



STALNA KONFERENCIJA ROMSKIH UDRUŽENJA GRAĐANA
SAVAKHTUNI KONFERENCIA ROMANE DIZUTNENGE AMALIPE - LIGA E ROMENGI
STANDING CONFERENCE OF THE ROMA ASSOCIATIONS OF THE CITIZENS



FOND ZA OTVORENO DRUŠTVO, SRBIJA
FUND FOR AN OPEN SOCIETY, SERBIA

DRAFT OF THE LAW ON THE LEGALISATION OF SUSTAINABLE INFORMAL ROMA SETTLEMENTS

Authors and proposers of the Draft Bill:

Mr Marko Davinić, PhD
Mr Vladimir Macura, PhD
Mr Miodrag Ferenčak, MEng
Mr Žarko Klisarević, MEng
Mr Osman Balić, MEng, Co-ordinator

Proofreader: Prof. Đurđica Ergić
Organisers: Ms Sandra Abramović, MEng
Ms Nevena Kamenov, LL.B.

Belgrade, September 2014

СТАЛНА КОНФЕРЕНЦИЈА РОМСКИХ УДРУЖЕЊА ГРАЂАНА – ЛИГА РОМА
SAVAKHTUNI KONFERENCIA ROMANE DIZUTNENGE AMALIPE - LIGA E ROMENGI
STANDING CONFERENCE OF THE ROMA ASSOCIATIONS OF THE CITIZENS – THE LEAGUE OF ROMA

DRAFT OF THE LAW ON THE LEGALISATION OF SUSTAINABLE INFORMAL ROMA SETTLEMENTS

I INTRODUCTORY PROVISIONS

The subject of regulation

Article 1

This law regulates the conditions, procedure and manner of legalisation of sustainable informal settlements (hereinafter referred to as: sustainable Roma settlements), as the first stage in the process of legalisation and improvement of the housing conditions of Roma in Serbia.

The definition of a sustainable Roma settlement

Article 2

Sustainable Roma settlement is a settlement or part of a settlement predominantly inhabited by Roma, with more than 100 inhabitants of Romani ethnicity, predominantly constructed or reconstructed before 1971, from material that provides durability and safety of structures.

It is not considered to be sustainable Roma settlement or part settlement, one that is:

- 1) predominantly constructed or reconstructed on land unfavourable for construction (landslides, permanently contaminated land, wetlands, etc.);
- 2) predominantly constructed or reconstructed on land that is in someone else's private property;
- 3) constructed in the area of the first level of protection of natural heritage, i.e. in the area of cultural heritage of great importance and the area of protection of cultural assets registered in the World Heritage List;
- 4) constructed in protective zones around military facilities, and infrastructure of special purpose, contrary to the regulations of the defence which prescribe special obligations for construction of facilities and

constructed in protective zones of other objects to be protected in accordance with the provisions of special laws.

Legalisation of sustainable Roma settlements

Article 3

Legalisation of sustainable Roma settlements is a process of subsequent legalisation of settlements as a spatial entity by adopting a decision on the accession process of legalisation, as well as through the preparation of detailed urban appropriate documents by the assembly of the local self-government.

Legalisation of sustainable Roma settlement or part of a settlement does not automatically mean the legalisation of any of its individual structures (houses, construction building, streets, infrastructure, etc.), but is a prerequisite for their individual legalisation in accordance with the law governing this area.

II TERMS, METHOD AND PRECEDURE OF LEGALISATION OF SUSTAINABLE ROMA SETTLEMENTS

Obligations of Local Self-Government Units

Article 4

Within one year from the date of entry into force of this law, the Local Self-government unit in which Roma settlements exist is required to analyse the situation, determine the list of sustainable Roma settlements within its territory, adopt an action plan for the implementation of legalisation, with the perspective in terms of improving the quality of life in them, then make a decision on the accession to the legalisation of sustainable Roma settlements, as well as to the development of urban plans with elements of detailed regulation, including a plan of subdivision.

Organising the citizens

Article 5

Upon completion of initial analysis from Article 4, Local self-government unit shall notify residents of its intention to implement a process of legalisation of a sustainable Roma settlement in the area where they live and actively assist residents to organise an association of citizens, whose main goal shall be mutual cooperation and information during the process of legalisation of settlements, and shall later support the legalisation of individual objects, and the participation of citizens in matters of planning, maintenance and settlement of common or public areas and infrastructure.

