

# ROMA RIGHTS

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**Romani Women's Rights Movement**

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*“It appears that that thing called dignity is contagious and it is women who are more likely to become infected with this uncomfortable malaise...”*

*EZLN communiqué: 12 Women in the Twelfth Year Subcomandante Insurgente Marcos, 1996*

**T**HIS CURRENT ROMA RIGHTS issue looks at the responses of Romani women to some of the human rights violations Romani women face. Our past issue on women's rights, published in 2000, caused controversy as some view Romani women's rights activism as a fracture or rupture of the Roma rights movement. The Romani women's movement has evolved organically through the wider pursuit of Roma rights by Romani women and men over the years in response to the initial (and mostly continuing) lack of attention to women's issues on the part of the predominantly male “leaders”, some of whom viewed patriarchal traditions as integral components of Romani identity and culture. Romani women's first steps to speak out about their rights as women and to challenge the idea that certain practices are a part of Romani culture have often been met with criticism, rejection or have been simply ignored. The fact is that women's rights in all contexts tend to be a cause of controversy, but particularly when in juxtaposition with other characteristics such as race or ethnicity, disability, sexual orientation, etc.

This issue of Roma Rights dedicated to the Romani women's rights movement will probably be no exception to this rule, as even its title, ‘Romani women's rights *movement*’, could already be the cause of controversy. Is the struggle in which many Romani women activists are currently engaging to defend their rights a “movement”? What do we refer to when we say movement in the context of Romani women? Is this movement part of

the Roma rights movement? Part of the feminist movement? Of both? None? This issue of Roma Rights by no means pretends to provide an answer to all these questions. Instead, what we try to do is to give a few current examples of current Romani women's actions and reflections. Movements have often been perceived as collective mobilisations with an organisational structure. Looking from this narrow perspective at the Romani women's rights movement, we could conclude that there are only a few dozen, or a few hundred at most, Romani women activists, because we would only be seeing the few relatively well educated and relatively privileged Romani women who continue to emerge as the primary actors of the movement. What I propose is to look beyond the organised Romani women's movement.

We must consider that a Romani woman who has not joined a women's organisation does not lack feminist ideals. She might face barriers that do not allow her to become a full- or part-time activist. For example, she might not fulfil the formal requirements to be part of an NGO (in terms of education, language or other factors); she might not have the time because she has to look after her family; she may be prevented by her husband or family; she might not even know that there is a movement or might even refuse to identify herself as an activist. However, despite these barriers and sometimes taking great risks to her physical security, often being isolated and without the support of other people, in her everyday life she can challenge discriminatory practises precisely in the only arena where real and tangible changes can happen: the domestic

and immediate environment. Those acts of defiance are a manifestation of non-conformism, of a growing consciousness that there is something wrong with the present state of inequality between Romani women and Romani men and the majority society. It is in such situations that consciousness becomes and, indeed, fuels activism. If we don't take all these everyday acts into account then it would seem that only those of us who are working formally in organisations fighting women's rights comprise the Romani women's movement. This perspective weakens the movement and belittles actions by Romani women who are not formal activists. A narrow perspective would lead us to only see the tip of the iceberg, but the fact is that the formal activists are just the most privileged ones because we have had opportunities that others have not.

I am by no means trying to undermine the work of Romani women activists or say that is easy at all. As Truman Capote says, "More tears are shed for answered prayers than for unanswered ones." This seems particularly enlightened within the current context wherein we see that activists that decide to overcome fears and speak about human rights violations are often crushed by their governments, police, media, public opinion, etc. It is also important to point out that in many cases there is no clear line between formal activists and other Romani women making acts of activism/defiance, seeing that very often these two categories overlap. The main difference in the situation of a formal and non-formal female Romani activist is in terms of the support received from her

peers and colleagues that non-formal activists rarely have and that helps her to persevere in fighting discrimination.

The Romani women's movement is often criticised for the fact that real tangible change in the situation of Romani women has not yet happened. However, the fact that the ERRC has changed in such a short period of time from lacking a gender perspective to having a number of activities in this area is a victory of the efforts of the Romani women's movement. This is an important victory because the ERRC, not a specific Romani women's rights organisation, has the ability to broaden the base of the Romani women's movement and increase the limited resources available. The ERRC and other organisations may also be able to contribute to the development of the holistic perspective of Romani women's rights, with expertise in other areas such as housing rights, employment, etc., which are necessary for addressing Romani women's issues.

The Romani women's movement is probably much bigger than conferences and reports allow us see, and the fact that there is something that we could start calling a movement is already an extremely positive thing. Female Romani activists (and hopefully men, too) might work collectively or individually, in accordance with their opportunities, as women's rights advocates, as Roma rights advocates, as teachers, as home workers, as lawyers, as mothers, or in any other capacity, against the illusion of male superiority and against racism. The Romani women's movement is as much about personal change and self-empowerment as it is about collective and social change.

# Romani Women's Rights at the European Level

Lívía Járóka<sup>1</sup>

**T**HE 2004 EU accession occurred without the presence of a solid EU-level policy on minorities. In many cases anti-discrimination directives were not transposed into national legislation or were not fully implemented in practice unless concrete steps were taken by EU bodies. Before 2003, very few Roma-related topics and reports were discussed in the European Parliament, despite widespread knowledge of the gravity of the situation. This lack of attention has had an impact on the Romani community. This is especially important if we take into account that the number of European Roma is equal to that of the population of Austria or of Sweden. During the first period of my work in the European Parliament in 2004, my first aim was to raise awareness and provide understanding about the Romani issue. The goal was to properly inform the European Parliament about the situation of the Romani people, and the main focus of our work was to replace the old paternalistic view with a professional sociological and economic discourse, which, previously, had only provided by a few European-level Roma-related NGOs. This period can be characterised by the process of mainstreaming Roma issues within the European Parliament in all fields and at all levels.

This issue is quickly gaining momentum, and several important resolutions and reports have been passed on this subject that lend themselves to substantive policy creation to ensure equality for

Roma throughout Europe. In April 2005, the European Parliament adopted a Resolution on Roma in the EU, denouncing widespread discrimination and calling for concrete action to be taken to improve the situation of this community.<sup>2</sup> The Resolution proposed the recognition of Roma as a European minority, and encouraged a further integrated approach on the part of the European Commission to enhance the position of Roma. This approach will be achieved through the demystification of pre-conceptions regarding Roma, by highlighting the destructive phenomenon of Anti-Gypsyism, and by encouraging the adoption of human rights and anti-discrimination policies directed towards Roma, especially in the fields of education, employment and living conditions.

Several MEPs from all EU parties have devoted themselves to issues concerning minorities, including Roma. The European People's Party (EPP) officially made the Roma issue a high priority at the Congress of Rome in March 2006.<sup>3</sup> The EPP urges the abolition of the sub-standard and segregated education of Roma and the prevention of Romani children from dropping out of school. It calls for the inclusion of Romani culture and history within national school curricula. The central ambition of the programme is to increase the employment of Roma both in the private and public sector. The EPP holds that more Roma should be involved at all levels of local, regional and national governing and executive bodies, predominantly in countries with a large Romani constituency.

<sup>1</sup> Lívía Járóka has been an MEP for Hungary since 2004. She is a member of the EPP-ED party. She serves on the FEMM and LIBE Committees in the European Parliament. Ms Járóka is also the first woman of Romani origin to be elected to the European Parliament.

<sup>2</sup> European Parliament, *Resolution on the Situation of the Roma in the European Union, 2005* at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0151+0+DOC+XML+V0/EN&language=EN>.

<sup>3</sup> 2006 Roma resolution, as passed at the Congress of Rome, at: [http://www.epp-ed.eu/Press/peve06/eve003/default\\_en.asp](http://www.epp-ed.eu/Press/peve06/eve003/default_en.asp).

The Committee on Civil Liberties, Justice and Home Affairs (LIBE Committee) and the Committee on Women's Rights and Gender Equality (FEMM Committee) within the European Parliament are the two Committees that take the lead on Roma-related issues. The FEMM Committee has several responsibilities: it defines, promotes and protects women's rights in the EU, including the implementation of international agreements and conventions involving the rights of women, while promoting the issue in third countries. It also works to promote equal opportunities for men and women, particularly in the labour market; it works to eradicate all discrimination based on gender; and it works to develop gender mainstreaming in all policy sectors. The FEMM Committee has also been influential in combating the trafficking of women and children, domestic violence, and gender-related health problems. These policy emphases easily lend themselves to promoting the well-being of Romani women in Europe, as these issues are exacerbated by the multiple forms of discrimination towards this group on the basis of gender and ethnicity.



*Livia Járóka Member of  
European Parliament  
for Hungary*

The FEMM Committee strengthened its resolve to improve the situation of Romani women last year in several ways. A Committee-initiated background study to the Romani women report entitled *Economic Aspects of the Condition of Roma Women*<sup>4</sup> discussed the social and economic condition of Roma and particularly Romani women in fifteen states, including: Czech Republic, Germany, Spain, Ireland, Italy, Hungary, Austria, Poland, Portugal, Slovenia, Slovakia, Sweden, Bulgaria, Romania, and Turkey. The goal of the study was to provide an analysis of the factors that contribute to the marginalisation of Romani women in society. The study emphasised

the difficulty in acquiring data on Roma women; which means that there is insufficient information available to create policies for Romani women.

The FEMM Committee called a public hearing in 2005, which involved several distinguished Roma women activists and representatives of the European Commission in order to discuss education and employment for Romani women, and it examined cases of "best practice" throughout Europe. At the public hearing on the extremely difficult situation of Romani women in Europe, members of the FEMM Committee agreed that new policies and more tangible results were required in order to overcome the obstacles faced by Roma. There was a consensus within the group that Romani women were the most discriminated against, but also the most forgotten and invisible, minority; and that action must be taken at European-level without delay.

Following the hearing, my own initiative report on the situation of Romani women in the EU<sup>5</sup> was completed in conjunction with the Open Society Institute, the European Roma Rights Centre, and several Romani women civil experts. The report highlights discrimination in health care, education, housing and employment faced by Romani women, and emphasises action at the national level of government through a series of policy recommendations.

The report urges Member States to quickly investigate and prosecute perpetrators of human rights abuses, including coercive sterilisation, in compliance with the "Follow-up to the Fourth World Conference on Women – Platform for Action (Beijing+10)" European Parliament Resolution.<sup>6</sup> Full access to unbiased health care

<sup>4</sup> *Berliner Institut für Vergleichende Sozialforschung, Economic Aspects of the Condition of Roma Women. Project number IP/C/FEMM/2005-09, 2006, at: <http://www.ipolnet.ep.parl.union.eu/ipolnet/cms/pid/1403>.*

<sup>5</sup> *European Parliament, Resolution on the Situation of Roma Women in the European Union, 2006, at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0244+0+DOC+XML+V0//EN&language=EN>.*

<sup>6</sup> *European Parliament, Resolution on the follow-up to the Fourth World Conference on Women – Platform for Action (Beijing +10), at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0073+0+DOC+XML+V0//EN&language=EN>.*



for Roma in all Member States is emphasised. In the education sector, Member States are urged to use the framework of the open method of coordination to create legislation providing equal education for Roma and leading to the desegregation of schools. Work must be undertaken to improve the physical situation of Romani communities by creating necessary infrastructure: including waste removal and the provision of electricity. In the case of non-sedentary Roma, satisfactorily clean and hygienic sites are called for. In employment, equal opportunity and social inclusion policies aimed at alleviating the high unemployment rates of Romani women should be implemented, including non-discrimination training for employers. The report recommends social economic studies; for example, financing for female Romani entrepreneurs, including microcredit, and the establishment of programmes to assist self-employed Romani women. To ensure compliance with legislation, data collecting and analysis disaggregated by gender and ethnicity will be created, and penalties will be levied on those that do not comply.

The Romani women report makes special mention of the patriarchal traditions of Roma society, incorporating the view of experts that suggests that, while it is important to maintain traditions to the fullest extent possible, the inequity between men and women in Romani society can be traced back to women's traditional social roles within the community. Society must work to ensure that females in Romani society have the same opportunities as their male counterparts. To this end, a new generation of women leaders among our society are working in order to break down the social barriers within our own community so that Romani women can fully participate in mainstream society.

While minority protection is always proclaimed as a very important EU principle, anti-discrimination directives are the only legal tools provided at European-level in order to influence

the minority policies of Member States. There have been signs of a more proactive approach from the new European Commission. Also, after joining the EU, Member States are no longer required to follow the Copenhagen criteria, which means that states no longer have to maintain specific criteria relating to the treatment of minorities after accession. Even so, I believe that the European Commission can create an environment where minority protection gains more visibility and where Member States are forced to act according to a European-level principle. As a result of the European Parliament approach, the high involvement of the European Parliament in Romani issues has contributed to better understanding and a more progressive approach, which can be already perceived in two communications: the Roadmap 2006-2010 for Equality Between Women and Men, which cites the fight against multiple discrimination as one of the six priority areas for the European Commission,<sup>7</sup> and the strategy paper of May 2006 from the European Commission, "Towards an EU Strategy on the Rights of the Child",<sup>8</sup> which highlights the high risks that poverty represents for children, including Romani children, who are among the poorest and most vulnerable groups. School desegregation and the mainstreaming of Romani children will be discussed in depth during the spring 2007 period in the LIBE and FEMM Committees as a follow up to "Towards an EU strategy on the Rights of the Child" and as part of an initiative report.

The improvement and visibility of the mainstreaming approach, where Romani issues are integrated into all fields of policy-making, has slowly been replacing earlier paternalistic policies. However, there is an urgent need for further emphasis of the current and foreseeable economic pitfalls that the countries will experience if Roma integration is further delayed. National governments must then act urgently and serious commitment is required from the European Commission in order to initiate and monitor action.

<sup>7</sup> European Commission, *Roadmap for Equality Between Women and Men, 2006*, at: [http://ec.europa.eu/employment\\_social/news/2006/mar/com06092\\_roadmap\\_en.pdf](http://ec.europa.eu/employment_social/news/2006/mar/com06092_roadmap_en.pdf).

<sup>8</sup> European Parliament, *Towards an EU Strategy on the Rights of the Child, 2006*, at: [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0367en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0367en01.pdf).



# The Romani Women's Movement in Montenegro: Chapter One

Tatjana Perić<sup>1</sup>

## Introduction: The Situation of Romani Women in Montenegro

The Montenegrin Romani community is one of the smallest in Southeast Europe. The latest population census from 2003 registered 2,826 Roma and Egyptians, or 0.46 percent of the total population of Montenegro.<sup>2</sup> As is usually the case with official data on Roma in Europe, these numbers are thought to be much higher in reality, and some Romani NGOs estimate the number to be between 20,000 and 27,000. Over 90 percent of Montenegrin Roma are Muslim; many have been forcibly displaced from Kosovo. The average Romani household lives in very difficult social and economic circumstances, with high rates of poverty.<sup>3</sup> The situation of women, however, is made more complex by their multiple levels of discrimination: as Roma by the majority society, and as women within the Romani community. Socio-economic indicators applicable to Romani women rank lower than indicators for Romani men and much lower than those for non-Roma. According to the UNDP study on social vulnerability of Montenegrin Roma conducted in 2004, 44 percent of Romani women interviewed could not read and write. As much as 51 percent of

Romani women have not had a single year of formal education. Twenty percent of women were unemployed, and another 30 percent were housekeepers; 54 percent of women in these two categories have never been employed. Only 15 percent of women earned their own income, and on the average they earned 78 EUR per month, compared to 169 EUR per month earned by Romani men and 220 EUR by non-Romani women.<sup>4</sup>

Montenegrin society as a whole is considered to be very traditional and patriarchal, and in the Romani community these features are even more strongly pronounced. Romani women in Montenegro largely do not participate in political processes. The only exception is the recent case of Nedžmije Beriša, the only Romani medical doctor in Montenegro, who was elected as a member of the assembly of the capital Podgorica by the ruling coalition of the Democratic Party of Socialists, led by the Prime Minister Milo Đukanović, and the Social Democratic Party.<sup>5</sup> According to human rights activists, domestic violence against Romani women is rife. Yet, when survivors seek assistance from state institutions, the latter do not properly address their concerns, and police and social centres rarely intervene, believing that

<sup>1</sup> Tatjana Perić is an International Policy Fellow of the Open Society Institute (OSI) in Budapest. This article is based on the information gathered in her fellowship research project, *A Gendered View of the Decade of Roma Inclusion, carried out in Croatia, Montenegro and Serbia*. She is also the editor of the *United Nations Development Program (UNDP) report on social vulnerability of Roma, refugees and displaced persons in Montenegro*.

<sup>2</sup> MONSTAT – Statistical Office of the Republic of Montenegro, *Census of Population, Households and Dwellings in the Republic of Montenegro in 2003*, available at: <http://www.monstat.cg.yu/engPopis.htm>.

<sup>3</sup> For more socio-economic data on Montenegrin Roma, see *United Nations Development Program (UNDP), At Risk: Roma and the Displaced in Southeast Europe, UNDP, Bratislava, June 2006*, and *Christian Bodewig and Ashkay Sethi, Poverty, Social Exclusion and Ethnicity in Serbia and Montenegro: The Case of the Roma, World Bank, October 2005*.

<sup>4</sup> UNDP Vulnerable Groups Dataset, available at: <http://vulnerability.undp.sk>.

<sup>5</sup> *Democratic Party of Socialists, List of Candidates for the City Assembly of Podgorica*, available at: <http://www.dpscg.org>.

these are “Roma issues”.<sup>6</sup> Although the local NGO Legal Aid Centre (Centar za pravnu pomoć) offers *pro bono* legal advice to Roma in their two offices in Nikšić and Podgorica, where many cases are related to domestic violence,<sup>7</sup> there is unfortunately no systematic monitoring of human rights violations in Montenegro, including of discrimination against Roma and Romani women in particular.<sup>8</sup>

### Current Roma- and Romani Women-related Policies in Montenegro

The Government of Montenegro is participating in the Decade of Roma Inclusion 2005-2015, and accordingly, the relevant Action Plan was adopted in January 2005. Only one Romani activist, Veselj Beganaj, took part in drafting the Action Plan, although he represented the views of a network of Romani NGOs. It is unfortunate, however, that the Montenegrin authorities did not make provision for higher participation of Roma, and especially Romani women activists, in this process. Consequently, the Action Plan mentions gender issues in a very marginal manner, and only within the areas of health and education.<sup>9</sup> Despite the existence of the Action Plan, as of December

2006 the Government of Montenegro had not earmarked any funds or launched any projects related to the implementation of their Roma Decade commitments. In practice, any achievements to date must be credited to Romani NGOs and to international organisations.<sup>10</sup>

In another development relevant to Montenegrin Roma, the new Law on National Minorities was adopted on 10 May 2006, which envisaged the creation of minority councils and set criteria for the guaranteed representation of minorities in the national parliament.<sup>11</sup> However, in June 2006, a Constitutional Court decision blocked this law, with regard to two articles that guaranteed seats to ethnic minority parties, alleging that the law contravened the principle of equality for all citizens.<sup>12</sup> Blocking the law on minorities also created obstacles to the creation of the Government Strategy for Roma in Montenegro, drafted within the framework of a project from the US-based *Project on Ethnic Relations* in cooperation with the Ministry for the Protection of Minority Rights. It is planned that the strategy will address those areas not covered by the Action Plan, especially political participation.<sup>13</sup> A public review of the first draft of the Strategy is planned for January 2007.<sup>14</sup>

<sup>6</sup> *In one instance, a Romani woman reported her husband's violence to the local police station in Podgorica numerous times. However the police never intervened as she called from Konik, a predominantly Roma inhabited area, and it is believed by many police officers that these are “typical Roma family affairs” that are not worth intervening in. When she sought assistance from the local social work centre, she was sent to the NGO shelter for domestic violence without her story even being heard (Anima, Analiza za novembar 2005, Kotor, Montenegro, November 2005, available at: <http://www.zinecanima.cg.yu>). Similar examples were recounted by other women's rights activists indicating that there is a pattern of both gender and racial discrimination.*

<sup>7</sup> *Interview with Mr Aleksandar Zeković, Executive Director of the Roma Scholarship Foundation, 4 September 2006, Podgorica.*

<sup>8</sup> *Interview with Ms Tamara Srzentić, Program Coordinator, Foundation Open Society Institute – Representative Office Montenegro, 4 September 2006, Podgorica.*

<sup>9</sup> *The Action Plan is available at: <http://www.romadecade.org/action.htm>.*

<sup>10</sup> *Interview with Mr Aleksandar Zeković, see note 7.*

<sup>11</sup> *Project on Ethnic Relations, “Developing a Minority Policy in Montenegro,” Kolašin, Montenegro, 2-3 June 2006. Available at: <http://www.per-usa.org>.*

<sup>12</sup> *Nedjeljko Rudović, Montenegro: Minorities Accuse Djukanović of Betrayal, Balkan Insight, Podgorica, 20 July 2006. Available at: <http://www.birn.eu>. The official statistical figures for Roma in Montenegro, however, do not meet the required one percent threshold for national representation.*

<sup>13</sup> *Project on Ethnic Relations, PER Holds Second Roundtable Discussion on Drafting Montenegro's Government Roma (RAE) Strategy, Podgorica, 21 February 2006. Available at: <http://www.per-usa.org>.*

<sup>14</sup> *Interview with Ms Tamara Srzentić, see note 8.*



*Husnija Hajrušaj (left), Fana Delija (center) and Fatima Naza (right), staff of the Nikšić-based Center for Roma Initiatives.*

PHOTO: TATJANA PERIĆ/OSI INTERNATIONAL POLICY FELLOWSHIPS

At the same time, the National Action Plan on Romani Women is also being drafted, under the auspices of the Gender Equality Office of the Republic of Montenegro.<sup>15</sup> This process is a part of an international project “Roma Women Can Do It” and the second phase of the project in Montenegro. This action plan should be integrated into the forthcoming Strategy for Roma, and the amended Action Plan.<sup>16</sup> However it is not clear how the envisaged integration will be carried out. At the same time, the National Action Plan for Achieving Gender Equality in Montenegro is also still waiting to be adopted.

### **Romani Women Activists and Romani Women Organisations: Nikšić**

There are currently very few Romani women's organisations in Montenegro, and most of my interlocutors could not name more than three, based in Podgorica and Nikšić.<sup>17</sup> Additionally, several other Romani NGOs run projects on

Romani women.<sup>18</sup> The *Centre for Roma Initiatives* in Nikšić is by far the most important, not only for the Romani women's movement in Montenegro, but the Montenegrin Romani scene as a whole. This organisation grew out of the Nikšić-based NGO *SOS Hotline for Women and Children Victims of Violence*. Founded in 1998, the *SOS Hotline's* work included programmes for women and children from marginalised groups, and they launched their first programmes in the Nikšić Romani community in early 2000, under the name of the “Roma Centre”. They had to work hard to gain the trust of the Romani community to enable women and girls to take part in their activities without hindrance. No other organisation was working with Romani women at the time, and in the words of Nada Koprivica of the *SOS Hotline* this was “a revolution”.<sup>19</sup> Initially beneficiaries of services, some Romani women soon became workshop leaders and took on a more active role in the project. In time, *SOS Hotline* activists realised that Romani women were sufficiently empowered to take ownership

<sup>15</sup> *The Gender Equality Office of the Republic of Montenegro was established in March 2003, following the establishment of the Committee on Gender Equality in 2001. The draft Gender Equality Law and the draft National Action Plan on Gender Equality are currently awaiting adoption by the Montenegrin Government.*

<sup>16</sup> *Gender Equality Office of the Republic of Montenegro, Projekat 'Romkinje to mogu', Podgorica, 11 July 2006. Available at: <http://www.gender.vlada.cg.yu>.*

<sup>17</sup> *Interview with Mr Veselj Beganaj, President of the NGO Početak, 4 September 2006. Podgorica.*

<sup>18</sup> *Interview with Mr Veselj Beganaj, see note 17.*

<sup>19</sup> *Information on the work of the Centre is based on the interviews conducted with its staff members Fana Delija, Fatima Naza and Husnija Hajrušaj, and also Nada Koprivica and Dijana Pištalo of the SOS Hotline, 5 September 2006. Nikšić.*

of the project, and thus in September 2004 the *Centre for Roma Initiatives* was registered as an independent NGO, although they continued working with the *SOS Hotline* and sharing office space. Since this time, the Centre has acquired three full-time staff members who had all been active in the *SOS Hotline* workshops long before the Centre was formed.

The first project implemented by the Centre was to produce a unique report on the situation of Romani women in the city of Nikšić.<sup>20</sup> The five Romani activists involved in the research all came from different settlements, and undertook to visit all the Romani households, one by one, and to interview all girls and women over the age of fourteen.<sup>21</sup> In the beginning there were difficulties; husbands, in many cases, insisted on staying to hear the interview. It was of tremendous assistance, however, that all the young activists were locals, and that they spoke openly and honestly about their projects. Initially they did have to speak with the men of the family first, but only to persuade them to allow girls and women to be interviewed, and then the interviews were held with the women alone. In this way, they were able to win the complete trust of the community.

