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Julija Sardelić

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University of Edinburgh, School of Law
The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia
(CITSEE)

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Romani Minorities on the Margins of Post-Yugoslav Citizenship Regimes

Julija Sardelić, University of Edinburgh¹

Abstract

The main objective of this paper is to map how Romani minorities were positioned in the context of post-Yugoslav citizenship regimes' transformations and to observe possible trends throughout post-Yugoslav space regarding their positioning. The paper establishes that due to historical as well as contemporary hierarchical inclusions, many individuals identified as belonging to Romani minorities faced specific obstacles in access to citizenship in most Yugoslav states, where they *de facto* resided. Consequently, it gives an illustration of citizenship constellations in which many Romani individuals found themselves as non-citizens at their place of residence and usually without the status of legal alien with permanent residence as well as with ineffective citizenship of another post-Yugoslav state. Additionally, it also examines the hierarchical positioning of Romani individuals, who are citizens at their place of residence and, at least *de iure*, enjoy a certain scope of minority rights. Borrowing terms from postcolonial theory and following the latest developments in Romani studies, this paper argues that Romani minorities were caught in-between different processes of post-Yugoslav citizenship regimes' transformation, and therefore cannot be considered as the ultimate Other, but as the post-Yugoslav Subaltern.

Keywords:

Romani minorities, citizenship, post-Yugoslav states, statelessness, minority rights

Introduction

The predicament of Romani minorities as citizens of different European states is still one of the daunting challenges for scholars as well as policy makers. As many different academic and non-academic studies have illustrated, the position of Romani minorities worsened after the end of the socialist state systems (Guy 2001, Barany 2002, Ringold *et al.* 2005). Furthermore, it has also been studied that after European Union (EU) integration, the positioning of Romani citizens in Central and Eastern European states signalled the emergence of a new *European apartheid* rather than the promising prospects of EU citizenship (Balibar 2009, Vermeersch 2012). What remains to a certain extent under-addressed in academic literature is the positioning of Romani minorities on the inner and outer margins of the EU as citizens of post-

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Yugoslav states and what was the impact of *citizenship regimes'* transformations (Shaw and Štiks 2010: 5-8) on this positioning.

The aim of this paper is to map how post-Yugoslav *citizenship regimes'* transformations affected Romani minorities as citizens of newly established states and to investigate whether there are some possible patterns and trends concerning that impact throughout the post-Yugoslav space. Many of the scholarly debates view the position of Romani minorities through the prism of a single post-Yugoslav citizenship (Friedman 2002, Jakšić 2002, Bogdanić 2004, Jakšić and Bašić 2005, Klopčič 2007). This paper takes a different approach, instead focusing on the intersecting similarities in the positioning of Romani minorities in the context of different post-Yugoslav *citizenship regimes*. The first observation of this paper lies in the fact that individuals externally categorized as belonging to Romani minorities had obstacles, specific to their position, in the access to citizenship in most post-Yugoslav states, where they resided. In addition, they often possessed an ineffective citizenship of another post-Yugoslav state. Therefore, this paper claims that due to the historical as well as contemporary hierarchical inclusion their position as non-citizens at their place of residence can be understood as embedded in specific post-Yugoslav *citizenship constellations* (Bauböck 2010). Furthermore, this paper also sheds light on the position of Romani minorities, who had access to citizenship at their place of residence and were by national legislations recognized as a minority or a community with, at least *de iure*, guaranteed *group-differentiated rights* (Kymlicka 1995, 2007: 61). As far as Romani minorities are concerned, this paper argues that certain similarities can be observed in their position in different post-Yugoslav *citizenship regimes* due to the common Yugoslav history as well as, to some extent, because of the further developments in the context of EU integration processes and the dialogue with different international organizations.

Building on Joppke's conceptualization of citizenship dimension triad, this paper considers the *status* dimension (with the emphasis on the *access* component) as well as the *rights* dimension, and to a lesser extent the *identity* dimension of citizenship (Joppke 2007). It highlights the specific obstacles Romani minorities faced in the access to citizenship in the post-Yugoslav state where they resided. It also examines the variety of precarious non-citizenship statuses, different from the status of a legal alien with regulated permanent residence, in which Romani minorities are highly represented such as: legally invisible persons, internally displaced persons (IDPs) and refugees. Furthermore, in connection to the rights dimension, it explicates, in what way Romani minorities are included into the body of post-Yugoslav citizenries and what rights are granted to them based on this status. The main argument explored in this paper is that Romani minorities have not been positioned as the ultimate *Other* in this context, but due to the *in-betweenness* (Bhabha 1990) of their position can be comprehended as the post-Yugoslav *Subaltern* (Spivak 1988).

In-betweenness of Romani minorities in post-Yugoslav space

To better grasp the position of Romani minorities in the context of post-Yugoslav *citizenship regimes'* transformations, the primary argument of this paper borrows its theoretical terms from postcolonial vocabulary similar to that used by other Romani studies scholars (Kóczé and Trehan 2009). It namely explicates that the position of Romani minorities is marked by a fundamental *in-betweenness* to paraphrase one of the main postcolonial theorists Homi Bhabha (1990, 1994, 1996).² My first hypothesis is that Romani minorities became overrepresented within the groups of noncitizens at their place of residence due to socially produced migrations (Sassen 2007) both before and after the disintegration of the Socialist Federative Republic of Yugoslavia (SFRY). Due to these migrations across former republican and newly established state borders, they find themselves within, but also *in-between*, the grip of multiple post-Yugoslav *citizenship regimes*. Therefore, due to overlapping and spill-over effects of one *citizenship regime* onto another, their position cannot be simply comprehended by referring to a single post-Yugoslav *citizenship regime*, but must be observed in the sense of *in-betweenness* captured by *citizenship constellations* created in SFRY as well as those constructed after the Yugoslav disintegration(s).

Furthermore, although, as Judith Okely argued, Romani minorities can be perceived as the *Other* in many different societies (1994), I claim that articulating the position of Romani minorities as one of the ultimate *Other* is not applicable to the Yugoslav nor to the post-Yugoslav space. Following the latest developments in the field of Romani Studies (McGarry and Tremlett 2013), the position of Romani minorities³ has to be considered as an *in-between* hybrid since it cannot be fully

² Bhabha's concept of *in-betweenness* was transferred from postcolonial theory to a postsocialist context by Ksenija Vidmar Horvat (2009). According to her analysis, *in-betweenness* can have certain liberating effects for the societies in question (Vidmar Horvat 2009: 64). However, in the post-Yugoslav context, I analyse states' incapacity to adequately address the *in-betweenness* as presented by the position of Romani minorities, which can be then understood as forced *in-betweenness* (*ibid.*). Furthermore, it has to be noted that although one of the most important monographs on the position of Romani minorities is entitled *Between Past and Future: the Roma in Central and Eastern Europe* (2001), the authors of this edited volume do not engage with the postcolonial concept of *in-betweenness*.

