

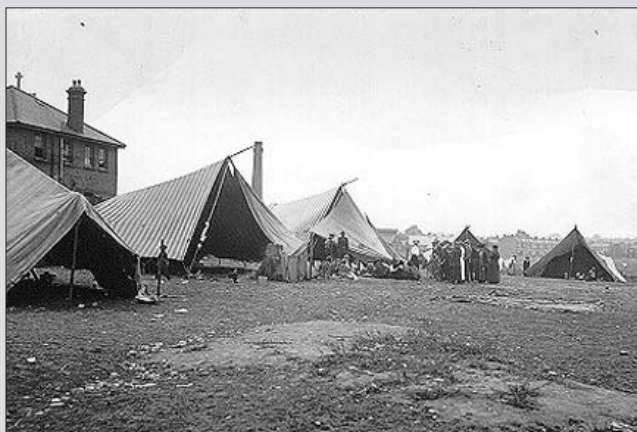


# The Romani Court in Central, Eastern and South-Eastern Europe

2.1

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*The presence of inter-group self-government, carried out by a specific institution still continues to be, as in the past, a main characteristic feature in the lives of many (but by far not all) Romani groups in central, eastern and south-eastern Europe. This specific institution appears in a number of rather varied Romani groups who live in these vast territories. It clearly displays their ethnic specificity and defines and distinguishes the separate sub-structures of the Romani ethnic community, since the presence or absence of a similar institution and its form and functions define to a great extent the very character of the Romani group (the main structural unit of the Romani community).*



III. 1, 2 *Kelderari* in Great Britain beginning of 20th century (Liverpool collection)

(unless otherwise stated, all photos: Archive Studii Romani)

*Significant part of the communities among which the Romani court exists, are the descendants of the nomadic “Gypsies” from the principalities of Wallachia and Moldova. Significant parts of them migrated from the territories of the former prin-*

*icipalities of Wallachia and Moldova and surrounding regions during the second half of the 19th century - the first decades of the 20th century and had spread massively all over Europe, and consequently reached also the New World.*

## DESIGNATIONS

The most common designation for the Romani court is *kris* (i.e. court in Romani). The designation *kris* is

characteristic mainly for Romani groups of the *Kelderari* (*Kăldărari*, *Kalderaš* and so on) and the *Lovari* / *Lovara* not only in the regions in question, but also in many other countries in the world. The *Kelde-*

*rari* and the *Lovari* nowadays live in Romania (mainly in Transylvania), Hungary, Slovakia, the Czech Republic, Poland, in the countries of the former USSR (mainly in the Russian Federation, and also in Ukraine,



III. 3 Romani court meeting among *Kelderari*, Garratt Lane, Wandsworth, London, England, 28. Aug. 1911. (Liverpool collection)



III. 4 Oath on *sudo* among *Ruska Roma* at beginning of 20th century. (contemporary reconstruction by Nikolay Bessonov)

Belarus, Latvia and Lithuania), and in the former Yugoslavia (specifically in Serbia, as well as some *Lovari* in Croatia). The term *kris* is also used by their closely related groups or (more or less) separated subgroup divisions, for instance *Čurari*, *Posotari*, *Kherari*, *Khangljari*, *Colari*, *Drizari*, *Mašari*, *Cerhara* and others in Hungary, as well as *Bougešti*, *Drizari* and others in Slovakia and the Czech Republic (who are usually known to researchers collectively as *Lovari*). In the last few decades large parts of these groups (mainly from the former Yugoslavia) have migrated to different countries in western Europe, as for instance *Kalderaš* in Austria, *Lovari* and *Khajnbara* in Italy and so on.

Quite often other designations for the Romani court are met among the different Romani groups in the whole region. In Bulgaria among a segmented community referred to by the general name *Kardaraši* / *Kaldaraši* (the self-appellation *Řom Ciganjak* means “the true, the proper Gypsies”), the term used is *mešere* or *mešare* or *mešarjava*, and more rarely (in north-eastern Bulgaria) the terms *žudikate* or *dalavjara* are also used. Among communities closely related to them who are frequently called *Lâješi*