Situation analysis

Article 6

Local government unit analyses the situation of Roma settlements through expert services, public companies or specially established professional bodies. For particular tasks, local government unit can engage other expert organisations and companies.

Analysis of the situation of Roma settlements especially contains a list of existing Roma settlements with more than 100 Roma inhabitants of Romani ethnicity, including information on the location, size, number of facilities, population and households, age and quality of the facilities, the extent of the area that can meet criteria for sustainable legalisation of Roma settlements, a general description of the overall situation, review of specific quality and problems in the settlement, as well as other information relevant to the decision on the accession to legalisation.

All available current maps (cadastral topographic, orthophoto, satellite images of suitable dimensions, etc..) can be used for graphics and sketches of field proven information about the settlement.

A list of sustainable Roma settlements

Article 7

Local government unit shall establish a list of sustainable Roma settlements on its territory, starting from the definition of sustainable Roma settlement in Article 2 of this law, then the analysis of the situation, as well as of the outline list of settlements given in the Appendix.

Notwithstanding the provisions of Article 2, paragraph 2, points 2), 3), 4) and 5), local government unit will enter into the list those Roma settlements, for which there is consensus of public or private property control, or organisation responsible for its protection provided that it is satisfied by the definition in Article 2, paragraph 1

Action plan for the implementation of legalisation

Article 8

Local government unit brings an action plan for the implementation of sustainable legalisation of Roma settlements on its territory, based on the established list referred to in Article 7 of this Law.

The action plan primarily contains the overview and the content of activities to be undertaken, documents to be adopted, timelines and responsibilities for each activity, the anticipated scope and sources of funds for the realisation of tasks, as well as other necessary requirements and instructions for conducting the legalisation of sustainable Roma settlements.

Decision on accessing legalisation

Article 9

Local self-government unit makes a decision on accessing legalisation of sustainable Roma settlement on the basis of situation analysis, established list of sustainable Roma settlements, and on the basis of the action plan for the implementation of legalisation.

The decision specifically contains current information about the settlement, in terms of compliance with the criteria referred to in Article 2 of this Law, as well as a graphical representation of the area, which represents the space of the village in which this law will be applied.

The decision in this article can be simultaneously the decision about the development of urban planning with elements of detailed regulation, when it contains all the elements prescribed by law.

Review of existing urban plans

Article 10

Local self-government unit should review all applicable urban planning within whose boundaries are sustainable Roma settlements from the analysis and action plan in Article 4 of this law, and to make amendments to those parts of the plans where without sufficient argument the resettlement of Roma settlements arising for the most part until 1971 is planned, so that these settlements are kept, maintained and improved with the purpose of residence that respects the positive specificity of Roma settlements.

Urban planning with elements of detailed regulation

Article 11

Urban planning with elements of detailed regulation is a plan that is adopted for the area of sustainable Roma settlements (hereinafter referred to as PDR) in accordance with the law governing the planning and building on the territory specified in the decision on the legalisation in this law or a separate decision on the development of PDR in accordance with the law governing the planning and construction, if proposed in the action plan.

PDR contains a subdivision plan, which sets out the building parcel of public lands, as well as individual parcels for organising the existing, rehabilitated and new housing units as part of land for residential development, the construction of social housing and the construction of other facilities to improve living conditions in the neighbourhood .

In developing PDR rule book of subdivision and regulation is applied, and is adopted in accordance with Article 18 of this Law.

Prohibition of forced evictions

Article 12

In the process of legalisation of sustainable Roma settlements, forced eviction of residents from the settlement, or a part of the settlement, is not allowed, where the facilities are located in an area which according to the PDR has a different purpose, without previously providing alternative accommodation, by quality equal to or higher than the living conditions in that settlement, which must comply with the criteria of adequate housing.

Demarcation of land

Article 13

Demarcation of land in private and public property, as well as addressing issues of the relationship between private property and parts of cadastral parcels owned by the state, which must be transmitted to the users of legalised facilities, shall be based on the urban plan, subdivision plan and subdivision project in accordance with the law and with the application of Regulation, which regulates the manner and conditions of servitude in the legalisation of sustainable Roma settlements.