³ I use the term Romani minorities in the plural form to acknowledge both hybridity and heterogeneity of these populations in the post-Yugoslav context. The populations identified as Romani minorities are in fact very heterogeneous and hybrid since this designation included various perceived and self-identified 'ethnic' sub-categories (e.g. Ursari, Kalderash, Sinti, Beash/Boyash, etc.), who usually share a very similar socio-economic predicament. The literature focusing on post-Yugoslav context usually portrays these heterogeneities by extrapolating on the division of Roma, Ashkali and Egyptians (RAE) in Kosovo (Marushiakova and Popov 2001, Sigona 2012). However, what tends to be ignored in the literature is that there are also other ethnic identifications connected to subdivisions within Romani minorities such as Sinti in Slovenia, Vlach Roma in Serbia and Bayash Roma in Croatia. All these subdivisions (as in the case of non-Romani populations as well) are situational as well as relational and they are being permanently (re-) constructed due to the endeavours of different political actors and also everyday contexts, to paraphrase Brubaker *et.al.* (2006).

comprehended in one-dimensional ethnic terms or solely in socio-economic terms. Aligned with this argument, the claim set by this paper is that their place in the newly established bodies of post-Yugoslav citizenry was not only defined by *ethnic engineering* (Štikš 2010), but also socio-economic engineering. I argue that the different processes of *engineering* connected to the new definition of post-Yugoslav citizenries did not target Romani minorities directly as the ultimate *Other*, but rather represent the failure to address their *in-between* position. This failure arises from the fact that Romani minorities found themselves *in-between* competing narratives of nationalisms (e.g. Croatian majority and Serbian minority in Croatia, Macedonian majority and Albanian minority in Macedonia, etc.) and even statehoods in some cases (Sigona 2012) and also, in most cases, *in-between* of discourses on transformation of citizenship regimes due to the EU integration processes.

Due to their *in-betweenness*, in many instances, they became collateral damage of these processes, not only in terms of physical violence, but also involving the *epistemic violence*⁴ (Spivak 1988) present in drafting citizenship policies of the newly established states. In addition, I show that their position was not merely the result of an unintended social exclusion, but was in fact a product of both socio-economic and ethnic *hierarchical inclusion* (Negri and Hardt 2000: 194), which positioned Romani minorities as *semi-citizens* (Cohen 2009: 72) in the context of new citizenship regimes.

Based on my research, I will claim that in this context Romani minorities can be perceived, using Spivak's term (1988), as the post-Yugoslav *Subaltern* rather than the ultimate *Other*. Conceptualizing the Romani *Subaltern* slightly differently from Nidhi Trehan (2009) and Angela Kóczé (2011), I focus on Romani minorities whose voice is not articulated even in the context of the movement for Romani rights due to their precarious non-citizen positions. In addition, I argue that even when Romani minorities are included in the body of citizenry, such inclusion is often marked by discrimination and inequality in accessing certain rights and participating in political communities. The position of Romani *Subaltern* was not completely invented *ad novum*, but reconfigured after the disintegration of SFRY. Therefore, it has to be first explained how Romani individuals were positioned as Yugoslav citizens.

Position of Romani minorities in the context of the Yugoslav citizenship regime(s)

Different studies claim that the position of Romani citizens within the socialist Yugoslav state was exemplary in comparison to treatment they were subjected to in

⁴ In this paper, I am using the term *epistemic violence* in alignment with post-colonial theory, specifically Spivak's understanding of the term, who originally took the term from Foucault (Spivak 1999: 226). *Epistemic violence* is a non-physical form of violence and refers to specific discursive practices of knowledge/power interplay. This can also include redefinition of certain categories within the legal framework (Spivak 1999: 267) to serve new societal hierarchies. The concept of *epistemic violence* was used also by Nidhi Trehan in her analysis of the position of Roma in Central and Eastern Europe (Trehan 2009:64). However, she does not apply it to the analysis of the position of Romani minorities in the context post-Yugoslav *citizenship regimes* transformation.

other socialist countries (Kenrick 2001, Barany 2002). Many of the socialist systems, such as Czechoslovakia and Hungary, adopted the policy of an assimilationist approach of interpreting 'Gypsies' as a deviant social group, which needs to be integrated into the working class (Stewart 1997, 2001, McGarry 2010). In contrast to this, according to Zoltan Barany, socialist Yugoslavia took an approach of *constructive interference* privileging ethnic integration of its Romani citizens over assimilationist policies (Barany 2002: 122). According to Barany and other authors (Barany 2002: 116, Crowe 2007: 228), Romani citizens of Yugoslavia were even supposedly recognized as a nationality (*narodnost*),⁵ while the system provided a different mechanism for tackling their structural socio-economic inequality (through the accessible labour market, Romani political representation, etc.). Although this view on Yugoslav policies toward Romani minorities is widely accepted, there are some voices, which are critical toward such a one-sided evaluation of Yugoslavia's treatment of its Romani citizens (Acković 1992, Galjus 1999, Latham 1999).

It is important to acknowledge that socialist Yugoslavia, in the spirit of 'Brotherhood and Unity', played an important role in the construction of the Romani intellectual and political elite. The League of Communists of Yugoslavia (LCY) made special efforts to include those individuals who declared themselves as belonging to Romani minorities into its membership. In the 1970s there were more than 2000 Romani individuals at different levels of the LCY (Kenrick 2001: 406, Barany 2002: 145). Many of these individuals were at the core of the international Romani movement. (Barany 2002: 145, Acton and Klímová 2001: 159-160). The construction of the Romani elite with the direct influence of the socialist Yugoslav system, however, raises the question of whether this elite should be perceived as a part of *Subaltern counter-publics* (Fraser 1990: 67, Plaut 2012: 56) or as a part of the dominant local 'indigenous' elite, which, according to Spivak, cannot be understood as being a part of the *Subaltern* (Spivak 1988: 79). To solve these dilemmas, we have to further examine the position of Romani citizens of Yugoslavia who were not a part of the elite.

After the Second World War, the Yugoslav state nurtured many different institutions and policies that guaranteed equal access to all of its citizens across ethnic lines, including to its Romani citizens. However, although individual Romani leaders were able to politically participate through the LCY and in the international Romani movement and there was a guarantee of cultural rights as well as higher employability rates, many individuals categorized as belonging to Romani minorities were living in substandard conditions in comparison to the majority populations in Yugoslavia, involving inadequate housing, higher poverty and illiteracy rates, etc. (Bašić 2010: 34-35, Crowe 2007: 227). Moreover, the position of Romani minorities was very diverse considering the regional micro-levels since there was no unified policy

⁵ For the avoidance of confusion, in this paper I do not use the term 'nationality' interchangeably with the term 'citizenship'. By 'nationality' I refer to the meaning it had within the 1974 Constitution of SFRY, which introduced the dichotomy between the Yugoslav nations (*narodi*) and nationalities (*narodnosti*).

toward them at the federal level. This resulted in very different discursive practices.⁶ For example, while in the Socialist Republic of Macedonia the Romani language was integrated into the multicultural educational curricula, in the Socialist Republic of Slovenia a very large number of Romani individuals were placed into schools for children with special needs because it was considered that their mother tongue (Romani) posed an insurmountable barrier for them to be included into the mainstream educational process (Barany 2002: 123, Sardelić 2012: 41). The treatment of Romani citizens within SFRY cannot be adequately comprehended without firstly considering the nested model of *citizenship constellations* (Bauböck 2010) in SFRY, where it had two levels: the republican and the federal. In addition to the single federal Constitution of SFRY, every republic also had its own constitution. Taking this into account makes it easier to interpret why many diverse and even contradictory policies existed concerning Romani minorities in Yugoslavia (Barany 2002: 123, Crowe 2007: 226, Sardelić 2012: 209-215).