Following the excellent experience of the first publication, they were engaged by the United Nations Children's Fund (UNICEF) to conduct *Research on Inclusion of Roma Children in the Educational System*.<sup>22</sup> This project was coordinated by the *SOS Hotline*, whereas the research was conducted in four Montenegrin towns – Podgorica, Nikšić, Berane

and Rožaje – by the Centre, the Podgorica-based NGO *Woman's Heart* and NGO *Enfants* from Rožaje. The researchers interviewed 415 parents, mainly mothers, on various issues relating to the education of their children, and eventually published a very detailed report on over 90 percent of the Romani families in these areas with children of school age.<sup>23</sup>

It was the most recent project, however, that brought the greatest challenge. When they decided to join the regional project *Virgin – Yes or No* supported by the Open Society Institute (OSI), polling Roma on issues related to virginity, the Centre's activists themselves doubted whether they would indeed succeed with a poll on such a sensitive topic in an extremely patriarchal country.<sup>24</sup> Not wishing to show any disrespect to the main cultural patterns, they engaged male pollsters to conduct interviews with the men. In total, 288 persons were interviewed in seven towns in the country. In their experience, the young women they spoke to were honest about their experiences and attitudes, but often ended up requesting confidentiality.<sup>25</sup> In Podgorica, some mothers asked them not to interview their daughters. Some male leaders of the community told them clearly that they would have "chased them away, had they not known their fathers."<sup>26</sup> The Centre's activists were belittled by male leaders on other occasions too, where the latter not only ignored or criticised their work, but sometimes also appropriated the Centre's successes as their own. Generally, these women had to confront numerous prejudices in their environment. "In the beginning, people were sceptical," says Fana Delija, the Centre's

<sup>20</sup> *Centre for Roma Initiatives, Research on the Position of Roma Women in Nikšić. CRI, Nikšić, 2005, available at: [http://www.osim.cg.yu/fosi\\_rom\\_en/download/research\\_roma\\_nk.pdf](http://www.osim.cg.yu/fosi_rom_en/download/research_roma_nk.pdf).*

<sup>21</sup> *According to the Centre, the total Romani population in Nikšić numbers around 850 persons.*

<sup>22</sup> *UNICEF, Research on Inclusion of Roma Children in the Educational System, Podgorica, Niksic, Montenegro, 2006, available at: [http://www.sosnk.org/site\\_files/1157281246.pdf](http://www.sosnk.org/site_files/1157281246.pdf).*

<sup>23</sup> *The mere number of members of the families interviewed in the UNICEF research exceeds the official number of Roma in Montenegro, proving that it is unrealistic; on the other hand, the estimates of researcher NGOs prove the initial alternative figures likely inaccurate as well: their own estimates are that the Romani population of Montenegro numbers 10-15,000 persons.*

<sup>24</sup> *Centre for Roma Initiatives, Virginity Does Not Determine Whether a Roma Girl is Worthy or Not. Nikšić, 2006.*

<sup>25</sup> *Interview with Ms Fana Delija, see note 19.*

<sup>26</sup> *Interview with Ms Fana Delija, see note 19.*

coordinator, “but then we formally established the Centre, and also produced our first report. Many people did not believe at first that we would succeed, but when we did everyone was pleased.” According to Husnija Hajrušaj, some forecast that the activists would get married and therefore never finish their projects; Fana’s parents, for instance, had to put up with comments from friends and neighbours who incessantly asked why they were allowing their daughter to do this kind of work. Their popularity is, nevertheless, indisputable among Nikšić Romani women: 90 percent of them have taken part in the Centre’s programmes.<sup>27</sup> Thanks to their work, 90 percent of Romani women in Nikšić now have personal documents; the national average for Romani women in this respect is estimated at 60 to 75 percent. Less than 5 percent of Nikšić Romani women now give birth at home, compared to 60 percent prior to Centre’s activities.<sup>28</sup> The Centre also took part in the process of creating the National Action Plan on Gender Equality, and in drafting of the National Action Plan on Romani Women.

The Centre’s activists attended numerous regional events for Romani women, and when making comparisons between the Romani women’s movement in the neighbouring states and Montenegro, they regretfully admitted that Montenegrin Romani women are in the most difficult position. According to Fatima Naza, this is due to the fact that Romani women’s activism in Montenegro is just beginning, and the fact that there are very few educated Romani women, and also very few Romani women who are university students. Still, one victory has already been won: they requested, and succeeded, in having a woman – Vera Nakić – become the new president of the *Roma Circle*, a network of Romani NGOs in Montenegro.

### Activists, Journalists, Students: Podgorica

The *Woman’s Heart – Association of Roma and Kovači Women*<sup>29</sup> is formally the oldest Romani women’s NGO in Montenegro, formed in Podgorica in 2002. To date they have implemented numerous projects, mostly targeting women and children. Behija Ramović, their coordinator, facilitated numerous workshops on “taboo topics”, as she calls them: issues such as trafficking in the Romani community, or sex education.<sup>30</sup> The latter was carried out in partnership with the *Youth Cultural Centre Juventas*, from January 2005 to April 2006. The target population was the mainly displaced Roma living in the Konik I and II settlements of Podgorica. The Montenegrin partner NGO initially envisaged joint workshops, yet, in the end, these were held separately for men and women, since, in Behija’s opinion, the project would have otherwise failed since parents would not have allowed girls to attend. The men’s workshops were attended by around 200 participants; while the workshops for women and girls reached a total of only 90 women.<sup>31</sup>

This was a common issue for any health workshops held by the NGOs and is a consequence of patriarchal attitudes in the community where “the mere mention of sex creates a lot of commotion,” and as soon as they heard there would be any discussion about sex, some older women took the girls away. Patriarchal concerns make the work of Romani women’s NGOs in Montenegro very difficult: in order to find participants for her workshops, Behija had to make individual visits to families and explain the purpose of the workshops to each of them. It was a successful strategy, mainly because most families knew her and were familiar with her work. Behija considers the

<sup>27</sup> *SOS Hotline for Women and Children Victims of Violence, Roma Centre 2000-2005. Nikšić, 2005.*

<sup>28</sup> *Interview with Ms Nada Koprivica, see note 19.*

<sup>29</sup> *Kovači (blacksmiths) denotes a group that is mainly perceived as a sub-group of Montenegrin Roma that mainly engaged in blacksmithing, however some members of this group deny being Romani.*

<sup>30</sup> *Information on the work of the Woman’s Heart is based on the interview conducted with Ms Behija Ramović, 4 September 2006. Podgorica.*

<sup>31</sup> *OKC Juventas, Izvještaj sa 40 radionica, available at: <http://www.sexedukacija.cg.yu>.*

Roma traditional gender relations one of the main problems of Romani women today. She is herself a single mother who decided to work on gender issues upon realising that “life is difficult for all women, but especially so for Romani women.”



*Behija Ramović, Coordinator of the Women's Heart – Association of Roma and Kovači Women and Deputy Director of the Roma Scholarship Foundation.*

PHOTO: TATJANA PERIĆ/OSI INTERNATIONAL POLICY FELLOWSHIPS

In addition to working with her NGO, Behija has also served as a Romani assistant at a local primary school in Podgorica for three years. This school has the largest percentage of Romani children: 350 Roma out of around 1000 pupils. Behija studied education at the University of Nikšić. However her studies were interrupted for personal reasons, as she was exposed to gender-based violence. “I know I need to go back to my studies,” she said. Together with *Centre for Roma Initiatives*, the *Woman's Heart* conducted the research mentioned above on the education of Roma children. Since April 2006, Behija has also been employed as an Assistant Director of

the Podgorica-based *Roma Scholarship Foundation (RSF)*. According to Behija, Romani women activists have a lot of work to do. While working for her organisation, she met women on a daily basis coming to complain of domestic violence, or seek advice on obtaining personal documents, enrolling their children in school, or registering with unemployment offices. “There are so few Romani women with formal education, so those of us who are here and who are active have our hands full!” said Behija.

Montenegrin Romani women activists will perhaps receive some support from the activism of Romani women students. Currently, there are only two Romani women students at Montenegrin universities.<sup>32</sup> One is Anita Zećiri, who is unique in many ways. She is the only Romani student at the University of Podgorica, and she is also the only Romani law student in the country.<sup>33</sup> Coming from Herceg Novi, where she attended Roma-related seminars and was engaged in an NGO, she knew from the start that she would go to university.<sup>34</sup> Anita confessed that she was initially slightly disappointed with law school, but she said she would never give up and betray her parents confidence in her and their pride in her accomplishments. “Now that I can see how law is applied in practice it is much more interesting,” she said: since August 2006, Anita has been an intern at the law office of Dragan Prelević, a prominent human rights lawyer.<sup>35</sup> The *Open Society Institute Montenegro* and later the *Roma Scholarship Foundation* have supported her through scholarships since high school; now the *RSF* has offered her a living expenses scholarship but are not able to provide assistance to pay the extremely high tuition fees. After her university refused to waive the tuition fees, the Gender

<sup>32</sup> Data from the Roma Scholarship Foundation, available at: <http://www.fsr.cg.yu>.

<sup>33</sup> The other Romani woman student is Kumrija Beganaj, who studies at the Faculty of Philosophy in Nikšić.

<sup>34</sup> Information presented here is based on the interview conducted with Ms Anita Zećiri, 6 September 2006. Podgorica.

<sup>35</sup> Dragan Prelević represented a group of 65 Romani men, women and children from the town of Danilovgrad, Montenegro, in relation to an incident from 1995 when their settlement was completely destroyed a vigilante act by local non-Roma. Prelević, the European Roma Rights Centre (ERRC) and the Humanitarian Law Centre filed a joint application with the UN Committee against Torture, and in 2003 the Committee found the then Serbian and Montenegrin authorities in violation of several provisions of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. See ERRC, *UN Committee against Torture Finds Montenegrin Authorities in Flagrant Breach of Human Rights Standards*, January 2003, available at: <http://www.errc.org>.



Equality Office offered to cover them.<sup>36</sup> Currently she is in her second year of study, and most of her friends first found out that she was Romani from the press; in Montenegro, non-Roma usually only encounter Roma as beggars in the street. She regrets that many Romani girls whom she knows would not be allowed to study even if they wanted to, as their mothers keep telling them that marriage is the most important thing for a woman. On the other hand, many young women accept this belief, too, and do not consider education as a lifestyle choice.



*Anita Zečiri from Herceg Novi is the only Romani law student in Montenegro.*

PHOTO: TATJANA PERIĆ/OSI INTERNATIONAL POLICY FELLOWSHIPS

Furthermore, those activists who were displaced from Kosovo must cope with an additional layer of vulnerability: that of forced migration. The local branch of *Forum Syd*, a Swedish umbrella NGO working on global justice issues, has been actively working with predominantly displaced Romani youth in Podgorica since 2003. Their activities take place in the Multicool-T Club for youth in the Konik neighbourhood.<sup>37</sup> One of the youngsters who goes there is Dijana Mehmeti, originally from Kosovo. Back home she was finishing the seventh grade of primary school, and when she fled to Montenegro in 1999, with thousands of other displaced Roma, she initially went back to school but not for long.<sup>38</sup> Now she lives with her mother



*Dijana Mehmeti organised numerous reproductive health workshops for youth in the Konik Roma settlement of Podgorica.*

PHOTO: TATJANA PERIĆ/OSI INTERNATIONAL POLICY FELLOWSHIPS

and siblings in the Konik camp, in a small flat without running water. In addition to *Forum Syd* workshops, she also worked for the *Montenegrin Association Against AIDS (CAZAS)* for a year. Initially she attended their workshops, but soon became one of the trainers herself. Together with a friend, she organised workshops for small groups of five to six women, and spoke to them about reproductive health issues. This was not easy, and her friend was once threatened with violence by local Roma who were very upset that such issues were being discussed. Now she works with teenage girls and finds it much easier than working with women from the older generation; nevertheless, many young women attending her workshops are fully illiterate. Dijana is happy working in the youth club and attending seminars; her mother trusts her and allows her to travel on her own, although she is only eighteen. Her plans for the future are clear, but she does not know how to make them come about; Dijana's number one problem is finding a proper job. The effects of displacement and uncertainty that it brings are unavoidable: when asked whether she considered continuing school, Dijana replies that she will "think about it when it becomes clear where [she] will live."

<sup>36</sup> Interview with Mr Aleksandar Zeković, see note 7.

<sup>37</sup> Interview with Mr Marko Gazivoda, Youth Work Manager; *Forum Syd Balkan – Project Montenegro*, 6 September 2006. Podgorica.

<sup>38</sup> Information presented here is based on the interview conducted with Ms Dijana Mehmeti, 6 September 2006. Podgorica.

## The Next Steps

In conclusion, this is by no means an exhaustive review of Romani women's movement in Montenegro. Activists from Nikšić mentioned several other young women who are also involved in Romani organisations, primarily in Rožaje and in Berane. There are also young female journalists who underwent extensive OSCE/RSF journalism training, Biljana Alković from Ulcinj and Jasmina Ivanović from Nikšić. "There are some really

smart girls out there, but how to keep them in the movement is the key question", said Fatima Naza. The Romani women's movement in Montenegro is in its nascent stage, and these brave and intelligent young women are facing very complex challenges, having to carefully balance being Romani and being women. Hopefully new legal and policy developments will eventually support their activism by creating frameworks that will take the multi-faceted nature of discrimination against Romani women into consideration.

# Shifting from Terminology to Substance

Azbija Memedova<sup>1</sup>

**A**S SOMEONE who sees herself as a feminist and human rights activist, and who was privileged to be a pioneer in the process of building the so-called “Romani women’s movement” (I personally prefer the word “activism” to “movement”), I feel more obliged than happy when I am invited by various stakeholders to share my “expertise on Roma and Romani women’s issues”.

Without any intention of repeating my views (accessible to the public)<sup>2</sup> on what Romani women’s issues are and how they should be approached both from (and in) mainstream women’s and Romani human rights movements, in this article I would like focus on several debatable terms that are important to future strategies for Roma and for Romani women. Furthermore, I will present a few lessons learned from recent advocacy action for Romani women in Macedonia.

The demystification of some of the “Roma-related” terms that we all (men and women activists of Romani ethnic background) use in our everyday work, is urgently needed, especially at a time when Roma and Romani women’s issues are high on international agendas.<sup>3</sup>

## “Roma” Terminology

I feel quite comfortable when I am seen as someone who has specific experience and some expertise in the field of the human rights of

women, especially minority women, since I have the appropriate educational background and have been learning and practicing my knowledge in this field for eight years. However, when I am perceived as or called a “Roma expert”, both by Roma and non-Roma, I feel very uncomfortable.

Recently, I had to explain to a non-Romani audience what it means to be a “Roma expert”. I was provoked by a statement commenting on a Romani social worker, employed by a state institution, who did not want to visit a Romani settlement to do research on Romani family issues. The conclusion was that “he was a terrible Romani person” rather than “a terrible or unprofessional social worker”.

To be Romani is only a small part of one’s own identity. To be a social worker describes a person’s profession (a person who presumably has certification showing recognition of his/her education and training). Titles such as “Roma expert” or “Roma women’s expert” should describe someone who has the proper education and relevant expertise on Roma (including women). So, is “Roma expert” indeed a profession? If this is the case, where can one be trained and obtain certification? I can already hear the sceptics shouting: “you don’t need certification to work for Roma”.

I am not questioning the motivation or the activism involved in fighting for those who are voiceless or those who are in need. The issue here is whether we are using the proper terminology to describe ourselves, our work, or the roots of the problems that the people we work for are facing.

<sup>1</sup> *Azbija Memedova, a sociologist, has been Coordinator/Manager of the Roma Centre of Skopje since 1998. Ms Memedova is a board member of the European Roma Rights Centre.*

<sup>2</sup> *<http://www.romawomensinitiatives.org/decade.asp>, <http://www.errc.org/cikk.php?cikk=1850&archiv=1>.*

<sup>3</sup> *See, for example, European Parliament resolution on the situation of Romani women in the European Union – 2005 / 2164 / INI.*

It is possible to be an expert on Romani language, or culture or history and be of Romani or non-Romani origin. A person can also be an expert on human rights and be of Afro-American, Indian, Romani or any other ethnic origin.

Our ethnic and/or national identity cannot and should not be affiliated with our own professional orientation. Thus, when I am called “Romani women’s expert”, I do not feel that I am being correctly described. This title does not award me any honour; instead I find it disturbing. My personal identity (like that of anyone else) is broader and it is composed of diverse elements and roles in my life. In different stages in life, we give priority to different elements of our identity. The demystification of such terminology, very widely used not only by the majority and international community but also by us, Romani men and women activists, needs our urgent attention in order to determine the approaches that we select in our fight for the human rights of the Romani population.

The problems faced by the majority of Roma, the problems faced by Romani women, should be approached from the viewpoint of both social and human rights. To do so, we need to understand the terms we use in defining the problems. Take, for example, terms like “Romani education”, or “Romani health”, which we all more or less use (look at your documents, projects, national documents for Roma in your countries). Once, when I reacted to such terms, I was told that “it is only a language thing.” But is it? Have you ever seen a term like “Hungarian education” (in case of Romania) or “Albanian education” (in case of Macedonia)? Language experts can argue that this is really a language issue, however, my concern is more related to the approaches and strategies designed to solve problems. In other words, I believe that when we use the term “Romani education”, our focus is directed on “Roma” not on “education”.

Looking at projects (strategies and approaches) related to “Romani education”, one can confirm that the issue is dealt with mainly from the social point of view and standards, as prescribed by the majority. When analysing the main barriers that Romani children face in education, the focus of most of the educational projects is on 1) poverty,

(social category), 2) specific cultural or traditional elements, like early marriages (very often used by the institutions as excuse for the absence of any state action), 3) lack of language and socialisation skills, perceived again from the social point of view and by the standards of the majority: “Romani children have to know the majority language and behave as prescribed” or 4) lack of motivation on the part of parents to send their children to school because: “Romani parents do not give priority to the education of their children”. If we shift focus from “Roma” to “education”, then we will have more chance of seeing the education of Romani children from another perspective, that is, from the human rights perspective; this would mean the right to education in their mother tongue, the right to learn about their own history and culture, or, to summarise, the right to education as a basic human right. Instead of dealing with education as such, many local projects deal with social issues that prevent the majority of Romani children from achieving better school results.

The word “Roma” describes a national/ethnic category or belonging, it is not social category. As a national and minority group, Roma have their rights guaranteed by each state that they live in and by international treaties, including education rights (in the human rights field). Education is a field determined by domestic and international human rights standards (again the human rights field). If both categories have a common element, which is human rights, why is it that human rights-based educational projects for Roma (like those that advocate for their right to learn in their mother tongue) are so hard to find? Equally hard to find are projects/programmes that call on the state to fulfil their constitutional obligations in the provision of equal opportunity for all children, using the necessary means.

Therefore, we should challenge our professional skills when dealing with issues such as education, health, and human rights. Again, for the sake of clarity, this does not mean that we should call our activism or our wish to help those in need (in this case Roma) into question, but should look at our actual knowledge of domestic and international standards and laws, methodology, management, strategies and other knowledge and skills that one

can acquire at college and during professional training sessions.

Moreover, we, men and women activists of Romani ethnic origin, have to define our personal identity (being Romani is not all we are), to prove ourselves firstly as professionals in different spheres of society. We have to take our destiny into our hands: to aim for better education for ourselves and our children, to achieve better results and to show who we are and what we can do (being Romani is not a skill). Our fight for equality will be meaningless if we are not able to create opportunities solely because of the lack of education or other skills.

If we are honest with ourselves, even for a moment, and look around, then we have no reason to be proud of the number of professionals of Romani origin. This fact has its own roots in a long tradition of discrimination and segregation. We can be satisfied with the latest developments – the number of educated young people who declare themselves to be Romani is growing – but we cannot stop developing our personal capacities no matter where we are now and how much education we have attained. The world is changing and we have to keep up with these fast changes.

In the case of women's issues and our efforts to mainstream these in all policies and programmes for women and Roma, we also have to be very careful with our use of terminology and consequently with the approaches we use.

Women of Romani origin face many problems that are common to majority women as well as for women from other minorities. What is specific to this group is the intersectional/multiple discrimination that they face: firstly, as women and then as members of a minority group, or as members of other disadvantaged groups (handicapped, single mothers, homosexuals, refugees, etc.). This is and should be the general point of departure for all our programmes and recommendations for improving the current situation. Only by acknowledging the multiple barriers and their roots, can we achieve our goals. On the contrary, or if we continue, as some do, to present certain "women's problems" only as

"Romani women's problems", then we are at risk of making the situation even worse. Take, for example, the problem of domestic violence: this is a common problem faced by women in general. When analyses present this problem as a "Romani women's issue" without any intention or effort made to find existing links between intersectional discrimination and violence, then we could actually strengthen the stereotypes of the majority such as: "Romani men beat their wives more often than others (from other groups)". The call for a sensitive and intersectional approach to Romani women's issues means looking for all the connections, both in the community and in society, that prevent this group from exercising their basic human rights.

The main objective of the pilot project implemented in 2005 was to document the existence of intersectional discrimination faced by the majority of Romani women in Macedonia. It was carried out in partnership with ERRC, UNIFEM, a local team of young women researchers of Romani ethnicity, and the Roma Centre of Skopje, a local organisation based in Skopje.

The modest efforts to prepare the shadow report and the testimony before the UN Committee for Elimination of All Forms of Discrimination Against Women (CEDAW), presents a significant moment for women's activism in Macedonia.

- Firstly, the report confirms the existence of multiple discrimination against women of Romani origin in the field of education, health care, employment and access to the public services available for female victims of violence in Macedonia;
- The UN CEDAW recommended to the Macedonian Government to "implement effective measures to eliminate discrimination against Romani women, and to enhance their enjoyment of human rights through all available means, including temporarily special measures ... (in the above mentioned fields). ..."

And finally,

- Pressured by the lack of concrete official data and the Committee's questions about Romani women during the session in the

UN, the Macedonian Minister of Social Work and Labour of the time, who led the Macedonian delegation, stated in his final speech that, “the Macedonian Government needs to pay special attention to the multiple forms of discrimination faced by Romani Women in Macedonia.”

I believe that the words we use have unusual power. Therefore, I advocate that we review the meaning of the Roma-related terms that we use and then I propose some changes: instead of “Romani education” one option would be the “education of Romani children, girls, women, and men”; instead of “Romani housing”, “hous-

ing of families of Romani ethnic origin”; instead of “Romani women’s education”, “education of women and girls of Romani ethnic origin”.

The accurate use of terminology can help those working at local level to understand the human rights angle in their work and prevent them from being preoccupied only with its social aspects. It is only in this way that all current advocacy and lobbying successes achieved on the international level can show their value. The issue of the human rights of people, who are men and women of Romani origin, has to be the focus. The very first step is to change the way we understand our approaches ... and our terminology.

# Coping with Coercive Sterilisation

Lucie Fremlová<sup>1</sup>

*Romani women's struggle in the Czech Republic during July and August 2006.*

## Introduction

The concept of Romani women's rights is relatively new in the history of Roma rights in the Czech Republic, and as such, it can appear vague and hard to define. The issue of the access of Romani women – traditionally embedded within their traditional social position in the Romani community – to the Czech education and social service systems, is the subject of the latest ERRC/Númena research study, which assesses the impact of the Czech National Action Plan on Social Inclusion 2004-2006 on Romani access to social services in the Czech Republic. This article, however, does not have as its goal the examination of the outcomes and possible implications of this research.

As suggested above, Romani women's rights (along with their projection into the field of the social service system, education and/or other systems) could be said to be influenced by their position in society to a considerable extent (i.e., their traditional social status in the Romani community combined with their position within the mainstream population). This could result from their inability to take full advantage of the aforementioned systems due to the understanding and application of the Romani concept that closely links womanhood, motherhood and wifeness both at a younger and/or older age. Some people might claim that this is a predetermined "quality" in most Romani women and that the issue of discrimination is therefore not at issue: for these people, it would appear pointless to discuss this subject at all. Public debate would simply end at

this stage. Ultimately, then, real discrimination against Romani women by members of the mainstream population would continue to be hidden in and justified by the maze of "traditional mechanisms functioning in Romani communities."

However, a change occurred approximately two-and-a-half years ago. It began in the northern Moravian city of Ostrava. The local Romani community sent out signals to the mainstream population, suggesting that public debate should not end at this stage: the issue of coercive sterilisation had been voiced for the first time in the history of the Czech Roma rights movement and entered the debate as perhaps the most manifest of all of the expressions of discrimination against Romani women.

Since the emergence of the Ostrava-based Group of Women Harmed by Sterilisation towards the end of 2004, the fight for Czech Romani women's rights has acquired a new dimension. At present, the Group is a unique identity group, possibly the only one of its kind in the Czech Republic, which brings together Romani victims of coercive sterilisation practices carried out both before and after the 1989 Velvet Revolution. At regular monthly meetings, their legal representative informs the members of the Group of the latest developments in the cause; the women support each another by sharing their stories, talking about the personal or health problems caused by unwanted surgery, as well as sharing any good news, which unfortunately tends to be rare. Needless to say, like

<sup>1</sup> Lucie Fremlová, member of the Human Rights Team of Life Together, has worked in the field of human rights and Roma rights in the Czech Republic for the past eight years. She has cooperated with the Association of Roma in Moravia, as well as other domestic and international NGOs, including the European Roma Rights Centre.

other Romani-related issues, the issue of coercive sterilisation is still seen as unpopular and is very much ignored by most members of the mainstream population in the Czech Republic, not to mention by high-level Czech authorities.

However, negative responses by members of the mainstream population are something civil society or awareness-raising organisations must be ready to face: it is a permanent condition of their work and as such, it ought not to become an obstacle hindering their mission. Instead of succumbing to the supposed weaknesses that the general public tends to associate with Roma at large, in their strategic fight for justice, these women have decided to focus on their strengths and assets: the final report by the Ombudsman and the 2005 decision by the court in Ostrava, ordering the Vítkovice hospital to apologise to Ms Helena Ferenčíková, who had been coercively sterilised (both the plaintiff and the respondent appealed against the decision).

Possibly the only groundbreaking report published up to the present day by a Czech authority in favour of the victims of coercive sterilisation, which has condemned sterilisation practices as unlawful is the Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures, issued in December 2005. In this report, the Public Defender of Rights concludes, on the basis of almost a year of research into the matter, that “(...) the problem of sexual sterilisations carried out in the Czech Republic, either with improper motivation or illegally, exists, and Czech society has to come to terms with this.”<sup>2</sup>

Even though the 2005 report makes numerous legislative, methodological and compensational recommendations to the Czech Government, so

far there has been no follow-up action taken by the Czech authorities, and especially not by the Ministry of Healthcare, which has remained silent. In the course of the first six months of 2006, the Ombudsman’s report began to slowly lose its urgency. Once again, the issue of forced sterilisation disappeared from the Czech media: Czech society started to simply ignore it again.

### Preparations for Changes in the Strategy

In order to revive public interest in the issue, several strategic meetings were held towards the end of June 2006 and during July and August 2006 in order to discuss the direction of the Group’s future work.<sup>3</sup> It was generally agreed that it was necessary to continue with the Group’s work in order to put an end to Czech authorities’ reluctance to acknowledge the unlawful nature of sterilisation practices, as well as to emphasise the significance of the Ombudsman’s report and hopefully attain legislative changes. However, it became clear that there was a need for a slight adjustment in the long-term strategy. It was high time for the victims to come to the foreground and start being more visible to the public. In order to do so, their personal testimonies would have to become more “tangible” and easier for members of the general public to access. In the short term, the goal was to be attained by:

- Holding an exhibition:

With the help of the Human Rights Team at *Life Together*, several disposable Kodak cameras were distributed among the members of the Group. The photographs taken by the women were to become the cornerstone of a major photographic exhibition, offering an insight into the lives of the victims of coercive sterilisation.