Lease, or rental of land

Article 14

The lands on which there are legalised sustainable Roma settlements, which are public property, may be leased or rented to applicants in accordance with the law and regulation on land rent or lease in legalisation of sustainable Roma settlements.

Lease, or rental of land is done without bidding procedure.

Deadline for legalisation of individual facilities

Article 15

The deadline for legalisation of individual facilities in the settlement is two years after the application of urban planning documents, by which a sustainable Roma settlement is systematically defined and regulated.

Planning, building and development of settlements

Article 16

Local self-government unit and civil society organisations carry out the planning and building of settlements, and other programs necessary for its overall development, on the basis of the adopted action plan and PDR.

For renovation of existing and construction of new buildings and facilities for living and working, a building permit is required in accordance with the law. For family facilities for their own use, with up to two floors, organised building by the owner with the legal and technical assistance of local governments is allowed.

For the construction and renovation of sanitary facilities, rooms and installations that deal with basic hygiene needs of residents of the sustainable Roma settlement or sustainable part of Roma settlements building permits are not required, registration papers and neighbours' consent are sufficient.

Obligations of the ministry responsible for legalisation

Article 17

Ministry in charge of legalisation is required to establish an internal organisational unit which will be responsible for activities related to the legalisation of sustainable Roma settlements, as well as for planning and proposing the necessary funds in the budget for the implementation of its own obligations and help local government units with the implementation of their obligations under this Law.

Empowered to enact subordinate legislations

Article 18

The Government adopts a regulation which prescribes the manner and conditions of the lease of land in legalisation of sustainable Roma settlements.

Minister in charge of construction shall establish rules of subdivision and regulations of sustainable Roma settlements.

III. PENALTY PROVISIONS

Article 19

If within six months of the entry into force of this Law the ministry responsible for legalisation will be fined with 1,500,000 up to 3,000,000 RSD if it does not form an internal organisational unit responsible for activities related to sustainable legalisation of Roma settlements or parts of settlements.

The local government unit which fails to adopt laws and plans regulated by this law in the prescribed deadlines will be fined with 1,500,000 up to 3,000,000 RSD

The person responsible in the government and the local government unit shall be fined 100,000 up to 150,000 RSD if it does not initiate or organise the procedures and requirements within its jurisdiction for the legalisation of Roma settlements, which are subject to this law.

IV. SUPERVISION

Article 20

Supervision of the implementation of this Law shall be done by the ministry in charge of construction work.

V. TRANSITIONAL AND FINAL PROVISIONS

The deadlines for the adoption of subordinate legislations

Article 21

Subordinate legislation under Article 18 of this Law shall be adopted within six months from the date of entry into force of this Law.

Appropriate application of the law

Article 22

Questions on the procedure of legalisation of sustainable Roma settlements which are not regulated by this Law are subject to the provisions of the law governing the legalisation of facilities and the law governing the construction of facilities.

Entry into force

Article 23

This Law shall enter into force on the day of its publication in the "Official Gazette of the Republic of Serbia".

THE RATIONALE

I CONSTITUTIONAL BASIS

The constitutional basis for the enactment of this Law is contained in the provisions of Article 97, paragraphs 7, 12 and 17. Constitution of the Republic of Serbia which regulates the jurisdiction of the Republic of Serbia to regulate and provide property and contractual relations and the protection of all forms of ownership, policies and measures to encourage balanced development of certain parts of the Republic of Serbia, including the development of underdeveloped areas, organisation and use of space, as well as other relations of interest for the Republic of Serbia, in accordance with the Constitution.