The category of Roma, known as Gypsy before the first World Romani Congress in 1971, was already included in the question on ethnic affiliation in the 1948 Yugoslav census and onward (Mrdjen 2002: 92). Although many sources claim that with the 1974 SFRY Constitution Roma were recognized as a nationality (*narodnost*) (Djurić 1987, Barany 2002, Crowe 2007), this constitution itself does not in fact contain any reference to Roma, while it refers to the rights of the Albanian and Turkish nationalities in its Article 269. Legal analysts of the constitutional ethnic categorization in Yugoslavia claim that Romani minorities, especially after the adoption of the 1974 SFRY Constitution, were considered (although not named) as an ethnic group (Várady 1997). However, the 1974 federal Constitution did not refer to Roma or to the category of ethnic groups in any of its articles, but only to the constitutive nations (*narodi*) with the right to self-determination and to nationalities (*narodnosti*) with a substantive amount of constitutionally granted rights. Yet at the republican level, most of the socialist republics (all but Montenegro and Bosnia and Herzegovina) did include the category of ethnic groups, albeit without identifying them. This left some place for discretion for individual Yugoslav republic to decide whether or not to treat Romani minorities as an ethnic group. In the meanwhile, Romani minorities themselves were caught *in-between* due to the lack of a firm definition. According to Tibor Várady, although the ethnic groups were not identified individually in the republican constitutions while nations and nationalities were, the category of ethnic groups was usually reserved for disperse minorities like Roma (Várady 1997: 10) perceived as lacking strongly constructed *external national homelands* (Brubaker 1996: 55).

The rights of ethnic groups were articulated in a diverse manner in different constitutional settings. For example, while the constitutions of the Socialist Republics of Serbia (Article 194) and Macedonia (Articles 221 and 222), as well as those of the

⁶ I use the term discursive practices as it was defined by Ernesto Laclau and Chantal Mouffe in their *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics* (1985:107).

socialist autonomous provinces of Kosovo (Article 187) and Vojvodina (Article 194), included a comprehensive set of cultural rights, the constitutions of the Socialist Republics of Slovenia (Articles 212 and 214) and Croatia (Article 247) referred only to the general anti-discrimination provisions in respect of ethnic groups. The republican constitution of Bosnia and Herzegovina and that of Montenegro excluded references to ethnic groups altogether. Some researchers were overhasty and concluded that in this context Romani minorities were understood as a nationality (Djurić 1987, Barany 2002: 116). However, this cannot be deduced from the constitutions themselves since they specifically name all the communities considered to be nationalities, and Roma are not among them. There were, however, many advocates among the non-Romani (Šiftar 1980) and Romani (Acković 1992) political elite who argued that the identification of Roma as a nationality would bring them not only cultural recognition, but with an adequate policy for Roma as an *undeveloped nationality* (in analogy with undeveloped regions), also socio-economic prosperity (Crowe 2007: 227). Romani activist Dragoljub Acković even claimed that as long as Romani minorities are categorized as ethnic groups on the republican level they will remain in fact second-class citizens (Acković 1992: 22).⁷ While simply categorizing Romani minorities as an ethnic group does not classify them as second-class citizens *per se*, we can claim that there was a hierarchy of rights among *nations-nationalities-ethnic groups*.⁸ This becomes even clearer if we take into account that most of the constitutions in question, with the exception of those of Kosovo and Macedonia, did emphasize equality between nations and nationalities, but not ethnic groups.

While many studies retroactively reduce the complexities of the Yugoslav constitutional system to simple ethnic categories, it has to be noted that they were not the main collective category which had certain rights prescribed by the constitution. According to Vojin Dimitrijević, the other collective category was the working people, who were also the main power holders and had the right to socio-cultural organization (Dimitrijević 1995: 69-70). Although Romani minorities were not recognized as a nationality, the Romani social movement flourished through various socio-cultural organizations as many Romani individuals, and especially those who formed the Romani elite, were from the working class.

However, because socialist Yugoslavia did not simply treat Romani minorities as a social group, but also as an ethnic one, it did not introduce a unified plan, as had Hungary, for example (Stewart 1997, 2001), on how to assimilate them into the working class. Romani minorities were in the Yugoslav case left somewhere *in-between*: not completely included into the working class as well as not completely

⁷ According to Acković, there was a case before the SFRY Constitutional Court in which it was claimed that the republican constitutions, which refer to ethnic groups were in conflict with the federal constitution since it only uses the terms of 'nationalities' and 'nations'. This case, according to Acković, never resulted in a ruling (Acković 1992:17-18).

⁸ A similar observation has been made by Gëzim Krasniqi in his CITSEE Working Paper (2013) on post-Yugoslav Kosovo, where he claims that there is a hierarchy between different communities, although they are recognized as equal in the constitution.

excluded. According to several research studies, in socialist Hungary more than 75 percent of the Romani population was included into the labour processes, and hence into the working class⁹ (Kertesi 2004: 44), while in SFRY this number never exceeded 50 per cent. This was because most Roma were employed in (what was considered to be) 'traditional Roma crafts', which in most cases were not recognized as formal employment (Crowe 2007: 222-223). According to my interlocutors from Romani NGOs that I interviewed during my fieldwork in November/December 2012 and my other research (Sardelić 2011, 2012), although some Romani individuals were included into the working class and into the official working processes, many more were (officially or unofficially) self-employed in 'traditional Romani crafts' such as trough making as well as (what is considered to be less traditional Romani) trading. Through this economic niche many individuals recognized as belonging to Romani minorities gained a level of respect similar to that which would have been accorded to them as an official part of the working class.

While some members of Romani minorities were traditionally settled (especially in the Socialist Republic of Macedonia), many more found gainful employment in economic niches that required internal migration across the republican borders of SFRY. In addition, many married across republican borders (especially where they were localised close to an internal border), and there have also been reports of continuous migration due to harassment by the state repressive organs such as the police (Komac 2005: 139-140). All this contributes to the fact that migrations cannot be simply described as an essentialised characteristic of the Romani culture, but it should be understood in the context of all migration being, as Saskia Sassen claimed, socially constructed and produced even if it seemingly happens on a voluntary basis (Sassen 2007: 131). This includes 'Romani nomadism'. The effect of these continuous internal migrations was that in the end many Romani individuals settled down, in most instances in informal settlements, in a Yugoslav republic the citizenship of which they did not possess.¹⁰ With the disintegration of socialist Yugoslavia, the consequences for these individuals, many of them from Romani minorities, were two-fold. Firstly, from being Yugoslav citizens they became, in many cases, post-Yugoslav aliens who had to go through the process of naturalization, or as Igor Štiks puts it, they became *the excluded* of the new *citizenship regimes* (Štiks 2010: 15). Secondly, their alternative economic niche was to a large extent destroyed with the change of the modes of production from socialist to

⁹ When using the concept of a working class it has to be taken into account that the working class itself was always in the process of being constructed and, similarly to ethnicity, cannot be simply essentialised.