<sup>2</sup> *Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures.* <http://www.ochrance.cz/en/dokumenty/dokument.php?doc=400>.

<sup>3</sup> *One of them took place on 30th June in the northern Moravian town of Frýdlant nad Ostravicí and was attended by some of the women from the Group, their legal representative Michaela Kopalová, as well as representatives of the ERRC (Claude Cahn and Ostalinda Maya), the League of Human Rights (Gwendolyn Albert, Jiří Kopal) and Life Together (Kumar Vishwanathan, Jana Kabeláčová, Elena Gorolová, Lucie DiAndrea, and Lucie Fremlová).*





*Coercive sterilisation victim Nataša Botošová, with her grandchild.*

PHOTO: NATAŠA BOTOŠOVÁ

- Organising a peaceful meeting:

With the help of the Human Rights Team at Life Together, a meeting of the women who had been sterilised was to take place in front of one of the hospitals in Ostrava that had sterilised Romani women in the past without obtaining their fully informed consent.

- Publishing a brochure on the topic of coercive sterilisation:

Books, brochures and leaflets represent a useful tool for raising awareness among various groups of stakeholders, including regional and local governments, state institutions, health facilities, as well as secondary schools, universities and other NGOs. As no such material had ever been made available in the Czech Republic, there was clearly a need for such a publication as it would focus on the issue of coercive sterilisation in an unbiased, balanced and objective manner. Not only would it introduce the work of the Group

and describe the personal lives of some of the victims after surgery, it would also attempt to depict the problem of forced sterilisation within the broader context of two major areas that tend to be somewhat ignored by the Czech healthcare system: informed consent and patients' rights.

- Creating a website:

Today's world of personal computers, the Internet and advanced technology determined the need for another way of addressing the general public: a website presenting the work of the Group and featuring the victims' personal testimonies on the consequences of surgery.

- Participating at international seminars and conferences:<sup>4</sup>

The aforementioned efforts were to symbolically culminate at the 36th session of UN Committee on the Elimination of All Forms of Discrimination against Women; Elena Gorolová,

<sup>4</sup> Ms Vlasta Holubová and Ms Nataša Botošová who come to the monthly meetings of the Club on a regular basis, attended a three-day seminar entitled *Minority Communities in Action in Northern Ireland*. It was organised in the scope of the INCORE project (*International Conflict Research carried out by the United Nations University and the University of Ulster*). They had been invited to the seminar to give a presentation on the work of the Group of Women Harmed by Sterilisation, as well as to meet the local Traveller communities.



*Demonstration by coercively sterilised women, Ostrava, Czech Republic, 17 August 2006. The banner reads, "We want to be useful in our society".*

one of the coercively sterilised Romani women, the spokesperson for the Group and one of the three delegates for Czech NGOs, presented her testimony to the members of the Committee.

### **Involuntary sterilisations: *Your life too, can be changed by a medical intervention***

After a series of consultations with the members of the Group of Women Harmed by Sterilisation, the Human Rights Team of *Life Together* published the first brochure of its kind. The original version is in Czech and the Romani version is about to be published.

This brochure contains a body of texts that outline the history of the case, cites the most important parts of the Ombudsman's final report, quotes testimonies by some of the women damaged by sterilisation, compares the situation in the Czech Republic to that in Sweden and places emphasis on the importance of informed consent, as well as that of patients' rights.

The brochure is meant for lay-readers both Romani and non-Romani, Romani advisors and coordinators in local and regional governments, state officials, Romani and non-Romani civil society organisations, domestic and international NGOs, as well as professional readers such as students of medicine, physicians, GPs, gynaecologists, etc.

### **Events**

Elena Gorolová, a member of the Group of Women Harmed by Sterilisation, participated in the 36th session of the UN Committee on the Elimination of All Forms of Discrimination against Women on 14th and 17th August 2006. She presented her testimony to the members of the Committee in the framework of the presentation of the Shadow Report on the Discrimination of Women in the Czech Republic by the *ERRC*, the *League of Human Rights* and *Gender Studies* in response to the Czech Government's Third Periodic Report. The Shadow Report concludes that legal protection from discrimination is insufficient in the Czech Republic, given the fact that to the present day, the Czech Government has not ratified the anti-discrimination law and the relevant state authorities have not taken into consideration the issue of coercive sterilisation.

On the occasion of Elena Gorolová's presentation in the UN Committee on 17th August, the Human Rights Team at *Life Together* organised

two significant events: a peaceful meeting in Ostrava and an opening ceremony at the Brno-based Museum of Romani Culture.

Before the official beginning of the meeting at 9AM, approximately fifty people convened in front of the Fifejdy City Hospital in Ostrava. The event, which received a lot of media attention, was launched by Ms Nataša Botošová, a member of the Group of Women Harmed by Sterilisation. She spoke to the public about the overall goals of the Group, as well as the painful impact of the surgery on her personal life. Ms Michaela Kopalová, the legal representative, then pointed out the goal of the meeting: the Czech government should, at the very least, issue a public apology to the victims whose physical and mental integrity was unlawfully violated by the surgery. Mr Karel Holomek, the chairman of the Brno-based *Association of Roma in Moravia*, emphasised the fact that the issue of coercive sterilisations is one of the reflections of mainstream, prejudiced Czechs' deep-rooted, conservative attitude to members of the Romani community. Claude Cahn, the *ERRC* programmes director, highlighted the Romani dimension of sterilisation practices before 1991, as well as the absurdity of the fact that Elena Gorolová had had to travel across the ocean to the UN headquarters to remind the international public of past wrongs, as well as to comment on the present injustice to which coercively sterilised women are systemically subjected.

Immediately after the end of the meeting, all the participants travelled to Brno in a hired bus to take part in the opening ceremony at the Museum of Romani Culture. Jana Horváthová, the director of the Museum, opened the exhibition and welcomed all the guests, including Czeslaw Walek, the director of the Office of the Government Council for the Roma Community Affairs and Helena Křištofová, the Romani advisor working for the Brno City Council. She also emphasised the fact the Museum of Romani Culture was proud to host the exhibition in the newly opened premises of the museum café. Michaela Kopalová, Claude Cahn, Lucie Fremlová and two members of the Group, Nataša Botošová and Vlasta Holubová, also addressed the visitors. As soon as the formal opening was over, everyone

present had the opportunity to view the exhibition, as well as the permanent exhibition of the museum.

The atmosphere of the opening ceremony, accompanied by traditional Romani food and the sound of a traditional Romani dulcimer music band, was very cheerful and friendly, even though the photographs in the exhibition had been taken in order to raise awareness of an important issue: coercive sterilisation.

### **The World Seen by the Victims of Coercive Sterilisation**

The goal of the exhibition, which consists of twenty-one photographs, is not artistic. Instead, the individual photographs should be understood as "photographic probes" or insights that capture the immediate surroundings of the victims of coercive sterilisation as they perceive it themselves. Its mission is to make the members of the Group of Women Harmed by Sterilisation visible, to portray them as human beings whose lives were permanently changed by medical surgery carried out without the physicians' having obtained the fully informed consent of the women. Its objective is to remind the public that the creators of the photographs are not only women who are suing Czech hospitals, but are, first and foremost, people whose lives resemble those of ordinary people with one important distinction: their physical and mental integrity has been breached by unwanted surgery. The collection of the twenty-one photographs represents just a fraction of what their creators captured through the lens of their disposable cameras. As a result, they may not portray every single emotion that the women have experienced since the day they were sterilised.

Last but not least, the exhibition can be understood of as the bearer of a social message to Czech institutions, authorities and politicians to remind them of their failure to publicly acknowledge the unlawful nature of sterilisations carried out before and after the year 1991, and to remind them of the need to take legislative, methodological and compensational measures to ensure justice for each and every single victim of these practices.<sup>5</sup>

<sup>5</sup> *The exhibition was on display at the Museum of Romani Culture until 15th September 2006 and then was moved on to the Library of the City of Ostrava.*

## The Aftermath

The immediate reaction by the members of the Group was more or less very positive since the two events attracted a large number of people (approximately 150 people in total). However, they were all waiting to hear the outcome of the UN Committee's session in New York.

After Elena Gorolová's return, the atmosphere grew rather sombre. This was due to the information published by the Czech media that focused predominantly on the Czech Government's report (the government delegation was led by Mr Čestmír Sajda). The report argued that the Shadow Report was extremely unreliable and the information on coercive sterilisation could not be trusted. Elena Gorolová herself was very disappointed by the fact that the delegation of the Czech Government did not attend their presentation: as a result, Mr Sajda allegedly claimed no Romani woman had attended the session. According to Elena Gorolová, the delegation of the Czech Government was very unrepresentative as its members were there to represent the former government of Jiří Paroubek. When describing the situation of the Czech Roma, Mr Sajda reportedly said that the social welfare system in the Czech Republic was very generous towards the Roma and that there was no segregation of Romani pupils in the Czech school system. This was, understandably, not good news for the Group.

About ten days after Elena Gorolová's return from the USA, the UN Committee issued a series of recommendations to the Czech Government. On 25th August 2006, the UN Committee urged the Czech government to "take urgent action to implement the recommendations of the Ombudsman/Public Defender with regard to involuntary or coercive sterilisation, and adopt without delay legislative changes with regard to sterilisation." The Committee further told the Czech government that it should, "elaborate measures of compensation to victims of involuntary or coercive sterilisation" and "provide redress to Roma women victims of

involuntary or coercive sterilisation and prevent further involuntary or coercive sterilisations."

## Response of the Czech Media

Both the meeting in Ostrava and the opening of the exhibition in Brno received a lot of attention from the Czech media. The serious press, Romani newspapers and radio stations provided very good, unbiased and well-balanced media coverage of the two events, whereas Czech commercial TV channels attempted to cast a shadow of doubt on the unlawful nature of coercive sterilisations.<sup>6</sup>

After about a week, one of the local newspapers, the daily *Moravskoslezský deník* (published by the Vltava-Labe Press which also publishes a tabloid called *Šíp* [Arrow]), launched a ruthless campaign against one of the most outspoken members of the Group, Ms Nataša Botošová. Two reporters working for the paper managed to find a number of her former neighbours who claimed that she neglected and maltreated her children, was a gambler, got divorced from her husband in order to receive higher social security benefits, threatened to kill her neighbours' children and told her neighbours she was happy that she had been sterilised because she would then not have any more children.<sup>7</sup>

In another article published on 29th August, the same newspaper quoted the owner of a dogs' home. She had been allegedly cheated out of a considerable sum of money by Mrs Helena Bandyová whom she allegedly saw at the meeting in front of the Fifejdy hospital on 17th August. The fact that Mrs Bandyová did not attend the meeting (and therefore could not possibly have been seen there) only serves to highlight the fact that the newspaper was reporting nonsense and trying to whip up mass hysteria. This view is also supported by the fact that the reporters concerned intentionally omitted

<sup>6</sup> *Life Together* are currently drafting a letter to the Czech Television, expressing concern at the fact that the US-based reporters for Czech Television failed to cover the aforementioned 36th session of the UN Committee on the Elimination of All Forms of Discrimination Against Women.

<sup>7</sup> *Moravskoslezský deník*, "Is the Advocate for Romani Women Rights Lying?", 25th August 2006, pp. 1-2.

the Ombudsman's final report; moreover, they did not refrain from using some very racist slogans and suggestions, such as: "A Romani woman fights for justice; a white woman with a similar story said to the doctors: No sterilisation!"<sup>8</sup> By means of lies, manipulated and unsubstantiated information and hypotheses, the newspaper attempted to publicly discredit and ridicule the members of the Group in order to damage their reputations and discourage them from further action.

Since the release of the articles, the Group has been offended and hurt by the cruelty of this tabloid gossip. Some of the women have become more stubborn in their fight for justice but the majority of them have been intimidated by the content of these articles.

For this reason, the *League of Human Rights* immediately contacted Mrs Anna Šabatová, the deputy of the Ombudsman. *Life Together* and other NGOs intend to negotiate a long-term strategy with her. However, legal action on behalf on the Ombudsman is currently hindered by the uncertain and unstable political situation in the Czech Republic, which has continued since the general election in June.

Ms Botošová has also written to the chief-editor of the newspaper, asking him for a public apology. The newspaper has not as yet published any apology. Ms Nataša Botošová is considering filing a complaint.

Also, on 18th August, *Life Together*, the *ERRC* and the *League of Human Rights* sent a joint letter of concern to the newly appointed Prime minister, Mr Mirek Topolánek. However, none of the organisations has as yet received an answer: probably due to the current, highly unstable, political situation. The letter included the following statement:

We believe the inaction of the Czech government with regard to these matters – and in particular the failure to date by any high-level Czech authority publicly to issue an apology to the victims for these practices – has

fostered an atmosphere in which the reputations of the persons concerned are vulnerable to defamation by various members of the general public, including the media. The continued silence of high-level officials in the Czech Republic on this matter sends a signal to the Czech public at large that the claims of victims of coercive sterilisation are legitimate targets for public ridicule.

We urge you, without delay, as a matter of the highest priority, early in your term of office to exercise any and all powers available to your office to undertake the following measures:

- Implement the recommendations of the Czech Public Defender of Rights and the UN Committee on the Elimination of Discrimination Against Women in the matter of coercive sterilisation issues in the Czech Republic;
- Issue, as a decision of government, public apology to all victims of coercive sterilisation in the Czech Republic;
- Speak out to condemn further public humiliation of the victims for their acts and to challenge the injustices that the victims have been subjected to.

### What Should Happen Next?

The members of the Group of Women Harmed by Sterilisation have "stepped out of the closet of anonymity" for the first time. They have told their story in public and, as a result, have been fiercely attacked and viciously ridiculed by the Czech media. Apparently, further victimisation of the victims of coercive sterilisation by the mainstream population is permissible in the absence of a complex anti-discrimination law. The current social climate allows this to happen without any severe repercussions for those persons resolved to undermine the victims of coercive sterilisation.

<sup>8</sup> *Moravskoslezský deník*, "A Romani Woman Fights for Justice; A White Woman with a Similar Story said to the Doctors: No Sterilisation," 26 August 2006, p. 1.

The current situation in the Group is very critical, comparable to a disaster in each of the women's personal lives. Some of the members are thinking of giving up their struggle.

Catastrophes, in the true sense of the word, can have a powerful effect: while they last, every single individual involved in the process is

obliged to gather all their strengths, to exert an incredible amount of energy, personal courage and stamina, and to make incredible efforts in order to keep on fighting. However, as soon as the worst is over, catastrophes have the capacity of purifying the atmosphere and, ultimately, can bring about change. Let us hope we can achieve this together.

# Coercive Sterilisation in Czech Republic: Civil and Criminal Law Aspects

Michaela Kopalová<sup>1</sup>

**I**N SEPTEMBER 2004, ten Romani women filed complaints with the Public Defender of Rights (“The Ombudsman”), claiming that they had been sterilised without their free and informed consent, in hospitals throughout the Czech territory. Besides the Ombudsman’s investigation, an effort which ultimately led to a report published in December 2005 recognising this practice and bringing a number of recommendations for changes to law and policy to end it ([www.ochrance.cz](http://www.ochrance.cz)), some of the women concerned filed civil complaints with the Czech courts. In March 2005, the Public Defender of Rights passed eight cases to the Chief Public Prosecutor and approximately twenty other cases throughout 2005. Ultimately, around eighty women – all or most of them Romani – have brought complaints to the Ombudsman concerning sterilisation, and the Ombudsman has in turn reportedly filed fifty-four criminal complaints in relation to these matters. The aim of this article is to describe the developments in the sterilisation cases as well as the problematic issues that the women and their lawyer are dealing with.

## 1. Legal Conditions for Performing Sterilisations

Czech law sets out rather strict requirements for performing sterilisation. General requirements are set out by the Civil Code: consent is a legal act that must be made freely, seriously, certainly and intelligibly in order to be valid. Any form of threat or pressure may result in invalidity of such act. Further requirements are involved in the Health Care Act and Sterilisation Directive:<sup>2</sup>

- Before any intervention into the reproductive capacity of an individual, it is obligatory that a special commission approves this intervention,
- If the medical intervention does not pursue an immediate health interest of an individual, it can only be performed after the person concerned has provided written consent,
- A (medical) indication for sterilisation must exist (the list of indications is attached to the Sterilisation Act),
- Before the sterilisation is performed, the woman concerned must sign a statement to show she has understood to what extent sterilisation is reversible and that she approves the sterilisation being performed.

In all or most of the cases reported to the Public Defender of Rights, either one or all of the conditions were not met. The recent cases from 1990s or 2000s all have in common that the sterilisations were performed within the context of a caesarean section delivery without the approval of a commission, and without leaving the woman concerned enough physical, temporal and/or psychological space to consider the nature and consequences of sterilisation, and to discuss the matter with her partner or with another doctor.

## 2. Civil Cases

In March 2005, I lodged the first civil complaint on behalf of Helena Ferenčíková.<sup>3</sup> Helena was

<sup>1</sup> Michaela Kopalová is a lawyer working at the League of Human Rights, Czech Republic, and legal representative of a number of the sterilised women.

<sup>2</sup> Ministry of Health Directive No. LP-252-3-19.11.71.

<sup>3</sup> This and subsequent cases have been brought as part of a multi-partner action involving the European Roma Rights Centre (ERRC), the League of Human Rights and Life Together. At the time that the initial

sterilised at the age of nineteen while giving birth to her second child by caesarean delivery. She claims that a few minutes before the operation she was informed that sterilisation would be necessary because another caesarean section delivery would be too risky for her life. Neither was she asked whether or not she was planning another pregnancy or informed about the nature, consequences and risks of sterilisation so that she could give her informed consent. She was not informed at all about alternatives. In Ms Ferenčíková's health records there was a typewritten request for sterilisation: "The patient requests sterilisation". This request was signed by Ms Ferenčíková. There was also a general form of informed consent also signed by Ms Ferenčíková, but without precise information as to the type of treatment for which the patient had provided her consent, and when the treatment would take place. This particular case has been one of the first in which a patient in the Czech Republic sued a hospital on the ground that the signature in the health records does not constitute free and informed consent. The Ostrava Regional Court in its judgement of November 11, 2005 expressed an opinion that the facts of the case reveal that free and informed consent had not been provided: "It can be concluded that an operation, which interfered with the plaintiff's physical integrity, was performed without a proper (qualified) consent. This operation constitutes an illegal act, and violates the plaintiff's personality rights – not only the right to physical integrity but also the right to privacy, and this interference has been particularly serious."<sup>4</sup>

However, the Regional Court dismissed the claim for monetary compensation on grounds that it was time-barred. In Czech Republic, the case law on this issue is currently ambiguous. For thirty years, however, the Supreme Court has ruled that the general period of limitation applies

also to the right to seek compensation for breach of personality rights, including physical integrity, mental integrity, dignity, etc. In December 2005, both the Vítkovice hospital and Ms Ferenčíková lodged an appeal. The case will be further judged by the High Court in Olomouc.

Since November 2005 two other civil complaints have been lodged before Czech courts. The facts of these cases are similar to those in Ms Ferenčíková's case. The case *Ms Holubova v. City Ostrava hospital* was lodged in November 2005 with the Regional Court in Ostrava. Ms Holubova was sterilised in 1997 when giving birth to her second daughter in City Ostrava hospital. She was asked to sign some documents a few minutes before the caesarean section without even knowing the content of the documents. In her health records there is a handwritten request for sterilisation (written by hospital staff) with the signature of Ms Holubova, without any reference to the date and time of this request. The sterilisation was not approved by the commission, and when Ms Holubova signed, she was not aware that sterilisation is not reversible. Another case was filed with the Regional Court in Ústí nad Labem. The plaintiff, Ms Kešelyová, was sterilised in the Most hospital in 2003 when giving birth to her fourth child. She asserts that the request for sterilisation was given to her after the sterilisation was performed. In this particular case it is important that no medical indication for sterilisation existed. This case was lodged in June 2006.

### 3. Criminal Proceedings

The cases reported by the Public Defender of Rights were set aside after several months on the grounds that a crime had not occurred. This fact highlights the need for further clarification

*Ferenčíková case was filed, the Brno-based IQ Roma Service was also involved. Legal action on behalf of Ms. Ferenčíková has been supported by several donors including the Sigrid Rausing Trust.*

<sup>4</sup> "It therefore follows that the act of the accused, in which he violated the bodily integrity of the plaintiff, was carried out without the accused having secured the qualified consent of the plaintiff. At issue therefore is an illegal act on the part of the accused. With this act, the personal rights of the plaintiff were violated, not only her right to bodily integrity, but also her right to privacy, and as such at issue is a very serious intrusion." ("Lze tedy uzavřít, že výkon žalovaného, jímž bylo zasáhnuto do tělesné integrity žalobkyně, byl proveden, aniž k tomu žalovaný měl kvalifikovaný souhlas žalobkyně. Jednalo se ze strany žalovaného o neoprávněné jednání (jednání non lege artis). Tímto zásahem bylo zasaženo do osobnostních práv žalobkyně, a to nejen do práva na tělesnou integritu, ale i práva na soukromí, přičemž se jednalo o závažný zásah.")





Michaela Kopalová speaking at a demonstration by Romani women victims of coercive sterilisation, August 2006, Ostrava, Czech Republic.

of Czech criminal law in relation to acts such as sterilisation undertaken without free and informed consent. The Chief Public Prosecutor issued a guideline for prosecuting crimes committed in regard to medical practice in 1998, in which it holds that a medical intervention performed without consent of the person concerned is not a crime as long as it is performed *lege artis*. A medical intervention pursuing a health aim cannot be a crime according to the Chief Public Prosecutor.

However the sterilisation cases go beyond this interpretation because sterilisation is performed purely for contraceptive purposes. The intervention damages the patient's body and is not undertaken for any curative end. In Czech Republic there is no case law on this issue. By dismissing these cases, the police prevent the courts from ruling on this controversial issue. The question of whether or not the patient provided free and informed consent and the criminal consequences of this fact are therefore decided by the police and public prosecutor rather than by the judge.

Another problem arises from the fact that there are not enough witnesses on the patient's side. If the patient claims that he/she was not duly informed, but hospital staff claim that he/she was, it is highly unlikely that the doctors will be punished. In a situation such as this, indirect evi-

dence must be taken into account. For example, if an obligation to obtain the written consent of the patient exists and there is no written consent for the sterilisation, then the patient's assertion is highly credible. Certain guidelines as to how to investigate the non-existence of consent are provided by the European Court of Human Rights case law. In the case *M.C. v. Bulgaria* (Application no. 39272/98, judgement of 4.12.04.) the Court focused on the question of whether the investigation of rape had met the requirements set forth in Articles 3 and 8 of the European Convention of Human Rights. The Court held that in the circumstances of no direct evidence of rape, such as traces of violence or direct witnesses, the authorities must nevertheless explore all the facts and decide on the basis of an assessment of all surrounding circumstances. The investigation and its conclusions must be centred on the issue of non-consent (*M.C. v. Bulgaria*, § 181).

### An Example of Faulty Practice: The Case of Ms K.

Ms K. delivered twins on 12 April 1998 in the M. hospital. The delivery of the first child was spontaneous, the second delivery was by caesarean section. At the time of the second delivery, the doctors performed sterilisation. The woman concerned was informed about the sterilisation the day after delivery. On 8 November 2005, the Public Defender of Rights reported the case to the Chief Public Prosecutor and thereby initiated criminal investigation. On 26 May 2006, an expert was appointed, who, in her opinion, stated the following:

“Sterilisation was performed in order to prevent future health problems which could be associated with a potential further pregnancy and the doctor acted in compliance with the Health Care Act and Sterilisation Directive as the Caesarean section was urgent and the indication for sterilisation arose during the operation so that it was not possible to gain the patient's consent.”

The reasoning of this opinion is so deeply flawed that it hardly bears comment. As noted above, sterilisation is not carried out for medical reasons. There is no plausible circumstance in

which an indication for sterilisation might arise during an operation, caesarean section birth or otherwise. Insofar as the caesarean section birth was her first caesarean delivery, there were in any case no future potential health risks that could have resulted from failing to undertake the sterilisation. On the contrary, the sterilisation may cause future health problems.

Police dismissed this case without hearing the victim or the doctors, and relying solely on the basis of this expert opinion. In this example another problem is obvious – dependency on false “expert opinions”.

### Conclusion

Cases for legal remedy brought by advocates to judicial and quasi-judicial remedy concerning sterilisation without free and informed consent have to date been successful in terms of the assessment of the facts. The case of Ms Ferenčíková highlights the need for monetary compensation, as well as the need to clarify statute of limitations issues in these cases. The Regional Court in Ostrava did not

award compensation to Ms Ferenčíková because of its distinctive interpretation of the time bar, not because the interference was not of such gravity as to engage civil damage. The Public Defender of Rights also found numerous violations and suggested redress. However, during criminal proceedings in cases involving lack of informed consent in the matter of sterilisation, authorities have not reasoned logically, and as such have not prosecuted doctors for crimes committed in the course of these practices. The autonomy of patient to decide on matters concerning his/her bodily integrity has not yet been adequately acknowledged as a matter of criminal law in Czech Republic. At present, doctors can be brought to justice in a criminal context solely for infringing *lex artis*, that is, for the faulty performance of an operation or another medical intervention, but not for failing to secure a patient’s consent in invasive procedures. I believe that this issue should be further examined by the courts, rather than by the police or public prosecutors. The Court is the most appropriate to develop an authoritative interpretation of failure to obtain informed consent. Neither police nor the public prosecutor has the competence to assess such a complex and complicated question.

# In the Name of Reproductive Rights; Litigating before the UN Committee on the Elimination of Discrimination against Women

Anita Danka<sup>1</sup>

**I**N THE FIELD OF reproductive rights there have been documented cases of discrimination against Romani women. In the medical sphere, Romani women often face situations where they are not given adequate information related to their medical condition, where they are not involved in the decision-making process concerning their treatment, or where they are treated as objects instead of clients and are approached with the attitude of “the doctor knows the best”.