In Article 14, paragraph 2. Constitution of the Republic of Serbia stipulates that the state guarantees special protection to national minorities in order to achieve full equality and preservation of their identity. Also, Article 21, paragraph 4. Constitution of the Republic of Serbia clarifies that specific measures that Serbia may introduce in order to achieve full equality of persons or groups of persons who are substantially in an unequal position compared to other citizens, are not considered discrimination. In a similar way, in Article 76, paragraph 3. Constitution of the Republic of Serbia stipulates that legislation and temporary measures that Serbia may introduce to the economic, social, cultural and political life, to achieve full equality between persons belonging to national minorities and people who belong to the majority, if they are aimed at eliminating extremely adverse living conditions that particularly affect them are not considered discrimination

II REASONS FOR ADOPTION OF LAW

In 2005, the Republic of Serbia joined the regional program for improving the situation of Roma in Central and Eastern Europe, "Decade of Roma Inclusion 2005-2015". Action plans have been adopted in areas where Roma are the most vulnerable (education, housing, health and employment). One of the most difficult problems is definitely housing and by all research in this area, the Roma are far below the standards of the majority population.

According to the 2002 survey (akšić, Bašić) in 120 local government units in Serbia there are 593 settlements, with more than 100 inhabitants and are mainly inhabited by Roma. It is significant that in the period before World War II 58.5%, or 347 out of 593 villages have been developed. These data suggest that the Roma settlements in Serbia are old, that they are, regardless of the difficulties they have, however, incorporated into the local urban milieu.

By the quality of construction and the overall environment, Roma settlements are mostly unhygienic. Their housing fund is mostly good, but there is a big problem in terms of public infrastructure that is either missing or inadequate. Municipalities and cities did not invest in improving Roma settlements for decades, because they were mostly considered temporary structures that will eventually be displaced.

From individual examples is concluded that most of the settlements are built on land owned by the Roma, but which also belong to the municipalities and some large economic systems (farms, railways, forests, etc.). Status of parcels used by the Roma, regardless of ownership, generally is not regulated in court, so there is a difference between the cadastre and the actual situation.

Opening possibilities to regulate the status of illegal settlements and the construction of public infrastructure should be overcome by adopting the Urban Plan. On the way to its adoption there are still a number of obstacles that should be removed by this Law, opening the prospect of adequate housing for the Roma.

The reasons for the adoption of this law are contained precisely in the need to provide conditions for legalisation within the framework of sustainable Roma settlements, which in the current legal framework is not possible. The law on legalisation, adopted at the end of 2013, does not provide the inhabitants of Roma settlements to legalise their homes.

Numerous legal and strategic documents were adopted in the Republic of Serbia with the aim of improving the situation of Roma communities. Among the laws of special importance are the Law on Protection of the Rights and Freedoms of National Minorities (2002), Anti-Discrimination Law (2009) and the Law on Social Housing (2009), while the main strategic documents of are the Poverty Reduction Strategy (2003), the Strategy for the Improvement of status of Roma (2009) and the Strategy for the Prevention and Protection against Discrimination (2013). Ministry of Capital Investments of the Republic of Serbia adopted the Guidelines for the improvement and legalisation of Roma informal settlements in 2007. All these documents have generally improved the situation of Roma, but the right to adequate housing remains elusive for the vast majority of the Roma population.

Republic of Serbia is bound to take appropriate actions by international standards adopted in this area. Thus, in Article 25, paragraph 1. UN Universal Declaration of Human Rights from 1948 states that any person "has the right to a standard of living adequate for the health and well-being of himself and of his family, including ... a flat ...".

The Republic of Serbia has ratified a number of international treaties adopted under the auspices of the United Nations which, among other things, prohibits discrimination and guarantees the right to housing. These are the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment, the Convention on the Rights of Persons with disabilities and the Convention on the Protection of All Persons from enforced Disappearances. Almost all of them have a provision guaranteeing the right to housing or can indirectly provide protection from forced evictions.

The most important document of the United Nations, which guarantees the right to housing is the International Covenant on Economic, Social and Cultural Rights. In Article 11, paragraph 1 of this act it is emphasised the obligation to recognise the right of "every person to an adequate standard of living for

himself and his family including adequate food, clothing and housing, and to the continuous improvement of living conditions." The Committee on Economic, Social and Cultural Rights adopted two general comments that shall specify this law (General Comment no. 4 and General Comment no. 7).

As some groups because of their lifestyle, but also because of their vulnerability, are particularly vulnerable to eviction measures - such as the Roma, particular importance has Article 2, paragraph 2. International Convention on the Elimination of Racial Discrimination, which states committed to undertake, among other things, in the social field "special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to these groups."