¹⁰ According to several of my interlocutors (Sardelić 2012), it was only in the 1970s, when Yugoslav policies became oriented towards permanently settling Romani minorities. Although sedentarism was required, many Romani individuals still migrated seasonally due to the economic niches they employed.

capitalist¹¹ and by the fact that with the re-positioning of their citizenship status, or a lack of any legal status, many of them became less mobile via newly established borders.

Re-positioning of Romani minorities as (non-)citizens after the disintegration(s) of Yugoslavia

In addition to the more or less peaceful internal migrations within SFRY, a larger number of Romani individuals were forced to migrate during the wars in the region, which also affected their status. Romani minorities found themselves caught *in-between* two fires of former Yugoslav constitutive nations or, as for example in the case of Kosovo:¹² between constitutive nation and a majority nationality (Perić and Demirovski 2000, Sigona 2003). Lacking the recognition as a nation or nationality, the best they could hope for was a minority status within the newly established states. However, as the paradigmatic example of Kosovo demonstrates, they were often forced to flee to save their lives instead (Krasniqi 2010) since they were perceived as enemies by both major groups in conflict (Sigona 2003). This led to them becoming either internally displaced (Džankić 2010) within the Federal Republic of Yugoslavia (FRY) – an especially acute position in Montenegro - or refugees in the (now independent) Republic of Macedonia. Many had no prospect of returning home in the foreseeable future. Beside the forced migrations, the position of Romani minorities as post-Yugoslav (non-)citizens was further re-configured due to overlapping and spill-over effects by subsequent proclamations of independence, first by Montenegro and then by Kosovo, which produced even more new *citizenship regimes* as well as new *citizenship constellations*.

Furthermore, in addition to physical conflicts in the region, many individuals categorized as belonging to Romani minorities were subjected to *epistemic violence*, which can be seen indirectly in the re-shaping of citizenship policies of newly established states through *ethnic engineering* (Štikš 2010). In addition, in order to fully

¹¹ One of the side effects of post-socialist transition was not only that Romani individuals were the first to be fired from their regular employments, but the shift to capitalist system dismantled their own economic niche since there was no more demand for their unique products (e.g. wooden troughs were replaced by cheaper plastic ones).

¹² In this sense, we also need to observe the division that became sharper among Romani minorities in post-conflict Kosovo. Here, as Richard Jenkins puts it, there is a visible interplay between the external categorization and self-identification (Jenkins 1997), which strengthened identification of Albanian speaking Egyptians and Ashkali in opposition to Romani-speaking Roma, albeit they were formerly considered to all be Roma (Marushiakova and Popov 2001). Although these divisions did exist before within the Roma community, they became more abundant as they designated markers of their position in the conflict (cultural representations of pro-Serb Roma and pro-Albanian Ashkali and Egyptians). According to Biljana Djordjevic, this also resulted in the differentiated post-conflict politics of return, where Ashkali and Egyptians were more often among the returnees to Kosovo than Roma (for details on the politics of return see Đorđević' Working Paper). Although there are differences in position of Ashkali, Egyptians and Roma in Kosovo, Krasniqi argues that they all belong to the invisible non-dominant community in Kosovo (Krasniqi 2013).

comprehend the re-positioning of Romani minorities in terms of *epistemic violence*, we must also take into account what some see as a form of socio-economic engineering. Both of these processes indirectly affected Romani minorities due to their *in-betweenness* as they were not positioned in the bipolar dichotomy of the dominant (usually majority) group and the minority group represented as the ultimate *Other*. This also manifested itself in access to citizenship for Romani minorities as well as in their status and (lack of) rights as non-citizens.

Access to citizenship for Romani minorities in the post-Yugoslav space

Romani minorities faced numerous obstacles in relation to access to citizenship of post-Yugoslav states. Not all of those difficulties arose only from the armed conflict or forced migrations in the post-Yugoslav region, but also from *epistemic violence* that redefined different citizenship acts and hence also re-positioned Romani minorities in the context of *citizenship regimes*. Although it cannot simply be deduced that persons identified as belonging to Romani minorities were direct targets of this *epistemic violence* enacted through citizenship acts, the resulting position of Romani minorities was allegedly an unanticipated side effect of the discriminatory citizenship regimes created by these acts. These side effects resulted from the dismantling of bifurcated citizenship of socialist Yugoslavia (Štiks 2010) and also from some of the features of the position of many Romani individuals before and after the disintegration of SFRY. These included inter-generational poverty, living in informal settlements (and births in domicile conditions), and hierarchical inclusion in the educational system. Thus, belonging to a non-dominant ethnic group was not the only decisive factor for Romani minorities, and the socio-economic position of the vast majority of Romani individuals has to be also taken into account when studying their access to citizenship.

Not all Romani individuals were denied access to citizenship in the SFRY successor states in which they resided. Since there was a legal continuity between SFRY republican citizenship and citizenship of the newly established states, those Romani individuals who possessed the citizenship of the socialist republic where they officially resided automatically became citizens of the respective successor state. However, those individuals, who did not possess birth certificates due to the fact that their births had not been registered, experienced problems although they should in fact have been among the *included* (Štiks 2010:12). Yet, the main subgroups of Romani minorities who faced the greatest difficulties in regularising their citizenship status were those who did not formerly possess the republican citizenship of the socialist republic where they (formally or informally) resided. Although Romani minorities were not the only ones who found themselves to be *the excluded* in this sort of post-Yugoslav *citizenship constellations*, the reasons why their access to citizenship was in many instances obstructed lie within the determinants of their positioning specifically as Romani minorities.

Those former Yugoslav citizens who in the new states fell into the category of *the excluded* (Štiks 2010:13) became aliens in the country of their residence and had to undergo the process of naturalization. Even in those cases where there was an option of facilitated acquisition (in a provisional period) of citizenship, for the former SFRY citizens with other former republican citizenship, in most cases there was a requirement of registered residence e.g. in Slovenia on a certain date (Deželan 2011), or a requirement of a permanent residency for up to 15 years in Macedonia (Spaskovska 2010). Since the majority of Romani individuals in all of the post-Yugoslav states lived in informal settlements¹³ (Klopčič 2007, Štambuk 2005, Jakšić and Bašić 2005) and many migrated across republican borders within SFRY due to their employment in a specific economic niche, it was often the case that they were not able to prove *de iure* their *de facto* residency. Due to this *in-betweenness* they were not able to prove that they had met this criterion for acquisition of citizenship. The administrative registration still remains a difficulty for many Romani individuals in the region living in substandard housing conditions. This problem was to some extent bypassed in Montenegro, where individuals could register their legal address at the offices of the Roma National Council (UNHCR 2011: 31). The same can be done in Serbia at a social services office (Article 11 of the Residency Act, 2012).¹⁴

