Help to Enforce the Linguistic, Cultural and Educational Rights of the Roma in Spain and North Macedonia?

With regard to the realisation of the Roma's education, language and cultural rights in Spain and North Macedonia, a variety of negative practices and difficulties prohibit adequate minority protection in both cases. Despite very different political systems, the inherent discriminatory practices are similar. In both countries, NTA is not set within the legal and institutional framework. In both countries, protection of different minority groups is realised on a territorial level with little room for non-territorial entities. Spain has established autonomy arrangements, and the autonomous units protect territorial groups. In contrast, North Macedonia has implemented transformative changes that, in practice, represent a consociational system of power sharing that, at least theoretically, can provide better representation and protection of communities. However, the system is based on fixed quotas (numbered thresholds for protection of rights), leaving the Roma with little chance of participating in power-sharing arrangements. Rights are mainly realised at a local level through minority groups within local self-government units, which are managed by majority groups, which means that the smallest groups have little opportunity to participate and influence. In both countries, in two different political and institutional setups, smaller groups thus struggle to acquire proper and adequate protection for their language and culture. Minorities still face tremendous discrimination in the field of education, which later diminishes their chances of integration. Even with legal frameworks in place that follow contemporary standards and a solid institutional setup, the Roma remain highly institutionally discriminated in both countries.

As for the potential of NTA to enforce the Roma's linguistic, cultural and educational rights, there is no doubt that NTA arrangements can in essence help minorities conduct cultural or other activities without territorial limitation (Vizi, 2015). However, the fact that the Roma have no recognised territorial base creates a legal barrier for them to enjoy and advance their rights or to have their grievances heard. In that sense, NTA seems to be the most suitable concept as it offers to stateless people political participation and realisation of their connected rights without disturbing the territorial stability of the existing states (Klimova Alexander, 2007). Considering the above analysis, and following our discussion of the other countries with (official or unofficial) NTAs in respect of the Roma, we consider that NTA arrangements would help to secure the Roma's cultural, linguistic and educational rights. However, as mentioned, NTA comprises a range of arrangements designed to suit local conditions, accommodate particular groups within the respective political framework and create relevant institutions. Beyond mere symbolic representation, the elected NTA bodies in Spain and North Macedonia should have a proper say in decisions addressing the exclusion of and discrimination against the Roma, and should be actively engaged in educational and cultural affairs. For example, the Catalan Roma Institute could serve as a type of NTA body that might help to address issues concerning representation and participation in decision-making in educational and cultural affairs. In that respect, special action plans could benefit society in general and the Roma community in particular. Initially, that should involve creating educational curricula and training the teaching staff to address socio-educational aspects of the Roma people without neglecting their history, language and traditions. NTA models designed to complement other political measures in place would help to overcome the prevailing exclusion and discrimination. Such complementary NTA—irrespective of its possible, mainly practical constraints (observed in other countries and in other political and social contexts)—would not only benefit the Roma people, but also help to protect and promote their distinct language and culture. Complementary NTA would also help to develop Roma education and in turn support other policies aimed at overcoming their unjust and unfavourable situation.

6 CONCLUSION

In recent years, the Roma have become increasingly important on the European agenda, featuring in policies related to social inclusion and the promotion of equal treatment. In 2020, the European Commission created a new framework of action—EU Roma strategic framework for equality, inclusion and participation for 2020–2030 (EU Roma strategic framework, 2020) to support the Roma people, aligned with the European Agenda 2020, and the European Parliament urged the Member States to define and implement actions in the areas of education, work, housing and health, to combat discrimination, racism and xenophobia.

This paper has analysed Roma populations in two cases to illustrate that, despite existing arrangements for the protection of minority groups, the smallest communities, like the Roma, still exist on the margins of society. Due to embedded exclusion and discrimination, few language skills in the societies where they live and lack of access to education and job opportunities, the Roma community faces particular difficulties. As a non-territorial entity, the Roma have few rights and lack awareness of the rights they do have, which only compounds their traditional distrust of and nonparticipation in public institutions.

This paper highlights the existence of persistent and structural discrimination in Spain and North Macedonia—two countries representing an older and a newer democracy, an EU Member State and a candidate for European Union membership—both of which are Member States of the Council of Europe. We believe that in both cases (and in general), NTA can help to overcome the cycle of exclusion that faces minority groups since it can at least secure a form of representation and visibility. Adequately crafted, context-specific NTA arrangements can give some voice to territorially dispersed entities and entities that lack institutional support.

However, NTA is no panacea: not all NTA institutions successfully represent the interests of the groups they act for, sometimes making minority participation in decision-making processes limited at best (Molnar Sansum & Dobos, 2021). Yet, NTA should not be discounted. A tailor-made approach (unlike a general approach) applicable only to the Roma community that suits local conditions having in mind the respective political frameworks, can contribute towards success in securing the Roma's cultural, linguistic and educational rights. NTA models need to be specifically designed to complement other political measures for representation and decision-making, in order to be capable to properly address the exclusion and discrimination. Concerning the Roma, there is a need in Spain and in North Macedonia for programmes and complementary NTA institutions empowered to protect Roma culture, language and educational rights that will comprehensively address their social issues, including the high rate of unemployment, social deprivation, poverty and embedded prejudice.

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