Reproductive rights are incorporated into basic international human rights principles, such as the right to life, the right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment, the right to liberty and security of the person, the right to private and family life, the right to freedom of expression, the right to receive and impart information, the right to marry and found a family, right to be free from discrimination, the right to education, etc. According to the Center for Reproductive Rights, “The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>2</sup> provides the strongest international legal support for women’s reproductive rights by explicitly outlining the right to health and family planning.”<sup>3</sup> The Committee on the Elimination of Discrimination against Women (CEDAW Committee) monitors the compliance with CEDAW.

Although the CEDAW Committee, like the other UN treaty monitoring bodies, is not a judicial body, it can accept individual complaints against a state that has ratified the Optional Protocol to CEDAW. Moreover, the Committee can initiate inquiries into grave and systematic violations of women’s rights.<sup>4</sup>

Although litigation is not the only tool for enforcing reproductive rights, the individual complaints procedure – provided for example by the Optional Protocol to CEDAW<sup>5</sup> – has the potential to serve as a “whip” to bring about the realisation of these rights.<sup>6</sup> The complaints procedure is a formal process by which an individual (or group of individuals) makes a complaint to the treaty body overseeing the implementation of the specific treaty that a state party has violated his/her individual rights under.<sup>7</sup> Although the decisions and recommendations of the treaty monitoring bodies expressed in their “views” at the end of the procedure are not binding and there is no enforcement mechanism for the decisions, the treaty bodies expect State parties to implement their decisions and to provide the victim with an appropriate remedy.

The Optional Protocol to CEDAW was adopted by the General Assembly on 6 October 1999 and it entered into force on 22

<sup>1</sup> Anita Danka is a Staff Attorney at the European Roma Rights Centre and has been responsible for the litigation of *A.S. v. Hungary* before the CEDAW Committee on behalf of the ERRC since January 2005.

<sup>2</sup> <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

<sup>3</sup> Center for Reproductive Rights, *Bringing Rights to Bear; An Advocate’s Guide to the Work of UN Treaty Monitoring Bodies on Reproductive and Sexual Rights*, p. 12.

<sup>4</sup> *The inquiry procedure is not discussed in this article.*

<sup>5</sup> <http://www.un.org/womenwatch/daw/cedaw/protocol/text.htm>.

<sup>6</sup> In addition to CEDAW, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment have individual complaints procedures.

<sup>7</sup> <http://www.bayefsky.com/tree.php/area/complain>.

December 2000. By becoming a State Party to the Optional Protocol, a State recognises the competence of the CEDAW Committee to receive and consider written communications from individuals or groups of individuals who claim to be victims of a violation by that State Party of any rights set forth in the Convention.<sup>8</sup>

So far there have been two instances in which the CEDAW Committee established a breach of the Convention, and in both occasions the violator was Hungary. The first case, *A.T. v. Hungary*,<sup>9</sup> involves domestic violence and the second, *A.S. v. Hungary*, concerns the issue of reproductive rights.

### The Case of Ms A.T.<sup>10</sup>

Ms A.T. was subjected to regular severe domestic violence and serious threats by her common-law husband, who threatened to kill her and rape their children. One of the petitioner's daughters is fully disabled and shelters in Hungary at that time were not equipped to accommodate a fully disabled child together with her mother and sister. No protection or restraining orders were available at the time. The threats and instances of battery continued. Ms A.T. had ten medical certificates proving the continuous severe physical violence she suffered. Since it was impossible for her to move into a shelter away from her common-law husband, to avoid further violence she initiated civil proceedings to bar him from access to the family residence. On 4 September 2003, the Capital Court authorised the return and use of the apartment based on two grounds: lack of substantiation of the claim that the husband regularly beat Ms A.T. and the common-law husband's right to property. Since the verbal threats continued, which put Ms A.T.'s physical integrity, physical and mental health and life at serious risk, criminal complaints were filed against the common-law husband. The complaints resulted in two criminal procedures. However, her husband was not detained at any time, and no actions were taken by the Hungarian authorities to protect her. She also did not receive any effective assistance from the local child protection authorities.

On 10 October 2003, Ms A.T. submitted an application to the CEDAW Committee claiming that by Hungary's failure to provide effective protection from her common-law husband, the State neglected its positive obligations under the Convention and supported the continuation of a situation of domestic violence against her, which constitutes the violation of Articles 2 (a), (b), (e), 5(a) and 16 of the Convention.<sup>11</sup> Having become aware that Hungary lacked a system capable of providing immediate protection from domestic violence, the State adopted a resolution on the national strategy for the prevention and effective treatment of violence within the family in April 2003. The strategy included the introduction of restraining orders into the legislation, ensuring that domestic violence cases have priority before the courts, protocols for the police on domestic violence, the

<sup>8</sup> *Articles 2 and 3 of CEDAW.*

<sup>9</sup> *Communication No. 2/2003, Ms A.T. v. Hungary.*

<sup>10</sup> *A.T. v. Hungary 2/2003.*

<sup>11</sup> *Based on Articles 2 (a), (b) and (e), State Parties undertakes to embody the principle of equality of men and women in their national constitutions or other appropriate legislation as well as to ensure the practical realisation of this principle; and adopt appropriate legislative and other measures prohibiting all forms of discrimination against women; take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise.*

*Article 5 (a) obliges State Parties "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."*

*Based on Article 16, State Parties have to take 'all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations...'*

extension and modernisation of the network of shelters, the provision of free legal aid, the training of judges, etc. However, no effective protection was given to victims of domestic violence, as even after a new protocol of the police has entered into force under the Decree of the Parliament on the Prevention of, and Response to, Domestic Violence, batterers are generally not taken into custody, the law on restraining orders has not been adopted, and domestic violence cases as such do not enjoy high priority in court proceedings.

On 26 January 2005, the Committee established the violation of Articles 2 (a), (b) and (e) of the Convention stating that “the obligation of the State party extends to the prevention of, and protection from violence against women and, in this case, remain unfulfilled and constitute a violation of the author’s human rights and fundamental freedoms, particularly her right to security of the person.” The Committee also found a violation of Articles 5 and 16 and called attention to its General Recommendation 19 (*Violence against women*) and 21 (*Equality in marriage and family relations*). In these, the Committee states that the definition of discrimination includes gender-based violence, and that violence against women has great significance for women’s abilities to enjoy rights and freedoms on an equal basis with men.

As an individual measure, the State was requested to undertake immediate and effective measures to guarantee physical and mental integrity, to provide a safe home and child support to Ms A.T. and to ensure separation from her common-law husband. In addition, all victims of domestic violence must be assured the maximum protection of the law by acting with due diligence to prevent and respond to such violence against women. Hungary has to ensure that the national strategy for the prevention and effective treatment of violence within the family is implemented, that all allegations of domestic violence are thoroughly and promptly investigated, that there are rehabilitation programmes available for the victims and that regular training sessions are held on the CEDAW Convention.

### The Case of Ms A.S.<sup>12</sup>

Ms A.S. is a Hungarian citizen of Romani origin. On 30 May 2000, a medical examination confirmed that she was pregnant. On 2 January 2001, she felt pains and she lost her amniotic fluid; this was accompanied by heavy bleeding. She was taken to hospital, where she was examined. It was diagnosed that her foetus had died in the womb, that her womb had contracted and that the placenta had broken off. She was told that a caesarean section had to be immediately performed in order to remove the dead foetus. While on the operating table, she was asked to consent to the caesarean section and she also signed a hand-written statement written by the doctor on the same page: “Having knowledge of the death of the foetus inside my womb I firmly request ‘my sterilisation’. I do not intend to give

birth again, nor do I wish to become pregnant.” After this, the sterilisation was performed.

However, Ms A.S. did not know the meaning of the word “sterilisation”.<sup>13</sup> She was given no information about the nature of sterilisation, its risks and consequences or about other forms of contraception. This was revealed from her testimony and the lack of any related documentation in this regard. She had lost a great deal of blood by the time she reached the hospital and was in a state of shock after learning that her foetus had died in her womb. The hospital records reveal that seventeen minutes passed between the ambulance arriving at the hospital and the completion of both operations. She only learnt that she would not be able to give birth again upon leaving the hospital when she asked the doctor when she could try to have another baby.

<sup>12</sup> *Communication No. 4/2004.*

<sup>13</sup> *The commonly used word for sterilisation by tying the fallopian tubes in Hungarian is lekötés and the Health Care Act uses the terminology of művi meddővé tétel for sterilisation.*

On 15 October 2001, Ms A.S. and her attorney filed a civil claim for damages against the hospital. They requested that the hospital be found in violation of the plaintiff's civil rights and that the hospital be found to have acted negligently in its professional duty of care with regard to the sterilisation of Ms A.S. in the absence of her full and informed consent. The claim was turned down on 22 November 2002. On appeal, the Szabolcs-Szatmar-Bereg County Court held that the hospital doctors had indeed acted negligently in failing to provide Ms A.S. with the relevant information about the sterilisation and stressed that "the information given to the plaintiff concerning her sterilisation was not detailed ... [and that she] ... was not informed of the exact method of the operation, of the risks of its performance, and of the possible alternative procedures and methods." Nevertheless, the same Court concluded that sterilisations as such are fully reversible operations and that since Ms A.S. had provided no proof that she had suffered lasting detriment, she was therefore not entitled to any compensation. The decision of the second-instance court was final.

Having exhausted all available domestic remedies, it was then possible to file a complaint at the regional (European) or international level. Since reproductive rights, as discussed above, are embedded in all the basic human rights instruments, there were more forums available where the violations suffered by Ms A.S. could be addressed. Since CEDAW specifically outlines the right to appropriate health care services and family planning, and the legal position of the CEDAW Committee is clear in these matters as revealed by its General Recommendations, on 12 February 2004, the European Roma Rights Centre (ERRC) and the Legal Defence Bureau for National and Ethnic Minorities (NEKI) jointly filed a complaint against Hungary with CEDAW relating to the illegal sterilisation.

The complaint asserted that Hungary had violated Article 10(h) (no adequate information on contraceptive measures and family planning), Article 12 (the lack of informed consent on the part of the victim as a violation of her right to appropriate

health care services), and Article 16.1(e) (the State's interference with the victims ability to decide freely on the number and spacing of her children).

During the preparation of the communication, admissibility concerns arose as the incident occurred on 2 January 2001, two months before Hungary ratified the Optional Protocol on 22 March 2001. We argued that Hungary ratified the Convention in 1981 and had therefore been legally bound by its provisions for twenty years at the time the violation occurred. Also, the Optional Protocol is a jurisdictional mechanism that results in the recognition by the State concerned of a further way in which the Committee can attain competence.<sup>14</sup> Therefore, the Convention has to be respected by the State Party from the moment of its ratification and the Optional Protocol results merely in the opportunity for victims to file individual complaints. Moreover, the aim of sterilisation is to end the patient's ability to reproduce and from the legal as well as medical perspective it is intended to be irreversible, therefore the violation had and still has a continuing effect.

In the substantiation of violation claims, we relied on previous concluding observations of the CEDAW Committee in interpreting the Convention, other sources of international law, national law arguments, and international and domestic jurisprudence concerning reproductive rights. Although UN Committees do not formally accept third-party submissions, an *amicus brief* was prepared by the New York-based Center for Reproductive Rights on informed consent standards, which was very well received by the Committee.

Based on Article 10(h) of the Convention, the State has to provide access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning. General Recommendation 21 of the Committee states, "in order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services as provided in

<sup>14</sup> See Nowak, Manfred, *CCPR-Commentary*, Kehl, 1993, pp. 679-680.

Article 10(h) of the Convention.”<sup>15</sup> Correspondingly, the Hungarian Health Care Act states that the doctor performing the operation must inform the person requesting the intervention and her/his spouse/partner about further options of birth control, nature, possible risks and consequences of the intervention prior “in a way that is comprehensible to her/him with due regard to her/his age, education, knowledge, state of mind, and her/his expressed wish on the matter.”<sup>16</sup>

In connection with Article 12 the Convention standards regulate that, “State parties shall take all appropriate measures ... in the field of health care in order to ensure access to health care services, including those related to family planning.” States also have to “...ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period.” According to the Committee’s General Recommendation 24, “women have the right to be fully informed, by properly trained personnel, of their options in agreeing to treatment or research, including likely benefits and potential adverse effects of proposed procedures and available information”. Furthermore, the Committee states that “acceptable services are those that are delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her needs and perspectives. States parties should not permit forms of coercion, such as non-consensual sterilization.”<sup>17</sup>

Based on the standards of the World Health Organization (WHO), informed consent is a prerequisite for any medical intervention.<sup>18</sup> This principle was also confirmed by the European Convention on

Human Rights and Biomedicine. The International Conference on Population and Development held in Cairo in 1994 also declared that informed choice is a fundamental principle of quality health care services and is recognised as a human right by the international community.<sup>19</sup> General Comment 28 of the UN Human Rights Committee states, “non-consensual sterilization constitutes torture or cruel, inhuman or degrading treatment.”<sup>20</sup> The Hungarian Health Care Act, in line with the above-mentioned standards, states, “the performance of any health care procedure shall be subject to the patient’s consent granted on the basis of appropriate information, free from deceit, threats and pressure.”<sup>21</sup> Based on the fact that only seventeen minutes passed between the arrival of Ms A.S. at the hospital and the end of the sterilisation operation, and considering Ms A.S.’s mental and physical condition before the intervention, it is impossible that she could have made an informed decision concerning her sterilisation.

The CEDAW Committee has also emphasised that “compulsory sterilization or abortion adversely affects women’s physical and mental health, and infringes the right of a woman to decide on the number and spacing of their children.”<sup>22</sup> In its General Recommendation 19, the Committee clearly states that “States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction.”<sup>23</sup> In *Y.F. v. Turkey*, the European Court of Human Rights declared that any compulsory, forced or coerced medical intervention, even if it is of minor importance, constitutes an interference with a person’s right to private life under Article 8.<sup>24</sup>

<sup>15</sup> CEDAW General Recommendation 21, paragraph 22.

<sup>16</sup> Hungarian Act on Healthcare 1997: CLIV, Article 13.8.

<sup>17</sup> CEDAW General Recommendation 24, paragraph 22.

<sup>18</sup> WHO Declaration on Patient’s Rights.

<sup>19</sup> Programme of Action of the United Nations International Conference on Population & Development, <http://www.iisd.ca/Cairo/program/p00000.html>.

<sup>20</sup> General Comment 28: Equality of Rights Between Men and Women. Article 3.

<sup>21</sup> Article 15.3.

<sup>22</sup> CEDAW General Recommendation 19, paragraph 22.

<sup>23</sup> CEDAW General Recommendation 19, paragraph 24.

<sup>24</sup> Application No. 24209/94.

When the submission was communicated, preliminary objections as to its admissibility were raised by the State. The non-exhaustion of judicial review as an effective domestic remedy and *ratione temporis* concerns were raised as the sterilisation occurred before Hungary ratified the Optional Protocol. Concerning the substantive claims, the State party expressed its view that since Ms A.S. has three other children she must have been familiar with the nature of pregnancy and childbirth even without having completed further education. She was given all information appropriate under the circumstances before the operation, which was inevitable due to the medical indications. Moreover, the State party emphasised that “the Hungarian Public Health Care Act allows the physician to deliver sterilisation without any special procedure when it seems to be appropriate in given circumstances.”

Since both the CEDAW as well as other international standards summarised in the original submission refute the substantive claims of the State party, the focus of the procedure turned to the admissibility considerations. That boiled down to two questions: whether judicial review should have been exhausted by Ms A.S., and whether sterilisation constitutes an irreversible operation resulting in a continuing violation.

For the purposes of the Convention (and for that of other international treaty-monitoring bodies as well as of the European Court of Human Rights) only effective remedies must be exhausted. For a remedy to be effective, it has to be binding, available, and sufficient to decide upon the core elements of the claim and to give redress. We argued that judicial review is not only an extraordinary remedy that cannot be brought into connection with the constitutionally guaranteed right to appeal<sup>25</sup> and therefore must not

be exhausted for the purposes of admissibility, but also in the present case it was not accessible for the petitioner. Between 1 January 2002 and 9 November 2004, at the time of this case, judicial review had very strict admissibility requirements.<sup>26</sup> Moreover, the conditions were later declared unconstitutional by the Constitutional Court based on legal certainty grounds required by the rule of law provisions of the Constitution,<sup>27</sup> so this remedy was not sufficiently certain for the purposes of effectiveness.

Sterilisation is a method of birth control aiming at ending one’s capacity to reproduce. According to WHO standards as reflected in the Medical Eligibility Criteria for Contraceptive Use, sterilisation is considered irreversible and permanent. The reversal operation is a complex one with a low chance of success.<sup>28</sup> When it comes to reversal operations, one can only talk about a medical probability. This means that only by carrying out a reversal operation on Ms A.S. one could prove whether she could regain her fertility. However, no one can be asked to undergo an operation for a purpose of proof or in an attempt to “reduce harm induced”. Her physical integrity and human dignity was violated by the non-consensual sterilisation irrespective of any medial chance of success of a reversal operation.

At its meeting of 14 August 2006, the Committee concluded that Hungary violated the Convention because of the illegal sterilisation of Ms A.S. In its decision, the Committee was convinced by the ERRC/NEKI arguments that sterilisation is intended to be irreversible, that the success rate of surgery to reverse sterilisation is low and depends on many factors and that the reversal surgery entails risks. With respect to the claim that Hungary violated the Convention by failing to provide information and advice on family planning, the Committee stated that the applicant “has a right protected by Article

<sup>25</sup> 1/1994. (I.7.) Constitutional Court decree.

<sup>26</sup> Namely, based on Articles 270-275 of the Code of Civil Procedure (1952:III), the judgment to be reviewed must infringe legal provisions which vitally influenced the merits of the case, the case differs from the binding decisions of the Supreme Court on uniformity of interpretation of law, or when judicial review is necessary for the development of the uniform interpretation of the law in a point of law of general importance.

<sup>27</sup> 42/2004 Constitutional Court decree.

<sup>28</sup> [http://www.reproline.jhu.edu/video/provider\\_perspective/who\\_elig\\_crit/rhr\\_00\\_02\\_ster.html](http://www.reproline.jhu.edu/video/provider_perspective/who_elig_crit/rhr_00_02_ster.html).



10(h) of the Convention to specific information on sterilization and alternative procedures for family planning in order to guard against such an intervention being carried out without her having made a fully informed choice.”

In connection with sterilisation surgery performed without informed consent, the Committee reiterated that according to Article 12 of the Convention, State parties shall “ensure to women appropriate services in connection with pregnancy, confinement, and the post-natal period.” The Committee found that the sterilisation surgery was performed on Ms A.S. “*without her full and informed consent and must be considered to have permanently deprived her of her natural reproductive capacity*”, therefore her right to decide freely and responsibly on the number and spacing of her children was also violated.

In conclusion, the Committee recommended that appropriate compensation should be paid to Ms A.S., commensurate with the gravity of the violation of her rights. Hungary should ensure that the relevant provisions of the Convention and the pertinent paragraphs of the Committee’s General Recommendations in relation to women’s reproductive health and rights are known and adhered

to by all relevant personnel in public and private health centres, including hospitals and clinics. The State party should review domestic legislation on the principle of informed consent in cases of sterilisation and ensure its conformity with international human rights and medical standards. Public and private health centres, including hospitals and clinics that perform sterilisation procedures, should be monitored so as to ensure that fully informed consent is given by the patient before any sterilisation procedure is carried out, with appropriate sanctions in place in the event of any breach of the requirement for informed consent.

This is the second time that the Committee has found Hungary in breach of the Convention on the Elimination of All Forms of Discrimination against Women; with this decision, the country sets a troubling record. The communications from the Government in both cases revealed that the Convention standards, although clearly articulated in the General Recommendations of the Committee, are not known by the State Party and that in the areas of domestic violence and reproductive rights the legal and institutional system in Hungary is not yet able to ensure comprehensive and effective protection from potential violations.



**SNAPSHOTS FROM AROUND EUROPE**



## News Roundup: Snapshots From Around Europe

The pages that follow include Roma rights news and recent developments in the following areas:

- Racist attacks and harassment by skinheads in **Czech Republic**; relocation of Romani community following death threats in **Slovenia**;
- Forced evictions, threats of forced evictions and other right to adequate housing issues in **Czech Republic, Greece, Romania, and United Kingdom**; including the death of a baby due to forced eviction and resulting inadequate housing conditions in **Turkey**;
- Council of Europe's Commissioner for Human Rights' report establishes violations of housing rights of Roma in **Albania, Czech Republic, France, Russia, Turkey, and the United Kingdom**;
- Abusive or discriminatory treatment by law enforcement authorities in **Romania and Russia**;
- Sentencing or indictments of those responsible for inciting discrimination or anti-Romani actions in **Bulgaria, France and Spain**; including the **Serbian** War Crimes Court's decision sentencing a Kosovo Albanian for atrocities against Roma in Kosovo;
- Adoption or revision of legislation in **Romania and Turkey**;
- Segregation and other right to education issues in **Hungary and Ukraine**;
- Anti-Romani statements and hate speech issues in **Bulgaria, Hungary, Lithuania, and Russia**;
- Access to justice issues in **Czech Republic and Ukraine**; including the release from prison of a Romani man who served six years for a crime he did not commit in **Ukraine**; and
- ECRI reports on Roma rights related matters in **Italy and Russia**.



**BULGARIA**

### ❖ **Leader of Bulgaria's Ataka Party Guilty of Inciting Discrimination**

On 21 July 2006, a court in Sofia ruled that Mr Volen Siderov, member of Bulgarian parliament and leader of the ultra-nationalist Ataka party, had breached the prohibition of incitement to discrimination, according to a 31 July report by the Bulgarian Helsinki Committee (BHC). The decision ordered Mr Siderov to refrain from making inflammatory statements or similar actions; Mr Siderov faced a fine of up to 200 Bulgarian leva (approximately 100 EUR). The case against Mr Siderov was filed by the BHC under the Protection against Discrimination Act. Eight other cases have been filed against Mr Siderov under the same act. (BHC)

### ❖ **Bulgarian Health Minister Proposes Legislative Ban on Births to Women under 18 Years of Age**

On 10 October 2006, the non-governmental organisation Amalipe reported that on 9 October 2006 Dr Radoslav Gajdarski, Bulgaria's Minister of Health,

announced plans for legislative changes to ban women under the age of eighteen from giving birth. Dr Gajdarski further stated that the measure would be mainly directed at girls from minority groups. Dr Gajdarski's announcement provoked a strong negative reaction by Bulgarian parliamentarians, who stated unambiguously that such a measure would never be implemented in Bulgaria. (Amalipe)

### ❖ **Bulgarian EU Observer Makes Anti-Romani Statements in European Parliament**

According to the newspaper EU Observer, on 29 September 2006, Bulgarian MP and EU Observer Dimitar Stoyanov made disparaging comments about Romani girls in the European Parliament. In reaction to a proposal to nominate the Hungarian Romani MEP Livia Jaroka for a prize honouring her human rights activities, Mr Stoyanov, a member of Bulgaria's nationalist Ataka party, stated in an email communication sent to all parliamentarians, "In my country there are tens of thousands of Gypsy girls way more beautiful than this honora-

ble one. [...] In fact, if you're in the right place at the right time you even can buy one, around 12 to 13-years-old, to be your loving wife. The best of them are very expensive – up to 5000 EUR apiece, wow!" Mr Stoyanov's comments were condemned by the leader of the centre-right EPP group Hans-Gert Pottering, who suggested the Bulgarian authorities should withdraw Mr Stoyanov from the parliament as "there is no place for him among European politicians."

Mr Stoyanov later sent an apology to his colleagues, stating he did not want to offend Ms Jaroka but rather to "point out that in Bulgaria Gypsy girls are still sold like items by their parents." Bulgaria's Parliamentary spokesman Georgi Pirinski announced plans to convene a meeting of the Parliamentary Ethics Commission to determine whether or not to recall Mr Stoyanov from the EU.

In October 2006, the Bulgarian Parliament Ethics Commission denounced Mr Stoyanov's comments. Mr Stoyanov, however, remained representative of the Ataka party in the European Parliament. (ERRC, EU Observer)

**CZECH REPUBLIC**

### ❖ **Roma Violently Assaulted in Czech Republic**

On 9 September 2006, the Prague Daily Monitor reported escalating violence between Romani and skinhead groups in the northeastern Czech town

of Orlova. Axes, baseball bats, chains and brass knuckles were used during various clashes between the groups, according to the Karvina police spokeswoman. Local police reportedly intended to increase their patrols in the town, while attackers from both camps reportedly face

charges of hooliganism, inflicting bodily harm and defamation of nation, race, or belief.

In other news, on 28 July, the Czech News Agency (CTK) reported that an unidentified perpetrator shot and wounded four Roma in Ceske Budejovice's

largest housing estate in the west of the Czech Republic. According to CTK, the attack was the latest in a series of similar incidents spanning four weeks. In previous attacks, four Romani individuals had been wounded, including two children, and police have not succeeded in identifying the perpetrator. CTK reported that residents of the neighbourhood were living in fear and that parents were afraid to allow their children to play outside. Municipal authorities reportedly decided to place several cameras in the estate by the end of the year but stated that they had no money to provide a standing police presence there. (CTK, Prague Daily Monitor)

### ✧ **Romani Housing Rights Concerns in Czech Republic**

In 2006, in the Moravian town of Vsetin, near the city of Zlin, local authorities planned and subsequently implemented the expulsion of a group of Roma living in state-owned property in the town centre. Some were expelled to housing in the Poschla quarter on the edge of Vsetin, thereby creating a de facto racially segregated housing estate, and some to extremely sub-standard housing in a completely different region.

In October 2006, after two years of work towards this end, the city completed the installation of two buildings comprised of metal “containers” in the Poschla quarter on the outskirts of the town. Officials intended to move the Romani residents of the building slated for demolition in the centre,

which housed forty-two families, into these containers. The new buildings provided thirty-six flats in total. The town had designed the buildings, according to the media, “especially for inadaptable citizens”. The online information agency ROMEA reported that on 5 October 2006, the municipality of Vsetin then held a “grand opening” for the “new Roma ghetto”, which was attended by forty municipal representatives from towns all over the Czech Republic who praised the project as a model one. Funding for the container housing was reportedly provided in part by the State Fund for Construction.