Secondly, in many instances Romani individuals were not able to fulfil the so-called 'language and culture' requirements for the acquisition of citizenship in post-Yugoslav states. Although they were not the main targets of these requirements - in Macedonia, for instance, the Albanian minority was targeted, while in Croatia, the targeted group was the Serb minority - they were caught *in-between* and most affected by them. For example, according to Article 8(4) of the Act on Croatian Citizenship, one must be 'proficient in the Croatian language and Latin script, and [...] familiar with the Croatian culture and social arrangements' in order to acquire Croatian citizenship. Although the main target group, in the context of conflict, was the Serb minority, this condition indirectly affected those who were illiterate since this meant that they were not able to prove their knowledge of the Latin script. According to the

¹³ According to a report written by Marina Simeunović for the 'Best Practices of Roma Inclusion' project conducted by OSCE, the largest Romani settlement in Novi Sad called Veliki Rit, has only two legalised streets, while other parts are not legalised. Most individuals living in a legalised part of Veliki Rit did not face problems in accessing citizenship, while many of those living in the informal streets face several obstacles (Simeunović 2013:13). I observed something similar during my fieldwork in Macedonia. In the famous Romani municipality of Skopje, Šuto Orizari, which is usually portrayed as a model of coexistence, a clear division exists in living standards. While the main roads are paved, have street lights and larger houses, many side streets are unpaved and muddy, without illumination, and with 'cardboard' houses. According to the information given to me by the local NGOs (especially the Romani NGO Ambrela), most of the Romani individuals living in these side streets face several obstacles in their access to citizenship at their place of residence. The spatial segregation exists not only between Romani and Non-Romani community, but also within the Romani community itself.

¹⁴ According to the above mentioned report, many Romani individuals from Veliki Rit in Vojvodina were encouraged to use a fictitious address for the purposes of acquiring basic ID documentation and citizenship (Simeunović 2013: 37).

UNDP report (2011), the illiteracy rates among Romani minorities are much higher than those among the majority populations in all post-Yugoslav states.¹⁵ This stems from (both past and present) hierarchical inclusion of many Romani individuals in the educational system, for example by placement in segregated classes or schools for children with special needs. Furthermore, in some cases, Romani children (especially women) never attended school altogether (Sardelić *et al.* 2010). The illiteracy of many Romani individuals was therefore produced by the discursive practices of institutional racism (Balibar 2004). According to the European Roma Rights Centre (ERRC), the case of an illiterate Romani woman who claimed that she had been denied access to Croatian citizenship was brought before the Constitutional Court of Croatia. However, the constitutional court decided that she was not entitled to Croatian citizenship, even though she had lived in Croatia since 1987, due to her lack of knowledge of the Latin script. The ERRC criticised this decision harshly because Croatia offered facilitated naturalization to non-resident individuals of Croatian ethnicity, while failing to take into account the special conditions under which non-majority residents, such as Romani minorities, live (ERRC 2004).

Finally, one of the major problems for many members of Romani minorities for acquiring citizenship in their country of residence is the lack of guaranteed funds. For example, even in those cases where they fulfil all the criteria for acquisition of citizenship, many Romani individuals are not able to pay fees and taxes connected to the administrative procedure of naturalization (PRAXIS 2011). Furthermore, after the disintegration of Yugoslavia, many Romani individuals (especially women) in Slovenia fell into the category of *the erased* (Kogovšek Šalamon 2011). These were not only 'non-autochthonous' Romani minorities living in the urban centres of Slovenia, but also many residing within the 'autochthonous' area of Romani settlement (Sardelić 2012). Since they missed the 6-month period for acquiring Slovenian citizenship in 1991, they were erased from the register of permanent residents (Deželan 2011: 11-12). Again they were not the ones who were explicitly targeted in this case, but were caught *in-between* redefining of the *Other* in Slovenia. Although most of these Romani individuals were able to get their permanent residence registered two decades later, being erased meant they had no right to work, and as a result they were unable to provide for themselves. Furthermore, at the present moment, they are still discriminated against on the labour market in Slovenia and have difficulties in acquiring employment (Sardelić 2012). According to Article 10(4) of the Citizenship Act of the Republic of Slovenia, a person who wants to acquire Slovenian citizenship by naturalization must 'have guaranteed funds that enable material and social security'. Although this provision is not atypical for citizenship acts, considering the Slovenian Citizenship Act, it is especially dubious in the case of

¹⁵ Illiteracy rate here measures absolute illiteracy, which includes inability to sign one's own name according to the definition of UNESCO:

http://www.unesco.org/education/GMR2006/full/chapt6_eng.pdf (last accessed on 15th April 2013)

the erased whose rights, such as the right to work and health care, were annulled by that very state.

The wide variety of post-Yugoslav non-citizen statuses and the position of Romani minorities

The next question that needs to be addressed in respect to the status dimension of citizenship is the position of those members of Romani minorities who were not able to regularize their status as citizens of the post-Yugoslav state in which they reside, as well as what are the circumstances in which their position was shaped. It has to be taken into account that several transformations of post-Yugoslav *citizenship regimes* reshaped the position of Romani minorities. According to the UNHCR *Report on Statelessness in South Eastern Europe* (2011) individuals identified as belonging to Romani minorities are one of the most affected in the region. According to this report, due to their marginalised yet not completely excluded position, Romani individuals have become an overrepresented group of people among those who fall into the category of non-citizens in their place of residence (UNHCR 2011:16). However, their status was in many instances also not regulated as legal aliens with permanent residence, but with a plethora of various other non-citizen statuses such as: legally invisible persons and displaced persons both as IDPs and refugees (UNHCR 2011, Džankić 2012).

After the disintegration of SFRY, the phenomenon of statelessness *en masse* was avoided due to the principle of legal continuity of the former republican citizenship with the citizenship of the respective newly established post-Yugoslav states. However, the republican citizen registers were in many instances incomplete. Furthermore, a larger problem that occurred was that many people did not possess the republican citizenship of the state they resided in, which left them in a sort of a 'legal limbo' (Štiks 2010), as they became non-citizens. Most of these people could not be considered *de iure* stateless since they did possess the citizenship of another post-Yugoslav state, which left them positioned in a very specific legal *in-betweenness*.

Many cases of *de iure* statelessness in post-Yugoslav states were solved through the use of *ad hoc* procedures (UNHCR 2011: 11). Post-Yugoslav states that are members of the UN are all parties to the 1954 *Convention relating to the Status of Stateless Persons*, which obliges them to address the position of stateless persons, who are protected under this international convention. Although most post-Yugoslav states did not offer the so-called 'zero-option', *de iure* statelessness did not present an exceptional difficulty according to the UNHCR (2011). A much larger problem that occurred after the armed conflicts (but not simply for this single reason) in the post-Yugoslav region that especially affected Romani minorities was *de facto* statelessness, or, as the UNHCR refers to this phenomenon, a large group of people found themselves in the position where they were at the risk of becoming stateless. The legal definition of a stateless person is 'a person who is not considered to be a citizen by any state' (Weissbrodt 2008: 84). On the other hand, as Weissbrodt claims, this

legal definition is too narrow to encompass all the cases of people who are stateless in effect although they are *de iure* citizens of a certain state. Therefore, another category needs to be used, that of *de facto* statelessness: 'Persons who are *de facto* stateless often have nationality according to the law, but either this nationality is not effective or they cannot prove their nationality' (Weissbrodt 2008: 84). This category of people found themselves in very unfavourable *in-between* conditions. On one hand, as they were not recognized as *de iure* stateless, they were not protected by the 1954 Convention. On the other hand, they were not protected as citizens by their own states either. According to the majority of reports on this issue in the former Yugoslavia, Romani minorities were the ones who were the most affected and found themselves in this sort of predicament (UNHCR 2011).