or *Čori* (the self-appellation is *Řom Ciganjak*) in the Romanian region of Dobruzha, the term *žudikate* is used. The term *žudikate* is also used by a segmented community, known in what is today the Republic of Moldova under the general name *Lejaši* (the self-appellation *Řom Ciganjak* is also used) who are referred to as *Katunarja* in Bessarabia and in southern Moldova, as *Čokenarja* in northern Moldova and as *Kišinjovci* in Russia and Ukraine (after migrating there). In a number of cases among the different Romani groups on the territory of what is today Romania where a Romani court exists (for example, *Kazandži*, *Džambaša*, *Zlatara*, *Aržentari*, *Korbeni*, *Karamidari* and others, often known under the umbrella terms of *Pletoši*, *Lâješi* or *Kortorari*) the designations *žudikate* and *kris* are used as doublet forms. Along with this a certain territorial division exists when using these two designations - in Wallachia and Moldova *žudikate* is used more often, while in Transylvania (even among the same groups) the situation is exactly the opposite, as the usage of the term *kris* prevails. Sometimes the designation *divano* is met, used as the second or third term among

different groups, as well as the term *stabor*. The latter is used in some places in Transylvania in the more general sense of community meeting.

In the countries of the former USSR, *kris* is used only by *Kelderari* and *Lovari*, and *žudikate* is used only by *Kišinjovci*. Regarding the *Ruska Roma*, a group widely spread throughout the entire former Soviet Union, the term most commonly used is *sendo* / *syndo*. The same terms are used by *Servi* in Ukraine and Russia, as well as by the *Vlaxi* and *Plaščuni* in southern Russia and eastern Ukraine. Today, among various Romani groups that have settled in the countries of the former Soviet Union the terms *syndo* or *sudo* are gaining ground, as are the terms *sxodka* and *razborka*. Among the *Ursari* in Moldova the term used is *globa*. The *Krimurja*, who migrated from the Balkans in the 18th century to the Crimea and who are today widely spread throughout Ukraine and Russia, use the designation *davi-ja*. Some Romani groups in Kosovo (e.g. *Gurbeti*, *Maljoko*) use the word *plečnija*. In spite of the Albanian term used, this institution among Roma bears form and functions of a Romani court and differs from the Albanian Council of Elders.

### ROMANI GROUPS WITH AND ROMANI GROUPS WITHOUT A ROMANI COURT

Notwithstanding the wide spread of the Romani court among different groups in central and eastern Europe, there are many other Romani groups living in these regions without the institution of the Romani court. These groups have no memory of ever having had such an institution. In general, the number of Roma in central and eastern Europe who do not know a Romani court is approximately two or three times larger than that of the Roma who have a court (the exact

factor is difficult to determine as the precise number of Roma in the region is unknown). Additionally, the proportion varies in the individual states and cultural-historical regions. For instance in the Balkans, as well as in the Czech Republic and Slovakia, the number of communities where a Romani court exists does not exceed 5 to 10% of the whole population; in Romania and Hungary, their share is about one quarter to one third of the whole population; in the countries of the former USSR, a Romani court exists in practically all of the Romani communities, except for those who have a preferred ethnic identity such as *Rumungri* in Transcarpathia (part of

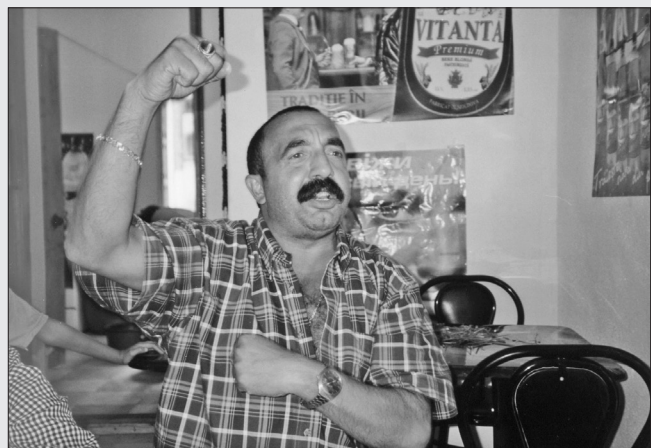
them are Hungarian-speaking *Madjari*), as well as the Tatar-speaking *Dajfa / Tajfa* in the Crimea and Romanian-speaking *Vlaxija* and *Lingurari* in the Republic of Moldova and Ukraine.

It is necessary to determine a commonly valid criterion to distinguish those Roma among whom the Romani court exists and is actively practiced from those among whom it does not exist (and without recollection about its past existence). The examination of the field material shows clearly that neither the way of life – nomadic, semi-nomadic or settled – nor mode of marriage (through elopement or arranged marriage), nor Romani dialect or language are such criteria.