Mayor Cunek was quoted by ROMEA as having stated that these flats, ostensibly built for “unadaptables” from “vandalism-proof” materials, would however be assigned to tenants who “meet their civic obligations ... by not supporting criminal behaviour by their children, and by paying their rent regularly. We will do our best to get the rest out of the city.” The container tenants received month-to-month contracts and the mayor reportedly stated that anyone whose contract was to be terminated would be immediately “put out on the street”. Tenants of the new units also learned they were being charged the highest possible rate for electricity.

On 13 October, Mayor Cunek then had the Romani families, who were, in his words, the most “problematic”, transported into the neighbouring region of Olomouc in the middle of the night. Mayor Cunek claimed the families had reached an agreement

with the city to leave the Zlin region altogether. The town of Vsetin had purchased properties in isolated areas throughout the Olomouc region, and was reselling them to the “problematic” families, who were also to be lent money for the purchase of these properties by the town of Vsetin.

One Romani NGO sent an open letter to the Government Council for Roma Community Affairs criticising social workers (employed by the town of Vsetin with Council funding) for their role in threatening to remand the children of the families into state care should their parents refuse to sign the purchase agreements. The families had not seen the properties prior to concluding the agreements. They were dropped off in front of various dilapidated buildings in isolated areas, some of which were actually barns or stables. Some of the original owners of the properties told the media that the buildings were not fit for human habitation and that they would never have agreed to the sale had they known the purchaser’s intentions. A total of approximately one hundred people were “deported” from the Zlin region in this way, according to a ROMEA report of 3 November. ROMEA further noted that the speaker of the lower house of the Czech Parliament, Miloslav Vlcek, had initiated an investigation into the legality of the purchase agreements.

In November 2006, Romani activists reported that the Roma concerned were in the process of terminating their purchase agreements and moving in with relatives elsewhere in Vsetin. The creation of the new ghetto, the

deportations out of the region, and Mayor Cunek's accompanying remarks in the media were protested by Roma across the country, human rights observers and the Secretary of the Government Council for Roma Community Affairs Czeslaw Walek, who observed that the timing of the "grand opening" of the new housing coincided with the run-up to municipal and Senate elections on 20 October 2006. Several individuals and organisations also filed criminal charges against Mayor Cunek and he was repeatedly called to resign from his position as Senator due to his unethical behaviour.

In other news, according a 19 August report in the Prague Daily Monitor, residents of Přerov's Lysky neighbourhood in eastern Czech Republic had recently thwarted attempts by Ms Margita Girgova, a Romani woman, to purchase a house in the neighbourhood, reportedly because they feared having "bothersome" neighbours. Ms Girgova was reportedly the only person to show interest in the house put on sale by the town authorities. Although Ms Girgova allegedly met all of the conditions of the tender, she was not successful, according to the Prague Daily Monitor. Instead, the municipal authorities decided to launch a new tender.

Mr Frantisek Hradil, the mayor of Lysky, sent a letter to the Přerov Municipal Assembly, asking for understanding and stating that not the sale but the new owner is the reason locals felt apprehensive, as there existed a "threat", as a result of the presence of the family, according to Prague Daily Monitor. The newspaper reported that Ms

Girgova considered this discrimination and would seek to purchase the house again. (Prague Daily Monitor, ROMEA)

### ✧ **More Roma Evicted in the Process of Public Housing Privatisation in Czech Republic**

On 21 August 2006, the Prague Daily Monitor reported that municipal authorities in Ostrava's Slezska Ostrava District sold flats housing fifteen Romani families to Trimex Majetkova, a private company. Prior to the sale, district authorities signed one-year leases with the Romani residents, extendible at the end of this period if the tenants paid their rent. However, as reported by the Prague Daily Monitor, Mr Robert Svec, Chairman of the Board of Trimex Majetkova, announced that the company would not extend the lease agreements at the end of the period.

As a result, four Romani families had already left their homes at the time of the publication. District authorities had reportedly promised to provide adequate housing to the remaining eleven families, on the condition that they find some seasonal work, and that the district would help them to do this. The Prague Daily Monitor quoted Ostrava's Deputy Mayor for Social Affairs Mr Zbynek Prazak as having criticised the district's undertaking, saying that the allocation of social flats cannot depend on such conditions.

This situation is part of a widespread trend in Czech

Republic and other countries whereby municipal authorities sell public housing to private companies, which then upgrade the buildings and make the renovated flats available for rent at rates unaffordable to their former residents. This process is contributing to the further ghettoisation and marginalisation of Romani communities, which was highlighted in a report published by the Czech Ministry of Labour and Social Affairs in September 2006.

According to the government's report, the number of Roma living in low-standard houses and slums is on the rise in the Czech Republic, according to the results of research in more than 300 Romani neighbourhoods housing some 80,000 residents. According to the study, there is no complex programme concept to focus on the fight against social exclusion, but only individual projects that are not interlinked. Moreover, there is a deep contradiction between state interest and the municipal authorities' approach to Romani issues. While the state claims to be working towards the social integration of Roma, municipalities are pushing Roma further from cities and towns into slums. (Prague Daily Monitor)

### ✧ **Access to Justice Issues in Czech Republic**

On 19 October 2006, Czech Police President Vladislav Husak apologised on behalf of the Czech Police for its misuse of its powers in the town of Bohumin from 4 to 6 October 2005. Private security guards hired by the municipal authorities to



guard the “Hotelovy Dum”, a hostel for poor people, prevented entry to a number of concerned parties trying to visit the facility. Hostel residents were part of a targeted campaign by Bohumin municipality to expel several hundred persons, a large number of them Romani, from the housing. Czech police officers summoned to the scene declined to intervene on behalf of the residents and their visitors, despite the fact that a court injunction permitting normal use of the facility by the residents, including the right to receive visitors, was in effect at the time. After more than five hours of delay, the visitors were ultimately permitted entry, but on 6 October 2005, police forcibly expelled local activist and visitor Kumar Vishwanathan from the Hotelovy Dum, claiming a “new agreement” between the town and the police had been reached, that the police would not prevent the private security from barring any guests, and that, if necessary, they would aid in the removal of visitors.

In his apology, Mr Husak clarified that “[...] if any court at any level has issued an injunction, then all parties, including the police, are bound to obey

the order [...]” In July 2006, the appeals court in Ostrava upheld a lower court ruling imposing a fine on the Bohumin municipal authorities for ceasing to supply hot water to the “Hotelovy Dum” during the winter months of 2005 and 2006. Further information on the case is available on the ERRC website at: <http://www.errc.org/cikk.php?cikk=2641>.

In other news, on 5 September the Czech News Agency (CTK) reported that the Ostrava Regional Court rejected a complaint by three local Roma who had filed a complaint against Helax, a local nightclub, after they had been refused entrance to the club. The Roma had requested an apology and 90,000 Czech crowns (approximately 3,175 EUR) in compensation. In its decision, the Court found that the club security guards had not discriminated against the Roma due to the colour of their skin and ordered the plaintiffs to pay 16,000 Czech crowns (approximately 565 EUR) in compensation to the defendants and in court fees. Defence council reported that it would appeal the verdict.

The incident was part of a series of tests carried out in Ostrava

by the non-governmental organisation Life Together and others in March 2004. At the time, Helax club security prevented three Roma from entering its dance hall. Several minutes later, association workers and journalists entered the hall with no problem. According to the plaintiffs, the incident was a display of discrimination, but the operator of the club argued that the Roma declined to put their jackets in a cloakroom in accordance with club regulations.

Kumar Vishwanathan from Life Together was quoted as having stated that regardless of the loss of the case, the association would continue such tests.

In other news, according to a 31 August report by CTK, a court in Jeseník in the eastern Czech region of Olomouc sentenced 23-year-old Mr Martin Jas to three-years’ imprisonment for his part in a brutal attack on a Romani couple in their home in 2003. The sentence was made on appeal following public outcry against the first highly inadequate verdict on the case. Background information on the case is available on the ERRC’s Internet website at: <http://www.errc.org/cikk.php?cikk=1864&archiv=1>. (CTK, ERRC)

## **EUROPE**

### **✧ Council of Europe Commissioner for Human Rights Concerned at Housing Rights of Roma around Europe**

On 4 September 2006, the Council of Europe’s Commissioner for Human Rights issued a viewpoint, stressing the need

to respect the housing rights of Roma and effective consultation with Roma themselves. The full text of the viewpoint follows:

“In recent months a number of Roma families in several European countries have been evicted by force from their homes. In most cases local

authorities took the decisions. The tenants were not given adequate notice or offered a real alternative. It is clear that several of these evictions violated European and international human rights standards.

Several serious cases have been reported to me. In the

Dorozhny village in Kaliningrad more than 200 Roma were evicted in late May and early June and had their houses bulldozed to ruins. This followed speedy court procedures [that] were criticized by reliable non-governmental organizations for being unfair to the Roma.

In the village of Elbasan in Albania a similar action was taken in July against 109 Roma residents. It is reported that they were not allowed to remove their personal belongings before the destruction of their homes and that many of them now are homeless. In Patras, Greece, thirteen homes of Makrigianni Roma who were away for seasonal work elsewhere were demolished in late July.

I have also received information about evictions or planned such actions in other parts of the Russian federation and in Bulgaria, the Czech Republic, France, Turkey, and the United Kingdom. In several cases the destruction of homes and property has been accompanied by violence and racist language.

These reports, many of them confirmed by the European Roma Rights Centre in Budapest, raise several concerns. One is that there appears to be an alarming element of racism or anti-ziganism behind these actions and the way they are enforced.

Another is, of course, the dramatic consequences for the families themselves, including

their children. Without a real home they also face difficulties in enjoying other rights, such as the right to education and health. A pattern of social segregation is perpetuated.

An argument put forward for the evictions in several cases has been the need to construct new, more modern buildings in the same area. However, Roma families are seldom offered accommodation in such new houses. Indeed, they are still disproportionately represented among the homeless and those living in sub-standard housing. Roma ghettos and shantytowns can still be found on our continent today.

My predecessor as Commissioner for Human Rights reported several times that housing conditions is a major cause of Roma exclusion in Europe. He did not accept, rightly so, the old argument that Roma people are nomads and therefore do not want or need proper housing.

Decisions that some people have to move because of new city plans are of course sometimes justified. However, the manner in which such initiatives are prepared and implemented should be in accordance with agreed human rights norms and procedural safeguards.

The consequence of these norms is that forced evictions only can be carried out in exceptional cases and in a reasonable manner. Everyone concerned must be able to access courts to review the legality of planned evictions

before they are carried out this requires the existence of both legal remedies and legal aid possibilities.

Alternatives to evictions should be sought in genuine consultation with the people affected, while compensation and adequate resettlement have to be offered when forced evictions take place.

These norms also apply to local authorities. That abusive decisions sometimes are taken on local level does not absolve the central government from responsibility under its international obligations. The state should exercise oversight and, if necessary, regulate local action.

The monitoring mechanisms of the European Social Charter have already found several countries at fault of their treaty obligations regarding the housing rights of Roma. Furthermore, the European Court of Human Rights has judged that poor housing conditions can, in certain cases, amount to breaches of the prohibition of torture and inhuman and degrading treatment under the European Convention. The UN Committee against Torture has taken a similar position.

National, regional and local authorities have to take action now. In a recommendation dating from 2005, the Committee of Ministers of the Council of Europe has given clear guidance to all member states on improving the housing conditions of Roma. Instead of evicting Roma families their right to

adequate housing should be respected. One precondition is an effective consultation with the Roma themselves.

Europe has a shameful history of discrimination and severe repression of the Roma. There

are still widespread prejudices against them in country after country on our continent. This makes it particularly important that governments are alert to the risk of unfair and degrading treatment of Roma also by local authorities.”

The text of the statement is available online at: [http://www.coe.int/t/commissioner/Viewpoints/060904\\_en.asp](http://www.coe.int/t/commissioner/Viewpoints/060904_en.asp). (ERRC)

## **FRANCE**

### ✧ **French Mayor Sentenced After Setting Fire to Romani Camp**

According to a 15 May 2006 report by the French Romani organisation La Voix des Roms, a local court in Strasbourg found Mr Michal Habig, mayor of the northeastern French town Ensisheim, guilty in connection with the destruction of an illegal Romani camp at the out-

skirts of the town. The court reportedly imposed a six-month suspended sentence on Mayor Habig for his role in the event which took place in January. According to La Voix des Roms, on the day of the event, Mayor Habig ordered his staff to burn down a deserted fourteen-caravan camp, himself throwing a flaming rag into the heart of what he described as a “veritable shantytown”. The case

reportedly sparked fierce controversy – with local residents voicing support for the mayor’s radical action – while French anti-racism and Roma rights groups joined the civil lawsuit against him. Further information on the human rights situation of Roma in France is available on the ERRC’s Internet website at: <http://www.errc.org/db/01/A1/m000001A1.pdf>. (La Voix des Roms)

## **GREECE**

### ✧ **Ongoing Evictions of Roma in Greece**

Roma in Greece still do not benefit from protection against forced evictions, despite international rulings ordering Greece to improve its record in the area, according to a 22 September 2006 letter of concern by the Centre on Housing Rights and Evictions (COHRE) to the Greek Prime Minister, Mr Kostas Karamanlis. In its letter, COHRE noted several forced evictions and threatened evictions of Romani families that took place during the summer months.

For instance, on 2 and 3 August 2006, municipal authorities in the city of Patras served

notice of urgent police measures to evict approximately forty-five Romani families residing in the Makrigianni district. However, beginning on 24 August, before a pending court ruling could be issued regarding the authorisation of these measures, municipal authorities began to demolish the remaining Romani homes in the Makrigianni and Riganokampos districts, claiming these were “cleaning operations of abandoned sheds.” These evictions closely followed a similar action in Patras when, on 27 July, Patras municipal authorities demolished the homes of thirteen Romani families living in the Makrigianni district while the occupants were away for seasonal work.

Earlier, according to COHRE, on 18 July, in the Kladiso area of Hania on the island of Crete, an inter-municipal “ecological” company, with police assistance, demolished ten Romani homes without a court order, while the occupants were away.

At the time of COHRE’s letter, over 200 Romani households were facing eviction in the Votanikos district of Athens. The homes of the affected individuals are reportedly situated on land designated for the construction of a football stadium. However, COHRE stated that Athens municipal authorities had not discussed relocation with the residents and had not presented a court order at

the time of its report. On 1 August, COHRE and eight other organisations sent a letter of concern to the then Mayor of Athens and Foreign Minister, Dora Bakoyannis, but did not receive a response

In its letter to Prime Minister Karamanlis, COHRE requested the immediate cessation of all forced evictions; the allowance of forced evictions only in the most exceptional circumstances;

the provision of feasible alternatives for further planned evictions, through a process of genuine consultation with affected people; and the provision of adequate alternative accommodation and compensation to all evicted families, in those exceptional cases where evictions are absolutely necessary.

As of the date this edition went to press there was no answer from the Greek authorities

to the letter of concern. According to information provided by the Greek Helsinki Monitor (GHM), on January 30, 2007, the Athens Prefect and a team of public health inspectors visited the Romani settlements in the area of Votanikos and acknowledged the dire conditions and health risks, especially for children. They committed to clean the area and relocate the communities to more suitable living conditions. (COHRE, GHM)

## **HUNGARY**

### ✧ **Hungarian Media Promotes Anti-Romani Hatred**

October 2006 saw a wave of anti-Romani media coverage spread through Hungary following the beating death of Mr Lajos Szögi, aged forty-four, by an angry mob. The assault took place in the afternoon hours of 15 October in the village Olaszliszka in Borsod-Abaúj-Zemplén County, Hungary, in reaction to a road incident in which Mr Szögi hit an eleven-year-old Romani girl with his car.

Following the death of Mr Szögi, major commercial Hungarian TV channels and dailies, such as TV2, Magyar Nemzet and others blamed the local Romani community, quoting spokespersons of various organisations, public figures and media representatives as revealing

of the "Roma issue". A number of media also labelled the alleged perpetrators indiscriminately as "the Roma". Some publications contained extremely ugly incitement to racist violence, as for example an article by Zsolt Bayer in the 17 October issue of Magyar Nemzet, advising drivers to step on the gas and drive away without stopping if they run over a Romani child.

On 17 October, the ERRC issued a public call to Hungarian journalists, editors and other members of the media to refrain from inflaming racist sentiment and to maintain high professional standards of responsible journalism. Racially inflammatory publications may abruptly and/or dramatically degrade the public sphere, cause threats to individuals, or otherwise give rise to arbitrary, race-based harm. (ERRC)

### ✧ **Legal Victory in Hungarian Roma School Segregation Case**

According to a press release by the non-governmental organisation Chance for Children Foundation (CFCF), on 9 June 2006, the Debrecen appeals court overruled a negative first instance judgment in a case brought against the segregated education of Romani children in a school in the northeastern Hungarian city of Miskolc. The Court found that a decision that integrated seven schools without simultaneously redrawing the catchments areas of Miskolc upheld the segregation of Romani children, thus violating their right to equal treatment based on ethnic origin. The court ordered local authorities in Miskolc to publicise the finding through the Hungarian Press Agency. (CFCF)

## ITALY

### ✧ **European Commission on Racism and Intolerance Reports on Italy**

On 16 May 2006, the Council of Europe's European Commission against Racism and Intolerance (ECRI) made public its Third Report on Italy. In its report, ECRI highlighted the failure of Italian authorities to implement recommendations it made earlier in its Second Report. ECRI's report contained extensive reference to the situation of Roma, followed by recommendations to Italian authorities, including:

“92. In its second report, ECRI [...] made recommendations to the Italian authorities aimed at improving the situation of this part of the Italian population in vital fields such as housing, issuing of personal documents, education, employment, health, administration of justice and relations with the police. ECRI notes with regret, however, that no or very little progress has been achieved since then in virtually all the fields highlighted in that report.

93. In its second report, ECRI recommended that a comprehensive policy to improve the situation of the Italian and non-Italian Roma and Sinti populations across a wide range of areas and to counter discrimination against them, be elaborated at national level. ECRI notes that there has been no progress towards the establishment of such a policy and that there is no meaningful

co-ordination of or support for the action taken by the regions in these fields at the national level. Civil society organisations have, however, consistently underlined that the situation of disadvantage, marginalisation and discrimination of Roma and Sinti is such that without national co-ordination and leadership it cannot be addressed in a sustainable way.

94. In its second report, ECRI recommended that legislation in force to protect the right of historical and linguistic minorities be extended to cover Roma and Sinti. The Italian authorities have reiterated that extension of such protection is impeded by the fact that Roma and Sinti are not linked with a specific part of the Italian territory. However, they have also reported that they are considering legislation aimed at favouring the settlement of the non-sedentary Roma and Sinti populations on Italian territory – ECRI is not aware of the details of this legislation – and that inclusion of Italian Roma and Sinti in the general legislation protecting historical and linguistic minorities could subsequently be effected.

95. In its second report, ECRI noted that the Italian authorities tended to approach all issues relating to Roma and Sinti from the assumption that the members of these groups live a nomadic lifestyle. ECRI considered that it was particularly urgent

to change such an approach, since it had resulted, notably, in the forcible relegation of many Roma and Sinti into camps for nomads. Civil society organisations have reported to ECRI that Roma and Sinti are still considered as nomadic populations in official policy, especially at national level. However, ECRI also notes that some progress has been made in a few regions, where, in collaboration with the communities concerned, local authorities have started to partially eliminate camps, as suggested by ECRI in its second report. By and large, however, the situation remains the same as described in ECRI's second report, with approximately one-third of Roma and Sinti, both citizens and non-citizens, living in conditions of practical segregation from the rest of society in camps for nomads, in many cases without access to the most basic facilities.

96. In its second report, ECRI urged the Italian authorities to address the Roma and Sinti's lack of documents, including Italian passports and residence permits. ECRI has continued to receive reports according to which many Roma and Sinti born in Italy or who have lived in Italy most of their lives, and their children, do not have Italian citizenship. In many cases, these persons only have short-term residence permits and in some cases no residence permits at all. ECRI has also received

reports that a few hundred stateless Roma children currently live in Italy.

97. In its second report, ECRI recommended that the Italian authorities strengthen their efforts to ensure that all Roma and Sinti pupils benefit fully from compulsory schooling. The Italian authorities report that over 13 000 Roma and Sinti children are enrolled in school, although not all of them attend regularly. However, civil society organisations report that as many as 20 000 Roma children, virtually all non-citizens from the Balkans and Romania, are at present outside the compulsory school system. ECRI understands that a Protocol has been signed by the Ministry of Education with Opera Nomadi, a voluntary sector organisation, in order to address this problem. ECRI is pleased to note that the Italian authorities object to teaching Roma children in separate classes. However, it notes reports ac-

ording to which decisions by non-Roma parents to move their children from schools attended by Roma children has resulted in classes in certain schools being left with Roma children only. In its second report, ECRI recommended that the Italian authorities take measures to facilitate the participation of Roma and Sinti students in further and higher education. However, it has been reported to ECRI that, in some cases, lack of residence permits has prevented Roma children willing to pursue further education from doing so."

ECRI recommended that Italian authorities "establish a comprehensive policy at national level to address the situation of marginalisation, disadvantage and discrimination of the Roma and Sinti populations"; "establish an effective co-ordinating mechanism at national level, with the participation of national and local authorities, Roma and Sinti representatives, civil

society organisations and other relevant partners"; "find a suitable legal means to protect the Roma and Sinti along the lines of historical and linguistic minorities and to co-ordinate existing regional policies and efforts to overcome the barrier of non-territoriality"; "eliminat[e] camps for nomads"; "take immediate steps to address Roma and Sinti's lack of passports and residence permits"; "ensure that all Roma and Sinti children are enrolled in school and to strengthen their efforts, in collaboration with the communities concerned, to favour regular school attendance by these children"; and "take urgent action to improve the position of Roma and Sinti in other fields, including employment, health, relations with the police, administration of justice and general prejudice in society." The full text of the report is available on the Internet at: [http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-country\\_approach/italy/italy\\_cbc\\_3.asp#P447\\_74414](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/italy/italy_cbc_3.asp#P447_74414). (ERRC)

## LITHUANIA

### ✧ Lithuanian Parliamentarian Promotes Violence against Roma

On 16 September 2006, the Lithuanian TV station LNK broadcast a programme on the drug trade in Lithuania, drawing explicit links between drug selling and the Kirtimai Romani district in Vilnius and condemning the supposed inaction of police. During the broadcast, Ms Ramune Visockyte,

Chairperson of Lithuania's Parliamentary Drug Addiction Prevention Commission, condemned police and officials for not acting on drug issues in the Kirtimai district, which she labelled a "bad, infamous place", because they are afraid of international human rights organisations. Ms Visockyte also stated during the programme that human rights organisations defend the rights of drug sellers

rather than the rights of potential victims of drug addiction. Ms Visockyte went further to present the demolition of Romani homes as an effective way to fight drug selling and drug addiction, while citing concrete successful examples such as the demolition by officials of Romani homes in the Russia's Kaliningrad Region. For further information, visit LNKs website at: <http://www.lnk.lt/laidos/?id=132>.

## **ROMANIA**

### ✧ **Romanian Authorities Forcibly Evict Roma in Romania**

According to ERRC documentation, twenty-five Romani families, comprising approximately 110 individuals, were forcibly evicted just before noon on 11 October 2006 from a building situated in the eastern Romanian city of Tulcea at 5 Alunisului Street, a building they had occupied for the previous seven years. The eviction took place after the Tulcea Tribunal handed down a judgment in August allowing the request of the building's present owner to have the occupants evicted.

Eighteen of the families (approximately eighty people) evicted from Alunisului Street had no alternative but to accept lease contracts offered by the Municipality for rooms in two derelict buildings situated four kilometres away from the town, in an enclave inside the Tulcea industrial port. These highly inadequate structures were the sole arrangements made for alternate shelter. The two buildings are in an advanced state of disrepair, with no access to electricity, hot water, sanitation and only limited access to drinking water, from a tap located outside. A number of heavy industries are located in this area. Notably, right next to the buildings occupied by the evicted Roma, ships carrying bauxite ore are unloaded and the ore is transported to a nearby storage facility with heavy open trucks. As a result everything in the area is covered with red dust that makes breathing difficult. By 31 October, three people

had already been taken by ambulance to the hospital, complaining of skin problems, lung pain, and other ailments. In addition to the imminent danger to health for any people forced to live there, the new location offered by local authorities is far from all communal facilities such as schools, hospitals, churches and shops. Since their relocation, the affected children have stopped going to school because of the distance and because their parents feared for their safety.

The remainder of the people evicted from Alunisului Street, for whom there was not enough room in the buildings in the industrial port or who refused to move there, were left sleeping rough in the streets outside the building on Alunisului Street. Seven families, comprising approximately thirty people, including infants and old people, have had to sleep outside in temperatures as low as 0°C during night time. As a result of efforts by local activists and a representative of the ERRC, the temporary solution of a tent was provided by the Red Cross for these people.

Local authorities have refused to respond to the pleas for help launched by the affected Roma and their representatives. The solution they offered with regard to those people rendered homeless by the eviction was to move them to mobile housing located outside Tulcea, also in a heavily industrialised area. However, as the authorities themselves have acknowledged, these structures offer little more than very limited shelter since they cannot be con-

nected to any utilities. Given the onslaught of winter, these cabins are uninhabitable.

The 11 October eviction was the high point of a cycle of neglect and deprivation lasting more than seven years. Most of the families evicted used to live in informal housing on Plugarilor Street in Tulcea. When their houses burnt down due to a faulty electrical installation in August 1999, they were left to sleep outside among the charred ruins for months on end. Under pressure to find a solution, the municipality identified an empty building on Alunisului Street, abandoned at the time by its owner, and reportedly explicitly encouraged the homeless Roma to occupy it until a more permanent arrangement could be found. At the same time, the affected people made numerous requests for social housing, most of which remain unresolved to this day. These people never had security of tenure for the rooms in the building on Alunisului Street, although they paid utility bills regularly. Over the years, the living conditions in the building deteriorated markedly, under pressure from overcrowding and the lack of maintenance. The local authorities were aware of the unsustainable situation in Alunisului Street, but generally refused to undertake any actions aimed at regularising the Roma's situation in the building. The former owner of the building even offered to donate the building to the authorities, but this offer was turned down for unknown reasons. Eventually, the owner

sold the building for a derisory sum to another company based in Tulcea. The new owner initiated eviction proceedings, and obtained a favourable judgment. On 20 August 2005, the Romani families from Alunisului were forcefully evicted from their flats, and had to spend almost four months in the open air. Some of them returned to the remains of their houses in Plugarilor, others squatted in parks, gardens, and other public spaces. A small number of families built mud houses on a plot of private land outside Tulcea, where they live in extreme conditions to the present day, and could face eviction at any time, due to the lack of title deeds for their houses or the land on which they are built.