Within Romani minorities there are two main (and in many instances overlapping) groups which live not only as non-citizens, but also as *de facto* stateless. Both of these groups face difficulties in accessing their personal documentation. Firstly, according to many NGOs in the post-Yugoslav region as well as to international organizations (especially the UNHCR), many Romani individuals fall into the category of so-called legally invisible persons (PRAXIS 2011, UNHCR 2011).¹⁶ The second group of those who are often at the risk of becoming stateless, to use the UNHCR's concept, are those who are the long-term post-conflict displaced persons. According to the UNHCR official data, there are 29,301 displaced individuals identified as belonging to Romani minorities in the post-Yugoslav region, excluding Slovenia. However, unofficial estimates of the numbers of those who are undocumented and displaced are much higher (UNHCR 2011: 92).

Romani minorities comprise the vast majority of those who are considered to be legally invisible persons (PRAXIS 2011). This occurs because of the failure to register them in birth registration books. Regardless of the reason, the effect is the same: legally these persons do not exist. For example, according to the UNHCR office in Kosovo, between 20 and 40 per cent of the RAE population are not registered and are, therefore, legally invisible and hence at 'the risk of becoming stateless' (OSCE 2007: 5). In most of the other states, it is difficult to make estimations with any degree of certainty.¹⁷

¹⁶ The issue of legally invisible persons became addressed during the visa liberation process since it was considered to be one of the benchmarks of the visa liberations. Countries in question (e.g. Serbia, Macedonia, Montenegro, BiH) due to EC pressures in the negotiations for the visa liberation had to offer facilitated access to personal documents for those who have not been previously registered (Kacarska 2012: 9-10). Although in most of the countries in question the process of visa liberation had been completed in 2009 and 2010, according to legal advocacy NGOs in the region (PRAXIS, Your Rights, Legal Centre) as well as Romani NGOs (Lil, Roma National Centrum, Sonce), the issue of legally invisible persons is far from being resolved to the present day.

¹⁷ I have had the opportunity to conduct fieldwork in all post-Yugoslav countries, where I also visited Romani settlements in the majority of those states. In each Romani settlement I visited there was usually at least one person who had irregular status and was thus legally invisible.

According to UNHCR, the NGO PRAXIS in Serbia, Romani NGO Lil in Macedonia, Civil Rights Program in Kosovo and the NGO Your Rights in BiH,¹⁸ there are a variety of reasons why Romani individuals often lack birth registration documents. In many instances, this problem is inter-generational. Although according to the *UN Convention on the Rights of the Child*, no child should be deprived of personal name or citizenship, in the case of legally invisible persons, many of whom are children, they are effectively deprived of both. For example, many children who are born at home are not registered within the legally required period of time, or their births are not even reported, which is the first step in the procedure for registering a birth. In many such instances, they are born to mothers who either lack identification documents themselves or are unable to cover hospital fees. When children are born in hospitals, the hospitals themselves are usually obliged to report the birth of a child to the authorities. However, this step alone does not complete the registration of a birth, which has to be completed by the parents (or legal guardians) of the child. This further step introduces additional problems if the mother does not have proper identification. Due to their socio-economic position, many Romani women give birth to a child in a hospital under the name of another woman who possesses health insurance (UNHCR 2011: 29). Furthermore, in some cases, such as in the Republic of Macedonia, the registration process is more complicated when no marriage certificate can be produced (UNHCR 2011: 31).

All of these cases then require subsequent registration that also requires funds for the payment of the connected fees and taxes, which someone who is a legally invisible person does not possess. Furthermore, the procedures can be very lengthy since in some instances the mother has to first become registered herself in order for her child to be registered. Additionally, the burden of proof lies with the person (e.g. proving that he or she is not registered in another country) who wishes to register themselves in a birth register and, having done so, also in the books of the citizenship registry. According to the UNHCR and to several legal advocacy NGOs in the region, many individuals would qualify for citizenship in their country of residence immediately if they were not legally invisible.¹⁹

While in many cases the existence of legally invisible persons is connected to the armed conflicts, many of them did in fact migrate internally in SFRY before the wars started. In some instances, such as in Montenegro, many of the so-called Romani minorities had actually migrated from Kosovo in the 1970s and their position is

¹⁸ This information is based on interviews conducted during my fieldwork in November and December 2012. This information is also present in the work published by UNHCR and mentioned NGOs.

¹⁹ This information is also based on interviews conducted during my fieldwork in November and December 2012 in different post-Yugoslav states. I interviewed a variety of different actors dealing with the position of Romani minorities in the region such as the representatives of international organizations, governments and NGOs.

somewhere *in-between* the domicile Romani minorities and Romani IDPs.²⁰ Although they were not displaced by the Kosovo War, they faced the spill-over effects of it as well as the subsequent proclamations of independence first by Montenegro, then by Kosovo. Although their situation was seemingly different from that of the displaced RAE, they also found themselves in a position that made it difficult to regularise their status. Many of them are not able to prove their initial citizenship due to displaced or destroyed registry books from Kosovo. In order to regularise their status, they have to initiate a re-registration process (UNHCR 2011).

Another category in which many Romani individuals in the post-Yugoslav region fall and also illustrates their *in-betweenness* is the category of displaced persons. In this category, they are the ones who have the most difficulties in regularising their non-citizen status in the county they reside in, and hence also their access to citizenship. For example, the Republic of Macedonia offered facilitated naturalization for those with the status of refugees after the Kosovo crisis. However, this option is reserved only for those who have 6 years of uninterrupted legal residence in Macedonia (Spaskovska 2010b: 17), which presents a difficulty for those Roma who live in informal settlements without legal registration. Problems created by similar provisions are faced by many Romani individuals throughout the post-Yugoslav region.

A very vexing and complex issue, that also illustrates the *in-betweenness* of Romani minorities, can be observed in the case of internally displaced persons in Montenegro after the proclamation of independence in 2006. In Konik, on the outskirts of Podgorica, we find the largest refugee camp in Europe,²¹ with most its inhabitants belonging to Romani minorities. They are IDPs who were forced to migrate within the then existing Federal Republic of Yugoslavia from Kosovo (as part of Serbia) to Montenegro (as the second federal unit) during the Kosovo conflict in 1999. Although the 2011 UNHCR report insists that these people should have the status of refugees, the Government of Montenegro considers them as IDPs since at the time of their forced migrations they did not cross an internationally recognized border as Montenegro was not an independent state at the time. According to the *Strategy for Durable Solutions of Issues regarding Displaced and Internally Displaced Persons in Montenegro with the Special Emphasis to the Konik Area* (2011), there are also legal provisions on how the status of these IDPs should be regulated in Montenegro. According to the legal provisions in Montenegro, these 'IDPs' should gain the status of aliens with permanent residence (Strategy 2011: 11). The *Act on the Amendment of the Act on Aliens* envisages a transitional period (which was prolonged until the end

²⁰ UNDP includes this group of Romani minorities in the category of domicile Roma (they dealt with around such 700 individuals who lacked birth registration), although they do not fit the standard definition of domicile Roma in Montenegro, who have been living in Montenegro for many generations (Delić 2008 in Džankić 2010:17) and who all possess Montenegrin citizenship (Džankić 2010: 17).