Portraits of member of Romani court from different Romani groups:

III. 5 Vasil Stanchev (Romani name *Popuša*), *Kaldaraš*, (soub-



group *Žápleš*) from Bulgaria.

III. 6 Valentin (Romani name *Čerešen*), *Čokenarja* from Soroki, Republic of Moldova.

### ESSENTIAL CHARACTERISTICS OF THE ROMANI COURT

This basic conceptual idea which predetermined the form and manner of how the Romani court functions is above all the concept of consensus. Every ruling of this court would not only have been adopted unanimously by the members of the court, but by the entire community as well (including the defendants). If a consensus were lacking, the very institution of the Romani court could not exist, as

no other mechanism exists which could carry out its rulings. The presence of the common, basic conceptual idea of consensus also predetermined the similarity of the numerous Romani courts, and as a result only slight differences have occurred in its forms and its manner of functioning among the different Romani groups.

The composition of the Romani court is identical in the various Romani groups in the regions which were investigated - it includes the most authoritative and respected people

from the group. All of the judges of the Romani court in the region are approached ad-hoc for each court session. The composition of the Romani court is not consistent and participation in the court is dealt with on a case-by-case basis. Naturally, the most respected members of the community are invited to take part in the court much more often, but this does not make them members due to hereditary positions, nor permanent members of the Romani court. It is mandatory that the members of the Romani court be men, although

occasionally it has been reported that, against tradition, some individual respected women have been invited to be judges, but this is usually the exception. The informants point out the possibility of participation of women in Romani court in principle, sometimes even they speak about such legendary or half-legendary women, but this is always quoted as an exception.

The number of judges is not fixed, but depends on the complexity of the case, and the number of judges can be increased or reduced. Various figures are known, from a minimum of three, most often 11-15, to a maximum of 21-25 persons. The larger courts, however, belong more to the past, and the trend today is to keep the number of judges participating low. The composition of the court is determined in a similar way by the different Romani groups. The plaintiff announces that he will “gather the people” i.e. “a court hearing” is called. Respected people

who are to resolve the issue are invited, and the person being called before the court is notified. The defendant also has the right to invite other respected people. Today this tradition in Bulgaria and in Romania has seen some formalisation, nevertheless it still functions in the spirit of consensus - both parties agree to invite the same number of people, and an agreement by both parties is reached on the odd member of the court.

Most often the problems of a given Romani community are resolved within the community itself; i.e. the members of the court who are invited are members of the community. In very serious cases of conflict where the community is concerned about any bias of the judges, even members of other Romani groups can be invited to become judges. This is, however, relatively rare.

In a dispute between the members of various Romani groups, it is mandatory that the court is mixed. The pos-

sibilities of holding such a mixed court, however, is acceptable only to “respectable” groups, i.e. Romani-speaking (ex) nomads; The possibility of holding a mixed court with groups of lower standing who are not considered respectable (i.e. settled groups, and/or groups, who have lost their language) is categorically rejected (often because they are simply unaware of the institution).

The time after the political changes in 1989 in the region saw some changes in the holding of the Romani court, mostly as a result of different factors such as the opening of the borders and establishment and/or re-establishment of contacts between some related Romani groups from different countries and migration to western European countries. In recent years, an increasing number of cases of transnational Romani courts have been summoned in order to make decisions on marriage problems among Roma living in different countries have been reported.

## THE PROCEDURE

The procedure of carrying out the Romani court in the region of central and eastern Europe is quite similar. The members of a Romani court have to be invited with “due respect”, i.e. their travel costs are covered (including air travel in the Soviet Union) and frequently they are brought in to the hearing by car. They are invited to a sumptuous meal and if necessary, they are provided with accommodation. Initial court expenses are covered by the plaintiff, although at the end usually the guilty party has to cover these costs or part of them as part of the verdict.

There are differences in the region with regard to payment of the judges for their work. In Bulgaria it is called *denguba* and is regarded as compensation for the days spent for trial. In Romania the term used is *vâtrârit* and the judges are paid for their deci-

sion and the days spent. For Romani groups around the former Soviet Union it is considered to be absolutely inappropriate to pay for the court, only the expenses of judges are covered. In the Czech Republic and Slovakia on the contrary, the money for the court is given and counted publicly by the chair of the trial in the beginning of the process in front of the community.

A court may be held at any appropriate location e.g. a big room in one’s own house, in a courtyard, on a meadow, in a restaurant rented for the purpose, in a specially prepared tent, and in some cases (in Romania and Bulgaria) at a stadium for cases which provoke great community interest. Any member of the Romani group who so wishes may be present at the hearing, including women and children. The proceedings are directed by the most authoritative member of the court, however his standing is as a rule not institutionalised, i.e. he is *Primus inter pares*.