Following the decision of a higher court to reverse the lower court's judgment for procedural flaws, most of the Roma returned to the building at 5 Alunisului Street in October 2005. However, their lives were again disrupted by a new set of legal proceedings that resulted in the second forced eviction referred to above. On 31 October 2006, the ERRC and the Romanian Helsinki Committee sent a letter of concern to Romania's Prime Minister, copied to the Mayor of Tulcea, urging that the affected families be provided with an adequate housing solution immediately.

In December 2006, the municipality moved those Romani families who remained homeless after the October eviction into mobile houses which were placed on a garbage dump.

As of 1 March 2007, the situation of the families living

outside the town limits in the Industrial Port, remained unchanged. (ERRC)

#### ✧ **Police Abuse of Romanian Roma**

According to information published by the Romanian Romani organisation Romani CRISS, on 7 September 2006, police attacked thirty-six Roma and one non-Roma during an intervention in the predominantly Romani neighbourhood Apalina in the northern Romanian town of Reghin.

Romani CRISS reported that approximately fifteen police officers entered Apalina on the date in question, claiming to be looking for two suspects in an alleged attack on a police officer. During confrontations involving the police, local Romani residents and Romanian Special Police Forces, thirty-six Roma and one non-Roma were injured. Police used tear gas spray, tear grenades, truncheons, guns and pistols during the incident. Seventeen of the victims were women and five were minors. In total, twenty-two Roma were shot and fifteen were hit or threatened with a gun. One of the victims, a 54-year-old Romani woman, was reportedly sweeping her front yard when she was shot in the back.

A press release by the Reghin Police Department issued just after the incident stated that two police officers were injured during the incident. However, reports issued by the police in the following days reportedly changed somewhat, stating that the officers entered the neighbourhood in order to hand out citations and that six officers

had medical certificates attesting to their injuries. The Minister of Administration and Interior, Mr Vasile Blaga, stated publicly that the "Police have done their duty and respected the legal framework and the event, although regrettable, cannot be blamed on the law enforcement officials who had to defend themselves from a violent mob of over 150 people. [The police] defended themselves to avoid being seriously injured or even lynched."

Romani CRISS also reported that some of the injured Roma were denied medical care and/or were prematurely released from hospital. In addition, some physicians reportedly refused to remove bullets from people's bodies to avoid being connected to the incident.

In February 2007, the General Police Inspectorate announced that following an internal investigation in relation to the incidents in Apalina, all officers involved were cleared of any responsibility. (Romani CRISS)

#### ✧ **Romania's Anti-Discrimination Law Amended**

On 14 July 2006, the Romanian government adopted a law amending Ordinance No. 137/2000; the Romanian Government Ordinance on Preventing and Punishing All Forms of Discrimination. The recent amendments bring long awaited revision to antidiscrimination legislation in Romania. With the amendment, Romanian lawmakers have removed the National Council for Combating Discrimination (NCCD),



long noted for lacking the independence required to be effective, from the supervision of the Government, placing it under parliamentary supervision. The amendment also extended the deadline for filing a complaint before Council from six months to one

year from the date of cause of the action. Under the amended law, a victim of discrimination no longer has to go to the NCCD before going to courts. The NCCD was also obliged under the amended law to elaborate an internal procedure for investigating complaints

of discrimination and a national strategy for the implementation of measures aimed at preventing and combating discrimination within sixty days from the date of entering into force of the new law. (ERRC)

## RUSSIA

### ✧ **Russian Law Enforcement Officers Continue with Racial Profiling of Roma**

According to numerous reports in Russian regional press and leading Internet information sources, at the end of September 2006, Samara regional law enforcement authorities launched a new police operation called “Tabor-2006”. This name points directly to members of the Romani minority since “tabor” is the Russian name for Romani settlements. On 27 September 2006, the online information source regions.ru quoted police officials as having underlined that the main objective of the operation is “the exposure and suppression of crimes related to the legalisation of financial resources and other property obtained as a result of committing of drug-related crimes by the criminal ethnic groups.” However, several other online information sources have drawn explicit links between the activities of Samara regional law enforcement authorities within similar operations and persons belonging to the Romani ethnic minority. For example, on the same date, tltnews.ru published the following:

“[...] within the framework of operation “Tabor 2005,” carried out last year in the

course of work amongst persons from Romani and other ethnic groups, the illegal activity of organised criminal groups have been precluded. According to information provided by the Press Service of the Russian Federal Drug Control Service in the Region of Samara, these groups have organised channels for the contraband delivery of drugs to the territory of Russia.”

On 10 October, the ERRC sent a letter to the Department Chief of the Ministry of Interior of the Samara Region, urging immediate actions to end abusive police operations targeting Roma in the region of Samara. The letter was copied to the General Prosecutor of the Russian Federation. The full text of the letter is available at <http://www.errc.org/cikk.php?cikk=2635&archiv=1>. As of 1 November, the ERRC had not received any response from Russian officials.

The ERRC has repeatedly raised concerns related to similar police operations conducted in Cheboksary, Moscow, Saint Petersburg, Yaroslavl, and other cities and regions in Russia, especially when reports of abusive raids and invidious investigations against Roma living in

segregated or mixed settlements had been received. Further information about police operations known as “Tabor” in Russia is available in the ERRC’s Country Report “In Search of Happy Gypsies: Persecution of Pariah Minorities in Russia.” The full text of the report is available at: <http://www.errc.org/db/01/9A/m0000019A.pdf>. (ERRC, Romani Duma)

### ✧ **Further Action against Hate Speech in Russia**

On 10 August 2006, the ERRC sent a letter of concern to Mr Nikolay Zaikov, editor-in-chief of the Russian daily newspaper Vechernij Novosibirsk, expressing concern at the rise of anti-Romani hate speech published in the newspaper and with the continuous identification of Roma with illegal drug dealing and crime. The letter was copied to the Siberian Regional Directorate within the Russian Federal Surveillance Service for Compliance with the Law in Mass Communications and Cultural Heritage Protection.

Vechernij Novosibirsk, without any editorial remarks, quoted Mr Andrey Dmitriev, Deputy Director of the Regional Directorate of the Federal Drug Control

Service (FDCS), as having stated on several dates in 2005 and 2006 that “Yes, there are Roma in Novosibirsk region, who do not sell opium. These are the Roma who sell heroin. The number of others is very low.” The newspaper repeatedly referred to Roma in articles relating to criminal activities and in published records of criminal activity.

The ERRC urged the editor-in chief and journalists of *Vechernij Novosibirsk* to take a firm stand against hate speech and to refrain from inflammatory anti-Romani language in their publications.

Media monitoring by the ERRC and Russian local partners in Moscow, the region of Samara and several other regions in Central Russia, points to the fact that Russian media contributes to the perpetuation of anti-Romani racism by creating a strong association between Roma and crime and by even encouraging, in some instances, violence and discrimination against Roma. (ERRC)

#### ✧ **European Commission on Racism and Intolerance Reports on Russia**

On 16 May 2006, the Council of Europe's European Commission against Racism and Intolerance (ECRI) made public its Third Report on the Russian Federation. ECRI's report contained extensive reference to the situation of Roma, followed by recommendations to Russian authorities, including:

“92. [...] Roma in particular are victims of the deterioration of the general climate of opinion as regards

racism and intolerance. It is generally accepted that Roma arts, and particularly music, are well appreciated throughout the country, as the significant number of Roma festivals and initiatives aimed at developing this culture show. However, this contrasts starkly with the dire conditions in which the majority of Roma live and with the general behaviour of the authorities and members of the public towards Roma communities.

93. Relations between the police and the Roma can be very problematic. The issues raised in other parts of this report concerning the conduct of law enforcement officials are particularly relevant to Roma: they are victims of arbitrary identity checks, detention, extortion of money and the fabrication of incriminating evidence by members of the police. There are allegations of some Roma having been ill-treated and even tortured by police officers, resulting in some cases in the death of the victim.

94. In 2002 a nation-wide operation was carried in order to combat drug trafficking. This operation was called “Tabor”, which means “Roma encampment”. It consisted of random police raids against several Roma encampments in order to find drugs and drug-dealers, without concrete reasons for believing that there were drugs in the encampments searched. Roma organisations have complained about this discriminatory operation to the

Ministry of Interior, whose representative accepted that it was a matter for regret and promised that it would not be repeated. Unfortunately, it seems that since then, local police, such as the police of St Petersburg in 2004, have occasionally organised raids under the same pretext as “Tabor”.

95. Many Roma encounter the difficulties described in other parts of this report in obtaining Russian citizenship and/or residence registration. As a result, they also face insurmountable obstacles in access[ing] public services. It has been reported that there have been cases of direct discrimination in access to public services against Roma based solely on their ethnic origin. (As regards access to education and to employment, see above).

96. Roma are also the victims of racially motivated violence on the part of members of the majority population and skinheads. The fact that many Roma live in compact settlements on the outskirts of cities apparently makes them more vulnerable to such racially motivated attacks.

97. The level of stereotyping of and prejudices against Roma disseminated in the media remains high. Roma are generally portrayed as naturally inclined to crime, especially drug dealing. In some cases, the media have even incited to racial hatred, notably by reporting open calls to murder Roma, without issuing any warning or condemnation.

98. ECRI notes that, alongside measures to promote Roma culture, the authorities have also set up programmes to facilitate Roma children's access to education or to improve the social and economic conditions of Roma. [...] However, in the opinion of human rights and Roma organisations, such efforts are far from sufficient to solve the existing problems and the authorities should also make sure that Roma take a more active part in drafting and implementing such programmes, as well as in public life in general.

99. ECRI notes with regret that the Roma coming from CIS countries experience double discrimination resulting from their ethnic origin combined with their lack of Russian citizenship. Particular attention should therefore be paid to their situation in taking measures to combat racism and racial discrimination against the Roma in general, in order to ensure that they also benefit from these measures."

ECRI recommended that Russian authorities "do their utmost to tackle the problems of

racially motivated violence and racial discrimination faced by Roma in their daily lives [...] to ensure that relations between Roma communities and the police, as well as the media and the majority population, improve considerably and [...] to regularise the legal status of many Roma." The full text of ECRI's report is available on the Internet at: [http://www.coe.int/t/e/human\\_rights/ecri/1-ecri/2-country-by-country\\_approach/russian\\_federation/russian\\_federation\\_cbc\\_3.asp#P78\\_4048](http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/russian_federation/russian_federation_cbc_3.asp#P78_4048). (ERRC)

## **SERBIA**

### ✧ **Serbian War Crimes Court Sentences Kosovo Albanian for Atrocities against Roma**

According to the online news source Serbianna.com of 18 September 2006, Serbia's war crimes court convicted Mr Anton Lekaj, an ethnic Albanian rebel fighter, of atrocities against Kosovo Roma in 1999 and sentenced him to thirteen years in prison. Mr Lekaj, a

former member of the rebel Kosovo Liberation Army (KLA), was convicted of war crimes against Kosovo civilians, including torture, rape and murder.

Mr Lekaj ambushed a convoy of Roma in Kosovo on 12 June 1999. Passengers from the convoy were abducted and "tortured and sexually molested with extreme cruelty". The ruling named four of the abducted, who allegedly were

later executed by Lekaj and his fellow rebels.

Mr Lekaj was arrested during a car theft in August 2004 in Montenegro; Montenegrin authorities later extradited him to Serbia. The sentencing is the first against an ethnic Albanian from Kosovo on charges stemming from the 1998/99 war delivered by a Serbian court. (Serbianna.com)

## **SLOVENIA**

### ✧ **Romani Community Relocated Following Death Threats in Slovenia**

On 29 October, police evacuated a group of around thirty Roma from Decja vas, near the village of Ambrus, municipality Ivančna Gorica, including a number of children, to the Postojna refugee centre, a former military barrack, in order to protect them from local non-

Roma. This action was undertaken as a result of a conflict arising from an incident occurring around one week previously, in which a non-Romani man was reportedly attacked by inhabitants of the settlement. Following the attack, on 23 October, non-Romani villagers met and openly called for violence against local Roma. Police were reportedly present at the meeting, which

was broadcast on national television, but failed to intervene.

Following the meeting, the entire Romani community fled from their homes into the forest. They spent several nights hiding in the forest in fear of retribution from non-Roma, who threatened them with a range of actions, including death. On 28 October, the local Roma attempted to return to their homes

under police protection. However, approximately 200 non-Romani local residents objected to the return of the Roma and, under threat of violence, demanded that authorities resettle the Romani community living there to a more suitable location "due to security and ecological reasons". Local non-Roma reportedly maintained that "Roma would never return to the area". Due to the credible and evident threat of mob violence, Slovene police blocked access to the Romani settlement and special police units were brought in.

On the evening of 28 October, allegedly "all sides" reached an agreement that Roma would be temporarily resettled to the Postojna refugee centre. In the Postojna centre, there is running water and sanitary facilities, but there is no warm water and no heating. As a result, Mr Jurij Zaletel, Head of the Sector for the Integration of Refugees and Aliens of the Ministry of Interior, said that Roma would be able to go to the nearby facility "Veliki Otok", a closed detention centre

for aliens, two to three times per week in order to shower.

Slovene Human Rights Ombudsman Matjaz Hanzek reportedly stated that the rule of law has been dangerously undermined as "a mob that threatens with death can decide where someone will live". He also warned that such treatment might serve as a signal to others and that this pattern might be repeated in the future.

On 6 November, the ERRC and the Slovene section of Amnesty International sent a letter to Slovene Prime Minister Janez Jansa expressing serious concern that Slovene authorities may be involved in facilitating the forced eviction of a Romani settlement near the village of Ambrus, following actions by a non-Romani mob. The letter noted that the police acted to protect members of the Romani community from those who threatened their safety. Recognising that the relocation of the community to temporary housing in Postojna may constitute a legitimate measure to

ensure their safety, concern was nonetheless expressed that the continued presence of the community in Postojna may no longer be necessary or proportionate to address the initial threat. The organisations also observed in the letter that any such limitation on the rights to privacy and to adequate housing should be limited in time strictly to what is necessary in the circumstances. Acts of racial violence should be thoroughly investigated.

In addition, police appear to have only begun to take seriously the gravity of the threats to persons concerned on 28 October, a number of days after the beginning of the episode. In the letter sent to Prime Minister Jansa, concern was also expressed that authorities had not acted with due diligence to condemn and investigate what appeared to be racially motivated attacks, with a view to bring those responsible to justice. The letter further expresses concern at reported plans to permanently relocate the affected Roma to alternate sites. (ERRC)

## **SPAIN**

### **✧ Charges Brought in Spanish Racial Violence Case**

On 30 June 2006, the Spanish national newspaper El Pais reported that the Aracena First Instance Court in Huelva, Spain, brought charges against sixteen people, including Mr Antonio Marín, Mayor of Cortagena's Las Eritas neighbourhood where, in January 2005, violent demonstrations against local Roma took

place. Mayor Marín was integral to the organisation of the demonstration and himself took part in it (background information is available at: <http://www.errc.org/cikk.php?cikk=2344&archiv=1>).

Mayor Marín was charged in accordance with Article 514(1) of the Spanish Penal Code for organising an illegal demonstration with the purpose of committing a crime or that are attended by people armed and to those that

organise demonstrations previously suspended or prohibited. The decree specifies that Mayor Marín was accused on the basis of his acknowledgement of his partial role in the call for the demonstration, the organisation and participation in the demonstration, as well as the lack of measures to prevent the demonstration from becoming violent.

The remaining fifteen persons were reportedly charged with inciting discrimination,

hatred or violence against groups or associations for rac-

ist motives, religion or beliefs, family situation or for belong-

ing to an ethnic or racial group. (ERRC, El Pais)

## **TURKEY**

### **◇ Housing Rights Violations Result in Death of Romani Baby; Ongoing Evictions of Roma in Turkey's Capital**

According to information provided to the ERRC by the Istanbul-based non-governmental organisation Accessible Life Association, on 27 November 2006, Zeynep Açıbüken, a five-month-old Romani baby, died in the Yahya Kemal neighbourhood in Istanbul's Kağıthane district, reportedly as a result of exposure to extremely sub-standard conditions after the demolition of her family's house by municipal authorities in May 2006. According to the testimony of Ms Sultan Eser, the baby's mother, on 26 November Zeynep fell ill and had difficulties breathing. She was taken to hospital, where a doctor prescribed medicine. She was given the medicine the same day. The following morning, however, the baby was found dead.

According to the testimony of Ms Eser, municipal authorities destroyed the house of her family in May 2006. Following the destruction of their house, the family lived in a tent built with leftover material from the destroyed house. Ms Eser stated that they had no running water and heating as of 27 November. The family was not provided with affordable alternative accommodation following the destruction of their house. Compensation provided by the municipal authorities was reportedly enough to

cover renting a house for a very short period.

Demolition of Romani houses in the Kağıthane district of Istanbul have been going on for at least one year, according to Roma from the neighbourhood with whom the ERRC spoke. In September 2006, the ERRC and partner organisations visited the Yahya Kemal neighbourhood and learned that the neighbourhood had some thirty-three houses, home to about seventy-five families. The Roma had lived there for the past fifty to sixty years. Since 2005, the Kağıthane municipal authorities and Istanbul metropolitan municipal authorities carried out several targeted actions to demolish the houses of the Roma, reportedly in order to transform the area into a green area. In some instances, the demolition of houses was reportedly accompanied by violent actions by special police forces who used pepper gas to disperse the Romani inhabitants. After the demolitions, many Roma continued to live in the neighbourhood, in shacks and tents, due to the lack of any other housing provisions.

On 29 November, the ERRC sent a letter of concern to Mr Recep Tayyip Erdoğan, Prime Minister of the Republic of Turkey, copied to Mr Kadir Topbaş, Mayor of the Istanbul Metropolitan Municipal Authority, and Mr Fazlı Kılıç, Mayor of the Kağıthane Municipal Authority, requesting

his intervention to secure adequate shelter for the homeless families during the winter months and to implement social programmes to find a durable solution to socially vulnerable Romani families whose housing had been destroyed in recent months. The ERRC also requested that Prime Minister Erdoğan ensure that the arbitrary destruction of Romani housing in Turkey is stopped without delay.

In related news, according to ERRC documentation, on 22 November the last Romani house in Istanbul's Küçükbakkalköy neighbourhood was demolished, together with several Romani families' barracks. The home housed a twenty-two-member Romani family who legally owned the property. This was the last Romani house in the neighbourhood; the only house spared by the bulldozers in the settlement belongs to a non-Romani family, who reportedly were promised that they would receive a flat in the new apartment complex to be built on the land.

The affected Romani individuals had previously been subjected to severe harms at the hands of public officials in the Küçükbakkalköy neighbourhood; on 20 July, police and municipal officials demolished 120 Romani houses in the Küçükbakkalköy neighbourhood as part of the Urban Transformation project of the Istanbul Metropolitan Municipal

Authority. Part of this neighbourhood used to be home to about 200 Romani families.

In the absence of adequate social support and/or alternative accommodation, the evicted families were forced into homelessness. ERRC documentation reveals that owing to their homelessness, a number of children cannot attend school. Several of the people affected by the forced evictions are sick and some are in need of constant medical attention. For example, Mr Aydogan Dalkoparan, who lives now in the street, was diagnosed with "chronic obstructive lung disease", which renders him 80 percent disabled.

On 29 November, the ERRC and the Accessible Life Association sent a letter of concern to Mr Selami Öztürk, Chairman of the Istanbul's Kadıköy Municipality, urging the municipal authorities to cease without delay

its actions leading to severe human rights harms and to design and implement an acceptable solution of the housing situation of the affected Roma, in consultation with the communities concerned. The ERRC and the Accessible Life Association also asked that the Romani families whose homes were demolished be immediately provided with alternative accommodation as well as with due compensation for the loss of and/or damage to their property. (ERRC)

#### ✧ **Turkish Lawmakers Amend Racist Law**

According to research by the ERRC and partner organisation Helsinki Citizen's Assembly (hCA), in mid-September the Turkish Grand National Assembly approved an amendment to the 1934 Turkish Law of Settlement. The amendment sees the change of Article 4

of the law, which stated "A) Those who are not attached to Turkish culture; B) Anarchists; C) Spies; C) Itinerant gypsies; and D) Persons deported; shall not be accepted as immigrants into Turkey."

The amended article contains no direct reference to members of the Romani ethnic minority, stating "Foreigners who are not from Turkish descent and who are not attached to Turkish culture; those who have been deported even though they are from Turkish descent and they are attached to Turkish culture; and those who are not welcomed to Turkey for security reasons shall not be accepted as immigrants in Turkey."

The amendment is the culmination of long efforts by non-governmental organisations and Member of Parliament Enis Tutuncu who proposed the amendment in February 2006. (ERRC, hCA)

## **UKRAINE**

#### ✧ **Challenging Segregated Education of Roma in Ukraine**

ERRC documentation conducted in partnership with Ukrainian Romani organisations in the summer and autumn of 2006 revealed the widespread racial segregation of Romani pupils in schools in Ukraine.

According to research conducted by the ERRC and the Romani organisation Romani Zbora in August 2006, a 10-year-old Romani boy was denied enrolment to School No. 1 in the southern Ukrainian city of Odessa.

On 29 August, Mr C.R., a Romani man, asked Mr M.O., Director of School No. 1, to enrol his son M. for classes beginning in September 2006 as the family was moving to that area. According to Mr C.R., Mr M.O. refused to accept M.'s application for enrolment, reportedly because "No space was available". Mr C.R., however, stated that he believed the school director refused to enrol his son because of his Romani ethnicity. On behalf of Mr C.R., on 29 September the ERRC and a local lawyer filed an administrative complaint with the District Court against the Director's decision. As of the date this edition

went to press, the complaint was still pending before the court.

Also in the Odessa Oblast, Romani children in the village of Nerubaisk are forced to study in segregated classes in a separate building at the local school according to documentation by the ERRC and Romani Zbora. Non-Romani pupils at the same school study in the main building. ERRC/Romani Zbora documentation indicates that Romani students receive inferior quality education compared non-Romani pupils at the school and facilities available to Romani pupils are in an advanced state of dilapidation.

The school also does not provide transportation to and from the school for Romani students.

On 2 December, Romani Zbora wrote a letter to the Ministry of Education on behalf of Romani parents whose children attended the segregated school. The letter urged the Ministry of Education to intervene to ensure access of the Romani children to quality education. As of the date this edition went to press, the Ministry of Education had not responded the letter, neither had it sought contacts with Romani Zbora or the parents of the Romani children.

Elsewhere in Ukraine, research conducted by the ERRC and Chachipe revealed the existence of three segregated Romani schools in Uzhgorod, in the Transcarpathian region of Ukraine. At elementary school No. 13, 250 out of 257 (97.3 percent) of the students enrolled are Romani; all 82 pupils of elementary school No. 14 are Romani; and 85 out of 88 pupils (96.6 percent) at the Sredneanskaja elementary school are Romani. In these segregated schools, Romani students receive education of an inferior quality in comparison to that received by students attending other, non-segregated schools, according to ERRC/Chachipe research. These schools maintain extremely bad material facilities, the teachers are less qualified than those at non-segregated schools and the teachers are unprepared for work with bilingual children.

On 12 December, the ERRC and Chachipe submitted a letter to the Ministry of Education expressing concern about the segregated education of Romani pupils

in Uzhgorod and about the fact that the Ministry of Education did not exercise its control functions over the fulfillment of obligations by these schools. As of the date this edition went to press, the Ministry of Education had not responded the letter of concern.

Finally, on 23 August, Mr Lobanov, the director of School No. 14 in the eastern Ukrainian city of Donetsk refused to enrol the 10-year-old child of Ms N.T., a Romani woman, for the school term beginning in September, according to research conducted by the ERRC, Romani Yag and the Romani organisation Miriklelea. According to Ms N.T.'s testimony, Mr Lobanov refused to accept her child's application after enquiring about her ethnicity because there was reportedly no space left in the school and because the child's residence was not registered in the relevant region. At the same time, Ms N.V. and an ERRC representative who were waiting outside overheard the exchange between Ms N.T. and the Director. The Director was reportedly very loud and rude to Ms N.T. As the women were discussing this, the school's secretary, who was sitting nearby, stated "The director has no right to refuse to enrol the Romani child, but he is trying not to accept Romani children in this school because they study badly, do not attend the school regularly, and someone has to be responsible for them."

On 16 October, the ERRC and a local lawyer filed an administrative complaint against the school Director on behalf of Miriklelea with the Donetsk District Court for allegedly refusing to enrol a Romani child on

discriminatory grounds and denying his right to apply for enrolment in the school.

Further information on the situation of Roma in Ukraine can be found in the recent ERRC publication, "Proceedings Discontinued: The Inertia of Roma Rights Change in Ukraine", available on the ERRC's Internet website at: <http://www.errc.org/cikk.php?cikk=2713>. (Chachipe, ERRC, Miriklelea, Romani Zbora)

### ✧ Roma Experience Difficulties in Accessing Justice After Pogrom in Ukraine

In October 2006, Ukrainian authorities suspended criminal proceedings in the case of nineteen Romani families whose homes were looted and burned following their expulsion by angry villagers in the village of Petrovka in Ukraine's Odessa Oblast in September 2002. The case was reportedly dropped because law enforcement authorities had not identified the perpetrators.