²¹ Source: <http://reliefweb.int/report/montenegro/day-life-europe's-largest-refugee-camp> (last accessed on 14th August 2013)

of December 2012) within which all the IDPs are supposed to regulate their status as aliens with permanent residence. Should they fail to do so, they will be considered to be illegal residents in Montenegro, unless they opt to regularise their status on a temporary basis. In order to acquire Montenegrin citizenship, one must first have the status of an alien with permanent residency for 10 years and renounce the previous citizenship since Montenegrin legislation does not in general permit dual citizenship (Džankić 2010). The problem for many Romani IDPs in this situation is twofold. Firstly, many of them are not able to gain the non-citizen status of an alien with permanent residence stay due to the lack of documents. In January 2013, the discussion began in the Montenegrin parliament on prolonging the transitional period for the second time. However, in June 2013, the proposal on extension was still not passed by the parliament.²² Secondly, those who are able to regulate their status as aliens with permanent residency are not able to gain Montenegrin citizenship due to the cost of the procedure for renouncing their previous (usually Serbian) citizenship (UNHCR 2010).

Romani individuals as citizens of post-Yugoslav states

In this section, I will focus on the rights dimension of citizenship affecting Romani minorities as it was manifested in legal policies and other tangible measures taken in regards to what can be considered as minority protection. As pointed out by Džankić (2013), minority rights are not created in a vacuum, but are also a reflection of political debates in post-Yugoslav states. Here, again, as I argue, Romani minorities found themselves *in-between* these debates, albeit usually not as direct addressees, but rather as collateral damage. Besides local factors also the international community (especially the EU) plays a significant role in defining the framework of minority rights. Furthermore, none of the post-Yugoslav states made a claim to be 'difference blind' since they all experimented with their own interpretations of *group-differentiated rights* and hence with their conceptions of differentiated citizenship (Young 1989) and multicultural citizenship (Kymclika 1995). While the normative purpose of these rights was to enhance equality of all citizens, in many cases it produced disparity in the position of citizens.

As far as constitutional recognition is concerned, Romani minorities (in the case of Kosovo including also Ashkali and Egyptians) are named in the constitutions of Slovenia, Croatia, Kosovo and Macedonia. Montenegro, for example, does name some minorities (Serbian, Croatian, etc.), but not the Roma, who are included under the denomination 'other'. Bosnia and Herzegovina still disputably refers to all the minorities, including Romani, as the 'others' in its Dayton Constitution, while it names three constitutive nations. Post-Yugoslav states introduced different practices of constitutional recognition in relation to Romani minorities. However, they all

²² Source: <http://www.balkaninsight.com/en/article/montenegro-a-politicised-judiciary-delivers-slow-justice> (last accessed on 9th August 2013)

developed legislation governing minorities (in the case of Slovenia, Kosovo and Vojvodina minorities are named as communities), which indirectly or directly included reference to Romani minorities.

In many post-Yugoslav legal acts on minority protection, it is directly stated, that they were constructed in alignment with the norms set by a number of international organizations. For example, *Constitutional Act on Rights of National Minorities* in Croatia, in its preamble stresses that it was drafted in accordance with the principles of the international law (it also lists the convention and declarations), while the *Act on the Protection of Rights of Members of National Minorities* emphasises that the *Framework Convention for the Protection of National Minorities* (FCNM) is a part of legal system in BiH. However, at the same time, contrary to the norms of international law, most of the national acts on minority protection explicitly refer to citizens as potential carriers of minority rights and not residents. This means that they are not acknowledging the factual reality that some minorities, especially the Romani as discussed above, are overrepresented in the group of residents with different non-citizen statuses. For example, the discrepancy between minority citizens and minority residents, especially as far as Romani minorities are concerned, is visible in Montenegro since the domiciled Romani population with Montenegrin citizenship is a lot less numerous than the RAE population with precarious non-citizenship statuses, which occurred due to internal and forced migration, state disintegration and post-Yugoslav wars (Džankić 2013). Moreover, precisely Romani minorities, who are not able to regularise their citizenship status, are among the most disadvantaged populations in need of special consideration and protection, but the minority protections of their states of residence does not include them. This therefore further stipulates a *circulus vitiosus* where many Romani minorities are kept in the *in-betweenness*.

Secondly, although most of the minority acts seemingly introduce *group-differentiated rights* with the specific focus on group and cultural identities of minority groups (e.g. such as a right to their own culture), these rights remain very generalised and they do not target specific needs of each minority. This is specifically visible in the case of Romani minorities since their position is specific to other minorities. For example, in comparison to other minorities, most individuals identified as belonging to Romani minorities live below the poverty line in substandard housing conditions and many times without proper access to health care and educational system (Klopčič 2007, Štambuk 2005, Jakšić and Bašić 2005, Bašić 2002). Moreover, while legal acts on minority protections in most post-Yugoslav countries treat Roma as if they were in the same position as other national minorities (such as the Serbian minority in Croatia or the Albanian minority in Macedonia), they also do not acknowledge the stigmatised cultural representation of Romani minorities. Such cultural representation has a direct effect on those who are identified as belonging to Romani minorities by others. Romani minorities often do not identify as being Romani themselves, but identify themselves instead as members of a majority or even as members of a more powerful minority (Galjus 1999). This brings us to a typical 'play

with numbers'. Many legal acts on minority rights (such as in Croatia, Macedonia) include provisions according to which there is an obligation for a minority language to be introduced in the public sphere in those areas where the minority population in question exceeds certain percentage of the overall population. According to the official statistics from the population censuses, Romani minorities in most administrative units do not exceed the percentage for these provisions to be implemented. The position of Romani minorities can again be illustrated by *in-betweenness*. Although the provisions for all minority groups in these cases are equal, they create a special sort of unevenness, where some minorities, officially interpreted as more numerous, have access to certain rights, while, in this case, for Romani minorities the access to these rights exists only on paper because of the stigmatised nature of the minority status.

While most post-Yugoslav countries included Romani minorities into the generic minority rights legislation, Slovenia took a different approach with the introduction of the *Romany Community Act*. This law was introduced due to pressure from the international community after the forced eviction of the Roma settlement near Ambrus by the Slovenian government in 2006 (Vidmar Horvat *et al.* 2008). At first glance it seems that in regards to the Romani minorities, Slovenia took an approach leading towards differentiated citizenship (Young 1989) including more specific aspects of the position of Romani minorities as a disadvantaged group, not merely as an ethno-cultural minority. However, taking the content of these rights reserved for Romani minorities in comparison to 'autochthonous' Hungarian and Italian community, we can again observe unevenness being created. While the national council in the case of Hungarian and Italian community has veto powers on matters concerning these two minorities, Romani national council has only a consultative mandate without veto power. Furthermore, while members of the Hungarian and Italian national councils are elected, two thirds of the Romani national council is simply appointed (without elections), by the Roma union of Slovenia (Sardelić 2013). This act therefore introduced provisions for the creation of the self-appointed Romani political elite disengaged from most of the members of the Romani community on the margins who have their voices silenced.