The Republic of Serbia has ratified a number of international conventions adopted within the Council of Europe, and by the significance for the area that this law regulates the European Convention on Human and Minority Rights, the revised European Social Charter and the Framework Convention for the Protection of National Minorities should also be mention In its third opinion in February 2014, the Advisory Committee asks the Republic of Serbia, among other things, to immediately stop forced evictions and to introduce legal provisions on the right to adequate housing.

Within the EU several directives prohibiting discrimination have been issued, and of particular importance is Directive 2000/43 which prohibits discrimination on the basis of race or ethnicity.

Finally, Serbia is a signatory of the Vienna Declaration on national and regional policies and programs related to informal settlements in South-East Europe, from September 28, 2004, which emphasises the importance of legislation and predicts that the urban, social and economic integration of informal settlements in the entire city structure will represent a key factor in the preparation for EU accession.

III. EXPLANATION OF BASIC LEGAL INSTITUTES AND INDIVIDUAL SOLUTIONS

The subject of this Law is defined in Article 1. According to this provision, the subject matter are conditions, procedure and manner of legalisation of sustainable Roma settlements, as the first stage in the process of legalisation and improvement of the housing conditions of Roma in Serbia. This law, therefore, should create prerequisites so that the residents of such settlements would at a later stage access the legalisation of individual objects.

Article 2 defines the concept of sustainable Roma settlement. In order for the legalisation of this law to be implemented, as means of necessary positive discrimination, it is essential, unambiguous and clear, with the application of these criteria, to determine which settlement is eligible to receive the status of sustainable Roma settlement. As part of the implementation of this law there will be cases where the requirements will not be met by the whole settlement, but only a part, which means that some Roma settlements will not be able to be legalised as a whole but only their sustainable part. Because it is a measure which specifically improves the living conditions of the Roma, it is necessary to establish that the

particular settlement or a certain part of the settlement is really predominantly inhabited by Roma (and residents of other minority or majority groups within the settlements in which the Roma live together, equally use the rights and obligations arising from this Law). The requirement that the minimum sustainable Roma settlement would consist of more than 100 inhabitants of Romani ethnicity (which corresponds to a group of 20-30 housing units) should exist in order to avoid inefficient energy use of the local government on a number of small groups of houses. This criterion focuses on larger settlements in which a greater number of cases will be solved, which are by their nature settlements with longer history and tradition.

The condition that the settlement is mostly built or rebuilt before 1971, is directly related to the need not to favour the emerging of informal built groups of facilities and improvised settlements, but to direct the priority towards settlements that confirmed their sustainability over several decades. The requirement that a great number of individual buildings in the settlement is of a material which ensures durability and safety of buildings, is one of the necessary conditions of sustainability of any civil settlement and Roma settlements should not be an exception.

The aim of this law is not the legalisation of all Roma settlements, but only those that meet the requirements of sustainability. Therefore, it is necessary to clearly define the situations in which the legalisation of settlements would be harmful for the residents of the Roma settlement and the local government unit as a whole. It was pointed out by negative determination, i.e. by specifying which settlements will not be considered sustainable Roma settlements or part of a settlement. Thus, paragraph 1, contains a provision which prevents this law from entering harmful and unsustainable solutions (building on land unfavourable for construction), both for residents of the settlements, and the local government unit. Point 2 affirms the principle of the inviolability of private property. In Point 3 natural and cultural resources are protected. In Points 4 and 5 airport areas, highways, water sources, irrigation systems, dams, railway sidings, corridors of power lines and other similar areas are being protected.

Article 3 defines the process of legalisation of sustainable Roma settlements. It is a procedure of subsequent legalisation of settlements as spatial entities by adopting appropriate legislation (decision on joining the legalisation and detailed urban documents). The mentioned acts are regulated in detail by the articles of the law to follow. The second paragraph explains that the legalisation of settlements does not automatically legalise individual structures in it (houses, streets, infrastructure, other), but the law only creates the conditions for single legalisation in accordance with the law governing this area.

In Article 4 the obligations of local government are specified, which is required to implement within one year from the date entry into force of this Law: to analyse the situation, determine the list of sustainable Roma settlements within its territory, adopt an action plan for implementation of the legalisation of perspective Roma settlements and decide on joining their legalisation as well as urban planning with elements of detailed regulation, including a plan of subdivision.