When the trial starts, both parties present their position, followed by a discussion by the court participants - circumstances are clarified, witnesses are summoned by both parties, etc. In the course of the hearings judges are the ones who most often take the floor, yet anyone present has the right to speak, to give evidence, or back their opinion on the relevant question by citing past examples. Discussions are not limited by time, and especially in difficult cases the hearing may take several days. The main aim is to bring the parties’ positions closer and to allow for a consensus to be reached through mutual compromise. After the judges decide that a common position has been established, they hold consultations, formulate a decision which is acceptable to everyone involved, and then publicly declare it (usually this is done by the most respectable among them).

The decision of the Romani court always involves money - a spec-

ified sum (either gold or a foreign currency) which is paid to the aggrieved party or as compensation for an unjust accusation. Decisions are always in line with the financial possibilities of the offender against whom the ruling has been made, and they may be given a certain period of grace for paying the sum. The main purpose of this approach is to guarantee that the poorer members of the community are able to continue to live normally and to develop their own “business” (no matter of what kind) and not to drop out of the community, which would be im-

minent if they were impoverished and socially marginalised.

The ruling of the Romani court cannot be called into question as this would be seen as contempt of court. In practice, however, the court ruling may be appealed against in all Romani groups in the region, without affecting the authority of the judges. This is done by pointing to procedural grounds such as new circumstances or the appearance of new witnesses, which may require another hearing. At the second hearing, the judges who are invited are usually new and there are usually more

people of greater authority present. A third hearing of one and the same case is also possible, however this is not socially acceptable - a pronouncement by such a large number of people with authority has to be respected. Although there is no clearly stated rule forbidding it, there have not been any cases of more than three hearings. Generally, appeals against a decision of the court are more frequent among Roma in Bulgaria, Romania, less so in Hungary, the Czech Republic and Slovakia, while in the former Soviet Union this is rather the exception.



III. 7 Zlatko Mladenov, Goran Goranov, *Kaldaraši*, (subgroup of the *Zlatari*, chairs of NGO “Supreme Romani Mešare” (Bulgaria).

*Participation in Romani court, which functioned in frames of community, not an obstacle for participation and realisation in the society, including for formal registration of NGOs as “supreme authority of the Romani court”.*

*There are several attempts through the mechanisms of the Romani court to solve the more general civic problems of Roma. This is the case with Jacov Sergunin (Romani name Jan Reshetnikov), Ruska Roma (subgroup of Sibirjaki), Russian*



III. 8 Grave of Jan Reshetnikov in Moscow. He was killed on June 25, 2004 (photo by Nicolai Bessonov).

*Federation. He graduated from military school, received PhD in philosophy and law, Lieutenant General from justice. In 2000 he was appointed by President Vladimir Putin’s Deputy Prime Minister of the Chechen Republic. He participated in the Romani movement, made a proposal to convene a general (with representatives of all Romani groups) Romani court to decide who is entitled to represent the Roma and to negotiate with government and foreign donors.*

## TAKING AN OATH

In all of the Romani groups in the region in question there is one last and most reliable method of establishing the truth in cases where the information gathered is not clear or when statements by witnesses are contra-

dictory. This is the taking of an oath in public (*xas sovlox, žas te solaxares*, etc.), before the Romani court in a ritualised form with some nuances among individual groups.

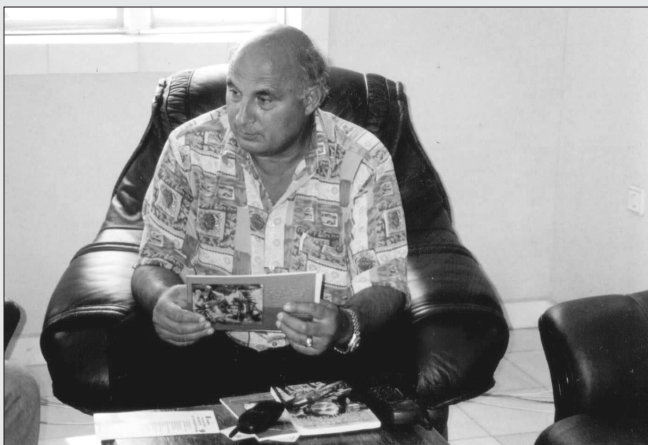
In the former Soviet Union the oath is taken before an icon, most often that of *St. Nicholas Taumaturgetos* (the Miracle Maker) who is considered to