Although most of the post-Yugoslav states did not follow the example of Slovenia's introduction of the specific act for the Romani minority, they did however take an *in-between* approach and constructed different *Roma national programs* to address specific disadvantages faced by Romani minorities since all of these states are members of the *Decade of Roma Inclusion* (except Slovenia, which have observer status). These programmes were specifically designed to address disadvantages faced by Romani minorities including for example lack of identity documents and non-citizenship statuses. However, many of these programmes failed in the implementation phase. Furthermore, while some *Roma national programs* do acknowledge the disadvantages faced by Romani minorities they do not present viable plans of how to solve them. For example, in the court case *Orsus and Others v. Croatia*, European Court for Human Rights (ECTHR) ruled that Romani children were

put into segregated classes although the state's defence was that they were put into these classes for advancement of their language skills. According to the *National Strategy for the Inclusion of Roma until 2020* drafted by the Croatian government, all Roma-only classes should be eradicated by 2020. However, in the meantime, many Romani children still remain in segregated classes. Moreover, in another state context, the ECtHR ruling in the (in-)famous case *Sejdic and Finci v. BiH* did raise awareness that some of the BiH citizens are in fact second-class citizens or semi-citizens since although they possess citizenship of their state they cannot politically participate fully since they are not part of one of the three designated constitutive people. Romani minorities are particularly affected since they do not have the right to voice their most disadvantaged position. Furthermore, while there are many debates and roundtables organized, according to the FCNM State report on BiH, there is no solution in sight, which would be acceptable to include Romani minorities fully into the citizenry in the foreseeable future.

As seen in the above described discursive practices - segregated classes for Romani children in Croatia, exclusion from full political participation in BiH, self-proclaimed non-elected Romani elite in Slovenia, incapacitated Romani national councils, etc. – the position of Romani post-Yugoslav citizens can be characterized by a specific *in-betweenness* categorizing them as semi-citizens at best, even in those cases when they do possess citizenship of their state of residency. Although all of the described discursive practices were somehow connected to experimentation with multicultural or differentiated citizenship (Kymlicka 1995, Young 1989), they in fact mostly resulted in inequality, discrimination or simply *de facto* uneven position of Romani minorities. In addition, although some of these practices were presented to empower Romani minorities and ensure their 'special treatment' and representation, they in fact silenced them and positioned them as a post-Yugoslav *Subaltern*.

Finally, many Romani citizens of post-Yugoslav states found themselves again caught *in-between* more politicised juggling among some post-Yugoslav states and some EU states, that is a debate on the Schengen visa free regime and post-Yugoslav asylum seekers in the EU. The benchmarks for visa liberalisation included ensuring of freedom of movement for all citizens as well as protection of minority rights (Kacarska 2012: 6). After the visa liberation process was concluded, there was an increase of asylum seekers from the Western Balkans. The overwhelming majority of these individuals came from Romani minorities. Many EU countries then demanded restrictions to be implemented on it from the countries in question. This led to a specific ethnic and socio-economic profiling of certain groups, especially Romani minorities, whose freedom of movement was put into question by their own countries (Kacarska 2012: 19-20).

Paradoxically, to preserve visa-free travel for all citizens, the countries in question (especially Serbia and Macedonia with the largest Romani populations), had to practice *de facto* discrimination by restricting the freedom of movement of the most vulnerable group within their citizenry to prevent them becoming 'bogus' asylum seekers. Those Romani individuals who were able to seek asylum in the EU had their

citizenship status regulated and were able to obtain a biometric passport and, from this perspective, they were in a better position than those who found themselves within the plethora of non-citizen statuses. However, albeit they were in a slightly better position than the latter, most of them still find themselves below the poverty line.²³ This illustrates well that Romani minorities remain on the margins of post-Yugoslav *citizenship regimes*.

Conclusion

Romani minorities will remain on the margins of new *citizenship regimes* in Southeast Europe for the foreseeable future. Many of them live as non-citizens and *de facto* stateless persons in their place of residence. Even for those who have access to citizenship, their status as citizens is often marked by discrimination and inequality. As I argued in this paper, the reasons why Romani minorities remain on the margins cannot be simply found in the idea that Romani minorities are conceived as an *Other*, as many have argued before. According to my line of reasoning, Romani minorities in the post-Yugoslav context were more caught *in-between* the conflict of those who mutually perceived each other as an ultimate *Other* and were hierarchically positioned according to the both sides. I showed in this paper that hierarchical inclusion was to a certain extent present already in the Yugoslav context as far as Romani minorities are concerned. However, these edges of hierarchical inclusion became even sharper in the post-Yugoslav contexts. As I analysed in this paper, the sharpening of hierarchical inclusion of Romani minorities, did not occur only due to armed conflict and physical violence in the region. In addition, the *epistemic violence* manifested in the transformation of the post-Yugoslav *citizenship regimes* played a very important role. Through this *epistemic violence* the hybrid position of Romani minorities became even more visible since it was affected not only by the ethnic, but also by socio-economic engineering that labelled the transformations of the post-Yugoslav *citizenship regimes*.

In this paper I aimed to show that the reason for structural disadvantages faced by Romani minorities cannot be reduced to reasons featured in their perceived identity and the dimension of belonging. It is the multi-layered processes of citizenship engineering at the access and rights dimensions of citizenship that bring Romani minorities to such a disempowered position. The predicament of Romani minorities in post-Yugoslav space also includes their multiple silencing, despite the existence of the Romani political elites and their clamorous activism. Again, the reason for this multiple silencing is not hidden in the malevolence of these elites

²³ According to the interlocutors from my fieldwork, most of the Romani individuals from the post-Yugoslav states in question (Macedonia and Serbia), who sought asylum in the EU, were aware that they will be returned to their country of origin, which show a different pattern of migration from those Romani individuals who are EU citizens. However, this was one of the economic strategies of survival during the more difficult periods (e.g. winter time), while Romani individuals with EU citizenship intend to stay in the EU states to which they migrated.

themselves, but in the system of minorities representation in general, which most often latently only re-confirms the hegemonic ideologies of the states in question. In this framework, however, Romani minorities are positioned as the post-Yugoslav *Subaltern*, who cannot directly voice their own concerns.

The position of Romani minorities also indicates certain overlapping and spill-over effects which post-Yugoslav *citizenship regimes* have placed onto one another, and how they are still bound as *citizenship constellations*. As these *citizenship constellations* are being rapidly transformed while the countries in question are joining the EU, the re-positioning of Romani *Subaltern* in accordance to these phenomena needs to be studied further. Namely since there are no viable solutions for including all Romani minorities effectively into the body of post-Yugoslav citizenries, it could be deduced that the EU accession will merely bring the extension of EU *apartheid* for them instead of the benefits enjoyed by other EU citizens.

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