In Article 5 it is determined that the local government unit shall notify the inhabitants of its intention to implement a process of legalisation of sustainable Roma settlements in the area where they live. Also, it helps the residents organise an association of citizens, whose main goal is mutual cooperation.

and information during the process of legalisation of settlements, and as subsequent support of the legalisation of individual objects, and participation of citizens in matters of development and maintenance of the settlement. Such an engagement of the local government and citizens is a necessary condition for the successful determination of the situation and data, a realistic action plan and a quality and detailed urban plan. Within the process of legalisation it is necessary to maintain quality educational and participatory meetings, which would not have been successful without proper associations within the settlement.

In Section 6 it is closely determined in which way the local government unit analyses the situation of Roma settlements. A number of possible forms and ways of engaging of institutions are specified, from the formation of a task for its own services and executives, to the involvement of other professional organisations and companies, since some stages of analysis may require specialised knowledge and experience, for which some local governments do not have adequate capacity. Also, the analysis of the content is described in more detail. The ability to use all available current bases in order to overcome unnecessary conditioning and delaying of the proceedings due to misunderstanding about excessive methodological requirements is also given. Analysis of the situation may also be a document for early public review, if the need arises.

In Article 7, the obligations of local governments in terms of determining the list of sustainable Roma settlements on its territory, are closely determined. It is compiled on the basis of the definition of sustainable Roma settlement in Article 2 of this law, the analysis of the situation, as well as an approximate list of settlements given in the Appendix. The second paragraph specifies that local governments will allow the legalisation of Roma settlements, or a part of them, which otherwise could not be legalised (under Article 2, paragraph 2, point. 2), 3), 4) and 5), provided that it is approved by the control of public or private property, i.e. by the organisation responsible for its protection, and if the settlement meets the requirements set forth in Article 2, paragraph 1.

In Article 8, the action plan for the implementation of sustainable legalisation of Roma settlements is closely determined. It is an essential instrument for quality organisation of procedures in every settlement and every local government unit, but also for the synchronisation of work across the entire territory of the Republic, as well as for the preparation and submission of reports to international commitments.

Article 9 specifies that the local government unit is the decision-maker on the accession to legalisation of sustainable Roma settlements, which is an essential act in the proceedings, the details of its contents it's further determined and it is allowed for it to also be a decision on the development of urban planning with elements of detailed regulation in accordance with the applicable law on planning and construction, if it is more rational than making specific decisions (which may also be the option of choice in special circumstances).

Article 10 stipulates the obligation of local governments to reconsider these urban plans in which there are sustainable Roma settlements, and to make amendments to those parts of the plan where without sufficient argumentation their displacement is planned. In this sense, sustainable Roma settlements should be kept, cleaned and improved with the purpose of housing that respects the positive specificity of Roma

settlements. The long-standing practice of urban planning is characterised by a negative attitude towards the existing Roma settlements because of their formal appearance, built on a unregulated owned or public land, as well as the unsanitary conditions in most of them. It has produced a deeply rooted practice in the urban plans not to provide for the purpose of "housing" in places of Roma settlements, in which the Roma settlements could be maintained and improved, but something else (protective zones, protective vegetation, sport and recreation, new corridors, infrastructure, productive economy, etc..). This article provides a review of such decisions and in justified cases changes in urban plans in a way that would allow the legalisation and regulation of sustainable settlements within the purpose of "housing".

In Article 11, a connection is governed in the process of legalisation of sustainable Roma settlements between urban planning with elements of detailed regulation referred to in this law and the same instrument under the applicable law on planning and construction, i.e. it is determined to be the same process. However, in this article some detailed specifics of the contents of this plan that are important for the legalisation of Roma settlements are listed, in order to provide a basis for the proper application with respect to the individuality of Roma settlements, but also to retain the functioning of the proposed procedure in case of any changes in the content or the name of the plan in the basic law on planning and construction.