According to ERRC documentation conducted in partnership with the Romani organisation Ame Roma, in September 2002, at around 1.00 AM, two Romani men severely beat a 17-year-old Ukrainian boy, who later died from his injuries, during a fight outside a café. The two men were held criminally liable for the death. Following the funeral of the victim, a group of local residents expelled the Romani residents of the village via the use of threats and violence. The nineteen Romani families concerned fled their homes and the village while local police, fully aware of

the situation, did nothing to prevent the violence, and, in some cases, assisted in the expulsion of the families from the village. ERRC research revealed that after the Romani families fled, their homes were robbed and set on fire. Several days later when they returned to the village, they were advised by the local authorities to move away to a different region. With the assistance of Romani Zbora, a Romani NGO, and the ERRC, applications were collected from 19 victims of the attack and sent to the regional prosecutor's office in Odessa requesting that a criminal investigation be initiated. The criminal investigation was closed in April 2003 because the perpetrators were not identified. After appeal and an order from the Prosecutor General to re-open the investigation, the criminal proceedings were suspended in October 2006 due to impossibility to identify the perpetrators. In December 2006, a complaint was filed before the Ivanovsk court of Odessa seeking

a court order to conduct a new investigation. (ERRC)

#### ✧ **Romani Man Released from Ukrainian Prison after Serving Six Years for Crime He Didn't Commit**

According to information provided the ERRC by the Ukrainian Romani organisation Romen, 45-year-old Iuri Visochinenko, a Romani man from Ukraine's Kharkov Oblast, was released from jail on 26 August 2006 after having served six years for a crime he did not commit.

Romen reported that Mr Visochinenko was arrested on 26 July 2000 for the suspected murder of a woman on 14 April 1989. Despite having an alibi, corroborated by several witnesses, Mr Visochinenko was convicted and imprisoned. Mr Visochinenko testified that he was tortured and beaten while being interrogated and

forced to confess to a crime he did not commit. According to Mr Visochinenko, his alibi was not taken into consideration during the investigation and some materials from the files that prove his alibi have gone missing. While in prison, Visochinenko claims he experienced inhumane conditions. He was reportedly tortured by the prison officers and subjected to intense psychological pressure. During the course of his incarceration, his mother passed away and his father became very ill; Mr Visochinenko was not permitted to attend his mother's funeral.

Mr Visochinenko's case highlights the very serious violations of basic human rights experienced by Roma in relation to the criminal justice system in Ukraine. For further information on cases of this sort, please visit the ERRC website at: [www.errc.org](http://www.errc.org). (ERRC, Romen)

#### ✧ **UK Authorities Continue to Threaten Travellers with Eviction**

According to the Somerset County Gazette of 24 August 2006, Taunton Deane District Council authorities told a group of Travellers living on an unauthorised campsite in North Curry, England, "Get out within five weeks, or we'll take action to remove you." At the same time, the Council warned the Travellers that attempts to stall their eviction by putting in planning applications for the field where they had built sixteen units would get

them nowhere. The Travellers set up the site sometime in 2005 and were given a 26 September 2006 deadline for leaving the site. Council leader John Williams was quoted by the Somerset County Gazette as having stated, "If they're still there on 27 September, it will be unauthorised and we'll pursue enforcement action through the courts."

In other news, according to the local newspaper Cambridge News of 21 August 2006, a group of Travellers face legal action to move their caravans from a site they set up without council per-

mission. The group moved to a three-acre field at Beck Row, near Mildenhall, England, during Easter and set up six caravans and fences and hedges. Having established the site, the group sought planning permission from the Forest Heath District Council, but the Council refused the request. Cambridge News further reported that the Council called for enforcement action for the High Court injunction it secured, asking for a halt to work on the site, as well as a committal order – with the threat of jail – for anyone breaking the injunction. (Cambridge News, Somerset County Gazette)





# ERRC "You have the Right but not the Opportunity"

Larry Olomoofe

*"Concerning memory as such, we may note that our experience of the present very largely depends upon our knowledge of the past. We experience our present world in a context which is causally connected with past events and objects, and hence with reference to events and objects we are not experiencing when we are experiencing the present. And we will experience our present differently in accordance with the different pasts to which we will be able to connect that present... Concerning social memory in particular, we may note that images of the past commonly legitimate a present social order. It is an implicit rule that participants in any social order must presuppose a shared memory"*<sup>1</sup>

**I**N THIS ARTICLE, I intend to explicate one of the major challenges facing Roma rights activists generally, and especially those of us charged with conducting human rights capacitation initiatives in the field of Roma rights in Europe. Inevitably, in conducting this exegesis, I will touch upon the vexed issue of the role culture plays in this. Culture is increasingly being seen as a profound barrier to the implementation and full comprehension of the human rights discourse and I have written on this in the past.<sup>2</sup> Then, I suggested that the community of Roma rights activists were duty-bound to challenge certain cultural perceptions and perspectives within Romani communities that hampered the full enjoyment of rights by certain people in these communities. This still holds true, but the analysis was only partially conducted. Currently, we need to take a closer look at the issue and conduct an archaeological exercise at the wider society that these Romani communities exist in. The fallacy of the previous analyses of Romani culture and the "Roma situation" in Europe has been the glaring omission from these accounts of the cultural practices of mainstream society and the role broader societal phenomena play that subsequently impinge upon and frustrate the full enjoyment of the rights of Romani people.

Broadly speaking, I am alluding to the fact that discrimination and its attendant dynamics are so

deeply embedded in many European societies that its insidious, mendacious and pernicious effects are concealed beneath a veil of "racism", "bigotry", "xenophobia" and other forms of "cultural ascription" that explains [away] acts of hate by the broader public and therefore sequester these abhorrent acts and practices as something apart from culture. Here, I will contest this and indicate that it is an inherent part of mainstream culture that is more embedded in the collective psyche than we would like to think and accept. Simply put, if we look at the broader patterns of discrimination, we would have to come to the ineffable conclusion that racial discrimination is a fundamental part of mainstream culture in the same way that "child marriages" are in Romani culture.

This conclusion of mine will undoubtedly be challenged by those who feel that they are being unfairly tarnished by such a criticism and that the point is too general and would include others who are unavowedly oppositional to racist behaviour and other forms of discrimination. This kind of reaction would be simply missing the point. The fact is that the critique I am offering here is an attempt at unravelling the many cryptic configurations that predominate any given society, social group, or community. There is much activity that takes place in contemporary modern European (and elsewhere on the globe) society that depends entirely upon

<sup>1</sup> Connerton Paul, 1989, Cambridge University Press, *How Societies Remember*, pp 2 and 3.

<sup>2</sup> Larry Olomoofe. *Culture, Roma Rights and Human Rights Education: Conjunctions and Disjunctions*. at; <http://www.errc.org/cikk.php?cikk=2287>.



*Vandalised faeces smeared door of the author in Budapest. The notice reads, “This is What You Are [faeces]! Get out of Here Gypsies Niggers!”*

implicit [shared] understanding and it is the idea of “understanding” that I am critiquing here. There is a set of cultural beliefs that we employ in order to make sense of the world we live in and this includes “accepted” reactions to certain acts of discrimination, etc. I am throwing down the gauntlet and saying that in order to truly implement rehabilitative initiatives in society, we need to correctly diagnose the ailment. This has been done partially by the many worthwhile human rights capacitation initiatives implemented to date, but these attempts are being frustrated by the chronic nature of the problems presented to us by discrimination.

The brutal fact is that despite many years of activities, training programmes, initiatives, policy developments, political action, etc., the material existence of Europe’s Romani peoples has witnessed only a slight improvement. This is a poor return for all the activities that have been conducted over the years. So, we have to ask ourselves why? Why little impact despite widespread acceptance that the situation of Roma is

unacceptable and in need of immediate remedial action? Why do Roma still suffer unacceptable levels of unemployment? Unacceptable levels of health deficiencies and lower life-expectancy rates than their non-Romani counterparts? Lower levels of academic participation and achievement? These are nagging questions that just will not go away and therefore require that we activists and Romani sympathisers take a sober look at the situation. I am positing here that one major factor of why these issues continue to be significant problems to contend with, is the fact that institutional racism is so endemic that the programmes of “awareness raising” among the citizenry will only, paradoxically, frustrate the experience of many marginalised Roma.

This is the essence of the title of this article, which refers to the experience of a Hungarian Romani woman who was told this by a nurse while attending an ultra-sound check-up during her pregnancy. She had wanted her partner to attend the ultra-sound consultation and had enquired whether this

was possible at the hospital before her appointment. She was told that it was so and one of her rights as a patient, etc. It was whilst she was attempting to exercise her right that the nurse responded in this fashion (“you have the right but not the opportunity”). Whilst this response from the nurse may not have been driven by racist sentiment, her suggestion that it was a right but that there was no opportunity hinted at a deeper issue. People charged with ensuring, protecting and dispensing rights do not fully appreciate the responsibility of their positions. They recognise the immanent power of their positions and because of this, are allowed too much latitude in determining whether to “dispense” the particular right or not. Such arbitrariness allows these public agents (doctors, nurses, policemen, social workers, municipal officials, to name a few) to apply their own subjective interpretation of “rights” and consequently, denial of these rights.

It is at the level of subjective interpretation that gives [me] cause for concern here. The fact that these public agents are allowed to rely upon their own views which are often premised upon racial stereotypes of the subject group and is a by-product of a broader culture of racism that generates caricatures of Romani people scares me. Having witnessed the impact and contours of this process first hand, I think rehabilitative intervention is required. That intervention should be aimed at tackling the continued promulgation of racist values of a culture that has appropriated the language of the “rights paradigm” and has frustrated the expected gains of the rights-based approach. Therefore, human rights training initiatives are hollow exercises because whilst we are dealing with and providing methods of tackling discrimination and various forms of prejudice, the actual execution of these methods at the public level has been overlooked. The people who are supposed to “benefit” from the training are the Romani communities, but the truth of the matter is that there is little positive change or benefit at all for them. The perceptions of these Romani communities is that state agents are racist and do not respect the rights of the Roma, and whilst this is a perception and perhaps not entirely reflective of the real situation, the fact remains, sadly, that racist behaviour by state officials in the Central and Eastern European (CEE) region is still very prevalent, human rights training notwithstanding.

I contend that this is based upon the over-reliance upon these state representatives subjective perceptions when dealing with Romani people that creates a dual layered process, i.e., recognition (abstract) and practice (concrete) which excludes Romani people and further diminishes their rights and access to their rights. This is a deeply demoralising process existentially for Romani groups because this cultural process slowly corrodes the belief and hope for improvement.

At a recent OSCE meeting held in Vienna, the renowned Hate Crime specialist, Dr. Jack Levin articulated an exegesis on the cultural production of Hate. For him, “Hate is cultural” and its attendant dynamics such as Racism, Homophobia, Sexism, etc., included the production of “Sympathisers” and “Spectators”. These categories referred to the third parties in a hate crime incident, i.e., the watching audience. “Sympathisers” is a self-explanatory category that alludes to people who share similar views as the assailant and is therefore, connected in culpability of the act. Spectators is a slightly more complicated category since it alludes to bystanders who do not share the same hatred of the assailant, and may even disagree with the views of the person. However, these people do not intervene on behalf of the victim and the act of hate (sometimes a criminal act) goes unchecked. Many acts of aggression and hatred against Romani people in Europe were conducted in the full glare of the public and in only a few instances have others intervened to help the Romani victim. This allows an environment of impunity to prevail, as there is generally little public condemnation let alone punishment for these acts, some of which are banned by law.

Recently in Hungary, an incident occurred where a non-Romani man was attacked and killed by his Romani assailants after he had hit an 11-year-old Romani girl with his car. Whilst the beating to death of anybody is a terrible crime, the ERRC was compelled to intervene in the matter after witnessing the bilous hate campaign against Romani peoples being conducted in the national media apparatus. The Hungarian media invoked racist methodologies to label the local Romani community as perpetrators of the crime and to collectively tarnish the “Roma” with one broad brushstroke as pathologically deviant, violent

and criminally predisposed. The worst case of this labelling in the Hungarian mass media was a particular article by Zsolt Bayer, a renowned journalist, where he encouraged people who happen to hit a Romani child with their car to simply put their foot on the gas and speed off without stopping (Magyar Nemzet, 17 October, 2006). Such reporting is tantamount to incitement to racial hatred and needs to be punished by the regulating authorities. As it is, nothing really happened and not much critical discussion was conducted during the several television interviews and column inches devoted to the matter. The majority of the time was used propagating unreconstructed old racial biases against the Roma collectively and justifying negative attitudes, approaches, and actions against them by the public.<sup>3</sup> This point serves to illustrate Dr. Levin's useful analytical insights into the cultural production of hate and racism by white, mainstream societies in Europe. Whilst many people may not agree with bigotry in general, not many people intervene when they witness acts of this bigotry. Sadly, this is especially true of the public officials whose jobs are to implement the state's commitment to equality and justice. Racism is cultural just as much as child-marriages are "cultural" for Romani peoples.<sup>4</sup> Interestingly enough, there has been much debating about the inappropriateness of this phenomenon of child marriages amongst Romani communities by human rights advocates and acolytes.

This is a valid process and a much-needed critique of cultural practices among the Romani peoples, hopefully leading to an organic transition away from the ongoing practice of child-marriages there. However, there is little or no introspection of racism as a cultural phenomenon within mainstream non-Romani communities and this stands in sharp contrast to the energies devoted to critiquing "recidivist" practices among Europe's Romani communities. I contend that a similar critique must be conducted in European mainstream societies

aimed at addressing the cultural reproduction of hate, racism etc. Simply conducting human rights training initiatives amongst the state agents and public servants is not enough. We also need to conduct a variety of public awareness campaigns that show how the bigoted opinions such as those promulgated by Zsolt Bayer elucidated above should be outlawed and punished. We need to alert public officials (such as the nurses, police, etc) to the fact that "rights", mean nothing without "opportunities". That their "human rights training" is supposed to be implemented in reality and not is simply part of their professional self-development plan. The real beneficiary of the training is society and not them as the individual that had been "trained". We need a cultural shift where racism and acts of racial hatred toward Roma are sensitised to an extent that the act of intervening by the onlooker is not so *unusual*. We need to accept that racism and discrimination of Romani peoples is not epiphenomenal and marginal. It is actually central to our perceptions of "us" and "them" and what is/are legitimate forms, levels, and degrees of interaction.

"The State Parties to the present Convention, Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognising that these rights derive from the inherent dignity of the human person,

Recognising that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if *conditions are created*<sup>5</sup> whereby everyone may enjoy his civil and political rights, as well as his economic, social, and cultural rights,

<sup>3</sup> Please see ERRC website at <http://www.errc.org/cikk.php?cikk=2639> for more details on this case.

<sup>4</sup> This is a reference to the somewhat racially biased opinion that Romani communities practice the "tradition" of early marriages among their children. The basis of this mendacious argumentation is that this phenomenon is culturally produced and maintained by Romani peoples.

<sup>5</sup> My own italics.

Considering the obligation of the States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms

Realising that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognised in the present Covenant...<sup>6</sup>

I think that the above quote taken from the preamble of the United Nations International Covenant on Civil and Political Rights (ICCPR) is a timely reminder of our objectives and ambitions as human rights activists and practitioners. The ICCPR and other declarations based on the principle of equality and non-discrimination perform both as guiding principles and as legal instruments through which the goal of equality can be achieved. They are also legal obligations through which States are compelled to create the conditions and environment where these inherent rights can be enjoyed. This article

was an attempt to provoke thoughts and actions along the lines outlined in the ICCPR that will hopefully become part of the many debates, initiatives, etc., putatively aimed at addressing the continued [immoral] marginalisation of Romani peoples in Europe. Our duty is to explore these issues and subsequently devise measures and actions that deal with them comprehensively. Whilst this is currently being undertaken, alas, it is only a *partial* treatment of the various symptoms of racism and discrimination. This needs to be recalibrated to take into account the historical, social, and cultural rootedness of racism. Paul Connerton's quote at the beginning of the article helps provide insight into how collective social memory is conducted and the subsequent generating of social habits. In Europe, discrimination against Roma is a "social habit" that needs to be addressed and this can only be done after recognition of the fact that habit is unconscious and therefore in need of some radical rehabilitative procedure/process. This is the task that faces Roma/human rights activists, and a challenge we should all be ready to face.

<sup>6</sup> Preamble to the United Nations International Covenant On Civil and Political Rights. The full text can be found at: <http://www.ohchr.org/english/law/cescr.htm>.



## European Roma Rights Centre Statement on Romani Women's Rights

On the Occasion of the Organization for Security and Co-operation in Europe Human Dimension Implementation Meeting

**I**N RECENT YEARS, attention by some grassroots activists, civil society groups, national governments and international organisations to violations of the fundamental rights of Romani women has increased. As a result, some positive steps have been taken. For example, the European Parliament recently adopted a report on the situation of Roma women in Europe<sup>1</sup> and there has been an increase in research and programmes specifically focussing on Romani women. However, despite these positive steps, the worrying situation of many Romani women has hardly changed, if it has changed at all. Romani women continue to face pressure by families and communities to comply with certain customs and traditions degrading to women. At the same time, they also suffer widespread discrimination in the realisation of a number of fundamental human rights. In some cases, Romani women have suffered extreme harms at the hands of public officials, including via practices such as coercive sterilisation. Despite pressure to do otherwise, some Romani women are increasingly raising their voices and speaking out to challenge abuse. These actions have however frequently been met with either contempt or further attacks and repression on the parts of their families and communities, public media, government officials and even some civil society groups. Summaries of some ERRC concerns in the field of Romani women's rights follow below.

### Coercive sterilisation

Romani women have been subjected to coercive sterilisation in a number of European countries. Some Western European governments (Sweden, for example) have established

compensation mechanisms for victims, but have not yet recognised the racial-targeting aspects of these systemic harms. In a number of countries in Central and Eastern Europe, these practices have continued to the present day.

The situation in the Czech Republic and Slovakia involves systemic and as yet un-addressed practices affecting many hundreds of women. Efforts to coercively sterilise Romani women in the Czech Republic and Slovakia have arisen as a result of a combination of factors including but not necessarily limited to: (i) the unaddressed legacy of eugenics in Central and Eastern Europe, which continues to influence medical practice in these countries to today; (ii) a general vacuum of respect for patients' rights; (iii) particular contempt for the moral agency of Romani women; and (iv) "concern" at high levels of Romani birth rates. As a result of these, hundreds of Romani women have suffered extreme harms at the hands of doctors. These issues have been raised regularly by domestic and international agencies since the late 1970s. As yet, however, no action by either government has been sufficient to provide adequate remedy to victims, or even to stop the practice once and for all.

In the Czech Republic, Slovakia and Hungary, some Romani women victims of coercive sterilisation have pressed justice claims, with only limited success to date:

- In the Czech Republic, in December 2005, the Czech Public Defender of Rights ("Ombudsman") published a report acknowledging the practice, following investigation of many tens of claims. In his report, the

<sup>1</sup> <http://www.europarl.europa.eu/omk/sipade3?PUBREF=-//EP//NONSGML+REPORT+A6-2006-0148+0+DOC+PDF+V0//EN&L=EN&LEVEL=0&NAV=S&LSTDOC=Y>.



Ombudsman stated: “The Public Defender of Rights believes that the problem of sexual sterilisation carried out in the Czech Republic, either with improper motivation or illegally, exists, and Czech society has to come to terms with this.” This important recognition notwithstanding, to date, the Czech government has neither apologised to the victims, nor established a mechanism for remedy, nor recognised the racial-targeting aspect of the issue. Indeed, Czech courts have only provided remedy in two cases, and in one of these cases refused to provide financial compensation to the victim.

- In Slovakia, actions by the government in response to these issues have been primarily malicious. In response to complaints by a number of Romani women, the Slovak Ministry of Health directed hospitals not to release the records of the persons concerned with the legal representation of the victims. Slovak prosecutors – despite extensive advice not to do so – opened investigations for the crime of genocide, a crime so serious that evidentiary standards could not be met, and they then predictably concluded that this crime had not been committed, ending their investigation into the matter. The same authority has repeatedly released misleading information to the media, deliberately perpetuating a state of delusion about the matter currently prevailing among the Slovak public. Slovak police investigating the issue urged complainants to testify, but reportedly warned a number of them that their partners might be prosecuted for statutory rape, since it was evident that they had become pregnant while minors; under this pressure, a number of victims withdrew complaints.

In an important breakthrough at international level, in August 2006, the UN Committee on the Elimination of Discrimination against Women (CEDAW) condemned Hungary for violating the Convention on the Elimination of All Forms of Discrimination against Women in connection with the sterilisation of a Romani woman without her consent in January 2001. Ms S. had been admitted to hospital following a miscarriage and

was sterilised without being provided with information she could understand on the implications of the procedure. The CEDAW Committee ruled that Hungary’s failure to provide Ms S. with due compensation for the act violated international human rights law.

### **Domestic violence**

In a recent survey carried out amongst 237 Romani women in Macedonia, over 70% of the women interviewed stated they had been victims of violence at the hands of their partners, their in-laws and other members of their families. The national average is 23%. The great majority of these incidents go underreported due to a number of factors: First, violence against women is accepted in some Romani families. Secondly, there is the fear of being ostracised and shamed by their communities and families. Thirdly, perpetrators of violence against women are rarely held accountable for their acts, which discourages women from seeking legal help. Fourthly, Romani women fear further victimisation on the part of the police and/or others. In addition, there are a number of practical issues that make it virtually impossible for women to escape these situations. These include lack of alternative housing, inadequate economic means to survive on their own, and/or lack of employment opportunities.

Despite these barriers, some Romani women, often in desperate situations, have begun challenging domestic violence. To date, however, few if any of these efforts have been successful. Reactions on the part of law enforcement officials frequently involve either refusing to accept complaints and/or further victimising the women concerned with insults and threats. Out of the 237 Macedonian Romani women interviewed, 34 had reported instances of domestic violence to the police; 20 (or 59%) of these women stated that the police subjected them to racial prejudice and degrading treatment. In only 5 out of 34 reported cases (15%) did the police actually intervene. When 43-year-old D.D. from Stip sought police assistance after having been beaten by a member of her family, the police official to whom she turned reportedly stated, “You Gypsies fight

amongst yourselves all the time. You have to solve your problems amongst yourselves.”<sup>2</sup>

### Child marriage

Child marriage continues to take place in many countries of Europe with impunity.<sup>3</sup> Child marriage and the serial human rights abuses associated with it are problems present in a number of Romani communities throughout the OSCE region.

In one recent case coming to the attention of the ERRC, in Caras Severin County, Romania, M.S., a 10-year-old Romani girl, was sold by her parents to the parents of D.M., a 17-year-old youth. The contract for the arrangement specified that M.S. would bear at least two children. Romanian authorities may have provided a modicum legal recognition for the arrangement by agreeing to the adoption of M.S. by the parents of D.M. Apparently no adequate investigation of the circumstances of the “adoption” was undertaken by Romanian child protection authorities. At the age of 12, M.S. gave birth by caesarean section to a child, but was told by doctors not to have any more children. At this point, the parents of D.M. attempted to reclaim the dowry from the parents of M.S., citing default of contract. This conflict came to violence between the two families, and the Romanian authorities were alerted for a second time. Romanian police have pursued legal action against D.M., who is now reportedly 19 years old, for the crimes of trafficking and sex with a minor. He now faces a significant term of imprisonment. However, the parents of D.M. and the parents of M.S. have to date faced no legal consequences whatsoever for their actions.

The case of M.S. and D.M. is a particularly extreme example of events which befall thousands of Romani children and youths every year. As in this case, authorities almost without exception

abandon the victims to the perpetrators, and/or (as in the case of D.M. and M.S.) fail to prosecute the main agents of the abuse. There has not yet been any real effort on the part of any significant domestic or international authorities to address the problem of child marriage in the Romani community, and to a certain extent civil society groups are mute on the issue or even actively discourage discussion of the issue.

Child marriage exposes girls to sexual abuse and exploitation. Child marriage precludes girls from attending school and thereby results in nullification of the right to education, as well as diminished employment opportunities. Child marriage also has significant impacts on the health situation of Romani girls and any children they may bear. Rates of infant mortality are increased and Romani girls faced increased risk of complications during pregnancy and delivery, which may lead to death. Girls who have fallen victim to child marriage are rendered extremely dependent on their husbands and husbands' families and are therefore at high risk of poverty and/or further exploitation in the event of any subsequent disruption to the family.<sup>4</sup> Victims of child marriage also face heightened vulnerability to domestic violence. Indeed, as the case of D.M. and M.S. shows, persons negatively affected by these practices are not only the girls themselves, but countless others, starting with (but not limited to) the child groom.

### Trafficking in human beings

Poverty, discrimination and marginalisation are entangled factors making Romani women and children particularly vulnerable to trafficking in human beings. Many Roma continue to struggle to fulfil their basic needs such as food and housing and face difficulties in obtaining identity documents (such as birth certificates) necessary

<sup>2</sup> *Research by the European Roma Rights Centre, the Roma Center of Skopje and the Open Society Institute's Roma Women's Initiative (supported by UNIFEM), involving a group of young Romani women undertaking research toward a submission to the United Nations Committee on the Elimination of Discrimination Against Women, 2004.*

<sup>3</sup> *Council of Europe report on forced marriages and child marriages, at: <http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc05/edoc10590.htm>.*

<sup>4</sup> *For more information on the negative impacts on girls of child marriages please see UNICEF 2005 Report Early Marriage: A Harmful Traditional Practice at: [http://www.unicef.org/publications/index\\_26024.html](http://www.unicef.org/publications/index_26024.html).*

to gain access to basic social services. Furthermore, patriarchal traditions that put women in a subordinated role to men place female members of these communities at particularly high risk of falling prey to trafficking. Special attention needs to be paid to combating the exploitation of girls, as milder forms of exploitation such as forced begging are sometimes an entry to more severe forms of exploitation such as sexual exploitation. Certain instances of trafficking occur as a result of a lack of knowledge and misinformation on the part of the family. States should work to combat all the factors (internal and external) that increase the vulnerability of Roma to trafficking including by combating corruption and identifying victims. Prosecution of the victim for crimes related to illegal entry to the country or similar should be avoided, and programmes should be developed to ensure that any and all returns to countries of origin take place with due consideration to the maximum dignity and safety of the victim.

### **Inequality**

Romani women face compound discrimination on the basis of race and sex. School segregation and employment discrimination are reported in many countries of Europe. Many Romani women work in the informal economy without access to social benefits or other forms of social protection. A recent study carried out by Open Society Institute found that 54 percent of Romani women in Romania worked informally in jobs that provided no benefits or formal work agreements. On October 4, the ERRC will publish a pan-European report on Roma and access to health care, highlighting amongst other things discrimination issues facing Romani women in particular in the health care systems of Europe.<sup>5</sup> Developments in the field of anti-discrimination law in Europe in

recent years have not been matched by comparable gains by Romani women.

