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ERRC report on Bosnia and Herzegovina
For the 2010 EU Progress Reports

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1. Anti-discrimination and other human rights law

A comprehensive national anti-discrimination law entitled The Law on Prohibition of Discrimination¹ was enacted on 23 July 2009. The law provides protection to all discriminated groups. The Ministry for Human Rights and Refugees in Bosnia and Herzegovina (BiH) is to monitor the implementation of this Law and the Ombudsman for Human Rights of BiH is the central institution competent for protection from discrimination. The central Ombudsman's Office informed the ERRC that there had been no discrimination complaints lodged by Roma between July 2009 and April 2010, but that the regional Ombudsman Offices has received several: in Brčko three complaints concerning access to documents, housing and employment; and in Sarajevo, three complaints concerning housing and property issues.²

2. Human rights judgments

In relation to discriminatory provisions of the "Election Law of BiH",³ which is seen as being discriminatory to the minorities defined as "Others",⁴ in December 2009 the European Court of Human Rights found BiH in violation of the European Convention on Human Rights (ECHR): Article 14 (non-discrimination) taken together with Article 3 of Protocol No.1 (right to free elections), as well as Article 1 of Protocol No. 12 (general prohibition of discrimination). This case, filed by Dervo Sejdić and Jakob Finci, representatives of the Romani and Jewish communities in Bosnia and Herzegovina,⁵ disputed as illegal discrimination their ineligibility for the Presidency and the House of Peoples because of their ethnic origin. In connection with this case, in a unanimously approved resolution dated 29 April 2010, the Council of Europe's Parliamentary Assembly (PACE) warned BiH that it must urgently take measures to change its constitution, notably to end discrimination against minorities, or face serious consequences. The government was asked to adopt necessary changes before it officially called general elections planned for October 2010.⁶ As of the end of May, there had been no progress.

3. Access to education

In its 2009 progress report on Bosnia and Herzegovina,⁷ the European Commission reported that the 2004 "Action plan on the educational needs of Roma and members of other national minorities in Bosnia and Herzegovina"⁸ is under revision. It still remains largely non-implemented due to the lack of funding and of comprehensible allocation of responsibilities.

¹ See: <http://www.queer.ba/en/content/law-prohibition-discrimination>.

² Letter of the Central Ombudsman's Office to the ERRC dated 25 May 2010. On file with the ERRC.

³ See: <http://www.oscebih.org/documents/25-eng.pdf>.

⁴ Those who do not declare themselves as Bosniak, Bosnian Serb or Bosnian Croat are defined in the constitution of BiH as the "Others," and still denied the right to stand for election for the tripartite presidency or the House of Peoples of the Parliamentary Assembly.

⁵ See: http://www.coe.org.rs/eng/news_sr_eng/?conid=1545 (case of Sejdic and Finci v. Bosnia and Herzegovina).

⁶ See: <http://www.balkaninsight.com/en/main/news/27759/>.

⁷ See: <http://www.delbih.ec.europa.eu/docs/ProgressReport20092.pdf>.

⁸ See: <http://www.oscebih.org/documents/80-eng.pdf>.

According to the REF Report from 2009, Advancing Education of Roma in Bosnia and Herzegovina,⁹ education in BiH is still politicised on ethnic grounds. Important advances in the access of Roma to education in BiH include: improved access to textbooks, supplies, meals, transport and scholarship support. The enrolment of Romani children in school is gradually increasing as a result of positive measures. However, the drop out rate of Romani children, particularly girls, still remains very high.¹⁰

Social support for pupils and students: Starting in the 2008-2009 school year, all pupils in grades one through four in the BiH receive textbooks free of charge through initiatives of non-governmental organisations. National and international non-governmental and intergovernmental¹¹ organisations continue to play a role in negotiating with cantonal authorities to provide Romani pupils with other forms of needed support, for example, with free transport and meals.

4. Access to adequate housing and forced evictions

According to the report of the informal coalition of non-governmental organisations for UPR of Bosnia and Herzegovina¹² from July 2009,¹³ the conditions in which Roma live are extremely poor and do not meet the minimum standards of decency. It is estimated that about 10,000 Romani families do not have adequate accommodation; this is roughly 5-10% of the Romani population in BiH considering that estimates range from 50,000 – 100,000 persons.¹⁴

According to the Council of Roma of BiH, there are 36 illegal settlements, where more than 22,000 Roma live. Another problem is the land register: namely, many Roma own the land but it is not recorded in the land register. The legalisation of informal Romani settlements is blocked due to a lack of adequate infrastructure (i.e. asphalted streets, electricity and water supply). The buildings are built without required documents, which prevents users to access financial assistance for the rehabilitation or construction of the building.

During ERRC research on the housing situation of Roma in Bosnia and Herzegovina, Ms A.D., a single mother living in the Ward Romani settlement in Kakanj told the ERRC: "My house is only 18 square metres; we have no water or bathroom and no electricity. The construction is very bad and the wind enters all over the house. [...] I only want normal living conditions for my children."¹⁵

Some Roma also reported having been forcibly evicted without adequate notice: for example, Mr E.H. from the village of Spionica near Srebrenik told the ERRC that the municipality had evicted his family without any written notice. Mr H. complained that there are no associations to protect the rights of Roma and when they went to the municipality to ask for help they were told to elect representatives who would fight for them. Mr H. and his family were living in an informal house without water or sewage, located 2 kilometres away from the nearest water source.¹⁶

5. Access to health care

⁹ See: http://www.romaeducationfund.hu/documents/bosnia_english.pdf.

¹⁰ See:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/BA/UNICEF_UPR_BIH_S07_2010_UNChildrensFund.pdf.

¹¹ The Council of Roma of the Federation of Bosnia and Herzegovina, Education Builds Bosnia and Herzegovina, the Roma Education Fund, Save the Children UK, UNICEF and World Vision Bosnia and Herzegovina.

¹² See:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/BA/Informal_UPR_Coalition_UPR_BIH_S07_2010_InfUPRCoa.pdf.

¹³ See: <http://www.oscebih.org/documents/1467-bos.pdf>.

¹⁴ The United Nations Development Programme (UNDP) estimates the size of Bosnia and Herzegovina's Romani population at up to 50,000. The Council of Roma of Bosnia and Herzegovina gives an estimate of up to 100,000.

¹⁵ ERRC interview with Ms A.D., Kakanj, December 2009.

¹⁶ ERRC interview with Mr E.H., Spionica, October 2009.

UNICEF has reported that the immunisation of Romani children is a matter of particular concern.¹⁷ Some 60% of Romani children are not completely vaccinated against common childhood diseases. Half of all 6 month old Romani children suffer from chronic malnutrition, 24% of Romani children are moderately undernourished and 12% severely underdeveloped. Romani children are five times more likely to be underweight than other Bosnian children.

The health situation of Roma living in informal Romani settlements is very alarming. For example, according to ERRC research the Ciljuge I and II Romani settlements in the municipality of Živinice pose significant threats to the health of the inhabitants. These settlements are in a very bad hygienic state, with garbage piled up around the houses. In addition, waste is burned by the residents, including tires, producing harmful fumes which can cause various infections, lung disease, etc.¹⁸ Roma living in an informal settlement near Srebrenik informed the ERRC, “We have no water, we have electricity for only one hour [...] Health is endangered here without water.”¹⁹

¹⁷ See:

http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/BA/UNICEF_UPR_BIH_S07_2010_UNChildrensFund.pdf.

¹⁸ ERRC interview with Ms E.H., Živinice.

¹⁹ ERRC interview with Ms V.M., December 2009.