Article 12 provides for the prohibition of forced evictions of inhabitants of the settlement or a part of the settlement without providing alternative accommodation of suitable quality. This is necessary because in the process of legalisation it can be shown that not all informal structures in the wider spatial grouping will be included in the area and the borders of sustainable Roma settlement. Also, not all existing facilities within a sustainable settlement will be able to meet the criteria for safety and durability, or some of them will find themselves in an area that must get a different purpose, and will need to be removed (infrastructure objects, objects of public and general interest ...). Therefore, it is necessary to ensure the safety of inhabitants threatened by the possibility of relocating i.e. providing suitable alternative accommodation.

Article 13 regulates the division of land into private and public property, and address the issue of the relationship between private property and parts of cadastral parcels owned by the state to be granted to users of legalised facilities. It is based on the urban plan, subdivision plan and subdivision project in accordance with the law, in which the provisions of the regulation that prescribes the manner and conditions of the lease of land in legalisation of sustainable Roma settlements are applied. Issues of mutual demarcation of land, as a rule, are pending in Roma settlements, so by this Article the gradual nature and the tools to properly address these issues shall be determined.

Article 14 stipulates that the land on which there are legalised sustainable Roma settlements, which is public property, may assign or rent to the applicants, in accordance with law and regulation. In fact, many Roma settlements or their parts are located on public lands, and require the conversion of land from public to private ownership, i.e. the possibility of long-term land lease. Lease, or rental of land is done without bidding procedure because of the material situation in which most part of the population of these settlements find themselves.

Article 15 regulates the deadline for the legalisation of individual facilities in the settlement up to two years after the application of an urban document where the sustainable Roma settlement, or part of it, is defined and regulated. The legalisation of individual objects in the Roma settlement shall be made on the basis of the existing law on the legalisation of buildings, with the deadline for applications for legalisation of facilities not being 90 days from the entry into force of the said law (this deadline has already expired), but two years from the adoption of the urban plan with elements of detailed regulation.

Article 16 provides for the obligation of local government unit and civil society organisation to implement the planning and construction of settlements, as well as other programs necessary for its overall development, on the basis of the adopted action plan and urban plan with elements of detailed regulation. The objective of this law is not only to enable future legalisation of individual objects within the sustainable settlement, but also to encourage their continued editing and promotion.

The second paragraph specifies that for the reconstruction and expansion of existing and for construction of new buildings in the legalised settlement, building permit is necessary, but that for facilities for own use building by the owner is permitted with legal and technical assistance from local governments.

In the third paragraph of this article it is provided that for the construction, expansion and renovation of sanitary facilities, rooms and installations that deal with basic hygiene needs of the inhabitants of the sustainable Roma settlements do not require building permits, registration papers and neighbour's consent sufficient. Specifically, in order to improve the serious general hygienic conditions in sustainable Roma settlements, it is necessary to facilitate the construction of such facilities and installations. It is unacceptable that the existing Law on planning and construction permits the building, without a building permit, of courtyard fireplace, garden pool as all are facilities that fall into the category of luxury, while the construction of a rudimentary hygiene facility is possible only by a special permit. Once in the settlement a large number of houses are found with no sanitation facilities and installations, it is not about individual cases, but the whole settlement; Therefore described substances should be regulated by this law.

Article 17 prescribes the obligation of the ministry responsible for the legalisation to form an internal organisational unit responsible for activities related to the legalisation of sustainable Roma settlements or parts of settlements, as well as for planning and proposing the necessary funds in the budget for the realisation of its own obligations and for helping the local government units in implementing their obligations under this law. Given the large number of Roma settlements to be analysed in all of local government units, it is necessary to direct, coordinate and control the proceedings at the national level by the relevant ministry. For the above activities to be performed as efficiently as possible, is required to establish an internal organisational unit (department, division or group) within the Ministry .

Article 18 provides for the power to subordinate regulations. Thus, the Government adopts a regulation which prescribes the manner and conditions of lease of land in sustainable legalisation of Roma settlements. Also, the Minister in charge of construction shall establish rules of subdivision and regulations of sustainable Roma settlements. Such regulation is necessary because, as a general ordinance for use in urban planning are not covered by the evident and traditional specifics of construction and demarcation of objects in Roma settlements. These rules do not apply to standards of safety, health and hygiene, but the minimum and recommended profile roads and their character (for example, carriage road

home entrances about 3-4 meters wide, instead of the typical narrow automotive residential street with a 6 meters roadway and 2x1.5 sidewalk)

Article 19 stipulates the penalties for local governments and responsible people in them.