Policies addressing inequality between women and men tend to disregard the particular issues facing Romani women. This can be linked to the fact that political representation of Romani women remains extremely low nearly everywhere. In Hungary, two Romani women were elected as European Parliamentarians, providing an important voice for Romani women. Representation at the European level has yet to be matched at the national level. Not a single Romani woman is currently serving a term in any national parliament in any European country. Representation of Romani women at local level is similarly weak.

### **Conclusion**

Human rights progress concerning Roma generally is impossible without significant advances in the field of Romani women's rights. Systemic abuses by states and extreme harms carried out in the name of "traditional values" need once and for all to be ended. In the course of the ERRC's work on women's rights, we have witnessed a pattern: The courage of Romani women in challenging violence and human rights violations is met with only limited support by NGOs; the silence of government officials; family and community pressure to capitulate to harms; and law enforcement and other officials respond to reports of human rights abuse with humiliating or demeaning comments, as well as by refusing to undertake any effective action to secure the dignity of the victims. To change this situation once and for all, unambiguous commitments putting human rights first are required from the highest levels. Governments of the OSCE region are called upon to make and act upon such commitments.

<sup>5</sup> *European Roma Rights Centre, "Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe", October 2006, Available by contacting the offices of the ERRC.*

The top of the page features a large, stylized logo for the European Roma Rights Centre (ERRC) in the background. The logo consists of the letters 'ERRC' in a bold, blocky font, with 'EUROPEAN ROMA RIGHTS CENTRE' written in smaller letters below it. A map of Europe is overlaid on the logo, with the Balkans and Eastern Europe highlighted in a darker shade. The title 'The Romani Women's Movement: From East to West' is printed in a bold, black font over the map.

# The Romani Women's Movement: From East to West<sup>1</sup>

**T**HIS ARTICLE COMPRISES THE testimony of two prominent Romani women's rights activists from opposed geographical corners of Europe: Russia and Spain. In these two countries, the Romani women's rights movement has been developing itself at different times. In Spain, the Romani women's rights movement started 15 years ago, while, in Russia, it is just now starting. The different stages of development of the two Romani women's rights "movements" are related, amongst other factors, to the different socio-economic and political context of the countries. For instance, the relatively positive position of the Spanish government to the establishment of NGOs is totally different to the active discouragement by Russian authorities to the development of civil society in Russia.

It is therefore interesting to note common elements in the testimonies, which include: Both women were working with non women-specific Romani NGOs before establishing their Romani women's organisations (indeed, it was this work that moved them to set up the women's organisations); the feeling of overwhelm experienced by Romani women who, after looking after everyone around apart from themselves, must work to improve their own situation; the lack of support on the part of mainstream women's rights organisations, the government and Romani men; and their initial steps, such as educational concerns and the need to alleviate immediate economic and independence constrains in a practical manner.

The similarities of the demands, objectives and roots of their activism show that the possibility of

a pan-European Romani women's rights movement exists.

## **Ms Dolores Fernandez,<sup>2</sup> Spain:**

I think we can start talking about a Roma feminist movement from the 1990s onwards with the establishment of Romi<sup>3</sup> in Granada. We were a group of revolutionary Romani women (although we were afraid at the beginning) with a lot of will to change things and to make our voices heard. We felt we had to do this because the mainstream feminist movement did not take into account Romani women's problems. We knew that we had to lead our own changes according to our own traditions, without losing our identity and creating our own path. Older Romani women encouraged us very much; they did not want us to suffer what they had suffered. They wanted a better future for the new generations and that's why we continue fighting.

We organised the first and second roundtable conferences on Romani women in Granada in 1990 and 1991. From these roundtable conferences, several other Romani women's associations, such as Sersení (Madrid) and the Association of Progressive Romani Women (Cantabria), were established. This, in turn, encouraged other Romani women to start participating in social and political spheres so that they could also voice and fight for their rights.

The activities of Romi are varied, but they all aim to make the resources of the government available

<sup>1</sup> Interviews conducted by Ms Ostalinda Maya Ovalle, ERRC Women's Rights Officer.

<sup>2</sup> Ms Dolores Fernandez was one of the first Romani feminists in Spain.

<sup>3</sup> Romi was the first Romani women's association established in Spain. It was established in January 1990 by Ms Fernandez.

to Romani women. We try to assess people, provide professional formation, host workshops, etc.

Before Romi, I worked in another Romani association teaching literacy and other courses to Romani men. At that time I thought that Romani women should also learn how to read and write and get driving licenses.<sup>4</sup> That's how our fight began.

As Romani women, we have had to confront our own culture within our families and communities, while at the same time we have had to claim our social and political rights in the wider society. Our fight has two fronts: At home, we are fighting to get Romani women to study and have freedom. We also have to raise awareness about our problems and needs with different government bodies so that these are taken into account. In addition, we have to continue carrying out our family obligations (i.e. caring for our husbands, parents and children) that we know we cannot abandon.

It should be recognised that the improvement in the position of Romani women within Spanish society is largely thanks to Romani women's associations. We have fought a lot; many times on our own. We have had little support from non-Romani women's organisations, institutions in general, Romani organisations and sometimes even our own families. We have to value the effort that Romani women's associations make. Sometimes this great effort is not acknowledged by anyone, sometimes we have no recognition, sometimes we are criticised or marginalised and many times we are simply ignored. Romani women's associations have had to prove day after day that we can do a good job. We have had to demonstrate and prove ourselves more than other organisations because we are Roma and because we are women.

Little by little, our silent revolution is modifying our cultural values, particularly amongst Romani youth. For example, a Romani girl attending university is no longer viewed negatively.

In fact, in Spain there are more Romani female university graduates than male. We are also beginning to see some young Romani men helping with household chores.

In the last few years we have achieved things that we thought unthinkable at the beginning, but we still have much work ahead. One of the challenges we still have is the exchange of information and co-ordination amongst ourselves, the Romani women's organisations.

"Macro" Romani associations, such as federations or foundations, should help and support Romani women's associations and give us our space. Large organisations at times express solidarity with our movement but this does not happen enough. We all need to work together to create webs of communication because, at the moment, everyone is working on their own.

It is sad to see that in the 21<sup>st</sup> century, Romani women are still not represented in the state platform of Romani associations or in the governmental group on women. Furthermore, Romani women's issues are hardly mentioned, if at all, in the National Action Plan for Equality or programmes for the development of Roma. Even today, we still do not have social and political participation or representation in Romani organisations, mainstream women's organisations and governmental institutions.<sup>5</sup>

Participation in social and political life requires an investment of time and Romani women have very little free time. We consider that the most important thing is participation, to make ourselves seen in the public sphere and to make other people aware that we exist and are fighting. We have to write about ourselves, speak in public and raise our voices collectively. We should advance the leadership of our own movement and demand that certain customs, institutions and actions that have marginalised

<sup>4</sup> *Note from the editor: The main source of employment and income for many Romani women in Spain is street selling. The lack of a driving license makes them dependant on male family members in running their business and, as a consequence, contributes to economic dependency.*

<sup>5</sup> *Note from the editor: There is only one Romani woman currently working for the Spanish Government. Ms Pilar Heredia was recently appointed Coordinator of the Ministry of Employment and Social Affairs' Women's Institute.*



*Elena Konstantinova at a training seminar on Romani women's rights organised by the ERRC in Chapaevsk, Russia, 25 August 2006.*

PHOTO: ERRC

Romani women change. We are aware that this is very difficult but to make these changes is essential to improving our situation in society.

Through our work in associations, we have learnt about the complexity of exercising our rights as citizens: To organise, to demand, to reclaim, and to oppose what we think is unfair.

Romani women have been barred from public spaces, from speaking out and from making decisions. This is a social illness that still continues to some extent and maintains our isolated status outside the political sphere. Because we are not there – in the political sphere – we cannot image ourselves being there. Because we cannot image ourselves there, we are not.

These spaces are void of us and seem inaccessible to us. This is one of the dark corners in

which we find ourselves nowadays. The very few women that occupy powerful positions have to speak with the voice of their “superior”. Therefore, we have to start to speak for ourselves and take the lead. We have to become lawmakers, bosses, academics, artists, creators, etc.

The existence of the associative movement is an exercise of social leadership and democratic participation that serves as an introduction to our active involvement in politics. **We need a democratic society and a democratic society needs us.**

Women are the ones making the world move but at the same time we do not have any power. The fight is very hard but very rewarding. Despite our apparent invisibility, Romani women's associations are supporting women, we are growing and demanding, working day after day. We sometimes feel we are on our own and we feel

hurt, but when we manage some success we feel happy and good about ourselves.

I think that we have initiated a journey but there is still a long way to go. Our future objectives should be to help other women (whether they are Romani or not) and to help Romani women to be aware of their rights and capacities to take an active role in their communities and in society, including political participation. Our objectives should also include the promotion of all professional Romani women (writers, poets, painters, doctors, etc) and to encourage the union and solidarity in our “pacifistic fight” amongst all women so that we are all respected as women and as Roma.

**Elena Konstantionova,<sup>6</sup> Russia:**

I set up the first Romani women’s organisation in Russia in 2004 under the name Romani Women’s Congress (RWC) – DZHUVLIKANO Romano Kongresso. Previously I had been working for two years in a general Romani organisation but I soon realised that the issues faced by Romani women were not taken into consideration. I’ve had a hard life myself. I got married when I was only 13 years old and I delivered my first baby when I was 15. Even at that time I remember thinking that it was not right, that things should not be like this. My own experience taught me that Romani women suffer a lot of discrimination. Everyone can offend us, domestic violence is widespread and Romani society places huge pressures on Romani women.

In April 2004, I organised a meeting for Romani women to talk to them about women’s rights. We were discussing many problems and they kept on asking me what to do. I told them about Romani women’s organisations in other countries and that’s how the idea of the RWC came about. They asked me, “How will we do it? We are uneducated.” But I told them that we would find people to help. I also told them that girls should have an education as this can help our situation.

Our steps have been difficult from the very beginning; we even faced difficulties in registering the organisation. We went to the Ministry of Justice with all the necessary documents. But the people in the Ministry did not appear keen on having a Romani women’s organisation so the process took 3 months; 2 months longer than usual. We also faced opposition from male Romani leaders who constantly ask us, “Women! Why are you doing this?”

It is very difficult to keep this going because most Romani women are uneducated and they are dependent on their husbands in every way. Not all women can get involved and do this sort of work because Romani women are the busiest people in the world. They are responsible for everything related to their families. For me, it’s also difficult because I have no financial support and sometimes I have to give money from my own pocket, even though I don’t have much. I’m ready to do this job day and night but I also want to make sure that my family has food to eat. But, money should not be the only motivating factor.

The aim of the RWC is to enable Romani women to stand up for themselves. As Romani women in Russia find out about our organisation, they are calling us. They can call anytime and we will try to provide all the help they need.

I recently dealt with the case of a Romani woman who had recently been released from prison. By the time she got out of jail, her husband had already remarried. She had two children with him and was pregnant with their third child. She came to me and cried and I didn’t know what to do. She had no house, no job, no family, two children to feed and a baby on the way. That is when I thought that it is important to open rehabilitation centres for Romani women. The rehabilitation centre would be like a group house where women in such critical situations would be able to come until they find a job. These houses would also receive their children. The rehabilitation centres could

<sup>6</sup> *Elena Konstantionova is the head of the Romani Women’s Congress (RWC) – DZHUVLIKANO Romano Kongresso (based in Volgograd, Russia) and one of the strongest voices of Romani women’s rights in Russia.*

be operated like small companies so that they would be self-sufficient and that the women would be able to earn an income. I want their children to see something good. But what their children will see? These people are coming to me, but I am unable to help them. So, what is the meaning of such work? I'm aware that it

is difficult to achieve such goals, but they are necessary, more today than ever before.

And then there is the proverb: An empty hand is no lure for a hawk.

There is no solution without money.





# ERRC

## Comfort in Times of Change

*Interview with Dimitrina Petrova for Roma Rights*

**ERRC:** *Dimitrina, you are the founding Executive Director of the European Roma Rights Centre, which you are leaving now after having stayed in the top job for 11 years. Was ERRC a success?*

**Dimitrina Petrova:** Probably. The ERRC was the architect of the Roma rights culture, including through publishing this periodical resource journal, *Roma Rights*. It put Roma on the map. In the early 1990s there was no awareness of the plight of Roma and no interest. Now Roma are an issue in European politics as well as on the domestic scene in many countries. It is not my place to praise the ERRC, as so much praise has been heard from others; especially around the tenth anniversary, which we celebrated this year.

**ERRC:** *This is true. But are you personally confident that the ERRC is a successful page in the history of the Roma movement and also of the human rights movement?*

**D.P.:** Churchill said, "History will absolve me, for I intend to write it." Since I do not intend to write the history of the ERRC, I am not sure how my work will be judged after another 10 years, and beyond. Whoever controls the present controls the past. But I trust that I have managed to do something useful, not alone of course, but together with others; useful and worthy from the point of view of certain values.

**ERRC:** *Which values?*

**D.P.:** Human rights. Dignity. Equality of rights. Equal opportunity for all.

**ERRC:** *In the last five or six years you led the organisation more and more into issues of*

*non-discrimination and equality. You have now launched a new international organisation, The Equal Rights Trust. Is equality one of your most important values?*

**D.P.:** It is indeed, but values are not a light subject I could discuss without certain restraints. Equality is a good thing but only on the basis of liberty. In the last couple of years I have had a difficult time arguing with my younger daughter, who is a student of economics and politics. She thinks equality is the biggest issue in the world today, whereas freedom is not such a big deal. Poverty is a denial of dignity and renders civil liberties meaningless, says she. But being born in 1986, she does not remember communism and knows about it more from tales and books and myths. For me, it is a different story. The best thing that ever happened to me was the end of communism. My lived experience in a totalitarian society has committed me to civil liberties. One of my fears is that the young generation, especially in the developed democracies, may be taking freedom for granted. And then, speaking of values, my dissertation was about utopia and a critique of value rationality. As a philosopher, I am not unconditionally attached to any particular value at all, but regard value rationality as a form of exercising power. I define a value as a false common locus of conflicting interests.

**ERRC:** *Please explain.*

**D.P.:** This would make for a boring technical reading. I will only say something about my resistance to fragmentation. I always suspected that divisions, dichotomies and binary oppositions between values are deceptive. A belief in a particular value when driven too far is dangerous. People impose false mental borders and then as a species forget their own authorship, as it were.

They give a name to a mental creation and after a certain processing in the messy factory known as human society we get a candidate for fundamentalist worshipping. In high school I rebelled against the division of knowledge. I went one day to a workshop in town and ordered a huge notebook of 500 large format pages specially bound for me in hard cover. I put away all my notebooks for math, grammar, geography, history, etc. and started going to school with that big notebook, which was one of my first discoveries in empirical philosophy. To horrified teachers I insisted that as all knowledge is interrelated and interdependent, the sheer number of notebooks we were forced to carry every day for the different subjects in school was part of a lie. Our life after school would not consist of those subjects and the most important stuff is not covered in school anyway. The school authorities fought with me for a while but then left me alone as I was a bright student otherwise. This part of my identity must have persisted as I now also prefer a holistic perspective and a historic approach.

**ERRC:** *You studied philosophy, but have also been in politics and an academic, and you have stated to ERRC recently that your current preoccupation, which is an extension of human rights work, is with the strategies of social reform. You are a pretty normal boss to have, but there are rumours of some eccentric interests and hobbies you maintain. Who are you, Dimitrina?*

**D.P.:** We all have multiple identities. If an identity is challenged by a hostile society, it can harden and encapsulate you. For example, you are Romani but you should resist being seen as nothing other than Romani. As a free grown up person, I do not feel a need to fit in one identity and am most comfortable in times of change and in times of greater challenge. There is a narrow path winding between security and risk. This is where I feel at home.

**ERRC:** *And in physical space, where is the place you call home?*

**D.P.:** I am too young to know this. Maybe Burgas on the Black Sea, in Bulgaria. This is where I was born and grew up; on the rainy and

breezy coast, with the sound of the sea and the sea gulls, and where my parents have always lived. I sometimes think that I will go back there when I retire, but who knows. Right now I am heading in the opposite direction.

**ERRC:** *You must have heard this question many times, but please answer it here. What brought you to the Roma cause?*

**D.P.:** The assumption that human rights advocates, like doctors, ought to first take care of the most urgent and severe cases. The realisation back in the early 1990s that Gypsies (the word Roma was not used much at the time) were among the most deprived people in Eastern Europe. And certainly fortuity played its role, as usual. Aryeh Neier, the President of the Open Society Institute, defined the need to launch a centre focusing on the legal defence of Roma, provided the blueprint and took the risk to recommend funding, as well as to appoint me to build the organisation. Looking back, I must confirm that the ERRC was lucky also with its Board chairs and Board members who were the right people. We could always count on them.

**ERRC:** *You are not Romani yourself. How has it felt to be the director of an institution working on Roma issues?*

**D.P.:** I have always maintained that Roma rights should be of everybody's concern. There is nothing wrong with being of a different ethnicity and struggling for people whose identity is different from your own. It would be wrong to have people struggle for the rights of their kin only. I am most confident that genuine human rights values are defended adequately when I see this done by a diverse team. An ethnically homogenous team is less valuable as it drives further the fragmentation of humanity. But this is one side of the coin. On the other hand it is undoubtedly important for an oppressed minority such as Roma to have its own representatives in leading positions, especially where questions concerning that minority are decided.

**ERRC:** *This is a principled answer and the one we would expect from you, but the question was how did it feel for you, at a personal level?*

**D.P.:** My feelings do not matter. I have a bad emotional memory, especially for unpleasant events. Sure enough I have been sad sometimes when I have heard that behind my back some Romani individuals have commented that I am occupying someone else's place, a place that should belong to one of them. At other times I have been happy to be warmly accepted by Roma and amongst Roma and to be able to appreciate their rich culture. But in any case, I have tried to put my feelings to one side and be guided by my own rational judgement. If I have been good at what I was doing, it is because I believed in it. The position at the helm of the ERRC was an opportunity to participate in social reform and to contribute to the community in ways that matter to me politically. It was a position of significant power to frame issues, set priorities and plan the steps to desired outcomes. Power carries responsibility and this is itself a strong feeling that can blur and weaken my other feelings. At least this is how it is with me.

**ERRC:** *In what role do you want to see ERRC in the next stage, after you have left? Do you want to see it carry on with its mission in the same or similar way as to date?*

**D.P.:** No. I regard organisations as a means to an end. The ERRC has been a good instrument for a certain set of goals, such as raising the profile of Roma in Europe, developing strategies of defence of Roma rights and human rights more generally and, more recently, shaping certain policies of equal opportunity. At this stage, the ERRC is a multi-functional toolkit that can be put into a variety of usages. The environment in which ERRC works is changing and will keep changing, and this means that the organisation's purpose and strategy need to be refocused and repositioned. The Board is aware of this and so is

the staff. I hope the funding community will appreciate that too.

**ERRC:** *What do you think of the Romani women's movement so far?*

**D.P.:** It is the component of the Romani movement that I find the most exciting, the most promising and the most authentic. It should be encouraged in every way possible. One of my few regrets is that I did not employ a women's rights officer and did not focus strongly on women's issues from the very start, or at least from year 2 or 3. Maybe the entire work of the ERRC would have been more efficient if I had done that, and maybe the relationship between the ERRC and Romani communities would have developed better than it did. Much of the tensions that we have had at times with Romani leaders have had to do with implicit power games amongst Romani men, whose extensions have implicated ERRC as one powerful centre of influence. Romani women activists at this stage are faced with the double challenge of racial discrimination and sexist control of their lives by males, both Romani and non-Romani. The future agenda of the ERRC, I think, should feature prominently issues such as domestic violence, forced marriages, girls' education and sexual rights.

**ERRC:** *Do you think that our struggle will bring positive results for Romani women in the not too distant future?*

**D.P.:** It will. But nothing should be taken for granted. There are conditions. The first and most important condition is intelligent strategy, along with those who have the courage to implement it. The second and the third conditions are time and pressure. Pressure in one direction applied for sufficiently long time would drill a tunnel in the hardest and the thickest of walls. And with walls that are mental and cultural, the same rules apply. Direction, time, and pressure.

**ERRC:** *Thank you.*



**September 2006:** Published “Upoznajte svoja prava i borite se za njih” (*Knowing Your Rights and Fighting for Them: A Guide for Romani Ativists*) in Croatian, a human rights training manual.

**September 2006:** Published “Zapoznajte gi vasite prava i borete se za niv” (*Knowing Your Rights and Fighting for Them: A Guide for Romani Ativists*) in Macedonian, a human rights training manual.

**October 2006:** Published “Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe”, a comprehensive report on the health status of Roma and their access to health care.

**October 2006:** Published “Informacionnij buleten o ciganskom nacionalnom menshinstve” (*Informative bulletin on the Romani National Minority*) in Russian, targeting law enforcement bodies in Russia. The bulletin includes information on the history and traditions of Roma in Russia, specific details regarding the work of law enforcement bodies in relation with the Romani community, and possible methods of cooperation.

**November 2006:** Reprinted “Chto takoe rasovaja diskriminacija i borjba protiv nee” (*Recognizing and Combating Racial Discrimination*) in Russian. The pamphlet explains that discrimination on grounds of race, color or ethnicity is almost always a violation of human rights.

### Conferences, Meetings, Seminars, and Campaigning

**August 8-10:** Participated in the training of human rights researchers, conducted within the framework of an EU EIDHR sponsored project undertaken by the ERRC, the Helsinki Citizens Assembly and EDROM, Istanbul, Turkey.

**September 18-20:** Attended the Second Regional Roundtable (Southeastern and Central Eastern Europe) on “Making Prevention of Trafficking in Human Beings More Effective: Building Regional and Local Capacity of Roma Communities”, Tirana, Albania.

**September 22:** Organised a seminar, in cooperation with “Romani Duma” (Samara), for journalists and Romani activists, followed by a round table discussion on hate speech, Samara, Russia.

**September 29:** Presented and discussed the ERRC French country report at a conference organised

by the Région Provence-Alpes-Cote d’Azur and Rencontres Tsiganes, Marseille, France.

**September 29:** Delivered a presentation at the conference entitled “The Position of the Roma Minority within the Educational System of the Czech Republic”, Prague, Czech Republic.

**October 2-6:** Organised a strategic litigation training workshop for Caucasian lawyers within the framework of a project entitled “Strategic Litigation in the Caucasus” of the Netherlands Helsinki Committee, Budapest, Hungary.

**October 3:** Participated in a panel discussion on racism in Russia, where commentary was given by Thomas Hammarberg, Commissioner for Human Rights in the Council of Europe. The discussion was organised by the

ERRC and the Open Society Justice Initiative, Strasbourg, France.

**October 3:** Participated and gave a presentation in a panel discussion for members of the Parliamentary Assembly of the Council of Europe (PACE) on “Racism in Russia: A Growing Problem, a Lack of Official Response”, Strasbourg, France.

**October 4:** Attended the European Round Table Conference 2006, Helsinki, Finland.

**October 14:** Organised a seminar on women’s rights for Romani women, Saint Petersburg, Russia.

**October 17:** Organised a seminar on women’s rights for Romani women, Vologda, Russia.

**October 19-20:** Provided training for magistrates on the European Convention of Human Rights, Bucharest, Romania.

**October 20:** Delivered a keynote speech on the situation of Roma in the Council of Europe Member States at a European Conference entitled “Roma in Education and the Economy”, organised by the EU, Bratislava, Slovakia.

**October 20:** Conducted an advocacy meeting with the Regional Ombudsman, Ekaterinburg, Russia.

**October 21:** Organised a seminar, jointly with “Roma Ural” (Ekaterinburg), for journalists and Romani activists, followed by a round table discussion on hate speech, Ekaterinburg, Russia.

**October 23:** Presented a paper entitled “Racial Discrimination in the Context of Article 3: Moldovan and Others v. Romania” at conference on “Addressing Racial Discrimination – Trends and Developments under the European Convention on Human Rights”, Kiev, Ukraine.

**October 23-24:** Participated in a Peer Review meeting in the framework of the Open Method of Coordination of EU Member States for the implementation of social inclusion policies and

presented jointly with the European Network Against Racism the paper entitled “Challenges to Roma Integration Policies in the European Union”, Aviles, Spain.

**October 28:** Delivered a keynote speech on advocacy for quality education at the 2006 Annual International Step by Step Association Conference, Bratislava, Slovakia.

**November 1:** Organised a seminar on women’s rights for Romani women, Rostov, Russia.

**November 3:** Organised a seminar on women’s rights for Romani women, Krasnodar, Russia.

**November 6-9:** Participated in an international experts’ seminar on sexual orientation, gender identity and human rights, organised by the International Service for Human Rights, Yogyakarta, Indonesia.

**November 15-16:** Co-hosted the closing conference for the project TRANSPPOSE, funded by the EU Community Action Program to Combat Discrimination, implemented together with the Irish Traveler Movement and the Milan Simecka Foundation, Dublin, Ireland.

**November 22-24:** Organised a training workshop on “Strategic Litigation” for lawyers, within an EU EIDHR-sponsored project undertaken by the ERRC, the Helsinki Citizens Assembly and EDROM, Istanbul, Turkey.

**November 25-26:** Organised a training workshop on human rights for Roma NGOs, within an EU EIDHR-sponsored project undertaken by the ERRC, the Helsinki Citizens Assembly and EDROM, Istanbul, Turkey.

**November 26 – December 3:** Conducted meetings with regional departments of the Ministry of Interior and the Federal Drug Control Service, Moscow, Nizhniy Novgorod, Samara, Volgograd, Russia.

**November 27-28:** Participated in the EU Closing Conference of the Community Action Program to Combat Discrimination, Brussels, Belgium.

**December 6:** Participated in the round table conference "Participation of Ukraine in the Decade of Roma Inclusion" co-organised by the European Roma Rights Centre and the Kiev-based International Centre "Tolerance", Kiev, Ukraine.

**December 18-December 21:** Attended meetings with regional departments of the Ministry of Interior, Saint Petersburg, Pskov, Russia.



## EUROPEAN ROMA RIGHTS CENTRE

The *European Roma Rights Centre (ERRC)* is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. The approach of the *ERRC* involves, in particular, strategic litigation, international advocacy, research and policy development, and training of Romani activists. The *ERRC* is a cooperating member of the *International Helsinki Federation for Human Rights* and has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

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The *ERRC* was founded by Mr Ferenc Kőszeg.

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