be the patron saint of the Roma in this vast territory. The taking of an oath is an event which takes place where the Romani court is held, before a household icon or a church icon. In Romania and Bulgaria, the Czech Republic, Slovakia and Hungary the oath is taken in a church, most often before the icon of the Virgin, in Romania and Bulgaria

often in the presence of a priest. The group of *Šanxajci* or *Kitajcurja* from Odessa (former *Kelderari* from Odessa, who lived in China for several decades) take the oath before an icon and it is obligatory that this shall be done in front of a burning fire. In Bulgaria in many cases the *Kardaraši* (from the *Njamci* subgroup) take the oath near a monastery and/or near a river, as it is thought that the strongest oath is sworn in still water or a swamp, and it is good if there is an old bridge, sometimes stepping into the water, sometimes nude from the waist downwards. In Bulgaria in particular, the oath is taken over a cross, smeared with fat - it is

thought that this is the strongest oath; in Romanian Dobruzha the strongest oath is taken on sheep suet. In Bulgaria the oath is most recently taken on two wooden sticks in the shape of a cross with two cigarettes placed over the cross (the cigarette symbolizing tar, i.e. fire). After the oath the person who has taken it has to smoke the cigarettes in public. In Transylvania “the oath is made on the cross, water, earth and fire holding a lit candle”. The *Krimurja* in Russia and Ukraine, who are Muslim, can take the oath in the yard of a mosque, however the oath is more often taken over a loaf of bread. The Muslim Roma from Bulgaria take the oath over

a loaf of bread too and Muslim Roma from Kosovo often take the oath on the holy Koran. Each oath across the whole region finishes with an enumeration of the severe consequences which would befall them in the event of perjury. Generally speaking, all Romani groups believe that perjuring oneself while the taking the oath will lead to all kinds of misfortunes in the near future. Since the taking of an oath is an extremely serious instrument in ascertaining the truth, nothing can be disputed after an oath is taken and the final decision of the Romani court is made.



III. 9 Kyril Rashkov (Tzar Kiro), *Kaldaraši*, (subgroup of the *Zlatari* or Serbian “Gypsies”).



III. 10 Business card of Arthur Cherari (Romani name Vasja), Čokenarja from Soroki, Republic of Moldova.

*Membership in the Romani court does not prevent those who seek popularity among the public through the titles of “Gypsy king” or “Baron of the Gypsies”. The inscription on the card of Arthur Cherari is “Gypsy Baron the whole Moldova ...*

*... Arbitration judge highest category of the International Romani Union ... ” (Ill. 10). In many cases, members in the Romani court seeking a kind of public legitimacy supported by special documents (Ill. 11, 12).*

## EXECUTION OF COURT DECISIONS

In practice, a ruling of the Romani court is binding. The Romani court has no law enforcement institutions to ensure the implementation of the ruling and the sanctions it contains. In a community like the Roma where the power of public opinion within one single community and of the social relations within it have predomi-

nance over the individual, it appears that the institution of the Romani court is much more efficient than all legal institutions of contemporary society with their means of coercion and huge budgets.

The decision arrived at by consensus is something which cannot be ignored, as this would be seen not only as exceptionally disrespectful towards authoritative people in the communi-

ty, but also towards the Romani community as a whole. The inevitable and unavoidable punishment for such behaviour would be the forced expulsion from the community. This is also the main motivation for people to obey the rules - no one wishes to be an outcast from their community, or from their immediate circle, which for a Rom is the equivalent of social death.



III. 11 Identification card marked “The President of the Supreme *Mešere* in Bulgaria”.



III. 12 Membership card marked “European Committee of Romani *Krisnitori*”.

## CLASSIFICATION OF THE CASES HEARD BEFORE THE ROMANI COURT

Cases heard before the Romani court can be divided into a number of basic categories. This classification is not absolute and in practice these categories cannot be clearly outlined. Yet such a formalised classification helps to understand the essence of the phenomenon.

### A. DISPUTES CONCERNING ECONOMIC INTERESTS

These are the most frequent disputes which are settled by the Romani court in all Romani groups. Both today and in their nomadic past these court settlements have varied greatly. They include a broad sphere of economic and commercial activities, which is to be expected considering the exceptional flexibility of the Roma (especially the groups under question here) in search of niches where there is a potential for gain. Thus, the Romani court could be convened in connection with encroachments into the economic market, unfair competition, undercutting, poaching, unpaid debts, etc. Indeed, these were the main reasons for convening the Romani court in the nomadic past, only the types of economic activities have changed.