Article 20 stipulates that the supervision over the implementation of the provisions of this Law shall be conducted by the ministry in charge of construction.

Article 21 sets a deadline for the adoption of implementing regulations referred to in Article 10 of this law, which is six months from the date of entry into force of this Law.

Article 22 prescribes the adequate application of the law governing the legalisation of facilities and the law governing the construction of facilities, on all questions on legalisation procedure of sustainable Roma settlements which are not regulated by this law. This applies particularly to the issue of compensation for land improvement connection to the infrastructure and demolition.

Article 23 provides that the law shall enter into force on the day of its publication in the "Official Gazette of the Republic of Serbia".

IV. Regulatory Impact Analysis

Solutions in the regulation will have an impact on the inhabitants of Roma settlements, and the local governments, the Republic of Serbia and the European Union.

First of all, Roma will feel safer and more secure in a state of functional and legal integration of their own homes and property. Their isolation from the rest of the community will reduce significantly, which should affect the reduction of social stigma and greater social and economic integration. Increase the safety of residents, safety standards of buildings will be attainable, the high consumption of energy per unit of household will be reduced and energy efficiency would increase. Opportunities to solve environmental problems in informal settlements will be created (lack of sanitation and water supply, solid waste disposal, air pollution, lack of open space, ventilation area, etc..). Finally, the migration of the population will be reduced by creating land available for urban development, but also for individual housing construction.

The impact on local government is reflected primarily in facilitating the realisation of development strategies of municipalities and cities. Furthermore, the long-standing problem of illegal construction on municipal land will be solved.

The proposed solutions will create the preconditions for harmonisation of our legislation with international and European standards in this area, which is a prerequisite for further development of the Republic of Serbia as a whole. In addition, all property owners will be included in the tax system of the Republic of Serbia. It is essential that taxes and other charges are affordable and that residents realise that, by paying them, and are benefiting in return - for example, utility services and public infrastructure.

Finally, the positive effect of this law will be felt by the EU member states, in terms of migration of Roma, especially in the context of the unburdening of their asylum system

V. ASSESSMENT OF FUNDS NEEDED FOR THE IMPLEMENTATION OF LAW

Evaluation of financial assets is made on the basis of the most common Romani settlements of up to 500 people, of existing surface up to 2.5 ha and planning area of up to 5 ha.

The funds required for the implementation of this Law i.e. the legalisation of an informal Roma settlements include funds for Analysis and Prospect, for the development of urban planning, as well as for educating the participants in the process. It is estimated that the funding for the development of The Situation Analysis and Prospects for the development of sustainable Roma settlements will amount about 600.000 RSD (5,000 EUR), the urban development plan, including topographic and cadastral base will amount up to 3,000,000 RSD (25,000 EUR), and an additional 600,000 RSD (2,000 EUR) will be required for additional training and capacity building of staff who will be involved in the process of legalisation of sustainable Roma settlements. Total assets for one settlement are estimated at around 3,840,000 RSD (32,000 EUR). If the legalisation process would include 100 Roma settlements, total assets would amount to about 384 million RSD (3.2 million EUR)

The costs of implementing this law appear to a lesser extent on the level of the government and ministries, and on a much larger extent on the level of local government and public enterprises. Government costs are the additional costs for the preparation and adoption of the regulation and monitoring of the entire process, which can be assessed as an additional 500,000 RSD for three years.

The costs of the competent Ministry would increase due to the need to organise and monitor a separate internal unit with at least one manager and two assistants, with the usual annual cost of work in which field work is significantly represented. These costs should be added to the cost of preparing technical manuals and technical workshops with participants of the proceedings of all involved municipalities, and non-governmental organisations and experts from Roma organisations.

It is necessary to assess the relationship by which these costs would be financed through the budgetary resources of the ministries, and that through the means of local government units and organising stimulus funding. It should also be noted that for these procedures in Europe and in the world there is significant attention, interest, and organisation, and it is likely to be offers to help the Roma community and participate in activities that follow on the basis of this law. In this regard, it is necessary to have very well prepared conditions for optimum collaboration and implementation of the mentioned funds.