### B. DISPUTES RELATED TO FAMILY

A variety of cases fall under this category in which cases chiefly deal with relations between families who have concluded a marriage - for instance compensation if the bride is not a virgin, trying to find out why she is not a virgin, finding solutions or compensation if after marriage she escapes to her parents or to another man, conflicts between husband and wife, or between daughters and mothers-in-law etc. In these cases the court agreement is about the price which has already been paid for the daughter-in-law - should it be returned, what amount, and should there be some form of compensation for moral losses, etc.

Generally, Romani groups in the countries of the former Soviet Union rarely turn to a Romani court on such occasions, their aim is to settle matters within the two extended families and not to bring the issue before the community. The court is more often summoned in such cases among the *Kelderari* and the *Lovari* because they have the custom of paying a price for a bride, but only within the group. However, among Romani groups in Bulgaria and Romania court settlements on such occasions are a regular phenomenon (about half of the cases). Probably the main factor for

explaining these differences is the fact that arranged marriages involving paying a price for a bride among Romani groups in Bulgaria and Romania are customary, while among Roma in the former Soviet Union such payments are comparatively rare - they are customary only among the *Krimurja*, and in a more or less oblique form among *Kelderari* and *Lovari*, and generally is absent among the rest of the groups.

### C. MORAL AND ETHICAL DISPUTES

The calling of the Romani court on such moral issues can be found all over the regions that were investigated, however in general it is rare. Several variants are possible. In principle, cooperation with the authorities is sufficient reason for a court examination of the case, which is especially strongly underlined by groups living in the countries of the former USSR. Yet for practical purposes, the Romani court is convened with such accusations only when people are affected or above all when specific economic interests are at stake. During court hearings not only the fact of the cooperation itself is discussed, but also its consequences - e.g. economic losses to a specific member of the community who initiates the court hearing. Thus the formulation of such inadmis-

sibility is left on a rather “ideological” level, while in life things are, as always, much more complicated. The court is convened more often in cases of conflict or situations where someone’s prestige or name has suffered, as prestige and name for these Roma are seen as exceptionally important things. Often cases concerning moral questions go hand in hand with those regarding family relations.

#### D. PROBLEMS CONCERNING THE ENTIRE COMMUNITY (OR PARTS THEREOF)

The calling of the Romani court on such occasions is considered possible by all groups, yet for practical purposes this is exceptionally rare. Such cases recently happened in Russia when the Romani court, startled by cases of drug addiction among young Roma, locally

ordered a ban on the sale of drugs, which was a reflection on the community itself. An interesting variation on the idea of the Romani court for resolving problems of an entire Romani community was the proposal by a well-known Romani leader in Moscow to summon a *sxodka* with respected people from all Romani groups, in order to elect the appropriate leaders of the Romani movement and Romani civic organisation.

### IMPORTANCE AND PERSPECTIVES OF THE ROMANI COURT

The Romani court has played an exceptional part in the lives of many Romani groups living in the region of central, eastern and south-eastern Europe. The presence (or absence) of a Romani court is a clear marker differentiating Roma from the remaining settled Romani communities and from the surrounding population. This is also expressed by the Roma themselves where the institution is based. The Romani court is a typical and effective mechanism of their ethno-social organisation; it is an active social regulator, controlling and blocking devi-

ant behaviour in a given community and guaranteeing its sustainability.

Seen from a historical perspective it appears that the presence of a Romani court has become the most reliable means for the preservation of the community’s ethnic identity and ensures the survival of its endogamy. Moreover, the presence of a common Romani court in the countries of the former Soviet Union has contributed to the development of a consciousness of a pan-Romani unity which in this region has a markedly stronger presence than anywhere else in the world. In other words, the Romani court is essentially an active factor in the development of the community.

Despite the old time character of the institution, it too is subject to change.

Romani communities are predestined to live within an alien macro society; it is only natural that they cannot be completely isolated. In spite of this we could hardly expect the Romani court to disappear, as in many cases it is the only (or at least the most important) core element which consolidates and preserves a given Romani community. Nevertheless, the principle of consensus, which is the underlying concept of the Romani court, is increasingly in contrast with the development of modern civilisation which is built and functions on other principles and norms. Thus, the prospects for the Romani court remain unclear, and to a great degree depend on the perspectives for the overall development of the Romani community.

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